

Partisan Preferences: The Enforcing and Crafting of Immigration Policy

by

Jessuina Pérez-Terán

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Doctoral Committee:

Professor Charles R. Shipan, Co-Chair
Professor Michael S. Spencer, Co-Chair
Professor Kenneth W. Kollman
Assistant Professor Kristin S. Seefeldt

Dedication

To my parents

Table of Contents

Dedication	ii
List of Tables	v
List of Figures	vi
Chapter 1 Introduction	1
Key Argument	6
Contributions	8
Plan for the Dissertation	9
References	12
Chapter 2 Theoretical Underpinnings.....	13
Literature Review	17
The Origins of the 287(g) Program.....	22
Removals under Illegal Immigration Reform and Immigrant Responsibility Act.....	24
Participation in the 287(g) Program	25
The Bush Administration and the 287(g) Program	27
The Obama Administration and the 287(g) Program	28
Opportunities for Discretion	34
Conclusion.....	38
References	39
Chapter 3 The Enforcement of Immigration Policy through the 287(g) Program	83
Theory on Immigration Policy Enforcement Discretion.....	84
Data.....	108
Method	113
Results.....	115
Discussion and Conclusion	134
References	139
Chapter 4 State-Level Immigration Policies.....	160
Theory and Hypotheses	163
Data.....	171
Methodology.....	180

Results.....	181
Discussion and Conclusion.....	187
References	190
Chapter 5 Immigration Policy Advocacy	205
Introduction	205
Non-profit Sector	205
Policy Advocacy.....	211
References	218
Chapter 6 Conclusion.....	220
Limitations	224
Next Steps for Future Research	225

List of Tables

Table 2-1 Memorandum of Agreement—287(g) Program	44
Table 3-1. Hypotheses.....	147
Table 3-2 Descriptive Statistics of Dependent and Independent Variables	148
Table 3-3 Correlations among Political Environment, Demographic, and Socio-Economic Variables ..	149
Table 3-4. Negative Binomial Models of County Arrests, 2005-2012	150
Table 3-5 Negative Binomial Models of County Removals, 2005-2012.....	151
Table 3-6 Negative Binomial Models of County Arrests, 2005-2012.....	152
Table 3-7. Negative Binomial Models of County Removals, 2005-2012.....	153
Table 4-1 Hypotheses.....	201
Table 4-2 Descriptive Statistics of Dependent and Independent Variables	202
Table 4-3 Pairwise correlations.....	203
Table 4-4 Analysis of State-level Immigration Policies	204
Table 5-1 Arrests and Removals and Republican Governor	219

List of Figures

Figure 3-1. Participating Counties and Percent Change in the Latino Population 1990-2010	154
Figure 3-2 State Governments Participating in the 287(g) Program	155
Figure 3-3. Participating States and Latino Population.....	155
Figure 3-4. Distribution of Number of Arrests	156
Figure 3-5 Distribution of Number of Removals	156
Figure 3-6 Republican Governor x Unemployment	157
Figure 3-7 Republican Governor x Property Crime	157
Figure 3-8 Republican Governor x Latino Population	157
Figure 3-9 . Republican Governor x Unemployment	157
Figure 3-10 Republican Governor x Property Crime.....	157
Figure 3-11 Republican Governor x Latino Population	157
Figure 3-12 Republican Governor x Unemployment	158
Figure 3-13 Republican Governor x Prop. Crime	158
Figure 3-14 Republican Governor x Latino Population.....	158
Figure 3-15 Republican Governor x Unemployment	158
Figure 3-16 Republican Governor x Prop. Crime	158
Figure 3-17 Republican Governor x Latino Population	158
Figure 3-18 Republican Governor x Unemployment	159
Figure 3-19 Republican Governor x Property. Crime.....	159
Figure 3-20 Republican Governor x Latino Pop	159
Figure 3-21 Republican Governor x Unemployment	159
Figure 3-22 Republican Governor x Prop. Crime	159
Figure 3-23 Republican Governor x Latino Pop.	159
Figure 4-1 Adoption of State-level Accommodating Immigration Policies.....	193
Figure 4-2 Adoption of State-level Restrictive Immigration Policies	194
Figure 4-3 Adoption of State-level Accommodating and Restrictive Immigration Policies.....	195
Figure 4-4 Distribution of Predisposition Scores across the States	196
Figure 4-5 Distribution of the Dependent Variable	197
Figure 4-6 Residuals versus Predicted Values.....	197
Figure 4-7 Normality in the Residuals.....	197
Figure 4-8 Observed versus Predicted Values	198
Figure 4-9 Normality in the Residuals.....	198
Figure 4-10 Republican Governor x GDP Agriculture.....	199
Figure 4-11 Republican Governor x GDP Manufacturing.....	199
Figure 4-12 Republican Governor x Poverty	199
Figure 4-13 Republican Governor x Property Crime.....	200
Figure 4-14 Republican Governor x Latino Population	200

Chapter 1

Introduction

On May 12, 2008—in the last months of the Bush administration—the U.S. Immigration Customs Enforcement (ICE) raided a meatpacking plant, Agriprocessors, Inc., in Postville, Iowa (population 2200). Three days later, an ICE news release proclaimed it “the largest criminal worksite operation in U.S. history” (ICE 2008). For over a year, ICE strategized for this raid (Camayd-Freixas 2008). A total of 16 local, state, and federal agencies—including the U.S. Marshalls Service, the Iowa Department of Public Safety, the Federal Bureau of Investigation, the U.S. Department of Agriculture, the U. S. Department of Justice, and the federal Drug Enforcement Agency—participated in the investigation that led to the raid (Duara, Petroski, and Elbert 2008).

ICE’s enforcement actions at the meatpacking plant were well coordinated. On the day of the raid, 900 agents descended in Postville with 737 arrest warrants, which accounted for 75% of the workforce. Because the raid occurred during the morning shift, only 390 undocumented immigrants (4 Russians, 3 Israelis, 93 Mexicans, and 290 Guatemalans) were arrested. Part of the plan aimed at processing all undocumented immigrants at once. To that end, ICE set its command operations at the National Cattle Congress, a cattle fairground in neighboring Waterloo, Iowa. They brought in 23 trailers that served as courtrooms, where U.S. District Court judges would pass sentence. Other buildings, where hundreds of cots were

placed, were used to house the detainees. Federal court interpreters flew in from other parts of the country and court-appointed criminal defense attorneys were briefed and instructed on how to handle the cases. Additionally, the media was not allowed access on the day of the raid, but thereafter, and no cameras and any type of recording devices were permitted (Camayd-Freixas 2008).

A crucial aspect of this raid is ICE use of prosecutorial discretion. The U.S. Department of Justice put together not only the charges under which undocumented immigrants would be arrested, but also the plea agreement that would allow sole discretionary power to ICE and tie the hands of the judiciary. First, two charges were leveled against undocumented immigrants: 1) “aggravated identity theft” and 2) “Social Security fraud.” The first charge carries a mandatory 2-year sentence while the second carries a discretionary sentence, ranging from no time in jail to confinement of up to six months. Second, the plea agreement, an offer good for seven days, provided three options: 1) enter a guilty plea to the lesser charge of “Social Security fraud” and the government would drop the most serious charge of “aggravated identity theft,” serve five months in jail, and agree to be deported without a hearing before an immigration judge; 2) enter a no-guilty plea and spend from six to eight months in jail awaiting trial;¹ and 3) fighting the criminal charges and prevailing in court does not entitle anyone to stay in the country. And after winning the case, deportation would follow. Lose the case and the 2-year mandatory sentence goes into effect immediately. To keep a tight lid on the charges and on the plea agreement, ICE did not allow immigration attorneys to access the premises. Meanwhile,

¹ Once undocumented immigrants are arrested, ICE puts an immigration hold on them. It means that they cannot be released from custody, posting bail is not an option available to them

U.S. Court District judges were to accept the plea and render sentence. Under these circumstances, the process “reduced the judges to mere bureaucrats” (Camayd-Freixas 2008, 9).

This raid, with all its display of force, raises some puzzling questions, which are pertinent to this dissertation. If the goal of enforcing immigration policy is to rid communities and the country of undocumented immigrants, then why did the federal agency, ICE, target a meatpacking plant in a small town in Iowa? Why not target states such as California, where 2.5 millions of undocumented people reside? Was it politically motivated? What role, if any, did the partisanship of the president—along with his policy preferences—play in the decision to focus on Iowa? Was it the partisanship of the state governor that mattered the most? Chet Culver, a Democrat, had been elected state governor the previous year and was not politically aligned with President Bush, a Republican. Additionally, in the previous two presidential elections (i.e., 2000 and 2004), both the Democratic and Republican Party won by a fraction of one percent. And in the presidential election of 2008, Barack Obama was elected president and won with a comfortable margin. A quick perusal of both citizen and institutional ideology scores (Berry 2006; 2015) show that those scores were steadily climbing. They show that since 2002, the ideological views of Iowa residents and of state government institutions were becoming more liberal. In fact, those views started changing towards the end of the 1990s—the decade that saw the largest wave of Latino and Asian immigrants landing in towns such as Postville. That decade culminated with a shift in political power in the state government, and after three decades of Republican control of the governorship, the citizens of Iowa elected a Democratic governor.

Turning the focus to social issues in Iowa, and in Postville in particular, I zero in on the unemployment rate. Between the years 2005 and 2008, the unemployment rate fluctuated from a low of 4.1 percent to a high of 10.3 percent. By the time of the raid, the unemployment rate was 7 percent, well above both the state (4%) and the national average (5.4%). By August 2008, three months after the raid, it had dropped to 4.2 percent. Some would argue that by removing the undocumented immigrant population from the town, job vacancies were filled by the local residents. However, Agriprocessors, Inc. experienced a labor shortage as it could not find local residents willing to take those jobs. To restore levels of production, the meatpacking plant recruited out of state workers—authorized to work in the United States—and introduced Somali refugees and Palauans to Postville, Iowa.

Although neither the city of Postville nor the state of Iowa were or are participating in the 287(g) program—a federal immigration enforcement program and focus of this study—I draw attention to this raid for two reasons. First, the immigration raid was the impetus for this dissertation. The events in this Midwestern small town, a new destination for immigrants, raise valid questions about political parties and their concomitant policy preferences driving enforcement actions. Additionally, and equally crucial is the volatility of the immigration issue that makes congressional representatives key players on how immigration policy is enforced and how they shape it through oversight committees. Therefore, immigration policy enforcement ought to be examined through the lens of the legislative and executive branches of the federal government. Moreover, given that the enforcement occurs in communities where immigrants reside, studying the issue of immigration enforcement ought to include state government political actors: the state governor and state legislators. Second, the raid illustrates

the main points—discretionary power, political and social forces, and labor dependence on immigrants—surrounding debates over immigration policy enforcement and states’ decisions to adopt state-level immigration policies.

Overall, this raid provides a glimpse of variation in the enforcement of immigration policy and on labor dependence on immigrant labor. First, ICE could have targeted more populous cities and towns where immigrants reside. For instance, in the Central Coast and Central Valley of California, over 230 crops are grown (Bittman 2012). Primarily, undocumented immigrants labor in the fields tending to these crops that would supply markets across the United States. Given the high concentration of undocumented immigrants in those two areas, it would not be difficult for ICE to round them up and remove them from the country. Yet, it chose a small town, whose population decreased by 40% overnight and whose economy collapsed shortly thereafter, to conduct a raid of such magnitude. Second, the raid sent shockwaves to markets across the United States as Agriprocessors, Inc. supplied 60 percent and 40 percent of kosher meat and poultry, respectively. In fact, this meatpacking plant is the largest in the country (Bobo 2009). The amplitude of reach of these waves demonstrates the importance of and dependence on immigrant labor in particular industries.

In this dissertation, I focus on two areas of immigration policy and address two questions:

- What explains variation in the enforcement of immigration policy through the 287(g) program across participating localities?

- Why do some states tend to adopt state-level accommodating immigration policies while others tend to adopt restrictive ones?

The results of this study underscore the interrelationship of political and social forces that determine policy enforcement actions and the tone of state-level immigration policies. The theory emphasizes both the amplifying and attenuating effect that social issues—unemployment and crime rates and population growth—have on elected political leaders and how their position of power along with their partisanship—with its concomitant policy preferences—influence the discretionary decisions of local law enforcement officers and federal agents in the enforcement of immigration policy. Additionally, I apply this theory to state governments' decisions to adopt particular immigration policies and introduce an additional factor to the equation: the economic importance of key industries to the state economy. Lastly, using data from the U.S. Immigration Customs Enforcement and the National Conference of State Legislatures, I test the enforcement and policymaking hypotheses with negative binomial and OLS analyses, spanning two presidential administrations.

Key Argument

Studies on the enforcement of public policy tend to treat partisanship as just a characteristic of the environment. Seldom is it viewed as a crucial element in the crafting of legislation and shaping enforcement actions. The adoption of state-level immigration policies and the collaboration between local and federal agencies in the enforcement of immigration

policy present an opportunity to explore how the partisanship of political elected leaders determines the tone of the policies and enforcement activities.

The theory that I present anchors partisanship on the state governor and the president—two elected leaders who represent a political party that upholds a particular set of values. Given their executive powers—budgetary, appointment, oversight, and veto—they can directly and indirectly influence the discretionary enforcement actions of street-level bureaucrats and the legislative agenda. Put differently, the state governor and the president have powers that can either facilitate or hinder the actions of bureaucrats and can shape the legislative agenda. Instead of focusing on how they used their powers to obtain their preferred outcomes, I focus on their partisanship and how it defines public policy, in particular, immigration policy. Moreover, I set the powers of the governor and the president in the background and bring to the forefront their partisan values as a compass that guides their actions in the pursuit of their preferred policies. Thus, I argue that partisanship is vital to the enforcement of immigration policy and to the direction that state-level immigration policy takes.

Although the argument sets partisanship of elected leaders front and center, it does not suggest that on its own can shape legislation and enforcement. The partisanship effect, I argue, is much more complicated than the simple designation of Republican *versus* Democratic. Therefore, I add an additional layer to the argument by including socio-economic-demographic (SED) issues that are of concern to the political parties and the constituencies they represent. Importantly, the argument I set forth is that these SED issues activate partisan values, which

determine policy preferences. And, because of the powers that elected political leaders possess, their preferred public policies prevail.

All in all, a conglomerate of social issues related to a specific public policy helps determine whether partisanship has an effect on the tone of state-level policy and on street-level bureaucrats' enforcement activities. The president and the state governor do not have to even mention the powers they possess. Their position as chief executives implicitly signals their power and their partisanship explicitly indicates the public policies they envision and expect to realize. In this dissertation, I plan to test this theory of the relationship of partisan influence and social factors in relation to enforcement actions and state-level legislation (Chapters 3 and 4).

Contributions

The findings from these analyses contribute to the study of partisan politics and policy advocacy in a number of ways. First, it furthers our understanding of key political leaders' partisan values and their influence on state and federal agencies policy enforcement activities. While this view may not be a novelty, the core values from which public policy preferences emanate are hardly ever discussed in studies of policy enforcement and policymaking. Although this study is not about uncovering the set of core values that political parties uphold, they deserve mention because by knowing the values, we will better understand policy preferences and their effect on policy enforcement and policymaking.

Second, it links issues such as unemployment, crime, and demographic growth to partisanship values of key political leaders. By linking these two sets of factors, it highlights the amplifying and attenuating effect of these social issues on the policy preferences of elected

party leaders thus determining the approach to policy enforcement and direction of state-level immigration policy. This is important because by understanding how social issues provoke a particular partisan response, immigration policy advocates can better design their advocacy agenda.

Plan for the Dissertation

In this dissertation, I explore the two fundamental elements of immigration policy: social issues and partisan politics factors. The goal is to demonstrate the activating effect of social issues on partisan values that, in turn, determine the approach to immigration policy enforcement and the direction of state-level immigration policy.

In Chapter 2, “Theoretical Underpinnings,” I dive into the immigration policy enforcement program known as 287(g) and demystify it. I explain in detail its inner workings, its design, and the cooperative relationship between local and federal agencies. Additionally, I reveal the junctures at which opportunities for discretion occur and the enforcement actions that proceed. More importantly, I explore how the 287(g) program functions under both the Bush and Obama administrations to get an insight on how their policy enforcement preferences explain the variation in the number of immigrants arrested and removed from the country.

Chapter 3, “The Enforcement of Immigration Policy through the 287(g) Program,” presents a theory of immigration policy enforcement by bringing together and combining social issues and political factors. I empirically test the predictions underpinning the theory using a new dataset of enforcement actions generated by the U.S. Immigration Customs Enforcement in coordination with local law enforcement agencies. I show that the partisan identification of

key political leaders, in particular the governor and the president, does determine the policy enforcement activities of the agencies. Additionally, I show that social issues are key influencing factors on the partisan identification of those political actors.

In Chapter 4, I adjust the lens and focus on state governments and the type of state-level immigration policies they adopt. I make use of the theory of policy enforcement (presented in Chapter 3), and after adding another layer of complexity to the model, I apply it to the study of state policymaking as it relates to immigration policy. Using data from the National Conference of State Legislatures, I then empirically test the predictions that emanate from the theory. Again, I show that some social issues have activating effects by turning on and off the policy preferences of the state governor.

Chapter 5 brings together key findings from the empirical tests in Chapter 3 (policy enforcement) and Chapter 4 (state-level immigration policies) and explores their applicability to the field of policy advocacy. Additionally, I situate this analysis within the context of non-profit organizations and the federal regulations that delimit their level of involvement and restrict their advocacy activities. More importantly, I present a picture of the political and social landscapes and point out the areas where political landmines may be buried.

In Chapter 6, I conclude that social issues, of concern to key constituencies, play a crucial role in activating the core values of the political parties and consequently determining a policy preference that shapes the enforcement of immigration policy. Additionally, those same social issues—given the political party controlling the governorship—determine the predisposition of state governments to adopt state-level immigration policies that either seek to restrict or accommodate the residence of immigrants in the states. I further discuss the

overall findings of the analyses and their implications for policy enforcement, policymaking, and policy advocacy.

The dissertation concludes that partisanship is not the sole determinant of immigration policy enforcement outcomes and whether states adopt either accommodating or restrictive immigration policies. It also highlights the effect that socio-economic-demographic issues have on partisanship and how this relationship provides more nuanced results in terms of enforcement and legislation. Additionally, it shows that even when SED issues are present, they may not have an activating effect on the partisan values of the political parties despite the political rhetoric of elected leaders.

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Chapter 2

Theoretical Underpinnings

The enforcement of immigration policy is the exclusive jurisdiction of the federal government. However, in 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), allowing local and state governments to collaborate with the Department of Homeland Security (formerly the Immigration and Naturalization Services) to enforce immigration law. This window of opportunity facilitated the participation of local law enforcement agencies in federal enforcement programs to deal with undocumented immigrants in their communities. Thus, at the local level, the participating agency can identify and arrest removable immigrants, while the federal agency decides who is removed from the country. The structure of the collaboration ensures that immigration enforcement actions remain an exclusive jurisdiction of the federal government.

Although both local and federal agencies are on the frontlines of enforcement actions, their discretion is influenced by key political leaders—the state governor and the president. These key leaders have constitutional and other powers that they can use to influence the discretion of local and federal agencies in the enforcement of immigration policy. Moreover, because these elected political leaders uphold a set of values that characterize the political party they represent, they have particular policy preferences, emanating from those values.

Thus, it may be the case that while one political party favors stringent enforcement, the other favors an approach that provides opportunities for certain undocumented immigrants to stay. Furthermore, the position on immigration enforcement they take would depend not only on a set of values, but also on socio-economic-demographic concerns of the constituencies they represent.

Despite a sizable literature on the effect of partisanship in many areas of governance, little is known of its effect on immigration policy enforcement. To understand that effect, a better understanding of partisanship is needed. To that end, I take a step back from common descriptions of both Republican and Democratic political parties—for example, red *versus* blue, diverging views on the size of government—and burrow just a bit deeper. At the core of partisanship, there is a set of values that define policy preferences and guide party leaders in the enforcement of public policy in general and immigration policy in particular. Debates over immigration policy bring out concerns over the impact of immigrants, along with their cultural traditions, on both the unemployment and crime rate, issues dating back to the 19th and 20th centuries.

I argue that these socio-economic and demographic factors act as a switch, activating partisan values and triggering a reaction or response from elected party leaders. I assume that Republicans uphold values of law and order and the rule of law. In general, they argue that undocumented immigrants are law breakers because either they crossed the border without authorization or overstayed their visas. This argument coupled with the perennial view that immigrants are prone to crime and commit more crimes than the U.S.-born may lead Republican to prefer rigorous enforcement. On the other hand, I assume that Democratic

leaders value social integration. They emphasize that the United States is a country of immigrants—whether first or fifth generation, who through time, have contributed to society. This view may lead them to support programs that facilitate integration rather than programs that facilitate deportation.

Moreover, I argue that partisanship influences bureaucratic discretion and shapes immigration policy enforcement. Moreover, this effect is either amplified or attenuated when socio-economic and demographic factors activate partisan values. Thus, the same issues may activate the core values of both Republican and Democratic parties yet produce diverging responses. While this is a theoretical argument that can be applied to any other public policy, this analysis focuses on immigration policy. The issue of immigration is contentious and salient and is fodder for political campaigns. Both incumbents and challengers build their political platforms based on this hot button issue. Promises of immigration policy reform and of ridding the country of undocumented immigrants abound. This political rhetoric at the national level (Hopkins 2010)—along with congressional legislative inaction on immigration policy reform and rapid growth of immigrant populations at the local level—has influenced states to adopt restrictive policies including the enforcement of immigration policy. Yet, so far, no study has explored the factors that influence variation in the number of arrests and removals of undocumented immigrants.

In this study, I explore the links between the state governor and the president in relation to local and federal agencies, respectively. In particular, I explore whether the partisanship affiliation of these leaders influence the enforcement actions of the agencies. Additionally, I focus on how issues such as crime, unemployment, and rapid demographic

change may activate partisan values leading either to an increase or decrease in enforcement actions. To explore these links and to discern whether partisanship matters in the enforcement of immigration policy, I use data generated by the 287(g) program—a federal program in which local and state law enforcement agencies (LEA) collaborate with the federal government identifying, arresting, detaining, and removing undocumented immigrants. At the local level, LEAs have the discretion to arrest undocumented immigrants, while at the federal level, the federal agency exercises discretion to remove them from the country. Given that the data available span two presidential administrations, this study focuses on the last term of the Bush and the first term of the Obama administrations.

This study contributes to the growing body of literature on immigration policy enforcement in four ways. First, it provides information on the intricacies of the 287(g) Program, how it works, and the interrelationship between local, state, and federal governments in the enforcement of immigration policy. Second, it posits that partisanship, with its concomitant public policy preferences—filtered through the president and state governor— influences the discretion of bureaucrats from local, state, and federal law enforcement agencies in their approach to immigration policy enforcement. Moreover, partisanship may be pivotal in explaining variation in the number of arrests and removals across participating localities and states. Third, it explores how social factors, of concern to constituencies, either amplify or attenuate the effect of partisanship on enforcement actions. And fourth, by focusing on immigration policy enforcement, I can begin to explore how states and national political leaders use their power not only to influence the discretion of law enforcement officers, but also to establish a quasi-immigration policy reform—one locality and state at a time.

This chapter proceeds as follows. First, I present previous studies on the president's and governor's constitutional powers and their effect on local, state, and federal agencies' discretionary actions. Additionally, I examine studies in which partisanship is an influencing factor on various spheres of government and in public policy outcomes. Second, I describe the complexities of the 287(g) Program: the statute that defines the program and the application process to gain approval to participate. Finally, I describe how the program operated under both the Bush and Obama administrations, including the removal process and opportunities for discretion that local and federal agencies encounter in the fulfillment of their duties.

Literature Review

It is well established that the president influences the behavior of the federal agencies. The literature on the bureaucracy and the administrative presidency provide an array of studies that explore the determinants that explain how that influence occurs. A number of scholars have focused on the president's constitutional powers and how he wields them on the federal agencies. First, the budgetary power allows the president either to increase, decrease, or maintain the amount of funds allocated to the agency. Wood's (1988) study of the effect of the Reagan administration's budget reduction on the Environmental Protection Agency's (EPA) enforcement activities found that both monitoring and abatement activities decreased by 41% and 69% points, respectively.

Second, with the appointment power, the president can pack the federal agencies with appointees with whom he has an ideological affinity and could advance his policy priorities

(Moe 1985). Wood (1988, 1991) provides examples on how Reagan's appointment of a like-minded secretary to head the EPA contoured policy enforcement. While the first appointee, Ann Gorsuch, followed Reagan's directives to decrease enforcement activities, the second appointee, William Ruckelshaus, increased them—an action in response to external political forces. Finally, although the president's political rhetoric is not considered a constitutional power, it was found to influence the behavior of the bureaucracy by signaling policy preferences and priorities, specifically on the "war on drugs" (Whitford and Yates, 2003, 2009). Additionally, presidents can influence the actions of bureaucrats, congressional representatives, and state governments through their political rhetoric. The rhetoric explicitly states the president's policy preferences whether is on the type of public policy she wants to see adopted or the manner and rigor with which these policies ought to be implemented and enforced. Karch's (2012) study on the national government's legislative activities demonstrates the influencing power of the political rhetoric on state governments' legislative agenda. In particular, the study found that President Bush's statements to the media on federal funding for embryonic stem cell research made the issue salient. Thereby, he drew the attention of the public and of congressional and state legislators. His statements coupled with national legislative activity on the issue influenced state governments to put stem cell research policy in their legislative agendas.

Governors, because of their institutional powers, also have considerable influence over the crafting and implementing of public policies. Among the most notable powers at their disposal are the appointment, veto, and budgetary. With the strategic use of these powers, governors can maneuver around obstacles that may impede the fulfillment of their policy

preferences. Although the governors do not have any legislative power, their veto power makes them key players in the legislative process. The veto threat, whether explicitly or implicitly stated, can make legislatures design policy that would accommodate the governor's preferences. Even when the legislature can override a veto, governors can still rely on their cabinet members, with whom they have an ideological affinity. In this manner, governors exert more control over the implementation of policies, enforcing them in a manner that meets their political goals. Finally, the budgetary power allows them to fund their pet projects and defund those that do not fall within the purview of their public policy agendas.

Political parties are pivotal players in U.S. governance. Each party upholds a set of values that guide its work in the crafting of public policy. Furthermore, constituencies tend to associate specific public policy issues with either the Republican or Democratic Party (Egan 2010). Party leaders embrace these values and derive their power from being elected to office to pursue particular policies. Because of the centrality of political parties in governmental politics, elected leaders exert a great deal of influence on the courts, the design of public policy, and local, state, and federal agencies, among others.

A number of studies have analyzed the partisan influence on different spheres of government. Studies on judicial nominations have found that partisanship plays a key role in the confirmation process of justices. For instance, Shipan's (2008) study on the president's Supreme Court nominees found that when legislators are from the same political party of the president, they are more likely to confirm, even controlling for nominee's qualifications and ideology. Similarly, when the Senate is controlled by the president's opposing party,

confirmation of both lower-court judges (Binder and Maltzman 2002) and of Supreme Court nominees (Shipan and Shannon 2003) is delayed.

Another strand of research has focused on policy design. Legislators make calculated decisions as to whom and how much authority they allocate. They can either write detailed laws that constrain the president or they can write them in vague language that gives ample discretion to the president, state governments, or both (Huber and Shipan 2002). In a similar vein, studies on delegation found that legislators allocate more authority to the president when they share partisan ideology (Epstein and O'Halloran 1999), and when Republicans control the state institutions, Republican congressional legislators allocate more authority to the states, the same holds true for Democratic legislators (Krause and Bowman 2005).

While partisanship has a clear effect in areas of judicial nominations and in the policymaking process, studies on bureaucratic discretion present mixed findings. For instance, in the enforcement of the Occupational Safety and Health Act, street-level bureaucrats issued more violations and higher fines in liberal states (Huber 2007). Those findings echoed previous studies (Scholz et al., 1991; Scholz 1986). Similarly, bureaucrats issued more citations for violations of regulations in nursing homes when Democrats held more seats of the state legislature (Boehmke and Shipan 2015). On the other hand, Chen's (2013) study on the effect of the Federal Emergency Management Agency's (FEMA) distributive aid on voter turnout provides another angle on the effect of partisanship. He found that FEMA treated both Republican and Democratic applicants similarly, not only in providing them with federal aid, but also in the effectiveness with which their applications were processed.

Literature on Immigration

The political science literature contains a substantial number of studies on immigration and immigrant policy. Traditionally, studies on public opinion have focused on immigration policy (Harwood 1986), elite discourse (Brader, Valentino, and Suhay 2008), and economic motivations (Citrin, Green, Muste, and Wong 1997). Other studies have explored economic concerns and prejudice toward immigrants (Burns and Gimpel 2000), minority party use of immigration as a wedge issue (Jeong et al., 2011), congressional legislators and policy reform (Gimpel and Edwards 1999), and failure of immigration reform (Jones-Correa 2013).

An emerging body of literature on immigration has centered around two areas: state policymaking and local and state government participation in immigration federal programs. In the area of state legislation, these studies analyze state-level restrictive immigration policies (Monogan 2013), restrictionist coalitions (Reich and Barth 2012), states' rights to grant or deny in-state tuition to undocumented students (Reich and Barth 2010), and partisan effects on the introduction and adoption of restrictive immigration policies (Ramakrishnan and Gulasekaram 2012; Ramakrishnan and Wong 2010). They also examine the growth of the Latino population and restrictionist policies (Marquez and Schraufnagel 2013; Turner and Sharry 2012; Hopkins 2010), immigration policy innovation (Boushey and Luedtke 2011; Newton 2012), de facto state-level immigration policies (Newton 2009), descriptive representation (Filindra and Pearson-Merkowitz 2013), and restrictive bill sponsorship (Wallace 2014).

While state-level restrictive immigration policies have been a focus of political science research, as of late, an emerging body of scholarship is exploring federal immigration *enforcement* programs. More specifically, these studies explore local and state governments'

characteristics and their decision to collaborate with the federal agency in the enforcement of immigration policy (Wong 2012; Creek and Yoder 2012). Other studies look at the effect of local-state-federal collaboration on community safety (Kirk, Papachristos, Fagan, and Tyler 2012), and the size of the Mexican immigrant population (Parrado 2012).

The Origins of the 287(g) Program

The passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996 amended the Immigration and Nationality Act (INA) by adding section 287(g) (U.S. Department of Homeland Security, Office of Inspector General [OIG] 2010), which led to the creation of the 287(g) Program. This section of the act authorizes U.S. Immigration and Customs Enforcement (ICE)—the main investigative branch of the Department of Homeland Security (DHS)—to delegate authority to state, tribal, and local Law Enforcement Agencies (LEA) in the enforcement of immigration policy. To participate in the program, states and local LEAs enter into an agreement with ICE by signing a Memorandum of Agreement (MOA). A copy of MOAs drafted during both the Bush and Obama administrations can be found in the Appendix.

This MOA stipulates the scope and conditions, as explained below, of the partnership and establishes the requirements for state and local law enforcement officers' eligibility and the training they should receive: LEA officers are required to follow federal guidelines in order to protect the civil rights of individuals. Moreover, the MOAs authorize trained and certified LEA officers to do the following: stop anyone believed to be undocumented; arrest without

warrant; issue immigration holds;² interrogate; and detain and transport undocumented immigrants to detention facilities. These MOAs also establish the financial responsibilities for ICE and for the participating LEA. For instance, ICE covers costs for training and technological equipment, while the LEA cover the salaries, benefits, and transportation of its officers who have been certified to function as ICE agents. An additional responsibility of the LEA is to inform community members of the nature and purpose of the 287(g) Program.

Two critical sections of the MOA, which cover agency discretion, are: 1) the designation of authorized functions, and 2) ICE supervision of LEA. The designation of authorized functions establishes the parameters of authority which allow deputized LEA officers to function as ICE agents in the enforcement of immigration policy. Specifically, LEA officers have the authority to interrogate and to arrest without warrant for both civil offenses (i.e., violation of immigration law) and criminal offenses (e.g., burglary, homicide, etc.). In addition, these agencies can take sworn statements, collect biometric information, issue immigration detainers, detain and transport undocumented immigrants to ICE-approved facilities, prepare legal documents (e.g., Notice to Appear), as well as other documents for the review of an ICE supervisor. The second section describing ICE supervision emphasizes the role that ICE supervisors play in guiding LEA officers to fulfill their duties as deputized officers. In particular, the MOA states that LEA officers “are not authorized to perform immigration officer functions except when working under the supervision or guidance of ICE” (Myers and Ferguson 2007; Morton and Ferguson

² This is a formal request that ICE makes to the local LEA to hold the arrestee in custody for a maximum of 48 hours after the release date. The goal is to transfer custody of the arrestee from the local to the federal agency.

2009). Moreover, when there is a conflict between the deputized LEA officer and the ICE supervisory officer, the conflict has to be reported to the ICE Field Office Director.

Removals under Illegal Immigration Reform and Immigrant Responsibility Act

The passage of INA in 1952 marked a watershed moment in immigration policy. It was the first law that passed establishing the removal process of foreigners (Shugart, Tollison, and Kimenyi 1986). INA was amended with the passage of IIRIRA in 1996, which created several changes to the enforcement of immigration policy. First, at the core of the 1996 act is a partnership between DHS and state and local governments in the enforcement of immigration policy. Second, the act expanded the administrative power of DHS in the removal process by shifting some removal decisions from the immigration court to the federal agency. While the intent of IIRIRA in allocating more authority to DHS was to avoid choking the lower courts (i.e., Immigration Court and Board of Immigration Appeals) with a large number of removal cases, it ended up increasing the caseload of the U.S. Court of Appeals, especially in the Second and Ninth Circuits (Law 2010). As a result, since 1997 (when IIRIRA took effect), most formal removals are decided by DHS officials (Rosenblum, Meissner, Bergeron, and Hipsman 2014).

Participation in the 287(g) Program

Although states had the option to join the 287(g) Program in 1997, no state or LEA signed an MOA until 2002,³ a response to the September 11, 2001 events. Prior to 2001, the issue of illegal immigration had been debated as an issue of states' fiscal burden, job competition, and rising crime rates. After 2001, the debate took on a different dimension: immigration was seen as a threat to national security. Despite the urgency to secure the borders and to deport anyone illegally in the country, by 2005 only four states and local LEAs had signed the MOA. The number of signed MOAs with ICE increased significantly in 2007 and 2008, only to plateau in 2009. Nonetheless, from 2009 to 2012, the number of participating state and local LEAs has remained stable at 80 participants in 25 states (see Table 2.1)

A number of circumstances may explain the initial increase and subsequent decrease in the number of MOAs signed between ICE and LEAs from 2005 to 2009. First, in 2006—the first year that funds were allocated—Congress authorized \$5 million for start-up costs. The surge in signed MOAs for Fiscal Years 2007 and 2008 correlates with the increase in funding to the program: \$15 million and \$42.1 million, respectively (See Table 2). Second, in 2009, partisan control of the White House switched from Republican to Democratic. This change in administration signaled a change in how the collaboration, in the enforcement of immigration policy, between ICE and subnational governments would proceed. Those changes stem from the diverging ideologies of the two political parties. While Republicans prefer to devolve

³ Although undocumented immigration had been a simmering issue across communities, their removal was not seen as a priority until after the events of September 11, 2001 when immigration was linked to national security. Prior to 2001, the 287(g) was just a section of the IIRIRA that had not been developed into a federal enforcement program; Congress had not appropriated funds to set up an infrastructure that would facilitate an active participation of local governments in the removal of undocumented immigrants.

authority to the states, Democrats prefer to centralize it (Peterson 1995). Both ideologies are reflected in the content of the MOAs drafted during the Republican and Democratic administrations. While the Republican administration did not specify who should be removed, the Democratic administration emphasized the removal of undocumented immigrants with criminal records. Nevertheless, during the Republican administration, a large number of arrests, which eventually led to removals, resulted from minor traffic violations (Government Accountability Office [GAO], 2009).

Application Process

Participation in the 287(g) Program is neither automatic nor guaranteed. After the state and local LEAs submit a request to ICE to participate in the program, the latter forwards the request to the Special Agent in Charge (SAC) and to the Field Office Director (FOD) of Enforcement and Removal Operations (ERO) to determine whether the latter three have the capacity to handle the additional workload, which includes more detentions and more removals. Moreover, the SAC initiates an evaluation of the LEA for consideration of acceptance.⁴ Then, both LEA and ICE evaluate the community needs and decide whether the 287(g) Program is the most appropriate for their state and locality (S. Rept. No. 111-222, 2011)

The 287(g) Program is one of twelve programs that are part of the ICE Agreements of Cooperation in Communities to Enhance Safety and Security (ICE ACCESS), which was started in 2007 to address specific community needs and priorities. LEAs whose community needs are not addressed by the 287(g) Program have the option to participate in any of the programs under

⁴ M. Foreman, personal communication, December 14, 2007; R. Jones, personal communication, n.d.

ICE ACCESS. Included in those programs are the Criminal Alien Program, Fugitive Operations, Operation Predator, Secure Communities, Law Enforcement Support Center (LESC), and Document and Benefit Fraud Task Forces (ICE 2008).

While many local and state LEAs may have an interest in participating in the 287(g) Program, ICE makes the final decision as to which LEAs participate. The decision seems to hinge on the availability of resources for the ICE regional office and on the community needs of the applying LEA, as determined by ICE.

The Bush Administration and the 287(g) Program

Although the MOAs fulfill the provision of Section 287(g) of the INA, their level of specificity as to how LEA officers are to identify undocumented immigrants varies across both the Bush and Obama Administrations. Specifically, under the Bush Administration, supervision of LEA officers was lax, priorities for deportations were not articulated (Government Accountability Office [GAO], 2009), and LEA officers had the authority to arrest without warrant anyone attempting to enter the country illegally, among others. As written, MOAs gave ample discretion to LEAs in the enforcement of immigration policy. More specifically, because the MOAs authorized LEA officers to question, arrest without warrant, issue legal documents, and transport undocumented immigrants to ICE-approved detention facilities, and because several LEAs were operating under the Task Force Model, state and local LEA officers possessed considerable discretion.

The GAO's study found that undocumented people who committed minor traffic violations (e.g., broken taillight), or who were "carrying an open container of alcohol" were

arrested and eventually removed. In some instances, undocumented immigrants were either walking down the street or standing around listening to the radio when LEA deputized officers approached and requested identification; failure to provide it led to an arrest and to the initiation of removal proceedings (GAO 2009: 7).

Moreover, states and local LEAs had the option to choose from three enforcement models. The first model is the Jail Enforcement Model (JEM), in which deputized local or state law enforcement officers identify and process removable immigrants who have been charged or convicted of an offense. The second model is the Task Force Model (TFM). In this model, deputized officers, during the course of their duties—as patrol officers, criminal detectives, or investigators—identify and process removable immigrants in the community setting. The third model is known as the Joint Model (JM), which is basically a combination of the Task Force and Jail Enforcement Models.

The Obama Administration and the 287(g) Program

In 2009, the switch in party control of the presidential administration—along with Democrats controlling both chambers of Congress—brought changes to the 287(g) Program. To start, in January 2009 the Government Accountability Office (GAO) evaluated the 287(g) Program.

Basically, the GAO evaluated how the program had been operating since its inception under the Bush Administration. The report findings included lack of clear program objectives, lax oversight of participating LEAs, unclear venues to address complaints, lack of instructions on data to be collected and reported, no performance measures, and little guidance for how LEAs were to use their 287(g) authority, among others. The GAO report echoed concerns raised by the House

Appropriations Committee which, in 2008, expressed apprehension as to the lack of oversight of states and local LEAs in the enforcement of immigration laws. In addition to the GAO report, immigrant advocate groups filed complaints with ICE voicing their concerns as to how the program trampled on the rights of immigrant communities. The complaints included racial profiling—for example targeting Latinos—and civil rights abuses. Inevitably, several lawsuits (e.g., *Melendres v. Arpaio* in 2008) were filed against LEAs, challenging the 287(g) Program.

Second, based upon findings and recommendations from the GAO report, ICE crafted a new MOA—what then-Secretary of DHS Janet Napolitano called the “MOA Model.” The new agreement included provisions on improved oversight of participating LEAs, specific program objectives, and prioritized removals. Moreover, ICE voided the old agreements and required participating LEAs to sign “standardized” versions of the old one. In October 2009, ICE announced that it had renewed MOAs with 67 state and local LEAs to participate in the 287(g) Program, six jurisdictions had either declined or withdrawn from the program, and eleven new jurisdictions had been added (ICE Public Affairs 2009). In stark contrast to the old MOA, the “MOA Model” includes an additional appendix—the Standard Operating Procedure (SOP).

Because the Task Force Model posed the most problems and generated the most complaints, the SOP aims at addressing some of those problems. It includes a “Prioritization” section in which ICE unambiguously states that the “ICE retains sole discretion in determining how it will manage its limited resources and meet its mission requirements.” The prioritization of removals emphasizes the removal of undocumented immigrants with criminal records and specifically delineates the type of crimes that warrant their being placed in removal proceedings. Moreover, the MOA requires that LEAs complete the processing of state criminal

charges, for which undocumented immigrants were arrested, before placing them in removal proceedings. With this provision, ICE not only eliminated or lessened the numerous arrests and detentions based on minor traffic infractions, but also ended up constraining administrative discretion of participating states and local LEAs, and likely limited the number of removals.

Third, the new MOA provides a section on “Supervision” that clearly and specifically establishes the chain of command: it delineates LEA officers’ duties, ICE supervisor functions, and the Field Office Director (FOD) authority over the latter two. For example, when the deputized officer places an immigration detainer, she has to notify the ICE supervisor within 24 hours. If an arrestee claims to be a U.S. citizen, the LEA officer—within one hour—has to notify the ICE supervisor, who, in turn, will notify the FOD. Thus, while the ICE supervisor can audit the computer system, which collects the 287(g) Program data for participating LEAs, the FOD provides them with updated DHS policies on arrests and processing of undocumented immigrants. Despite major corrections to the 287(g) Program, the Obama Administration increased its budget from \$42.1 million in 2008 to \$54 million in 2009 and then again to \$68 million in 2010. This funding will continue through 2012.

