An Agency Perspective on Immigration Federalism

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American local law enforcement agencies now engage in an unprecedented degree of cooperation with the federal government to police immigration in the nation's interior. I argue that this regime of "cooperative federalism" in immigration enforcement is an intentional and strategic use of the federal executive's authority. Drawing insight from the bureaucratic agency literature, I develop a formal model that analyzes the president's decision to invite subnational participation in policymaking. An empirical analysis of the 287(g) program highlights the model's central trade-off. By deputizing local officers with the powers of Immigration and Customs Enforcement agents, 287(g) allowed willing local participants to share the costs of enforcement with federal authorities. But the localities that selected into the program were preference outliers who wielded their newfound agency differently from their federal counterparts: Rather than using the immigration system to help police felonies, they deployed the criminal justice system to police immigration.

The past two decades have seen a pronounced shift in the implementation of American immigration law. Whereas for most of US history, enforcement operated almost exclusively at the nation's territorial boundaries, controlling population flows at their initial point of entry, more recently the focus has shifted to policing the nation's interior (Provine et al. 2016; Stuesse and Coleman 2014). This development has involved a high degree of intergovernmental cooperation: Federal authorities now rely heavily on support from subnational law enforcement agencies (LEAs)—city police forces, county sheriffs, and state highway authorities—to identify, apprehend, and deport undocumented immigrants.

This article presents new theory and evidence about the causes and consequences of intergovernmental cooperation in policymaking in a federal system. Looking through the lens of immigration enforcement, I answer two questions: What happens to policy outcomes when the federal government extends authority downward, and under what conditions will it choose to do so? To understand these complex dynamics, I borrow insights from the literature on bureaucratic agency, which has thought deeply about when a principal will delegate to an agent when both actors have their own, possibly divergent preferences (Huber and Shipan 2011). I argue that federal and local decision-makers are driven by the same competing concerns: Both prefer to have the costs of policymaking subsidized by the other while retaining control over policy outcomes.

Building on this foundation, I develop a formal model in which the federal government seeks ideologically aligned subnational actors to contribute costly effort toward enacting its preferred policies. But local governments would rather free-ride from federal contributions, and absent coercion or monetary rewards, their only incentive to participate lies in the freedom to pursue their own policy goals. The localities that most value this discretion are preference outliers; in other words, it is precisely divergence from the center that motivates local contributions. It is this fundamental trade-off between sharing costs and making policy concessions that the federal government delicately balances in deciding whether to extend authority.

I apply this analysis to the case of US immigration enforcement, focusing on the 287(g) program. This policy innovation created opportunities for local LEAs to be deputized with powers usually held by Immigration and Customs Enforcement (ICE), a federal agency under the Department of Homeland Security (DHS). Such powers include the ability to check immigration status in the course of routine policing, to investigate and issue warrants for immigration violations, and

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to initiate deportation proceedings (Capps et al. 2011). Participation in the program is entirely voluntary and requires localities to contribute substantial resources.[1] Still, no small number of police forces and county sheriffs have elected into the program since its inception, allowing for an empirical assessment of how 287(g) reshapes immigration policing in those jurisdictions—as well as when and why presidents have relied on this policy lever.

The primary outcome of interest in my empirical analysis is the issuance of immigration detainers. Conceived as a tool to marshal routine local law enforcement efforts to advance federal immigration enforcement goals, detainers are formal requests for local jails to hold people who have been arrested for any suspected crime in custody beyond their scheduled release time in order to investigate their immigration status. Whereas such requests usually originate from ICE and require local cooperation, 287(g) empowers local authorities to initiate them as well. Using detailed data on the entire universe of immigration detainers issued from 2002 to 2015—over 2 million unique observations—I can thus measure federal and local inputs into immigration enforcement, both under the collaborative 287(g) regime and under a counterfactual of centralized federal control.

Consistent with theoretical predictions, I find evidence of both a selection effect and a treatment effect associated with 287(g) participation. First, 287(g) participants were indeed preference outliers: They had unusually high demand for immigration enforcement, as evidenced by a record of escalating detainer requests and cooperation with ICE in the years immediately prior to entering the program. Nevertheless, 287(g) also had a dramatic causal effect on immigration enforcement in those jurisdictions: Detainers increased by 213% compared to a counterfactual of no 287(g) participation. Although this may not be the study's most surprising finding—after all, LEAs applied for federal authority precisely to contribute to issuing detainers—the magnitude of the effect is still important and policy-relevant, and it has not, to my knowledge, been causally identified in the literature. Its substantial size is a testament to the potential of cooperative federalism to stimulate intense policy production, especially in the presence of well-resourced, high-demanding local jurisdictions.

I also show that the expansion of federal authority to localities that would voluntarily shoulder the burden meant that these powers would be used in fundamentally different ways than ICE under the Bush and Obama Administrations intended. Despite Obama's continued emphasis that deportation efforts should prioritize "felons, not families," 287(g)'s treatment effect was driven almost entirely by detainers issued against people with no past criminal charges on their record. I therefore show on a national scale what qualitative work has carefully documented in more limited settings (Armenta 2017): that 287(g) enabled an evolution from using the immigration system to support the policing of violent crime and terrorism toward using the criminal justice system to police immigration.

Taken together, my findings reveal that subnational actors hold tremendous potential to subsidize costly policy projects, and their contributions can be bought with a resource that the president uniquely commands: authority. But not unlike a bureaucracy that cannot sustain a regime of "neutral competence" (Gailmard and Patty 2007), the federal principal cannot have subnational agents who are at once ideologically aligned and willing to subsidize a shared set of policy goals, as only nonaligned agents have real incentives to contribute. I conclude with a discussion of how two recent presidents have navigated this trade-off. Pursuing an ambitious expansion of interior immigration enforcement, President Obama took full advantage of 287(g) partnerships and other intergovernmental collaboration strategies in his first term. But he struggled to rein in local partners who engaged in racial profiling and overpolicing of immigrant communities. Facing intense criticism, he first restructured and then revoked many 287(g) agreements. When President Trump succeeded him—representing a major restrictionist shift in the immigration preferences of the president—he immediately tripled the size of the program. After this case study, I reflect on the broader implications of my theory and findings for how modern presidents can harness cooperative federalism to enact their policy agendas in an age of congressional gridlock and polarization.

AN AGENCY PERSPECTIVE ON IMMIGRATION FEDERALISM

Martha Derthick famously described the United States as a "compound republic" composed of multiple levels of government alternately sharing and competing for authority (Derthick 2001). And while some degree of intergovernmental tension is rarely far from view, the dynamic of cooperative federalism—in which "the strengths of different levels of governments have paired in such a way as to advance a shared project of governance" (Cebul, Tani, and Williams 2017, 239–240)—has also unmistakably guided American political development. Throughout the nineteenth century, the federal government enacted transformative social programs by empowering local governments "as a way of building auxiliary state capacity and legitimizing the extension of federal authority" (Cebul et al. 2017, 241), a pattern observed from New

1. ICE provides some federal resources for 287(g) operations as well as some training, but localities are responsible for paying the salaries associated with 287(g) work. See Capps et al. (2011, 28–29) for a discussion of funding for the program.

