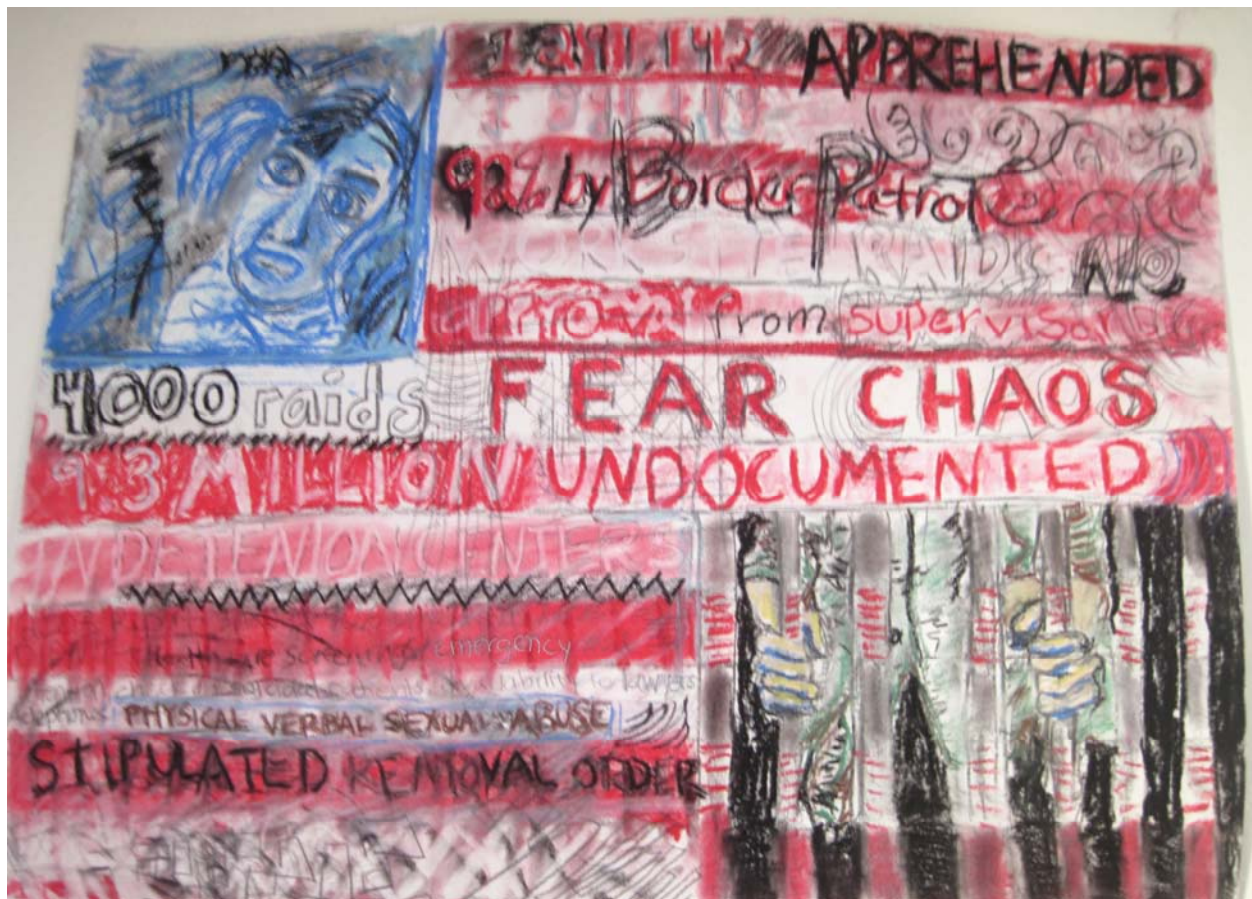


# The Marginalization and Criminalization of Immigrants: The Role and Impact of Evolving Contemporary Federal and State Policy Approaches

By: Anna Kathryn Griffith

*“Law and order exist for the purpose of establishing justice and when they fail in this purpose they become the dangerously structured dams that block the flow of social progress”.*

--Dr. Martin Luther King Jr.



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## Executive Summary

The anti-immigrant movement has been largely successful in creating both the framework and policy approach that is responsible for the current, hostile, anti-immigrant social and political climate. The climate is a result of a combination of both decisions made at the federal and state level. Though the increased flow of non-“white” immigrants may partially explain the recent public backlash against immigrants, the systematic problematic treatment of immigrants is based on an exclusionary framework that has built up over history. While a historical precedent of restrictive immigration policies existed throughout American history, recent Congressional legislation such as Immigration Reform and Control Act (IRCA) and Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), are significant in their multi-issue approach to marginalizing and criminalizing immigrants.

In distinguishing between humans by immigration status (or the perception of an immigration status), divisive policies have sought to marginalize the immigrant community. These policies also have fed the public perception that immigrants are entitled to fewer legal protections and human rights. Additionally legislation under the premise of controlling undocumented or unauthorized immigration has criminalized all immigrants; current policies have significant consequences for all immigrants including authorized immigrants and US citizens who are perceived as undeserving immigrants.

The anti-immigrant movement is comprised of local and national leaders in a variety of constituency groups, which together use a variety of strategies to promote their views. While some groups such as hate groups aim to rid the US of all immigrants and racial/ethnic minorities, others hope to restrict immigrants’ access to legal protections and rights. While some of the nuances between the groups can be articulated, the reality is far more complex as individuals belong to and participate in multiple groups use specific messaging to mask their true intentions. For example, organizing groups such as Federation for American Immigration Reform (FAIR) and Center for Immigration Studies (CIS) may explicitly promote anti-immigrant policies under the guise of controlling unauthorized immigration or warning of the costs of immigration, the true nativist intentions of the organizations emerge through associations with white supremacy groups or explicitly racist comments made by their leaders.

The principal success of these groups is the codification of discriminatory and criminalizing practices. As a result of the established nativist framework and the reflection of these problematic practices in law, a combination of actors work within and outside the system to oppose immigrant rights. Not only have individuals or vigilantes begun to take the laws into their own hands such as the Minutemen, but groups have also begun to restrict and criminalize immigrants from authority figures. From policies to limit immigrant rights in the workplace to efforts to restrict immigrant rights in the criminal justice system, a multi-issue approach has been used particularly since the 1980s to limit immigrants’ access to due process and civil rights protections.

Even though many types of government officials have embodied these trends such as politicians and social service workers, arguably the most prevalent and problematic individuals in power that are using these policies to influence the daily lives of immigrants are law enforcement officers. Through cooperation programs between state and local law enforcement with federal immigration law enforcement including ICE ACCESS programs such as the 287g program, Secure Communities and Criminal Alien Program (CAP), local and state law

enforcement has been used as a tool to enforce federal immigration law. While these programs created under the guise of punishing serious criminal immigrants, evidence shows that 287g program and Secure Communities do not adequately focus on serious criminals. By frequently relying on racial profiling to identify and punish immigrants, many of the men and women who are perceived to be a part of the immigrant community are persecuted and all too often results in the deportation of immigrants who broke minor laws such as traffic violations or non-criminals.

The federal government (Congress and DHS) created a framework through which state governments are able to justify and implement immigrant policies that deny immigrants public benefits and threaten civil rights. This legislation, coupled with a growing network of state, countywide and local agreements with ICE, began a trend to transfer financial responsibility and gave states opportunities to devise their own immigration policies. In light of the new balance between the levels of government, state policies are increasingly more influential for immigrants. Additionally the de-concentrated demographic shift of immigrants from a few states with a high concentration of immigrants to new receiving states in the Midwest and the South make this even more pressing. As states without a history of immigration are given the authority to create their own policies, exclusive and restrictive legislation and policies has emerged.

In response to shifting demographic immigrant settlement patterns and the emerging political battles around immigrants, this paper examines the political climate and activity in two new gateway states. Georgia and North Carolina, of whose foreign born population grew by 233.4% and 273.3% between 1990 and 2000 according the Census fit such a definition<sup>1</sup>. While each state is influenced by the media, political party breakdown, and cooperation programs with federal immigration authorities, each state also has unique policies and characteristics.

While North Carolina has a history of religious tolerance and accepting members of new cultures, the anti-immigrant movement has succeeded in significantly influencing the educational and policing models. As the first state to implement characteristics of the “universal” model under 287g agreements, North Carolina was a key player in the establishment of hostile policing. On the other hand, however, the state is not overwhelmed by a nativist political discourse or the successful pursuit of Arizona SB 1070 copycat legislation.

In contrast with North Carolina, Georgia has experienced a recent flurry of legislative activity to pass Arizona-style enforcement legislation. Georgia’s political climate has been largely influenced by a negative perception of immigrants in the media as well as prevalent immigration law enforcement agreements. Additionally it is relevant to understand that the state political party composition is very Republican and very conservative; with a historic precedent of enacting similar omnibus restrictive policies, it is not very surprising that legislators in Georgia are rushing to further marginalize and criminalize immigrants.

These political developments have severe consequences for the immigrant community regardless of status as well as our entire society. The depth and prevalence of anti-immigrant policies at federal and state levels justifies and furthers the development of additional problematic policies. In light of the development of a range of tactics, players and groups, all Americans regardless of race, class, status must unite to oppose the marginalization and criminalization of immigrants that is currently reflected in current federal and state legislation.

### **Personal Narrative and Acknowledgements**

When I began, in September 2009, to seriously do research on immigration to look for a new focus or perspective to a much-researched topic, I was not aware of the depth and range of

existing policy at the intersecting local, state and federal level. My interest was sparked by the outcry against the Arizona's SB 1070 and was complimented by my previous academic knowledge of immigration issues through research on detention and deportation problems. I also understood immigrant rights issues through personal interactions with immigrants struggling with racial profiling, living fearfully in the shadows *sin papeles* (without papers or undocumented) and perspectives about the growing discrimination, fear and hatred for immigrants and Latinos.

I was drawn to the topic by the growing number of restrictive bills and laws aimed at immigrants rather than issues of comprehensive immigration reform or the role of immigrants in our society; in other words I wanted to focus on policies regarding immigrants as opposed to immigration policy. I have tried to be objective in the way I have conducted my research and the way I present the facts, but I am not neutral when it comes to these issues. It is clear that the immigration debate has been shaped by interest groups promoting policies to restrict, exclude and criminalize immigrants as well as already enacted legislation that serves to legitimize and further that agenda. I began to understand that the polarized debate has restricted the potential policy options so that only moderate to conservative policy is seriously considered, while the existing policy serves to reinforce this debate and further restrict immigrants.

My research occurred simultaneous to a tumultuous political and social era where demonstrations often became shouting matches including racial slurs and extremist groups can cause lethal harm to foreign-born men and women.

Though my interest in the topic stemmed from a curiosity about nativism and opposition to it, I sought to use a political, policy and legislative perspective to understand the current climate. I wanted to understand the sources of controversy and oppression, which limit the quality of life for immigrants and Latinos living in the US. I also aimed to understand the existing, respected rights of immigrants and the importance of the emerging trends to undermine of those protections.

In trying to understand the implications for immigrants of both the debate and the existing policy, I sought to articulate the contributing roles of political groups, interest groups, the media and the policy role of state and federal governments.

As trends to restrict immigrants emerged on a range of issues, from day laborers and driver's licenses, to health care, housing and education to other topics, I sought to make sense of them by imagining their effects to the daily quality of life for immigrants. I believe that legislation is a particularly relevant lens to understand the current climate since restrictive and criminalizing policies that are codified can be seen as an elucidated reflection of our society's political will. Additionally law is important in relation to immigrants and immigration in general since undocumented immigrants are often defined as "illegal", and immigrants are perceived as members of society that break and don't respect the law.

I focus on enacted legislation instead of legislation still in the proposal stages since many politicians propose bills as symbolic statements to further their reputations, regardless of whether the bills have any likelihood of passing. Even though it could be argued that proposed legislation is significant because it represents the first step in the political process, it is also true that many restrictive policies are proposed without the political and social support to uphold and enforce them, much less garner the necessary votes to enact them.

After learning about the historic emergence of immigrants in new parts of the US in the 2000 Census, I shifted my focus geographically toward emerging and new gateway states where immigrants have not traditionally migrated in large numbers and particularly where they had not traditionally stayed and created communities. In the past few years, divisive and hostile immigrant-related policies have been proposed and voted on in many states. History unfolded during the course of my particularly with the spread of so-called Arizona SB 1070 copycats. I tried to understand the phenomenon and its implications. In order to explore it in greater depth, I decided to focus on North Carolina and Georgia since both states had complex relationships with immigrants.