Explaining Removals

In this section, I include the federal agency definition of removals and outline the technical aspects of the stages of removal at the local, state, and federal level. Then, in the Opportunity for Discretion section, I explain each stage of the removal process and the opportunities for discretion that state and local LEA officers and ICE agents encounter in the fulfillment of their duties.

Removal Process

From 2005 to 2012, 80 LEAs in 25 states signed an MOA with ICE. In this study, I focus on the states with signed MOAs, with either local or state LEAs, for a number of reasons. First, the 287(g) Program—from its inception—has been controversial. The controversy is rooted in the deputation of LEA officers to function as ICE agents. Immigrant advocates and local law enforcement officials who criticize the program contend that cross-deputizing local law enforcement officers erodes community safety as immigrant communities may refrain from assisting law enforcement agencies in both reporting and solving local crimes. They further argue that the involvement of LEAs in the enforcement of immigration policies makes communities less safe (Harris 2006). Moreover, those law enforcement officers cite budgetary concerns over the cost of implementing the program (Chapin 2011; Branche 2010). They assert that LEAs have to reallocate funds from local community programs to the enforcement of immigration policy, a role they deem to be exclusive of the federal government.

Second, the controversy over the deputation of LEA officers has resulted in several lawsuits challenging the 287(g) program. In particular, the lawsuits charge civil rights violations (Melendres v. Arpaio 2008; Villegas v. Davidson County Sheriff's Office 2008), racial profiling in traffic stops, violations to provisions of IIRIRA, inadequate training of LEA officers, ICE lax supervision, and improper delegation of authority from the ICE to state and local LEAs (Albarran v. Morton 2010).

Third, states and localities that signed MOAs are located in every region of the United States; specifically, there are 3 states in the Midwest, 4 in the Northeast, 6 in the West, and 10 states in the South working in partnership with ICE. However, in terms of the number of MOAs signed within each region, there is ample variation. More specifically, there are 3 in the

Midwest, 5 in the Northeast, 18 in the West, and 43 in the South. Fourth, it is a matter of practicality; the data are available. Moreover, the data cover two presidential administrations, thus allowing for a comparison of the factors that determine the number of arrests and removals and how removals proceed under each administration.

The removal process occurs in three overlapping stages: local and state level, federal level, and judicial level. At the local and state level, the process starts with the arrest. It is followed by the federal level, where the process continues, by placing an “immigration detainer” or “ICE hold”⁵ on the arrestee. The judicial level, and final step—is characterized by a hearing before an immigration judge. In this study, I focus on the first two stages, where bureaucratic discretion occurs.

Stage I

At the local level, the removal process starts with the arrest. Any person who is arrested, regardless of immigration status, has to go through the central booking unit. During the booking phase, a law enforcement officer fills out an intake assessment form. The form contains two key questions that may determine whether the arrestee is an undocumented person: “What country were you born in?” and “What country are you a citizen or national of?” If the answer to either of those two questions is a country other than the United States, then the arrestee moves to the next stage of the booking process (Frederick County 2010). At the first stage—the local level—during the Bush Administration, deputized officers working under

⁵ The detainer, or hold, is a notice that serves three purposes: notifies LEA that ICE will take custody of the arrestee, requests information as to date of release of the detainee from local custody; and requests that LEA maintain the detainee in custody for a maximum of 48 hours, not including weekends and holidays—or release the arrestee.

the TFM could arrest anyone they suspected of being undocumented in the country. All that changed during the Obama Administration. The new MOA, as previously discussed, set priorities for removal and the conditions under which undocumented immigrants could be placed in removal proceedings.

Stage II

In the second stage—the federal level—of the removal process, the arrestee is taken to the ICE Processing Unit in which certified and deputized local law enforcement officers function as ICE agents. At this stage, biometric data (i.e., fingerprints and photographs) are collected. LEA deputized officers do an in-depth interview to ascertain the identity of the arrestee and to determine whether he has a criminal record. Once all the pertinent information has been collected, the officer creates an Alien File (A-File) (Frederick County 2010). After it is determined that the arrestee is an undocumented person, deputized officers have two options. First, pursuant to Section 287(g) of IIRIRA, they may place what is commonly known as an “immigration detainer” or “ICE hold,” ICE Form I-247. When ICE issues a detainer requesting that the LEA maintain custody exceeding the standard 48 hours, the detainer has to be supported by a judicial order (Mendocino County Sheriff’s Office 2014). Once the detainer is issued, the LEA officer has to provide a copy to the detainee and notify ICE of the expected release date, at least 30 days in advance. Moreover, as noted in Form I-247, the detainer is only valid once the detainee has been convicted of a state or federal felony. At this stage, ICE serves on the arrestee a Notice of Legal Services, change of address form, and the arrestee is allowed to notify his home country’s consulate.

As a second option, LEA officers may release the arrestee. Whether LEA or ICE maintain custody or release the arrestee, in most cases, they will issue and serve a *Notice to Appear* (NTA) in immigration court. The NTA—a legal document—contains charges of removal against the immigrant, requests current address and telephone number, provides legal authority for the proceedings, and date and place of legal proceedings, among other information. Other notices that may be served at this time are Notice of Intent to Administratively Remove (i.e., Notice of Intent to Expeditiously Remove)—removal without a hearing before an immigration judge. After LEA officers have completed the booking process, the on-site ICE supervisor reviews the A-File for completeness and approval (Johnson 2011). At times, DHS may hold a removal hearing with the arrestee before filing the NTA with the court (U.S. DOJ 2013; USCIS 2014). It is at this juncture, in the removal process, where ICE can exercise a great degree of discretion, as I explain in the next section.

Opportunities for Discretion

Although it may seem that the removal process is strictly mechanical in which an arrestee smoothly moves from one stage to the next, and in which LEA officers merely fill out forms, collect biometric data, and verify the documented status of the individual, the process, in fact, is complicated and far from mechanical. At every stage of the process, LEA officers and ICE supervisors have opportunities to exercise plenty of discretion.

During the Bush administration, LEA officers had ample discretion to arrest, even for minor infractions, as noted in the Government Accountability Office report (2009). In fact, any undocumented immigrant caught was placed in removal proceedings. In stark contrast, the

Obama administration set priorities for removal. Even when LEA officers arrest undocumented immigrant for minor or no violations at all, the DHS and ICE have discretion whether to remove the person or not. The standardization of the MOA aimed at removing those with criminal records. The standardized MOA does not take away LEA officers' discretion; it set boundaries.

In a 2009 press release from DHS and ICE announcing the new MOA, John Morton, Assistant Secretary for ICE, stated that the state-local-federal partnership, by prioritizing the removal of undocumented immigrants with criminal records who are a “threat to local communities,” improves “public safety.” Similarly, Janet Napolitano, DHS Secretary, proclaimed that the new agreements “promote public safety.” Although “public safety” is echoed in the MOA, ICE did not clarify what is considered a threat to public safety that would warrant placing an undocumented immigrant in removal proceedings, especially when the latter has no criminal record. The vague language left the door open to interpretation and gave wiggle room for deputized LEA officers to exercise discretion. Thus, LEA officers may arrest undocumented immigrants, charging them with violating state or local laws that remotely fit the elusive term of public safety. Noting the crucial importance of the arrest in the removal process, Motomura (2010; 2014) argues that in immigration law, “the decision to arrest has been the discretion that matters.” He further argues that because arrests may trigger federal action leading to removals, state and local LEAs will use arrests as a tool to bring undocumented immigrants into contact with the federal agency—DHS.

Stage I

At stage I of the removal process, deputized LEA officers—working under the Task Force Model, patrolling the streets or investigators—have to decide whether to approach or not to approach

an individual and request identification. If the latter does not have a government-issued identification, the LEA officer has two options: arrest or not arrest. In principle, the goal of the arrest is to ascertain the identification of the individual. If the individual arrested is an undocumented immigrant, the LEA officer has at least six options: 1) issue an immigration detainer and an NTA—a legal document notifying a person of impending hearing in immigration court. It signals the beginning of the removal process. 2) do not issue a detainer, but issue an NTA and release, 3) issue neither a detainer nor an NTA, therefore release, 4) offer expedited removal, 5) offer other forms of relief, or 6) release on humanitarian grounds. Those released on humanitarian grounds include pregnant or nursing women, primary caretakers of children or of infirm persons, people with longstanding ties to the community, minors, elderly with significant health problems, and those who hold a record of military services (*United States of America v. State of Alabama & Governor Robert J. Bentley* 2011). Whichever option she chooses, the LEA officer has to get approval from an ICE supervisor, thus the removal process enters stage II. Although DHS and ICE have issued memoranda establishing priorities for detention and removal of undocumented immigrants, local and state LEAs have a great deal of discretion during the arrest phase of the process.

Stage II

Congress delegated broad authority—embedded in INA and further expanded in IIRIRA—to the DHS (formerly the Immigration and Naturalization Services) in the enforcement of immigration laws. Prosecutorial discretion, in its simplest form, is

“the authority of an agency charged with enforcing a law to decide whether to enforce, or not to enforce, the law against someone....In the immigration context, the term

applies not only to the decision to issue, serve, or file a Notice to Appear (NTA), but also to a broad range of other discretionary enforcement decisions” (Meissner 2000).

The federal agency uses its prosecutorial discretion to achieve its goal “to enhance the safety and security of communities,” as stated in the MOAs. Since the September 11, 2001 events, undocumented immigrants have been deemed a threat to national security, thus their removal from the country has been seen as paramount to improving safety and security.

ICE developed a set of priorities establishing the types of crimes that warrant mandatory detention and removal. It is in the implementation of those priorities that the federal agency exercises the most discretion. Funding resources for the removal of undocumented immigrants are limited. With approximately 11.2 million undocumented people in the country, the cost of removing all of them is prohibitive. Thus, funding resources limit the number of people ICE can remove each year. Therefore, the federal agency had to come up with enforcement priorities, emphasizing the removal of undocumented immigrants with criminal records and deciding in which states to focus its enforcement activities.

In addition to priorities for removal, ICE has the discretion to take a range of actions. Because the MOA stipulates that ICE supervisors overseeing LEA officers have to approve their actions, the former have the opportunity to use their discretionary powers. At this juncture, an ICE supervisor has to decide whether to approve the LEA officer’s decision, or to choose a different option altogether, including an option not available to the LEA officer. For instance, through the use of a little-known tool—stipulated removal—ICE may expedite the removal process and thus more efficiently use agency resources. The stipulated removal is a formal removal, in which the detainee agrees to waive the right to an in-person hearing in immigration

court (Koh 2013). When detainee agrees to sign the stipulated removal waiver, one is quickly removed from the country. It also means that one is permanently banned from entering the country. Koh, Srikantiah, and Tumlin (2011), found that ICE mainly uses the stipulated removal on immigrants who are detained, who have no legal representation, and who are detained due to minor immigration offenses. The enforcement option that the ICE supervisor chooses may depend upon internal and external factors facing the federal agency.

Conclusion

This chapter has highlighted the intricacies of the 287(g) program and the complexity of its implementation given the two presidential administrations under which it has operated. Because these administrations differ in their partisan values, they provide varying degrees of and opportunities for discretion to local law enforcement officers and federal agents charged with the enforcement of immigration policy. These opportunities for discretion are embedded in the MOAs and in the complexity of the arrest and removal processes. In this implementation of the program and in the opportunities for discretion granted by the presidential regimes, I build a theory of immigration policy enforcement that I present in the next chapter.

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Table 2-1 Memorandum of Agreement—287(g) Program

State	State Law Enforcement Agency	Local Law Enforcement Agency	2005	2006	2007	2008	2009	2010	2011	2012
Alabama										
	AL Department of Public Safety						TF			
		Etowah County Sheriff's Office					JE			
Arkansas										
		Benton County Sheriff's Office			JE TF					
		City of Springdale Police Department			TF		TF			
		Rogers Police Department			TF		TF			
		Washington County Sheriff's Office			JE		JE TF			
Arizona										
	AZ Department of Corrections				NA		JE			
	AZ Department of Public Safety				JE TF		JE TF			
		City of Mesa Police Department					JE TF			
		City of Phoenix Police Department				TF	JE TF			
		Florence Police Department					TF			
		Maricopa County Sheriff's Office			VTF		JE			
		Pima County Sheriff's Office				JE TF	JE TF			
		Pinal County Sheriff's Office				JE TF	JE TF			
		Yavapai County Sheriff's Office				JE TF	JE TF			
California										
		Los Angeles County Sheriff's Office	NA							

		Orange County Sheriff's Office		NA				JE		
		Riverside County Sheriff's Office		JE				JE		
		San Bernardino County Sheriff's Office	JE				JE			
Colorado										
	CO Department of Public Safety				IEU		TF			
		El Paso County Sheriff's Office			JE		JE			
Connecticut										
		City of Danbury Police Department					TF			
Delaware										
	DE Department of Corrections						JE			
Florida										
	FL Department of Law Enforcement		NA							
		Bay County Sheriff's Office					TF			
		Brevard County Sheriff's Office	NA							
		Collier County Sheriff's Office			VTF		JE TF			
		Jacksonville County Sheriff's Office				JE	JE			
		Manatee County Sheriff's Office	NA							
Georgia										
	GA Department of Public Safety				VTF		TF			
		Cobb County Sheriff's Office			JE		JE			
		Gwinnett County Sheriff's Office					JE			
		Hall County Sheriff's Office				JE	JE TF			
		Whitfield County Sheriff's Office				JE	JE			

Maryland										
		Frederick County Sheriff's Office					JE	JE TF		
Massachusetts										
	MA Department of Corrections					JE				
		Framingham Police Department				TF				
		Barnstable County Sheriff's Office				JE				
Minnesota										
	MN Department of Public Safety							TF		
Missouri										
	MO State Highway Patrol						VTF	TF		
North Carolina										
		Alamance County Sheriff's Office				NA		JE		
		Cabarrus County Sheriff's Office				JE				
		Cumberland County Sheriff's Office				JE				
		Durham County Sheriff's Office					VTF	TF		
		Gaston County Sheriff's Office				JE		JE		
		Guilford County Sheriff's Office				NA		TF		
		Henderson County Sheriff's Office					NA	JE		
		Mecklenburg County Sheriff's Office		NA				JE		
		Wake County Sheriff's Office					JE	JE		
New Hampshire										
		Hudson City Police Department					TF	TF		
New Jersey										
		Hudson County Department of Corrections						JE		
		Monmouth County Sheriff's Office	NA							

New Mexico										
	NM Department of Corrections					JE			JE	
Nevada										
		Las Vegas Metropolitan Police Department					JE	JE		
		City of Mesquite Police Department	NA							
Ohio										
		Butler County Sheriff's Office					JE TF	JE TF		
Oklahoma										
		Tulsa County Sheriff's Office				JE		JE TF		
Rhode Island										
	Rhode Island State Police							TF		
South Carolina										
		Beaufort County Sheriff's Office					NA	TF		
		Charleston County Sheriff's Office						JE		
		Lexington County Sheriff's Office							JE	
		York County Sheriff's Office				JE		JE		
Tennessee										
	TN Department of Safety							NA		
		Davidson County Sheriff's Office				JE		JE		
Texas										
		Carrollton Police Department						JE		
		Farmers Branch Police Department						TF		
		Harris County Sheriff's Office						JE		
		Houston Police Department	NA							
Utah										
		Washington County Sheriff's Office						JE		

		Weber County Sheriff's Office					JE			
Virginia										
		City of Manassas Police Department				VTF				
		City of Manassas Park Police Department				VTF	TF			
		Herndon Police Department			VTF		TF			
		Loudoun County Sheriff's Office					TF			
		Prince William County Police Department					TF			
		Prince William County Sheriff's Office				VTF	TF			
		Prince William- Manassas Adult Detention Center			JE					
		Rockingham County Sheriff's Office			JE VTF		JE TF			
		Shenandoah County Sheriff's Office			JE VTF		JE TF			

IEU = Immigration Enforcement Unit
NA = Not Available—No MOA on file
JE = Jail Enforcement
TF = Task Force
VTF = Various Task Forces

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) constitutes an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the Benton County, Arkansas, Sheriff's Office, hereinafter referred to as the "Law Enforcement Agency" (LEA), pursuant to which ICE authorizes up to a maximum of four (4) nominated, trained, and certified LEA personnel to perform certain immigration enforcement functions as specified herein. It is the intent of the parties that these delegated authorities will enable the LEA to identify and process immigration violators in Benton County, Arkansas. ICE and LEA points of contact for purposes of this MOA are identified in Appendix A.

I. PURPOSE

The purpose of this MOA is to set forth the terms and conditions pursuant to which selected LEA personnel (participating LEA personnel) will be nominated, trained, and thereafter perform certain functions of an immigration officer within Benton County. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating LEA personnel as members of the LEA. However, the exercise of the immigration enforcement authority granted under this MOA to participating LEA personnel shall occur only as provided in this MOA. This MOA also describes the complaint procedures available to members of the public regarding immigration enforcement actions taken by participating LEA personnel pursuant to this agreement.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), also codified at 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276, authorizes the Secretary of the Department of Homeland Security, acting through the Assistant Secretary of ICE, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the scope of the immigration officer functions that DHS is authorizing the participating LEA personnel to perform. It sets forth with specificity the duration of the authority conveyed and the specific lines of authority, including the requirement that participating LEA personnel are subject to ICE supervision while performing immigration related duties pursuant to this MOA. For the purposes of this MOA, ICE officers will provide supervision for participating LEA personnel only as to immigration enforcement functions. Benton County Sheriff's Office retains supervision of all other aspects of the employment of and performance of duties by participating Benton County Sheriff's Office personnel.

IV. ASSIGNMENTS

Before participating LEA personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete mandatory five week training, as described in Section VIII, in the enforcement of federal immigration laws and policies as provided by ICE instructors and thereafter pass examinations equivalent to those given to ICE officers. Only participating LEA personnel who are selected, trained, authorized, and supervised, as set out herein, have authority pursuant to this MOA to conduct the immigration officer functions enumerated in this MOA.

Participating LEA personnel performing immigration-related duties pursuant to this MOA will be LEA officers assigned to and or co-located as task force officers to assist ICE agents with criminal investigations in Benton County and in the area of the task force's jurisdiction.

Joint Task Force: Benton County is committed to providing support to a proposed Regional Multi-Jurisdictional ICE Task Force in cooperation with ICE and other county and municipal law enforcement entities in Northwest Arkansas. The mission of this Task Force is to identify and remove criminal aliens from Benton County and within the task force's area of jurisdiction.

V. DESIGNATION OF AUTHORIZED FUNCTIONS

For the purposes of this MOA, participating LEA personnel will be authorized to perform the following functions pursuant to the stated authorities, subject to the limitations contained in this MOA:

- The power and authority to interrogate any person believed to be an alien as to his right to be or remain in the United States (INA § 287(a)(1) and 8 c.F.R. § 287.5(a)(1)» and to process for immigration violations those individuals who are convicted of State or Federal felony offenses;
- The power and authority to arrest without warrant any alien entering or attempting to unlawfully enter the United States, or any alien in the United States, if the office has reason to believe the alien to be arrested is in the United States in violation of law and is likely to escape before a warrant can be obtained. INA § 287(a)(2) and 8 C.F.R. § 287.5(c)(1);
- The power and authority to arrest without warrant for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens. INA § 287(a)(4) and 8 C.F.R. § 287.5(c)(2). Notification off such arrest must be made to ICE within 24 hours;
- The power and authority to serve warrants of arrest for immigration violations pursuant to 8 c.F.R. § 287.5(e)(3);
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)), to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review;

- The power and authority to prepare charging documents (INA Section 239, 8 C.F.R. 239.1; INA Section 238, 8 C.F.R. 238.1; INA Section 241(a)(5), 8 C.F.R. 241.8; INA Section 235(b)(1), 8 C.F.R. 235.3) including the preparation of a Notice to Appear (NTA) application or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors;
- The power and authority to issue immigration detainers (8 C.F.R. § 287.7) and 1-213, Record of Deportable/Inadmissible Alien, for processing aliens in categories established by ICE supervisors; and
- The power and authority to detain and transport (8 C.F.R. § 287.5(c)(6)) arrested aliens to ICE-approved detention facilities.

VI. DETENTION ISSUES

The LEA is expected to pursue to completion prosecution of the state or local charges that caused the individual to be taken into custody. ICE will assume custody of individuals who have been convicted of a State or local offense only after such individuals have concluded service of any sentence of incarceration. ICE will also assume custody of aliens with prior criminal convictions and when immigration detention is required by statute. The ICE Detention and Removal Field Officer Director or his designee will assess on a case-by-case basis the appropriate removal vehicle to be employed and/or whether to assume custody of individuals that do not meet the above criteria based on special interests or other extenuating circumstances after processing by the LEA. The immigration laws provide ICE Detention and Removal Operations (DRO) with the discretion to manage limited ICE detention resources, and ICE Field Office Directors may exercise this discretion, in appropriate cases, by declining to detain aliens whose detention is not mandated by federal statute.

If ICE determines that it is necessary, the LEA will enter into an Inter-Governmental Service Agreement (IGSA) with ICE pursuant to which, the LEA will provide, for a reimbursable fee, detention of incarcerated aliens in LEA facilities, upon the completion of their sentences. The LEA facility will be expected to meet the ICE detention standards for either a less than 72 hour or over 72 hour facility as determined by ICE, and consistent with the anticipated detention period.

The parties understand that the LEA will not continue to detain an alien after that alien is eligible for release from the LEA's custody in accordance with applicable law and LEA policy, except for a period of up to 48 hours, excluding Saturdays, Sundays, and any holiday, pursuant to an ICE detainer issued in accordance with 8 C.F.R. § 287.7, absent an IGSA in place as described above.

Upon completion of processing and release from the LEA's affiliated detention facilities of an individual who participating LEA personnel have determined to be a removable alien, the alien will be transported by the LEA on the same day to an ICE designated office or facility, after notification to and coordination with the ICE supervisory officer, so that no further detention costs will be incurred by ICE.

VII. NOMINATION OF PERSONNEL

The Benton County Sheriff's Office will nominate candidates for initial training and certification under this MOA. For each candidate, ICE may request any information necessary for a background check and to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. All candidates must be United States citizens. All candidates must have at least two years of LEA work experience. All candidates must be approved by ICE and must be able to qualify for appropriate federal security clearances.

Should a candidate not be approved, a substitute candidate may be submitted, if time permits such substitution, to occur without delaying the start of training. Any future expansion in the number of participating LEA personnel or scheduling of additional training classes may be based on an oral agreement of the parties, but will be subject to all the requirements of this MOA.

VIII. TRAINING OF PERSONNEL

ICE will provide participating LEA personnel with the mandatory five week training tailored to the immigration functions to be performed.

Training will include, among other things: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) Civil Rights laws; (vi) the U.S. Department of Justice "Guidance Regarding the Use Of Race By Federal Law Enforcement Agencies," dated June 2003; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligation under federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating LEA personnel are trained and certified, ICE may provide additional updated training on relevant administrative, legal, and operational issues related to the performance of immigration officer functions, unless either party terminates this MOA pursuant to Section XX, below. Local training on relevant issues will be provided on an ongoing basis by ICE supervisors or a designated team leader.

IX. CERTIFICATION AND AUTHORIZATION

The ICE Training Division will certify in writing to the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans the names of those LEA personnel who successfully complete training and pass all required testing. Upon receipt of Training Division certification, the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans will provide the participating LEA personnel with a signed authorization to perform specified functions of an immigration officer for an initial period of one year from the date of the authorization. ICE will also provide a copy of the authorization to the LEA. The ICE supervisory officer, or designated team leader, will evaluate the activities of all personnel certified under this MOA.

Authorization of participating LEA personnel to act pursuant to this MOA may be revoked at any time by ICE or the LEA. Such revocation will require immediate notification to the other party to this MOA. The AGENCY DESIGNEE and the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA shall constitute revocation of all immigration enforcement authorizations delegated hereunder.

x. COSTS AND EXPENDITURES

Participating LEA personnel will carry out designated functions at the LEA's expense, including salaries and benefits, local transportation, and official issue material.

ICE will provide the instructors and training materials. The LEA is responsible for the salaries and benefits, including overtime, for all of its personnel being trained or performing duties under this MOA, and for those personnel performing the regular functions of the participating LEA personnel while they are receiving training. ICE will cover the costs of all LEA candidates' travel, housing, and per diem affiliated with the training required for participation in this agreement.

ICE is responsible for the salaries and benefits of all of its personnel, including instructors and supervisors. If ICE determines that it is necessary, the LEA will enter into an Inter Governmental Service Agreement (IGSA) with ICE pursuant to which LEA will provide, for a reimbursable fee, transportation for all incarcerated aliens in the LEA's facilities, upon the completion of their sentences, or upon completion of processing in those circumstances in which State or local prosecution is not available, to a facility or location designated by ICE. If ICE determines that it is necessary, the LEA will provide ICE, at no cost, with an office within each participating LEA facility for ICE supervisory employees to work. ICE agrees to be responsible for the purchase, installation, and maintenance of technology (computer IAFIS Photo and similar hardware/software) necessary to support the investigative functions of participating LEA personnel at each LEA facility with an active 287(g) program. The use of this equipment is to be limited to the performance of responsibilities authorized by this MOA under section 287(g) of the INA by participating LEA personnel.

ICE also agrees to provide the necessary technological support and software updates for use by participating LEA personnel to accomplish the delegated functions. Such hardware, software, and other technology purchased or provided by ICE, shall remain the property of ICE and shall be returned to ICE upon termination of this agreement, or when deemed necessary by the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans.

The LEA is responsible to provide all administrative supplies, i.e. paper, toner, pens, pencils and other similar items necessary for normal office operations. The LEA is also responsible provide necessary security equipment, i.e. handcuffs, leg restraints and flexi cuffs etc.

XI. ICE SUPERVISION

Immigration enforcement activities conducted by the participating LEA personnel will be supervised and directed by ICE supervisory officers or the designated team leader in Northwest Arkansas. Participating LEA personnel are not authorized to perform immigration officer functions, except when working under the supervision of an ICE officer, or when acting pursuant to the guidance provided by an ICE agent. Participating LEA personnel shall give timely notice to the ICE supervisory officer within 24 hours of any detainer issued under the authorities set forth in this MOA. The actions of participating LEA personnel will be reviewed by ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for individual additional training or guidance.

For purposes of this MOA, ICE officers will provide supervision of participating LEA personnel only as to immigration enforcement functions. The LEA retains supervision of all other aspects of the employment of and performance of duties by participating LEA personnel.

In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating LEA personnel in exercising these authorities shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating LEA personnel will be expected or required to violate or otherwise fail to maintain the LEA's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law.

If a conflict arises between an order or direction of an ICE supervisory officer or a DHS or ICE policy and the LEA's rules, standards, or policies, the conflict shall be promptly reported to the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans, or designees, and the Benton County Sheriff's Office, or designee, when circumstances safely allow the concern to be raised. The ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans and Sheriff Keith Ferguson or Chief Deputy Don Townsend shall attempt to resolve the conflict.

XII. REPORTING REQUIREMENTS

The LEA will be responsible for tracking and maintaining accurate data and statistical information for their 287(g) program, including any specific tracking data requested by ICE. Upon ICE's request, such data and information shall be provided to ICE for comparison and verification with ICE's own data and statistical information, as well as for ICE's statistical reporting requirements and to assess the progress and success of the LEA's 287(g) program.

Xli. LIABILITY AND RESPONSIBILITY

If any participating LEA personnel are the subject of a complaint of any sort that may result in that individual receiving employer discipline or becoming the subject of a criminal investigation or civil lawsuit, the LEA shall, to the extent allowed by State law, immediately notify ICE of the existence and nature of the complaint. The resolution of the complaint shall also be promptly reported to ICE. Complaints regarding exercise of immigration enforcement authority by participating LEA personnel shall be handled as described below.

Except as otherwise noted in this MOA or allowed by federal law, the LEA will be responsible and bear the costs of participating LEA personnel with regard to their property or personnel expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating LEA personnel will only be treated as federal employees for purposes of the Federal Tort Claims Act, 28 U.S.c. §§ 2671-2680, and worker's compensation claims, 5 U.S.c. § 8101 et seq., when performing a function as authorized by this MOA. 8 U.S.c. § 1357(g)(7). It is the understanding of the parties to this MOA that participating LEA personnel will enjoy the same defenses and immunities available to ICE officers from personal liability arising from tort lawsuits based on actions conducted in compliance with this MOA. 8 U.S.c. § 1357(g)(8).

Participating LEA personnel named as defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. Such requests must be made in writing directed to the Attorney General of the United States, and will be handled in coordination with the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans. Requests for representation must be presented to the ICE Office of the Chief Counsel at P.O. Box 1128, Oakdale, Louisiana 71463-1128. Any request for representation and related correspondence must be clearly marked "Subject to Attorney-Client Privilege." The Office of the Chief Counsel will forward the individual's request, together with a memorandum outlining the factual basis underlying the event(s) at issue in the lawsuit, to the ICE Office of the Principal Legal Advisor, which will forward the request, the factual memorandum, and an advisory statement opining whether such representation would be in the interest of the United States, to the Director of the Constitutional and Specialized Torts Staff, Civil Division, Department of Justice. ICE will not be liable for defending or indemnifying acts of intentional misconduct on the part of participating LEA personnel.

The LEA agrees to cooperate with any federal investigation related to this MOA to the full extent of its available powers. It is understood that information provided by any LEA personnel under threat of disciplinary action in an administrative investigation cannot be used against that individual in subsequent criminal proceedings, consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967).

As the activities of participating LEA personnel under this MOA are undertaken under federal authority, the participating LEA personnel will comply with federal standards and guidelines relating to the Supreme Court's decision in *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny, which relates to the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

XIV. COMPLAINT PROCEDURES

The complaint reporting and resolution procedure for allegations of misconduct by participating LEA personnel, with regard to activities undertaken under the authority of this MOA, is included at Appendix B.

XV. CIVIL RIGHTS STANDARDS

Participating LEA personnel who perform certain federal immigration enforcement functions are bound by all federal civil rights statutes and regulations, including the U.S. Department of Justice "Guidance Regarding The Use Of Race By Federal Law Enforcement Agencies" dated June 2003.

Participating LEA personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the LEA as needed. The participating LEA will be reimbursed for expenses incurred in providing qualified foreign language interpreters for subjects.

XVI. STEERING COMMITTEE

The ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans and Sheriff Keith Ferguson or Chief Deputy Don Townsend shall establish a steering committee that will meet periodically to review and assess the immigration enforcement activities conducted by the participating LEA personnel and to ensure compliance with the terms of this MOA. The steering committee will meet periodically in Northwest Arkansas at locations to be agreed upon by the parties, or via teleconference. Steering committee participants will be supplied with specific information on case reviews, individual participants' evaluations, complaints filed, media coverage, and, to the extent practicable, statistical information on increased immigration enforcement activity in Benton County. An initial review meeting will be held no later than nine months after certification of the initial class of participating LEA personnel under Section IX, above.

XVII. COMMUNITY OUTREACH

The LEA may, at its discretion, engage in community outreach with individuals and organizations expressing an interest in this MOA. ICE may participate in such outreach upon the LEA's request.

XVIII. RELATIONS WITH THE NEWS MEDIA

The LEA may, at its discretion, communicate the substance of this agreement to organizations and groups expressing an interest in the law enforcement activities to be engaged in under this MOA. This MOA also describes the complaint procedures available to members of the public regarding actions taken by participating LEA personnel pursuant to this agreement.

The LEA hereby agrees to coordinate with ICE regarding information to be released to the media regarding actions taken under this MOA. The points of contact for ICE and the LEA for this purpose are identified in Appendix C.

XIX. MODIFICATION OF THIS MOA

Modifications to this MOA must be proposed in writing and approved by the signatories.

xx. DURATION AND TERMINATION OF THIS MOA

This MOA will remain in effect from the date of signing until it is terminated by either party. Either party, upon written notice to the other party, may terminate the MOA at any time. A termination notice shall be delivered personally or by certified or registered mail and termination shall take effect immediately upon receipt of such notice.

Either party, upon written or oral notice to the other party, may temporarily suspend activities under this MOA when resource constraints or competing priorities necessitate. Notice of termination or suspension by ICE shall be given to Sheriff Keith Ferguson or Chief Deputy Don Townsend. Notice of termination or suspension by the LEA shall be given to the ICE Special Agent in Charge and/or the ICE Field Office Director in New Orleans.

Except for the provisions contained in Section XIII, this MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create, any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, and accepts the terms, responsibilities, obligations, and limitations of this MOA, and agrees to be bound thereto to

Date: 9/20/07

Julie L. Myers
Assistant Secretary
Immigration and Customs Enforcement
Department of Homeland Security

Date: 09/26/07

Keith Ferguson
Sheriff
Benton County Sheriff's Office

APPENDIX A
POINTS OF CONTACT

The ICE and LEA points of contact for purposes of implementation of this MOA are:

For the LEA:

For ICE DRO:

For ICE 01:

Sheriff Keith Ferguson or Chief Deputy Don Townsend 1300 S.W. 14th Street 72712
Assistant Field Office Director 1250 Poydras Street Suite 325 LA 70113

Assistant Special Agent in Charge 1250 Poydras Street Suite 2200 LA 70113

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APPENDIX B

COMPLAINT PROCEDURE

This MOA is an agreement between DHS/ICE and the Benton County Sheriff's Office, hereinafter referred to as the "Law Enforcement Agency" (LEA), pursuant to which selected LEA personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating LEA personnel pursuant to the MOA, as well as the protections for individuals' civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

The MOA sets forth the process for designation, training, and certification of certain LEA personnel to perform certain immigration enforcement functions specified herein. Complaints filed against those personnel in the course of their non-immigration duties will remain the domain of the LEA and be handled in accordance with the LEA's Manual of Policy and Procedures, or equivalent rules, regulations or procedures. The LEA will also handle complaints filed against personnel who may exercise immigration authority, but who are not designated and certified under this MOA. The number and type of the latter complaints will be monitored by the Steering Committee established under Section XVI of the MOA.

In order to simplify the process for the public, complaints against participating LEA personnel relating to their immigration enforcement can be reported in a number of ways. The ICE Headquarters Office of Professional Responsibility (OPR) and the LEA's Administrative Investigations Unit will coordinate complaint receipt and investigation.

The ICE OPR will forward complaints to the Department of Homeland Security's Office of Inspector General (DHS OIG) as appropriate for review, and ensure notification as necessary to the U.S. Department of Justice Civil Rights Division (DOJ CRD). The ICE OPR will coordinate complaints related to participating personnel with the LEA's Administrative Investigations Unit as detailed below. Should circumstances warrant investigation of a complaint by the DHS OIG or the DOJ CRD, this will not preclude the DHS OIG, DOJ CRD, or ICE OPR from conducting the investigation in coordination with the LEA's Administrative Investigations Unit, when appropriate.

The ICE OPR will adhere to established procedures relating to reporting and resolving allegations of employee misconduct, and the LEA's Administrative Investigations Unit will follow applicable LEA policies and procedures, personnel rules, state statutes, and collective bargaining agreement requirements.

12

1. Complaint Reporting Procedures

Complaint reporting procedures shall be disseminated as appropriate by the LEA within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures.

Complaints will be accepted from any source (e.g.: ICE, LEA, participating LEA personnel, inmates, and the public).

Complaints can be reported to federal authorities as follows:

A. Telephonically to the ICE OPR at the Joint Intake Center (HC) in Washington, D.C. , at the toll-free number 1-877-246-8253, or

B. Telephonically to the Resident Agent in Charge of the ICE OPR office in New Orleans at (504) 525-0754 or SAC New Orleans at 504-310-8800.

C. Via mail as follows:

- Department of Homeland Security
- Immigration and Customs Enforcement Office of Professional Responsibility 425 I Street, NW Room 3260 Washington, D.C. 20536

Complaints can also be referred to and accepted by any of the following LEA entities:

A. The LEA's Administrative Investigations Unit Captain Mike Sydoriak,
Captain 1300 SW 14th St. Bentonville, AR 72712 cm Commander

B. The supervisor of any participating LEA personnel

2. Review of Complaints

All complaints (written or oral) reported to the LEA directly, which involve activities connected to immigration enforcement activities authorized under this MOA, will be reported to the ICE OPR. The ICE OPR will verify participating personnel status under the MOA with the assistance of the Special Agent in Charge of the ICE Office of Investigations in New Orleans. Complaints received by any ICE entity will be reported directly to the ICE OPR as per existing ICE policies and procedures.

In all instances, the ICE OPR, as appropriate, will make an initial determination regarding DHS investigative jurisdiction and refer the complaint to the appropriate office for action as soon as possible, given the nature of the complaint.

Complaints reported directly to the ICE OPR will be shared with the LEA's Administrative Investigations Unit when the complaint involves LEA personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

3. Complaint Resolution Procedures

Upon receipt of any complaint, the ICE OPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above, the ICE OPR will adhere to existing ICE reporting requirements as they relate to the DHS OIG and/or the DOI CRD. Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints to LEA's Administrative Investigations Unit.

The ICE OPR will refer complaints, as appropriate, involving LEA personnel to the LEA's Administrative Investigations Unit for resolution. The Sheriff, Keith Ferguson or Chief Deputy Don Townsend will inform ICE OPR of the disposition and resolution of any complaints referred by ICE OPR.

B. Interim Action Pending Complaint Resolution

Whenever any participating LEA personnel are under investigation and subject to interrogation by the LEA for any reason that could lead to disciplinary action, demotion, or dismissal, the requirements of the Benton County Sheriff's Office Policy shall be honored. If appropriate, an individual may be removed from participation in the activities covered under the MOA pending resolution of an inquiry.

C. Time Parameters for Resolution of Complaints

It is expected that any complaint received will be resolved within 90 days. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint

ICE OPR will coordinate with the LEA's Administrative Investigations Unit to ensure notification as appropriate to the subject(s) of a complaint regarding the resolution of the complaint.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XVIII of this MOA, the signatories agree to coordinate any release of information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the LEA: Sheriff Keith Ferguson or Chief Deputy Don Townsend

1300 SW 14th St. Bentonville, AR 72712
(479) 271-1008

For ICE: Temple Black Public Affairs Officer

1250 Poydras Street Suite 2200 New Orleans, LA 70113
504.310.8887

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) constitutes an agreement between United States Immigration and Customs Enforcement (ICE), a component of the Department of Homeland Security (DHS), and the Benton County Sheriff's Office (BCSO), pursuant to which ICE delegates nominated, trained, certified, and authorized BCSO personnel to perform certain immigration enforcement functions as specified herein. It is the intent of the parties that these delegated authorities will enable the BCSO to identify and process immigration violators and conduct criminal investigations under ICE supervision, as detailed herein, within the confines of the BCSO's area of responsibility. The BCSO and ICE enter into this MOA in good faith and agree to abide by the terms and conditions contained herein.

I. PURPOSE

The purpose of this collaboration is to enhance the safety and security of communities by focusing resources on identifying and processing for removal criminal aliens who pose a threat to public safety or a danger to the community. This MOA sets forth the terms and conditions pursuant to which selected BCSO personnel (participating BCSO personnel) will be nominated, trained, and approved by ICE to perform certain functions of an immigration officer within the BCSO's area of responsibility. Nothing contained herein shall otherwise limit the jurisdiction and powers normally possessed by participating BCSO personnel as members of the BCSO. However, the exercise of the immigration enforcement authority granted under this MOA to participating BCSO personnel shall occur only as provided in this MOA.

II. AUTHORITY

Section 287(g) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1357(g) (1996), as amended by the Homeland Security Act of 2002, Public Law 107-296, authorizes the Secretary of DHS, acting through the Assistant Secretary of ICE, to enter into written agreements with a State or any political subdivision of a State so that qualified personnel can perform certain functions of an immigration officer. This MOA constitutes such a written agreement.

III. POLICY

This MOA sets forth the following: 1) the functions of an immigration officer that DHS is authorizing the participating BCSO personnel to perform; 2) the duration of the authority conveyed; 3) the supervisory requirements, including the requirement that participating BCSO personnel are subject to ICE supervision while performing immigration-related duties pursuant to this MOA; and 4) program information or data that the BCSO is required to collect as part of the operation of the program. For the purposes of this MOA, ICE officers will provide supervision for participating BCSO personnel only as to immigration enforcement and/or immigration investigative functions as authorized in this MOA. BCSO retains supervision of all other aspects of the employment and performance of duties by participating BCSO personnel. The BCSO is expected to pursue to completion all criminal charges that caused the alien to be taken into custody and over which the BCSO has jurisdiction.

ICE will assume custody of an alien 1) who has been convicted of a State, local or Federal offense only after being informed by the alien's custodian that such alien has concluded service of any sentence of incarceration; 2) who has prior criminal convictions and when immigration detention is required by statute; and 3) when the ICE Detention and Removal Operations (DRO)

Field Office Director (FOD) or his designee decides on a case-by-case basis to assume custody of an alien who does not meet the above criteria.

IV. DESIGNATION OF AUTHORIZED FUNCTIONS

Approved participating BCSO personnel will be authorized to perform immigration officer functions outlined in 287(g)(1) of the INA regarding the investigation, apprehension, or detention of aliens in the United States, subject to the limitations contained in the Standard Operating Procedures (SOP) in Appendix D to this MOA.

V. DETENTION AND TRANSPORTATION ISSUES

ICE retains sole discretion in determining how it will manage its limited detention resources and meet its mission requirements. ICE Field Office Directors may, in appropriate cases, decline to detain aliens whose detention is not mandated by Federal statute. ICE and the BCSO will prioritize the detention of aliens in conformity with ICE detention priorities. ICE reserves the right to detain aliens to the extent provided by law.

If ICE deems it necessary, the BCSO will enter into an Inter-Governmental Service Agreement (IGSA) with ICE pursuant to which the BCSO will provide, for a reimbursable fee, detention of incarcerated aliens in BCSO facilities, upon the completion of their sentences. If ICE and the BCSO enter into an IGSA, the BCSO must meet the applicable ICE National Detention Standards.

In addition to detention services, if ICE deems it necessary, the IGSA may include a transportation component for the transportation of all incarcerated aliens for a reimbursable fee. Under a transportation IGSA, the BCSO will transport all incarcerated aliens in its facilities who are subject to removal, upon completion of their sentences, to a facility or location designated by ICE. Reimbursement to the BCSO will occur only when the BCSO obtained the prior approval of ICE for the transportation. ICE will not reimburse if the BCSO did not obtain prior approval from ICE.

