



How North Carolina's State Agencies Collaborate with ICE

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In 2018, a handful of sheriffs in North Carolina publicly moved to limit their cooperation with Immigration and Customs Enforcement (ICE). This prompted the push for House Bill 370—an effort to force them to cooperate—from ICE, Sheriff Sam Page, who was recently announced as Trump's North Carolina Campaign Chair, and House Representatives Destin Hall (Caldwell), Jason Saine (Lincoln), and Carson Smith (Columbus, Pender).

Sheriffs have the authority to voluntarily collaborate with ICE through different agreements and practices (e.g. 287g, IGSA, detainers). But, sheriffs are not the only ones in North Carolina who have discretion about whether and how they collaborate with ICE. At the state level, the Department of Public Safety's Division of Adult Corrections can also choose to collaborate with ICE – or not.

The History of Collaboration with ICE in North Carolina

In 2007, the *Raleigh News & Observer* ran an article titled “N.C. leads in immigrant crackdown,” which highlighted how 18 police chiefs and sheriffs were joining the 287(g) program. The program allows sheriff personnel to be deputized as immigration officers and enables them to interview immigrants whenever they are booked into a local jail, which is one way that ICE may issue a “detainer” (a request for the Sheriff's Office to hold the incarcerated person until ICE decides whether or not they will come pick them up). This is in addition to the federally required data sharing that initially occurs when a person is first booked and fingerprinted in the local jail. The 287(g) program became the central focus of Sheriff races in Mecklenburg, Wake, and Henderson Counties during the 2018 elections.

Around the same time, similar relationships between ICE and the state prison system also began to take root. In the *News & Observer's* coverage, they reported that the state Division of Prisons created a special position (filled by Mary Lou Rogers) to oversee the ICE program. That program allowed ICE officers to make weekly visits to state prisons to pick up immigrants. At that time, 57 prisoners a month were entered into deportation proceedings through this voluntary collaboration. It appears that this office no longer exists in public documents and the *News & Observer's* reports on the topic have been removed from online archives. As such, the above quotes are pulled from my own research, which cited the reports before they were taken down. It is unclear whether the coordination is still occurring or not.

According to the State Criminal Alien Assistance Program – a federal Bureau of Justice assistance program meant to partially reimburse the cost of holding undocumented immigrants in local or state facilities – in 2017, North Carolina received over two million dollars (separate from individual Sheriff office awards). Since 2008, North Carolina has received over 33 million dollars. In 2017, 46 states, Puerto Rico, Guam, The Commonwealth of the Northern Mariana Islands, and American Samoa also received reimbursements. Seven of these states

received their reimbursements solely through their state Department of Corrections or a similar office.

State Budget documentation does not include much else regarding this form of revenue. For more context of the extent of this program, from 2008-2016, reimbursements were requested for 17,877 unique individuals—a little more than the estimated number of immigrants deported through Mecklenburg County Sheriff's 287(g) program during the same time period. Since 2016, there has been a slight increase in these reimbursements amounts.

This information mainly describes financial exchanges through the Department of Public Safety's Adult Corrections Division, which includes Community Corrections, also called Probation and Post Release Supervision & Parole. In these departments, there is more information available related to ICE collaboration. However, it is unclear how much autonomy the four regional, Judicial Divisions of the Community Corrections Office (in charge of 27 judicial districts) have in the decision to coordinate with ICE or not.

According to Policy & Procedures of the North Carolina Department of Public Safety Division of Adult Correction and Juvenile Justice Community Corrections (Chapter C: Offender Supervision Section .0624 UNDOCUMENTED IMMIGRANTS AND DEPORTATION): "Community Corrections has a partnership with Immigration Customs and Enforcement (ICE) that will assist officers with the identification and possible removal of undocumented or illegal immigrants placed on probation/parole." In the 2016 policy and procedures manual, this coordinating includes information about: "offender notifications," special initiatives, case management, "offenders not yet deported," and "offenders deported."

This means that staff responsible for probation and parole supervision are coordinating with ICE. Community members across the state report that members of their communities are being picked up by ICE when they arrive at their probation check-in meetings, namely in Buncombe, Mecklenburg, and Durham Counties. These are counties that recently moved to limit their cooperation within the jails by terminating their 287(g) agreements, by curbing the frequency with which they honor ICE detainer requests to hold immigrants until ICE decides whether to pick them up.

Ways Forward

Although post-conviction collaborative efforts with ICE may not be new, they should be monitored as communities continue to push back against local jail partnerships and as the threat of collateral arrests increase -- for bystanders and other non-targets for immigration enforcement. In addition, some states are limiting information sharing between their Department of Public Safety/Department of Corrections and ICE.

Policy makers should consider which ICE partnerships exist with state agencies, particularly if this is a new area of interest for them. They should also reference other state's policies. For example, Colorado's House Bill 19-1124 sought to limit the sharing of personal information from probation officers to federal immigration authorities. Some Governors have gone even farther, moving to ban both statewide and/or local participation in partnerships like the 287(g) Program. As of October 2019, three states (Arizona, Massachusetts, and Georgia) all have statewide 287(g) Programs with their respective Department of Corrections. California and Illinois banned both local and state governments from forming such partnerships. Additionally, California passed a series of bills (the TRUST Act, TRUTH Act, and VALUES Act), which begin to tackle the complicated nature of these partnerships. Moreover, these efforts have also created opportunities for community

members to engage in this conversation.

Below are a few suggested strategies for policymakers (in North Carolina and across the country):

- Inquire about the administration of a statewide 287g (collaboration with ICE);
- Consider policy solutions that require public disclosure of all contracts with federal agencies for housing/detention and/or notification;
- Consider policy solutions that would prohibit notification practices (date/time of appointment) for those in post-conviction supervision programs (probation or otherwise)

Areas to watch for policymakers in North Carolina, specifically:

- Additional bills like HB 370 (should the veto be sustained);
- Future agreements between statewide agencies (e.g. statewide bill requiring such collaboration – HB 135);
- Future legislation that creates a searchable registry of non-citizens (e.g. foreign citizens bill –SB 250

This should also be a concern for all individuals (immigrants and nonimmigrants) who have supported local efforts to limit ICE cooperation. Because it is often hidden from public view, these efforts could be used to circumvent less restrictive policies. Although many community organizations support immigrants by providing ICE check-in accompaniments, it may become necessary to consider accompaniment programs for probation check-ins as well and/or further investigation into local probation office protocols and procedures. In 2018, communities across North Carolina decided they wanted limited ICE collaboration from their respective Sheriffs, and I expect these same communities hope to further disentangle their agencies from federal immigration enforcement.