Deal state building (Cebul et al. 2017) to the making of the carceral state (Hinton 2017).

Although cooperative federalism entails national and subnational governments voluntarily contributing to a mutually beneficial project, the higher-level decision to engage subnational actors ultimately lies with the center. And there has been a great deal of variation—across time, space, and policy domains—in whether national authorities open the door to cooperative federalism or go it alone, with few broad theoretical frameworks to explain these divergent outcomes. One line of thinking associates devolution and localism with late twentieth-century neoliberalism, seeing decentralization as a de facto way to shrink the size of government. Of course, localities do have resource constraints and incentives that may drive a "race to the bottom" in regulation or social service provision. But the literature is also replete with counterexamples in which the possibility of local participation increases policy outputs. For instance, fair housing enforcement by local governments increases the likelihood of outcomes favoring complainants compared to centralized control under the US Department of Housing and Urban Development (Bullock III, Lamb, and Wilk 2017). Similarly, partial decentralization can yield more stringent environmental protections than would otherwise be feasible, in particular when local participants actively want regulation (Chang, Sigman, and Traub 2014).

In short, both localities and the federal government are concerned with costs and policy outcomes; both sides prefer to have their expenditures subsidized by the other but simultaneously wish to retain control. This precise interaction has been analyzed in great depth in the scholarship on bureaucratic delegation, which is concerned with how a principal should allocate discretion to an agent when both actors have their own, possibly divergent policy preferences (see Huber and Shipan 2011 for a review). One of this literature's recurring themes is the fundamental trade-off between costly bureaucratic expertise and political control: Organizations can foster either technical competence or ideological proximity between principal and agent, but rarely can they simultaneously achieve both goals (Bawn 1995; Gailmard and Patty 2007).

In line with a small but growing research agenda (Bertelli, Clouser McCann, and Travaglini 2019; Clouser McCann 2015), I apply this principal–agent framework to the problem of intergovernmental cooperation and, specifically, for the first time, to the domain of immigration federalism (Motomura 1999; Varsanyi et al. 2012). Scholars in this literature have noted two important developments over the past half century: the rising importance of subnational governments (Coleman 2012; Waslin 2007) and of the federal executive (Gulasekaram and Ramakrishnan 2016; Provine et al. 2016). On the one hand, states and localities have recently adopted a wide range of initiatives, including identification and employer verification laws, sanctuary ordinances, and policies extending social safety net provisions to recent and undocumented immigrants (Chavez and Provine 2009; Ramakrishnan and Wong 2010; Ridgley 2008). Some scholars have argued that state and local governments are therefore acting as "laboratories of innovation," stepping into a more active policymaking role in the face of congressional gridlock and federal inertia (Filindra and Tichenor 2012). But others have noted that increased subnational activity is not incompatible with a strong federalizing influence. Examining over 500 immigration bills in state legislatures, Newton (2012) does not find systematic evidence of states pushing for autonomy from federal authority; instead, she shows that state legislation is promoting vertical integration—that is, states playing a more active role in supporting national policy designs. Similarly, Filindra and Kovács (2012) show that one prominent theme of recent immigration-related legislation from Southern border states is pushing the issue back to federal decision-makers.

Consistent with these findings, I argue that the concurrent rise of national and subnational actors on the immigration policymaking stage is neither contradictory nor coincidental. Rather, it is indicative of a rising tide of cooperative federalism—the consequence of an intentional set of delegation decisions taken by recent presidents and their executive agencies. Thus, my work also reveals how modern presidents, facing congressional gridlock and increasingly polarized subnational governments, can continue to exert influence over the policy process. The executive's strategic use of authority is yet another way in which "the government generally, [and] the president in particular, can . . . leverage decentralized political action by actors sympathetic to its aims" (Mehta and Teles 2011, 198).

A THEORY OF COLLABORATIVE POLICYMAKING IN A FEDERATED SYSTEM

I model immigration federalism as a collaborative policymaking process in which federal and subnational governments may each contribute costly inputs, and an output is generated by a production function. Inputs include activities related to policing and investigating immigration status, which combine to produce the output of immigration enforcement. Each of the governments has single-peaked preferences over the level of restrictionism in its jurisdiction, which reaches zero undocumented immigrants at its maximum.

The model enables a comparison of immigration outcomes and utilities under a collaborative regime and a counterfactual regime of centralized control, in which federal authorities unilaterally set policy in all jurisdictions and bear all the associated costs. This analysis yields two key insights. First, when subnational agents are empowered to contribute, there is both a selection effect and a treatment effect: Those who voluntarily participate in equilibrium are the ones with the highest demand for enforcement, and total enforcement in those jurisdictions rises relative to centralized control. Second, the federal government benefits from the collaborative regime when these high demanders want more enforcement than it does but are still sufficiently proximate to its ideal point.

The model is a modified public goods game in which the players are jurisdictions $j \in \{1, \ldots, J\}$ and a federal government f. All players simultaneously make a contribution x_f or $x_j \in \mathbb{R}_+$ that represents a commitment of resources toward enforcement, or else they opt out and contribute nothing. Contributions monotonically shift enforcement in the restrictionist direction. The federal government makes one investment choice that applies uniformly to all jurisdictions; it cannot differentially target resources to specific regions.

The model diverges from a public goods game in that preferences over policy outputs are single-peaked rather than nonsatiable. For both federal and subnational governments, there is negative utility from overprovision even absent costs. Each actor has an ideal point $\overline{y}_f$ or $\overline{y}_j \in \mathbb{R}_+$, which may arise from the personal preferences of the agents in charge, can be inherited from the ideal point of the median voter in the jurisdiction, or may be the result of an interbranch bargaining process within the respective governments. There are no spillovers, so subnational governments care only about their own policy outcomes, while the federal government wants to minimize deviations from its ideal point across all jurisdictions. For tractability, I fix initial conditions, costs, and production functions to be the same across jurisdictions, allowing only their ideal points to vary. I further assume linear costs and an additive production function in which the inputs are pure substitutes: $y_j(x_j, x_f) = x_j + x_f$.

The basic insights of the model can be derived with two jurisdictions, L and H, with $\overline{y}_L < \overline{y}_f < \overline{y}_H$. Under these assumptions, the utilities are given by

$$u_j(x_j) = -\frac{1}{2}(x_j + x_f - \overline{y}_j)^2 - cx_j, \tag{1}$$

$$u_f(x_f) = -\frac{1}{2}\sum_{j \in \{L,H\}} (x_j + x_f - \overline{y}_f)^2 - 2cx_f. \tag{2}$$

The federal government's utility-maximizing contribution, x_f^*, equates marginal benefit with marginal cost:

$$x_f^*(x_L, x_H) = \max\left(0, \overline{y}_f - \frac{x_L + x_H}{2} - c\right). \tag{3}$$

Thus, the federal government supplies the difference between the average input across all jurisdictions and its own ideal point, net of costs. Similarly, each jurisdiction's best response is defined by

$$x_j^*(x_f) = \max(0, \overline{y}_j - x_f - c). \tag{4}$$

Lemma 1 (free-riding). There is no generic equilibrium in which all three players contribute.[2]

All proofs are in appendix A. The underlying logic of lemma 1 is the same as that of a public goods game: The lowest demander free-rides on the others' contributions or prefers a level of enforcement below what is already achieved by federal efforts.