The parties understand that the BCSO will not continue to detain an alien after that alien is eligible for release from the BCSO's custody in accordance with applicable law and BCSO policy, except for a period of up to 48-hours, excluding Saturdays, Sundays, and any Federal holiday, pursuant to an ICE detainer issued in accordance with 8 C.F.R. § 287.7, absent an IGSA in place as described above.

VI. NOMINATION OF PERSONNEL

The BCSO will nominate candidates for ICE training and approval under this MOA. All candidates must be United States citizens. The BCSO is responsible for conducting a criminal background check within the last five years for all nominated candidates. Upon request, the BCSO will provide all related information and materials it collected, referenced, or considered during the criminal background check for nominated candidates to ICE.

In addition to the BCSO background check, ICE will conduct an independent background check for each candidate. This background check requires all candidates to complete a background

questionnaire. The questionnaire requires, but is not limited to, the submission of fingerprints, a personal history questionnaire, and the candidate's disciplinary history (including allegations of excessive force or discriminatory action). ICE reserves the right to query any and every national and international law enforcement database to evaluate a candidate's suitability to participate in the enforcement of immigration authorities under this MOA. Upon request by ICE, the BCSO will provide continuous access to disciplinary records of all candidates along with a written privacy waiver signed by the candidate allowing ICE to have continuous access to his or her disciplinary records.

The BCSO agrees to use due diligence to screen individuals nominated for training and agrees that individuals who successfully complete the training under this MOA will perform immigration officer functions authorized under 287(g) of the INA for a minimum of two years. If BCSO personnel under consideration are in a bargaining unit, that BCSO must, prior to the execution of the MOA, have an agreement with the exclusive representative that allows the designated officers to remain in their position for a minimum of two years. This requirement may be lifted solely at the discretion of ICE for good cause in situations that involve, among other things, imminent promotion, officer career development, and disciplinary actions. Failure by the BCSO to fulfill this commitment could jeopardize the terms of this MOA, and ICE reserves the right, under these circumstances, to take appropriate action as necessary, including terminating this MOA.

All BCSO candidates shall have knowledge of and have enforced laws and regulations pertinent to their law enforcement activities and their jurisdictions.

In the task force model setting, all BCSO task force officer candidates must be sworn/certified officers, must possess arrest authority, must be authorized to carry firearms, and must be employed full-time by the BCSO. Each BCSO candidate must certify that he/she is not prohibited from carrying a firearm pursuant to State or Federal law, including, but not limited to, the Lautenberg Amendment (18 U.S.C. § 922(g)(8) or (9)).

All BCSO candidates must be approved by ICE and must be able to qualify for access to appropriate DRS and ICE databases. Should a candidate not be approved, a qualified substitute candidate may be submitted. Such substitution must occur without delaying the start of training. Any future expansion in the number of participating BCSO personnel or scheduling of additional training classes may be based on an oral agreement between the parties and is subject to all the requirements of this MOA and the accompanying SOP.

VII. TRAINING OF PERSONNEL

ICE will provide participating BCSO personnel with Immigration Authority Delegation Program (IADP) training consistent with the accompanying SOP.

VIII. CERTIFICATION AND AUTHORIZATION

Before participating BCSO personnel receive authorization to perform immigration officer functions granted under this MOA, they must successfully complete the IADP training, as described in the accompanying SOP. The IADP will be provided by ICE instructors who will train participating BCSO personnel in the enforcement of Federal immigration laws and policies, the scope of the powers delegated pursuant to this MOA and civil rights and civil liberties practices. Participating BCSO personnel must pass an ICE examination after instruction. Upon completion of training, those BCSO personnel who pass the ICE examinations shall be deemed "certified" under this MOA.

ICE will certify in writing the names of those BCSO personnel who successfully complete training and pass all required test(s). Upon receipt of the certification, the ICE Special Agent in Charge (SAC) and/or the ICE FOD in New Orleans, Louisiana, will provide the participating BCSO personnel a signed authorization letter allowing the named BCSO personnel to perform specified functions of an immigration officer for an initial period of one year from the date of the authorization. ICE will also provide a copy of the authorization letter to the BCSO. Only those certified BCSO personnel who receive authorization letters issued by ICE and whose immigration enforcement efforts are subject to a designated ICE supervisor may conduct immigration officer functions described in this MOA.

Along with the authorization letter, ICE will issue the certified BCSO personnel official Delegation of Authority credentials. Upon receipt of the Delegation of Authority credentials, BCSO personnel will provide ICE a signed receipt of the credentials on the ICE Record of Receipt - Property Issued to Employee (Form G-570).

Authorization of participating BCSO personnel to act pursuant to this MOA may be withdrawn at any time and for any reason by ICE or the BCSO, and must be memorialized in a written notice of withdrawal identifying an effective date of withdrawal and the personnel to which the withdrawal pertains. Such withdrawal may be effectuated immediately upon notice to the other party. The BCSO and the ICE SAC and/or the ICE FOD in New Orleans, Louisiana, will be responsible for notification of the appropriate personnel in their respective agencies. The termination of this MOA shall constitute immediate revocation of all immigration enforcement authorizations delegated hereunder.

The BCSO will immediately notify ICE when any certified and/or authorized BCSO personnel is no longer participating in the 287(g) program so that appropriate action can be taken, including termination of user account access to DHS and ICE systems.

IX. COSTS AND EXPENDITURES

Participating agencies are responsible for personnel expenses, including, but not limited to, salaries and benefits, local transportation, and official issue material. The BCSO is responsible for the salaries and benefits, including overtime, of all of its personnel being trained or performing duties under this MOA and of those personnel performing the regular functions of the participating BCSO personnel while they are receiving training. The BCSO will cover the costs of all BCSO personnel's travel, housing, and per diem affiliated with the training required for participation in this MOA. ICE is responsible for the salaries and benefits of all of its personnel, including instructors and supervisors.

If ICE determines the training provides a direct service for the Government and it is in the best interest of the Government, the Government may issue travel orders to selected personnel and reimburse travel, housing, and per diem expenses only. The BCSO remains responsible for paying salaries and benefits of the selected personnel.

ICE will provide instructors and training materials. Subject to the availability of funds, ICE will be responsible for the purchase, installation, and maintenance of technology (computer/IAFIS/Photo and similar hardware/software) necessary to support the investigative functions of participating BCSO personnel at each BCSO facility with an active 287(g) program. Only participating BCSO personnel certified by ICE may use this equipment. ICE will also provide the necessary technological support and software updates for use by participating BCSO personnel to accomplish the delegated functions. Such hardware, software, and other technology purchased or provided by ICE shall remain the property of ICE and shall be returned to ICE upon termination of this agreement, or when deemed necessary by the ICE SAC and/or the ICE FOD in New Orleans, Louisiana.

The BCSO is responsible for covering all expenses at the BCSO facility regarding cabling and power upgrades. If the connectivity solution for the BCSO is determined to include use of the BCSO's own communication lines - (phone, DSL, site owned T-IIT-3, etc), the BCSO will be responsible for covering any installation and recurring costs associated with the BCSO line. The BCSO is responsible for providing all administrative supplies, such as paper, toner, pens, pencils, or other similar items necessary for normal office operations. The BCSO is also responsible for providing the necessary security equipment, such as handcuffs, leg restraints and flexi cuffs, etc. Also, if ICE deems it necessary, the BCSO will provide ICE, at no cost, with an office within each participating BCSO facility for ICE supervisory employees to work.

x. ICE SUPERVISION

Immigration enforcement activities conducted by the participating BCSO personnel will be supervised and directed by ICE supervisory officers or designated ICE team leaders.

Participating BCSO personnel are not authorized to perform immigration officer functions except when working under the supervision or guidance of ICE. To establish supervisory and other administrative responsibilities, the *SAC/FOD* will specify the supervisory and other administrative responsibilities in an accompanying agreed-upon SOP. Participating BCSO personnel shall give timely notice to the ICE supervisory officer within 24 hours of any detainer issued under the authorities set forth in this MOA. The actions of participating BCSO personnel will be reviewed by ICE supervisory officers on an ongoing basis to ensure compliance with the requirements of the immigration laws and procedures and to assess the need for individual training or guidance.

For purposes of this MOA, ICE officers will provide supervision of participating BCSO personnel only as to immigration enforcement functions and for investigations conducted in conjunction to this authority. The BCSO retains supervision of all other aspects of the employment of and performance of duties by participating BCSO personnel. In the absence of a written agreement to the contrary, the policies and procedures to be utilized by the participating BCSO personnel in exercising these authorities shall be DHS and ICE policies and procedures, including the ICE Use of Force Policy. However, when engaged in immigration enforcement activities, no participating BCSO personnel will be expected or required to violate or otherwise fail to maintain the BCSO's rules, standards, or policies, or be required to fail to abide by restrictions or limitations as may otherwise be imposed by law. If a conflict arises between an

order or direction of an ICE supervisory officer or a DHS or ICE policy and the BCSO's rules, standards, or policies, the conflict shall be promptly reported to the SAC and/or the FOD in New Orleans, Louisiana, or designees, and the BCSO, or designee, when circumstances safely allow the concern to be raised. The SAC and/or the FOD in New Orleans, Louisiana, and the BCSO shall attempt to resolve the conflict.

XI. REPORTING REQUIREMENTS

ICE does not require the BCSO to provide statistical or arrest data above what is entered into ENFORCE; however, ICE reserves the right to request the BCSO provide specific tracking data and/or any information, documents, or evidence related to the circumstances of a particular alien's arrest. ICE may use this data to compare and verify ICE's own data, and to fulfill ICE's statistical reporting requirements, or to assess the progress and success of the BCSO's 287(g) program.

XII. LIABILITY AND RESPONSIBILITY

If any participating BCSO personnel are the subject of a complaint of any sort that may result in that individual receiving employer discipline or becoming the subject of a criminal investigation or civil lawsuit, the BCSO shall, to the extent allowed by State law, immediately notify the local point of contact for the ICE Office of Professional Responsibility (OPR) and the SAC/FOD of the existence and nature of the complaint. The resolution of the complaint shall also be promptly reported to ICE. Complaints regarding the exercise of immigration enforcement authority, as specified herein, by participating BCSO personnel shall be handled as described below.

Except as otherwise noted in this MOA or allowed by Federal law, and to the extent required by 8 U.S.C. § 1357(g)(7) and (8), the BCSO will be responsible and bear the costs of participating BCSO personnel with regard to their property or personal expenses incurred by reason of death, injury, or incidents giving rise to liability.

Participating BCSO personnel will be treated as Federal employees only for purposes of the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, and worker's compensation claims, 5 U.S.C. § 8101 et seq., when performing a function on behalf of ICE as authorized by this MOA, 8 U.S.C. § 1357(g)(7); 28 U.S.C. § 2671. It is the understanding of the parties to this MOA that participating BCSO personnel will enjoy the same defenses and immunities for their in-scope acts that are available to ICE officers from personal liability arising from tort lawsuits based on actions conducted in compliance with this MOA, 8 U.S.C. § 1357(g)(8).

Participating BCSO personnel named as defendants in litigation arising from activities carried out under this MOA may request representation by the U.S. Department of Justice. Such requests must be made in writing directed to the Attorney General of the United States, and will be handled in coordination with the SAC and/or the FOD in New Orleans, Louisiana. Requests should be in the form of a written memorandum prepared by the defendant addressing each and every allegation in the complaint, explaining as well as admitting or denying each allegation against the defendant. Requests for representation must be presented to the ICE Office of the Chief Counsel at the P.O. Box 1128, Oakdale, Louisiana 71463-1128. Any request for representation and related correspondence must be clearly marked "Subject to Attorney-Client Privilege." The Office of the Chief Counsel will forward the individual's request, together with a memorandum outlining the factual basis underlying the event(s) at issue in the lawsuit, to the ICE Headquarters Office of the Principal Legal Advisor, which will forward the request, the factual memorandum, and an advisory statement opining whether such representation would be

in the interest of the United States, to the Director of the Constitutional and Specialized Torts Staff, Civil Division, Department of Justice. ICE will not be liable for defending or indemnifying acts of intentional misconduct on the part of participating BCSO personnel.

The BCSO agrees to cooperate with any Federal investigation related to this MOA to the full extent of its available powers, including providing access to appropriate databases, personnel, and documents. Failure to do so may result in the termination of this MOA. Failure of an officer to cooperate in any Federal investigation related to this MOA may result in revocation of such individual's authority provided under this MOA. The BCSO agrees to cooperate with Federal personnel conducting reviews to ensure compliance with the terms of this MOA and to provide access to appropriate databases, personnel, and documents necessary to complete such compliance review. It is understood that information provided by any BCSO personnel under threat of disciplinary action in an administrative investigation cannot be used against that individual in subsequent criminal proceedings, consistent with *Garrity v. New Jersey*, 385 U.S. 493 (1967), and its progeny.

As the activities of participating BCSO personnel under this MOA are undertaken under Federal authority, the participating BCSO personnel will comply with Federal standards and guidelines relating to the Supreme Court's decision in *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny, which relates to the disclosure of potential impeachment information about possible witnesses or affiants in a criminal case or investigation.

The BCSO and ICE are each responsible for compliance with the Privacy Act of 1974, as applicable, and related system of records notices with regard to data collection and use of information under this MOA. The applicable Systems of Record Notice for privacy compliance is the ENFORCE Systems of Records Notice, 71 FR 13987, dated March 20, 2006.

XIII. COMPLAINT PROCEDURES

The complaint reporting procedure for allegations of misconduct by participating BCSO personnel, with regard to activities undertaken under the authority of this MOA, is included in Appendix B.

XIV. CIVIL RIGHTS STANDARDS

Participating BCSO personnel are bound by all Federal civil rights laws, regulations, guidance relating to non-discrimination, including the U.S. Department of Justice "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies" dated June 2003 and Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000 et. seq., which prohibits discrimination based upon race, color, or national origin (including limited English proficiency) in any program or activity receiving Federal financial assistance.

XV. INTERPRETATION SERVICES

Participating BCSO personnel will provide an opportunity for subjects with limited English language proficiency to request an interpreter. Qualified foreign language interpreters will be provided by the BCSO, as needed. The BCSO will maintain a list of qualified interpreters or companies it contracts with to provide such interpreters. Participating law enforcement personnel will be instructed on the proper administrative procedures to follow to obtain the services of an interpreter. A qualified interpreter means an interpreter who can interpret effectively, accurately, and impartially, using any specialized vocabulary. If an interpreter is used when a designated

officer is performing functions under this MOA, the interpreter must be identified, by name, in records.

XVI. COMMUNICATION

The ICE SAC and/or the ICE FOD in New Orleans, Louisiana, and the BCSO shall meet at least annually, and as needed, to review and assess the immigration enforcement activities conducted by the participating BCSO personnel, and to ensure compliance with the terms of this MOA. When necessary, ICE and the BCSO may limit the participation of these meetings in regards to non-law enforcement personnel. The attendees will meet at locations to be agreed upon by the parties, or via teleconference. The participants will be supplied with specific information on case reviews, individual participants' evaluations, complaints filed, media coverage, and, to the extent practicable, statistical information on immigration enforcement activity in Benton County. An initial review meeting will be held no later than nine months after certification of the initial class of participating BCSO personnel under Section VIII, above.

XVII. COMMUNITY OUTREACH

The BCSO may, at its discretion, engage in community outreach with individuals and organizations expressing an interest in this MOA. ICE may participate in such outreach upon the BCSO's request. Nothing in this MOA shall limit ICE's own community outreach program.

XVIII. RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES

The BCSO may, at its discretion, communicate the substance of this agreement to organizations and groups expressing an interest in the law enforcement activities to be engaged in under this MOA. It is the practice of ICE to provide a copy of this MOA, only after it has been signed, to requesting media outlets; the BCSO is authorized to do the same.

The BCSO hereby agrees to coordinate with ICE prior to releasing any information relating to, or exchanged under, this MOA, including any SOPs developed for the implementation of this MOA. Information obtained or developed as a result of this MOA is under the control of ICE and shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations, and executive orders. Insofar as any documents created by the BCSO contain information developed or obtained as a result of this MOA, such documents shall not be considered public records.

The release of statistical information regarding the 287(g) program must be coordinated with the ICE Office of Public Affairs. The BCSO hereby agrees to coordinate with ICE regarding information to be released to the media regarding actions taken under this MOA. In the task force model setting, all contact with the media involving investigations conducted under this MOA by Task Force Officers (TFO) will be done pursuant to ICE policy. The points of contact for ICE and the BCSO for this purpose are identified in Appendix C.

Appendix B to this MOA describes the complaint procedures available to members of the public regarding actions taken by participating BCSO personnel pursuant to this agreement.

XIX. MODIFICATIONS TO THIS MOA

Modifications to this MOA must be proposed in writing and approved and signed by the signatories. Modification to Appendix D shall be done in accordance with the procedures outlined in the SOP.

XX. POINTS OF CONTACT

ICE and BCSO points of contact for purposes of this MOA are identified in Appendix A. Points of contact (PO C) can be updated at any time by providing a revised Appendix A to the other party to this MOA.

XXI. DURATION AND TERMINATION OF THIS MOA

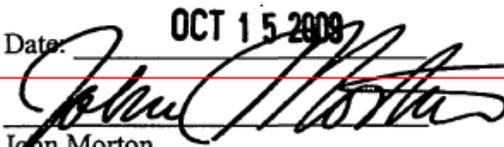
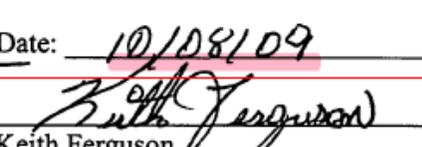
This MOA will remain in effect for three (3) years from the date of signing unless terminated earlier by either party. At the expiration of the three year effective period, ICE and the BCSO shall review the MOA and modify, extend, or permit the MOA to lapse. During the MOA's effective period, either party, upon written notice to the other party, may terminate the MOA at any time. A termination notice shall be delivered personally or by certified or registered mail and termination shall take effect immediately upon receipt of such notice.

Either party, upon written or oral notice to the other party, may temporarily suspend activities under this MOA when resource constraints or competing priorities necessitate such suspension. Notice of termination or suspension by ICE shall be given to the BCSO.

Notice of termination or suspension by the BCSO shall be given to the SAC and/or the FOD in New Orleans, Louisiana. Upon a good faith determination that the BCSO is not fulfilling its duties, ICE shall notify the BCSO, in writing, and inform the BCSO that it has 90 days to demonstrate a continued need for 287(g) program services. If this continued need is not demonstrated by the BCSO, the authorities and resources given to the BCSO pursuant to this MOA will be terminated or suspended. Upon a subsequent demonstration of need, all costs to reinstate access to such authorities and/or program services will be incurred by the BCSO.

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, accepts the terms, responsibilities, obligations, and limitations of this MOA, and agrees to be bound thereto to the fullest extent allowed by law.

Date: <u>OCT 15 2008</u>	Date: <u>10/08/09</u>
	
John Morton Assistant Secretary Immigration and Customs Enforcement Department of Homeland Security	Keith Ferguson Sheriff Benton County Sheriff's Office

APPENDIX A

POINTS OF CONTACT

The ICE and BCSO points of contact for purposes of implementation of this MOA are:

For the BCSO:

Sheriff Keith Ferguson or Chief Deputy Don Townsend

1300 S.W. 14th Street
Bentonville, AR 72712
479-271-

ForICEDRO:

Assistant Field Office Director
1250 Poydras Street
Suite 325
New Orleans, LA 70113
504-599

For ICE 01:

Assistant Special Agent in Charge
1250 Poydras Street
Suite 2200
New Orleans, LA 70113
504-310-

APPENDIX B

COMPLAINT PROCEDURE

This Memorandum of Agreement (MOA) is between the US Department of Homeland Security's Immigration and Customs Enforcement (ICE) and the Benton County Sheriff's Office, (BCSO), pursuant to which selected BCSO personnel are authorized to perform immigration enforcement duties in specific situations under Federal authority. As such, the training, supervision, and performance of participating BCSO personnel pursuant to the MOA, as well as the protections for U.S. citizens' and aliens' civil and constitutional rights, are to be monitored. Part of that monitoring will be accomplished through these complaint reporting and resolution procedures, which the parties to the MOA have agreed to follow.

The MOA sets forth the process for designation, training, certification, and authorization of certain BCSO personnel to perform certain immigration enforcement functions specified herein. Complaints filed against those personnel in the course of their non-immigration duties will remain the domain of the BCSO and be handled in accordance with the BCSO's Manual of Policy and Procedures, or equivalent rules, regulations, or procedures.

If any participating BCSO personnel are the subject of a complaint or allegation involving the violation of the terms of this MOA or a complaint or allegation of any sort that may result in that individual receiving employer discipline or becoming the subject of a criminal investigation or civil lawsuit the BCSO shall to the extent allowed by State law immediately notify ICE of the existence and nature of the complaint or allegation. The results of any internal investigation or inquiry connected to the complaint or allegation and the resolution of the complaint shall also be promptly reported to ICE. The ICE notifications should be made to the SAC and the Office of Professional Responsibility (OPR) points of contact in New Orleans, Louisiana. Complaints

regarding the exercise of immigration enforcement authority by participating BCSO personnel shall be handled as described below.

The BCSO will also handle complaints filed against BCSO personnel who are not designated and certified pursuant to this MOA but are acting in immigration functions in violation of this MOA. Further, any such complaints regarding non-designated BCSO personnel shall be forwarded to the SAC or the FOD in New Orleans, Louisiana.

In order to simplify the process for the public, complaints against participating BCSO personnel relating to their immigration enforcement can be reported in the following manner "Complaint and Allegation Reporting Procedures."

1. Complaint and Allegation Reporting Procedures

Complaint reporting procedures shall be disseminated by the BCSO within facilities under its jurisdiction (in English and other languages as appropriate) in order to ensure that individuals are aware of the availability of such procedures. Such reporting procedures shall also be included within facility manuals for detainees who have been processed under the 287(g) program. Such material must include up-to-date contact information necessary to file the complaint. Complaints will be accepted from any source (e.g., ICE, BCSO, participating BCSO personnel, inmates, and the public). ICE will immediately forward a copy of the complaint to the DRS Office for Civil Rights and Civil Liberties (CRCL) Review and Compliance.

Complaints can be reported to Federal authorities as follows:

A. Telephonically to the DRS Office of the Inspector General (DRS OIG) at the toll free number 1-800-323-8603, or .

B. Telephonically to the ICE OPR at the Joint Intake Center (JIC) in Washington, D.C., at the toll-free number 1-877-246-8253, email Joint.Intake@dhs.gov, or

C. Via mail as follows:

2. Review of Complaints

Department of Homeland Security
Immigration and Customs Enforcement
Office of Professional Responsibility
P.O. Box 14475
Pennsylvania Avenue NW
Washington D.C. 20044

All complaints or allegations (written or oral) reported to the BCSO directly that involve BCSO personnel with ICE delegated authority will be reported to ICE OPR. ICE OPR will verify participating personnel status under the MOA with the assistance of the SAC of the ICE Office of Investigations in New Orleans, Louisiana. Complaints received by any ICE entity will be reported directly to ICE OPR as per existing ICE policies and procedures.

ICE OPR, as appropriate, will make an initial determination regarding ICE investigative jurisdiction and refer the complaint to the appropriate ICE office for action as soon as possible, given the nature of the complaint.

Complaints reported directly to ICE OPR will be shared with the BCSO's Internal Investigations Unit when the complaint involves BCSO personnel. Both offices will then coordinate appropriate investigative jurisdiction, which may include initiation of a joint investigation to resolve the issue(s).

3. Complaint and Allegations Resolution Procedures

Upon receipt of any complaint or allegation, ICE aPR will undertake a complete review of each complaint in accordance with existing ICE allegation criteria and reporting requirements. As stated above, the ICE aPR will adhere to the reporting requirements as stated above and as they relate to the DHS ala and CRCL and/or the DOJ CRD. Complaints will be resolved using the existing procedures, supplemented as follows:

A. Referral of Complaints or Allegations to the BCSO's Internal Investigations Unit.

The ICE OPR will refer complaints, as appropriate, involving BCSO personnel to the BCSO's Internal Investigations Unit for resolution. The facility commander will inform ICE OPR of the disposition and resolution of any complaints or allegations against BCSO's participating officers.

B. Interim Action Pending Complaint Resolution

When participating BCSO personnel are under investigation for any reason that could lead to disciplinary action, demotion, or dismissal, or are alleged to have violated the terms of this MOA, ICE may revoke that individual's authority and have that individual removed from participation in the activities covered under the MOA.

C. Time Parameters for Resolution of Complaints or Allegations

It is expected that any complaint received will be resolved within 90 days of receipt. However, this will depend upon the nature and complexity of the substance of the complaint itself.

D. Notification of Resolution of a Complaint or Allegation

ICE OPR will coordinate with the BCSO's Internal Investigations Unit to ensure notification as appropriate to the ICE SAC in New Orleans, Louisiana" the subject(s) of a complaint, and the person filing the complaint regarding the resolution of the complaint. These Complaint Reporting and Allegation Procedures are ICE's internal policy and may be supplemented or modified by ICE unilaterally. ICE will provide BCSO with written copies of any such supplements or modifications. These Complaint Reporting and Allegation Procedures apply to ICE and do not restrict or apply to other investigative organizations within the federal government.

APPENDIX C

PUBLIC INFORMATION POINTS OF CONTACT

Pursuant to Section XVIII of this MOA, the signatories agree to coordinate appropriate release of information to the media regarding actions taken under this MOA before any information is released. The points of contact for coordinating such activities are:

For the BCSO:

Sheriff Keith Ferguson or Chief Deputy Don Townsend

1300 SW 14th St.

Bentonville, AR 72712

479-271-1008

For ICE:

Temple Black

Public Affairs Officer
Office of Public Affairs and Internal Communication
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
1250 Poydras Street
Suite 2200
New Orleans, LA 70113
504-310-8887

APPENDIX D

STANDARD, OPERATING PROCEDURE (SOP) TEMPLATE

The purpose of this appendix is to establish standard, uniform procedures for the implementation and oversight of the 287(g) delegation of authority program within the SAC/FOD area of responsibility. This appendix can be modified only in writing and by mutual acceptance of the SAC/FOD, the BCSO Chief Deputy, the ICE Office of State and Local Coordination (OSLC) and the ICE Office of the Principal Legal Advisor (OPLA).

There are two models for the 287(g) program, a Task Force Officer (TFO) model or a Detention model. Pursuant to this MOA, BCSO has been delegated authorities under the TFO and Detention models as outlined below.

Prioritization:

ICE retains sole discretion in determining how it will manage its limited resources and meet its mission requirements. To ensure resources are managed effectively, ICE requires the BCSO to also manage its resources dedicated to 287(g) authority under the MOA. To that end, the following list reflects the categories of aliens that are a priority for arrest and detention with the highest priority being Level 1 criminal aliens. Resources should be prioritized to the following levels:

- LJ Level 1 - Aliens who have been convicted of or arrested for major drug offenses And/or violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- Level 2 - Aliens who have been convicted of or arrested for minor drug offenses and/or mainly property offenses such as burglary, larceny, fraud, and money laundering; and
- Level 3 - Aliens who have been convicted of or arrested for other offenses.

Training:

The 287(g) training program, the Immigration Authority Delegation Program (IADP), will be taught by ICE instructors and tailored to the immigration functions to be performed. ICE Office of Training and Development (OTD) will proctor examinations during the IADP. The BCSO nominee must pass each examination with a minimum score of 70 percent to receive certification. If the BCSO nominee fails to attain a 70 percent rating on an examination, the BCSO nominee will have one opportunity to remediate the testing material and re-take a similar examination. During the entire duration of the IADP, the BCSO nominee will be offered a maximum of one remediation examination. Failure to achieve a 70 percent on any two examinations (inclusive of any remediation examination), will result in the disqualification of the BCSO nominee and their discharge from the IADP.

Training will include, among other topics: (i) discussion of the terms and limitations of this MOA; (ii) the scope of immigration officer authority; (iii) relevant immigration law; (iv) the ICE Use of Force Policy; (v) civil rights laws; (vi) the U.S. Department of Justice "Guidance Regarding the Use Of Race By Federal Law Enforcement Agencies," dated June 2003; (vii) public outreach and complaint procedures; (viii) liability issues; (ix) cross-cultural issues; and (x) the obligation under Federal law and the Vienna Convention on Consular Relations to make proper notification upon the arrest or detention of a foreign national.

Approximately one year after the participating BCSO personnel are trained and certified, ICE may provide additional updated training on relevant administrative, legal, and operational issues related to the performance of immigration officer functions. Local training on relevant issues will be provided as needed by ICE supervisors or designated ICE team leaders. An OSLC designated

official shall, in consultation with OTD and local ICE officials, review on an annual basis and, if needed, refresh training requirements.

Trained BCSO personnel will receive, as needed, a DHS email account and access to the necessary DHS applications. The use of the information technology (IT) infrastructure and the *DHS/ICE* IT security policies are defined in the Interconnection Security Agreement (ISA). The ISA is the agreement between ICE Chief Information Security Officer (CISO) and BCSO Designated Accreditation Authority (DAA). BCSO agrees that each of its sites using ICE provided network access or equipment will sign the ISA, which defines the IT policies and rules of behavior for each user granted access to the DHS network and applications. Failure to adhere to the terms of the ISA could result in the loss of all user privileges.

Data Collection:

ENFORCE is the primary processing system for alien removals and is the main resource for statistical information for the 287(g) program. All ENFORCE entries must be completed in accordance with established ICE polices and adhere to OSLC guidance.

ICE does not require the BCSO to provide statistical or arrest data above what is entered into ENFORCE; however, ICE reserves the right to request specific tracking or arrest data be maintained and provided for comparison and verification with ICE's own data and statistical information. This data may also be used for ICE's statistical reporting requirements or to assess the progress and success of the BCSO's 287(g) program.

The BCSO and ICE are each responsible for compliance with the Privacy Act of 1974, as applicable, and related system of records notices with regard to data collection and use of information under this MOA. The applicable Systems of Record Notice for privacy compliance is the ENFORCE Systems of Records Notice, 71 FR 13987, dated March 20, 2006.

TASK FORCE OFFICER (TFO) MODEL:

Participating BCSO personnel performing immigration-related duties pursuant to this MOA will be BCSO officers certified and authorized by ICE, and assigned to task force operations supported by ICE. Those participating BCSO personnel will exercise their immigration-related authorities during the course of criminal investigations involving aliens encountered within Benton County or as directed by the SAC.

The participating BCSO personnel are authorized to perform the following functions in the investigation, detention, and removal of aliens in the United States as allowed for the TFO model (INA 287(g)), pursuant to the tiered level of priorities set forth in Appendix D's "Prioritization" section:

- The power and authority to interview any person reasonably believed to be an alien about his right to be or remain in the United States and to take into custody for processing an alien solely based on an immigration violation (INA §§ 287(a)(1) and (2)) will be delegated only on a case-by-case basis. To exercise such authority, a TFO first must obtain approval from an ICE supervisor, who will approve the exercise only to further the priorities of removing serious criminals, gang members, smugglers, and traffickers and when reasonable suspicion exists to believe the alien is or was involved in criminal activity. When an alien is arrested for the violation of a criminal law, a TFO may process that alien for removal subject to ICE supervision as outlined in this agreement;

- The power and authority to arrest without warrant for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if there is reason to believe that the person so arrested has committed such felony and if there is likelihood of the person escaping before a warrant can be obtained (INA § 287(a)(4) and 8 C.F.R. § 287.5(c)(2)). Arrested individuals must be presented to a federal magistrate judge or other authorized official without unnecessary delay (INA § 287(a)(4); Fed. R. Crim. P. 5). Notification of such arrest must be made to ICE within twenty-four (24) hours;
- The power and authority to arrest for any criminal offense against the United States if the offense is committed in the officer's presence pursuant to INA § 287(a)(5)(A) and 8 C.F.R. § 287.5(c)(3);
- The power and authority to execute search warrants pursuant to INA § 287(a) and 8 C.F.R. § 287.5(e)(1);
- The power and authority to serve arrest warrants for immigration violations pursuant to INA § 287(a) and 8 C.F.R. § 287.5(e)(3);
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)), to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review;
- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R. § 238.1; INA § 241(a)(5), 8 C.F.R. § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of a Notice to Appear (NTA) application or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors;
- The power and authority to issue immigration detainers (INA § 236, INA § 287, and 8 C.F.R. § 287.7) and Form 1-213, Record of Deportable/inadmissible Alien, for processing aliens in categories established by ICE supervisors; and
- The power and authority to detain and transport (INA § 287(g)(1) and 8 C.F.R. § 287.5(c)(6)) arrested aliens subject to removal to ICE-approved detention facilities.

As noted under Appendix D's "Prioritization" section, ICE requires the BCSO to focus its use of the 287(g) program in accord with ICE's priorities. The participating BCSO personnel will concentrate their efforts primarily on conducting criminal investigations of federal and state felonies that will have maximum impact on human smuggling, human trafficking, egregious illegal alien employers and the victimization of illegal aliens.

Supervision:

A 287(g) delegation of authority task force is designed to proactively respond to, identify, and remove criminal aliens that reside within the BCSO's jurisdiction pursuant to the tiered level of priorities set forth in Appendix D's "Prioritization" section. The following identifies each entity's roles and responsibilities. These roles and responsibilities include, but are not limited to:

If the BCSO conducts an interview and verifies identity, alienage, and deportability, they must contact ICE for arrest approval. No arrest for a violation of Title 8 is to be conducted by a BCSO task force officer without prior approval from the ICE supervisor.

The BCSO is responsible for ensuring proper record checks have been completed, obtaining the necessary court/conviction documents, and, upon arrest, ensuring that the alien is processed through ENFORCEIDENT and served with the appropriate charging documents. Prior to the

BCSO conducting any enforcement operation that will involve the use of its 287(g) delegation of authority, the BCSO must provide the ICE supervisor with a copy of the operations plan, and the *SAC/FOD* must concur and approve with the plan prior to it being initiated. The ICE supervisor is responsible for requesting alien files, reviewing alien files for completeness, approval of all arrests, and TECS checks and input. The *SAC/FOD* office is responsible for providing the BCSO with current and updated DRS policies regarding the arrest and processing of illegal aliens.

On a regular basis, the ICE supervisor is responsible for conducting an audit of the IDENT/ENFORCE computer system entries and records made by the LEA officers. Upon review and auditing of the IDENT/ENFORCE computer system entries and records, if errors are found, the ICE supervisor will communicate those errors in a timely manner to the responsible official for the BCSO. The ICE supervisor will notify the BCSO of any errors in the system and the BCSO is responsible for submitting a plan to ensure that steps are taken to correct, modify, or prevent the recurrence of errors that are discovered. ICE will provide the BCSO with guidance for presenting any criminal prosecution cases that are referred for Federal prosecution.

Consistent with applicable standard operating procedures, the creation of an A-file cannot be completed until the A-file is signed by the appropriate ICE supervisor. A-files can be maintained at a BCSO facility as long as there is an ICE representative assigned to that facility and that representative has a work area where documents can be adequately secured. Representatives from DHS must be permitted access to the facility where ICE records are maintained.

Nominated Personnel:

BCSO candidates working with task force operations shall have knowledge of and have enforced laws and regulations pertinent to their law enforcement activities and their jurisdictions. The applicants should have a minimum of one year of law enforcement experience that includes experience in interviewing witnesses, interrogating subjects, providing constitutional rights warnings, obtaining statements, and executing search and seizure warrants. An emphasis should be placed on officers who have planned, organized, and conducted complex investigations relating to violations of criminal and civil law.

DETENTION MODEL:

Participating BCSO personnel performing immigration-related duties pursuant to this MOA will be BCSO officers assigned to detention operations supported by ICE. Those participating BCSO personnel will exercise their immigration-related authorities only during the course of their normal duties while assigned to BCSO jail/correctional facilities. Participating BCSO personnel will identify and remove criminal aliens that reside within the BCSO's jurisdiction pursuant to the tiered level of priorities set forth in Appendix D's "Prioritization" section. The participating BCSO personnel are authorized to perform the following functions as allowed by 287(g) of the INA for the Detention Model:

- The power and authority to interrogate any person believed to be an alien as to his right to be or remain in the United States (INA § 287(a)(1) and 8 C.F.R. § 287.5(a)(1)) and to process for immigration violations any removable alien or those aliens who have been arrested for violating a Federal, State, or local offense;

- The power and authority to serve warrants of arrest for immigration violations pursuant to INA § 287(a) and 8 C.F.R. § 287.5(e)(3);
- The power and authority to administer oaths and to take and consider evidence (INA § 287(b) and 8 C.F.R. § 287.5(a)(2)), to complete required criminal alien processing, including fingerprinting, photographing, and interviewing of aliens, as well as the preparation of affidavits and the taking of sworn statements for ICE supervisory review;
- The power and authority to prepare charging documents (INA § 239, 8 C.F.R. § 239.1; INA § 238, 8 C.F.R. § 238.1; INA § 241(a)(5), 8 C.F.R. § 241.8; INA § 235(b)(1), 8 C.F.R. § 235.3) including the preparation of a Notice to Appear (NTA) application or other charging document, as appropriate, for the signature of an ICE officer for aliens in categories established by ICE supervisors;
- The power and authority to issue immigration detainers (INA § 236, INA § 287, and 8 C.F.R. § 287.7) and 1-213, Record of Deportable/Inadmissible Alien, for processing aliens in categories established by ICE supervisors; and
- The power and authority to detain and transport (INA § 287(g)(1) and 8 C.F.R. § 287.5(c)(6)) arrested aliens subject to removal to ICE-approved detention facilities. As noted under Appendix D's "Prioritization" section, ICE requires the BCSO to focus its use of the 287(g) program in accord with ICE's priorities.

Supervision:

A 287(g) delegation of authority detention model is designed to identify and remove aliens amenable to removal that are incarcerated within the BCSO's detention facilities pursuant to the tiered level of priorities set forth in Appendix D's "Prioritization" section. The following identifies each entity's roles and responsibilities. These roles and responsibilities include, but are not limited to:

The BCSO shall provide notification to the ICE supervisor of any detainers placed under 287(g) authority within 24 hours.

The BCSO shall coordinate transportation of detainees processed under 287(g) authority in a timely manner, in accordance with the MOA and/or IOSA.

The BCSO is responsible for ensuring proper record checks have been completed, obtaining the necessary court/conviction documents, and, upon arrest, ensuring that the alien is processed through ENFORCE/IDENT and served with the appropriate charging documents.

The BCSO must immediately report all encounters of an individual who claims U.S. citizenship to the FOD through their chain of command. The FOD shall make the appropriate notification to DRO headquarters.

The ICE supervisor is responsible for requesting alien files, reviewing alien files for completeness, approval of all arrests, and TECS checks and input. The FOD office is responsible for providing the BCSO with current and updated DRS policies regarding the arrest and processing of illegal aliens.

On a regular basis, the ICE supervisors are responsible for conducting an audit of the IDENTIFORCE computer system entries and records made by the BCSO's officers. Upon review and auditing of the IDENTIFORCE computer system entries and records, if errors are

found, the ICE supervisor will communicate those errors in a timely manner to the responsible official for BCSO. The ICE supervisor will notify the BCSO of any errors in the system and the BCSO is responsible for submitting a plan to ensure that steps are taken to correct, modify, or prevent the recurrence of errors that are discovered.

Nominated Personnel:

All BCSO jail enforcement officer candidates shall have specific experience that should consist of having supervised inmates. Candidates must show that they have been trained on and concerned with maintaining the security of the facility. Candidates must have enforced rules and regulations governing the facility on inmate accountability and conduct. Candidates must also show an ability to meet and deal with people of differing backgrounds and behavioral patterns.

Chapter 3

The Enforcement of Immigration Policy through the 287(g) Program

This chapter presents a theory which tests arguments about partisan preferences on the enforcement of immigration policy. The theory explains why the number of arrests and removals of undocumented immigrants across counties participating in the 287(g) program increases and decreases. Moreover, it explores all these issues and relationships. In particular, it focuses on two fundamental elements: partisanship and social factors. I argue that the increase or decrease of arrests and removals depend upon two set of factors that occur independent of each other and in combination. First, on the political side of the ledger, the president, Congress, state governor, and state legislature represent political parties that uphold a set of values, which determine their public policy preferences. Second, a number of social issues—crime, unemployment, foreign-born people settling in traditional and new destination communities—are usually attached to the issue of immigrants and immigration policy. Third, political actors take into consideration social issues that are of concern to the constituencies they represent. I argue that because those socio-economic-demographic (SED) issues are of concern to constituencies, political leaders would prefer to enforce the policy either rigorously or laxly, depending upon their partisan values. In other words, these SED factors on their own have an effect on the number of arrests and removals and when they interact with the partisan values of the political parties, the effect of the latter is either amplified or attenuated.

The chapter is organized as follows: the next section presents the theory and hypotheses followed by the data, methodology, results, discussion and conclusion sections.

Theory on Immigration Policy Enforcement Discretion

Law enforcement agencies at the local, state, and federal level do not exist in a vacuum. They are part of a milieu in which a constellation of factors converge, thus influencing their discretion in the removal process of undocumented immigrants. At each stage of the removal process, LEA deputized officers and U.S. Immigration and Customs Enforcement (ICE) agents' discretion is contoured by the influence that state and national political actors exert on them, namely the president, state governor, state legislature, and Congress. Those political actors—with their own goals and policy preferences and power over local, state, and federal law enforcement agencies—are also influenced by the looming prospect of losing the next election. Thus, deputized LEA officers and ICE agents are mindful not only of their principals' policy preferences, but also of the consequences that can befall them if they fail to follow their directives.

The overarching argument in this theory is that political leaders have policy preferences. In particular, I argue that Republicans would favor stricter enforcement so we should see an increase in the number of arrests and removals. Their preference over stricter enforcement is grounded on the value they assign to the rule of law. Because undocumented immigrants crossed the border without inspection or overstayed their visas and because they are unauthorized workers, then, in general, Republicans would want to enforce the law in a more stringent manner. Throughout this theory I hold the argument that Republicans prefer an

increase in arrests and removals while Democrats may prefer fewer arrests and removals, but not because they do not care about the rule of law, but because, in general, they value the integration of immigrants to society. Thus, even when we see an increase in arrests and removals under both a Republican and Democratic regime, we should expect to see that the increase is less severe under the latter than under the former.