While I originally perceived each state as embodying either a generally more positive (NC) or negative (GA) reception to immigrants and welcoming (NC) or excluding (GA) policies, each state's history and policies vary greatly. While many questions remain for further research, I have aimed to articulate the contributing roles to issues that impact immigrants in their daily lives. I wanted my project to be shaped and informed by the immigrant community and those working directly with immigrant issues. I sought to link social science theory about the forces that shape opinions and actions to the realities on the ground that shape the daily lives of immigrants, and in turn influence our entire society indirectly and directly.

Lastly I would like to thank everyone who has supported and contributed to this paper. I want to acknowledge the encouragement and guidance of my two advisors: Bob Gottlieb and Peter Dreier as well as the support of my mentor and informal advisor, Susan Alva. I am indebted of course to all of the community organizers, advocates and specialists that have shared their time and insights with me: Arnoldo García from the National Network of Immigrant and Refugee Rights, Heidi Southern Poverty Law Center, Dr. H. Nolo Martinez from University of North Carolina Greensboro and Nuestro Banco and former WHATCHAMA, Ada Volkmer from Coalición de Organizaciones Latin-Americanas, Charlotte Alexander from Georgia State University, Theodoro Maus and Adellina Nicholls from the Georgia Latino Alliance for Human Rights. I hope I have understood and conveyed your perspectives accurately and faithfully. I would also like to thank my family and friends for supporting me in the process of creating this document.

## Introduction

Immigrants have continually changed the face and customs of the United States in a positive and interesting way. Despite their economic, social and cultural contributions, the history of the US consists of periods vacillating between a welcoming or inclusive immigrant policies and a restrictive, even hostile policies. The current social and political climate suggests that we are living during a restrictive period; from a rise in hate crimes against Latinos and other immigrants as well as a shift towards targeting immigrants by hate groups, to discriminatory and problematic media portrayal of immigrants, it is clear that immigration has become an increasingly contentious issue in the current political climate<sup>ii</sup>.

While all of these reflections of hate in different areas are clearly problematic, one could argue that the most significant reflection of anti-immigrant sentiment in the every day lives of immigrants is in the use of legislation to oppose immigration and immigrants. Recently every level of government (local, state and federal) devoted considerable attention to immigration, often at the cost of other important issues. The local and state legislation all too often mirrors or responds to federal policy embodied by decisions from either Congress or the Department of

Homeland Security (DHS) policy, both of which have become characterized by marginalization and criminalization of immigrants. Whether through legislation regulating the workplace, access to social services, the criminal justice system or deportation policy, the Congressional and DHS policies have significant consequences in the quality of life for immigrants directly as well as indirectly through the climate they create. In addition to the federal immigrant-related policies, both Congress and DHS have pursued policies that shift power and responsibility from the federal government to the states.

Between 2005 and 2009 there was an increase from 300 proposed state bills regarding immigrants to 1,500 and an increase from 38 laws to 222 laws enacted during the same period<sup>iii</sup>. These laws address a number of topics regarding immigration including education, employment, social services, law enforcement, licenses and others. These changes have spread throughout the United States with immigrant-related bills under consideration in all 50 states in 2010. In addition to legislation in general, recent trends of numerous states considering restrictive legislation are troubling; at least 15 states are considering legislation modeled after Arizona's SB1070 as well as other punitive measures<sup>iv</sup>. Despite this, the organizing efforts of immigrant advocates and their allies to push against restrictive legislation offers a hopeful possibility for future inclusive policies, or at least the possibility of opposing the most restrictive laws.

In order to better understand the context and motivations for these patterns, two case studies of North Carolina and Georgia show trends in emerging gateway states, where until recently immigrants have not traditionally stayed and created communities. The novelty of immigrant issues in these states is essential to understand how demographic changes, historical and cultural legacy, and economic changes play in both shaping the debate and policy outcomes as measured by enacted legislation. These new settlement trends and the political climate around immigrants are key for understanding the constantly changing politics of immigration throughout the country. This paper aims to document, analyze and explain how the contemporary anti-immigrant backlash has emerged in the US, particularly focusing on restrictionist and criminalizing legislation in two emerging gateway states, North Carolina and Georgia to measure nativism.

## Methodology

Since these aspects of immigration are emerging and constantly changing, I used a variety of methods and sources to piece together the information I needed to write my analysis. I used scholarly and secondary sources, especially for the background research to provide historical context, a theoretical framework and to give background information about my case studies, Georgia and North Carolina.

Additionally I aimed to gain as much first-hand information from those invested and specializing in immigrant related policy; these individuals can be identified by three groups: advocates, community organizers and academics. I considered and contacted a few elected officials to get their perspectives, but their time constraints and the rigor during the legislative session made interviews not feasible. Additionally I wanted to interview immigrants who did not have concerns about talking with me candidly about their opinions as an elected representative.

I used four data sets of information to do primary and secondary quantitative, data analysis. I used data released on March 24, 2011 as a response to the Freedom of Information Act (FOIA) request from the National Day Laborer Organization (NDLON), the Center for



Constitutional Rights (CCR) and the Cardozo Immigrant Justice Clinic, the North Carolina information available in appendix. Additionally I used information provided about the 287g agreements nationwide in December 2010 from the report “DELEGATION AND DIVERGENCE: A Study of 287(g) State and Local Immigration Enforcement.” Using this information I did basic mathematic calculations to understand the trends, explain the results of the programs and characterize each of the state’s programs. I similarly used other charts and databases to summarize information such as the National Immigration Law Center’s (NILC) E-verify summary chart.

I also used a few newspaper media websites to characterize the statewide media portrayal of immigrants. By analyzing the use of the word “illegal,” I sought to articulate how the framework through which local readers would understand legislative activity in Georgia and North Carolina during a week filled with immigration-related political activity.

Since I focused primarily on the policies that influence the way immigrants (temporary permanent residents, refugees and undocumented individuals) live their lives in the US, I chose to approach specialists in this field as well. I wanted to gather local perspectives and a rich data sample through interviews with organizations and immigrants who would understand and be knowledgeable about local realities yet have the capacity and ability to also be familiar with statewide issues.

I also wanted to balance those on the ground perspectives of community organizers with the perspectives of locally connected academics. These professionals provided me with a more historically based perspective. Both of the professors I talked to in GA also emerged from the advocacy field and maintained contacts with community based organizations through participatory immigrant-related research.

In addition to the community organizers and academics, I consulted regional and national immigrant right advocates for a third source. These individuals, such as Arnoldo Garcia of the National Network of Immigrant and Refugee Rights, had been involved with immigration issues for a long period of time and were aware and knowledgeable of a range of topics and a geographic range of the US where policies are influential. Additionally as a result of the nature of working in a network, he is able to coordinate and consult with other community-based organizations and learn about their struggles.

Finally I relied heavily on popular media such as newspaper articles, blogs and advocacy websites to provide me with basic information, instead of academic literature. For example it was not feasible to find academic or scholarly journal analysis of the legislative activity starting in mid-January 2011, much less articles explaining or analyzing legislative activity in April. The inherent time constraints between the legislative activity and the time it would take for an academic writer to gather the necessary information to write an article and then for the article to go through the academic process would not have allowed me to use them.

I had planned to approach representatives from anti-immigrant organizations, but was not able to as a result of deadlines. Though I had a researcher-bias that I did not personally agree with their organizational goals nor personal beliefs, I would have liked to have gained their perspective. I was particularly curious about their assessment of the political climate, their predictions of the future and their motivations for focusing on certain states or specific policies.

## **Part I: Background Research**

## An Early US Historical Perspective

The history of these policy stances show conflicting sides and understandings of the immigration debate, which are reflected throughout the larger history of the US, just as feelings about immigrants have changed. While it is undeniable that sentiments and actions against Native Americans and African slaves are reflective of a deplorable perspective on American history, the early history of nativism began in 1790s with the discrimination and opposition to French immigrants<sup>v</sup>. The passage of the Alien and Sedition Acts in 1798 was a tangible reflection of this. Later in the 1840s and 1850s the emergence of anti-Catholic nativism shifted the anti-immigrant focus<sup>vi</sup>. The large wave of Asian immigration, specifically Chinese immigrants, led to a rise of racial and cultural intolerance and the passage of the Chinese Exclusion Act of 1882. Additionally in the late 19<sup>th</sup> Century opposition to Southern and Western European immigrants led to the passage of the National Origins Quota Act in 1924. After the Mexican repatriation campaign during the Great Depression, significant backlash against Japanese Americans resulted in a government-sponsored relocation and internment. Additionally “Operation Wetback” repatriated over 2.8 million to Mexico including many US citizens after WWII.

The acute economic difficulties during the Great Depression enormously impacted immigration. Not only did the economic hardships discourage immigration so that rates were particularly low, but the number of immigrants who left the country outweighed the number that entered from 1932 to 1935, a historic event that had only happened during the Revolutionary War<sup>vii</sup>. These numbers can be attributed to a worsened social climate in addition to a federal deportation campaign. Mexicans experienced massive layoffs due to economic times, the increasingly mechanized agricultural system and the introduction of non-Latino migrant workers escaping from the Dust Bowl<sup>viii</sup>. Anti-immigrant sentiment motivated groups such as the American Legion and the American Federation of Labor to scapegoat Mexicans and lead attacks, which were complimented or partially encouraged by newspapers. Finally a large-scale deportation program repatriated 400,000 Mexicans, of which an estimated 60% were American citizens<sup>ix</sup>.

To better understand the importance of such a history, it is essential to understand the commonalities between the movements against different ethnic and religious groups in different parts of American history. Regardless of cultural and visible differences between immigrant groups and native populations, there have been “complaints about unassimilability, dirtiness, backwardness, hostility to American values and institutions, sexual immorality and criminality that have been leveled against Irish, German, Italian, Chinese, Japanese and Latinos, as well as Jews and Catholics.”<sup>x</sup> In addition to the content and recurring implications of nativist arguments, there have been commonalities regarding immigrants. Thomas Muller in *Nativism in the Mid-1990s: Why Now?*, identifies several recurring historical themes that explain the anti-immigrant backlash that happened, particularly in the 1840s, 1880s and the 1920s<sup>xi</sup>. He distinguishes three specific underlying causes: “(1) economic uncertainty and job insecurity among the nation’s population, (2) social, ethnic and cultural disparities between new arrivals and the native majority, and (3) a large and sustained immigrant inflow.” Clearly this brief history of anti-immigrant sentiment and action is neither comprehensive nor all encompassing, but it serves to show how prevalent it has been against various immigrant communities and throughout the early history of the US.

## The Changing Face of Immigrants

In order to contextualize the history of exclusion and anti-immigrant sentiment, it is important to understand the history of how different groups of immigrants have migrated to the US. Though the political efforts that limited specific groups of immigrants is essential to understanding the US history of immigrants, this section will focus on demographic changes apart from the legislation that is largely responsible for these changes.

Based on information from INS's 1998 Statistical Yearbook, it is clear that a demographic shift occurred in the total population of immigrants<sup>xii</sup>. While the dominance of immigration from Europe can be observed in the first twenty years of the 20<sup>th</sup> Century during which Europeans made up 91.6% and 75.3% of the total immigrant population in the US, it clearly diminishes over time with Europeans making up 60% of the total immigrant population from 1941-1950 to 33.8% in 1961-1970 and finally 14.9% in 199-1998.

Asian immigrants made up a small portion of the total foreign-born population until the 1960s. The share of Asian immigrants increases dramatically after the 1960s; in the earlier stages the Asian immigrant population stayed between 3.1% in 1931-1940 and 6.1% in 1951-1960 and then rose to 35.3% in 1971-80. More recently the share of Asian immigrants has rose to 37.3% from 1981 to 1990 and then it fell to 30.9% from 1990 to 1998.

The share of immigrants from North America (including Mexico) changed throughout the 20<sup>th</sup> Century. While the share of immigrants from North America was slightly larger than the share of Asian immigrants from 1901 to 1910, it has hovered around 30-40% after 1920. North American immigration increased to 35.9% from 1921 to 1930 then decreased to 28.8% from 1931 to 1940. It later ranged from 32.2% from 1941 to 1950 to 37.5% from 1971 to 1980.