Further analysis depends on the location of the federal ideal point relative to $\overline{y}_L$ and $\overline{y}_H$; complete characterizations of all equilibria can be found in appendix A. From this point forward, I focus on the configuration of preferences where the federal government demands a relatively high level of enforcement, but there are high-demanding jurisdictions that want even more.

Proposition 1 (selection effect). In any equilibrium in which the federal government and one jurisdiction contribute, that jurisdiction must be the high demander. Then, contributions are

$$\begin{aligned} x_f^* &= 2\overline{y}_f - \overline{y}_H - c \\ x_L^* &= 0 \\ x_H^* &= 2(\overline{y}_H - \overline{y}_f) \end{aligned} \tag{5}$$

This equilibrium holds under the following conditions:

$$\begin{aligned} &\text{(i) } \frac{\overline{y}_L + \overline{y}_H}{2} < \overline{y}_f < \overline{y}_H \\ &\text{(ii) } \overline{y}_H < 2\overline{y}_f - c \end{aligned} \tag{6}$$

This collaborative equilibrium rests on there being a high-demanding jurisdiction that demands more enforcement—but not too much more—than the federal government; if the distance is too large, then only the high demander will contribute. When preferences align in this way, the federal government can achieve the same aggregate enforcement levels as it would under a centralized regime, with the high demander shouldering some of the costs.

Proposition 2 (treatment effect). In this collaborative equilibrium, aggregate enforcement is the same

2. There is a knife-edge equilibrium in which all three players contribute under the condition that $\overline{y}_f$ equals exactly $(\overline{y}_H + \overline{y}_L)/2$.

as it would be under central control. However, compared to the centralized benchmark, enforcement under the collaborative regime is higher in the high-demanding jurisdiction and lower in the low-demanding jurisdiction, with the high demander bearing some of the costs of provision.

To complete the analysis, I compare the federal government's equilibrium utility under the collaborative regime and the counterfactual of centralized control in order to derive conditions under which a national executive would rationally extend authority downward.

Proposition 3 (rational extension of authority). The federal government benefits from a collaborative regime compared to a centralized regime as long as $\overline{y}_H - \overline{y}_f < 2c$.

This upper bound on the ideological distance between the federal government and the high demander is an incarnation of the ally principle from the bureaucratic delegation literature: The federal government benefits from sharing power with local decision-makers when they are ideologically aligned. However, it is precisely ideological divergence that motivates local agents to overcome free-rider problems and participate—a trade-off that federal authorities must manage in their choice of policy regime.

Comparisons to prior literature and extensions

The model's central insight broadly comports with previous theoretical and empirical findings from the federalism literature, namely that devolved or collaborative policymaking regimes are sustained by some degree of ideological or partisan alignment between national and subnational governments (Clouser McCann 2015; Krause and Bowman 2005). But a heretofore underappreciated implication of my analysis is that ideological proximity can also act against intergovernmental collaboration by weakening individual incentives to contribute. In other words, the optimal conditions for intergovernmental collaboration may not be perfect ideological alignment but rather just the right degree of misalignment.

Another notable feature of the model is that the federal government is not distinguished from local governments by any particular powers other than its initial choice of regime. This is in contrast to other models of intergovernmental relations in which, in addition to the delegation decision, the federal government makes initial choices that structure local contributions, including the quantity of the good it wishes to provide (Volden 2005) or the size and conditions of federal grants for local implementation (Volden 2007). The relative equality of players in my model is most suitable for analyzing policy areas where local and national efforts are proper substitutes and can be made simultaneously, or without regard for timing, on an ongoing basis: immigration enforcement and on-the-ground policing, environmental protection regulation, or the provision of health care or housing.

Along these lines, it may seem implausibly restrictive that the federal government cannot screen potential local partners and selectively offer opportunities for collaboration rather than accepting all contributions wholesale. Indeed, the federal government's ability to strategically gatekeep powers and allocate resources in service of its own political ends is a defining feature of intergovernmental relations, from competitions (Howell and Magazinnik 2017) to formula grants (Rosenstiel 2023) to waivers (Levesque 2019) and selective partnerships (Bulman-Pozen and Metzger 2016). In appendix A, I develop an extension of the model in which the federal government is empowered to grant authority to specific localities, namely the low demander or the high demander alone. The most interesting new possibility that arises is that the federal government collaborates with only the low demander, potentially offsetting the policy drift that would occur when the high demander contributes—an equilibrium that is ruled out by proposition 1 in the baseline model. However, this equilibrium can only be sustained when the low-demanding jurisdiction also prefers higher enforcement than the federal government; otherwise, the low-demanding jurisdiction will opt out and only the federal government will contribute. In other words, while this adaptation increases the federal government's choice set and potentially generates more favorable outcomes, it does nothing to change the fundamental trade-off: A higher-demanding partner is still required to induce local contributions, and the cost subsidy is still purchased with policy concessions.

THE 287(G) PROGRAM AS AN EMPIRICAL TEST

In this section, I describe the 287(g) program within its larger policy context, and I discuss why it presents a unique opportunity to test my theory of collaborative policymaking. Then, I propose a set of hypotheses derived from the theory that a study of 287(g) is particularly well-suited to test. Finally, I walk through the data sources, measurement and causal identification strategies, and statistical models that I use for the empirical analysis.

The development of interior immigration enforcement

The groundwork for local participation in interior immigration policing was established by the George W. Bush Administration and expanded under Barack Obama's first term. Both presidents were motivated by immigration reform agendas that required significant resource expenditures, which made the use of local law enforcement as a "force multiplier" on federal efforts an appealing strategy (Capps et al. 2011). For Bush, immigration enforcement not only was a presidential priority in its own right but also became intertwined with counterterrorism and national security after the September 11 attacks.[3] Partisan turnover notwithstanding, the Obama Administration largely took a similar approach: using the immigration system to "protect public safety by giving law enforcement the tools to identify and remove dangerous criminal aliens."[4] In short, the Bush and Obama presidencies both advanced the integration of the immigration and criminal justice systems, with the attendant infrastructure and personnel investments that such a project required.