Political Parties and the Roots of their Policy Preferences

Each political party has policy preferences grounded in core values. Those values encapsulate a vision of what society ought to be. To build the ideal society, they promote policies that align with their values. To discern the values of the Republican and Democratic parties, one can take a look at their political platforms. The 2016 political platform of the Republican Party puts the spotlight on “Renewing American Values” (Republican Platform 2016). In broad terms, the platform includes issues of importance such as healthcare, education, traditional marriage, reforming the bureaucracy, and safe neighborhoods, among others.

As the immigrant population grows and spreads throughout the country, the vision of the ideal society is disrupted. The arrival of immigrants with particular cultural traditions seem to be the culprit of that disruption and a threat to traditional values. A Pew survey (Kohut, Doherty, and Dimock 2012), on the question of “the growing number of newcomers threaten traditional American values,” found 60 percent of Republicans agreeing with the statement. A more recent survey (Doherty, Tyson and Weisel 2015) found that 63 percent of Republicans agreed with the statement that “immigrants burden the country by taking jobs, housing and health care.” Thus, because immigrants in general and the undocumented in particular are perceived as a fiscal burden and a threat to traditional values, then Republicans may be inclined

to support a rigorous enforcement of immigration policy. In fact, in another question of the same survey, voters were asked if “giving path to legal status for those who came to the U.S. illegally like a reward for doing something wrong,” 58 percent of Republican respondents agreed with that statement. Notably, the percent of Republicans agreeing with that statement increased nine points in a matter of two years.

On the other hand, the 2012 Democratic national platform theme was about “Moving America Forward.” To that end, the party set forth an array of issues of priority. They range—the spectrum of issues that build and strengthen society—from generating jobs, building the middle class, deficit reduction, Wall Street reform, protection of rights and freedom, and defense, to name a few. On the issue of immigration, it underscores the contribution that all generations of immigrants have made to society. Additionally, it promotes a path to citizenship for those who are undocumented (Democratic National Platform 2012). Findings from the Pew surveys (Kohut, Doherty, and Dimock 2012; Doherty, Tyson and Weisel 2015) confirm this view. Fifty-seven percent of Democratic respondents disagree with the statement that posits that “newcomers threaten American values; 23 percent agreed with the notion that granting legal status to undocumented immigrants is a reward for doing something wrong; and 62 percent of Democrats responded that immigrants strengthen the country, while the other 38 percent said that they are a fiscal burden. Because the Democratic Party views immigrants as part of the community and contribute to the betterment of society in general, Democrats may lean towards a lenient enforcement of immigration policy.

President Partisan Identification

The president is well positioned to influence public policy. As the leader of his political party, he has policy priorities that he would like to see come to fruition. To that end, he uses his constitutional powers that may serve as venues to influence the enforcement of immigration policy at the local and state level. Among these powers are appointment and budget allocation. First, by appointing cabinet leaders, with whom he shares a political ideology, he ensures that their actions will be consistent with his policy preferences and goals. Even when these agency leaders may not totally agree with the president's views, they are likely to comply with his directives. Agency leaders may be willing to go along for a number of reasons—including fear of being removed, loyalty and commitment, and the expectation of receiving support in budgetary matters. Even with all the administrative tools at the president's disposal, he cannot substitute the agency's preferences with his own (Kagan 2001). Nevertheless, he can strongly influence the agency's "ideal point" in the enforcement of public policy (Shipan 2004). After all, the design of federal agencies gives the president extensive control (Howell and Lewis 2002). Because federal agencies administer the bulk of programs, which are intertwined with state and local agencies (Lowry and Potoski 2004), presidential influence may have far-reaching ramifications.

Second, through his budgetary powers, he may allocate more funds to those federal programs that advance his policy priorities and defund those that run counter to his goals. Studies on the distribution of federal grants have found that the president directs more funds to districts and counties represented by members of his political party (Berry, Burden, and Howell 2010). This distribution of federal funds to particular geographical areas do not go

unnoticed by constituents who reward the president with their votes (Kriner and Reeves 2012). Finally, the results of a study on the connection between political parties and voter turnout on funding allocation found that districts with a high Democratic voter turnout receive more federal funds (Levitt and Snyder 1995).

Through the allocation of federal funds, the president can influence local and state LEA officers' discretion in the enforcement of immigration policy. In particular, two streams of federal funds, which pertain to immigration policy enforcement and flow to local and state law enforcement agencies, can either constrain or expand enforcement activities. First, the State Criminal Alien Assistance Program (SCAAP) The SCAAP—administered by the Bureau of Justice Assistance (BJA) with the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS)—reimburses states and local LEAs a portion of expenses incurred in the incarceration of undocumented immigrants who have been convicted of a felony or two misdemeanors (U.S. Department of Justice 2016a). Reimbursements are not automatic; rather, LEAs have to apply and provide supporting evidence that they, indeed, incarcerated undocumented immigrants. Up to 2013, the BJA continued reimbursing LEAs even when the DHS could not determine the legal status of the inmate—called the “Unknown.” In Fiscal Year 2010, reimbursements for the “Unknown” immigrant category amounted to 58 percent of program funds (Morse 2013).

The significance of these funding sources is that depending on the amount allocated to the various state and local law enforcement agencies the number of arrests and removals may increase or decrease. A study on the adoption of state-level environmental policies that deal with hazardous waste sites found that states that received higher levels of funding from the

Environmental Protection Agency (EPA) were more likely to adopt stricter regulations than states that received lower levels of funding (Daley and Garand 2005). Although the federal agency, EPA, may have a level of autonomy when it comes to allocating funds, it is ultimately responsive to the policy preferences of the president that directly oversees its activities.

Another source of funds to local and state LEAs is the Intergovernmental Service Agreements (IGSA), administered by the BJA, DOJ and DHS. These agreements provide a quick way for ICE to add bed space at city and county jails for a mutually agreed fee. ICE has signed these agreements with over 200 city and county LEAs in more than 40 states, where approximately 70 percent of the detained population is housed (Pew 2014). Some LEAs acknowledge that such agreements generate revenues, create jobs, and keep the local economy solvent. For instance, the town of Florence in Pinal County, Arizona has benefited greatly from housing undocumented immigrants, with over 40 percent of its funds proceeding from federal contracts to house immigrants (Kirkham 2012). It is noteworthy that in Pinal County the Latino population dropped 2.73 percent from 1990 to 2010. Another participant in the 287(g) Program is the Tulsa County Sheriff's Office in Oklahoma. The County Sheriff and ICE signed an agreement to house 190 ICE detainees at the local jail. When those numbers drop, the Sheriff requests to ICE to bring in more detainees so that revenues remain stable. While the Sheriff could arrest local undocumented immigrants to fill its jail, he is constrained by the Obama administration's changing criteria as to who is removable. The result has been the release of some recent arrestees (Canfield 2015), and made the arrest of undocumented immigrants less appealing and less profitable.

Two additional federal programs administered by the BJA provide support to state and local law enforcement agencies in a number of programs. These are the Justice Assistance Grant (JAG) and Technology Innovation for Public Safety (TIPS). Although these two programs are not directly related to immigration policy enforcement, they are the main provider of federal criminal justice funding to state and local LEAs. While the JAG supports programs tackling issues of drug crime, prosecution and court related matters, crime victim and witness initiatives, and technology improvement, the TIPS funds assist local and states enforcement agencies to improve information sharing and multi-agency cooperation (U.S. Department of Justice 2016b).

Considering that the DOJ administers these funds, one can infer that different presidential administrations may set priorities for distribution and direct the federal agency to disburse them accordingly. Those priorities would reflect the policy preferences of the political party controlling the executive branch of government. It means that when presidents prefer rigorous enforcement of a particular policy, they may allocate more funds to the agencies charged with their enforcement. Similarly, when presidents favor lax enforcement because too many regulations interfere with the market, then they may allocate fewer funds to the agency. The significance of these two sources of federal funds in the enforcement of immigration policy lies in the prospect of generating revenues to LEAs. Financially strapped cities, counties, and states may view incarcerating undocumented immigrants as a lifeboat to solvency. Thus, more funding to local agencies may incentivize local and state LEAs to increase the number of arrests of undocumented immigrants. From the above discussion, the following hypothesis develops:

H1. President Partisan Identification. Local law enforcement agencies will increase (decrease) the number of arrests (removals) when the president is Republican (Democratic).

State Governor and Discretion

State governors possess significant power over their states' affairs. Those powers make them influential in the legislative process, budget allocation, and in the appointment of leaders to state agencies, among others (Karch 2007). First, in the area of legislation, state governors may exert influence by setting the tone over immigration policy. In particular, they may express support for immigration policy reform that deny (or provide) a path to citizenship for undocumented immigrants. Moreover, they may express support for or may lead the efforts to adopt state-level immigration policies that either restrict or accommodate immigrants in general. Additionally, they may criticize the federal government either for lax enforcement that burdens the state finances or for aggressive enforcement that breaks families apart.

Second, because the governor has the power to set the state's budget, she can decide where to allocate funds. Given that the federal government only provides partial reimbursement for state and local LEA participation in the 287(g) Program, the states, often times, assume a portion of the expenses associated with running the program. Little research has been done on the cost of implementing the program, however, a handful of studies have estimated those costs. For example, a study on the costs for the first year of operation in two counties in North Carolina, Mecklenburg and Alamance, found their total cost to be approximately \$5.3 and \$4.8 million, respectively (Nguyen and Gill 2010). In the same vein, when Gaston County, also in North Carolina, entered into an agreement with ICE, it had to open three new positions to handle the additional work, at a steep cost to the county (Caldwell

2009). Similarly, an estimate of the cost of implementing the 287(g) Program in Virginia yielded comparable results. In October 2007, the Virginia Sheriff's Association—preparing for possible statewide participation in the 287(g) Program—recommended opening new positions to staff small and mid-size jails at a cost of \$7.5 million. Moreover, it recommended an immigration training component for all law enforcement officers working in the jails at an annual cost of half-a-million dollars (McCabe 2007). And in Arizona, the Maricopa County accrued a deficit of \$1.3 million during the first three months of the 287(g) Program (Shahani 2009). Given this high cost, the state governor may decide the amount of funding to be allocated for the program or whether participation in the program is in the best interest of the state.

LEAs can also benefit financially by arresting and detaining undocumented immigrants, as the Federal Government reimburses state and local LEAs for holding detainees through an Inter-Governmental Service Agreement (IGSA). For instance, under this agreement, ICE reimburses the Sheriff's Office of Frederick County, Maryland \$83 per day per detainee, while the actual cost of housing and feeding the detainee is \$7; the difference is a net profit (Examining 287 (G), 2009). Alamance County, North Carolina, in anticipation of signing an MOA with ICE, expanded its county jail by adding 240 bed spaces at a cost of \$12.2 million (Nguyen and Gill 2010). The expansion of the jail was built to federal standards, which meant that the county could be reimbursed for the costs of detaining and housing undocumented immigrants while awaiting transfer to federal detention centers. The expansion, while costly to the county, generated revenues. In September 2012, ICE revoked the 287(g) MOA with Alamance County after a two-year investigation into allegations of discrimination against Latinos. Consequently,

the daily average number of federal detainees dropped from 100 to 75, reducing revenues (Lavender 2014).

Third, because the governor has the authority to appoint leaders to state agencies, she is more likely to appoint those with whom she has an ideological affinity. Thus, by appointing the Secretary of the Department of Corrections—a signatory of MOAs representing state LEAs—the governor ensures that her policy preferences will be carried out. Although the governor, in most instances, does not appoint the county sheriff or the city chief of police, who are the signatories of MOAs for local LEAs, she has the authority to appoint these officials to prestigious positions such as the Board of State and Community Corrections or to lead the Department of Public Safety, ensuring that appointees will advance her preferred policies.

At the community level, the city chief of police and the county sheriff have the power to appoint as well. For instance, they can appoint law enforcement officers to a higher position or to prestigious assignments such as training under ICE to function as ICE agents. Again, these two local-level political actors are more likely to assign officers who can fulfill their policy enforcement expectations. In that way, LEA deputized officers' discretion in the arrest and removal of undocumented immigrants is influenced by the policy preferences of those who appoint them to function as immigration officers. Moreover, the county sheriff and city chief of police may aspire to higher office (e.g., Director of Department of Public Safety) or to serve on boards (e.g., Department of Law Enforcement). Thus, a good relationship with the state governor may be crucial for them to achieve their career goals. It could also be the case that they may want to run for state governor or for a congressional seat, thus they may want to be seen as tough on crime on the issue of undocumented immigration in their respective

jurisdictions. Thus, the influence of local, regional, or state leaders can either facilitate a process of immigrant integration to society or facilitate, even encourage, a process of arrests and removals (Pastor and Mollenkopf 2012).

The state governor not only influences others because of her many powers, but also her partisan affiliation signals policy implementation preferences. The political rhetoric of national, state, and local-level political actors further signals a particular policy enforcement preference on how and when immigration policy should be enforced. A close scrutiny of public policy implementation gives a glimpse of the effect of partisanship at the ground level.

Prior studies demonstrate that partisanship influences policy enforcement and policymaking. For instance, a study on the Occupational Safety and Health Act (OSHA) field enforcement found that street-level bureaucrats may be responding to “local politics.” More specifically, there were more enforcement actions and more costly penalties in liberal states than in conservative ones (Huber 2007, 98), thus confirming the findings of earlier studies—namely that partisanship and elected officials at the local, state, and federal level influence OSHA inspectors in their enforcement activities (Scholz et al., 1991; Scholz 1986). Similarly, a study on the implementation of the Social Security Disability program found that street-level bureaucrats granted more disability claims when the Democratic Party controls the legislature (Keiser 1999).

Studies on policymaking further confirm the partisan effect. Studies on immigration policies at the local level found that the likelihood of proposing and adopting restrictive policies was higher in predominant Republican areas than in Democratic ones (Gulasekaram and Ramakrishnan 2012; Ramakrishnan and Wong 2010), and Republicans are more likely to

approach the issue of immigration in a conservative manner (Tichenor 2002; Tolbert and Hero 1996). Wong (2012), in his study of the 287(g) Program, found evidence that Republican-majority counties opted to participate in the program. However, Monogan (2013), in his study of state-level adoption of immigration policies, did not find an institutional partisan effect.

From the above discussion, the following hypothesis emerges:

H2. State Governor Influence. Number of arrests and removals are more likely to be higher (lower) when the state governor's partisan affiliation is Republican (Democrat).

Governor-President Partisan Alignment

A strong relationship between the state governor and the president can be mutually beneficial. This relationship is further strengthened when they share a political ideology. Because of their shared partisan affiliation, they trust each other, have common views on the role of government, and the direction that public policies should take to build the ideal society. To that end, they work within the political institutions at the national and state level to support each other and grow their political party.

The benefits that the president and state governor draw from this symbiotic relationship are many. Among them is support for career advancement and funding allocation. This strong relationship between the president and the state governor. First, governors, like most political actors, may aspire to higher office. They may want to run for a congressional seat, be appointed to lead a federal agency, and even run for president. In these three areas, the president can provide valuable support. Running a presidential campaign is challenging, and governors have to perform many tasks. For instance, they have to fundraise, cultivate donors, and give

speeches. In running a presidential campaign, the president may be instrumental. Specifically, he can use his high-profile position to fundraise, visit the state, give speeches, and endorse the governor.

Second, the president has the power to set the federal budget. As overseer of the federal agencies, he can direct funds to states where the governor is of the same political party and to programs that reflect his policy preferences. A study on the federal budget allocation found that states whose governors share a partisan ideology with the president receive more federal funds (Larcinese, Rizzo, and Testa 2006). Given that approximately twenty-five percent of the state budget comes from the federal government (Nugent 2012), the president and governor can exert a lot of power over LEAs, all the way down to the street-level bureaucrat. Those funds arrive to the state government in the form of block, categorical, or program grants. Then, state agencies distribute them to localities. It is at this juncture that decisions are made as to which programs to support. More funds arriving at the state department of corrections, county sheriff's offices, and at city police agencies may mean the expansion or narrowing of programs. Because participation in the 287(g) Program is costly—running in the millions annually—the allocation of funds may determine whether a LEA participates or not and its level of enforcement activities.

An indirect way that the president can influence state and local bureaucratic discretion is through federal waivers. These waivers provide states with the flexibility needed to adjust federal law to meet states' needs. In addition, once a waiver is approved, it provides flexibility to reallocate federal funds as the governor may consider necessary. In other words, the governor has the discretion to allocate more funds to projects that meet her and the

president's policy preferences. To obtain these waivers, state governors file a request with the federal agency. In addition, governors, either individually or as part of the National Governors' Association (NGA), may lobby the president to direct the federal agency to streamline the process. This was the case in 1993 when the NGA pressured Bill Clinton to direct the Department of Health and Human Services to facilitate the process of approving those waivers (Nugent 2012). Even when waivers are denied, it signals the state's policy preferences on the issues at hand. For instance, in 2012, the Kansas Secretary of Agriculture requested a federal waiver that would allow farmers to hire undocumented immigrants to work in the fields (Hanna 2012). This action signaled to local and state LEAs the state government's increased tolerance of undocumented immigrants.

A shared political ideology serves as an impetus for the president and state governors to endorse one another's policy preferences, and use of executive powers. In a similar vein, Nugent (2012) argues that waivers are a safeguard to federalism because states are allowed to adjust federal policy to meet states' needs. Nonetheless, in the hands of presidents and governors, a waiver can be a tool that shapes federal law, reflecting particular partisan values.

The underlying assumption is that Republicans favor law and order and playing by the rules. In the 2016 Republican platform, the party's view on law and order is noted. For instance, it underscores the importance of "Justice for All," and to achieve it, a stellar law enforcement is needed to serve as role model of "constructive conduct and ethical standards" to keep communities safe from predators. In addition, it compares its stance on law and order with that of liberals (a group associated with the Democratic Party). In particular, it stresses that "Liberals

do not understand this simple axiom: criminals behind bars cannot harm the general public” (Republican Platform 2016).

Additionally, looking toward the near future, the 2016 Republican Platform emphasizes two key points: 1) a Republican Administration and Congress “will partner with local governments through cooperative enforcement agreements in Section 287(g) of the Immigration and Nationality Act to make communities safer,” and 2) “State efforts to reduce illegal immigration must be encouraged....The pending Department of Justice lawsuits against Arizona, Alabama, South Carolina, and Utah must be dismissed.” Given that much of the rhetoric about crime is aimed at undocumented immigrants and their disrespect for the law by crossing the border without authorization or by overstaying their visas, it stands to reason that Republicans would prefer to see more arrests and more removals.

Democrats, on the other hand, present a diametrically opposite stance on the issue of immigration and policy enforcement. Specifically, the 2012 Democratic Platform asserts the following:

Department of Homeland Security is prioritizing the deportation of criminals who endanger communities over the deportation of immigrants who do not pose a threat, such as children who came here through no fault of their own and are pursuing an education....the Obama’s administration has streamlined the process of legal immigration for immediate relatives of U.S. Citizens, supporting family reunification as a priority....and immigrant integration. When states sought to interfere with federal

immigration law by passing local measures targeting immigrants, this administration challenged them in court (Democratic National Platform 2012).

From the above quote, one can easily discern that Democrats prefer a balanced enforcement of immigration policy, meaning that they are willing to extend opportunities to some immigrants so that they have a path to citizenship while deporting those that are a threat to communities and society.

From the above discussion, the following hypothesis develops:

H3. Governor-President Partisan Alignment. When the state governor and the president belong to the same political party, it is likely that number of arrests and removals will increase (decrease) when both are Republicans (Democrats).

Socio-Economic and Demographic Factors

The issue of immigration policy is not only about partisan politics, but also about socio-economic and demographic factors, including, as discussed below, the unemployment and crime rates and the percent change in the Latino population from 1990 to 2010. These issues are front and center in debates over immigration policy and undocumented immigration. Furthermore, many localities have identified the issues of unemployment, crime, and the influx of immigrants into their communities as key factors in their decision to participate in the 287(g) Program. Thus, for those reasons, they are part of the theoretical argument.

Unemployment

The argument that immigrants compete for jobs and cause unemployment among native workers is probably as old as the history of immigration in the United States. At the turn of the 20th century, the influx of immigrants arriving from Europe and their impact on the labor market and the native worker was of great concern (Hall 1906; Kellor 1915). The debate over the effect of both documented and undocumented immigrants on the unemployment rate of the native-born is contentious, divisive, and disputed. Yet, these arguments continue and the political rhetoric of some elected leaders fan the flames.

During a congressional hearing on the issue of jobs and immigrants, Elton Gallegly, House Representative and Republican from California, remarked that documented workers are the “victims of the failed immigration policies.” Lamar Smith, Republican House Representative from Texas, echoed the sentiment by noting that during a recent worksite raid in Georgia, ICE found over 600 undocumented immigrants working there (Making Immigration Work for American Minorities 2011). Two years later, when talking about the issue of immigration reform, Lamar Smith stated that the bill would “cost Americans their jobs when they have to compete with millions of more [immigrants] for scarce jobs” (Nowrasteh 2013).

Similarly, on the campaign trail, presidential candidate Donald Trump has criticized any proposal to reform immigration policy and warned Republicans that immigrants are “taking your jobs” (Blake 2014). Moreover, at a rally in Phoenix, Arizona, Trump stated that immigrants are “taking our jobs. They’re taking our manufacturing jobs. They’re taking our money. They’re killing us” (Politi 2015). Trump’s views on the issue of jobs closely follows public opinion. A public opinion survey conducted by the Pew Research Center found that 63 percent of

Republicans believe that immigrants burden the country by taking jobs from the native-born, while only 32 percent of Democrats hold the same belief (Goo 2015).

Contemporary debates on undocumented immigration highlight unemployment as one reason why the government should take action, even more so during economic downturns (Berg 2009). In stark contrast, there are those who argue that immigrants are not causing the unemployment rate to spike up (Winegarden and Khor 1991) or that they are displacing native workers (Card 1990). Peri's (2013) study on labor market competition and poverty among the native-born, offers new insights to the debate. He found that, essentially, there is no effect of immigration on the poverty rate at the national level. At the local level, the effect is negligible. Because of the saliency of this issue in debates over immigration policy enforcement and policy reform, and because of the persistent belief that immigrants are pushing the native-born to the unemployment lines and into poverty, I expect this coefficient to be positive. From the above discussion, the following hypothesis emerges:

H4. Health of the Economy Hypothesis. As the county unemployment rate increases, the number of undocumented people arrested and removed increases.

Property Crime

A perennial and deeply rooted belief is that immigrants are more prone to commit crimes than the native-born—even when evidence points in the opposite direction (Rumbaut 2007; Nguyen and Gill 2010). Crimes committed by undocumented immigrants have sparked surges of restrictive immigration policies that seek to limit their daily lives and facilitate their removal. In fact, it was a crime committed by an undocumented immigrant that prompted a Republican

senator from Iowa to craft the 287(g) section of IIRIRA (Tsankov and Martin 2010), leading to the development of the 287(g) Program.

The issue of illegal immigration, immigrants, and crime tends to be conflated. Conflating these issues has led the public and political leaders to make statements that cement and perpetuate the notion that immigrants lean towards criminal enterprise. A study on the citizens' perception of immigrants delve into letters to editor to the Arizona Republic Newspaper (Costelloe 2008: 9) and found evidence of that perception in the following quotes:

It seems to me that Mexico is at the root of a lot of the troubles we here in Arizona are having. Crime, drugs, possible terrorist activities.” (letter to the editor February 3rd, 2005)

...Mexicans did not attack us on 9/11, but they are doing it just as stealthily. Slipping across the border...committing heinous crimes, making bail (if they get caught) and leaving the country.” (letter to the editor April 5th , 2005)

We need to stop illegal immigration now once and for all so we can...reduce crime and make American lives better overall. (letter to the editor January 7th , 2005)

The perception of immigrants' tendencies toward criminal behavior has a long history. California's Proposition 187, which proposed a series of restrictive state-level immigration policies— unequivocally asserts that immigrants are the root cause of crimes in the state. The proposition's opening lines noted the following:

The People of California...have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state. They have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state (California Proposition 187 1994)

Even President George W. Bush, in his state of the union address in 2006, brought up the issue of crime and immigrants when he said that “Illegal immigration puts pressure on

public schools and hospitals, it strains state and local budgets and *brings crime to our communities*” (Bush 2006). Former U.S. senator Fred Thompson from Tennessee and Republican presidential candidate—in a speech he gave at the Prescott Bush Awards Dinner in 2007—proclaimed that “Twelve million illegal immigrants later, we are now living in a nation that is beset by people who are suicidal maniacs and want to kill countless innocent men, women and children around the world” (Sidoti 2007). More recently, another Republican presidential candidate, Donald Trump, when announcing his run for the presidency stated:

When Mexico sends its people, they're not sending their best....They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists (Bump 2015).

Similarly, local political leaders, too, have been vocal about their views on immigrants and crime. In a show on National Public Radio, the chairman of the Prince William County, Virginia, Board of Supervisors said “...the reality is...that many of the people who enter this county illegally are criminals” (Martin 2008).

Findings from studies on immigration, immigrants, and crime present a different perspective. A study of Mecklenburg County, which participates in the 287(g) Program, found no evidence that the growth of the immigrant population is associated with increasing crime rates. Moreover, the study found that of all the counties in North Carolina, Mecklenburg had the most dramatic real decrease in violent crimes since the 1990s, a time of high growth of the immigrant population (Nguyen and Gill 2010). Similarly, a study focusing on Miami, El Paso, and San Diego, found that, in general, immigration does not increase the crime rate (Lee, Martínez,

and Rosenfeld 2005). Despite this evidence, because of the persistence of this argument and because of its use in calls for more rigorous enforcement of immigration policy, I expect this coefficient to be positive.

H5. Public Safety Hypothesis. As the state violent crime rate increases, the number of undocumented people arrested and removed increases.

Latino Population

Since the 1990s, Latino immigrants have been driving the growth of the foreign-born population, and increasingly settling in the South and Midwest (Frey 2006; Kandel and Cromartie 2004; Lichter and Johnson 2009; Bohn 2009; Singer 2013). These two regions are home to the top nine states with the largest immigrant growth. The percent change in the immigrant population from 1990 to 2010 ranges from 287% in Alabama to 525% in North Carolina. At the county level, the growth has been more dramatic from -2.730 % in Pinal, Arizona to 1,780 % in Cabarrus, North Carolina.⁶

The reaction of many states and localities has been an increase in the adoption of restrictive policies and a call for stricter enforcement. From a total of 80 MOAs that ICE signed with state and local LEAs, 43 are in the South. That is, 54 % of immigration policy enforcement efforts through the 287(g) Program are in one of the regions of highest immigrant growth. Previous research on the federal program Secure Communities—a data-sharing immigration policy enforcement program—shows that ICE activated this program more rapidly in areas where a high proportion of the population is of Latino origin (Cox and Miles 2013). Because

⁶ Author's calculations.

Latinos are the fastest growing population (Brown & Lopez 2013) and because they make up 8.9 million (or 80%) of all undocumented immigrants (Nwosu et.al. 2014), I expect this coefficient to have a positive relationship with the number of arrests and removals.

H6. Rapid Demographic Shift Hypothesis. The number of people arrested and removed increases as the Latino population increases.

Interactions

Party Switch Hypotheses

Partisanship alone is just a collection of values or ideals that distinguish one political party from the other. Political parties may take positions on issues given their values and may respond in different ways, but in the presence of particular pressing social issues, the response or reaction may be heightened by a switch. How these partisan values are activated is the focus of this section. More specific, I seek to discern the mediating effect of socio-economic-demographic factors in activating partisan values and how the political parties respond to those factors. The theory assumes that the political parties uphold a set of core values. These values may be dormant or active but at a low level and what turns them on or off are socio-economic-demographic issues, which act as a switch. Furthermore, in this section, I spell out the Party Switch hypotheses, which are central to this study. Before proceeding, I first note that in the field of political science, the phrase 'party switch' refers to changing one's political party affiliation. In the theory of policy enforcement I set forth in this chapter, party switch takes on a different meaning. It refers to societal issues that act as switch activating a set of core values of the political parties. To better illustrate the meaning of party switch, I turn to the field of genetics. The Human Genome Project provided a snapshot of the genetic makeup of humans.

Traditionally, it was believed that of all the genes that make up the human body only one percent served a function and the rest were considered 'junk.' All that changed when a second project provided a high definition picture of the human genome. The Encyclopedia of DNA Elements (ENCODE) Project, mapped out all the elements in the genome. A major finding of this project is that the 99 percent of DNA considered 'junk' is in fact a conglomerate of millions of gene switches. In simple terms, these switches are a powerhouse in that they turn other genes on and off. Thus, they activate the core one percent of genes to perform particular functions. In the same vein, I look at political parties as having a set of core values that are activated by conditions in the environment.

To understand the approach that political parties take on the issue of immigration policy enforcement, I use gene switches as an analogy. First, I posit that political parties' core values are equivalent to the one percent of genes that determine specific characteristics in the human body. Thus, I assume that these core values might be law and order, integration, and economic stability, to name a few. Just as environmental conditions can alter the activity of gene switches so do social issues can activate the core values of the political parties. Because the issue of immigration is usually linked to rising crime and unemployment rates, and the influx of the foreign-born that might alter society's cultural landscape, I argue that these same issues turn on or off the values of the political parties and trigger a reaction. Thus, the approach they take to the enforcement of immigration policy is dictated by the core values they uphold. For instance, the core value of law and order may prompt an approach that encourages an increase in both the arrest and removal of undocumented immigrants; the core value of integration may lead political parties to seek ways to facilitate the incorporation of immigrants to society.

Partisanship not only determines the crafting of public policy, but also policy preferences along with their implementation and enforcement. When elected political leaders approach the issue of immigration policy reform or enforcement, they may consider those indicators that contribute to the quality of life of the communities they represent. Because both the unemployment and the crime rate are among the top indicators, and because immigrants—whether documented or undocumented—are usually associated with a decline in the quality of life, local, state, and national elected political leaders would square those factors with their partisan values, which will guide their approach to immigration policy enforcement. Moreover, I argue that both the unemployment and crime rate and the rapid growth of the Latino population activate the core values of the political parties and either amplify or attenuate the effect of partisanship on the enforcement of immigration policy. Both Republicans and Democrats want to enforce immigration policy. They want to protect the jobs of U.S. workers, protect communities, and deport those that break the law. The difference between the two parties is the rigor with which they enforce the law and the values that drive them. These differences are evident in the party platforms (discussed above). From the above discussion, three Party Switch hypotheses develop

H7. Governor Partisan Ideology and Economic Health. The effect of a Republican governor on the number of arrests and removals increases with the unemployment rate while the effect of a Democratic governor either decreases or remains the same.

H8. Governor Partisan Ideology and Public Safety. The effect of a Republican governor on the number of arrests and removals increases with the state violent crime rate while the effect of a Democratic governor either decreases or remains the same.

H9. Governor Partisan Ideology and Rapid Demographic Growth. The effect of a Republican governor on the number of arrests and removals increases with the growth

of the Latino population while the effect of a Democratic governor either decreases or remains the same.

Data

Since 2002, eighty cities, counties, and state LEAs have entered into a joint MOA with the U.S. Immigration and Customs Enforcement (ICE). Through a series of Freedom of Information Act (FOIA) requests, I obtained data from ICE on calendar-year arrests and removals for 72 LEAs, spanning from 2005 to 2012. For this study, the pertinent data provide the number of undocumented people arrested by each participating LEA, and the number of people removed. The data contain more detailed information. They include a count of undocumented people with whom LEA officers came in contact and criminal offense categories. Specifically, the data include removal priorities, reflecting priorities for removal as set forth in the MOAs. Beyond those priorities, the data include a number of categories, including: "Traffic-DUI," "Traffic-Other," "No Data," and "None."

The data consist of a combination of LEAs from 12 states, 13 city police agencies, and 47 county sheriffs' offices (See Figure 3.1). Because seventy-five percent of MOAs were signed with either city or county LEAs, and because these agencies are in closer contact with communities where undocumented immigrants reside, then the county is the most appropriate unit of analysis. To streamline the data, I drop all arrests and removals actions linked to state agencies (See Figure 3.2 and 3.3 for a list of participating state agencies).⁷ Thus, the data only

⁷ Eliminating the enforcement actions of state agencies is important because the unit of analysis is the county. Moreover, the data for the unemployment rate and the percent change of Latino population are at the county level. And keeping the state agencies in the dataset complicates the analysis because I will have to use state-level data for those observations.

include city and county LEAs. To restructure the data, I combine the enforcement actions of city LEAs with those of the counties. More specifically, I identify the counties to where these cities belong and add those counties to the dataset. If a city belongs to a county already in the dataset, I add the enforcement actions of city LEAs to those of the county. For instance, the City of Mesquite and the City of Phoenix are within Maricopa County and because the latter is already in the dataset, I combine the enforcement actions of those three LEAs.

Using publicly available data, I collect information from a wide range of sources. Specifically, the county unemployment rate was obtained from the Bureau of Labor Statistics.⁸ I use the year-average for each year in the dataset. The state violent crime rate data were obtained from the Uniform Crime Report (UCR) compiled by the Federal Bureau of Investigation (FBI).⁹ The crime rate is defined as the number of crime events divided by the population size, often reported as crimes per 100,000 persons. County-level data to calculate the growth of the Latino population from 1990 to 2010 was obtained from the 1990 and 2010 Decennial Census from the U.S. Census Bureau.¹⁰ Finally, to assemble the dataset, I merged the data from the updated ICE reports on the number of arrests and removals with data on political, demographic, and socio-economic factors. The result is a dataset made up of 54 counties and a total of 432 observations spanning from 2005 to 2012.

⁸ Data obtained from the Bureau of Labor Statistics. Local Area Unemployment Statistics Map. <http://data.bls.gov/map/MapToolServlet?survey=la&map=county&seasonal=u>

⁹ Data obtained from the Federal Bureau of Investigation. The data used to explain the local-level dependent variables are at the state level. Crime Statistics. <https://www.fbi.gov/stats-services/crimestats>

¹⁰ Social Explorer Dataset (SE), Census 1990, 2000, 2010, Social Explorer; U.S. Census Bureau

I also control for partisan control of the state legislature. Studies, such as Wood (1992) have found that state legislature influence the actions of state agencies. I measure it by the Percent of seats controlled by the Republican Party.

Dependent Variables

From the dataset, I identify two dependent variables: *arrests* and *removals*. They represent the number of undocumented people who were arrested and removed within each county. From 2006 to 2012, there were 256,330 arrests and 177,251 removals of undocumented people. In sheer numbers, the data show large variation across the counties. For instance, while in North Carolina, the Sheriffs' Offices for Guilford and Mecklenburg Counties report 9 and 12,281 arrests, respectively, in Arizona, the Maricopa County Sheriff's Office reports 42,873 arrests. There is substantial variation in the number of arrests originating from each county. For instance, while the mean number of arrests for the years under study for all of the counties in the dataset is 763.07 (s.d. = 1555.52), the Guilford County had far fewer arrests on average (mean = 1.50, s.d. = 3.20) and the Maricopa County had far more arrests (mean = 6124.71, s.d. = 5172.34). The data on removals present a similar picture. The mean number of removals across all participating county LEAs in the dataset is 557.86 (s.d. = 1238.55), the Guilford County had fewer removals (mean = 1.00, s.d. = 2) and Los Angeles County had far more removals (mean = 2431.28, s.d. = 1077.47).

Independent Variables

To test the political environment hypotheses, I include several explanatory variables. First, to capture the partisan identification of the president, I include a dummy variable that takes the value of 1 when the president is Republican and 0 when is Democratic. It tests the President Partisan Identification hypothesis (H1). This variable is used only to run the statistical analyses presented in Table 3.4 and Table 3.5. This is so, because I later split the dataset in two. One dataset encompasses the years when the president is Republican (i.e., 2005-2008) and when the president is Democratic (i.e., 2009-2012). By splitting the data, I am able to observe the effect of both the political and social factors on the number of arrests and removals under different presidential regimes. Second, to capture the state governor's partisan affiliation, I rely on data from the National Governors Association.¹¹ The data include partisan identification, beginning and ending dates of each term, and number of terms in office. *Republican Governor* is a dummy variable that takes the value of 1 when the governor is Republican, and 0 otherwise. I expect this variable to have a positive relationship with each dependent variable. In addition, this variable will be used in the two datasets covering the second term of the Bush and the first term of the Obama Administration. It will test the State Governor Influence hypothesis (H2). The Republican Governor variable is also used to test the Governor-President Partisan Alignment hypothesis (H3), which I present in Table 3.4 and Table 3.5. I expect the effect of the coefficient of the interaction to be positive.

A second set of variables is included in the analyses to test the socio-economic-demographic (SED), which are captured by both the *Unemployment* and state *Property Crime*

¹¹ Data available at <http://www.nga.org/cms/FormerGovBios>

rate and the growth of the *Latino Population* from 1990 to 2010. These data are also used to test the Party Switch Hypotheses—a set of three hypotheses focusing on socio-economic-demographic issues and their relationship with the state governor partisan affiliation.

First, to test the *Health of the Economy* hypothesis (H4), I include the average, annual-county *Unemployment* rate figures from the Bureau of Labor Statistics.¹² I expect this relationship to be positively correlated with the number of arrests and removals. The state *Property Crime*—burglary, motor vehicle theft, and property theft—is the second variable I introduce in the analysis, capturing the social conditions in the state. The crime rate is defined as the number of crime events divided by the population size, often reported as crimes per 100,000. The data were obtained from the Uniform Crime Report (UCR) compiled by the Federal Bureau of Investigation (FBI).¹³ With the state *Property Crime* variable, I test the Public Safety hypothesis (H5), and expect a positive relationship between *Property Crime* rate and number of *Arrests* and *Removals*.¹⁴

Third, *Latino Population* variable is constructed with data obtained from the U.S. Census Bureau.¹⁵ It tests the Rapid Demographic Shift hypothesis (H6), which posits that as the Latino

¹² Data obtained from the Bureau of Labor Statistics. Local Area Unemployment Statistics Map. <http://data.bls.gov/map/MapToolServlet?survey=la&map=county&seasonal=u>

¹³ Data obtained from the Federal Bureau of Investigation. Crime Statistics. <https://www.fbi.gov/stats-services/crimestats>

¹⁴ Ideally, I would use county-level violent crime rate data; unfortunately, the FBI's county-level violent crime data are incomplete. Thus, it is difficult to compile violent crime rates for all the counties in the dataset. It is worth noting that the FBI provides data that the states report. Given that the FBI reports do not consistently provide data for all or the same counties reported in previous years, the use of the data may lead to erroneous findings. For this reason, some scholars advise against their use (Maltz and Targonski 2002). Nonetheless, these data are widely used in scientific research.

¹⁵ Social Explorer Dataset (SE), Census 1990, 2000, 2010, Social Explorer; U.S. Census Bureau

population grows, the number of *Arrests* and *Removals* increases. I expect this variable to have a positive coefficient under both presidential administrations.

I test the set of Party Switch hypotheses by interacting partisanship of the governor and each of the SED factors. First, I interact *Republican Governor* with *Unemployment* to test the Governor Partisanship and Economic Health hypothesis (H7). Second, the interaction between *Republican Governor* and *Property Crime* tests the Governor Partisanship and Public Safety hypothesis (H8). Third, the interaction between *Republican Governor* and *Latino Population* tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H9). I expect the coefficient of these three interactions to be positive.

Table 3.1 presents a list of all the hypotheses just presented, the variables used to test them, their expected coefficients, and, in the last column, I note whether the analyses support the predictions.

Method

The goal of this study is to explicate why arrests and removals are higher in some counties and not in others. The dependent variables, *arrests* and *removals* are a count of undocumented people who were arrested and removed from each participating county annually. Because these variables are a count of the number of people arrested and removed from the country, count models such as the Poisson and negative binomial are appropriate. One stringent assumption of the Poisson model is that the variance is equal to the mean of the data. The negative binomial, on the other hand, relaxes that assumption.

To determine the best model to use, I turn to the data. First, the descriptive statistics of the data for all the variables are listed in Table 3.2. Of special interest are the dependent variables, which show that for both *arrests* and *removals* the variance is greater than the mean, violating the Poisson distribution assumption. A visual examination of the data further confirms the non-normal distribution. Figure 3.4 and Figure 3.5 show a high number of zero arrests and removals, respectively, causing the distribution to be right-skewed. Specifically, the data show that in 2007 several counties reported zero arrests and removals while the four participating counties in California (i.e., Los Angeles, San Bernardino, Riverside, and Orange) reported 12,133 arrests and 8,949 removals. The clustering of zeros on one end of the spectrum and the few larger counts on the other side causes the distribution of the data to be skewed and for the mean to be higher than the variance.

Second, following the suggestions of Cameron and Trivedi (2010), I estimate both a Poisson and a negative binomial models to compare their results. To obtain the estimates for *arrests* and *removals*, I use the full model (Model 3), which incorporates both partisan, socio-economic, and demographic variables, using a dataset encompassing all the years under study. Starting with the Poisson, I run an auxiliary regression to test whether the coefficient of the mean of the outcome variables ($\hat{\mu}$) is equal to zero. The result for both arrests ($\hat{\mu} = 3.01$) and removals ($\hat{\mu} = 3.62$) exceeds zero. Next, the negative binomial deals with overdispersed data by adding an overdispersion parameter (α)—a measure of the variance of heterogeneity (Hilbe 2011). The estimation results show that this parameter exceeds zero for both arrests ($\alpha = 3.63$) and removals ($\alpha = 3.69$). That the coefficients of both $\hat{\mu}$ and α exceed zero is indicative that the data are overdispersed.

The Likelihood-Ratio test (LR) is the third test of overdispersion. This test is part of the estimation results of the negative binomial regression. It tests the null hypothesis that the overdispersion parameter is equal to zero ($H_0: \alpha = 0$). The values of the LR statistic for arrests ($\bar{\chi}^2 = 4.7e + 05$) and removals ($\bar{\chi}^2 = 3.5e + 05$) allow me to reject the null hypothesis of no dispersion. This result indicates that the negative binomial is a better fit for the overdispersed data. In a fourth and final test, I use the user-written *countfit* Stata command (Long and Freese 2006) to compare the Poisson and negative binomial models using Akaike's information criterion (AIC) and Bayes' information criterion (BIC). The results indicate that the negative binomial is the best model given the overdispersed data on arrests and removals.