The patterns of immigration can be further understood by a demographic study by Gardner, Robie and Smith in 1985<sup>xiii</sup>. They argue that the changing demographic patterns can be seen through in four stages. Based on census data they found that between 1931 and 1960 immigration was characterized by a high concentration of European (58%) and Canadian (21%) immigration and low immigration from the other parts of the world such as Asia (5%), Latin America (15%) and other (1%). The following period of immigration from 1961 to 1969 involved a significantly higher percentage of immigrants from both Asia (12%) and Latin America (38%). In this period there was also decreased levels of immigration from Europe (38%) and Canada (10%). The expanding share of Asian (34%) and Latin American (41%) immigrants expanded as well as the decreased share of Canadian (3%) and European (19%) immigrants from 1970 to 1979. Finally from 1980 to 1984 these trends were expanded further with a further increasing share of Asian (48%) and Latin American (35%) immigrants and fewer immigrants from both Canada (2%) and Europe (12%).

## Theory of Nativism

To truly comprehend the emerging trends in public opinion, media, politics and legislation it is essential to first establish a framework to understand what nativism has meant historically and its new characteristics. As a result of the visible nature that might separate non-white immigrants from native-born white Americans, an informed definition of nativism should encompass elements of race, culture, class and legal status. As Joe Feagin wrote "by the 1830s and 1840s, negative ethnocentrism took on a distinctly American form that was given the name *nativism*... At the same time, [as many profited from immigrant labor] many Americans viewed

the new immigrants as a major threat to the nation's Anglo culture and institutions.<sup>xiv</sup> Nativists' fearful view about the perceived danger of immigrants is coupled with a defensive attitude. As a result of the combination of these beliefs, immigrants are separated from the general population and looked down on. As an indignant perspective inevitably divides and separates Americans, "nativist movements and the legislation they spawn seek the ritual purification of American society, the separation of those who belong from those who do not. The majority enhances its status as the 'real' Americans, those who belong and rejects those currently deemed threatening to American values"<sup>xv</sup>. New developments with nativism are also inevitably related to the changing face of America and the global forces that lead to immigration. As Leo Chavez explains, "Immigrants, it is said, are harbingers of a 'nonwhite majority,' multiculturalism, and an end of English dominance. As a consequence, they are depicted as posing a threat to the fiction of the 'national culture' and the nationalist order of society."<sup>xvi</sup>

The cultural threat posed by immigrants is also influenced by American changing conceptions of race and cultural identity groups. Though nativism was related to eugenics and racism in the 19<sup>th</sup> Century, during the mid-20<sup>th</sup> Century race based understandings shifted away from biological or genetically inferiority and class standing towards the "concept of group status"<sup>xvii</sup>. As a result of a combination of economic, social and cultural factors, conditions worsened and led to a schism in the quality of life between minority groups and whites. Since it was no longer socially acceptable or academically valid to point to science and race as an explanation of this segregation or inequity, oftentimes organizers, advocates and academics scapegoated immigrants, particularly those that were unlawfully residing in the US. Many believed and continue to believe that economic troubles are due to undocumented immigrants consuming an unfair portion of resources.

As the immigration debate framework shifted to economic costs and benefits, political efforts like those by then California Governor, Pete Wilson in 1993 to retrieve funds used to provide social services to undocumented residents highlighted the state's share of the local price of the immigration<sup>xviii</sup>. Leo Chavez aptly describes how "to be 'immigrant' today is tantamount to being a 'cost' to society, a cost that must be reduced if the nation is to get its house in order and balance its budget. In the discourse of contemporary social services, immigrants have become the less moral, undeserving, and threatening Other in society."<sup>xix</sup> Arnoldo Garcia, the Program Director of the Immigrant Justice & Rights Project from the National Network for Immigrant and Refugee Rights, further explained the phenomenon:

*So this thing about how you look at the [strategies] anti-immigrant movement uses—I think the most alarming and very effective one has been twofold. First they have banked white privilege and white anxiety around the change in the country cause there's a demographic one that is happening in this country. And the second one is how the Raegonomics agenda...how they have been able to sell that to the US working class and the middle class-people about how to solve the problem and what policy comes out of that...that they've been able to, very well I think, to convince the electorate, in particular and whites in general that [to blame immigrants for economic cutbacks] is the solution ...you then privatize rights in other words. You can have housing and clean water, and clean air, but you're gonna have to pay for 'em."<sup>xx</sup>*

One important contributing aspect of this divisive understanding is the inevitable way that individuals are grouped together, regardless of whether they embody the offensive characteristics or not. Chavez explains how this pattern also relates to nativism as a concept: "what is new in the 'new' nativism, perhaps, is the extent to which immigrants, even those who are legal residents

and citizens, are being re-imagined as less deserving members of the community.<sup>xxi</sup> Thus current anti-immigrant sentiments encompass understandings of class, immigration status, race, socio-economics and culture.

## The Contemporary Anti-Immigrant Movement

The anti-immigrant movement is made up of different groups and individuals with different constituencies and different motives. Some individuals, who seize the political moment and anti-immigrant messaging for political goals, are isolated political figures. Other anti-immigrant political figures have significant power and have been influential in local, state and national immigration control, such as Kobach. Interest groups such as nativist extremist groups and hate groups are not motivated by explicit political goals, though they can influence the political process. Other groups such as Federation for American Immigration Reform (FAIR), Center for Immigration Studies (CIS) and NumbersUSA have explicit political motivations and significant political pressure. All of the groups try to influence the mainstream through a combination of public demonstrations, websites and publications. Despite the discrepancies in explicit and ultimate goals as well as their tactics, there is significant overlap in the actions and constituencies of the groups. A more in depth political and ethnographic research would be helpful to better understand the varying role each of the political players have and how they relate to one another. That said, it can be argued that together the different groups and players converge to form the anti-immigrant movement, which has been successful in influencing the political discourse, public perception of and policies around immigrants.

## Interest Groups

The current conservative, oftentimes racist and nativist movement is a combination of many political elements. According to Heidi Beirich, the director of Immigrant Justice program of the Southern Poverty Law Center (SPLC) the current anti-immigrant climate can be attributed to two main trends between organizing groups and anti-immigrant advocates: the rise of hate groups recruiting members by using anti-immigrant messaging as well as the rise of new nativist extremist groups<sup>xxii</sup>.

The most recent hate group statistics from the SPLC available show this growth; the number of active hate groups expanded from 602 in 2000 or 888 in 2007 to 1,002 in 2010<sup>xxiii</sup>. These groups are not geographically limited to a certain region of the US; in fact there were active hate groups in 48 states and nativist extremist groups in 44. This is understandable since the threat of the current demographic changes is oftentimes a powerful recruiting message, which is ultimately driven by immigration. Beirich explained, "The impacts of immigration [have] shifted the rhetoric of hate groups to being one where they are drawing people into the movement by immigration messages". Clearly the success of recruiting based on anti-immigrant messaging shows that there is a growing hostile consensus throughout the country.

Simultaneously a large number of new nativist extremist groups have surfaced around the country. Though the groups such as American Patrol or California Coalition for Immigration Reform had roots with the battle over California's Proposition 187, which sought to restrict immigrants' access to public benefits such as education or border issues, they have shifted their focus nationwide. Most relevant about the nativist extremist groups is their tactics; instead of advocating for the eradication of the Latino population, they are using defamation techniques to promote negative stereotypes. Additionally Beirich explained, "they are pursuing activities that

target the immigrants themselves, not the policies of immigration.” These groups often engage in activities including filming or confronting immigrants at day laborer sites as well as threatening immigrants on armed border patrols.

There is not a strong consensus on the importance of these two groups; while some say their very existence signals larger cultural problems, others belittle them by characterizing them as a disjointed minority group of extremists. Beirich explained:

I wouldn't say [the growing hate groups] have a massive impact on mainstream politics. In other words, you don't have that many people that nowadays believe in segregation or believe that the white race should rule...So even though there are even more hate groups than there ever were they are pretty isolated from mainstream society—it's not to say that every so often some of their ideas don't leak into the mainstream. That's not as true of those nativist extremist groups that I was talking about.

She pointed to both the failed comprehensive immigration reform efforts in 2007 with the influential group NumbersUSA as well as the 2008 Republican primary as examples when nativist extremist groups have had a large influence on policy and politics. Later during the 2008 Republican primary the nativist group, CIS drafted a policy template to define the candidate's views on immigration. The restrictionist values were articulated in the template and ultimately every single candidate signed it. She remembered that some candidates even spoke out in favor of Minutemen actions and that there was a “real turning of the GOP to a harsh immigrant stance.”

Beirich believes the racial and cultural changes inevitable with demographic changes are largely responsible for these new trends. In a very blunt way she explained: “well look, there are people in this country that are not prepared to handle the change [in the US as a result of immigration], you know like hearing Spanish on a regular basis...they are extremely culturally conservative and this stuff is upsetting to them and they don't wanna have it happen—that's face of the anti-immigrant movement. It tends to be older; it tends to be whiter. It tends to be more rural.” Since their fears tend to be based on emotions, perceptions and cultural differences, Beirich believes that more straightforward framing of immigration in terms of economic benefits and overarching causes of international immigration are not appropriate or effective.

## Political Groups

In addition to these interest groups such as the nativist extremists and hate groups, there has been a rise in political organizations that work inside and outside of the political structure to advance anti-immigrant legislature. According to a SPLC report released in February 2009, three groups form the underlying structure of the anti-immigrant organizing: Federation for American Immigration Reform, Center for Immigration Studies and NumbersUSA<sup>xxiv</sup>. While each group has a different focus and different leaders, all are connected through John Tanton, who has many connections to white nationalists, anti-Semitic and anti-immigrant sentiment.

FAIR was founded in 1979 by John Tanton and has been associated with connections to anti-Catholic, anti-Latino and anti-immigration sentiment. One of the most poignant public statements of Tanton explaining his political goals with FAIR was to protect “a European-American majority, and a clear one at that”<sup>xxv</sup>. Perhaps its most well known controversy was in accepting \$1.2 million grant funds from the Pioneer Fund, an organization whose key leaders that also are very involved in white supremacy organizations, which was established with the goal of “race betterment” and to “promote the racial stock of the original colonists”<sup>xxvi</sup>. In a

series of leaked internal memos Tanton defamed the Latino and immigrant community warning of a “Latino onslaught”, and that they would “bring with the tradition of the *mordiba* [bribe], the lack of involvement in public affairs”<sup>xxxvii</sup>. Additionally he questioned immigrants’ “educability” and worried that in response to the growth of the Latino population “the present majority [would] hand over its political power to a group that is simply more fertile”. In addition to its founder FAIR has many ties to other anti-immigrant organizations such as the Council of Conservative Citizens and Save Our State which was famous for not distancing itself from the neo-Nazi skinheads that would frequently attend their events<sup>xxxviii</sup>. In spite of all these problematic views and attitudes, FAIR is given credibility by the media and was quoted more than 500 times in 2008<sup>xxxix</sup>.

CIS is a think tank that identifies itself as an “independent” organization with a “pro-immigrant” but “low-immigration” perspective<sup>xxx</sup>. Many of their reports blame immigrants, but use faulty evidence or manipulate facts to reach their conclusions. Angela Kelley of the Immigration Policy Center has debunked many CIS reports and explained “‘CIS’ attempts to blame immigrants for all of the U.S.’s problems have been laughable...it is clear that CIS is not interested in serious research or getting the facts straight.”<sup>xxxi</sup>. FAIR often uses CIS reports in an effort to legitimize their lobbying; in fact, Tanton wrote that it is important that CIS is seen as distinct from FAIR, though its very creation and the reports it creates was intended “for later passage to FAIR, the activist organization, to remedy”<sup>xxxii</sup>. For example the report “Employment Down Among Natives in Georgia: As Immigrant Workers Increased, Native Employment Declined in Georgia” from June 2007 tried to connect the expansion of the immigrant population in the late 1990s with a loss of jobs for native workers<sup>xxxiii</sup>. In reality unemployment levels for native-born Americans were very low after 1997 and a study by Jeffrey Humphreys from the University of Georgia explained that the immigrant community actually facilitated economic growth for the entire state.