Recognizing the significant costs of enacting their immigration agendas, the federal executives looked downward for assistance. The first piece of the intergovernmental enforcement apparatus put in place during this period was the 287(g) program, established by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The 287(g) program was conceived as a framework for selectively delegating federal immigration enforcement authority to willing state and local LEAs. Through Memoranda of Understanding (MOAs) negotiated on a case-by-case basis with ICE, county sheriffs, city police forces, and state highway authorities were deputized with federal powers such as screening people who have been arrested for any crime for immigration violations, investigating and issuing warrants for immigration violations, and initiating deportation proceedings. Many LEAs also gained the authority to issue detainers: requests to hold people who have been booked into local custody for up to 48 hours beyond their scheduled release time in order to investigate their immigration status and, potentially, to turn them over to ICE. Although ICE provided a brief basic training to the deputized local agents, there was little further oversight or financial support; LEAs largely performed these duties at their own discretion and their own expense (Capps et al. 2011).

The 287(g) program offered an intensive mode of intergovernmental collaboration in which local agents could effectively act as federal authorities and make interchangeable contributions, but this program ultimately affected only the small minority of counties that voluntarily elected to take on—and finance—these responsibilities.[5] Nevertheless, Presidents Bush and Obama also invested in broader infrastructure to facilitate more universal information and resource sharing between local, state, and federal LEAs across the nation. In 2008, President Bush introduced the Secure Communities program, which extended preexisting information-sharing capabilities that had been used for criminal investigation to the realm of immigration enforcement. Previously, when people were booked into local jails, their fingerprints would be entered into a biometric database of criminal records maintained by and shared with the Federal Bureau of Investigation (FBI). Under Secure Communities, this information would simultaneously be shared with ICE. The fingerprints would be matched to a federal database containing records of all immigration applicants. If ICE could not verify their current status, they could issue a detainer request, allowing them to investigate further and assume custody of the detainee. Though participation in Secure Communities was voluntary when the program was introduced in 2008, by 2013, the Obama Administration had phased in biometric data-sharing capacity in every LEA nationwide.

At the same time, federal authorities under President Obama quickly understood that local cooperation would force them to contend with a wide and heterogeneous range of immigration preferences, lying both above and below the federal ideal point. As Obama emphasized in his addresses, the focus of his enforcement efforts was "felons, not families": He supported deprioritizing people with no criminal history for deportation and establishing a pathway for legal residency for long-term undocumented immigrants.[6] Some state and local partners had far more restrictionist agendas. In 2012, Obama suspended the roll-out of Secure Communities in Alabama while the Department of Justice (DoJ) sued to block the state from adopting HB 56, a law that would criminalize the provision of transportation and housing to undocumented immigrants, prohibit undocumented students from enrolling at state-funded schools, and force all noncitizens to carry proof of their legal status.[7]

At a 2012 hearing of the House Committee on Homeland Security, Chairwoman Candice Miller opened the session by framing the central federal conflict:

> When we think about what is the best use of our limited resources, we should be fully cognizant of the fact that although ICE is a large organization with more than 20,000 agents, the scope of the immigration and border

3. See https://georgewbush-whitehouse.archives.gov/stateoftheunion/2007/initiatives/immigration.html.

4. See https://www.dhs.gov/news/2009/07/10/secretary-announces-new-agreement-state-and-local-immigration-enforcement.

5. In total, local LEAs in 57 counties signed 287(g) agreements over the course of the Bush and Obama administrations, covering about 2% of US counties.

6. See https://obamawhitehouse.archives.gov/the-press-office/2014/11/20/remarks-President-address-nation-immigration.

7. See https://www.justice.gov/usao-ndal/pr/alabamas-immigration-law-permanently-blocked-justice-department-lawsuit.

> security problem is very large for them to tackle alone. We can certainly debate the merits and wisdom of tough State immigration laws, but ICE also needs to be cultivating and leveraging partnerships with State and local governments who are more often than not willing to share that burden . . .
>
> We have seen some delays in the roll-out of the Secure Communities in Alabama because of the disagreement with the tough State law. We have also seen a go-slow approach to the roll-out in Illinois, in Cook County in particular, which refuses to honor ICE detainers on even the most dangerous criminals, putting citizens and the Nation at risk.[8]

With the federal ideal point situated between low-demanding and high-demanding jurisdictions, Miller's comments summarize ICE's dual challenge: inducing cooperation from low demanders like Cook County that refused to contribute resources and reining in high demanders that would use their authority to enact more extreme policies than ICE then preferred.

Nevertheless, President Obama in his first term pulled immigration enforcement toward collaboration through the strategic expansion of 287(g) partnerships and Secure Communities. While both present opportunities to measure the consequences of a regime shift, 287(g) has some distinct advantages. First, unlike the top-down implementation of Secure Communities, 287(g) participation was voluntary, allowing us to observe both the selection and treatment effects predicted by the theory. Second, whereas building biometric data-sharing capabilities under Secure Communities was a gradual and untransparent process, the start and end date of 287(g) participation is clearly delineated in publicly available MOAs, along with the exact scope of deputized responsibilities. Third, 287(g) aligns closely with the policy production function in my baseline model, where local and national contributions are substitutes that combine to determine the total enforcement levels in a jurisdiction.[9]

Hypotheses

With a mapping from the general theory to the case of 287(g) in place, I derive a set of context-specific hypotheses for which I will provide quantitative and qualitative evidence.

Selection effects. First, I test for the selection effect given by proposition 1, which states that under a collaborative regime, any jurisdiction that voluntarily enters the program must be a high demander. How can we observe LEAs' enforcement preferences from their pretreatment behavior? Although they could not themselves issue detainers without 287(g) agreements in place, they could nonetheless make policing choices that would lead to more detainers being issued by federal authorities: for instance, focusing on neighborhoods where immigrants live and work, making frequent traffic stops and checking identification, and bringing people into local jails for minor offenses rather than releasing them (Armenta 2017). Thus, hypothesis 1a states that 287(g) participants should have more detainers issued even before entering the program than nonparticipants.[10]

Another way in which local authorities exercise discretion is by choosing whether to cooperate with ICE detainer requests, especially for individuals without a serious criminal charge on their records. Thus, a potential issue with hypothesis 1a is that ICE likely directed federal efforts disproportionately toward localities that were expected to cooperate (Ciancio and García-Jimeno 2024), making the total number of detainers in the jurisdiction an imperfect measure of local enforcement preferences. To better isolate local ideal points, hypothesis 1b states that the pre-287(g) rate of cooperation with ICE detainer requests should be higher among 287(g) participants than among nonparticipants.

Treatment effects. Next, I test for the treatment effect predicted by proposition 2, which states that participating jurisdictions will see more total resources channeled toward immigration enforcement post-treatment than they would have under a counterfactual centralized regime. Although the treatment in the model is a national-level regime shift, in the empirical analysis, it is defined as county-level entry into the 287(g) program.[11]

I propose two measurable implications of a treatment effect, both of which compare 287(g) participation to a counterfactual of no participation in those same counties. First, the total number of detainers among 287(g) participants will rise (hypothesis 2a). Second, as explored in depth by Armenta (2017), when local law enforcement channels its resources toward policing immigration, then the very nature of on-the-ground

8. See https://www.govinfo.gov/content/pkg/CHRG-112hhrg79844/html/CHRG-112hhrg79844.htm.

9. By contrast, under Secure Communities, federal and local efforts may be viewed as complements: Local authorities have to share information with ICE, ICE has to issue a detainer, and local authorities have to honor it in order to produce one "unit" of immigration enforcement.