Selecting the right model is important as the presence of overdispersion may lead to underestimate the standard errors, producing statistically significant predictors when, in fact, they are insignificant. Thus, I use the negative binomial to test all the hypotheses. Because of the importance of the standard errors in estimation tests, and because the possibility of heteroskedasticity—non-constant variance of the error term—I use robust standard errors, and to account for potential autocorrelation, I cluster the data by county.

Results

In this section, I present in four tables the results of twenty negative binomial regressions. More specifically, I specify four models to explore the factors that determine the number of arrests and removals across participating LEAs. I begin by using one dataset, spanning from 2005 to 2012, to test hypotheses 1, 2, and 3, which I present in Table 3.4 and Table 3.5. Then, I split the dataset in two—one encompasses the second term of the Bush administration while

the second encompasses the first term of the Obama administration—as previously discussed. I use these two datasets to test hypotheses 2, 4, 5, 6, 7, 8, and 9, which I present in Table 3.6 and Table 3.7.

Because I specify four models, the structure of the tables vary slightly. Specifically, Table 3.4 and Table 3.5 present the four model specifications—using the dependent variables *Arrests* and *Removals*, respectively—with columns one, two, five, and six displaying the results for the baseline models and columns three, four, seven, and eight displaying the results for the interaction models.

Table 3.6 and Table 3.7 present three model specifications using the dependent variables *Arrests* and *Removals*, respectively. Their structure is as follows: each table has two sections with a total of six columns; the first three columns of each section present the results of regressions using the Bush while the next three present results using the Obama administration dataset. More specifically, the first two columns in each section present results of baseline political and socio-economic-demographic (SED) models while the last column (of each section) presents results of the interaction models—political and SED factors.

To present the results, I will proceed as follows. First, I will present the results of the various regressions (Tables 3.4 and 3.5) using the dataset that pools the number of arrests and removals from 2005 to 2012. Then, in the subsequent section, I will present the results obtained from the two datasets already described above.

Before proceeding, I present in Table 3.3 a correlation matrix that illustrates the pairwise correlation between all the variables in the analyses. The *Arrests* and *Removals* variables are highly correlated and the *Republican Governor* and *Percent Republican Legislature*

variables are mildly correlated with each other. However, examining the results of the variance inflation factor (VIF), using the user-written diagnostics Stata command *collin* (Ender 2010), does not detect multicollinearity. The values range from -2.25e+15 to 4.39, and the mean value is -6.34e+14, which are all below the critical value of 10. One final note on the interpretation of coefficients. It is worth noting that because the negative binomial is a non-linear model, interpreting the coefficients requires an extra step. To that end, I exponentiate and standardize the coefficients using the Stata command *listcoef*.

Arrests

Table 3.4 presents the estimation results for *Arrests*, testing both the baseline and interaction models. In Models 1 and 2, I test the baseline models for political environment and socio-economic-demographic (SED) variables and in Models 3 and 4, I test the interaction models. In Model 1, I test two hypotheses: the President Partisan Identification hypothesis (H1) and the State Governor Influence hypothesis (H2). Both hypotheses state that there will be more *Arrests* and *Removals* when the partisan affiliation of the president and the governor, independent of each other, is Republican and fewer when Democratic.

The results in Model 1 do not support the President Partisan Identification hypothesis (H1). The *Republican President* variable is insignificant and negative, against prediction. On the other hand, the State Governor Influence hypothesis (H2) finds support. Specifically, the number of *Arrests* increases by a factor of 2.01 and the rate increases by 101%. The control variable, *Percent Republican Legislature* is insignificant and negative, against expectation. Of these three political factors, a *Republican Governor* is a strong predictor of the increase of the

number of undocumented immigrants arrested. Why is there an increase in the number of arrests when the governor is Republican, but not when the president is? A possible explanation is that governors are better situated—given their proximity to LEA officers—to influence their enforcement actions. Additionally, state governors, in general, are closer to and accountable to the constituencies that elected them to office. Thus, if and when these constituencies voice concerns about the growing undocumented population, state governors may respond by instructing or supporting local LEAs immigration enforcement actions. Overall, the model demonstrates that when it comes to the arrest of undocumented immigrants, a Republican governor has more influencing power over the actions of state and local law enforcement agencies than a Republican president and a Republican legislature.

In Model 2, I test the SED factors, in three hypotheses. Both the Health of the Economy hypothesis (H4)—captured by the *Unemployment* rate of the participating county—and the Public Safety hypothesis (H5)—captured by the *Property Crime* rate—obtain support. The *Unemployment* and *Property Crime* variables are significant and positive, as predicted. On the other hand, the Rapid Demographic Shift hypothesis (H6)—measured by the *Latino Population*—does not attain support. Although the variable is significant, the sign is negative, against expectation. By closely examining the results, the nuances of the data emerge. First, for a unit change in the *Unemployment* rate, the rate of *Arrests* increases by 14%. Put differently, for a standard deviation increase (approximately 3 arrests), the expected number of *Arrests* increases by 43%. Second, continuing with the *Property Crime* rate variable, for every unit change, the rate of *Arrests* increases by 0.1%, and for a standard deviation increase (approximately 637 arrests) the number of *Arrests* increases by 85%. Third, the results show

that for one unit change in the *Latino Population* the rate of *Arrests* decreases by 0.1%. Put another way, for a standard deviation decrease (approximately 418 arrests), the number of *Arrests* decreases by 46%. All in all, this model informs us that the increase in the number of *Arrests* has to do with both the *Unemployment* and *Property Crime* rates and not with the growth of the Latino population.

Interactions

Political Factors

The next two models (i.e., 3 and 4), present statistical analyses of the interaction between political actors and SED factors. In Model 3, I test the Governor-President Partisan Alignment hypothesis (H3), which states that when both the governor and the president belong to the Republican Party, we should see more arrests. In this case I interact the variables *Republican President* with *Republican Governor*. The evidence supports the hypothesis, as the coefficient of the interaction is significant and positive. Of note, the *Republican President* attains statistical significance, but its sign remains negative, against expectation. On the other hand, the *Republican Governor* variable remains positive and significant, as predicted. This result indicates that when the governor and the president belong to the Republican Party, the number of *Arrests* increases. Additionally, it may mean that a Republican president may lend support to a Republican governor given that both have a similar point of view as it relates to the enforcement of immigration policy.

Party Switch Hypotheses

In Model 4, I test the set of Party Switch hypotheses—Governor Partisanship and Economic Health (H7), Governor Partisanship and Public Safety (H8), and Governor Partisanship and Rapid Demographic Shift (H9)—by interacting their respective measures (i.e., *Unemployment*, *Property Crime*, and *Latino Population*) with the *Republican Governor* variable. Collectively, these hypotheses hold that SED factors amplify the effect of a Republican governor on *Arrests* and *Removals*, while they attenuate the effect of a Democratic governor. The results do not provide support to H7, H8, and H9, although the interaction coefficients are statistically significant, except the coefficient of the interaction for H9. Additionally, the results show that the SED factors have no amplifying effect on the *Republican Governor* variable, an unexpected finding.

In sum, the results of the various statistical analyses carried out in Table 3.4 consistently indicate that *Republican Governor* is associated with an increase in the number of undocumented immigrants arrested. Further, the SED factors have no amplifying effect on *Republican Governor*; on the contrary, they have an attenuating effect. The overall results may suggest that partisan politics drive the number of *Arrests*.

Because of the difficulty of interpreting interaction coefficients, I graph the results. The next three graphs depict the interaction between Republican Governor and SED factors. Each interaction tests one of the Party Switch hypotheses, as presented in Model 4. In particular, I graph the interaction between *Republican Governor* and the *Unemployment*, which test the hypothesis Governor Partisanship and Economic Health (H7), in Model 4 (Figure 3.6). The marginal effect of a *Republican Governor* on the number of *Arrests* given the *Unemployment*

rate is positive, significant for all values, and decreases as the *Unemployment* rate increases.

More specifically, when the *Unemployment* rate is 2.1, a Republican Governor results in 5 more *Arrests* and when it reaches its maximum value of 15.4, the number of *Arrests* drops to approximately 3.

In Figure 3.7, I plot the interaction between the *Republican Governor* and *Property Crime*, which tests the Governor Partisanship and Public Safety hypothesis (H8). The marginal effect of a *Republican Governor* on the number of *Arrests* given the *Property Crime* rate is positive and significant for all values. In addition, a Republican Governor results in 3 more *Arrests* when crime is at its lowest value, and at the high end, the value is 0.

In Figure 3.8, I graph the interaction between the *Republican Governor* and *Latino Population*, which tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H9). The marginal effect of a *Republican Governor* on the number of *Arrests* given the *Latino Population* is positive, significant for lower values up to 1500 percent, and decreases as the values of the *Latino Population* increases. More specifically, a Republican governor results in approximately 6 more arrests, relative to a Democratic governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 5 more arrests (i.e., the marginal effect of Republican governor is 5 when *Latino Population* = 1780); but this effect is not significant.

Removals

In Table 3.5, I test all the hypotheses using *Removals* as the dependent variable. Models 5 and 6 are baseline models for the political and SED factors, respectively. Starting with Model 5, the President Partisan Identification hypothesis (H1)—captured by the *Republican President*— does not receive support as its coefficient is insignificant although positive as expected. On the other hand, the State Governor Influence hypothesis (H2) finds support to its predictions; the *Republican Governor* variable is

positive and significant. The control variable *Percent Republican Legislature* is negative, against expectation, and insignificant. More specifically, the results show that the number of *Arrests* increases by a rate of 155% when the governor is Republican.

The results of the SED hypotheses are presented in Model 6. The Health of the Economy (H4) and the Public Safety (H5) hypotheses find support in the model. The results show that one unit change in the *Unemployment* rate increases the rate of *Removals* by a factor of 1.13. Additionally, for a standard deviation (approximately 3 removals) increase in the same, the number of *Removals* increases by 38%. Similarly, results on the *Property Crime* show that the rate of *Arrests* increases by less than 1%. Equivalently, a standard deviation (roughly 628 removals) increase translates into a 112% increase in the number of *Removals*. Lastly, when examining the Rapid Demographic Shift hypothesis (H6)—measured by the *Latino Population*—the data do not provide support to the prediction. Although the coefficient of the interaction is significant, the sign is negative. More importantly, the coefficient indicates that the rate of *Removals* decreases by less than 1%. In other words, a standard deviation (420 removals) decreases the number of *Removals* by 50%.

The overall results in Model 5 and Model 6 point out to the positive effect of *Republican Governor*, *Unemployment*, and *Property Crime* on the number of immigrants removed. We should see that in states where the governor is Republican the number of *Removals* increases. In other words, ICE is focusing its enforcement activities in states where the governor is Republican. Also, the *Unemployment* and *Property Crime* drive up the number of *Removals*, while the growth of the *Latino Population* decreases them.

Interactions

Models 7 and 8 present the results of interaction models. In Model 7, I test the Governor-President Partisan Alignment hypothesis (H3), for which the data provide support. In this model, the main effect of

Republican President is negative—indicating a decrease in *Removals*—and insignificant; once interacted with the *Republican Governor*, the coefficient of the interaction is significant and positive, according to prediction. With this result, we can observe the strength of the *Republican Governor* variable. In other words, Republican governors—through a Republican president—may have a great deal of influence on ICE’s enforcement activities.

In Model 8, I present the results of the Party Switch hypotheses. In this model, none of the three hypotheses—Governor Partisanship and Economic Health (H7), Governor Partisanship and Public Safety (H8), and Governor Partisanship and Rapid Demographic Shift (H9)—measured by the SED factors: *Unemployment*, *Property Crime*, and *Latino Population*, respectively—obtain support, although the coefficient for the first two attains significance. The results do not provide support for any of the hypotheses, which hold that SED factors amplify the effect of a *Republican Governor* on *Arrests* and *Removals*, while they attenuate the effect of a Democratic governor.

Largely, the results in Table 3.4 are roughly the same as those in Table 3.5. From these analyses, two main findings emerge: 1) states with Republican governors are associated with a higher number of undocumented immigrants arrested and removed; and 2) SED factors fail to amplify the Republican partisanship of the state governor. In fact, they attenuate the effect of a *Republican Governor* on the number of *Arrests* and *Removals*. In other words, the interaction of SED factors with a *Republican Governor* predicts fewer *Arrests* and *Removals*.

To facilitate the interpretation of the interactions presented in Model 8, the next three figures depict the interaction between *Republican Governor* and SED factors. Each interaction tests one of the Party Switch hypotheses. Specifically, Figure 3.9 illustrates the interaction between *Republican Governor* and *Unemployment*, which test the hypothesis Governor Partisanship and Economic Health (H7). The marginal effect of a *Republican Governor* on the number of *Removals* given the *Unemployment* rate is both positive and significant for all values, and decreases as the *Unemployment* rate increases. More

specifically, when the *Unemployment* rate is 2.1 percent, a Republican Governor results in 5 more *Removals* and when it reaches its maximum value of 15.4 percent, the number of *Removals* is 3.

Figure 3.10 depicts the interaction between *Republican Governor* and *Property Crime*, testing the Governor Partisanship and Public Safety hypothesis (H8). The marginal effect of a *Republican Governor* on the number of *Removals* given the *Property Crime* rate is positive, significant for all values and decreases as the *Property Crime* rate increases. More specifically, when the *Property Crime* rate is at 1839 events, a Republican Governor results in 3 *Removals* and when it reaches its maximum value of 4827 events, the marginal effect is negative and the number of *Removals* is 0; but this effect is not significant.

Figure 3.11 illustrates the interaction between *Republican Governor* and *Latino Population*, which tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H9). The marginal effect of a *Republican Governor* on the number of *Removals* given the *Latino Population* is positive, significant for lower values up to 1000 percent, and decreases as the values of the *Latino Population* increases. More specifically, a Republican governor results in approximately 5 *more Removals*, relative to a Democratic governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 4 fewer *Removals* (i.e., the marginal effect of *Republican Governor* is 4 when *Latino Population* = 1780); but this effect is not significant.

Presidential Regimes

As previously noted, I split the dataset in two. One dataset encompasses the years of the second term of the Bush administration while the second one includes the years of the first term of the Obama administration. By splitting the dataset, I am allowed to observe the effect that both political and socio-economic-demographic factors have on immigration policy enforcement actions—*Arrests* and *Removals*.

Given that the two presidential regimes represent two different political parties—Republican and Democratic—then, I expect the effect of those factors to vary.

The next two tables (Tables 3.6 and 3.7) present the results from statistical tests using two datasets. I start by presenting the results of Table 6 which uses *Arrests* as the dependent variable. In this table, the first three columns display results obtained using the dataset encompassing the second term of the Bush administration while the next three columns focus on the years spanning the first term of the Obama administration. Table 3.7 presents the results of statistical tests using *Removals* as the dependent variable and its structure mirrors that of Table 3.6.

Arrests

In Table 3.6, the State Governor Influence hypothesis (H2) finds support in both Model 9 and Model 12—the political environment. The results show that the *Republican Governor* variable is significant and positive under both presidential regimes. It means that when the governor is Republican, the rate of *Arrests* increases by 342% during the Bush administration (Model 9), and by 103% during the Obama administration (Model 12). The results in both models meet the prediction—more *Arrests* under the Bush administration and fewer under the Obama. Although the number of *Arrests* increases under both presidential administrations, the rate at which they increase is lower under the Obama than under the Bush administration. The control variable *Percent Republican Legislature* does not attain significance in either Model 9 or Model 12. Additionally, its sign is positive in Model 9, during the Bush administration, as expected, while in Model 12, during the Obama administration, the sign is negative, against prediction.

In Models 10 and 13, I test the SED hypotheses—the Health of the Economy (H4), the Public Safety (H5), and the Rapid Demographic Shift (H6)—measured by the *Unemployment*, the *Property Crime*, and the *Latino Population*, respectively. First, the Health of the Economy (H4) hypothesis obtains support in both Model 10 and Model 13. The *Unemployment* variable is positive and significant, as

predicted. More specifically, in Model 10, the number of *Arrests* increases by a factor of 1.48, or a rate of 48%. Additionally, one standard deviation increase in the *Unemployment* (approximately 1 percentage point) increases the number of arrests by 72%. In contrast, in Model 13—during the Obama administration—the number of *Arrests* increases by a factor of 1.15 or a rate of 15%. Moreover, one standard deviation increase in the *Unemployment* (roughly 2.3 percentage points) increases the number of *Arrests* by 36%. The results indicate that the number of undocumented immigrants arrested is higher under the Bush than under the Obama administration. Specifically, by looking at the rate at which the *Arrests* occur, one can observe that the rate of *Arrests* during the Bush administration is twice the rate of *Arrests* under the Obama. The results are as expected: more *Arrests* under the Bush administration and fewer under the Obama.

Next, the Public Safety (H5) hypothesis obtains support in both Model 10 and Model 13. Specifically, the *Property Crime* is positive and significant in both models, as predicted. Although the rate at which *Arrests* increases is the same (0.1%)—under both presidential administrations, the effect of the *Property Crime* differs when we move one standard deviation from the mean. In Model 10, an increase in one standard deviation in the *Property Crime* (approximately 693 events) increases the number of *Arrests* by 72%. On the other hand, in Model 13, one standard deviation in the *Property Crime* (approximately 581 events) increases the number of *Arrests* by 76%. The results indicate that, during the Obama administration, fewer *Property Crime* events increase the percentage of *Arrests* of undocumented immigrants, in comparison to the Bush administration.

Finally, the Rapid Demographic Shift hypothesis (H6) does not obtain support in Model 10, but it does in Model 13. In the former, the *Latino Population* variable is significant and negative, as expected, while in the latter, it is negative, against prediction, and significant. Additionally, a one standard deviation in the *Latino Population* (roughly 431 and 414 percentage points) decreases the number of *Arrests* by 51% in Model 10 and by 42% in Model 13. This is an interesting result in light of the fact that

the growth of the Latino population triggers fewer *Arrests* during the Bush administration than during the Obama.

Overall, the results from both Model 10 and Model 13 indicate that during the Bush administration (in comparison to the Obama administration), the *Unemployment* has a stronger effect on the number of *Arrests*; the *Property Crime* has a slightly weaker effect; and the *Latino Population*, too, has a stronger effect on the number of *Arrests*.

Interactions

In Models 11 and 14, I test the Party Switch hypotheses—Governor Partisanship and Economic Health (H7), Governor Partisanship and Public Safety (H8), and Governor Partisanship and Rapid Demographic Shift (H9)—measured by the SED factors: *Unemployment*, *Property Crime*, and *Latino Population*, respectively, along with the political factor: *Republican Governor*. First, in Model 11, the evidence does not provide support to H7. Specifically, the coefficient of the interaction between the *Republican Governor* and the *Unemployment* is insignificant and negative, against prediction. On the other hand, in Model 14, the coefficient is positive and significant, according to expectation, providing support to H7. Second, in Model 11, the coefficient of the interaction between *Republican Governor* and *Property Crime*, which tests H8, is significant and negative, against prediction, whereas in Model 14, the coefficient is also negative but insignificant. Third, in Model 11, the coefficient of the interaction between the *Republican Governor* and the *Latino Population* is significant and positive, as predicted, whereas in Model 14, the coefficient is negative, according to expectation, but insignificant.

Overall, the results show that the Governor Partisanship and Economic Health (H7) hypothesis does not attain support in Model 11, but attains it in Model 14. The Governor Partisanship and Public Safety (H8) hypothesis does not attain support in any model, but it is significant in Model 11. Finally, the Governor Partisanship and Rapid Demographic Shift hypothesis (H9) attains support in Model 11, but not in Model 14. Given the results, one can see that during the Bush administration, the *Property Crime*

does not predict an increase in the number of *Arrests*, on the contrary, it predicts fewer. And, the growth of the *Latino Population* is a strong predictor of an increased number of *Arrests*. On the other hand, during the Obama administration, only the *Unemployment* is a strong predictor of an increase in the number of *Arrests*.

Because it is difficult to gauge the effect of the conditioning variable by just looking at the interaction coefficients, I plot the results. Specifically, I plot the interaction between *Republican Governor* (y-axis) and *Unemployment* (x-axis), which test the hypothesis Governor Partisanship and Economic Health (H7), in both Model 11 (Figure 3.12) and Model 14 (Figure 3.15).

In Figure 3.12, the marginal effect of a *Republican Governor* is significant and positive and as the *Unemployment* rate increases, the effect decreases. Moreover, because the marginal effect exceeds zero, as indicated by the lower bound of the confidence interval (dashed lines), the effect is positive for all the values of the *Unemployment*. Substantively, the graph shows that in terms of enforcement actions, a *Republican Governor* results in 13 more *Arrests*, relative to a Democratic governor, when *Unemployment* is at its lowest value (2.1 percent). As the *Unemployment* increases to its highest level (8.6 percent), a *Republican Governor* produces approximately 12 *Arrests*. Additionally, because the marginal effect exceeds zero, as indicated by the lower bound of the confidence interval (dashed lines), the effect is positive for all the values of the *Unemployment*. In contrast, Figure 3.15 (Model 14) shows that the marginal effect of *Republican Governor* is significant and positive for all values of the *Unemployment*. Additionally, the effect of a *Republican Governor* increases as the *Unemployment* rate increases. Substantively, it means that a *Republican Governor* results in approximately between 6 and 7 *Arrests* when the *Unemployment* is 4.6 percent. As the *Unemployment* increases to its highest level (15.4 percent), a *Republican Governor* produces approximately between 8 and 9 *Arrests*.

Next, I plot the results of the interaction between *Republican Governor* and *Property Crime*, which tests the hypothesis Governor Partisanship and Public Safety (H7), in both Model 11 (Figure 3.13)

and Model 14 (Figure 3.16). In Figure 3.13 (Model 11), the marginal effect of a *Republican Governor* turns from positive to negative when the *Property Crime* reaches approximately 3700 events. Moreover, it is positive for lower values of the *Property Crime* up to 3357 events, which occur in approximately 64 observations (30% of the data).

To get a clearer picture of the significance of this relationship, I turn to the data. Of those 64 observations, 24 (38%) represent counties in the East, 20 (31%) in the South, and 20 (31%) in the West and Southwest regions. In terms of enforcement actions, the figure shows that a Republican Governor, relative to a Democratic governor, results in 7 *Arrests* when the value of the *Property Crime* is roughly 1800 events. As the *Property Crime* increases to its highest level (4500 events), a Republican Governor produces 3 fewer *Arrests*; but the effect is insignificant. The results indicate that the enforcement of immigration policy, and *Arrests* in particular, is not driven by high rates of the *Property Crime*.

In Figure 3.16, I plot the results of the interaction between *Republican Governor* and *Property Crime*, which tests the hypothesis Governor Partisanship and Public Safety (H7), in Model 14. The marginal effect of a *Republican Governor* on the number of *Arrests* is positive for all values of the *Property Crime*. Moreover, the effect decreases as the number of *Property Crime* events increases. Specifically, the figure shows that a Republican Governor, relative to a Democratic governor, results in 3 more *Arrests* when the number of criminal events is roughly 2047, and when it reaches 3064 events, a Republican Governor results in 2 fewer *Arrests*. All in all, the result of this interaction indicate that the marginal effect of *Republican Governor* on *Arrests* given the *Property Crime* is stronger during the Bush than during the Obama administration.

Figure 3.14 depicts the interaction between *Republican Governor* and *Latino Population*, which test the Governor Partisanship and Rapid Demographic Shift hypothesis (H9), in Model 11. The marginal effect of *Republican Governor* is significant and positive for all values of the *Latino Population*. Specifically, a Republican governor results in approximately 14 more *Arrests*, relative to a Democratic

governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 21 more *Arrests*.

In stark contrast, Figure 3.17 illustrates the interaction between *Republican Governor* with *Latino Population*, which tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H9), in Model 14. The marginal effect of the *Republican Governor* is positive for all values of the *Latino Population* and decreases as the *Latino Population* grows. Specifically, a Republican governor results in approximately 6 more *Arrests*, relative to a Democratic governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 5 fewer *Arrests*.

Overall, the results do not comport according to the theoretical predictions, with the exception of the *Latino Population*, under both presidential administrations, and the *Unemployment* when Obama is president. These two factors provide support to two of the Party Switch hypotheses, and only under certain conditions—namely the partisan affiliation of the president.

Removals

In this section, I present results of statistical tests using *Removals* as the dependent variable in Table 3.7. In this table, the first three columns (Models 15, 16, and 17) cover the years of the second term of the Bush administration and the next three columns (Models 18, 19, and 20) span the years of the first term of the Obama administration.

In Model 15 and Model 18, I test the State Governor Influence hypothesis (H2) that holds that the number of *Removals* are more likely to be higher when the governor is Republican and lower when the governor is Democratic. The results show that the *Republican Governor* variable is significant and positive under both models, meeting the prediction. More specifically, the results show that the effect

of a *Republican Governor* on the rate of *Removals* is greater when the president is Bush (324%) than when the president is Obama (59%). The control variable *Percent Republican Legislature* does not attain significance in either Model 15 or Model 18. Additionally, its sign is positive in Model 15, during the Bush administration, as expected; in Model 18, during the Obama administration, the sign is negative, against prediction.

In Model 16 and Model 19, I test the SED hypotheses—the Health of the Economy (H4), the Public Safety (H5), and the Rapid Demographic Shift (H6) hypotheses—measured by the *Unemployment*, the *Property Crime*, and the *Latino Population*, respectively. First, the Health of the Economy (H4) hypothesis does not obtain support in Model 16, but it does in Model 19. The coefficient of the *Unemployment* variable is insignificant and negative, against prediction, in Model 16 while positive and significant in Model 19, according to expectation. More specifically, in Model 19, the number of *Removals* increases by a factor of 1.19, or a rate of 19%. Additionally, one standard deviation increase in the *Unemployment* (approximately 2 percentage points) increases the number of *Removals* by 47%.

Next, the Public Safety (H5) hypothesis obtains support in both Model 16 and Model 19. Specifically, the *Property Crime* is positive and significant in both models, as predicted. Although the rate at which *Removals* increase under both presidential administrations is 0.1 percent, the effect of the *Property Crime* differs when we move one standard deviation from the mean. In Model 16, an increase in one standard deviation in the *Property Crime* (approximately 681 events) increases the number of *Removals* by 88%. On the other hand, in Model 19 one standard deviation in the *Property Crime* (approximately 581 events) increases the number of *Removals* by 91%. The results indicate that, during the Obama administration, fewer crime events increase the percentage of *Removals* of undocumented immigrants, in comparison to the Bush administration.

Finally, the Rapid Demographic Shift hypothesis (H6) obtains support in Model 19, but not in Model 16. In the former, the *Latino Population* variable is significant and negative, as expected, while in

the latter is negative, against prediction, and significant. Additionally, in Model 16 a one standard deviation in the *Latino Population* (roughly 440 percent) decreases the number of *Removals* by 54 percent. In contrast, in Model 19 one standard deviation from the mean (approximately 414) decreases the number of *Removals* by 46 percent. This is an interesting result in light of the fact that the growth of the Latino population triggers fewer *Removals* during the Bush administration than during the Obama.

Overall, the results from Model 16 and Model 19 show that during the Bush administration (in comparison to the Obama), the *Unemployment* has a stronger effect on the number of *Removals*, although it decreases as the *Unemployment* rate increases; the *Property Crime* has a slightly weaker effect; and the *Latino Population*, too, has a weaker effect on the number of *Removals*.

Interactions

In Models 17 and 20, I test the Party Switch hypotheses—Governor Partisanship and Economic Health (H7), Governor Partisanship and Public Safety (H8), and Governor Partisanship and Rapid Demographic Shift (H9)—measured by the SED factors: *Unemployment*, *Property Crime*, and *Latino Population*, respectively. First, in Model 17, the coefficient of the interaction between the *Republican Governor* and the *Unemployment*, which test H7, is insignificant and negative, against prediction, whereas in Model 20, the coefficient is positive and significant, according to expectation. In other words, the data does not provide support to H7 in Model 17, but it does in Model 20.

Second, in Model 17, the coefficient of the interaction between the *Republican Governor* and the *Property Crime* is significant and negative, against prediction, whereas in Model 20, although the coefficient is negative, as predicted, it is insignificant. The evidence does not provide support to H7 in Model 17, but it does in Model 20. Third, in Model 17, the coefficient of the interaction between the *Republican Governor* and the *Latino Population* is significant and positive, as predicted, whereas in Model 20, the coefficient is negative, according to expectation, but insignificant.

Because interpreting the coefficient of the interactions poses challenges, I plot the results. Specifically, I plot the interaction between *Republican Governor* (y-axis) and *Unemployment* (x-axis), which test the hypothesis Governor Partisanship and Economic Health (H7), in both Model 17 (Figure 3.18) and Model 20 (Figure 3.21).

In Figure 3.18 (Model 17) the marginal effect of a *Republican Governor* is significant and positive for all values of the *Unemployment*. In addition, as the *Unemployment* rate increases, the marginal effect decreases. Moreover, the graph shows that, in terms of enforcement actions, when the *Unemployment* is approximately 2.1 percent. As *Unemployment* increases to its highest level (8.6 percent), a Republican Governor produces 11 fewer *Removals*. In contrast, Figure 3.21 (Model 20) shows that the marginal effect of a *Republican Governor* is significant and positive for all values of the *Unemployment*. Specifically, when the *Unemployment* is 4.6 percent, a Republican Governor results in 6 *Removals*. As *Unemployment* increases to its highest level (15.4 percent), a Republican Governor results in 8 more *Removals*. Although the marginal effect of a *Republican Governor* decreases during the Bush administration, the number of *Removals* is higher at lower values of the *Unemployment* rate, in comparison to the Obama administration.

Next, I plot the results of the interaction between *Republican Governor* and *Property Crime*, which tests the hypothesis Governor Partisanship and Public Safety (H7), in both Model 17 (Figure 3.19) and Model 20 (Figure 3.22). In Figure 3.19 (Model 17), the marginal effect of a *Republican Governor* on the number of *Removals* is positive and significant. Specifically, when *Property Crime* is at 2000 events, a Republican Governor results in 6 more *Removals*. As *Property Crime* increases to its highest level (4500 events), a Republican Governor results in 4 fewer *Removals*.

Similarly, Figure 3.22

, during the Obama administration, shows that the marginal effect of a *Republican Governor* and the number of *Removals* given the *Property Crime* is significant and positive for all values. Specifically,

when *Property Crime* is at 2000 events, a Republican Governor results in 3 more *Removals*. As *Property Crime* increases to its highest level (4000 events), a Republican Governor results in 1 fewer *Removal*.

Finally, Figure 3.20 depicts the interaction between *Republican Governor* and *Latino Population*, which test the Governor Partisanship and Rapid Demographic Shift hypothesis (H9), in Model 17. The marginal effect of *Republican Governor* is significant and positive for all values of the *Latino Population*. Specifically, a Republican governor results in approximately 14 more *Removals*, relative to a Democratic governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 20 more *Removals*.

In stark contrast, Figure 3.23 illustrates the interaction between *Republican Governor* and *Latino Population*, which tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H9), in Model 20. The marginal effect of *Republican Governor* is significant and positive for all values of the *Latino Population*. Specifically, a Republican governor results in approximately 5 more *Removals*, relative to a Democratic governor, when Latino population is at its lowest value (-2.73). As *Latino Population* increases to its highest level (i.e., 1780), a Republican governor produces approximately 4 fewer *Removals*.

All in all, the results demonstrate that the marginal effect of a *Republican Governor* is stronger, resulting in significantly more *Removals*, when the president is Bush than when is Obama. This strong effect can be seen in the interactions between the *Republican Governor* and *Unemployment*, *Property Crime*, and *Latino Population*.

Discussion and Conclusion

Studies on immigration policy and its enforcement have been, for the most part, absent in the political science literature. In the last five years, a number of studies have explored various factors determining state-level immigration policies and state and local governments' decisions

to collaborate with the federal government in the enforcement of immigration policy. Yet, no study has explored the factors that determine the number of people arrested and removed from the country through the 287(g) Program. This is an important program as it brings out issues of racial profiling, civil rights protections and violations, states' rights, and federal jurisdiction in the enforcement of immigration policy.

This study enhances our understanding of the forces that shape immigration policy enforcement in the U.S. federal system in a number of ways. First, the findings show that partisanship influences enforcement outcomes, but not always and only under certain conditions. For the most part, these results are in line with previous studies—focusing on various public policies—that found that depending on the partisanship of the president and state governor enforcement outcomes either increased or decreased. Because LEA officers and ICE agents work under the oversight of the County Sheriff—influenced by the state governor—and the president, respectively, they respond to their policy preferences and enforce accordingly.

More specifically and surprisingly, I find that the main effects of both political and socio-economic-demographic variables display the same sign under both administrations. However, when comparing the rate and percent by which arrests and removals increase or decrease, in some cases, there is a stark difference as to how the variables behave under each administration. For instance, when the governor is Republican under the Bush administration, the rate of *Arrests* increases by 304%, whereas under the Obama administration, the rate increases by 100%. Similarly, when the governor is Republican and Bush is the president, the rate of *Removals* increases by 284%, and by 94% when Obama is the president.

Third, and most interestingly, the conditional effect of Republican partisanship, under the Bush regime, is attenuated by the SED factors, a totally unexpected result, except for the *Percent Change Latino Population*, which amplifies the effect. Although these same factors attenuate the effect of a Republican governor during the Obama administration, with the exception of the *Unemployment* which amplifies the effect, these results are in line with my argument that partisanship determines enforcement actions. More specifically, because Obama is Democratic, I expect that the number of removals will decrease, regardless of the partisanship of the governor. This is to be expected because the president has more influence on the discretionary enforcement actions of the DHS and ICE agents, who ultimately determine the number of people removed from the country.

Overall, this study demonstrates that during the Bush administration the growth of the Latino population was a strong predictor of the number of undocumented people arrested and removed from the country. The other SED factors—unemployment and crime rates—had no positive effect on enforcement actions despite the political rhetoric over these two issues, which are of concern to constituencies. In stark contrast, during the Obama administration, the unemployment rate is the strong predictor of arrests and removals while the crime rate and the growth of the Latino population had an attenuating effect. What can explain this difference between the two presidential administrations? In search of a potential explanation, I turn to the issue of values. We can see that under the Bush administration is not about law and order or about fair competition. Perhaps the issue at stake here is cultural threat. More specifically, oftentimes people (mis)perceive immigrants as reluctant to assimilate, embrace holidays and traditions, speak English, and play by the rules, to name a few. The introduction of a new

culture with its particular traditions may be diametrically opposite to long-established traditions in the new country. But because all cultures are intrinsically linked to racial and ethnic groups, the situation can easily and quickly degenerate into racial tensions.

While this study focuses exclusively on immigration policy enforcement, the same arguments apply to other public policies. Given that constituencies, based upon particular social issues, side with one political party or the other, then other public policies can be studied in the same manner, exploring the effect of partisanship given the particular areas of concern of the same. For instance, environmental policy is a salient issue, which brings environmentalists, businesses, and regular people to advocate or lobby for one side or the other, considered to be an issue of the Democratic Party. Thus, one can explore enforcement actions under both the Republican and Democratic regimes, exploring potential moderating effects.

Although this study furthers our understanding of immigration policy enforcement, it has its limitations. First, given that the focus is on the 287(g) Program, the number of participating counties is a fraction of all the counties in the U.S. Thus, it is difficult to know whether the same patterns and differences of enforcement uncovered in this study apply to other localities. Second, I do not control for the undocumented population as a large portion is already included in the growth of the Latino population. Neither do I control for the total population because it dilutes the impact that immigration policy enforcement has on the undocumented population in each state. Third, because undocumented immigrants gravitate to localities where jobs are available, controlling for dependence on immigrant labor can potentially provide different results. Fourth, the property crime rate dataset used is at the state

level instead of county level. Thus, I may not be getting an accurate mediating effect of this social factor.

The findings of this study give us a glimpse of the forces shaping enforcement at the local level through the 287(g) Program. Future research could explore the factors that shape enforcement through the various federal immigration enforcement programs that are not in collaboration with state and local law enforcement agencies. Further, future studies could focus on any potential mediating effects of social, economic, and political factors on the president partisan affiliation. Because policy enforcement does not occur in a vacuum, researchers could delve into the role of divided government at the national and state level to determine the degree to which they can contour the enforcement of immigration policy. Lastly, it would be worthwhile to include a measure of cultural threat to the socio-economic-demographic factors and test its mediating effect on partisanship.

In conclusion, the findings in this study indicate that partisanship alone does not explain enforcement actions. Additional conditions in the environment have to be present to activate the core values of the political parties. Even then, some conditions may have a stronger effect than others, as the results of this study demonstrate.