NumbersUSA is an organization that cites environmental and poverty issues as justification for restricting immigration<sup>xxxiv</sup>. Though the group has tried to distance itself from Tanton and FAIR, it began as a program of Tanton’s U.S. Inc. and has consistently hired individuals with problematic organizational affiliations. For example Roy Beck the head of NumbersUSA worked side by side with Wayne Lutton who has held leadership positions in four white supremacist hate groups<sup>xxxv</sup>. While Beck himself has denied any racist ideology and the NumbersUSA website is consistent with this, his association with many individuals with problematic perspectives raises concerns about the underlying goals of the organization.

Another element to the anti-immigrant movement is political individuals, some of who have connections to these groups are gaining power and are being re-elected. The most prominent example is Chris Kobach, who was recently re-elected as the Kansas Secretary of State and is responsible for writing most well known anti-immigrant legislation SB1070 from Arizona, and local ordinances in Hazleton, PA Fremont, NE, Farmers Branch, TX and Valley Park, MO<sup>xxxvi</sup>. Kobach himself has been at the center of the legal jurisdiction battle over local and state law enforcement of immigration law. After receiving a prestigious White House fellowship with the Bush administration, he was responsible for a controversial memo in 2002 asserting the power of local police to enforce immigration law as well as the streamlining of the Board of Immigration Appeals that was seen as an effort to rid the board of pro-immigrant judges<sup>xxxvii</sup>. Kobach is additionally connected to FAIR as a policy analyst and the senior counsel to the Immigration Reform Law Institute (IRLI), the legal arm of FAIR starting since 2004<sup>xxxviii</sup>.

The political activity involved in passing such anti-immigrant ordinances has significant consequences for social and community wellbeing as well as economic costs. While each ordinance is slightly different, all of the ordinances involve harsh punishments for businesses that employ undocumented workers and for landlords that rent to undocumented residents. All of the policies have had polarizing and divisive consequences. For example, in the public town hall debates one resident expressed support for the anti-immigrant ordinance saying without it “we will be forced to defend ourselves by any means necessary”<sup>xxxix</sup>. The economic consequences for these restrictive policies are staggering: legal fees alone have ranged from \$270,000 in Valley Park and \$750,000 in Fremont to \$2.8 million in Hazelton and \$3.7 million in Farmers Branch<sup>xi</sup>. According to ColorLines, a civil rights organization involved in the AZ boycott, the lost revenue from cancelled conventions venue and hotels is \$45 million, but lost revenue from complimenting industries such as restaurants and traveling or transportation costs could raise the cost up to \$141 million<sup>xii</sup>. Many city governments decided to officially boycott Arizona including Los Angeles, San Francisco and Saint Paul-Minneapolis<sup>xiii</sup>. Additionally many corporations canceled conventions with an estimated cost of \$141 million in direct spending. In order to balance the costs of these policies, many local governments have had to cut services such as outsourcing the public library in Farmers Branch<sup>xiii</sup>. Fortunately the drastic consequences of these ordinances, which have not been upheld in the courts, has convinced other cities to reject this approach such as local governments in Albertville, AL and Tomball, TX<sup>xliv</sup>. For a visual representation of the timeline of these events number x see in appendix.

In addition to these groups and individuals, the State Legislators for Legal Immigration (SLLI) form the final piece of the anti-immigrant political organizing structure. The group perceives problems such as the “increasingly documented incidences of homicide, identity theft, property theft, serious infectious diseases, drug running, gang violence, human trafficking, terrorism and growing cost to taxpayers” as a result of “illegal aliens” (Attacking the Constitution<sup>xlv</sup>). Additionally the founder, R PA State Rep Daryl Metcalfe, worries about “the personal and economic safety” of all Americans endangered by “the ongoing invasion of illegal aliens”..

Most recently the group has been responsible for the rise of attacks on birthright citizenship and the 14<sup>th</sup> amendment; Metcalfe equates mixed-status families as problematic with saying that undocumented parents are “living the [lives] of criminal[s]” and therefore should be separated with their children and frequently calls their US born children “anchor babies”. The legitimacy of the term, “anchor babies” is quite superficial since US born children would not be eligible to petition for their parents’ citizenship until their 21<sup>st</sup> birthday and their parents would have to return to their country for at least 10 years according to the Pew Hispanic Center. Additionally this process is further complicated by recent Congressional legislation under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which is explained Part Two: Recent Congressional Legislation.

SLLI has membership that includes 65 men and women from 40 different states across the country, in different parts of government and four have leadership positions<sup>xlvi</sup>. Six states have more than three members: WV with five members, CO and OK with four members, and FL, MO and NH with three members. Additionally nine states have two members (AL, AZ, ID, IN, MD, MT, NE, TX, WA) and states have one member (AR, CA, CT, DE, GA, IA, IL, KS, KY, MA, ME, MI, MN, MS, NC, NJ, NY, OH, OR, PA, SC, SD, TN, UT, VA). See chart in



appendix for further information the branch of government in which they work (ie House of Representatives, State Senators, State Assembly, House of Delegates).

Interestingly enough, a blog post written by Color Lines explains how influential national think tanks such as Center for American Progress, National Immigration Forum and Nation Council La Raza shifted their emphasis after the 2007 failure of comprehensive immigration reform to addressing the institutions (FAIR, CIS and NumbersUSA) responsible for providing hateful messages that have shifted the comprehensive immigration reform debate. Most importantly, instead of addressing the socio-economic and political factors that facilitate the reception of anti-immigrant messaging, the immigrant advocacy organizations sought to delegitimize the anti-immigrant groups such as FAIR, CIS and NumbersUSA. Tom Barry from Border Lines argued that the reform message must be further developed so that is accessible and understandable to the general public<sup>xlvii</sup>.

All of these forces work together to create the political and social climate, characterized by an anti-immigrant perspective. The anti-immigrant movement is not limited to a few extremist individuals but rather a movement that has a sophisticated model with many sources and different players.

### Immigration Jurisdiction

Nativist groups and individuals are able to expand their power when they are able to oppose immigrants and immigration through law. Throughout American legislative history tension and conflict have existed between the different levels of government with regards to shaping and implementing both immigration policy as well as policy regarding the treatment of immigrants living in the U.S. Until the late 1800s cities and states possessed the power to regulate immigration, which mostly consisted of the exclusion of unwanted immigrants such as criminals, beggars or those with contagious diseases<sup>xlviii</sup>. Though the Supreme Court established that the federal government had ‘plenary power’ or the sole authority over the creation and enforcement of immigration policy in the late 1800s, it has been challenged repeatedly. In the case *Chae Chan Ping v. United States* the court ruled that the exclusion of a Chinese resident in 1889 based on the recently passed Chinese Exclusion Acts was within the bounds of the government’s power. That said, the justices argued that local governments do not possess that power. The Court wrote, “[the federal government] is invested with power over all the foreign relations of the country, war, peace, and negotiations and intercourse with other nations; all of which are forbidden to the state governments.<sup>xlix</sup>” One of the most important conclusions from the ruling was not only how the two levels of government relate to one another, but also how the federal government has the power to overrule state and local policies on “preemption grounds”. Varsanyi in *Taking Local Control: Immigration Policy Activism in US Cities and States* further explains how preemption grounds allow the “federal government [to] fully [occupy] the field’ of immigration and naturalization.” States, on the other hand are given the opportunity to make decisions that impact immigrants living in their jurisdiction<sup>1</sup>.

In spite of the federal government or Congress’s superior power with regard to immigration policy, the relationship between the national government and the state or local level is further complicated by the criteria for naturalization<sup>li</sup>. Until the 1850s Congress did not articulate norms for naturalization and therefore states created their own rules. Restrictions such as head taxes and “pauper migration” on immigration at ports of entry such as New York or Massachusetts impeded the ability of states further from the ports of entry to recruit immigrants

as workers. After the 1850s court cases reaffirmed the federal government's plenary power and addressed related issues such as an alien's right to terminating state-level head taxes in addition to immigrant due process.

State and local governments policies are further regulated by efforts to protect individuals from discrimination; when localities decide to assume the power to create immigration policy, immigrants have certain protections. In other words when they create laws that regulate the "treatment of noncitizens in the United States with respect to matters other than entry and expulsion," laws are forced to abide by the standards of the constitutional norms such as the Fifth Amendment's Due Process Clause and the Fourteenth Amendment's Equal Protection Clause<sup>lii</sup>. By upholding these principles, governments are required to treat "immigrants as people". Recent efforts to undermine or challenge the Fourteenth Amendment, most prominently occurring in Arizona strive to separate the US born children of undocumented parents from children born of US citizens by issuing a "special, 'second class' of birth certificate – which would imply that Arizona does not consider them true citizens of the state."<sup>liii</sup> Though that bill was ultimately defeated, the anti-immigrant efforts to undermine the legal framework of immigrant rights have reached a very high crescendo. For further analysis of recent legislative efforts to exclude, punish and criminalize immigrants see the Recent Congressional Legislation section.

This is in stark contrast to the way states and local governments treat immigrants as "aliens" or "nonpersons". The results of the Plyer v. Doe case in 1982 articulated governments should uphold an "equal protection standard" in legislation regarding noncitizen residents<sup>liv</sup>. On the other hand, implicit in the federal government's plenary power is the authorization the treatment of "people as immigrants" like the exclusion of the Chinese worker and therefore individuals become "aliens" or "nonpersons", who are not granted Constitutional protections. These competing legal perceptions of immigrants pose a difficult balancing act; Supreme Court justice John Paul Stevens explained, "In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens." Despite these complications and many controversies in the early history of the US, the federal government did not create a national immigration system or the Bureau of Immigration until 1891<sup>lv</sup>.

The history of immigration jurisdiction is further complicated by the continuing erosion between the federal and state level policies as exemplified by the varying access of driver's licenses to undocumented immigrants.

After the terrorist attacks of September 11, 2001 there was a widespread connection between terrorism or national security threats and driver's licenses, since a driver's license was the form of identification that the plane hijackers used to board the plane. Though the 9/11 Security Commission found that the hijackers had entered the U.S. lawfully and had valid ids, these fears were seized upon to change policy. In addition to factors related to 9/11, some scholars point to efforts by Juan Hernandez as the director of the Office of Mexicans Abroad to accept Mexican driver's licenses as proof of id. Even though this fearful climate led to policy changes regarding unauthorized immigrants' access to driver's licenses, the burden fell on authorized immigrants to confirm their immigration status<sup>lvi</sup>.

The REAL ID Act of 2005 passed as a part of Emergency Supplemental Appropriations Act funding Iraq war and tsunami relief and set the standard for all 50 states in May 2008<sup>lvii</sup>. The act mandated that the only acceptable foreign id is a passport to confirm a noncitizen's

identity according to the federal government standards. Additionally if states don't comply with the standard, all ids from that state must show a defining characteristic that allows others to understand that they cannot be accepted as a federal government approved id.

Though the federal government set guidelines to change the way state DMVs operate, few states have explicitly resisted this change in their policies. The two exceptions to this rule are New Mexico and Washington<sup>lviii</sup>. Unfortunately Arnoldo Garcia explained that police in nearby states use license plates from those states as an indication of immigration status, so that discrimination and racial profiling occurs as a response to their driver's license policies. Despite these progressive policies, there were efforts recently to challenge and undermine these policies. Additionally 19 states passed legislation or resolutions expressing opposition to this federal policy as of Jan 2009<sup>lix</sup>. The line of responsibilities and rights between the federal and state governments has been long debated and complicated.

### Pro-Immigrant Organizing

While the anti-immigrant movement has largely shaped the hostile political and social climate around immigrants, there have been many movements to include and welcome immigrants such as the sanctuary movement. In response to the civil wars in many Central American countries, particularly Guatemala, Nicaragua and El Salvador during the 1980s, many men, women and families immigrated to the U.S. to escape the violence. By 1990 an estimated one million immigrants from those three countries had crossed the border and were living in the US<sup>lx</sup>. As a result of changes to immigration under the 1980 Refugee Act, individuals applying for amnesty had to prove that they were singled out and specifically had a "a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion."<sup>lxi</sup> The federal government argued that individuals fleeing these Central American countries were fleeing economic situations not political ones, and therefore should not be granted asylum. It was found that less than 3% of Salvadorans and Guatemalans refugee applications from 1983 to 1990 were approved. Additionally the Reagan administration opposed granting those countries an Eventual Voluntary Departure (EVD) status so that individuals would be allowed to stay in the US until the situation in their home country improved. Additionally the administration argued that they did not believe that refugees would face threats to their lives upon returning to their home country and the sheer size of the group made such an action unfeasible<sup>lxii</sup>.