10. LEAs that did not participate in 287(g) or Secure Communities could nonetheless cooperate with ICE in channeling people from state and local jails to the deportation pipeline through the Criminal Alien Program, which was also operational at this time (Kandel 2016).

11. The model abstracts away from the possibility of staggered entry, but viewing the treatment as a regime shift in that county does not change the model's central predictions.

policing changes in that jurisdiction, and so does the composition of detained people. Armenta's case study of Davidson County, Tennessee, reveals the widespread use of traffic stops for minor technical violations—expired registration tags, broken taillights, or darkened windows—in areas where immigrants are known to live and work. This constituted a more general practice of "proactive policing": investigating civilians, in particular racial minorities, on officers' suspicion rather than in response to specific incidents or behaviors. In line with this research, I expect that the treatment effect will be driven by detainers issued against people with no criminal history (hypothesis 2b).

Regime choice. To shed light on the federal executive's choice between regimes (proposition 3), after the main empirical results, I present a qualitative case study of the evolution of 287(g) in the transition from President Obama's second term to the first Trump Administration, which represented a rightward shift in the ideal point of the president. The analysis lends support for hypothesis 3: An exogenous rightward shift in the federal ideal point may induce a regime change from centralization to collaboration.[12]

Data and measurement

I construct a county by year panel dataset covering every US county from 2002 through 2015, which includes information about 287(g) participation, detainers, and relevant county-level political and economic characteristics. I collect data on the treatment—287(g) participation—from ICE, which maintains a record of all past and present MOAs online.[13] I use these documents together with other sources to code a binary treatment indicator that reflects every US county's 287(g) status in every year from 2002 to 2015. Counties enter and leave the program at different times; MOAs have different expiration dates, and sometimes they are terminated early either by the LEA or by ICE. I do my best to incorporate as much publicly available information as possible into this yearly measure of the treatment. Additionally, data on applications to the program, including whether applicants were accepted or rejected, is available from Pedroza (2019).

I obtain information on immigration detainers—the primary outcome variable of interest—from the Transactional Records Access Clearinghouse (TRAC) at Syracuse University. By filing Freedom of Information Act (FOIA) requests, TRAC has collected the entire universe of detainer requests issued from 2002 through 2015, with information about the facility and date of each request, the date (if applicable) when the individual was transferred to ICE custody, and any criminal charges on the individual's record at the time the detainer was issued.[14] Appendix figure B.1 illustrates trends in the raw detainer data over time, showing a dramatic increase in detainers from 2006 to 2010 as Secure Communities was implemented across the nation, a peak from 2010 to 2012 as the program approached its maximum capacity, and a decline from 2013 onward as the Obama Administration reoriented its immigration policies in a less restrictionist direction.

TRAC's data provides all outcome variables for hypotheses 1 and 2. For hypothesis 1a and hypothesis 2a, I measure total detainers by aggregating over every facility located in a county by year and taking the natural log of this quantity. A potential imprecision in this approach is that some counties contain state or federal facilities that draw from much wider catchment areas than the immediate counties in which they are located. Thus, I also compute the logged number of detainers coming from facilities controlled by county authorities alone—primarily county jails—rather than all facilities within county lines, which may include state and federal penitentiaries. For the cooperation rate (hypothesis 1b), I compute the number of detainers with a recorded date of transfer to ICE custody by county and year and divide this by the total number of detainers issued in that county–year. TRAC's data also contains information on whether the detained individual was ever previously charged with any criminal offenses and, if so, the highest level of those past charges: aggravated felony (Level 1), other felonies (Level 2), or misdemeanor (Level 3).[15] To test hypothesis 2b, I compute logged detainers by county and year for four groups: those having no past criminal charges and those with past criminal charges for Level 1, 2, and 3 offenses.

Finally, I collect a number of county–year level political and economic covariates to use as statistical controls, including total and foreign-born population estimates as well as unemployment rates from the Census, Democratic vote share in the most recent presidential election from Dave Leip,[16] and the estimated number of actual criminal offenses in the county as reported by the FBI's Uniform Crime Reporting Program.[17]

12. When the federal ideal point falls between the low and high demanders, a condition that holds true for both Obama and Trump.

13. See https://www.ice.gov/foia/library.

14. Data containing all of these variables is only available through 2015. Since 2016, ICE has withheld these important characteristics and provides much more limited information about each detainer, which TRAC continues to collect.

15. See https://trac.syr.edu/immigration/reports/330/include/DocumentReleased_13-15734_Criminal_Offense_Level_Business_Rules.pdf for detailed classifications.

16. See https://uselectionatlas.org/.

17. See https://www.icpsr.umich.edu/web/NACJD/series/57?q==county.

Identifying selection and treatment effects of 287(g) participation

Selection effects. To test for selection of preference outliers, it suffices to compare pretreatment detainers and cooperation rates between counties that signed 287(g) agreements and counties that never applied to or participated in the program. The only challenge is that counties entered the program different times, so there is no uniform pre- or post-treatment period. I therefore create a separate comparison set for each treated county corresponding to its time of treatment. For instance, consider Maricopa County, Arizona, which signed its first 287(g) agreement in 2007. I take Maricopa County's detainers and cooperation rate over five pretreatment years (2002–2006) and five post-treatment years (2007–2011) as well as the same outcomes for all counties that never applied to or participated in the program over the same period. For all these observations, I code a time variable t relative to Maricopa's year of entry, 2007 ($t = 0$). I repeat this process for every county's first 287(g) signing, pooling all treated observations and all corresponding comparison sets. Then, I compute the means by treatment status within every time bin from $t = -5$ to $t = 4$.