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Table 3-1. Hypotheses

Hypotheses	Variable Name	Coeff.	Results	
H1. President Partisan Identification Hypothesis. Local law enforcement agencies will increase (decrease) the number of arrests (removals) when the president is Republican (Democratic).	<i>Republican President</i>	+ (-)	Model 1—no support Model 5—no support	
H2. State Governor Influence Hypothesis. Number of arrests and removals are more likely to be higher (lower) when the state governor’s partisan affiliation is Republican (Democratic).	<i>Republican Governor</i>	+ (-)	Model 1—support Model 5—support Model 9—support Model 12—support	
H3. Governor-President Partisan Alignment Hypothesis. When the state governor and the president belong to the same political party, it is likely that number of arrests and removals will increase (decrease) when both are Republicans (Democrats).	<i>Republican President x Republican Governor</i>	+	Model 3—support Model 7—support	
H4. Health of the Economy Hypothesis. As the county unemployment rate increases, the number of undocumented people arrested and removed increases.	<i>Unemployment</i>	+	Model 2—support Model 6—support Model 10—support Model 13—support Model 16—no support Model 19—support	
H5. Public Safety Hypothesis. As the state property crime rate increases, the number of undocumented people arrested and removed increases.	<i>Property Crime</i>	+	Model 2—support Model 6—support Model 10—support Model 13—support Model 16—support Model 19—support	
H6. Rapid Demographic Shift Hypothesis. The number of people arrested and removed increases as the Latino population increases.	<i>Latino Population</i>	+	Model 2—no support Model 6—no support Model 10—no support Model 13—support Model 16—no support Model 19—support	
H7. Governor Partisanship and Economic Health Hypothesis. The effect of a Republican governor on the number of arrests and removals increases with the unemployment rate while the effect of a Democratic governor either decreases or remains the same.	<i>Republican Governor x Unemployment</i>	+	Model 4—no support Model 8—no support Model 11—no support Model 14—support Model 17—no support Model 20—support	<i>Grinter Graphs</i> 4a & 4b—no support 6a—no support 6b—support 9a—no support 9b--support
H8. Governor Partisanship and Public Safety Hypothesis. The effect of a Republican governor on the number of arrests and removals increases with the state property crime rate while the effect of a Democratic governor either decreases or remains the same.	<i>Republican Governor x Property Crime</i>	+	Model 4—no support Model 8—no support Model 11—no support Model 14—no support Model 17—no support Model 20—no support	<i>Grinter Graphs</i> 5a & 5b—no support 7a—no support 7b—no support 10a—no support 10b—no support
H9. Governor Partisanship and Rapid Demographic Growth Hypothesis. The effect of a Republican governor on the number of arrests and removals increases with the growth of the Latino population while the effect of a Democratic governor either decreases or remains the same.	<i>Republican Governor x Latino Population</i>	+	Model 4—no support Model 8—no support Model 11—support Model 14—no support Model 17—support Model 20—support	<i>Grinter Graphs</i> 5c & 5c—no support 8a—support 8b—support 11a—support 11b—support

Table 3-2 Descriptive Statistics of Dependent and Independent Variables

Variable	Mean	SD	Min	Max	Obs.
Years 2005 - 2012					
Dependent Variables					
Arrests	763.07	155.52	0	13674	305
Removals	557.86	1238.55	0	12555	295
Independent Variables					
Political Environment					
Republican Governor	.55	.49	0	1	432
Demographic, Socio-Economic					
Unemployment	6.74	2.85	2.1	15.4	432
Property Crime	3412.43	696.46	1838.9	4826.9	432
Latino Population	445.80	417.86	-2.730	1780	432
The Bush Administration 2005 - 2008					
Dependent Variables					
Arrests	764.35	1772.12	0	13674	90
Removals	689.81	1623.01	0	12555	80
Independent Variables					
Political Environment					
Republican Governor	.52	.50	0	1	216
Percent Republican Legislature	48.79	13.51	10.5	74.03	216
Demographic, Socio-Economic					
Unemployment	4.55	1.18	2.1	8.6	216
Property Crime	3638.87	728.94	1838.9	4826.9	216
Latino Population	445.80	418.35	-2.730	1780	216
The Obama Administration 2009 - 2012					
Dependent Variables					
Arrests	762.56	1459.86	0	11807	215
Removals	508.76	1061.19	0	8585	215
Independent Variables					
Political Environment					
Republican Governor	.62	.48	0	1	216
Percent Republican Legislature	53.88	14.28	10.5	81.73	216
Demographic, Socio-Economic					
Unemployment	8.94	2.29	4.4	15.4	216
Property Crime	3186	581.36	2047.3	4015.3	216
Latino Population	445.80	418.35	-2.730	1780	216

Table 3-3 Correlations among Political Environment, Demographic, and Socio-Economic Variables

	Arrests	Removals	Republican Governor	Percent Republican Legislature	Unemploymt	Property Crime	Latino Population
Arrests	1.0000						
Removals	0.99	1.0000					
Republican Governor	0.29	0.27	1.0000				
Percent Republican Legislature	0.06	0.07	0.29	1.0000			
Unemployment	0.15	0.13	0.33	-0.03	1.0000		
Property Crime	0.06	0.09	0.26	0.35	0.29	1.0000	
Latino Population	-0.21	-0.19	-0.41	-0.04	-0.02	0.40	1.0000

Table 3-4. Negative Binomial Models of County Arrests, 2005-2012

Variables	(1) Political Environment	(2) SED	(3) Interaction Pol. Env.	(4) Interactions Pol. Env. x SED
Republican President	-0.115 (0.263)	0.267 (0.258)	-0.542* (0.325)	0.190 (0.320)
Republican Governor	0.945*** (0.199)		0.676** (0.233)	5.776*** (1.592)
Republican President x Republican Governor			0.833* (0.487)	
Unemployment		0.158*** (0.037)		0.243*** (0.054)
Property Crime		0.001*** (0.000)		0.002*** (0.000)
Latino Population		-0.001*** (0.000)		-0.002*** (0.000)
Republican Governor x Unemployment				-0.178** (0.060)
Republican Governor x Property Crime				-0.001** (0.000)
Republican Governor x Latino Population				-0.000 (0.001)
Percent Republican Legislature	-0.011 (0.009)		-0.009 (0.009)	0.003 (0.011)
Constant	6.641*** (0.470)	2.766** (0.783)	6.649*** (0.455)	-0.518 (1.414)
Lalpha	1.317*** (0.072)	1.266*** (0.075)	1.310*** (0.072)	1.228*** (0.076)
Observations	305	305	305	305

Robust standard errors in parentheses

*** p<0.001, ** p<0.05, * p<0.1

Table 3-5 Negative Binomial Models of County Removals, 2005-2012

Variables	(5) Political Environment	(6) SED	(7) Interaction Pol. Env.	(8) Interactions Pol. Env. x SED
Republican President	0.206 (0.278)	0.659** (0.256)	-0.214 (0.334)	0.504 (0.335)
Republican Governor	0.934*** (0.209)		0.702** (0.245)	5.444*** (1.613)
Republican President x Republican Governor			0.799* (0.513)	
Unemployment		0.188*** (0.037)		0.246*** (0.056)
Property Crime		0.001*** (0.000)		0.002*** (0.000)
Latino Population		-0.002*** (0.000)		-0.002*** (0.000)
Republican Governor x Unemployment				-0.145** (0.061)
Republican Governor x Property Crime				-0.001** (0.000)
Republican Governor x Latino Population				-0.000 (0.001)
Percent Republican Legislature	-0.011 (0.009)		-0.009 (0.009)	0.001 (0.011)
Constant	6.216*** (0.486)	1.605** (0.775)	6.253*** (0.473)	-1.466 (1.496)
Lnalpha	1.335*** (0.078)	1.257*** (0.080)	1.328*** (0.078)	1.222*** (0.082)
Observations	295	295	295	295

Robust standard errors in parentheses

*** p<0.001, ** p<0.05, * p<0.1

Table 3-6 Negative Binomial Models of County Arrests, 2005-2012

	Bush			Obama		
	(9) Pol. Env.	(10) SED	(11) Interactions Pol. Env. x SED	(12) Pol. Env.	(13) SED	(14) Interactions Pol. Env. x SED
Republican Governor	1.395** (0.484)		13.872** (4.660)	0.695* (0.320)		5.597** (2.001)
Unemployment		0.391*** (0.103)	0.027 (0.114)		0.136* (0.071)	0.033* (0.087)
Property Crime		0.001* (0.000)	0.002** (0.000)		0.001** (0.000)	0.002** (0.000)
Latino Population		-0.002*** (0.000)	-0.004*** (0.001)		-0.001** (0.000)	-0.002** (0.000)
Republican Governor x Unemployment			-0.164 (0.154)			0.221** (0.083)
Republican Governor x Property Crime			-0.003** (0.001)			-0.001 (0.000)
Republican Governor x Latino Population			0.003** (0.001)			-0.000 (0.000)
Percent Republican Legislature	0.003 (0.027)		0.095*** (0.029)	-0.018 (0.017)		-0.010 (0.022)
Constant	4.562*** (0.608)	2.431 (1.525)	-5.182** (3.092)	7.121*** (0.872)	2.716 (1.665)	-0.855 (2.714)
Ln alpha	1.517*** (0.133)	1.498*** (0.146)	1.336*** (0.142)	1.239*** (0.152)	1.144*** (0.160)	1.111*** (0.166)

Robust standard errors in parentheses

*** p<0.001, ** p<0.05, * p<0.1

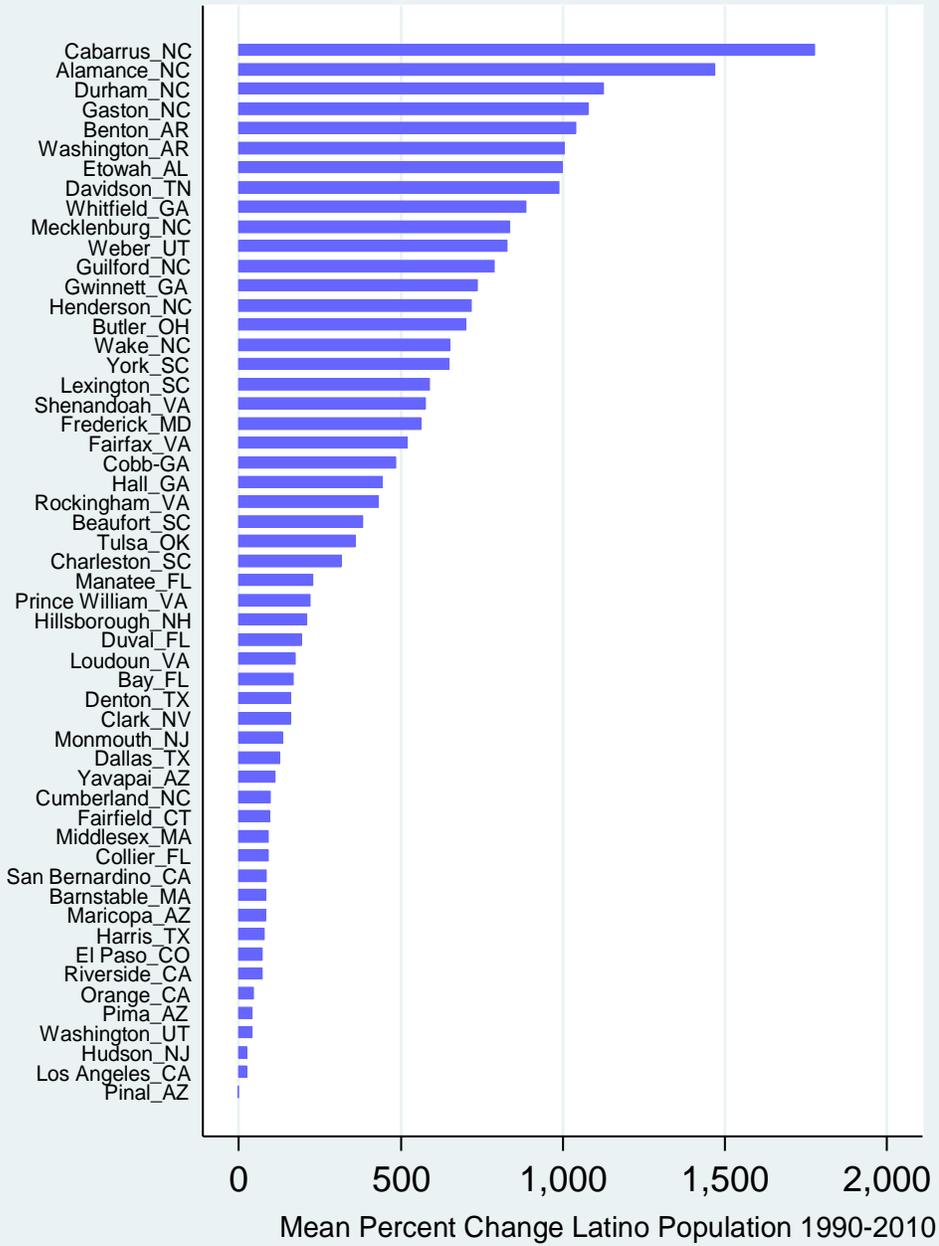
Table 3-7. Negative Binomial Models of County Removals, 2005-2012

	Bush			Obama		
	(15) Pol. Env.	(16) SED	(17) Interactions Pol. Env. x SED	(18) Pol. Env.	(19) SED	(20) Interactions Pol. Env. x SED
Republican Governor	1.344** (0.483)		13.323*** (3.822)	0.660* (0.397)		4.498** (2.225)
Unemployment		0.372*** (0.106)	0.081 (0.122)		0.171** (0.071)	0.604** (0.094)
Property Crime		0.001* (0.000)	0.002** (0.000)		0.001** (0.000)	0.002** (0.001)
Latino Population		-0.002*** (0.000)	-0.004** (0.001)		-0.001*** (0.000)	-0.002** (0.001)
Republican Governor x Unemployment			-0.243 (0.162)			0.205** (0.087)
Republican Governor x Property Crime			-0.003** (0.001)			-0.001 (0.001)
Republican Governor x Latino Population			0.003* (0.002)			-0.000 (0.001)
Percent Republican Legislature	0.018 (0.029)		0.100*** (0.026)	-0.021 (0.017)		-0.013 (0.024)
Constant	4.809*** (1.391)	1.905 (1.627)	-6.218** (2.637)	6.898*** (0.890)	1.544 (1.672)	-1.423 (2.975)
Ln alpha	1.452*** (0.149)	1.421*** (0.170)	1.244*** (0.164)	1.307*** (0.162)	3.269*** (0.548)	1.157*** (0.174)

Robust standard errors in parentheses

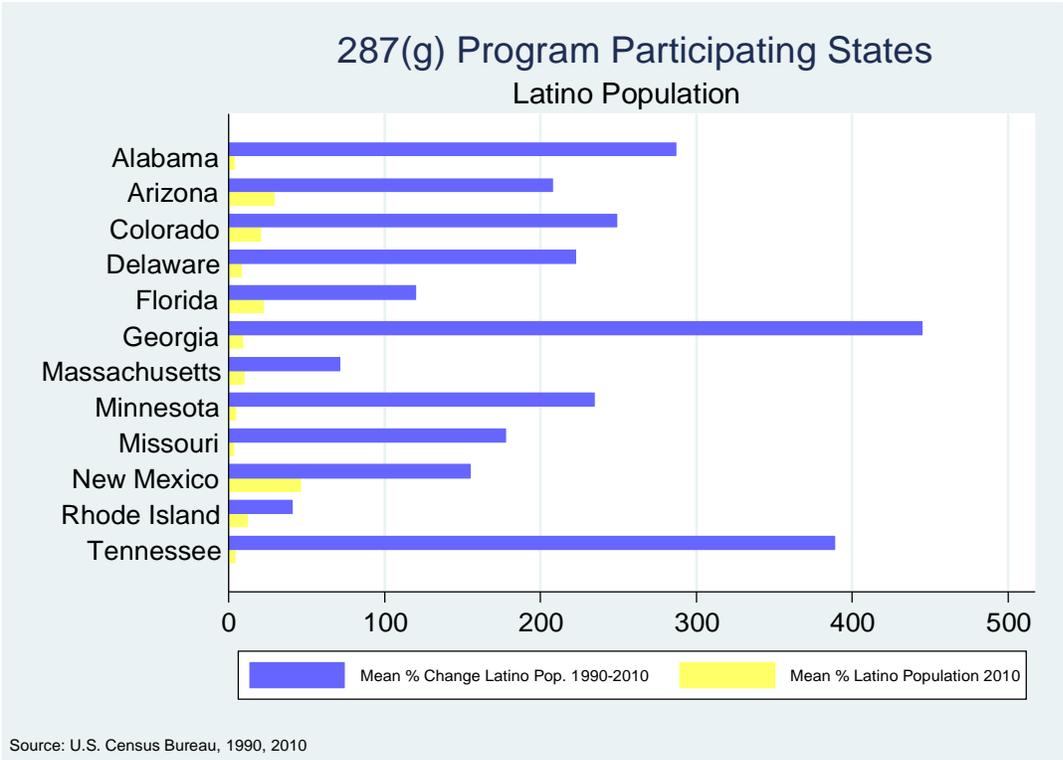
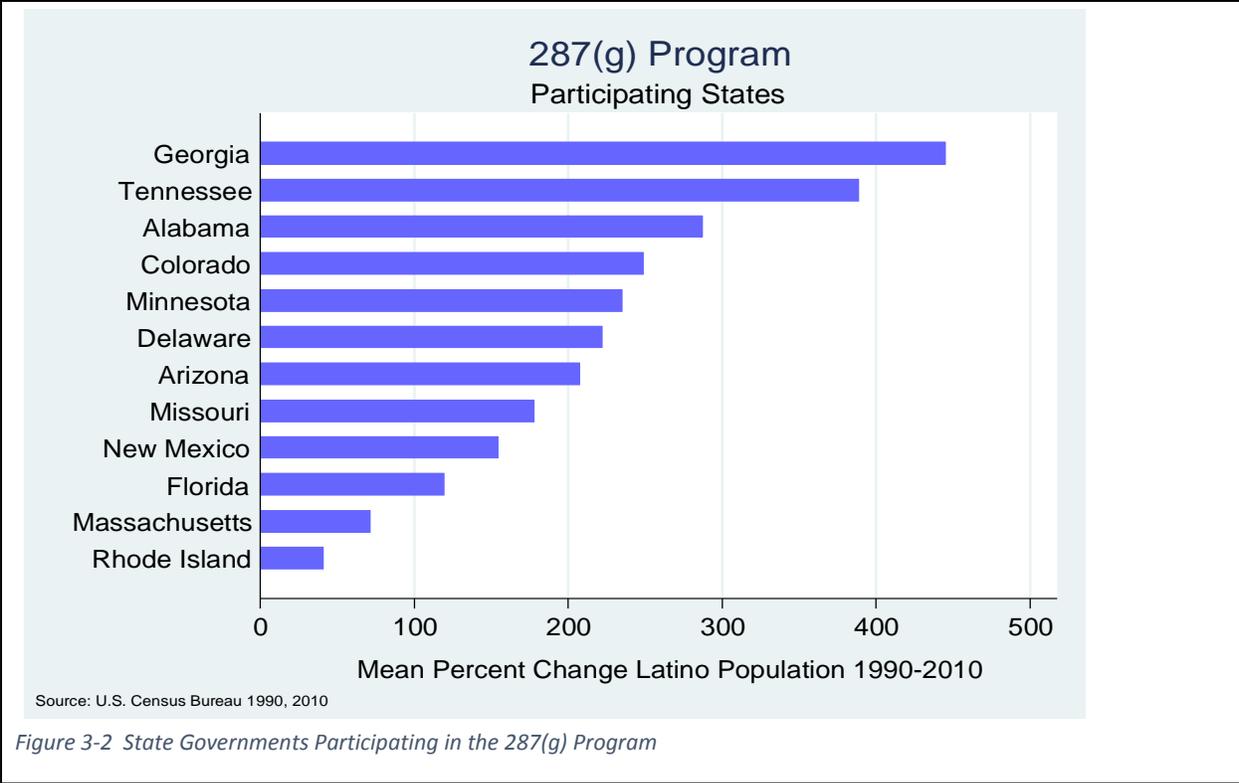
*** p<0.001, ** p<0.05, * p<0.1

287(g) Program Participating Counties



Source: U.S. Census Bureau 1990, 2010

Figure 3-1. Participating Counties and Percent Change in the Latino Population 1990-2010



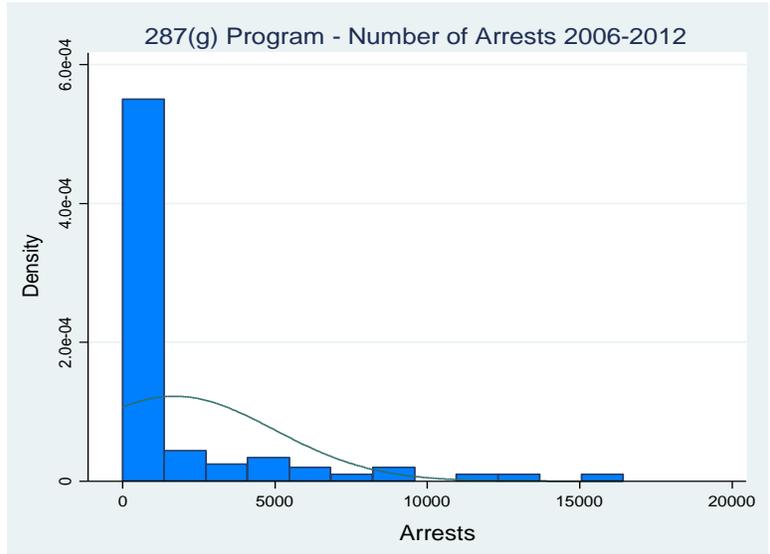


Figure 3-4. Distribution of Number of Arrests



Figure 3-5 Distribution of Number of Removals

Marginal Effects of Republican Governor on Number of Removals Given Socio-Economic-Demographic Factors.

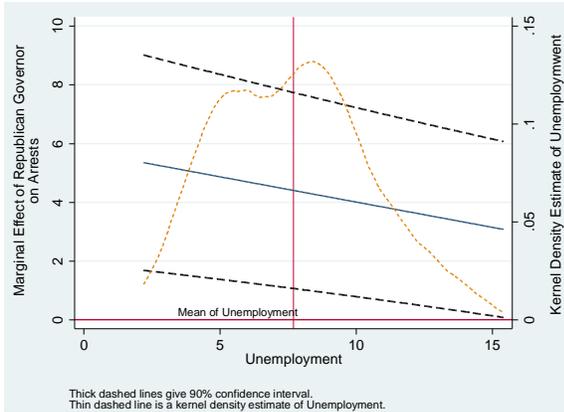


Figure 3-6 Republican Governor x Unemployment

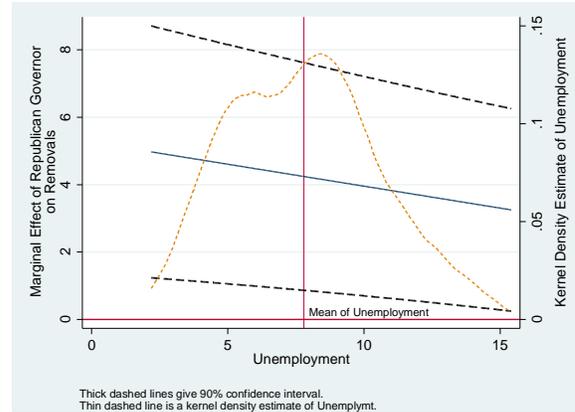


Figure 3-9 . Republican Governor x Unemployment

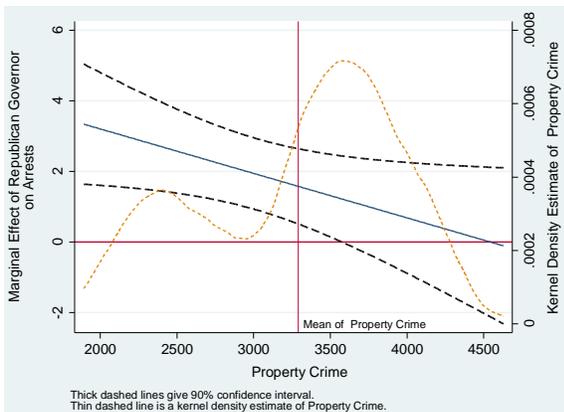


Figure 3-7 Republican Governor x Property Crime

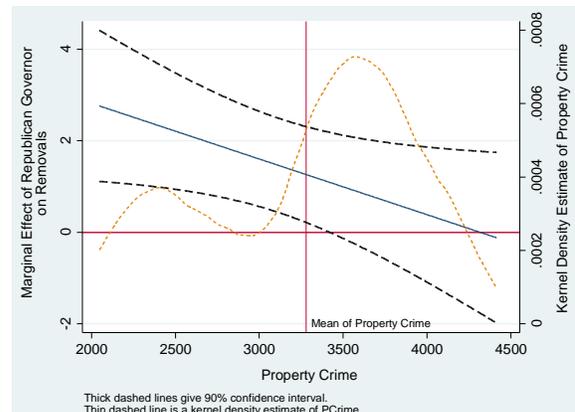


Figure 3-10 Republican Governor x Property Crime

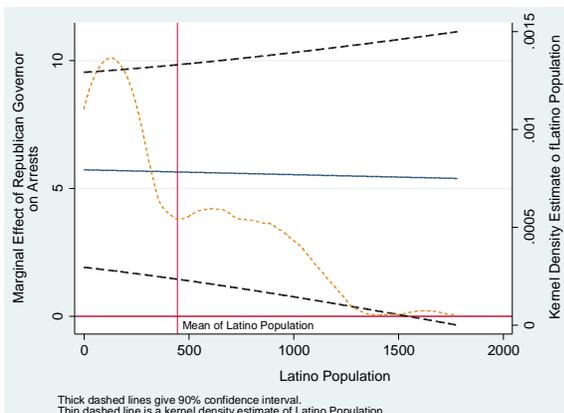


Figure 3-8 Republican Governor x Latino Population

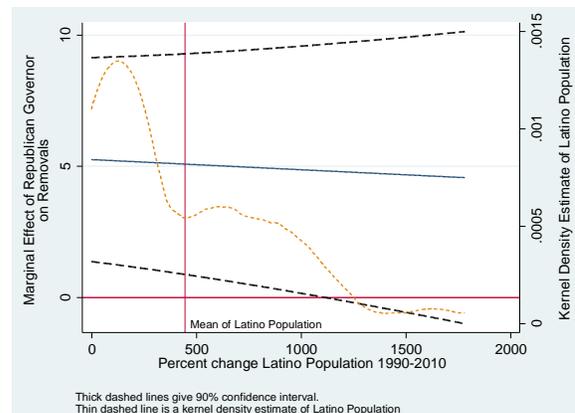


Figure 3-11 Republican Governor x Latino Population

Marginal Effects of Republican Governor on Number of Arrests Given Socio-Economic-Demographic Factors.

The Bush Administration 2005 – 2008

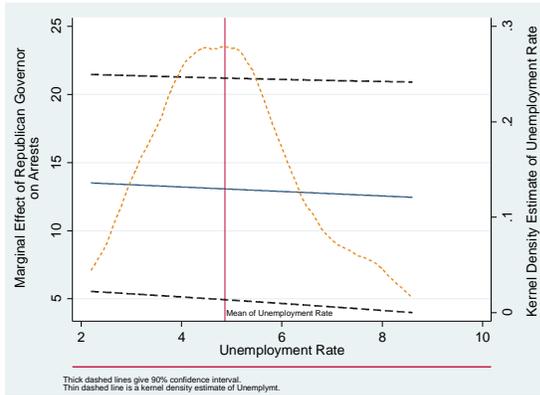


Figure 3-12 Republican Governor x Unemployment

The Obama Administration 2009 - 2012

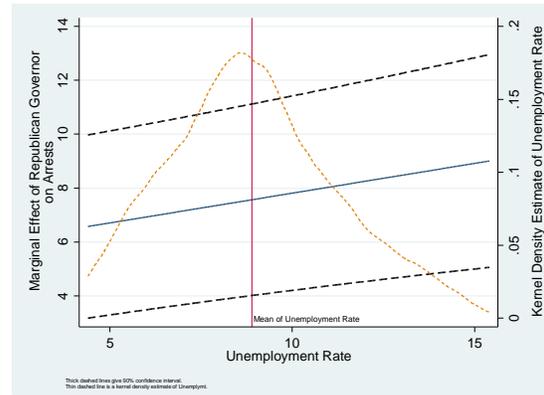


Figure 3-15 Republican Governor x Unemployment

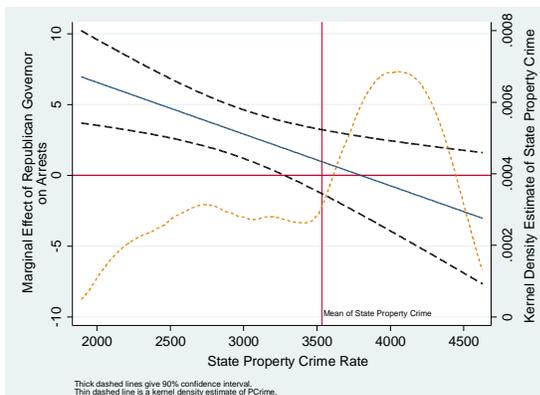


Figure 3-13 Republican Governor x Prop. Crime

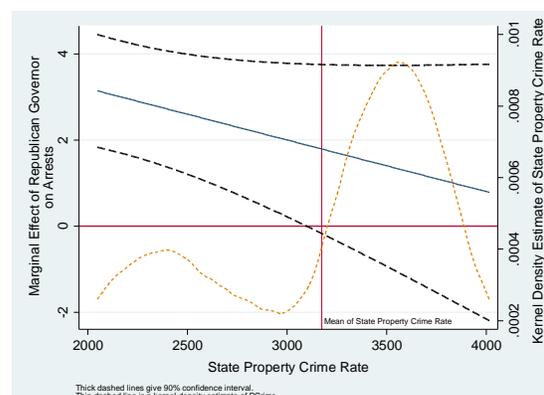


Figure 3-16 Republican Governor x Prop. Crime

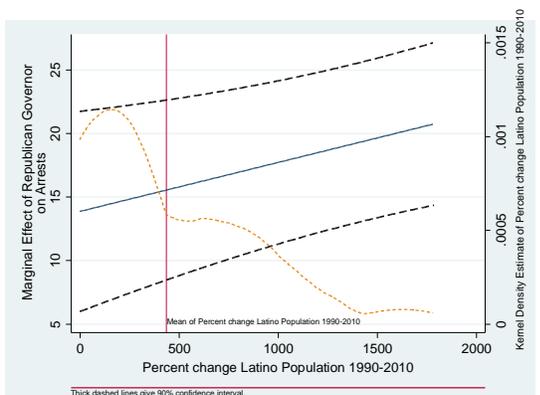


Figure 3-14 Republican Governor x Latino Population.

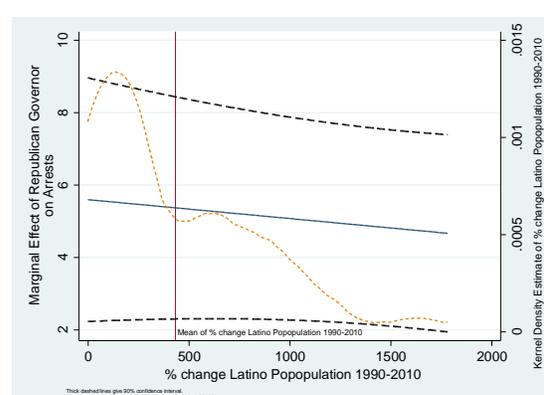


Figure 3-17 Republican Governor x Latino Population

Marginal Effects of Republican Governor on Number of Removals Given Socio-Economic-Demographic Factors.

The Bush Administration 2005 – 2008

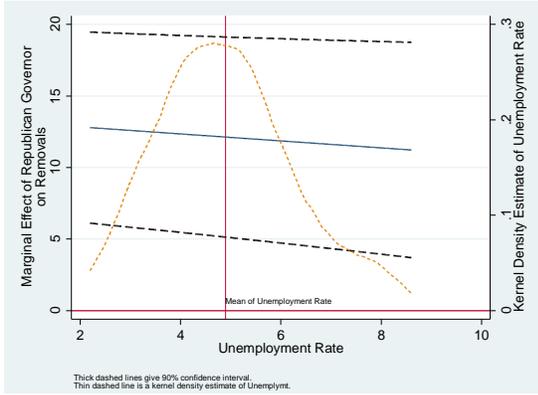


Figure 3-18 Republican Governor x Unemployment

The Obama Administration 2009 - 2012

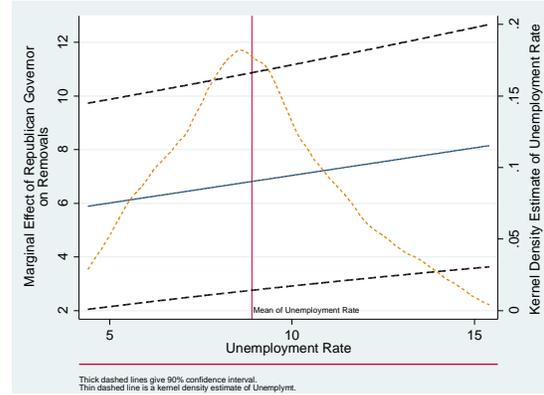


Figure 3-21 Republican Governor x Unemployment

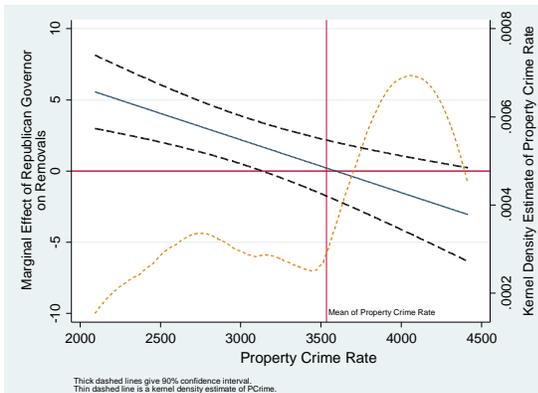


Figure 3-19 Republican Governor x Property Crime

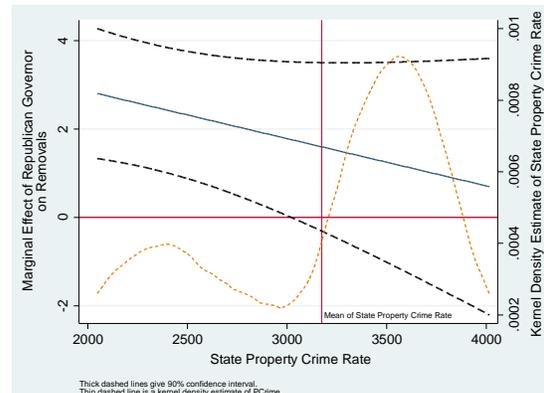


Figure 3-22 Republican Governor x Prop. Crime

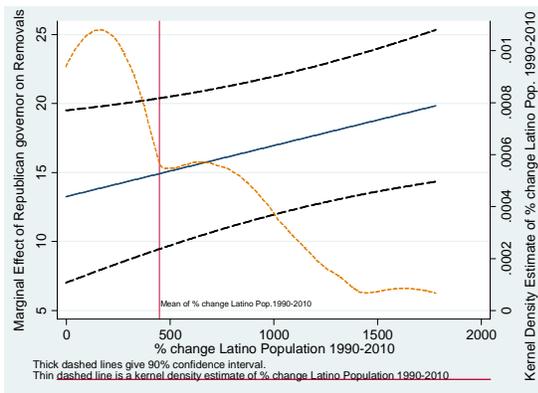


Figure 3-20 Republican Governor x Latino Pop

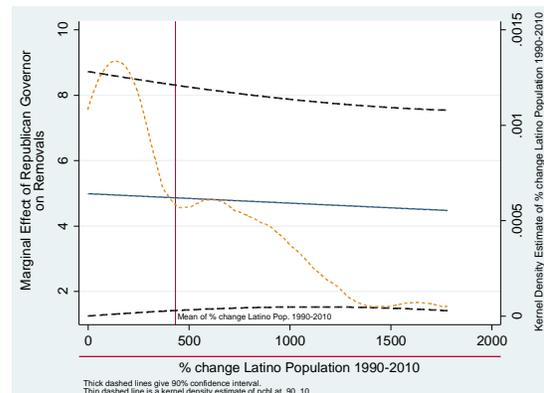


Figure 3-23 Republican Governor x Latino Pop.

Chapter 4

State-Level Immigration Policies

The dispersion of immigrants to new destination states—located in the Midwest and the South—started in the mid-1980s right after the passage of the Immigration Reform and Control Act of 1986 (Vásquez 2010; Fortuny, Chaudry, and Jargowsky 2010). Since then, the immigrant population has grown dramatically in those regions of the country. With this population growth, states and localities confront the rising costs of educating immigrant children, and provision of medical care, to name a few. This situation combined with the inaction of Congress to pass a comprehensive immigration reform law has spurred the states to adopt state-level immigration policies. While some states adopt restrictive immigration policies, which seek to discourage immigrants from settling in those states, others adopt accommodating ones that facilitate the integration of new immigrants into society.

Among the restrictive laws are those that make it a felony to transport undocumented immigrants (i.e., Oklahoma HB 1804); forbid local governments from adopting sanctuary policies (i.e., Tennessee H-1354); and instruct public schools to determine the immigration status of children and submit an annual report to the board of education (i.e., Alabama H-56). On the other hand, state laws that facilitate the settlement of immigrants are those that forbid landlords from asking about an immigrant immigration status (e.g., California AB 976); allow undocumented immigrants to use identification cards for driving but not for other purposes

(i.e., Utah SB 227); and reduce the maximum sentence for a misdemeanor from one year to 364 days because a one-year sentence may be cause for a legal immigrant to be deported (e.g., Washington S5168).

Scholars have developed a number of theories focusing on various aspects of the immigration debate. This variation in state-level immigration policies has been the subject of study by scholars of state politics. One strand of research emphasizes state characteristics—economic, political, and demographic. These studies have focused on the effect of public opinion (Monogan 2013; 2008); ideology and electoral concerns (Zingher 2014); campaign contributions to politicians from the industrial sector (Nicholson-Crotty and Nicholson-Crotty 2011), growth of the Latino population (Marquez and Schraufnagel 2013), and Latino population growth along with economic insecurity (Ybarra, Sanchez, and Sanchez 2015). A second strand of studies has explored specific state legislation and its effect on immigrants. For instance, in-state tuition (Reich and Barth 2010), welfare benefits (Hero and Preuhs 2007), Medicaid coverage (Zhu and Xu 2015), and the role of social trust in providing access to welfare programs (Butz and Kehrberg 2015).

Third, a strand of qualitative studies has looked at specific states and the factors that led the legislatures to adopt certain immigration policies. These include, the factors that influenced the state legislature to adopt exclusionary policies in Georgia (Sabia 2010), determinants of the adoption of restrictive and accommodating policies in Colorado (Berardi 2014), and factors that reversed the focus from accommodating to restrictive policies in Oklahoma (Turner and Sharry 2012). A last strand of inquiry looks at precursors of state involvement in immigration policy. In these studies, scholars investigate the pressuring factors—fiscal, ethnic contact, and ethnic

threat—that led state legislatures to adopt state-level immigration policies (Boushey and Luedtke 2011) and how negative national rhetoric combined with rapid demographic changes incite states to pursue restrictive immigration policies (Hopkins 2010). One final study (Newton and Adams 2009) stands on its own as it explores the creative ways in which state legislatures toughen up and broaden current state laws to restrict immigrants without infringing upon federal jurisdiction.

In the crafting of laws, partisanship matters. Both Democrats and Republicans have particular values that would lead them to adopt particular state-level immigration policies. Because Republicans are considered to value law and order, they would favor restrictive policies that seek to curb the flow of illegal immigration into their states. Democrats, on the other hand, value societal integration; thus they would favor more accommodating policies that facilitate the settlement of immigrants. Beyond the values and policy preferences of the political parties, socio-economic-demographic (SED) issues would have an effect on the type of public policy the states adopt. More specifically, in debates over immigration policy, a number of social issues emerge: the unemployment and crime rates, and the rapidly changing demographics. These are three conditions that would have an effect on the decision of elected political leaders as to the type of policies they adopt.

This study contributes to the growing body of literature on state policy making in three ways. First, it posits that partisan values direct the actions of political leaders in the crafting of state-level immigration policy. Second, it explores how re-election and party survival goals may undermine partisan values. Third, it provides a glimpse of the difficulties that political leaders

face when deciding the type of state-level immigration policy that will best serve the values of the political party to which they belong and assure its survival.

Theory and Hypotheses

When state political leaders craft public policy, they take into consideration an array of factors. They are mindful of the districts and constituencies they represent. In particular, they take into account their policy preferences, their concerns over the economy, and other social issues. Often times, constituencies have diametrically opposite policy preferences and concerns, leaving legislators and the governor in a difficult position. Elected leaders know that public policies that negatively affect the state economy would have dire consequences for the political party they represent, their political fortunes, and constituencies. Therefore, they have to weigh all the factors and decide which policy would better serve the state economy, constituencies, and are in-line with their political ideology. I now turn to these factors.

Political considerations: Partisan Control of State Governor Office and State Legislature

State governors are key players in the adoption of state laws. Their position affords them the power to sign bills into laws or veto them. The decision to sign or to veto hinges on a couple of interrelated considerations: partisanship and electoral prospects. First, the political ideology of key state leaders determines particular policy preferences. A number of studies have shown that partisanship, in particular Republican, is a strong predictor of the adoption of restrictive immigration policies. As it relates to immigration and immigrants, research has shown that cities, counties, and states that adopted the largest number of restrictive policies were also the

places where the overwhelming majority of registered voters were Republican, with the strongest partisan effect at the state level (Gulasekaram and Ramakrishnan 2012).

Second, the health of the economy is linked to the electability of state governors. State industries not only contribute to the health of the state economy, but they also impact the political fortunes of elected political leaders. Studies on the effect of states economic conditions on state leaders' re-election campaigns shed light on this relationship. Howell and Vaderleeuw (1990) found that in Louisiana, state residents held the state governor accountable for the state economy. A previous study found that it was not the state economy but the national economy that had a negative effect on election results of state governors (Chubb 1988). Stein (1990) adds another layer to the economic effect on state governor elections. He found that when voters perceived that their state governors were exclusively responsible for the state economy, they voted against the incumbent gubernatorial candidate. Moreover, when these governors belonged to the Republican Party, they were penalized even more than when they belonged to the Democratic Party. Similarly, another study found that voters hold governors accountable for increasing taxes and the state economy (Niemi, Stanley, and Vogel 1995). Overall, a weak economy has a negative effect on the re-election of state governors.

Because politicians are re-election seekers (Mayhew 1974), and because the health of the state economy is a key determinant not only of their approval ratings, but also of their likelihood to succeed in re-election, they may decide to side with the key state industries that substantially contribute to the state economy. Moreover, these key industries' stability and economic success depend on the labor of immigrant workers. Thus state governments may decide to adopt accommodating immigration policies that do not disturb the flow and

availability of workers to fill vacancies and sustain production. Finally, because elected leaders want to be re-elected, they would allocate available monies toward state infrastructure (e.g., roads, highways), pet projects, education, health care, and other programs of interest to state residents. These funding allocation and investments would provide them with the opportunity to claim credit and get the approval of voters.

Republican governors, as leaders of their political party in the state, would ensure that the values of the party are reflected in public policy. They will favor restrictive immigration policies for a number of reasons. First, the influx of immigrants to their states represents a fiscal burden; the government has to provide for healthcare, welfare, and education services, and costs associated with incarceration. Second, the unauthorized presence of immigrants goes against the beliefs of Republican governors that people have to follow the rule of law.

Democratic governors, on the other hand, will favor accommodating immigration policies for an array of reasons. First, Democrats encourage the integration of all people into society and immigrants are no exception. Second, oftentimes they emphasize the benefits and contributions of immigrants to society. From the above discussion, the following hypothesis develops:

H1. Governor Partisan Identification. When the state governor is Republican (Democratic), the state has a predisposition to adopt restrictive (accommodating) immigration policies.

State legislators, as members of a legislative body and representatives of their districts, decide the type of immigration policy that best fits the needs of the state. Republican state legislators will privilege restrictive policies for several reasons. First, they represent constituents

with whom they are ideologically aligned. Because immigrants live in communities, constituents may be pressuring their elected leaders to deal with the issue. Second, the arrival of immigrants puts pressure on communities that have to provide all sorts of services to immigrants and their U.S.-born children.

H2. Partisan Control of State Legislature. When the state legislature is controlled by the Republican Party (Democratic), the state has a predisposition to adopt restrictive (accommodating) immigration policies.

Citizen Ideology

When state political leaders craft and introduce bill proposals, they consider constituents' partisan ideology. Constituents, for their part, may be pressuring their state representatives by calling the district office, writing them letters, and letting them know of their support for or opposition to state-level restrictive immigration policies. Studies on immigration policy enforcement (Chand and Schreckhise 2015; Lewis, Provine, Varsanyi, and Decker 2012), state-level immigration policies (Monogan 2013), and the interconnection of race/ethnicity, immigration, and welfare benefits (Hero and Preuhs 2007) found that public sentiment predicts an increase in the number of deportations, the adoption of accommodating state-level immigration policies, and the breadth of welfare benefits, respectively. Because the ideology of the constituency is of great importance to elected representatives, I expect this coefficient to be positive. The following hypothesis summarizes this discussion:

H3. Constituents' Policy Preferences Hypothesis. As state residents' views become more conservative (liberal), there is a strong likelihood that the state would have the predisposition to adopt restrictive (accommodating) immigration policies.

Interaction

Governor and Legislature

H4. Partisan Control of State Government Hypothesis. When the state government is controlled by the Republican Party (Democratic), there is a strong likelihood that the state would have the predisposition to adopt restrictive (accommodating) immigration policies.

Economic considerations: Industries dependence on immigrant labor

It is well known that the stability and prosperity of certain key industries depend on immigrant labor. Without immigrants, key state industries such as agriculture, meatpacking, manufacturing, construction, and hospitality would barely survive. A number of reasons can be cited to explain this dependence. To begin with, as industrial Chief Executive Officers often argue, the type of jobs offered in such industries do not appeal to U.S.-born workers; the industries would therefore face a labor shortage if they did not resort to immigrant workers to fill their vacancies. Next, to deliver services, maintain production, meet consumers' demands, and remain profitable, such industries have to rely on a stable workforce. Lacking the necessary workers, these industries would likely need to scale back production, reduce services or collapse. None of these outcomes would be desirable for industries that aim to grow and maximize return on their investment.

Financially stable industries are the building blocks of a healthy state economy. Not only do they generate revenues for the state coffers, but they also support other sectors of the economy that would otherwise be unable to maintain similar levels of production and service delivery. For instance, if farmers had to scale back their production, other industries (e.g., trucking, pesticide formulating, and manufacturers of produce packing materials) would

immediately be affected. Each industry's gross domestic product (GDP)—the sum of workers' wages and salaries, as well as business investment income and taxes—contributes to the overall GDP of the state, and thereby contributes to the robustness of the state economy. Therefore, key industries that create jobs and generate substantial revenues for state governments are more likely to have a stronger influence on political leaders in the area of legislation and lobby state government for the adoption of accommodating state-level policies that would not negatively interfere with the flow of labor. The above discussion is summarized in the following hypothesis:

H5. *Labor Dependence*. States whose key industries depend on immigrant workers are less likely to adopt restrictive immigration policies and more likely to adopt accommodating ones.