Community activists such as Jim Corbett and groups such as Proyecto Libertad, El Rescate and the Central American Refugee Center (CARECEN) opposed these stances and created a social network and system to help refugees<sup>lxiii</sup>. Religious leaders and immigrant rights advocates provided resources "safe houses" throughout the country like the Underground Railroad. Despite criticism and active opposition from the FBI, IRS and other government agencies including the indictment of sanctuary movement workers, leaders believed they were doing the "moral" thing to oppose government policies<sup>lxiv</sup>. Father Thomas Davis described this motivation poignantly when he was arrested by the Border Patrol, "I felt we had a special obligation to these people. You have to do something as a Christian. We were caught between the laws of man and the laws of God. I chose the laws of God."<sup>lxv</sup> The sanctuary movement led to a social and political climate that eventually created legislation that gave many Central Americans the opportunity to become permanent residents in the late 1980s<sup>lxvi</sup>. More recently groups like Humane Borders have emerged that explicitly address the humanitarian needs of border crossers by setting up several hundred-water stations near the US-Mexico border<sup>lxvii</sup>.

# Part II: Recent Congressional Legislation

## Introduction

As these examples of the US early history show, there have been numerous efforts to include and exclude immigrants. In contemporary legislative history with a few exceptions, legislation falls within a relatively narrow and restrictive range. For the most part, following the pro-immigrant victory with the end of the quota system in 1965 the recent immigration policy has been characterized by attacks on the rights of U.S. immigrants.

As growing concerns over the costs and benefits of immigration emerged, the perception of immigrants shifted the current debate and limited the potential policy. The common perception of immigrants as criminals or as individuals who slothfully use public benefits or who take American jobs has set the context and led to an assault on immigrant rights. Through a reciprocal relationship between the perception and debate about immigration and immigrants with the policy and enacted legislation, a distinct trend to criminalize and marginalize immigrants emerged.

While the response to Congressional legislation varied from state to state, much of the current perspectives and policies built off of decisions made at the federal level during the 1980s and 1990s. The protections and rights of immigrants were challenged on many levels and the threats to the wellbeing of immigrants were leveled within the realms of social services and policing. According to Arnolando Garcia from NNIRR,

*There's no such thing as immigrant rights—you know there's civil rights, social rights, there's children's rights, cultural rights, there's political and economic rights, there's women's rights, LGBTQ rights, and so forth but there's no such thing as immigrant rights...it became a shorthand saying for civil and labor rights for those people that were not born in the US...so a lot of our struggles have taken the shape of fighting for civil rights and labor rights. And that's where we're at right now.<sup>lxviii</sup>*

This perspective clearly articulates the intersecting nature of universal human rights such as the protections of all workers or people with the rights of the immigrant community specifically. By acknowledging the overlap between civil rights and immigrant rights, Garcia explains that many of the current attacks on so-called immigrant rights can and will be used to exploit all members of American society.

While many trends, such as the denial of social services or problematic law enforcement practices, have a historic precedent, the contemporary trend to codify the marginalization and criminalization has been taken to extremes. Additionally as a result of new legislation, immigrants are (often retro-actively) subject to stricter penalties for more crimes and consistent with the view of immigrants as expendable, therefore easier to deport.

The legislation was also influenced, motivated and justified by the perception of immigrants as less deserving and unlawful individuals by academia and the media. John Dilulio, a professor from the University of Pennsylvania and a Brookings Institute Fellow elaborated the perception of immigrants as criminals<sup>lxix</sup>. Dilulio's predictions of a generation of "wolf-pack" of "fatherless, godless and jobless youth" coupled with the additional warning that individuals with a low IQ would not respond to rehabilitative or preventative punishment tactics led to the myth of the super-predator. Popular media further perpetuated this stereotype and belief of gang members and gang-related crime. In order to better understand how the most recent

Congressional legislation sets a context for anti-immigrant efforts across the country by local, regional and national organizations, this section will delve into the legislative activity from the 1980s to the 2000s.

### **Congressional Legislation and Policy**

The first major event in recent history was the repeal of the Immigration and Nationality Act (INA) in 1965. In 1965 amendments to the INA ended the quota system, under which limits were given to number of immigrants admitted from different geographic regions and countries<sup>lxx</sup>. Despite the expectation that the resulting demographic changes would be reflected mainly in the previously restricted Southern and Eastern European populations, the greatest changes were among the immigrants from Latin America and Asia. Instead of significant geographic restrictions, new standards for immigration were family reunification and scarce occupational skills<sup>lxxi</sup>. As a result of the new priorities the number of professionals from Asia as well as documented and undocumented immigrants from Mexico and other Latin American countries soared.

### **Refugee Policy**

The history of refugee policy is a long and complicated one, but is in its essence a reflection of other restrictive trends that are happening around immigration policy at large. With the Refugee Act of 1980 Congress authorized many changes to refugee policy. Before the changes, refugee policy was largely based on Cold War priorities left over from the 1950s and 1960s<sup>lxxii</sup>. The law regulated the number of refugees admitted, with the flexibility to adjust depending on crises<sup>lxxiii</sup>. More specifically it established a “normal flow” of immigrants at 500,000 per year with the ability of the president and Congress to collaborate to decide whether to surpass that level<sup>lxxiv</sup>. In contrast to earlier periods when potential refugees were excluded and ignored, advocates were more successful in reversing inconsistent policies in modern history; arguably the most tangible success of their advocacy was the creation of more consistent standards especially for temporary protection of persons fleeing conflict applications<sup>lxxv</sup>.

As briefly explained with regards to the sanctuary movement, asylum seekers in the US are required to meet certain qualifications to become refugees. Since they are judged on the believability of their claim for asylum and the likelihood that they would be persecuted upon return to their home country<sup>lxxvi</sup>. First they must prove that they have “credible fear of persecution” meaning that they must prove to an officer that there is a “significant possibility” that the immigrant could have the “well-founded fear” need to qualify for asylum<sup>lxxvii</sup>. The qualifications a “well-founded fear” have changed significantly over time, but are currently defined as

“(A) The applicant has a fear of persecution in his or her country of nationality or, if stateless, in his or her country of last habitual residence, on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) There is a reasonable possibility of suffering such persecution if he or she were to return to that country; and

(C) He or she is unable to or unwilling to return to, or avail himself or herself of the protection of, that country because of such fear”

under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which is explained in the Criminal Justice section<sup>lxxviii</sup>. Many immigrant advocates have criticized this

process, especially with regards to expedited and stipulated removal orders since the first step in the asylum process, the assessment of “credible fear” is often determined by a low-level officer. For further information on both of these removal processes, see the following section Civil Rights Post 9/11.

The two principal sources of funding assistance for refugee resettlement were reception and placement grants from the Department of State to voluntary agencies for short term needs as well as grants from the Office of Refugee Resettlement in Department of Health and Human Services to state offices for longer term needs<sup>lxxxix</sup>. Thus the creation of government-led refugee assistance programs and the expansion of social services for refugees were implemental in furthering the demographic shifts that occurred in the 1980s and 1990s. For further information see the Demographic Shifts section.

### Workplace Regulations

The workplace dramatically changed for immigrants with the passage of the Immigration Reform and Control Act (IRCA) in 1986. IRCA prohibited employers from “knowingly” hiring undocumented workers, and it also created an amnesty program that allowed many workers to regularize their immigration status. As a result of the time it took to process the legal documents, there was a time lapse before its effects were felt. It was estimated by the US Immigration and Naturalization Service that 2.3 million Mexican immigrants were granted legal documents between 1987 and 1990<sup>lxxx</sup>. Since many states expressed concerns about the costs of a widespread legalization program as well as the costs of caring for these immigrants, Congress created State Legalization Impact Assistance Grants<sup>lxxxii</sup>. The legalization of a large number of Special Agricultural Workers (SAWs) gave immigrants the flexibility to travel back and forth to their home communities, largely in Mexico<sup>lxxxii</sup>. David Griffith’s research throughout the Midwest and Southeast with H-2 workers points to IRCA as a significant event with regards to the demographic shift, since interviews showed that newly legalized immigrants informally recruited workers after IRCA traveling back and forth.

The legalization of this large group, coupled with economic and other governmental policy, resulted in a very significant demographic shift from California to other states. For further analysis of this demographic shift see the Domestic Migration section.

As a result of IRCA all employers were required to confirm the legal status of their potential workers with the exception for employees are only hired for three days<sup>lxxxiii</sup>. This legal loophole furthered the development of the informal sector and the prevalence of immigrant day laborers as evidenced today. One of the most pressing issues surrounding IRCA is its enforcement; it did not clarify how employers were supposed to confirm their potential employees’ legal statuses. Additionally the mixed response from different levels of government resulted in varied enforcement levels. The different levels of immigration law enforcement created a “jobs magnet” where employers in many low-skill work sectors have driven down wages to compensate for potential sanctions as a consequence of IRCA, which are often seen as a business expense.

Ironically enough IRCA was framed as a response to problems faced by immigrants such as wage theft and unsafe working conditions. In reality these problems that largely stem from a unbalanced power dynamic in the workplace where immigrants are not empowered or permitted to speak out against abuses. Many immigrant and civil rights advocates criticized IRCA claiming it would result in discrimination<sup>lxxxiv</sup>. Despite many anti-discrimination provisions

around the basis of citizenship status and national origin, a 1990 GAO report explained a ‘serious pattern of discrimination’ and legislation in 1990 sought to address immigrant advocates’ concerns by creating a cause of action for workers who were subject to employer demands that exceeded the required documents per IRCA’s regulations and increased penalties for production, use and sale of fake documents.

IRCA did not establish an adequate work authorization certification program. Instead, it created a piecemeal system named the Basic Pilot system involving many processes and documents. Despite problems and against warnings of experts, the Basic Pilot system was expanded to all 50 states in 2002. Later in 2005 an online program was developed and was re-named “E-Verify” in 2007 to improve its image. Based on a National Immigration Law Center report in 2007, there were an estimated 1.78 million Social Security Archives with errors in either name, date of birth, or citizenship status. Additionally 70% of the 1.78 million mistakes represent the records of U.S. citizens.

Despite IRCA’s guidelines, states have differing levels of what and who is required to use the system. As of January 2011, there were numerous laws in place that require the use of E-verify for either one or a combination of the following entities: public agencies, public contracts and all employers. According to an E-verify summary chart created by NILC, there were three states (ID, NC and VA) that required public agencies to use E-verify<sup>lxxxv</sup>. There were also nine states (FL, GA, MN, MO, MS, NE, SC, UT, OK) that required the use of E-verify for public agencies and public contracts. Finally there were four states (AZ, MS, SC, UT) that required the use of E-verify for public agencies, public contracts and all employers. Two states required E-verify and then relaxed their regulations. Rhode Island’s governor revoked the state’s requirement to use E-verify for all three employment areas, whereas in Oklahoma the provision to require all employers to use E-verify was struck down.

Additionally there are many cities and counties that provide their own requirements for employment verification. The city regulations created by local ordinances either strengthen existing statewide provisions such as in Fremont, NE where the state requires E-verify for public agencies and public contracts and the city requires verification of all employers, or provide the only regulation of worker verification in the state such as in Decatur, Alabama where E-verify is required for public contracts and public agencies.

In response to the criminalization of immigrant workers, workplace raids were developed as strategy of enforcement. In 1998 INS officials signaled a shift away from workplace raids<sup>lxxxvi</sup>. Though it was at least partially in frustration of the ineffectiveness of employer sanctions, the process continued even after verification systems had been further developed. In fact, from 2002 to 2006 the workplace immigration enforcement expanded so dramatically that the number of arrests as a result of workplace raids increased more than seven times, from less than 500 to more than 3,600<sup>lxxxvii</sup>. This trend has only expanded; it was estimated that in the first ten months of the 2007 fiscal year there were more than 3,600 administrative arrests. Most recently there has been a shift from very public and visible large worksite raids to more frequent and clandestine raids of smaller workplace, which has been documented by many community groups such as NNIRR.