Treatment effects. Since 287(g) entry was voluntary, and since participants systematically differ from nonparticipants, careful attention to causal identification is required to estimate treatment effects. A standard approach in the literature has been to compare 287(g) participants to counties that applied to the program but were rejected by ICE. This identification strategy has been used to show adverse effects of 287(g) on Hispanic students' school enrollment (Dee and Murphy 2020), food insecurity among Hispanic families (Potochnick, Chen, and Perreira 2017), and foreclosure rates for Latino homeowners (Rugh and Hall 2016). In keeping with this literature, I define the control group in the main analysis as the 61 counties that had 287(g) applications rejected by ICE during the study period, as collected from FOIA requests by Pedroza (2019). Appendix figure B.2 shows treated counties and the rejected controls on a map, alongside 101 counties that entered when President Trump took office for comparison. All of these counties tend to cluster in the same regions: the Southwest, Texas, the Southeastern coast (particularly Florida), and the mid-Atlantic.[18]

Identification relies on the assumption that immigration enforcement trends in the control counties provide a valid counterfactual for how enforcement in treated counties would have evolved in the absence of the program (the "parallel trends" assumption). This assumption would be violated if treated counties would have diverged from the controls whether or not they had been granted federal powers, perhaps due to a more intense commitment to immigration enforcement. Using a control group of counties that also tried to select into the program greatly mitigates this risk. However, it does not account for selection on ICE's part: One might expect systematic differences to remain between those ICE deemed suitable for local partnerships and those that were denied. Unfortunately, ICE was not transparent about the decision-making process. The only publicly available documents that shed light on the reasons some applications were rejected, obtained through FOIA requests by Justin Cox, mention insufficient funding and inadequate detention space.[19] Comparing accepted and rejected counties on observable characteristics supports the explanation that rejected counties were more resource-constrained or lacked basic infrastructure: Appendix table B.3 shows that they were statistically significantly smaller in population, issued fewer detainers, and were less likely to participate in Secure Communities in the year prior to applying.

To account for these differences, I estimate a linear regression model with year and county fixed effects and time-varying controls. County fixed effects take care of any time-invariant confounding, including unobserved characteristics such as a county's baseline level of immigration restrictionism or willingness to cooperate with ICE. To adjust for differential changes over time between treated and control units, I additionally control for the county's Democratic vote share in the most recent presidential election (relative to each year of the data), population (both proportion foreign-born and logged total), crimes per thousand people, and unemployment rate. These controls account for the possibility that 287(g) reduced crime, caused foreign-born residents to move out of the jurisdiction, or changed the kinds of immigrants who moved in, all of which would affect detainers through channels other than local law enforcement agents' behavior.[20] The estimating equation is

$$\begin{aligned}\log(\text{detainers})_{it} = {} & \beta_0 + \beta_1 \text{treat}_{it} + \beta_2 \text{Dem.vote share}_{it} \\ & + \beta_3 \text{prop.foreign-born}_{it} + \beta_4 \log(\text{population})_{it} \\ & + \beta_5 \text{crimes per thousand}_{it} \\ & + \beta_6 \text{unemployment rate}_{it} + \eta_i + \gamma_t + \varepsilon_{it}\end{aligned} \tag{7}$$

where the dependent variable is logged detainers, either in total or of a particular type, depending on the tested hypothesis, in

18. App. tables B.1 and B.2 fully enumerate treated and control counties.

19. See https://www.scribd.com/document/26902042/ICE-287-g-State-Local-Jurisdictions-Applying-Expressing-Interest-in-the-287-g-Program.

20. There is mixed evidence that 287(g) affected the foreign-born population in the jurisdiction: Watson (2013) finds that the "task force" model that emphasized street-level policing increased foreign-born residents' propensity to relocate within the US, and Parrado (2012) finds similar effects in four major cities (Dallas, Los Angeles, Riverside, and Phoenix) but not elsewhere. Forrester and Nowrasteh (2018) find no effects of 287(g) on crime.

county *i* and year *t*, and the treatment is a binary indicator for whether the county had a 287(g) agreement in place in year *t*.

RESULTS

I present results in the same order as the hypotheses. First, I present evidence of selection effects based on total detainers and cooperation rates, then evidence of treatment effects based on the volume and composition of issued detainers.

Evidence of selection effects

In figure 1, I plot pretreatment trends in logged detainers (hypothesis 1a) and cooperation rates (hypothesis 1b) for three sets of counties: treated 287(g) participants (black), rejected applicants (dark gray), and all other US counties (or "nonapplicants") (light gray). Consistent with expectations, 287(g) participants had higher pretreatment enforcement outcomes than both groups of nonparticipants—rejected applicants and all other counties.

Comparing treated participants (black) to nonapplicants (light gray) in figure 1, we see clear support for both hypothesis 1a and hypothesis 1b. Turning first to logged detainers (hypothesis 1a) in figure 1*A*, participants had both higher levels and steeper growth than nonapplicants in the five years prior to their 287(g) entry. In particular, detainer issuance began to dramatically accelerate for treated units in the two to three years prior to entry; by contrast, nonapplicants had a slower and more uniform growth rate over this period. Figure 1*B* reproduces the plot on the left with cooperation rates (hypothesis 1b). Treated counties saw a steeper increase in cooperation with ICE over the pretreatment period compared to nonapplicants. The trends conveyed by both panels may reflect the changing preferences that drove 287(g) participants into the program, strategic policy changes that counties adopted to be more competitive for entry, or the development of a closer working relationship with ICE over this time, which may also have contributed to their successful 287(g) applications.

Figure 1 also identifies another type of selection effect: selection of 287(g) participants by ICE. Unsuccessful applicants look more like nonapplicants than treated counties on logged detainers pretreatment, suggesting that ICE selected partners based on local capacity. Given that ICE would be channeling its own resources toward cooperating jurisdictions (Ciancio and García-Jimeno 2024), federal agents likely wanted to ensure that their local partners could furnish the resources needed to uphold their end of the bargain. Better yet, they may have hoped to take advantage of preexisting economies of scale among large, well-staffed local agencies.

Still, there is good reason to believe that unsuccessful applicants provide a reasonable counterfactual for 287(g) counties. Even without federal powers, they followed through on their intention to increase enforcement. Compared to nonapplicants, these counties continued on higher and steeper trajectories in logged detainers even after their applications were rejected. And although figure 1*B* shows that the level of cooperation with ICE detainer requests was higher among successful than