Socio-Economic-Demographic Hypotheses

To understand the influence of partisanship on the predisposition of states to adopt either restrictive or accommodating state-level immigration policies, it is important to understand the effect that socio-economic and demographic factors have on partisanship. Because political parties uphold different core values that guide them in the crafting and adoption of public policies, they might respond differently to the same set of social issues of concern to their constituencies. Thus, I interact partisanship with the poverty and crime rate and the percent growth of the Latino population.

Oftentimes, industries with a high dependence on immigrant labor and low-skill labor (e.g., agriculture, meat processing, carpet manufacturing) are located in rural areas or small towns, where rents are low. It is common for elected leaders to lure companies to establish

operations in these rural zones and small towns. In the last twenty years, several companies have relocated to the South, where there is plenty of land, available low-skill labor, and labor laws are unfriendly to organized labor. The goal of these leaders may be twofold. First, companies generate jobs that would be of benefit to the local population. Second, companies generate sales taxes that help pay for social service provision, schools, and law enforcement, to name a few. However, it is in these towns where a great number of people may be living in poverty (Vásquez 2010; Harlan 2015). And, the arrival of immigrants to work for those companies creates job competition with local residents, exacerbating the problem of poverty. This situation may motivate state governments to adopt restrictive policies.

H6. *Health of the Economy Hypothesis.* When more state residents live in poverty, the states are more likely to adopt restrictive policies.

Throughout history, the arrival of immigrants has been equated with an increase in the crime rate (Hall 1906). The belief that immigrants are prone to criminal behavior has withstood the passage of time. Crimes committed by immigrants are amplified in the media and exploited by incumbents and candidates alike, especially during election season. Because, for the most part, the media has taken the issue of crime and immigrants as inseparable, reports on crimes associated with immigrants would reflect that view. How the media focuses and presents the issues play a key role on how the public and political leaders come to understand them (Iyengar 2010). Because elected leaders are busy individuals, who cannot investigate the veracity of every single media report, they may rely, to a certain degree, on those reports and formulate public policies to tackle those social issues.

H7. *Public Safety Hypothesis*. As the state property crime rate increases, states are more likely to adopt restrictive policies.

A booming economy in the South and other parts of the country, has attracted immigrants to the area. The rapid growth of the immigrant population has been fueled by key industries' need for low-skill labor. To meet demand, these industries have recruited immigrants from other states, even from Mexico and Central America. Hopkins (2010) found that the rapid growth of the immigrant population is a key factor in provoking localities to adopt restrictive policies. The influx of immigrants into communities raises concerns that range the spectrum from overcrowded housing and public schools, fiscal burden, increased crime and unemployment in the area, cultural differences to an overall deterioration of the quality of life. To appease the concerns of constituents and to mitigate the impact that a fast growth of the immigrant population has in communities where they settle, state elected political leaders may opt for adopting state-level immigration policies that limit opportunities such as obtaining jobs and receiving social benefits.

H8. *Rapid Demographic Shift Hypothesis*. The likelihood of a state adopting restrictive immigration policies increases as the percent of the Latino population increases.

Interactions

Party Switch Hypotheses

Partisanship alone is just a collection of values or ideals that distinguish one political party from the other. Political parties may take positions on issues given their values and may respond in different ways, but in the presence of particular pressing social issues, the response or reaction

may be heightened by a switch. How these partisan values are activated is the focus of this section. More specific, I seek to discern the mediating effect of socio-economic-demographic factors in activating partisan values and how the political parties respond to those factors. The theory (explained in greater detail in Chapter 3) assumes that the political parties uphold a set of core values. These values may be dormant or active but at a low level and what turns them on or off are socio-economic-demographic issues.

From the above discussion, three Party Switch hypotheses arise:

H9. Governor Partisanship and Labor Dependence Hypothesis. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases when key state industries depend on immigrant workers.

H10. Governor Partisanship and Economic Health. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the unemployment rate.

H11. Governor Partisanship and Public Safety. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the violent crime rate.

H12. Governor Partisanship and Rapid Demographic Growth. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the growth of the Latino population.

Data

The data from this chapter come from the National Conference of State Legislatures (NCSL), which provides summaries of 1,709 state-level immigration policies across the 50 states, spanning from 2005 to 2012. NCSL is a bipartisan organization committed to supporting and strengthening state legislatures so they can speak with a unified voice. The organization provides research support in several public policy issues, including immigration. Since 2005,

NCSL has been both tracking and monitoring state-and-federal-level immigration policies. Moreover, it separates these state-level immigration policies into 13 categories, such as education, health benefits, trafficking, education, and others.

To code these laws, I follow Monogan's (2013) coding scheme, which consists of two steps. First, he categorizes them according to the tone "*welcoming*" or "*hostile*" towards immigrants. Second, they are further classified for their scope of action. To that end, he constructs a four-point scale: (1) symbolic, (2) affecting a small group of immigrants, (3) affecting many immigrants in a substantial way and (4) directly affecting immigrants' ability to reside in a state.

I use this coding as a point of departure and recode these same policies. More specifically, first, I read the NCSL summaries and categorized the laws in terms of restrictive (hindering people's ability to settle in or remain in the state) and accommodating (facilitating the integration of both documented and undocumented immigrants into society). Second, I reduce Monogan's four-point scale to a two-point scale. Thus, I eliminate all those policies that are "symbolic" (i.e., resolutions) and those that "affect a small group of immigrants." An example of those policies removed from the dataset is a 2008 Michigan Resolution (HR 382) commemorating May 28th, 2008 as "Border Patrol Agents Day." Because this law is symbolic and does not affect immigrants' ability to put roots in the state, I removed it from the dataset.

Because state governments' decision to adopt restrictive state-level policies is chiefly to encourage the departure of undocumented immigrants and to prevent others from settling in the state, then the policies that matter are those that actually close a loophole in local laws or fill the void where no laws existed before, ensuring the creation of an environment with few or

no opportunities for immigrants to build their lives. Thus, policies that honor border patrol agents have no negative impact in the lives of immigrants and do not prevent them from setting roots in the community, although they may create an unfriendly environment. On the other hand, the policies that affect a small group of immigrants, do not have a major impact on the lives of immigrants. More specifically, accommodating policies that honor the contribution of immigrants to society do not provide a particular and tangible benefit to immigrants, although it creates a friendly environment that may open up opportunities for them. In other words, immigration policies that are inconsequential to the lives of immigrants—at least on face value—do not necessarily determine whether people settle in the states or move on. As long as immigrants can get a job, rent a house, and their children can get an education, and the risk of being arrested by immigration agents is low, they will set roots in communities.

After removing all the laws that are “symbolic” and those that affect a small group of immigrants, I code the scope of all the restrictive and accommodating laws already identified on a two-point scale: (1) large number of immigrants and (1.5) a substantial number of immigrants. The reasoning behind this coding scheme is simple. Consider a state policy that allows local governments to develop sanctuary policies. These policies will benefit every single undocumented person, as they ensure that the undocumented will not be turned in to the U.S. Immigration Customs Enforcement to be deported, provided they have no felony convictions. This type of policy is coded as 1.5 as they advantage (almost) every single undocumented immigrant. In contrast, a policy that allows undocumented students to pay in-state tuition when attending college, it only benefits a small number of individuals, given the requirements embedded in the law. This type policy is coded as 1.

An example of an accommodating law with a value of 1 is a 2005 law passed by the Colorado legislature (HB 1086) which reinstated Social Security Insurance and Medicaid benefits for some legal immigrants. Another example of an accommodating law with the value of 1.5 is a 2005 law passed by the Illinois legislature (SB 1623) that allows state agencies to use consular documents as a form of identification, under certain conditions. Examples of restrictive laws include a 2008 South Carolina law (HB 4400) which prohibits undocumented immigrants from attending a public institution of higher learning (coded as 1). Similarly, a 2009 Georgia law (S 20), which forbids local governments from adopting sanctuary policies, is coded as 1.5. The final dataset contains 559 state-level immigration laws, 182 accommodating and 377 restrictive.

The distribution of both accommodating and restrictive immigration laws across the states presents an interesting picture. Figures 4.1, 4.2, and 4.3 depict the distribution, of the adoption of both accommodating and restrictive policies and a comparison between the two. In Figure 4.1, we see how the states range in terms of the number of accommodating laws adopted. Specifically, the number of laws adopted range from zero in nine states—Alabama, Arkansas, Mississippi, North Dakota, New Hampshire, Nevada, Rhode Island, West Virginia, and Wyoming—to 28 laws adopted in California, closely followed by Illinois, with 18 laws. Figure 4.2 shows how the states range according to the number of restrictive immigration laws adopted. Seven states—Alaska, Connecticut, Delaware, Kentucky, Maryland, New Jersey, and Wisconsin—adopted only one restrictive law, while Arizona adopted 35, followed by South Carolina with 25 laws. As one can see, those states that have not adopted accommodating policies or have adopted only one restrictive policy are non-traditional destination states, with the exception of New Jersey. In Figure 4.3, we see how the number of accommodating laws

adopted stack up to the number of restrictive ones. This visual depiction gives a richer view of the tendencies of the states for adopting either restrictive or accommodating immigration policies.

Dependent Variable

The dependent variable is the predisposition of states to adopt either restrictive or accommodating state-level immigration policies. To construct the dependent variable I followed a number of steps. First, I added all the accommodating laws—by state and by year—coded as 1. Then, I added all the accommodating laws coded as 1.5. Once the additions were completed, I proceeded to multiply those laws by their corresponding values (i.e., 1 and 1.5). The results of the multiplications for each group is added and that became the numerator. I followed the same steps for restrictive policies and that became the denominator. Second, I calculate the ratio of accommodating to restrictive policies by dividing the results of the multiplication and additions (as described in the previous step) of accommodating laws with the results of restrictive laws. Third, I take the natural log of the ratio of accommodating to restrictive policies that I just obtained, and the resulting score becomes the *predisposition* score, which is the dependent variable. Additionally, positive scores indicate the predisposition of states to adopt state-level accommodating policies whereas negative scores indicate the predisposition to adopt restrictive policies.¹⁶ The following formula (Monogan 2013) is used to calculate the *predisposition* of states to adopt one type of policy over another:

¹⁶ Examples of calculations performed to obtain a predisposition score. Consider the state of Arizona that adopted five accommodating laws coded as 1 and one law coded as 1.5. Also, it has ten restrictive laws coded as 1 and 25 laws coded as 1.5. To obtain the ratio, I do the following: $ratio \frac{(5*1)+(1*1.5)+1}{(10*1)+(25*1.5)+1} = 0.15$ & $the \log_n = -1.86 =$

$$Predisposition = \log \left(\frac{\sum \text{Accommodating Laws} \times \text{value} + 1}{\sum \text{Restrictive Laws} \times \text{value} + 1} \right)$$

Positive values indicate a state's predisposition to adopt accommodating policies, while negative values indicate a predisposition to adopt restrictive ones. When the log of the ratio is 0, the state is neutral, meaning that the ratio of accommodating to restrictive laws is one.

Figure 4.4 shows the distribution of the predisposition scores across the states. The predisposition score spans from -3.58 in South Carolina to 1.99 in California. Geographically, only nine states—located in the West (i.e., California and Washington), Midwest (i.e., Illinois), and Northeast (i.e., New Jersey, New York, Maryland, Connecticut, Delaware, and Vermont) have the predisposition of adopting accommodating laws, while the rest adopt restrictive ones, with two states staying neutral (i.e., Kentucky and Wisconsin). On the other hand, the top nine states with the highest predisposition to adopt restrictive policies are in the South (i.e., South Carolina, Arkansas, Mississippi, Oklahoma, Georgia, and West Virginia), Midwest (i.e., Indiana), and Southwest (i.e., Arizona).

Independent Variables

A number of predictors will be used to test the model's hypotheses. First, H1 is about governor partisanship; therefore, I create a variable, *Republican Governor*, which is equal to 1 if

predisposition. Also, consider the state of California that has adopted 20 accommodating policies coded as 1 and 8 policies coded as 1.5. For restrictive policies, two are coded as 1 and 1 is coded as 1.5. Thus, the equation is as follows: $ratio \frac{(20*1)+(8*1.5)+1}{(2*1)+(1*1.5)+1} = 7.33$ & the $log_n = 1.99 = predisposition$.

governor is Republican and 0 if Democratic.¹⁷ Second, H2 is about partisan control of the legislature so I include a variable, *Republican Legislature*, which takes the value of 1 if the Republicans control the legislature and 0 otherwise. Third, to test H3 which is about the views of constituents, I include a variable, *Citizen Ideology*. I use Berry et al.'s (1998) updated version of citizen ideology scores, which capture the ideological leanings of a state. Berry et al. estimate these scores by using interest group ratings of congressional representatives, the district's incumbent and challenger ideology scores, and election results' ideological scores. Then, all those scores are averaged and the result is a citizen ideology score at the state level. Higher scores of the citizen ideology scale indicate liberal views, hence I expect to find a positive coefficient; lower scores indicate conservative ideological leanings, thus I anticipate a negative coefficient, indicating a propensity to adopt restrictive policies.

Because immigration policy is not just about partisan politics and preferences, but also about socio-economic-demographic (SED) concerns, I include a number of variables. First, I include two variables, *GDP Agriculture* and *GDP Manufacturing*, which test H5. These are continuous variables. The data come from the Bureau of Economic Analysis (BEA), which provides data on all the industries in the states. The agricultural and manufacturing industries are known for their dependence on immigrant labor (Passel 2006). I expect their coefficients to be positive, indicating the willingness of states to accommodate immigrants. Second, I include a variable, *Poverty*, which explores another economic aspect of immigration policy. The *Poverty* data were obtained from U.S. Census Bureau.¹⁸ This variable tests the Health of the Economy

¹⁷ I coded the governor of Rhode Island, an Independent, as Democratic because he left the Republican Party in 2007 and later declared his party affiliation Democratic.

¹⁸ Social Explorer Dataset (SE), Census 1990, 2000, 2010, Social Explorer; U.S. Census Bureau

hypothesis (H6). I expect the coefficient to be negative, indicating a predisposition of states to adopt restrictive policies. Third, H7 explores concerns over crime thus I include a variable, *Property Crime*. The data were obtained from the Uniform Crime Report (UCR) compiled by the Federal Bureau of Investigation (FBI).¹⁹ I expect a negative coefficient, showing a predisposition to adopt restrictive immigration policies. The final variable, *Latino Population*, is constructed with data obtained from the U.S. Census Bureau.²⁰ It tests the Rapid Demographic Shift hypothesis (H8), which posits that as the Latino population grows, the states would have the predisposition to adopt restrictive policies. I expect this coefficient to be negative.

Interactions

I test the set of Party Switch hypotheses by interacting partisanship of the governor and each of the SED factors. First, to test the Governor Partisanship and Labor Dependence hypothesis (H9). I interact *Republican Governor* with *GDP Agriculture* and *GDP Manufacturing Unemployment*. Second, by interacting the *Unemployment* with the *Republican Governor*, I test the Governor Partisanship and Economic Health hypothesis (H10). Third, the interaction between *Republican Governor* and *Property Crime* test the Governor Partisanship and Public Safety hypothesis (H11). Fourth, the interaction between *Republican Governor* and *Latino Population* test the Governor Partisanship and Rapid Demographic Shift hypothesis (H12). I expect the coefficient of these five interactions to be positive.

¹⁹ Data obtained from the Federal Bureau of Investigation. Crime Statistics. <https://www.fbi.gov/stats-services/crimestats>

²⁰ Social Explorer Dataset (SE), Census 1990, 2000, 2010, Social Explorer; U.S. Census Bureau

Control Variable

Legislative Professionalism

Highly professionalized legislatures are better suited to deal with legislation. This is so for a number of reasons. First, they have more staff who can monitor and track legislation, gather information on policy issues, and make recommendations to state legislators. Consider proposals to adopt restrictive immigration policies. Legislators may have their staff do a study on the fiscal and economic impacts to determine whether to proceed with a bill proposal or to support it. If similar policies passed in other states, the staff can investigate whether there have been any problems with its implementation, any negative unintended consequences, legal issues, and, more importantly, the impact on the health of the state economy.

Second, because legislators are better remunerated, working in the legislature is a full-time job. This allows them to spend more time studying the issues, meet with groups on both sides of the immigration debate, consult with legislators from other states, and meet with constituents in their district to gauge their support or opposition for an immigration policy that either would restrict or accommodate immigrants, including the undocumented. The time they invest learning the advantages and disadvantages of adopting any law would give them the facts needed to make informed decisions. I expect the coefficient to be positive.

Table 4.1 presents a list of all the hypotheses just presented, the variables used to test them, their expected coefficients, and, in the last column, I note whether the analyses support the predictions.

Methodology

I use Ordinary Least Squares (OLS) to test the theoretical model of states' predisposition to adopt either restrictive or accommodating immigration policies. Because the data do not violate the OLS assumptions and the dependent variable is continuous, I chose OLS. Figure 4.5 illustrates the distribution of the dependent variable, *predisposition*, which follows a normal distribution. The descriptive statistics of the data for all the variables are listed in Table 4.2. Prior to estimating the model, I ran several diagnostic tests. First, I plotted the observed values (on the Y-axis) and the predicted values (on the X-axis). Figure 4.6 shows the linear relationship between the observed and predicted values, indicating that the model is predicting the predisposition of states' immigration policies. Second, to be certain that all the variables needed are included in the model, I test for omitted variables using the Stata command *linktest*. This is a test of the null hypothesis that the model has no omitted variables. Given that the predicted values (Y-hat as an independent variable) is not statistically significant ($p=.603$), I failed to reject the null hypothesis and concluded that the model is correctly specified.

Third, to test whether the residuals are homoscedastic, I plot the residuals versus the predicted values (Y-hat). Figure 4.7 shows that the residuals are heteroskedastic. The presence of heteroskedasticity in the model would lead to the wrong estimation of the standard errors for the coefficients and therefore their t- and p-values, indicating statistical significance when, in fact, they are insignificant. To adjust the model to account for heteroskedasticity, I use robust standard errors. Fourth, an examination of the results of the variance inflation factor (VIF) does not detect multicollinearity. The values range from 1.17 to 7.68, and the mean is .324. A correlation matrix illustrates the pairwise correlation between all the variables in the analysis is

presented in Table 4.3. Fifth, I test for the normality of the residuals by using two graphs that illustrate their distribution (see Figure 4.8 and 4.9). The results show a distribution not quite normal, which indicate that I may need to reassess the model.

Results

Table 4.4 shows the results of OLS models that test the theoretical arguments of the political environment using NCSL data. Model 1 presents the results of the baseline models focusing on institutional political actors. The results provide support to all three political hypotheses: The Governor Partisan Identification (H1), Partisan Control of State Legislature (H2), and Constituents' Policy Preferences (H3). This last hypothesis obtains support in all the three models (Models 1, 3, and 4). In Model 1 the *Republican Governor*, which tests H1, is negative and significant, as predicted, indicating that states where the governor Republican have the propensity to adopt restrictive policies. Substantively, the results show that the state's propensity score decreases 0.125 points. The coefficient of *Republican Legislature*, which tests H2, is significant and negative, as expected. The results indicate that when the legislature is controlled by Republicans, its propensity score decreases 0.719 points. To test the Constituents' Policy Preferences hypothesis (H3), I use *Citizen Ideology*. The coefficient is significant and positive, as predicted. The result indicates that states where people hold more liberal views tend to adopt accommodating immigration policies. Specifically, it shows that a state's propensity to accommodate increases by 0.019 points. I find a significant and positive effect for the control variable, *Legislative Professionalism*, indicating that states with highly professionalized legislatures tend to adopt policies that accommodate immigrants. Overall, the

model shows that when either the governorship or state legislature are controlled by the Republican Party, a state would have the propensity to adopt restrictive immigration policies. Also, states, whose citizens hold liberal views, are more likely to adopt accommodating policies.

Model 2 presents the results of the baseline model socio-economic-demographic (SED). In this model, I test four hypotheses, of which three obtain support to their predictions. First, I use two variables— *GDP Agriculture* and *GDP Manufacturing*—to test the Labor Dependence hypothesis (H5), which holds that states whose key industries depend on immigrant labor would have the propensity to adopt accommodating immigration policies. The results show that the two measures attain statistical significance and are positive, as predicted. Thus, a state whose key industry is agriculture will see its predisposition score increase by 0.210 points, and when the industry is manufacturing the predisposition score increases 0.291 points. Second, the *Poverty* coefficient that captures the Health of the Economy hypothesis (H6) is significant and negative, according to prediction. The result indicates that one percent increase in Poverty leads to a 0.131 decrease in the propensity score, indicating that states tend to adopt restrictive immigration policies as the rate of people living in poverty increases.

The third hypothesis I test from the SED model is the Public Safety (H7), which holds that as the *Property Crime* increases, a state propensity score decreases, meaning that it would tend to adopt restrictive policies. Although the sign of the coefficient is negative, it does not attain statistical significance, failing to support H7. Fourth, I test the Rapid Demographic Shift hypothesis (H8), which predicts that as the population of Latino immigrants increase, a state is likely to adopt restrictive immigration policies. I test this hypothesis using the *Latino Population*, whose coefficient is significant and negative, as predicted. The result indicates that

one percent increase in *Latino Population* leads to a decrease of 0.001 in the propensity score, suggesting that a state becomes more restrictionist. In this test, H8 attains support. Largely, the model specification yields the results expected, with the exception of the *Property Crime* factor.

Interactions

In Model 3, I test the Partisan Control of State Government hypothesis (H4). I expect that when both the legislature and the governorship are controlled by the Republican Party, the predisposition of the state would be to adopt restrictive immigration policies. To test this hypothesis, I interact *Republican Governor* with *Republican Legislature*. The result does not provide support to H4. Specifically, the sign of the coefficient is positive, against prediction. Thus, instead of adopting restrictive policies, a Republican-controlled state government has the propensity to adopt accommodating policies, a puzzling result. The *Citizen Ideology* and the control variable, *Legislative Professionalism* maintain their positive direction and significance.

In Model 5, I test the Party Switch hypotheses, which collectively hold that social, economic, and demographic factors either attenuate or amplify the effect of the partisanship of the state governor on the state's propensity score. First, I test the Governor Partisanship and Labor Dependence hypothesis (H9), using the *GDP Agriculture* and *GDP Manufacturing*. The interaction between *Republican Governor* and *GDP Agriculture* is significant and positive, as expected and lending support to H9. Then, I test H9, but this times using the *GDP Manufacturing* variable. The interaction between *Republican Governor* and *GDP Manufacturing* yields an unexpected result, the coefficient of the interaction is significant and negative, against prediction. The result indicates that in states where the key industry is the manufacturing of goods and the governor is Republican, it is likely that the state would have the propensity to

adopt restrictive immigration policies. What may explain that H9 does not attain support and that its predictive power points in the opposite direction? One plausible explanation is that manufacturing jobs are one step above agricultural jobs, which tend to be hazardous, back-breaking, and overtime pay starts after 10 hours of work per day. Thus, manufacturing jobs are more appealing to local residents and the influx of immigrants—especially Latinos—compete with them for those jobs. Thus, to curb this job competition and give local residents the opportunity to work in manufacturing companies, state governments may opt to adopt restrictive immigration policies.

Next, I test the Governor Partisanship and Health of the Economy hypothesis (H10) by interacting *Republican Governor* with *Poverty*. The results do not lend support to the hypothesis as the coefficient is insignificant and positive, against prediction. Third, the Republican Governor Partisanship and Public Safety hypothesis (H11), captured by the interaction between *Republican Governor* and *Property Crime*, obtains support. The coefficient is significant and negative, comports with the prediction. Similarly, the coefficient of the interaction between *Republican Governor* and *Latino Population*, which test the Governor Partisanship and Rapid Demographic Shift hypothesis (12), lends support to the prediction. The overall results of this model suggest that in states where the governor is Republican and the key industry is agriculture, the state would adopt accommodating policies, but it will adopt restrictive policies when the key industry is manufacturing. Additionally, states that have experienced a rapid growth of the Latino population would tend to adopt restrictive policies. Similarly, states that experience an increase in property crime would have the propensity to be restrictionist.

To give a closer examination to the results of the interactions, I plot them. I examine whether the Governor Partisanship and Public Safety (H9), in Model 4, attains significance. Figure 4.10 depicts the marginal effect of a *Republican Governor* on the state propensity score given the *GDP Agriculture*. The figure tell us that the marginal effect is positive and increases as the values of the *GDP Agriculture* increase. Additionally, it reveals that the effect is insignificant for values below 0.79, which occur in 369 observations (92% of the data), and it is significant for values of 0.82 and higher, which account for 31 observations (8% of the data). Turning to the data, I find that eight states (i.e., California, Florida, Texas Illinois Iowa, Minnesota, Nebraska, and Washington), whose key industry is agriculture, have the propensity to adopt accommodating immigration policies. The first four states have been traditional destination for immigrants, while the other four have become new destination states in the last three decades. Next, I examine H9 but using the *GDP Manufacturing* to see if it has any statistical significance that would lend support to H9. Figure 4.11 illustrates the interaction between *Republican Governor* and *GDP Manufacturing* and shows that the marginal effect is positive for values up to -0.003. Additionally, the marginal effects turns negative when the *GDP Manufacturing* reaches the value of 2.59, which accounts for 16 observations (4% of the data) in two states, California and Texas. Moreover, the effect decreases as the values of the *GDP Manufacturing* increase.

Figure 4.12 illustrates the marginal effect of a *Republican Governor* and *Poverty*. This interaction tests the Governor Partisanship and Public Safety hypothesis (H10), in Model 4. The figure shows that the marginal effect is positive, significant for all values of *Poverty*, and increases as the values increase. Specifically, when Poverty is at its lowest value (8.3 percent),

the propensity score of a state increases by 0.7 and when it reaches its maximum value (22.4 percent), the predisposition score increases by 1.1 points. The evidence does not lend support to H10, although the effect is significant for all values.

I plot the results of the interaction between *Republican Governor* and *Property Crime*, which tests the hypothesis Governor Partisanship and Public Safety (H11), in Model 4 (Figure 4.13). The figure that the marginal effect of a *Republican Governor* is positive for values up to 1995.8 events of the *Property Crime*, which accounts for 24 observations (6% of the data), and turns negative for values of 2000.3 and higher, without attaining significance. The last figure (Figure 4.14) depicts the interaction of a *Republican Governor* and Latino Population, which tests the Governor Partisanship and Rapid Demographic Shift hypothesis (H12). The marginal effect of a Republican Governor is positive for values of the Latino Population of up to 653 percent (90 % of the data), then it turns negative. Additionally, the marginal effect decreases as the *Latino Population* increases and it does not attain significance, thus not providing support to H12.

What can be gleaned from these results? We can glean from these results that the state governor is a key player in the adoption of immigration policies and the tone they take. Additionally, the results demonstrate that social issues—such as crime and the growth of the Latino population—do matter and have an effect when it comes to a state’s decision to adopt restrictive immigration policies.

Discussion and Conclusion

The adoption of state-level accommodating and restrictive immigration policies is nothing new. Throughout the history of immigration in the United States, every wave of immigrants has prompted state governments to adopt both restrictive and accommodating policies.

The results of the statistical analyses presented in this chapter provide support for both the political and socio-economic-demographic models. As predicted, Republican control of both the governorship and state legislature predict the propensity of a state to adopt restrictive immigration policies. An interesting finding is that a Democratic-controlled legislature also predicts the adoption of restrictive policies. Perhaps an explanation for this finding is that a Republican governor may threaten to veto a proposed law that seeks to accommodate immigrants. The veto is a powerful tool that governors may use to shape the legislative agenda and public policies. For instance, the Republican-controlled state legislature of Arizona twice passed a restrictive immigration policy granting powers to law enforcement officers to inquire about immigration status of those they stop. However, a Democratic governor vetoed the legislation. It was not until a Republican governor was elected that the bill proposal became law.

Results obtained from tests of the SED model (Model 2) confirm the theoretical predictions that economic concerns, for which political leaders are held accountable to the electorate, do indeed predict which way the state would lean on the adoption of immigration policies. Of all the SED factors, only the *Property Crime* fails to predict the adoption of restrictive policies. The Political Environment Interaction model (Model 3) does not provide strong support for all the theoretical predictions. While a Republican controlled state legislature

does predict the passage of restrictive policies, Republican control of both the governorship and legislature does not predict the propensity of a state to favor restrictionist policies. This is an interesting finding, given that partisan control of government privileges particular policies that align with the values of the political party. Additionally, it is much easier to craft and adopt legislation when one political party controls both chambers of the legislature and the governorship.

The political environment and SED interactions models demonstrate that social issues of concern to constituencies do have an effect on a Republican state governor, but not always and only under certain conditions. Because both accommodating and restrictive policies seek to deal with an immigrant population, then it stands to reason that the swift growth of this population may prompt state governments to design public policies to limit opportunities to settle. Additionally, because each wave of immigrants raises the fear of an increase in the crime rate, one would expect that states with higher rates of *Property Crime* would seek to curb the influx of immigrants. Lastly, because economic opportunities have been a magnet for most immigrants, their presence puts them in direct competition with the U.S.-born and other legal immigrants. This competition is more relevant when jobs are scarce and the working conditions and benefits are slightly better than in other industries. For that reason, it stands to reason that states whose key industries involve goods manufacturing may tend to favor restrictive policies that would eliminate or lessen the labor market competition between immigrants and local residents.

To conclude, given that the issue of immigration is volatile and contentious with people on both sides of the issue advocating or lobbying for a policy that would favor one group at the

expense of the other, future studies could delve into the influence that organized groups exert on elected political leaders, who care about their political careers and are mindful of the consequences of taking sides or supporting the wrong policy. Therefore, they have to weigh in all the factors and calculate the cost and benefits of favoring either restrictive or accommodating immigration policies. While this study focuses on social issues and their influence on political leaders, it would be worthwhile to explore the influencing effect of well-organized political groups on these same leaders.

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State-Level Accommodating Laws, 2005-2012

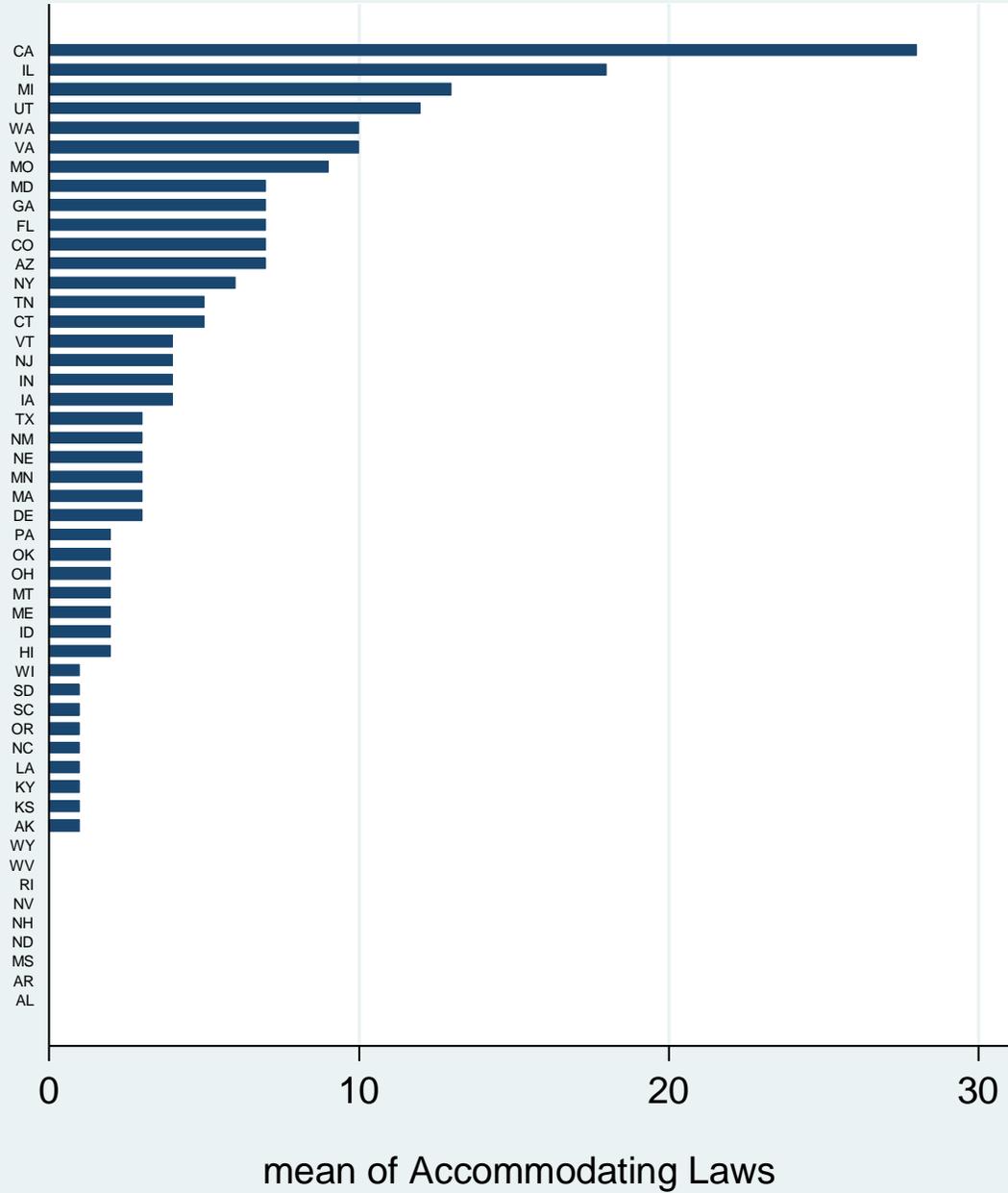


Figure 4-1 Adoption of State-level Accommodating Immigration Policies

State-Level Restrictive Laws, 2005-2012

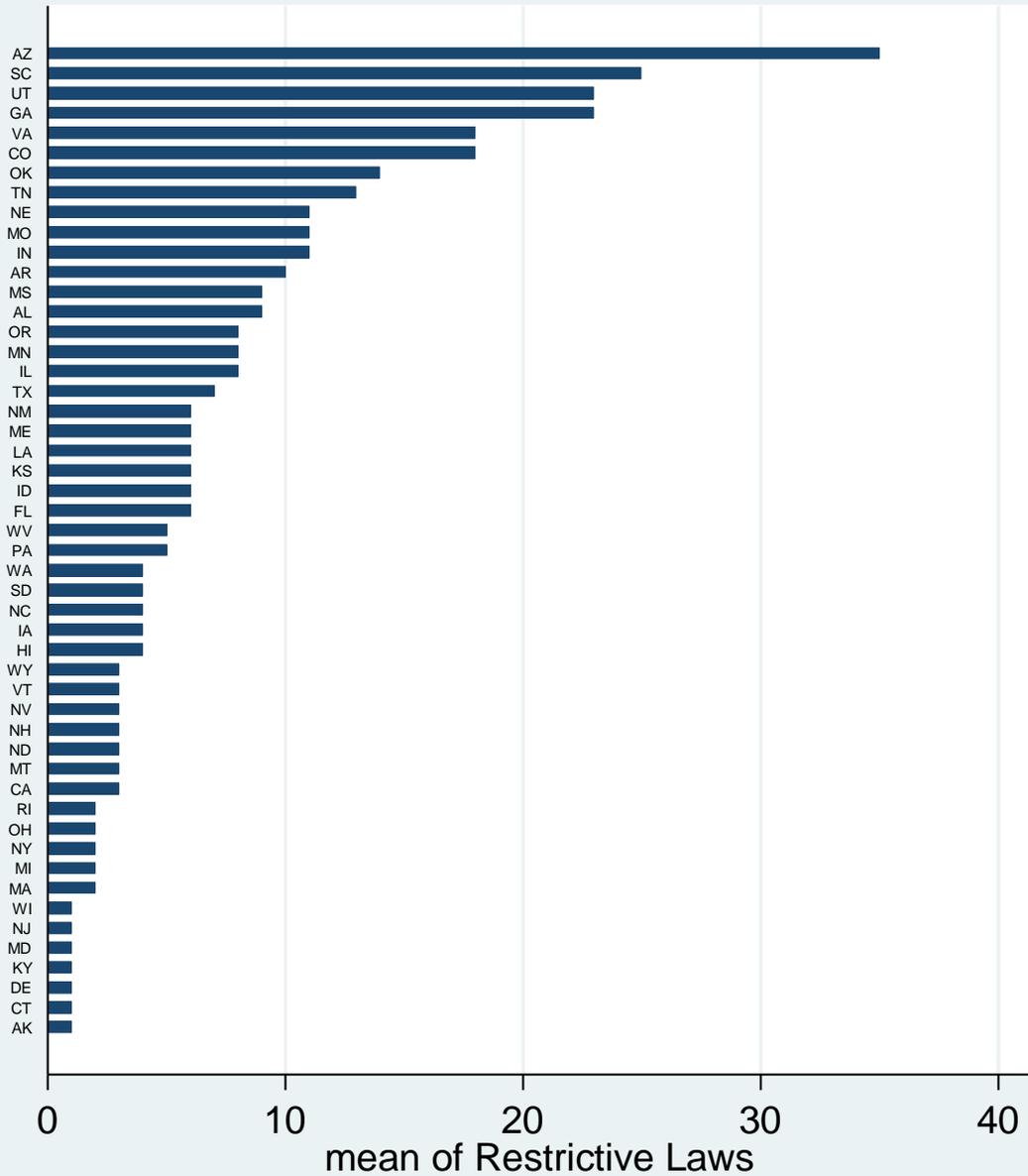


Figure 4-2 Adoption of State-level Restrictive Immigration Policies

State-Level Accommodating & Restrictive Laws, 2005-2012

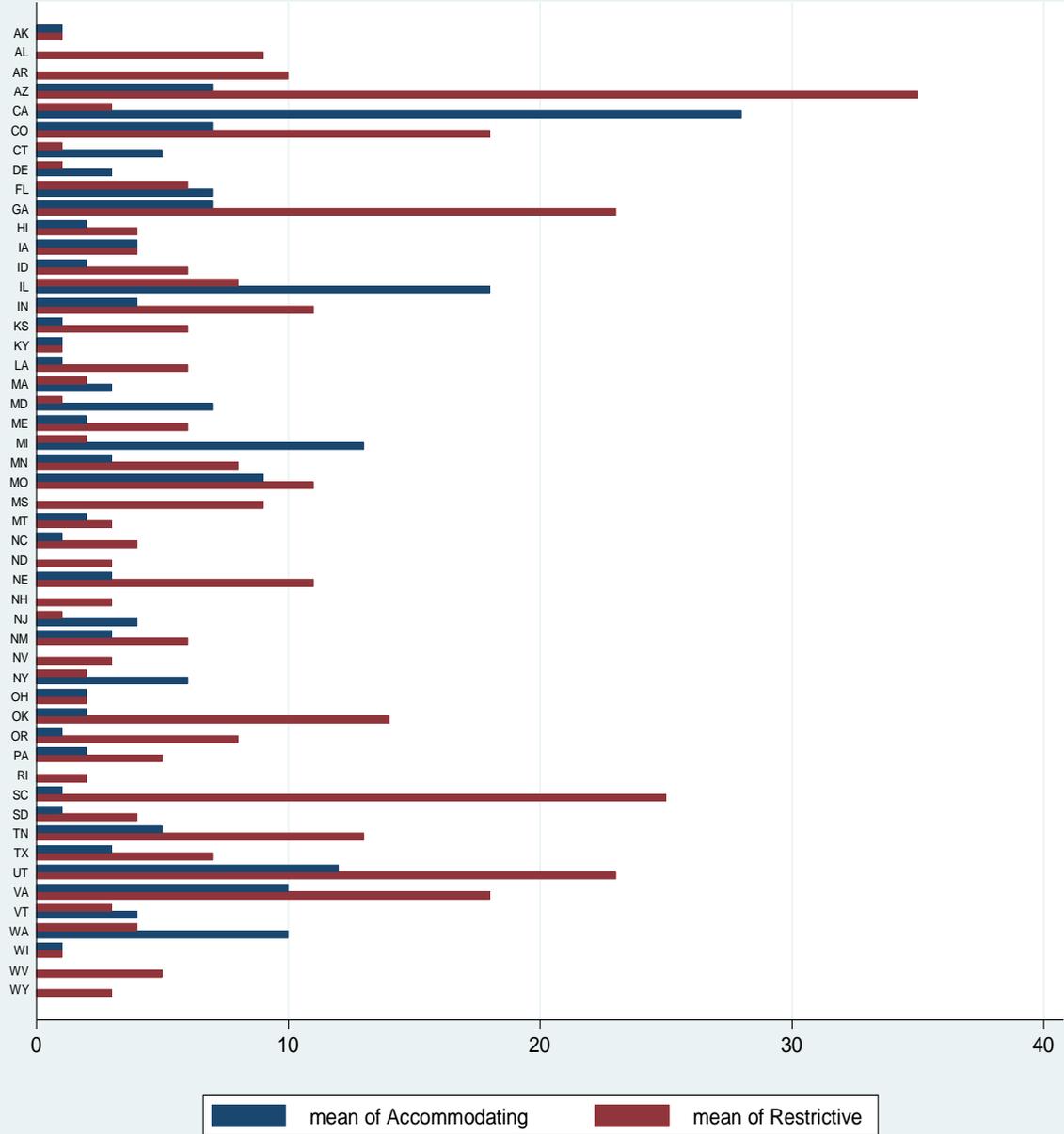
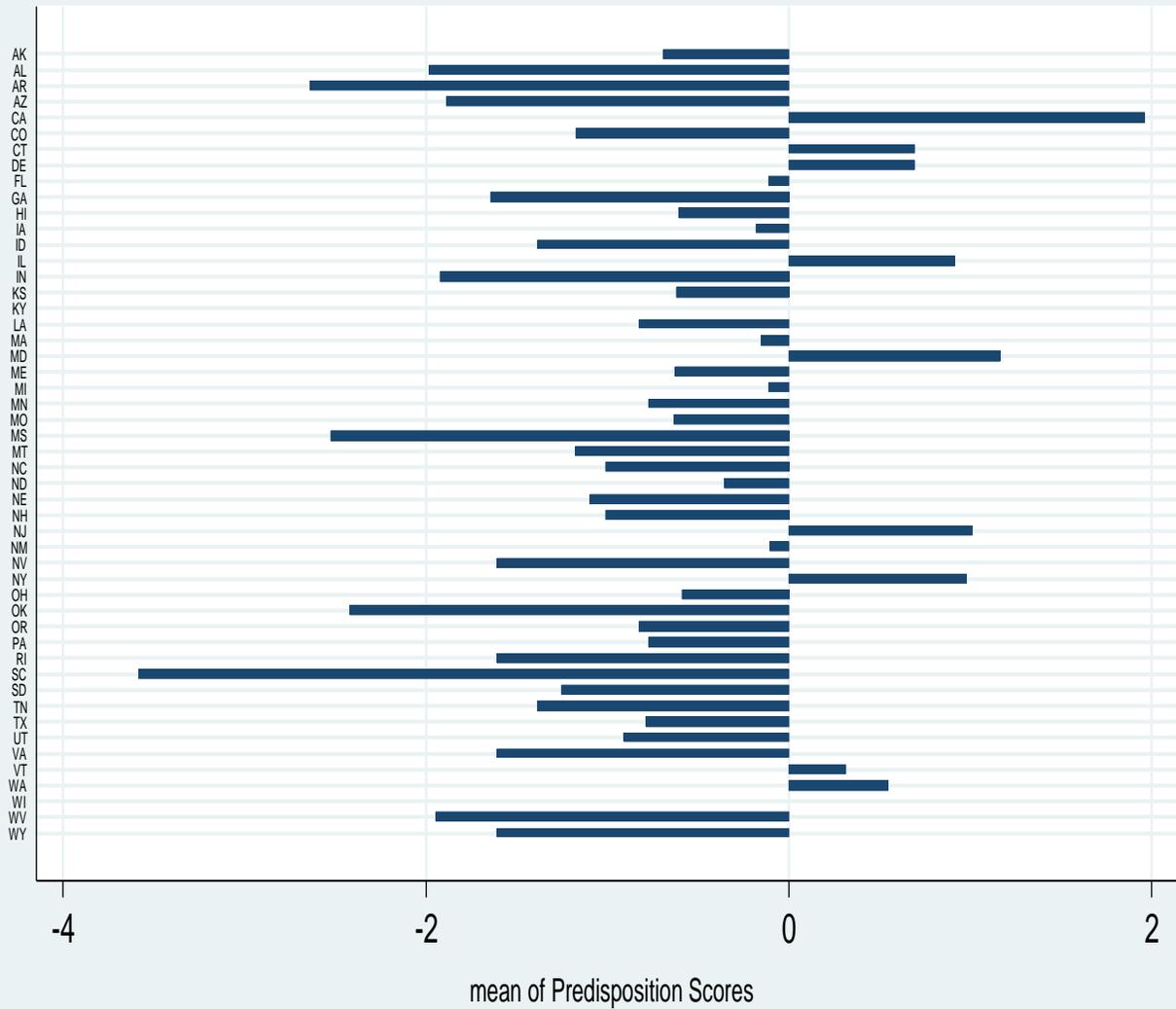