Many believe the current strategy of deporting immigrants through worksite raids has significant humanitarian concerns. A report from NCLR and the Urban Institute published in 2007 states that of the 9.3 million undocumented working-age adults, almost half or 48% have children<sup>lxxxviii</sup>. Of these children it was estimated in 2005 that almost two-thirds or 64% were

U.S. born citizens<sup>lxxxix</sup>. It is clear that as a result of the prevalence of mixed-status families and small children with undocumented parents, mass deportation of workers could have dramatic consequences.<sup>1</sup> Additionally as Garcia explained, trends around workplace raids have shifted away from high profile ones where “dramatic armed men, usually dressed in black with body armor and high-powered weapons, arriving en masse” have diminished significantly, but large-scale deportation has not.

## Social Services

In addition to the threat of immigrants taking American jobs, the narrative of immigrants taking advantage of generous American public benefits was and is a messaging strategy that has encouraged the criminalization and marginalization of immigrants in law.

Prior to the passage of several pieces of legislation in 1996, an individual’s immigration status was not considered a basis to deny someone’s access to federal benefit programs<sup>xc</sup>. Though the courts had ruled that Congress could make distinctions between groups based on their immigration status, no federal benefit program denied access based on status. In the mid-1990s the main motivation behind efforts to restrict legal immigrants’ access to public benefits was financial, though there was concern about the ability to successfully provide services to immigrants with lower skills and wages<sup>xcii</sup>. This concern was largely based on the surge in enrollment in Supplementary Security Income, a need-based program that many immigrants were encouraged to apply to since they were barred from regular Social Security payments that operates based on work experience.

Personal Responsibility and Work Opportunity Reconciliation Act (PROWA) severely restricted the access of immigrants to public benefits such as cash assistance, job training, nutritional and health care assistance<sup>xciii</sup>. After anti-immigrant sentiment was codified in the passage of California’s Proposition 187 (though it was found to be unconstitutional), anti-immigrant advocates allied with anti-welfare groups in a push for welfare reform. PROWA, which famously “ended welfare as we [knew] it,” gained bipartisan support. It was estimated that around 44% of the budgetary savings as a result of PROWA were a result of cuts to legal immigrants and refugees. This criminalization of authorized immigrants contradicts the mantra of the anti-immigrant movement that the main problem is with undocumented immigrants.

Since eligibility of programs was applied retroactively, advocates protested that many needy immigrants would be removed from the SSI rolls and that many of them would not be able to pass naturalization tests. Fortunately the bar was eased, so that the law would only apply to legal immigrants who were accepted after the enactment of the law and no one would be effectively purged from the rolls<sup>xciii</sup>.

In general PROWA cut off funding for many services and many states chose to fill in the gap it created. It also allowed states to deny legal immigrants access to services such as Temporary Assistance For Needy Family and Medicaid. This not only articulated the value that immigrants were less deserving members of society, but it also allowed states to make the

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<sup>1</sup> In the face of messaging and facts about American dependence on undocumented workers, many called for guest worker programs. For further analysis of the problematic aspects of guest worker programs see the first policy introduction in NC.



distinction between people based on immigration status. For further understanding see the chart in appendix from NILC.

### **Criminal Justice**

Despite the fact that the Anti-terrorism and Effective Death Penalty Act (AEDPA) and Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) are the two most frequently laws cited as problematic laws for criminal justice in the 1990s, the effect was furthered by others such as the Anti-Drug Abuse Act (ADAA), IMMACT, the Violent and Repeat Juvenile Offender Act. Additionally during this time many states enacted “three strikes” acts, which resulted increased mandatory sentencing for immigrants and native citizens alike. More specifically the legislation increased detention, mandatory sentencing and retroactively facilitated deportation.

The framework developed through legislation in the 1950s when immigrants were deported as a result of committing crimes of “moral turpitude”, which was defined as crimes which are “inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general”<sup>xciv</sup>. This definition is not well defined within immigration law and therefore judges have used great discretion in their interpreting and designating the offense. This flexible policy was applicable from 1952 to 1996 but after 1996 to immigrants in first 5 years of residency in US when judges could decide whether immigrants “could re-integrate” into the US society or whether the public safety of the general public was at too much risk<sup>xcv</sup>. Many crimes of “moral turpitude” included a prison sentence of a year or more and that it could be applied retroactively<sup>xcvi</sup>.

AEDPA built upon this framework and increased the mandatory detention for an expanding number of criminal offenses<sup>xcvii</sup>. This was particularly relevant under the new regulations for “aggravated felons” under IIRIRA and other changes in the law that further criminalized immigrants.

IIRIRA significantly changed the movement of migrants and their eligibility to qualify for lawful residence depending on their previous history of undocumented status in 1996. After IIRIRA was passed, if an individual resides unlawfully in the US for a time period more than 180 days and less than one year and voluntarily departs, they would be subject to a three year ban to re-entry after April 1, 1997<sup>xcviii</sup>. If a person voluntarily departs after a period of unauthorized residence of one year, he or she would be subject to a ten-year bar to re-entry. Finally if an individual is deported or removed after living in the US unlawfully for a year, he or she would be subject to a ‘permanent bar’. Additionally many immigrants who would be eligible for authorized status through family reunification or employer-based petitions could be barred for a certain time or indefinitely depending on the length of time they were residing unauthorized in the US and whether he or she had been previously ordered deported. As a result of the increased consequences of being unauthorized and the fact that the bars are enforced at the time of re-entry into the US, many immigrants decided to stay in the US rather than to leave and risk consequences as a result of the new immigration law. An additional complication is that those immigrants who feared re-entry bars faced difficulties in regularizing their status, which would involve applying for a visa from the consulate or embassy in his or her home country. Though the opportunity to have a third party petition on their behalf was available until April 30, 2001, the process involved a one thousand dollar fine and did not allow for any other possibilities for immigrants to regularize their unauthorized statuses after that date<sup>xcix</sup>.

IIRIRA also built upon earlier provisions under the Immigration Act of 1990 so that the subsection/population of “aggravated felons” who had committed serious crimes such as murder and rape was expanded to include many other less serious crimes<sup>c</sup>. Most importantly, the expansion of the definition of aggravated felons included many non-violent offenses and crimes that are considered misdemeanors<sup>ci</sup>. Additionally IIRIRA applied retroactively so that many immigrants who had either normalized their status or were authorized immigrants at the time of their crime could still be deported for previous crimes. Though judges had previously been given a certain degree of flexibility about deciding sentencing when taking into account mitigating factors, particularly ties to US citizens, IIRIRA eliminated that discretion and mandated detention before deportation. While Congress did allow an exception for asylum-seekers, they must be found to have a “credible” fear of persecution upon return to their home country<sup>cii</sup>.

Additional key legislation from the 1980s and 1990s furthered the impacts of AEDPA and IIRIRA. Firstly, the Anti-Drug Abuse Act (ADAA) in 1988 changed crimes involving moral turpitude and limited “forms of relief”<sup>ciii</sup>. IMMACT in 1990 allowed for immigrants who are convicted of five-year sentences to be deported as aggravated felons. Additionally it removed the discretion of judges to advise the stop of deportation. The Violent and Repeat Juvenile Offender Act that passed in 1997 facilitated the prosecution of youth as adults<sup>civ</sup>. The law was complimented by amendments made by 47 states to permit youth to be tried in adult criminal courts and to give judges the ability to decide when to prosecute juveniles as adults as well as the ability to blend punishments from using both juvenile and criminal court sanctions.

Throughout this period many states also passed “three-strikes” legislation and sentencing guidelines that exacerbated detention rates<sup>cv</sup>. Unfortunately higher incarceration rates fueled gang membership within prison settings. These criminalization and harsh punishment strategies contrasted with the general crime environment; between 1993 and 2005 violent crime rates fell 57% for the general population<sup>cvi</sup>. Additionally juvenile crime rates reached a thirty-year all time low. As a result of these numerous policies, the incarceration rate of juveniles in adult jails increased 208% since 1990 according to the National Counsel on Crime and Delinquency<sup>cvii</sup>.

### Civil Rights Post 9/11

After the terrorist attacks on the Pentagon and the World Trade Centers, the climate surrounding immigration issues shifted dramatically. Though the implementation of a universal entry-exit program for immigrants was authorized under IIRIRA, its implementation had been delayed as a result of concerns about its influence on business transactions along the border<sup>cviii</sup>. The Bush Administration introduced the National Security Entry-Exit Registration System (NSEERS) that composed of immigrants already living in the US from more than 30 countries. The targeted registration of Arab and Muslim foreign nationals was a point of controversy.

Later the passage of the USA Patriot Act in October of 2001 expanded the definition of terrorist activity to include individuals who have used opportunities ‘of prominence within any country to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines United States efforts to reduce or eliminate terrorist activities’<sup>cix</sup>. Additionally it increased the grounds for detention and the amount of time an individual could be held without being charged with a crime. Following September 11<sup>th</sup> there were concerns about the terrorist infiltration of refugee programs, but many refugee advocates point out that refugee applicants often undergo more scrutiny than regular applicants.

More analysis about often cited as a game changing event for all immigrants as anti-immigrant forces used fear surrounding national security fears to justify restrictive policies toward all immigrants.

Additionally many problematic issues exist around the speed and process of deportation. Under expedited removal provisions individuals found without proper or fraudulent documentation can be deported from the country without further hearings or review unless the individual has a well-founded fear of persecution<sup>cx</sup>. Expedited Removal originated with the passing of an act called “The Immigration in the National Interest Act of 1995”, which allowed immigrants to be deported who arrived in the United States without documentation<sup>cx<sup>i</sup></sup>. By September 2005 all of the southwestern states had implemented expedited removal<sup>cx<sup>ii</sup></sup>.

If individuals claim to be in danger of persecution or torture, officials determine whether the immigrant has “credible fear” or not<sup>cx<sup>iii</sup></sup>. If the immigrant is not found to have “credible fear”, the case must be closed “as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days”<sup>cx<sup>iv</sup></sup>. After expedited removal was expanded on August 11, 2004, immigrants were subject to detention and removal including those who were found without proper documentation, those who were not admitted through a port of entry, those who were found within 100 air miles of the land border are subject to expedited removal, or those who cannot establish that they have been physically present in the United States for the past 14 days<sup>cx<sup>v</sup></sup>. While the cases of asylum seekers are processed, the individuals are detained. Supporters of expedited removal argue that it is the only way to effectively handle undocumented immigrants because of the vast scale of those who hope to live in the US. They also argue that despite concerns about immigrants needing protection and instead being deported, more than 90% of immigrants who express fear of persecution are able to bring their cases to the court. Others counteract that argument by reasoning that the immigrants’ fate is largely determined by a low-level official who are virtually unchecked<sup>cx<sup>vi</sup></sup>. The mandatory detention of asylum seekers is also a point of controversy because not only are individuals often detained with criminal aliens, but also the detention of asylum seekers could be mentally and physiologically damaging<sup>cx<sup>vii</sup></sup>. Other criticisms of expedited removal include the fact that individuals are not eligible for relief as human trafficking or domestic violence victims<sup>cx<sup>viii</sup></sup>. The fast paced nature of the deportations has caused many objections from immigrant groups, citing many examples of immigrants who were not given ample time to prepare their cases for asylum. Immigrants under expedited removal had a stay of 19 days, considerably less than the average length of 89 days for those with traditional removal proceedings.

Similarly a stipulated removal order is a provision that immigrants are given to sign, which effectively takes away their right to see a judge and speeds up their deportation time<sup>cx<sup>ix</sup></sup>. There has been a significant increase in the use of stipulated removal orders recently. In 2004 there were 5,000 orders signed, which increased to 15,000 in 2005, 25,000 in 2005, and 30,000 in 2006<sup>cx<sup>x</sup></sup>. The most important aspect of the stipulated removal order pattern is the high percentage of Spanish speakers who signed the order. Between April 1997 and February 2008 80,844 stipulated removal orders were signed; of the individuals who signed the order 94% of them were primarily Spanish speakers. This raises significant concerns about whether those signing the order were aware of the consequences of doing so. There have been many testimonies of other detainees confirming this fear.

Deportation proceedings are increasingly important, as deportation rates have steadily increased. As a result of the changing strategies around immigration enforcement, large-scale

public raids have decreased and the publicity around these issues has also diminished. While research should address the tactics surrounding local and state law enforcement cooperation with federal immigration authorities, the every step in the deportation process should be examined.