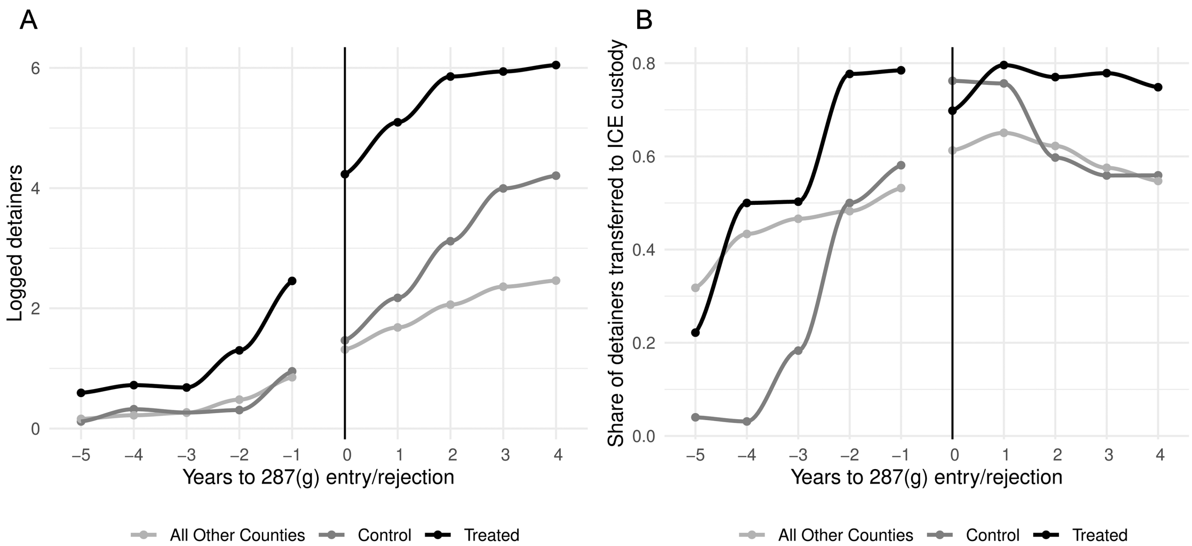

Figure 1. Detainers over time by treatment status: 287(g) participants, rejected counties, and all other counties. Treated counties (black) are defined as those that signed a 287(g) agreement for the first time between 2005 and 2012. Control counties (dark gray) are defined as those that applied for 287(g) participation but were rejected. All other counties, defined as those that never applied to the program during this period, are shown in light gray. Points represent means by year from five years prior to four years after the year of 287(g) signing for treated units and the year of 287(g) rejection for controls. For all other counties, timing is coded as described in the "Identifying Selection and Treatment Effects of 287(g) Participation: Selection Effects" section. Loess-smoothed lines are fitted through the data on each side of $t = 0$.

unsuccessful applicants, both groups experienced a dramatic rise in their cooperation rates over the pretreatment period: an approximately 60-percentage-point increase over five years. In contrast, the cooperation rate among nonapplicants increased by about 20 percentage points over a similar timeframe. The fact that treated and control units exhibited such similar trends even before any statistical adjustments shores up the central causal identification assumption.

Evidence of treatment effects

Figure 1 provides clear visual evidence of a large, discontinuous increase in logged detainers starting from the year that participants entered the program. It also highlights 287(g)'s effect of inducing cooperation with detainer requests. Whereas 287(g) participants maintained a cooperation rate of nearly 80% over the post-treatment period, control units that ratcheted up cooperation in advance of their applications did not stay at these levels for long after they were rejected; over the three subsequent years, they gradually reverted to the same rate as nonapplicants—around 60%.

Moving beyond visual inspection, table 1 reports coefficients from estimating the regression in equation 7 on a sample of successful and unsuccessful 287(g) applicants. The outcome in the first column is all detainers, and in the second and third columns, I focus on detainers in county and noncounty facilities, respectively. The treatment effect is dramatic: An estimate of 1.14 log points ($p < .001$) represents a 213% increase over the counterfactual of no 287(g) participation. This increase is driven almost entirely by a 1.13 log-point or 208% increase in detainers in county facilities ($p < .001$); the effect in noncounty facilities is smaller and not statistically significant. To aid in the interpretation of these effects, table 1 also reports the raw detainer counts per year among treated counties pretreatment: approximately 38 detainers in total, with 24 from county facilities and 14 from noncounty facilities.

The effects of a few control variables also merit attention. Unsurprisingly, within-county changes in the foreign-born population are the strongest predictor of detainers issued in that jurisdiction. More notably, an increase in local support for Democratic presidential candidates correlates positively with total detainers: a 1-percentage-point increase in the Democratic vote share is associated with a 5% increase in detainers ($p < .01$). Although this finding may contradict conventional wisdom about partisan alignment on immigration, it broadly comports with two important findings in

Table 1. Effect of 287(g) Participation on Logged Detainers

	All (1)	County (2)	Noncounty (3)
287(g) participation	1.140***	1.125***	.707
	(.210)	(.225)	(.245)
Democratic vote share	.051**	.050**	.056*
	(.016)	(.018)	(.027)
Proportion foreign-born	16.872*	1.414	−14.708
	(7.348)	(14.511)	(11.128)
Logged population	1.950	2.431	1.209
	(1.081)	(1.355)	(1.635)
Crime rate per thousand	−.019**	−.026***	−.015**
	(.007)	(.007)	(.009)
Unemployment rate	.044	.054	−.084
	(.052)	(.056)	(.090)
County fixed effects	Yes	Yes	Yes
Year fixed effects	Yes	Yes	Yes
Observations	1,638	1,638	1,638
R^2	.864	.844	.753
Average yearly detainers among treated counties, pretreatment	37.9	23.8	14.1

* $p < .05$.
** $p < .01$.
*** $p < .001$.

the literature: that county sheriffs' individual attitudes about immigration are a far stronger motivation in their decision-making than electoral concerns (Farris and Holman 2017), and that there is not a predictable partisan dimension to local immigration enforcement (Thompson 2020). Finally, the crime rate has a small but statistically significant negative association with detainers: An increase of one crime per thousand people is associated in a 2% decrease in detainers ($p < .01$), suggesting that crime was not the primary driver of immigration enforcement among 287(g) applicants.

Moving to hypothesis 2b, table 2 offers further evidence of the changes to frontline policing precipitated by 287(g), first studied in depth by Armenta (2017). Here, I repeat the analysis in table 1, this time decomposing total detainers into four mutually exclusive and exhaustive categories: detainers issued against people with no criminal charge on their records (column 1), those with at most a misdemeanor charge (column 2), and those with at most a nonaggravated or aggravated felony charge (columns 3 and 4, respectively). The results for people with no past charges closely replicate the main effects reported in table 1: Again, we see a 213% increase in detainers for this group ($p < .001$). There is also an 11% increase in detainers against people with misdemeanor charges, such as traffic violations or minor drug possession ($p < .05$). There are no effects on people with felony charges. In treated jurisdictions, it was already the case that the vast majority of detainees—about 37 of the 38 annual pretreatment detainers reported in table 1—had no criminal record, but under 287(g), they moved even further in this direction—and away from President Obama's "felons, not families" enforcement policy.

Robustness

Although I have presented evidence in support of the parallel trends assumption and applied a rigorous set of statistical controls, the baseline size and capacity differences between treated and control units nevertheless pose a threat to inference. I therefore reproduce my findings with an alternative identification strategy that directly targets these differences, matching on pretreatment outcomes and key observables to construct a control group that is as similar as possible to treated units on those dimensions.