Figure 4-3 Adoption of State-level Accommodating and Restrictive Immigration Policies

Distribution of Predisposition Scores, 2005-2012



Positive scores indicate a state's predisposition to adopt accommodating policies and negative scores indicate a predisposition to adopt restrictive ones

Figure 4-4 Distribution of Predisposition Scores across the States

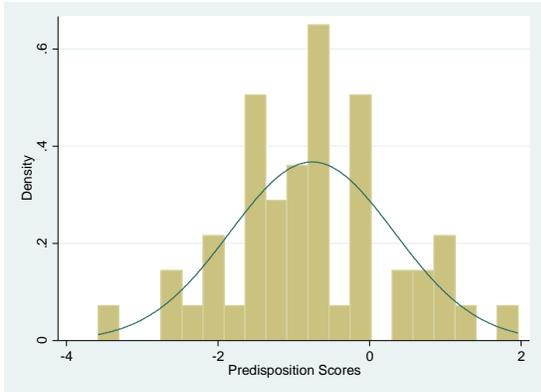


Figure 4-5 Distribution of the Dependent Variable

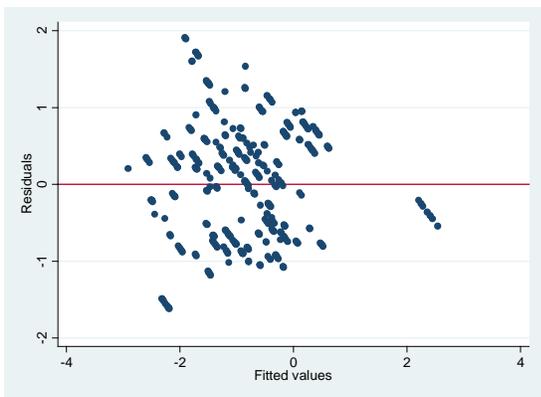


Figure 4-6 Residuals versus Predicted Values

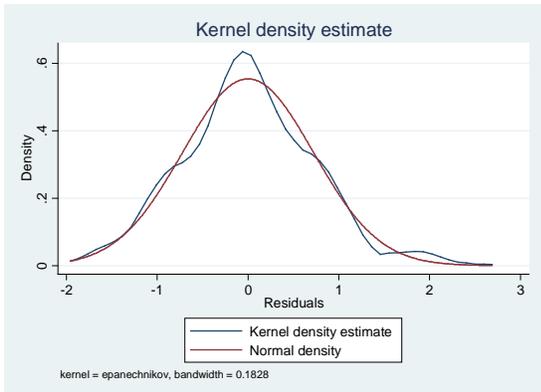


Figure 4-7 Normality in the Residuals

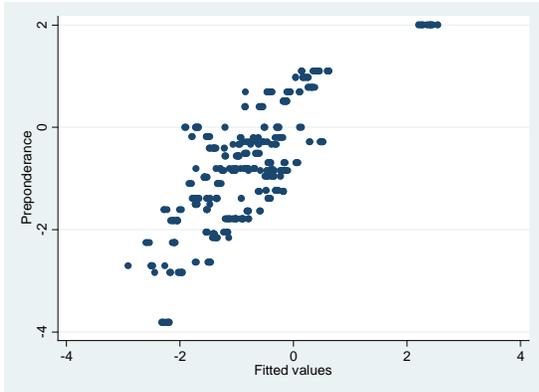


Figure 4-8 Observed versus Predicted Values

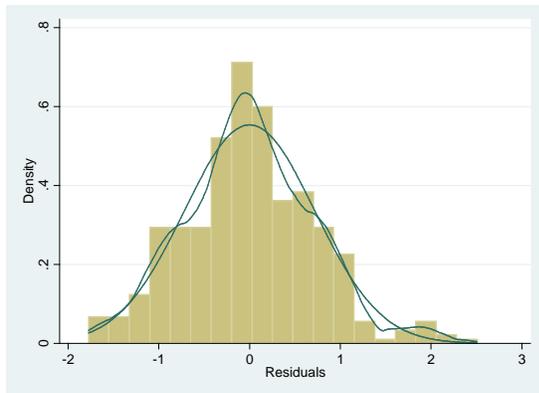


Figure 4-9 Normality in the Residuals

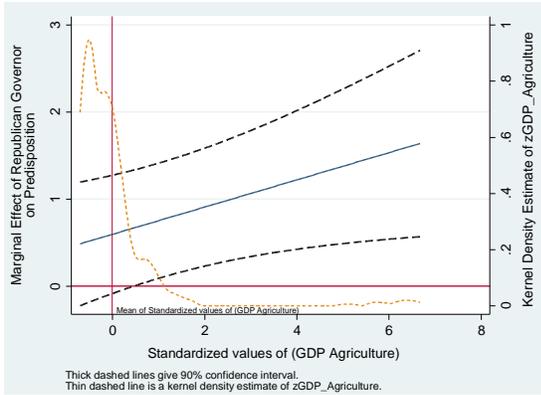


Figure 4-10 Republican Governor x GDP Agriculture

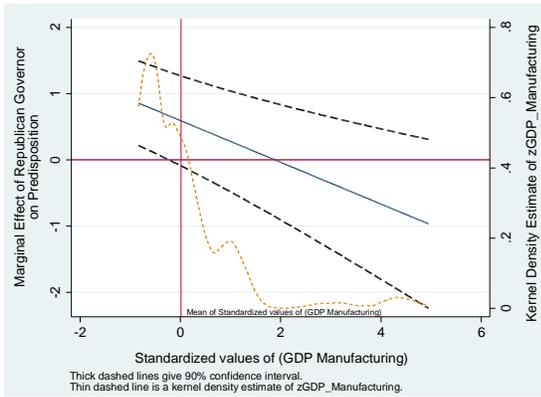


Figure 4-11 Republican Governor x GDP Manufacturing

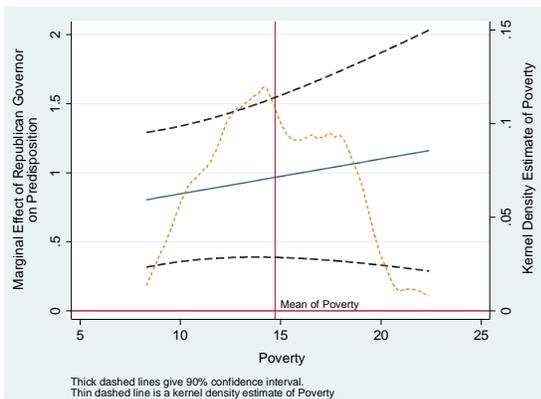


Figure 4-12 Republican Governor x Poverty

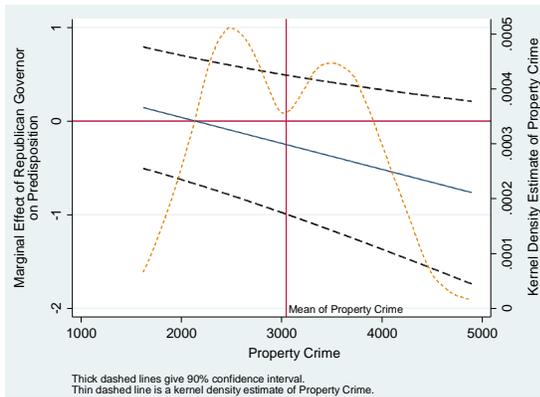


Figure 4-13 Republican Governor x Property Crime

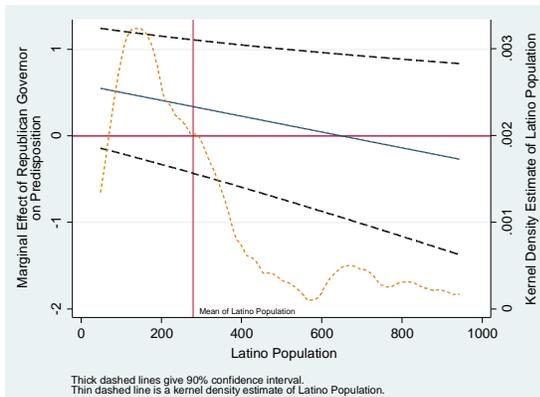


Figure 4-14 Republican Governor x Latino Population

Table 4-1 Hypotheses

Hypotheses	Variable Name	Coeff.	Results
H1. Governor Partisan Identification Hypothesis. When the state governor is Republican (Democratic), the state has a predisposition to adopt restrictive (accommodating) immigration policies.	<i>Republican Governor</i>	+ (-)	Support hypothesis
H2. Partisan Control of State Legislature. When the state legislature is controlled by the Republican Party (Democratic), the state has a predisposition to adopt restrictive (accommodating) immigration policies.	<i>Percent Republican Legislature</i>	+ (-)	Support hypothesis
H3. Constituents' Policy Preferences Hypothesis. As state residents' views become more conservative (liberal), there is a strong likelihood that the state would have the predisposition to adopt restrictive (accommodating) immigration policies.	<i>Citizen Ideology</i>	+	Support hypothesis
H4. Partisan Control of State Government Hypothesis. When the state government is controlled by the Republican Party (Democratic), there is a likelihood that the state would have the predisposition to adopt restrictive (accommodating) immigration policies.	<i>Republican Governor x Republican Legislature</i>	+	Support hypothesis
H5. Labor Dependence Hypothesis. States whose key industries depend on immigrant workers are less likely to adopt restrictive immigration policies and more likely to adopt accommodating ones.	<i>GDP Agriculture GDP Manufacturing</i>	+	Support hypothesis
H6. Health of the Economy Hypothesis. When more state residents live in poverty, the states are more likely to adopt restrictive policies.	<i>Poverty</i>	+	Support hypothesis
H7. Public Safety Hypothesis. As the state property crime rate increases, states are more likely to adopt restrictive policies.	<i>Property Crime</i>	+	No Support hypothesis
H8. Rapid Demographic Shift Hypothesis. The likelihood of a state adopting restrictive immigration policies increases as the Latino population grows.	<i>Latino Population</i>	+	Support hypothesis
H9. Governor Partisanship and Labor Dependence Hypothesis. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases when key state industries depend on immigrant workers.	<i>Republican Governor x GDP Agriculture Republican Governor x GDP Manufacturing</i>	+	Support hypothesis Figure 10a—support Figure 10b—support
H10. Governor Partisanship and Economic Health Hypothesis. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the poverty rate.	<i>Republican Governor x Poverty</i>	+	Support hypothesis Figure 10c—support
H11. Governor Partisanship and Public Safety Hypothesis. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the property crime	<i>Republican Governor x Property Crime</i>	+	Support hypothesis Figure 10d—support
H12. Governor Partisanship and Rapid Demographic Growth Hypothesis. The effect of a Republican governor on the propensity of a state to adopt restrictive immigration policies increases with the growth of the Latino population.	<i>Republican Governor x Latino Population</i>	+	Support hypothesis Figure 10e—support

Table 4-2 Descriptive Statistics of Dependent and Independent Variables

Variable	Mean	SD	Min	Max	Obs.
<i>Years 2005 - 2012</i>					
Dependent Variable					
Predisposition	-0.75	1.08	-3.58	1.96	400
Independent Variables					
Political Environment					
Republican Governor	.47	.5	0	1	400
Republican Legislature	.47	.49	0	1	392
Citizen Ideology	53.3	15.8	13.4	93.2	400
Socio-Economic- Demographic					
GDP_Agriculture	-1.47e-09	1	-.70	6.6	400
GDP_Manufacturing	-3.00e-10	1	-.83	4.9	400
Poverty	14.6	3.0	8.3	22.4	400
Property Crime	3042.5	697.2	1619.6	4893	400
Latino Population	280.8	209.6	48.4	942.8	400
Control Variable					
Legislative Professionalism	.18	.11	.02	.62	400

Table 4-3 Pairwise correlations

	Predisposition	State Gov.	State Legislature	Citizen Ideology 2010	GDP Agriculture	GDP Mftg.	Legislative Prof.	Poverty Rate 2010	Violent Crime Rate	%Δ Latino Population 1990-2010
Predisposition	1.0000									
Republican Governor	-0.1917	1.0000								
Republican Legislature	0.2427	-0.2144	1.0000							
Citizen Ideology	0.4006	-0.2059	0.5079	1.0000						
GDP Agriculture	0.3687	0.0980	0.0377	-0.0707	1.0000					
GDP Manufacturing	0.3831	0.0615	0.0091	-0.0113	0.7795	1.0000				
Property Crime	-0.0019	0.0635	-0.0097	-0.0902	0.0885	0.1821	0.3216	1.0000		
Latino Population	-0.4554	0.0674	-0.0573	-0.3408	-0.0645	-0.0745	0.4049	0.2308	1.0000	
Legislative Professionalism	0.5604	-0.0800	0.1854	0.3010	0.5646	0.6466	-0.0741	0.1970	-0.3200	1.0000

Table 4-4 Analysis of State-level Immigration Policies

VARIABLES	(1) Political Environment	(2) SED	(3) Political Environment Interaction	(4) Political Environment SED Interactions
Republican Governor	-0.125** (0.084)		-0.299** (0.131)	0.594 (0.411)
Republican Legislature	-0.719*** (0.206)		-0.831** (0.277)	-0.871*** (0.255)
Citizen Ideology	0.019*** (0.003)		0.019*** (0.003)	0.009** (0.003)
Republican Governor x Republican Legislature			0.354* (0.170)	
GDP Agriculture		0.210*** (0.046)		0.115 (0.073)
GDP Manufacturing		0.291*** (0.067)		0.371*** (0.091)
Poverty		-0.131*** (0.018)		-0.122*** (0.024)
Property Crime		-0.001 (0.000)		0.002*** (0.000)
Latino Population		-0.001*** (0.000)		-0.001*** (0.000)
Republican Governor x Republican Legislature			0.354* (0.170)	
Republican Governor x GDP_Agriculture				0.156* (0.100)
Republican Governor x GDP_Manufacturing				-0.315** (0.104)
Republican Governor x Poverty				0.025 (0.029)
Republican Governor x Property Crime				-0.002** (0.000)
Republican Governor x Latino Population				-0.001** (0.000)
Legislative Professionalism	4.291*** (0.295)		4.329*** (0.303)	1.439*** (0.428)
Constant	-1.932*** (0.254)	1.817*** (0.254)	-1.951*** (0.319)	0.913* (0.466)
R-squared	0.393	0.522	0.445	0.639

Robust standard errors in parentheses. *** p<0.001, ** p<0.05, * p<0.1

Chapter 5

Immigration Policy Advocacy

Introduction

The decision to migrate to the United States is a complicated one. Whether people leave their countries for political, economic, religious, or any other reason, the jolt of uprooting oneself and arriving in a country where one cannot speak the language, everything is unfamiliar, and everything else is uncertain—it is akin to walking on a wire, without a safety net. Modern-day immigrants, like those who arrived a century ago, are looking for opportunities that might afford them a better life and a brighter future. Those arriving from Latin America and Asia find a safety net in non-profit organizations, just as their counterparts arriving from Europe found support in settlement houses and through the Charity Organization Services. In this chapter, I draw from findings from empirical analyses on immigration policy enforcement and state-level immigration policies to highlight the various paths that immigrant advocates can take in their advocacy efforts.

Non-profit Sector

The non-profit sector plays a key social role in the United States, providing a safety net for the benefit of the public. This sector consists of an array of organizations—private, self-governing, voluntary, distributing, and of public benefit--serving different needs, but remaining—on the whole—private, self-governing, and oriented towards the public benefit. The issues they tackle include environmental protection, affordable housing, funding for diabetes research, prison reform, public school funding, and immigration policy reform, to name a few. Such organizations emerge to address unmet public needs that neither the market nor the government fulfill.

Nonprofits vary widely. They serve particular communities and focus on specific social and political issues, function in determined ways, and fund their operations through an array of means. All of them have a particular vision and mission that dictates and defines the services they provide, which are circumscribed by the funds they receive and the conditions required by the foundations who provide them. Additionally, at times, these organizations receive funds which are part of federal block grants. These grants set limits as to whom nonprofits can provide services. It means that undocumented immigrants cannot access their programs or services. Other than that, they provide services to any individual in need regardless of immigration status.

Growth of the Immigrant Population

Since the late 1980s, the foreign-born population has been growing at a fast pace. In particular, the decade of the 1990s saw the largest wave of immigrants arriving from Latin America and Asia. A number of circumstances may explain the events that caused these waves

of immigrants. First, in 1965, at the height of the civil rights movement, Congress passed the Immigration and Naturalization Act, which abolished national-origin quotas, that overwhelmingly favored people from northern and western Europe. The new law gave an equal opportunity to anyone who wanted to come to the U.S. and favored family reunification (Gjelten 2015). Second, in the 1970s and 1980s, Latin America was swept by political upheaval, revolutions and counter-revolutions, as well as rampant violence at the hands of U.S.-backed military governments. The political upheaval forced thousands of people to leave their countries and migrate to the U.S.. Third, in 1994, President Clinton signed the North American Free Trade Agreement (NAFTA)—proposed by President Ronald Reagan in the 1980s—which eliminated tariffs on goods and services between the United States, Canada, and Mexico. NAFTA was intended to provide an economic boom to the region by creating 200,000 jobs for U.S. workers, offering affordable goods, increasing U.S. exports, and reducing undocumented immigration (Wilson 1993). However, instead of curbing the tide of undocumented immigration to the U.S., it had the opposite effect. NAFTA had a negative impact on the Mexican economy and displaced Mexican farmers by flooding the market with an over surplus of U.S. agricultural products. The impact generated a “tsunami” of unemployed Mexican peasants and other low-skill workers who were willing to migrate to the U.S. and work in any industry.

Immigrants from Latin America and Asia, who have traditionally settled on the West Coast, changed their settlement patterns. In part, this shift has been in response to job availability and recruitment efforts of manufacturing plants demand for and dependence on immigrant labor. Over time, new waves of immigrants have been settling in other regions of the country—namely the South and the Midwest. These two regions, unaccustomed to immigrants,

have had to grapple with the arrival of people who do not speak English, have different cultural traditions, and require varying needs of services. For the most part, states in these regions have reacted by adopting restrictive state-level immigration policies to discourage them from settling there. In contrast, traditional destination states have responded to this same growth of the immigrant populations by adopting accommodating policies that seek to integrate them into society.

The arrival of large numbers of immigrants in a relatively short period of time placed a great deal of stress on receiving communities and non-profit organizations. Because immigrants left their native countries for a wide variety of reasons, the needs they presented were also different. Thus, non-profit organizations had to tailor their services to meet the needs of the newly-arrived immigrants. The challenge was even more acute in states that experienced a rapid growth of the immigrant population.

Non-profit organizations have played a key role in helping both documented and undocumented immigrants settle. These organizations, when anchored in communities, are usually known as community-based organizations (CBO). When confronted with a growing immigrant population, CBOs may tailor services to address the needs of immigrants. Oftentimes, established CBOs cannot address all the needs of immigrants and, as a result, new CBOs are created. For instance, over forty years ago, a group of Cuban exiles set up the Committee of the Spanish Speaking Community of Virginia, a CBO that sought to address the unmet needs of the Cuban population. As this population set roots and a new wave of immigrants arrived in the area, the CBO evolved to meet the emerging needs, and evolved into what became known as the “Hispanic Committee of Virginia”.

Local events and demographic changes have also prompted responses from CBOs. After the Mount Pleasant riots of 1991, the Latin Economic Development Corporation was created to increase economic opportunities for Latinos and other immigrants in the area of Washington. When a door-to-door survey revealed that close to 90 percent of Hispanic households lacked health insurance, the Montgomery County Language Minority Health Project launched *Proyecto Salud* in 1994. Other CBOs, which focus exclusively on the well-being of immigrants, such as the Arlington Free Clinic, Asian American LEAD, and Centro Familia also got their start in the 1990s. These examples highlight how nonprofits have changed with regional demographics and community needs. Some have evolved from all-volunteer groups to professional organizations. Others started as solidarity associations that grew into social service agencies. Some CBOs zeroed in on a particular service area, while others broadened their scope, trying a more holistic approach to meeting the many needs and problems of immigrant communities.

Services

Regardless of how these CBOs emerge, they provide a range of services to immigrants. These services will generally include translation of documents, job referrals, emergency food support, and emergency funds for particular needs such as housing, to name a few. A particular need of immigrants is access to legal services. To that end, some CBOs have immigration attorneys and paralegals on staff to attend to those particular cases. While these attorneys may not always be able to litigate a case, they at least offer counsel to immigrants free of charge. In addition, paralegals assist immigrants completing immigration forms such as application for naturalization, work permits, and since it was made possible, for the Deferred Action for

Childhood Arrivals (DACA). For instance, organizations such as the Catholic Legal Immigration Network Inc. (CLIN), with legal clinics across the United States, offers community events of one- and two-day workshops in which professionals and trained volunteers assist the undocumented youth complete their applications for Deferred Action. Additionally, CLIN offers toolkits and provides assistance to CBOs that want to organize their own workshops.

Another important need of immigrants is access to healthcare. Because of the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, documented immigrants no longer qualify to receive federal welfare benefits for the first five years of residence. However, states could provide those same benefits provided that they use state funds. Whether state governments provide access to emergency medical care or not, many CBOs provide limited healthcare services, and in some instances community clinics are set up to address the health concerns of the immigrant communities. In these clinics, immigration status is not a barrier as they seek to serve the immigrant population. The funds that support these clinics may come from foundations, private donors, and proceeds from fundraising events.

In addition to such services, CBOs develop programs to facilitate immigrants' integration to society. Integration is a multidimensional, long, and arduous process that may take years to achieve. In that process, CBOs play a pivotal role by offering night classes to learn English, basic literacy, financial literacy, and computing classes. Other programs may focus on leadership development and capacity building. These programs seek to increase not only the economic opportunities of immigrants, but also increase their civic participation, with the goal of pursuing

public policies that address community, local, regional, and state issues that improve the quality of life.

Policy Advocacy

Beyond providing services for immigrants, some non-profits develop advocacy programs that focus on various aspects of the lives of immigrants. For instance, some legal aid societies devote a portion of their budget to advocate for immigrants' rights in the workplace. They represent low-income immigrants in court proceedings, administrative hearings, and counsel them about federal and state law as it relates to their wages and right to be paid for performed work. They file class action lawsuits to recover unpaid wages or to seek relief for discrimination in the workplace. Additionally, they provide information on what undocumented immigrants need to do if arrested during an immigration raid or if agents from the U.S. Immigration Customs Enforcement knock on their doors, or stop them in the street or any other public area. Specifically, immigrants are advised to tell the truth, not to carry false documents with them, not to sign any documents, and to call an immigration attorney.

Besides advocating for the rights of immigrants in the workplace, some immigrant groups tackle the issue of state- and federal-level immigration policy. To that end, they press elected political leaders to take steps to support legislation favorable to immigrants or to decline to collaborate with the federal government in the enforcement of immigration policy. In the current political climate, in which both the Republican and Democratic Party cannot find a common ground as to how best to deal with the issue of immigration, immigrant advocates turn to their elected political leaders. In general, immigrant advocates regard elected leaders

who belong to the Democratic Party as their natural allies. However, when these leaders' stance on immigration legislation or enforcement fails their expectation, immigrant advocates question their traditional party loyalties. To understand these seemingly conflicting political stances, it is important to look at the social and political environment in which these elected political leaders exist. To that end, I draw from findings of the statistical analyses from Chapter 3 ("Immigration Policy Enforcement") and Chapter 4 ("State-level Immigration Policies") to present a more nuanced picture of how the environment plays a key role on the issue of immigration policy and its enforcement. This picture of the political and socio-economic-demographic environment may provide another angle from which immigrant advocates gain new perspective on how to proceed with their advocacy activities. These results provide information about the political and social conditions that would either increase or decrease the number of undocumented people arrested and removed. This information may be of help to non-profit organizations that advocate for a path to citizenship for undocumented immigrants and for those that advocate for keeping immigrant families together.

Shades of Gray

Consider results obtained from empirical analyses of a state's tendency to adopt either restrictive or accommodating immigration policies. The results of the analyses provide an interesting picture of the nuances of partisanship. Nine states out of fifty have the tendency to pursue policies that are accommodating, two remain neutral, and the rest tend toward restrictionist policies. From 2005 to 2012, in most of the states considered, the governor was a Democrat, which correlates with a more pro-immigrant policy stance. In this respect, California is a bit of an exception in that it had a Republican governor for six years and yet adopted more

accommodating immigration policies than any other state. Massachusetts, which is considered a liberal state, seems to show more clearly the way political partisanship tends to influence the shaping of immigration policy. The results show that, for the time period studied, it tended towards more restrictive immigration policies when the governor was Republican. What is of note is that Massachusetts' residents were nevertheless on average more liberal in their political views than were residents of California.

However a further aspect to this picture emerges in the analysis of Delaware, Oregon and Connecticut. For instance, for the eight years of the this study period where Delaware had a Democratic governor, it passed more accommodating immigration policies than Oregon, long considered a liberal state and whose governor was a Democrat for the same length of time. Though both states were under Democratic leadership, a difference arises in the fact that that the Delaware residents themselves hold more liberal views than Oregonians. In other words, the viewpoints held by residents in some cases effects a clear influence at the government level. Further, from the analyses, it emerges that Connecticut, with a Republican governor, tends to accommodate immigrants, while Oregon, with a Democratic governor, tends to restrict them. In this case, too, residents of Connecticut are more liberal in their views than are residents of Oregon.

When turning the focus to traditional "destination states" (states typically favored for immigration settlement), this same aspect influencing the adoption of immigration policy resurfaces. Consider Texas, Florida, and New Jersey whose governors are Republican. While Texas and Florida tend to adopt restrictionist policies, New Jersey adopted accommodating immigration policies, even surpassing states such as New York and Illinois in its pro-immigrant

directives. Given that New York and Illinois both constitute traditional destination states, this shows how views held by residents can in some cases trump the general tendency of destination states to behave more accommodatingly than non-destination states. In fact, New Jersey is among the three states that adopted the most accommodating immigration policies, the other two being California and Maryland. One difference between Texas and Florida, in comparison to New Jersey, is that on average residents of the latter hold more liberal views than those of the former. All these examples underscore the fact that Democrats are not the only allies of immigrant advocates and, similarly, that traditional states do not always offer the most fertile ground when it comes to accommodating immigrants. All in all, there is plenty of room to advocate for the adoption of immigration policies that would further immigrants integration to society, even in non-traditional states, or in states where the governor is Republican.

Although there are opportunities to advocate for immigrants in nontraditional destination states, immigrant advocates may want to consider that their advocacy efforts may not yield any desired results. Specifically, the Southern region of the country—a new destination for immigrants—may not be as receptive to immigrant advocates as others regions in the country. The U.S. Immigration Customs Enforcement has focused its enforcement efforts on that particular region. Fifty-eight percent of all state and local law enforcement agencies participating in the 287(g) Program are located in the South, where the rate of arrests and removals is the highest. It is also the region where the foreign born population has grown dramatically. For instance, by focusing on Southern states, one can better appreciate the growth of the foreign-born population and of the Latino population in particular. Specifically,

the percent change in the foreign-born from 1990 to 2010 ranges from 287% in Alabama to 525% in North Carolina. The Latino population growth ranges from 285% in Oklahoma to 943% in North Carolina. Again, by looking at the growth of the Latino population and focusing on its growth at the county level, where the 287(g) Program is active in all regions, one can see that the growth has been more dramatic, ranging from -2.73 percent in Pinal, Arizona to 1,780% in Cabarrus, North Carolina.

The growth of the foreign-born and Latino population in the South coincides with the propensity of states in the region to adopt restrictive immigration policies. In fact, Southern states lead the way in terms of adopting the most restrictionist policies in the U.S., with the exception of Arizona in the Southwest. Thus, immigrant advocates may have an uphill battle in the South when advocating for the rights of immigrants or the expansion of services and public policies that would facilitate their integration into society.

The State Governor

Governors as key political leaders exert a great deal of influence in the affairs of the state. Because of their many powers and influence over state and local agencies, state governors can make formidable allies and the one that most policy advocates approach (Karch 2007). Their influence over state agencies reverberates to the local level. Specifically, when it comes to the issue of immigration policy enforcement, the state governor can play an instrumental role in both encouraging and discouraging the arrests of undocumented people. Results from statistical analyses demonstrate that during the Bush administration, Republican governors had a stronger influence on immigration policy enforcement actions.

In Table 5.1, I compare the effect of a Republican governor on the number of undocumented immigrants arrested and deported under two presidential administrations—the Bush and Obama. Specifically, the unemployment, which is an issue constantly mentioned in debates over immigration policy, presents interesting results. During the Bush administration, looking at the unemployment rate from its lowest to its maximum value, we can observe that the number of arrests decreased from 12 to 11. In comparison with the number of undocumented people arrested during the Obama administration, we see that, moving from the lowest to the maximum value of the unemployment rate, the number of arrests increases from 7 to 9. To say that unemployment does not have the same importance under the Bush administration is misleading. More specifically, even when the number of arrests is decreasing, in comparison to the Obama administration when the arrests are increasing, the number of arrests is much higher at both the lowest and highest value of the unemployment rate

For local nonprofits that seek to stem the tide of arrests they need to consider not just the political party to which the governor belongs, but also the current presidential regime. This is important given that immigration enforcement is the sole jurisdiction of the federal government. Although local law enforcement officers may have ample discretion to arrest anyone, and undocumented immigrants in particular, they may be constrained by the enforcement policy preferences of the president. The comparison I just presented of number of arrests under both presidential regimes demonstrates the difference in policy preferences. More specifically, there is a difference in the rigor with which immigration policy is enforced at the local level.

Because the states do not have the authority, means, and know-how to remove anyone from the country, they have to transfer the immigrants they arrest to ICE, which, in turn, transfers them to the Enforcement Removals Operation (ERO) office. Thus, if ICE declines to take custody of undocumented immigrants, the local law enforcement agency incurs costs of housing them. Consequently, enforcement officers may no longer find arresting large numbers of undocumented immigrants cost effective. This is another opportunity that opens up for immigrant advocates who wish to see a decrease in the number of undocumented immigrants arrested by the local law enforcement agency.

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Table 5-1 Arrests and Removals and Republican Governor

SED Factors	Arrests	Removals	Arrests	Removals
	Bush Administration	Obama Administration	Bush Administration	Obama Administration
Unemployment	Decrease from 12 to 11	Increase from 7 to 9	Decrease from 12 to 11	Increase from 6 to 8
Property Crime	Decrease from 7 to 3	Decrease from 3 to 2	Decrease from 6 to 0	Decrease from 3 to 1
Latino Population	Increase from 14 to 21	Decrease from 6 to 5	Increase from 14 to 20	Decrease from 5 to 4

Chapter 6

Conclusion

In the last decade, immigration policy enforcement has been a prominent and thorny issue in political debates at the local, state, and federal level. The failure of Congress to pass a comprehensive immigration reform policy in 2006 and 2007 has spurred states to adopt state-level immigration policies that aim to deal with immigrants in general and undocumented ones in particular. In this dissertation, I focus on the two most pressing issues confronting the federal, state, and local governments: the enforcement of immigration policy and states adoption of state-level immigration policies that seek either to restrict or accommodate both documented and undocumented immigrants. In Chapter 2, I set the underpinnings of a theory of enforcement, which I presented in Chapter 3. I started by introducing the 287(g)—an immigration policy enforcement program. Through the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, which led to the creation of the 287(g) program, Congress authorizes U.S. Immigration and Customs Enforcement (ICE)—the main investigative branch of the Department of Homeland Security (DHS [then the U.S. Immigration and Naturalization Services])—to delegate authority to state, tribal, and local law enforcement agencies (LEA) in the enforcement of immigration policy.

More importantly, in this chapter, I delineated the nature of the relationship between the federal government and county governments participating in the 287(g) program. I focused

on how the program works and the overlap of authority between the federal and local law enforcement agencies. In particular, I paid attention to how the program is administered under two presidential administrations: The Bush and the Obama. The significance of this comparison is that we can appreciate the differences between the two political parties and their policy preferences on immigration policy enforcement. For instance, one can observe this difference in the memorandum of agreement that ICE entered with county governments under both administrations. More specifically, under the Bush administration, ICE did not set priorities for removal. It meant that local law enforcement agencies had the discretion to decide who would be removed from the country. In other words, anyone who was arrested and found to be undocumented was a candidate for removal. In stark contrast, under the Obama administration, ICE set standards and priorities for removals—targeting undocumented immigrants with criminal records. Thus, even when the local law enforcement agency arrests many undocumented immigrants, ICE makes the final decision as to who is to be removed and the number of removals per year.

In Chapter 3, I set forth theory a partisan preference of immigration policy enforcement. I considered the effect of socio-economic-demographic (SED) issues—unemployment, crime, and growth of the Latino population—and the partisan identification of the state governor and their effect on the number of undocumented immigrants arrested and removed. To assess this relationship between SED and political factors, I, first evaluated baseline models of SED factors and then of political factors on arrests and removals. On their own, these political and social factors are nothing new in political science. In this study, however, I brought them together and interacted them to highlight the activating effect that social factors have on political actors

given their partisanship. More specifically, the theory I present here is one that takes into consideration the core values of the political parties and how social factors in the environment activate them resulting in a particular response, approach, or action. In the case of immigration policy, and in particular on the matter of enforcement, social issues may determine the rigor with which enforcement activities are carried out. The results of the analyses show that, indeed, social issues, have an activating effect. Of note is the effect of the unemployment rate, which during the Obama administration had an amplifying effect on a Republican governor, but not during the Bush administration. On the other hand, the growth of the Latino population from 1990 to 2010 had an amplifying effect during the Bush administration but not during the Obama administration. And the crime rate had an attenuating effect under both administrations.

The adoption of state-level accommodating and restrictive immigration policies is nothing new. Throughout the history of immigration in the United States, every wave of immigrants has provoked state governments to adopt both restrictive and accommodating policies. With the growth of the foreign-born population and the undocumented as well, many state governments have decried the inadequacy of immigration policy enforcement. Additionally, they are unsatisfied with Congress inability at passing a comprehensive immigration reform bill, with both the Republican and Democratic parties unable to get all their members behind a unified vision of immigration reform. In the face of these failures, some states have reacted by adopting state-level immigration policies to stem the tide of undocumented immigrants. On the other hand, a number of states have adopted policies that seek to protect them and provide services that facilitate their integration into society.

In Chapter 4, I turned the focus to state governments' adoption of state-level immigration policies. In this chapter, I modified the partisan preferences theory, and replace the unemployment rate with the poverty rate and added an important economic factor: key state industries dependence on immigrant labor—agricultural and manufacturing. To test the theory, I use data from the National Conference of State Legislatures, which provides summaries of state-level immigration laws. These laws address issues of education, healthcare, and welfare benefits, to name a few. The results show that higher levels of poverty rate increase the propensity of a state to adopt accommodating immigration policies instead of increasing the likelihood that states would adopt restrictive ones. Moreover, the economic factors—the contribution of the agricultural and manufacturing industries to the state GDP—are insignificant. The results are puzzling as none of the socio-economic-demographic factors predict restrictive policies, as expected. The literature on political science links the importance of a healthy state economy with the political fortunes of elected political actors. Thus, it is expected that they will do anything within their power to ensure that the state economy remains robust. In general, they may provide tax incentives for industries to relocate to their states. In the particular case of immigration, they may facilitate the flow of immigrant labor by accommodating the needs of the immigrant population.

The results may indicate that when it comes to the issue of immigration, political leaders may be influenced by factors other than the state economy. This finding contributes to our understanding of the multiple dimensions of economic factors influencing the policy agenda of elected leaders. Given that immigrants are viewed as job competitors, who depress wages and displace the local workforce, state leaders may be more amenable to restrict the flow of

immigrants to protect the economic well-being of residents. Future research could explore this factor.

In Chapter 5, the focus turned to policy advocacy. In particular, the discussion centered on how policy advocates could use the findings from analyses on immigration policy enforcement and the adoption of state-level immigration policies to devise strategies to advocate for immigrants. It provides an alternative view on partisanship. More specifically, it highlights the nuances between the political parties and why immigrant advocates should seek to advocate for immigrant rights not only to Democratic governors, but also to Republicans.

Limitations

Most studies have a number of limitations, and this one is no exception. The limitations give us pause to interpret and apply the findings cautiously. Additionally, they also provide pathways to future research. In the study on immigration policy enforcement through the lens of the 287(g) program, a number of limitations occur. First, participation in the program is not automatic; state or local law enforcement agencies apply to the U.S. Immigration Customs Enforcement (ICE). ICE, on the other hand, makes a decision as to which enforcement agency is accepted to participate in the program. An interest to participate underscores the willingness of law enforcement agencies to arrest and remove undocumented immigrants. Thus, this study provides information on the enforcement action of a selected group of law enforcement agencies. Additionally, because only a fraction of county law enforcement agencies participate in the program, I cannot make generalizations that the political process is the same across all localities and states. Second, the crime data are at the state level instead of county level, which

would be more appropriate given that the unit of analysis is the county. This dataset poses a problem as it may not be capturing the actual situation in the participating counties. A replication of this study could benefit from using county level data.

Next Steps for Future Research

This research has centered on two dimensions of immigration policy: enforcement and state-level immigration policy adoption. These two studies can serve as point of departure for future research. First, because the political science literature does not have one single study on immigration policy enforcement, it would be worthwhile to expand this study to include either all counties or all states. To that end, experts and scholars could focus their efforts on studying another federal program in which local and state law enforcement agencies collaborate with the federal government in the enforcement of immigration policy. In particular, the Secure Communities—a data-sharing program—is a good candidate for future study because every single law enforcement agency at the town, city, county, and state level participate in the program. It means that any officer who stops an individual could inquire about that person's immigration status. Because participation in this program was voluntary (and later made mandatory), it could be studied by focusing on the time that each locality joined the program. It would be worthwhile to apply the same theory I use in this study to see if the results hold when there is a larger number of participating law enforcement agencies.

Second, because the issue of immigration is salient, a study that focuses on the role of interest groups could yield different and interesting results. More specifically, a study that includes groups such as the business sector and immigrant advocates for immigrants as well as

advocates for immigration control would be valuable. This study could provide insights on the political forces pressuring and influencing state political leaders' decision to collaborate with the federal government in the enforcement of immigration policy and the adoption of state-level immigration policies. This would be an interesting study because, for the most part, the groups just noted have diametrically opposing needs and interests. Additionally, they provide electoral or financial support to political leaders election and re-election campaigns.

Third, a study on unaccompanied immigrant children would give another dimension of state politics and state courts. Specifically, undocumented children, with no parents and no legal guardian, are the responsibility of the Health and Human Services Agency while they await a resolution to their immigration cases. To stabilize their immigration status, children must petition the state juvenile court for the Special Immigrant Juvenile Status visa. If the status is granted, children can apply for lawful permanent residency. A quick check on the number of petitions granted across the states suggest that it varies considerably, with Georgia granting fewer than any other state. This study could explore the state political environment along with the state's propensity to adopt either restrictive or accommodating immigration policies to determine if they have any influence on the state courts decision.

Finally, a study of the relationship between the federal agency, ICE, and the immigration court could provide interesting insights on the autonomy of the agency. Specifically, immigration law provides that ICE agents screen immigrants for potential relief and refer them to the immigration court. Additionally, since 2003, with the creation of the Department of Homeland Security, the power of the agency has increased in terms of carrying out administrative removals. With this increased power, the agency could well be overlooking immigration law

and removing immigrants without providing a meaningful screening of their particular situations. Thus, it would be interesting to see potential changes in the rate of cases referred to the immigration court. Additionally, the strategies that the federal agency uses to circumvent political control and maintain its autonomy would deepen our understanding of immigration policy enforcement and the surrounding political environment that may determine the rigor of enforcement actions.