### **DHS ICE Enforcement Policy**

The cooperation between state and local law enforcement with federal immigration authority has a long precedent of vacillating opinions between different governmental interests. The US Immigration and Custom's Enforcement has 13 programs that work with various criminal justice systems, all of which are grouped under the ICE "Agreements of Cooperation in Communities to Enhance Safety and Security" ACCESS programs<sup>cxxi</sup>. Of the thirteen existing programs, the three most important are the Criminal Alien Program (CAP), the Secure Communities Program and the 287(g) Program. It is important to remember that despite the common perception that immigrants who are deported have clandestinely snuck across the border, many more types of immigrants can be deported. In actuality "potentially removable immigrants" include immigrants who crossed the border without inspection, lawfully permanent residents that could be subject to removal as a result of committed crimes or individuals who overstayed their temporary visas<sup>cxii</sup>.

The Office of Legal Council (OLC) from the Department of Justice in 1978 argued that local police should abstain from detaining 'any person not suspected of a crime, solely on the ground that they may deportable aliens' then later in 1989 argued that local police could detain and arrest immigrants on the grounds of breaking civil immigration violations, but did not have the authority to arrest immigrants on the suspicion of such violations<sup>cxiii</sup>.

The courts have a mixed history of rejecting and upholding the authority of local and state law enforcement authority to enforce fed immigration law. Relevant cases in this area include: *Gonzales v City of Peoria* (1983), *League of United Latin American Citizens (LULAC) v Wilson* (1995), *United States v Salinas-Calderon* (1999), *United States v Vasquez-Alvarez* (1999), *United States v Santana-Garcia* (2001). Monica W. Varsanyi explains further:

Much of the case law centers on the distinction between criminal and civil violations of immigration law, and was decided prior to the recent increase in cooperation between the police and the fed government. Some recent legislative efforts have sought to criminalize and expand the range of immigration violations, and others have attempted to clarify and strengthen the role of local police in the enforcement of immigration law.

With a history with mixed results for the civil rights of immigrants, it is hard to predict which side of the debate the courts will uphold.

One of the most controversial points of all three programs is the criticism that the programs do not adequately nor appropriately focus on dangerous criminals. ICE has acknowledged this risk saying that Secure Communities "has the potential to significantly expand criminal alien enforcement" as well as the ability to "identify large volumes of aliens with low level convictions or no convictions."<sup>cxiv</sup>

Though each of the three most prominent ICE ACCESS programs is allegedly following the federal guidelines of prioritizing the removal of criminals, there is significant criticism and problematic aspects in each one. Through the marginalization and criminalization of immigrants through congressional legislation explained above, the consequences of the programs are downplayed since their alleged goals are to focus enforcement on "criminal aliens". Also the

ICE ACCESS programs are characterized by very little accountability to the public, minimal federal oversight and lack of regulation do little to protect against racial profiling or focus on criminals and “pretextual arrests”.

### The 287 g Program

The 287 g program was a federal statute under the Immigration and Nationality Act (INA) in 1996 that has become increasingly controversial. There are currently 287g agreements in 72 jurisdictions in 24 states<sup>cxxv</sup>. Jurisdictions participating in the 287g program are authorized to issue ICE detainers, to screen individuals who have been arrested for immigration status and to begin the formal deportation process by issuing ICE documents<sup>cxxvi</sup>.

State and local officers undergo four weeks of training at the Federal Law Enforcement Training Center where ICE officers are also trained<sup>cxxvii</sup>. Each of the 1,200 state and local officers who have been trained under the 287 g program as of October of 2010 received 20 hours less hours of instruction on civil-rights law than ICE officers receive<sup>cxxviii</sup>. Additionally it was estimated that each officer incurred a cost an average of \$2,600 for onsite training and \$4,800 for offsite training.

There are three different versions of the program: the jail enforcement model, the task force model and the hybrid model. Under the jail model, anyone who is arrested for a criminal or non-immigration civil offense, regardless of whether the officer has received training by ICE, is questioned about their immigration status after being booked<sup>cxxix</sup> (14). Generally the detainees are asked their place of birth and his or her nationality and anyone who identifies as foreign-born or who is believed to be foreign-born is put into the system. The 19 jurisdictions in the jail model are responsible for 90% of the program activity in the first ten months of the 2010 fiscal year<sup>cxxx</sup>. In contrast to the jail enforcement model, officers in the task force model are allowed to ask about immigration status in the field<sup>cxxxi</sup>. Additionally officers can “issue arrests based on immigration violations and execute search warrants”. Some jurisdictions in the task force model focus on certain issues in the field such as smuggling and trafficking in Colorado, while others call on 287g officers to get involved with routine traffic stops when officers want to question the detainee(s) immigration status. The 19 jurisdictions in the task force model were only responsible for 2% of the total detainers<sup>cxxxii</sup>. Finally the hybrid models blend elements of the other two models or operate both jail and task force models side by side. The 14 hybrid models were responsible for 8% of the total detainers in 2010<sup>cxxxiii</sup>.

In general the models across the country follow a similar process of interviewing the detainee about his or her immigration status, using DHS databases to clarify the detainee’s status and entering the detainee’s information into the ENFORCE system<sup>cxxxiv</sup> (13). Additionally officers are able to produce documents such as an ICE detainer to initiate the deportation process, to recommend voluntary departure, to recommend whether or not the individual should be detained and finally to transfer the detainee to ICE custody<sup>cxxxv</sup> (13-14). See diagram in appendix for further information.

Some of the variation in the number of the filed detainers could be as a result of the efficiency of the jail model and the fact that they are able to screen more immigrants since they spend little to no time investigating potentially removable noncitizens or in the field<sup>cxxxvi</sup>. Another explanation is the dominance of large jurisdictions; for example of the 12 jurisdictions that were responsible for 79% of the program activity, 11 of them represented large metropolitan areas and the other was a statewide jail model in Arizona.

Another distinction between programs is the differences between “targeted” and “universal” models. While some jurisdictions could be considered “targeted” models that strictly follow ICE priorities of focusing on dangerous criminals and noncitizens that have been identified for removal, others could be considered “universal” models that aim to apprehend as many unauthorized immigrants as possible, without consideration of their past relation to the law. The difference between these two models do not coincide with an inherent difference between jail, task force or hybrid models, and though some differences do emerge they are mostly as a result of the policy in Colorado to focus on smuggling and trafficking criminals<sup>cxxxvii</sup>.

The first two states to agree to cooperate with federal agencies under 287g were Florida in 2002 followed by Alabama in 2003 as a result of concerns with national security and identification fraud, respectively<sup>cxxxviii</sup>. In July 2005 Paul M. Kilcoyne, who was the deputy assistant director of ICE’s Office of Investigations, articulated that the program would “focus on criminal organizations, those individuals who pose a threat to border security”, not “the landscape architect that had the broken headlight”. While these jurisdictions followed the characteristics of the “targeted” model, the “universal” model emerged in 2006 in Mecklenburg County, NC. Sheriff Jim Pendergraph from Mecklenburg described the county’s agreement as effective in identifying noncitizens, who have broken federal immigration laws, which was the motivating goal of signing the agreement. Even though the method overwhelmed the system, additional ICE agents were reassigned to the County. The method was contradictory to the goals set out by ICE and those articulated at the time as being directed at “violent crimes, human smuggling, gang/organized crime activity, sexual-related offenses, narcotic smuggling and money laundering.”

In 2009 Homeland Security Secretary Napolitano announced a new standardized agreement to address the lack of controls and accountability that an earlier US Government Accountability Office (GAO) report had identified as a problem within the 287g program<sup>cxxxix</sup>. The template identified three levels of offenders and ICE directed agencies to prioritize resources according to the levels.

“Level 1 offenders: 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 offenders: 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.

Level 3 offenders: Aliens who have been convicted or arrested for other offenses, including misdemeanors and civil offenses.”<sup>cxl</sup>

The template acknowledged that if unutilized resources were available, agencies would be allowed to use operations on less serious criminals. Additionally each agency would be required to collect data and undergo annual formal reviews, which resulted in the failure to renew the task force agreement with Maricopa County, AZ in 2009. Based on this template to categorize the type of immigrants that are detained as a result of the 287g program, the authors Capps, Roseblum, Rodríguez and Chishti found that about half (19,700) of the total detainees placed on noncitizens throughout the country were felonies, or L1 and L2 offenses. The remaining detainees represented individuals that had committed L3 offenses, traffic offenses or only immigration-related, not criminal charges<sup>cxli</sup>.

Additionally the 287g program was not successful or effective in finding individuals that had skirted immigration violations. Only 15% of the total detainees filed were on behalf of

individuals that had prior removal orders.

The jurisdictions in the Southeast, including Georgia, South Carolina, North Carolina, Tennessee and Maryland had the largest number of detainers based on traffic violations<sup>cxlii</sup>. These jurisdictions are responsible for one third of the total filed detainers based on traffic violations. This is not surprising since there was a great deal of information sharing throughout the counties and each one of the agreements uses similar language to the Mecklenburg County agreement. Additionally the concentration of similar methods used throughout the Southeast is no wonder considering Mecklenburg's Sheriff, Pendergraph, became the head of ICE's Office of State and Local Coordination (OSLC)<sup>cxliii</sup>.

In all of the report's case studies (Prince William County and Prince-William-Manassas Adult Detention Center, VA; Frederick County Sheriff's Office, MD; Cobb County Sheriff's Office; Gwinnett County Sheriff's Office; Las Vegas County Sheriff's Office; Colorado Department of Public Safety and the Los Angeles County Sheriff's Office) elected officials were responsible for promoting the agreements and half of the total jurisdictions the impetus for 287g was from elected officials not law enforcement agencies<sup>cxliv</sup>.

From October 2005 to October 2010 officers have identified and screened 186,000 noncitizens with 100,000 of them in the last two years under the 287g program. On the other hand it is only one part of a larger immigration control puzzle; the 287g program was only responsible for 10% of the removable immigrants in 2009.

In comparison to the other ICE ACCESS programs, the 287 g program is the only one where state and local officers are responsible for conducting the immigration status screening, instead of a ICE officer under CAP or through technology under Secure Communities<sup>cxlv</sup>. Additionally 287 g is the only program that authorizes local or state officers to detain or begin the proceedings for deportation. Most importantly for the state finances, 287 g is the only program where state or local governments help fund the immigration screening.

### **The Criminal Alien Program**

CAP is the most widespread and longest operating local-federal cooperation program operating in 10% of the some 3,100 local jails nationwide that now exist<sup>cxlvi</sup>. Additionally almost half of the daily population and those admitted into ICE custody during the 2009 fiscal year are as a result of CAP according to a former ICE director, Dr. Dora Schriro. The current version of CAPS was created in 2002 through a merger with the Institutional Removal Program and is now administered through the Office of Detention and Removal Operations (DRO). DRO officers are notified after local police book foreign-born individuals and the DRO officers then interview these identified detainees to decide whether to write an immigration hold or detainer against the detainee. These detainers in turn signal two actions: that ICE plans to take custody of the detainee after the local authority releases him or her and that ICE should be notified upon that release. After a detainer has been placed, the detainee must be transferred into ICE custody within 48 hours. In 2006 ICE began to use a telephone-based system called the Detention Enforcement and Processing Offenders by Remote Technology (DEPORT), instead of in-person interviews.

NILC reported a lack of accountability within the program since it has not articulated guidelines about how DRO decides which or how many of flagged detainee records to interview for detainers, or if only detainees that have been interviewed get detainers. Additionally it is unclear whether serious criminals are really being targeted and whether the priority reflected in

the results of the program. In the 2008 fiscal year there were 221,085 “charging documents”. Additionally a report from the Warren Institute on Race, Ethnicity and Diversity showed many problematic aspects of CAP in Irving, Texas<sup>cxlvii</sup>. Even though Congress formed guidelines for ICE programs to focus on serious criminals, the report found that only 2% of the detainees issued were for detainees with felony charges in contrast to 98% with misdemeanor charges. In addition to the important findings about the type of criminals charged with detainees, the report concluded that “the Criminal Alien Program tacitly encourages local police to arrest Hispanics for petty offenses”.