In appendix C, I provide further details and report results using PanelMatch (Imai, Kim, and Wang 2023), a matching with difference-in-differences design where the control group is constructed using k-nearest neighbor matching

Table 2. Effect of 287(g) Participation on Logged Detainers by Prior Criminal History

	No Charge (1)	Low (2)	Med (3)	High (4)
287(g) participation	1.141***	.106*	.022	.072
	(.211)	(.047)	(.028)	(.048)
Democratic vote share	.051**	−.003	−.003	−.008*
	(.016)	(.003)	(.002)	(.003)
Proportion foreign-born	16.892*	.506	1.027	1.597
	(7.307)	(.786)	(.665)	(1.209)
Logged population	1.940	.053	−.007	.192
	(1.068)	(.087)	(.092)	(.115)
Crime rate per thousand	−.019**	−.003*	−.0003	−.002
	(.007)	(.001)	(.0005)	(.001)
Unemployment rate	.044	−.006	−.003	−.008
	(.052)	(.008)	(.005)	(.009)
County fixed effects	Yes	Yes	Yes	Yes
Year fixed effects	Yes	Yes	Yes	Yes
Observations	1,638	1,638	1,638	1,638
R^2	.865	.322	.184	.265
Average yearly detainers among treated counties, pretreatment	37.1	.3	.1	.4

* $p < .05$.
** $p < .01$.
*** $p < .001$.

on 12 months of pretreatment detainer outcomes as well as total and foreign-born population. This approach achieves a closer alignment of treated and control units on pretreatment trends and levels of logged detainers (app. fig. C.1) as well as other observable characteristics (app. table B.3). An advantage of this approach over the main design is that more comparable units on these observables are less likely to differ on key unobservables like local capacity and enforcement preferences. The downside is that, unlike rejected applicants, these control units did not elect the treatment, which may be associated with unobservable differences in local preferences and behavior that simply cannot be controlled away.

Ultimately, the two approaches are complementary, and they produce similar results. PanelMatch returns a treatment effect comparing logged detainers in each post-treatment year to a baseline of the year before treatment. Consistent with the main results, there is a statistically significant increase in detainers in county facilities of 0.80 log points (123%) in the year of 287(g) signing, 1.00 log points (172%) in the year after, and 1.40 log points (306%) in each of the two subsequent years (see app. table C.1). These effects are once again driven primarily by detainers against people with no criminal record and to a lesser extent people with only misdemeanor charges (see app. table C.2).

CASE STUDY: THE EVOLUTION OF IMMIGRATION ENFORCEMENT FROM OBAMA TO TRUMP

The evolution of immigration enforcement over the Obama presidency reveals a federal executive teetering on the brink of the condition that I argue makes local participation in policymaking appealing: that the high-demanding jurisdictions prefer somewhat more, but not too much more, enforcement than the president. While he pursued an aggressive expansion of Secure Communities and 287(g) in his first term, two developments made Obama backpedal in his second term: Critics on the left pulling his ideal point in a less restrictionist direction and local preference outliers proving costly and difficult to manage. President Obama faced harsh criticism from his liberal base, with activist groups calling him "deporter-in-chief" and mobilizing for protests and legal advocacy.[21] Simultaneously, the administration was wrestling with reports of racial discrimination, unconstitutional policing, and erosion of community trust in the police among 287(g) partners who abused their federal authority. The most high-profile case was the Justice Department's multi-year investigation and lawsuit against Maricopa County Sheriff Joe Arpaio, who oversaw what DoJ experts called one of the worst regimes of racial profiling in US history.[22] But the Arpaio case was not an isolated incident: In 2012, the administration revoked 287(g) agreements with seven additional Arizona agencies out of similar concerns.[23]

Obama's initial response to these challenges was to stay the course on local cooperation but to invest in screening and monitoring of 287(g) participants. In 2009, following a US Government Accountability Office report criticizing the program for lacking essential controls, DHS announced that 287(g) would be governed by a new, standardized MOA that would allow for closer federal oversight and bring participants in line with ICE's focus on the removal of "dangerous" criminals (Capps et al. 2011). But the ongoing investment of resources that such monitoring required chipped away at the federal benefits from cooperation. The program dwindled to 32 agreements nationwide by the time President Obama left office in 2016 (Paar-Jakli, Schreckhise, and Chand 2024).

In short, the late-term President Obama presided over a less restrictionist, more centralized immigration enforcement regime. In his final years in office, he turned his attention to measures that would shield children from deportation and provide a pathway to permanent residency. Donald Trump's inauguration in 2017 represented a drastic rightward shift in the federal ideal point, as the new executive was brought to power by a wave of populist, nativist politics. Consistent with hypothesis 3, this shift pulled immigration enforcement back toward a collaborative regime. In his first month in office, President Trump issued an executive order that reactivated the 287(g) program.[24] Not only did the Trump Administration create new opportunities for intergovernmental collaboration, but internal agency documents reveal an ICE-led campaign to actively recruit LEAs to submit 287(g) applications.[25] This effort raised participation in the program to an unprecedented 148 MOAs (Paar-Jakli et al. 2024).

DISCUSSION

This study has identified one more tool in the toolbox of diverse and creative strategies presidents use to influence state and local politics. Importing insights from theories of bureaucratic delegation, I have analyzed the federal executive's

21. See https://www.nytimes.com/2011/08/17/us/politics/17immig.html.

22. See https://www.nytimes.com/2017/08/04/opinion/arizona-sheriff-immigrants-ice.html.

23. See https://azcapitoltimes.com/news/2012/06/25/homeland-security-revokes-287g-immigration-check-agreements-in-arizona/.

24. See https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states.

25. See https://www.ilrc.org/immigrant-legal-resource-center-v-department-homeland-security.

strategic problem of extending authority to subnational governments. A case study of the 287(g) program has highlighted the power of cooperative federalism: Simply by creating opportunities for local participation, ICE massively subsidized the costs of interior immigration enforcement. But I have also demonstrated a significant downside to this strategy. As predicted by a formal model and supported by empirical evidence, the subnational agents who elected to contribute their own resources toward immigration enforcement did not share the federal government's priorities; they were extreme preference outliers. I illustrate this by way of both a selection effect and a treatment effect: Not only did 287(g) participants already have a history of aggressive enforcement practices before entering the program, but they used their newfound authority to institute even more restrictive policies, channeling people with no criminal history into the deportation pipeline.

Local participation in national policymaking has important implications not just for the executive but for the entire federal system. Although shifting the locus of decision-making downward may lead to a closer alignment between local preferences and policy outcomes, interjurisdictional variation comes with its own attendant costs. Law enforcement derives its legitimacy from universal standards, not particularities of place. But under a regime that enables voluntary local participation, immigrant communities living in different jurisdictions are policed and prosecuted differently under the same national law. Looking beyond criminal justice, my theory has broad applications to domains where large resource investments are required to produce policy change: most notably, perhaps, to the present challenges of environmental regulation, renewable energy, and climate change response and mitigation. Here, too, empowering state and local governments with the resources and political incentives to make major investments is a potentially impactful strategy, which also comes with important limitations: Natural resources, public health and climate emergencies, and vulnerable communities do not obey political boundaries, and local initiative is not a perfect substitute for coordinated national action.

The rising tide of political polarization introduces further complications. Scholars have long observed that "policy makes politics": Citizens' preferences and behavior are shaped by the policies in place in their local environment (Campbell 2012). Thus, downward extension of authority—a strategy to which the federal executive may increasingly turn in light of an already polarized and geographically sorted electorate—may have the perverse consequence of polarizing and segregating the electorate even further. And while divergent local political economies hold promise as "laboratories of democracy," they simultaneously entrench inequalities in access to resources, opportunities, and equal treatment under the law.

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