

Summary

In 2008, the Secure Communities enforcement program extended deportation capacity throughout the nation by creating greater cooperation between federal, state, and local law enforcement. However, despite claims that the program would help enforce immigration law in a neutral manner, evidence from the Department of Homeland Security's (DHS) own data reveal that deportations were much more common in some locations than in others. Examining program data between 2008 and 2013 across 2,669 counties, I found that counties with the smallest (less than 20 percent) and largest (over 40 percent) concentrations of Hispanic and Latinx residents would routinely turn noncitizens over for deportations. By contrast, counties with 20-40 percent Hispanic and Latinx residents were least likely to cooperate with DHS. Notably, 'sanctuary' designation did not necessarily translate into tangible protections for noncitizen arrestees. This disparity in enforcement has profound implications for the supposed impartiality of U.S. immigration policy.

Author Biography

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Suggested Citation

Pedroza, Juan Manuel. 2019. "Deportation Discretion: Where are County Jails Most Likely to Cooperate with Federal Immigration Officials?" Policy Brief No. 05-2019, *Sociology Policy Briefs*, September 1.

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Deportation Discretion: Where are County Jails Most Likely to Cooperate with Federal Immigration Officials?

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The rapid rise of immigration enforcement exposes hundreds of thousands of noncitizens to deportation every year. Deportations, however, are not evenly distributed across the United States. As the federal government implemented record-setting deportations in the past decade, the Department of Homeland Security (DHS)—the agency that includes immigration enforcement—relied heavily on state and local law enforcement to turn noncitizens over to federal immigration authorities. Although every state now contributes to annual deportation totals, some communities regularly help facilitate immigration enforcement while others do so only sparingly. In order to understand where immigration enforcement has had the greatest impact, we first need to track which communities regularly cooperated with DHS.

What is the "Secure Communities" program? Before 2008, immigration enforcement remained concentrated on the U.S.-Mexico border. This changed after the Bush and Obama Administrations introduced the immigration enforcement program Secure Communities. This program works by granting DHS access to information about individuals arrested by county law enforcement officers. If county officials held someone in custody that DHS wanted to interview or detain, jail administrators—typically Sheriff Departments—could decide whether to cooperate with DHS by detaining these individuals on DHS's behalf. By 2013, every county jail had participated in Secure Communities and helped federal officials identify noncitizens under arrest. Today, the risk of deportation extends to nearly all noncitizens.

Where are noncitizens most likely to face deportation? To answer this question, I examined county-level decisions to cooperate with DHS requests to detain noncitizens. Using Secure Communities program data, I recorded how many noncitizens came to the attention of the federal government, as well as how many arrestees were deported. I was able to cross-reference this with state and county-level characteristics.

On average, jail administrators were more likely to cooperate with DHS if the local concentration of Hispanic residents was relatively small (less than 20 percent) or formidable (over 40 percent). Notably, 'sanctuary' designation did not necessarily translate into tangible protections for noncitizen arrestees.

Counties with small Hispanic concentrations routinely turned noncitizens over to DHS. Such counties tend to be located in the Southeast, which experienced rapid Hispanic population growth since the 1990s. For example, Mecklenburg, NC and Charleston, SC deported noncitizens under arrest much more often (34 percent and 44 percent of noncitizen arrestees, respectively) than the national average (18 percent). Similarly, counties where Hispanics approached or exceeded the majority of a county also cooperated often with DHS. El Paso, TX and Imperial, CA both helped DHS set enforcement records by deporting 47 percent and 40 percent of noncitizen arrestees, respectively.

Counties with 20-40 percent Hispanic concentrations, however, generally reported the highest levels of discretion (i.e., noncitizens not deported as a fraction of noncitizen arrestees). Santa Clara, CA, Cook County, IL, and the Burroughs of New York were less likely to cooperate with DHS. Unsurprisingly, these places also lead the country in access to justice and legal defense from deportation.

Source

Pedroza, Juan Manuel. 2019. "Deportation Discretion: Tiered Influence, Minority Threat, and "Secure Communities" Deportations." *Policy Studies Journal* 47(3):624–646. (Part of a special issue on *Immigration Policy Measurement*, August 2019).

Further Reading

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Acknowledgements

Fellowships from the Ford Foundation and Stanford University's Center for Comparative Studies in Race and Ethnicity provided funding support.

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Proportion of Noncitizens Arrestees who were Deported Comparing counties with contrasting Hispanic concentrations

5% Hispanic:
1 out of 5
deported



35% Hispanic:
1 out of 7
deported



70% Hispanic:
1 out of 5
deported



Source: The author's analyses of DHS data across 2,669 counties by Hispanic percent of each county. Analyses account for state and regional contexts, Hispanic population growth, Republican voter strength, 287(g) program status, criminal justice capacity, unemployment, when each county joined Secure Communities, and population weights.

Policy Implications and Recommendations

Today, when noncitizens come under the radar of law enforcement, the alleged offense only partly determines whether they move from county to federal custody. *Where* the arrest takes place can make the difference between release and deportation, even for minor offenses. As the current system stands, justice hinges too much on vast inequalities between places; which is a high price to pay for rising deportations. There are two implications of this disparity for U.S. immigration policy.

1. Immigration policy should ensure continued oversight and monitoring of enforcement activities.

Since the inception of Secure Communities, DHS recognized the need to monitor the program's outcomes. Federal oversight and independent research are both necessary for this oversight to be successful. Importantly, research on differences in enforcement intensity across localities should continue to focus on whether, where, how, and why noncitizens in some places more than others remain at greater risk of exposure to deportation.

2. Immigration policy must ensure equal protections for all, regardless of citizenship status.

Everyone (including those under arrest) should be protected from unreasonable search and seizure, warrantless arrest, and prolonged detention. Too often, noncitizens either lack these protections or live in places with nominal protections, which can result in heightened deportations. In order to reduce such inequalities, state and local communities should invest in legal representation, including among immigrant detainees in federal custody and across locations that lag behind the nation in equal protection for all.

Ensuring equal protections for all requires that we fix our federal immigration system. Absent an overhaul of the nation's broken immigration laws, the current capacity to arrest, detain, and deport noncitizens—and its uneven implementation across places—could continue for the foreseeable future.