As individuals are transferred from local control, the detainees’ access to knowledgeable public defenders as well as the jurisdiction to challenge their detainees is limited. Additionally immigrants are often detained for very long periods of time; in Travis County, TX the detention period for individuals with an ICE detainer was 64.6 days as compared to 21.7 days for other inmates in 2007.

Similar to concerns with the other ICE ACCESS programs, the Warren Institute report also was concerned about the use of the program as a way to increase immigration screening and immigrant deportation. The report found that the shift from in-person interviews to the phone process coincided with a sharp rise in the Class C misdemeanor arrests. Even though the misdemeanor arrests declined after a public ICE statement asserted a commitment to focus on “more serious” criminal charges, the authorization of all levels of criminals qualifying for program allows this. If CAP were to restrict the program to only detainees charged with felonies, it would most likely decrease the problematic police practices such as “pretextual arrests” and racial profiling.

### Secure Communities

Secure Communities is the prevalent policing program operational in 1,123 jurisdictions in 40 states<sup>cxlviii</sup>. Similar to CAP, Secure Communities uses technology to screen detainees in jails for individuals that have broken federal immigration law by running the detainee’s fingerprints through the DHS database in addition to the FBI database. The program began in North Carolina and Texas in 2008.

Unlike CAP where local law enforcement officers decide which detainees to tell ICE, under Secure Communities the fingerprints of all detainees are subject to the same procedure. ICE argues that as a result of this difference, the program is less susceptible to problematic police practices such as racial profiling, though that logic ignores the possibility that the events leading up the detainee’s arrest are influenced by the processing procedure.

Through a partnership between the National Day Laborer Organization (NDLON), the Center for Constitutional Rights (CCR) and the Cardozo Immigrant Justice Clinic, the Uncover the Truth collaboration seeks to increase accountability for state-ICE cooperation programs and is responsible for a series of recently released information about the Secure Community programs nationwide through a Freedom of Information Act<sup>cxlix2</sup>. The most recent data released tracks the results of the program from October 2008 and February 2011. During this time only 71,197 of the total 477,035 offenders were identified as level 1 offenders. The remaining 405,838 consisted of 24,844 level 2 offenders and 49,019 level 3 individuals, additionally 52,603 individuals were identified as non-criminals booked into ICE custody. ICE hopes to operate in



488 additional jurisdictions by the end of the 2011 fiscal year and aims to expand to all jurisdictions by 2013.<sup>cl</sup>

Unlike the 287g agreements where local jurisdictions must sign a MOA, the proceedings of the expansion of Secure Communities is not as clear. Recently released information show that federal government puts significant pressure on both state and local governments to use Secure Communities in Chicago. According to a New York Times article written by Karin Lydersen, the conflict arose as a result of the opposition from law enforcement officials, namely the sheriff's office, to the establishment of a Secure Communities program in Chicago. The information recently released based on a Freedom of Information Act request by NDLOJ shows that ICE officials tried to pressure local officials through personal contacts. Chicago, which has a sanctuary city ordinance, was opposed to the program because they saw that the results of the program were contradictory to the goals of the project; even though the program is meant to focus on serious criminals, statistics up to February 2011 show that 32% of immigrants in the deportation process as a result of the program have no criminal convictions. The FOIA documents also show that ICE used a strategy to form a “‘ring’ around a ‘resistant site’”, so that the opposition to the program in the city could be mitigated through enforcement programs surrounding the city.

### **Overarching Problems**

These law enforcement cooperations have been criticized by many different groups for a variety of reasons. A recent article released by NILC explained that there has been a depth and prevalence of research documenting the problems of 287g agreements. From ACLU reports documenting the prevalence of racial profiling as a result of the agreements in Cobb and Gwinnett Counties in 2010 to a 2009 report from the Government Accountability Office a variety of sources have criticized the 287 g agreements for allowing local law enforcement to abuse the authority given to them (NILC 2). A lack of consistency throughout ICE policies about collecting and reporting on the implementation of their programs is extremely problematic. Though DHS clarified greater protections and a new standardized MOA, NILC concluded “the change made were not meaningful and in some cases represented a regression” (3). Though reports documenting details on the documentation and implementation of both the Secure Communities and 287g programs have been recently released, ICE has not provided a meaningful process for educating the public on the two programs.

Caps, Rosenblum, Rodriguez and Chishti argue that “Secure Communities may even be more susceptible to this problem since there are no formal agreements defining the activities of participating law enforcement agencies, and local officers do not receive federal training in immigration enforcement,” (look up page), but really both programs have been the source of many documented problems.

Additionally a toolkit for activists describes the many negative consequences of a SB 1070 copycat; main categories are cost, ineffectiveness, values, solutions. As history has shown with Arizona, the economic costs of similar legislation would stem from legal challenges, lost revenue from tourism and boycotts organized by immigrant rights advocates (6-7). Most importantly, the stated goals of strict enforcement bills of addressing serious crimes are not met; law enforcement officers are diverted from other duties and the divisiveness of the legislation has diminished the community trust of immigrant communities, which has deterred both victims and witnesses of speaking out (9-10).

It would be an interesting topic for further research to examine the cumulative effects of these three ICE ACCESS programs.

Obama has expressed a preference for enforcement policies, which “clearly target noncitizens who have committed serious crimes or pose security threats and that deemphasize enforcement against traffic offenders” (287, 6). On the other hand the Obama administration is responsible for deporting a record-setting number of noncitizens, nearly 400,000 individuals. Of those deported it was estimated that 50% did not have serious criminal records and 23% were deported for misdemeanor offenses in 2010. The outcomes of these programs therefore greatly contrast with the stated priorities and approach to immigration enforcement. On April 19, 2011 Obama held a

## **Part III: State Legislation**

### **Introduction**

As the cumulative forces of the federal government (Congressional, multiple presidential administrations and DHS/INS) enacted policies that encouraged the anti-immigrant movement to further strip immigrants of rights and protections, the federal government also allowed a significant amount of flexibility so that each state to create their own policies. Though federal regulations and legislation often served as guideline for state policy, some states took the opportunity to oppose policies that restrict immigrants whereas other states seized the opportunity to further criminalize and marginalize immigrants. While the actions of both government levels could be seen as individual parts of the puzzle, together elucidate the way immigrant rights have been severely limited.

As the federal government encouraged the divergence of state policies, the permeating influence of the anti-immigrant movement is creating a frightening change in the approaches of state governments. Immigrant rights advocates have both opposed negative policy as well as promoted positive policy has been largely colored by federal congressional policy to diminish rights in contemporary history. As demographic trends shift and immigrants and their issues are introduced to new populations in new states, the restrictive fear mongering and fear panhandling has taken over the political discourse and has intensified the focus on immigration as an issue.

### **Prevalence of Legislation**

While the focus of this paper is on the overall policy universe of anti-immigrant legislation that ultimately seeks to marginalize and criminalize immigrants, it is also important to assess the shifting nature of immigration in state legislation and policy.

According to the National Center for State Legislatures there have been a total of 52 immigration omnibus bills introduced in 2010. Of those 52 introduced in a total of 30 states, 14 have failed, 36 are pending and two have been enacted. Of the 36 pending bills there are many with a low likelihood of passing such as PA, MO, NV, NC, OH, TX<sup>ch</sup> (according to excel). Others have effectively “died” in committee such as RI and CO.

According to the Copycat States & Anti-Immigrant Ordinances resource from the Hugh & Hazel Darling Law Library from UCLA Law, seven states (AL, GA, IN, MS, OK, SC, TN) have passed immigration bills, which carry elements of Arizona’s SB 1070 in at least one

chamber. Though Mississippi's bill ultimately failed, the remaining states are still pending. The remaining states with pending legislation pose serious dangers to immigrant rights.

In Alabama HB 56 which passed by 73 votes, would require the use of statewide E-Verify, charge undocumented immigrants for trespassing and require a law enforcement official to ask for proof of immigration status if he or she has "reasonable suspicion"<sup>clii</sup>. Additionally the legislation proposes fines from \$500-\$5,000 for law enforcement officials that do not participate, allows individuals caught transporting or smuggling immigrants to be charged with a class B felony and requires immigrants to show authorization to apply for any state licensing. Perhaps most worrisome is the fact that it took a mere six hours to pass in the House of Representatives and the Senate and Governor are poised to agree.

Indiana's bill, which passed the State Senate in February, will most likely be changed dramatically based on the wishes of the governor<sup>cliii</sup>. The Republican Governor Daniels announced on the 12<sup>th</sup> that he would support the bill with the removal of the law enforcement piece and a renewed focus on the business community that supports unauthorized immigrants. The current bill that is being currently discussed in a House of Representatives committee requires that local police stop and ask residents for proof of legal residency in some cases. This policy change was announced around the same time that the original injunction against many of the most controversial provisions of Arizona SB 1070 was upheld by the Ninth Circuit U.S. Court of Appeals and at the same time that many other states have decided against similar legislation. Business interests such as the pharmaceutical Eli Lilly and Co., the Chamber of Commerce and immigrant advocates have shown strong lobbying support against the bill.

In Oklahoma Senate Bill 908 is intended to be the major immigration state bill according to Republican Representatives Faught and Muskogee<sup>cliv</sup>. After passing the Senate 29-15 on March 16<sup>th</sup>, the bill was sent to the House of Representatives<sup>clv</sup>. The House of Representatives passed a similar immigration bill the prior week that would enable law enforcement officers to have more authority to ask for proof of immigration status. More recently the House finalized HB 1446, an immigration bill, which has been significantly watered down and does not have the strict provisions of SB 908 such as penalties for employers that hire unauthorized immigrants<sup>clvi</sup>. In many articles including one by ColorLines Oklahoma's proposed bill SB 1446 is considered particularly hostile to immigrants since law enforcement would be permitted to confiscate unauthorized immigrants' property.

In Mississippi a coalition of immigrant and African American civil rights leaders led the fight against an Arizona-style enforcement bill<sup>clvii</sup>. After the two original bills needed to be reconciled, the original momentum was lost and the overwhelming potential costs of the legislation seemed to convince many legislators not to pursue it. The Senate bill that would have given law enforcement the authority to investigate immigration law also would have allowed citizens to sue cities, counties or officers that they believed were not enforcing immigration laws. The house bill would have allowed for lawsuits against employers and fines from \$2-5,000 per day as well as the threat of losing state contracts. Legislators such as Blackmon said they would prefer to see how the legal matter would resolve itself in the court system. In addition to the enforcement bill, 32 other anti-immigrant bills were proposed, all of which pro-immigrant organizations and coalitions such as the M Immigration Refugee Rights organization helped defeat. Other bills contained a range of issues including prohibiting immigrant access to public benefits, restricting immigrant tenant rights, barring in-state tuition for undocumented students and imposing fees on international wire transfers.

In South Carolina a bill that was passed nearly a month ago (as of April 7<sup>th</sup>) is slowly developing the House of Representatives subcommittee<sup>clviii</sup>. The proposed bill would increase the penalties to own and sell fake identities, would have charged a fee for international wire transfers and would have encouraged law enforcement officers to inform ICE of suspected unauthorized immigrants is developing<sup>clix</sup>. As of April 7<sup>th</sup>, the wire transfer provision was dropped during the discussion in committee. As immigration advocates are watching similar bills fail in other states due to deadlines within the legislative session, organizers in SC continue to be concerned since the session does not end until the end of June<sup>clx</sup>.

In Tennessee the three immigrant-related bills are still in the committee stages of the legislative process<sup>clxi</sup>. HB 1378 and SB 1669 as well as HB 1379 and SB 1325 would expand the use of E-verify in Tennessee. Additionally the HB 1380 and SB 780 are most similar to Arizona's SB 1070 and would allow local police officers to question the immigration status of anyone detained. Though organizers thought the bill would pass, legislators have decided to postpone the deliberations on the bill until after the budget has been decided, which will leave little time for the bill to be seriously considered before the legislative session ends<sup>clxii</sup>.

Additionally as two articles by from ColorLines published on March 31<sup>st</sup> and April 7<sup>th</sup> explain, of the 14 states where specifically SB 1070 copycats are located, many do not have the political will to pass them like CA and others are unlikely to pass due to a prioritization of other important bills (such as the budget bill in TN). Additionally many states have successfully defeated SB 1070 copycats such as UT, WY, SD, NE, CO, KS, MN, KY, MS as well as VA. While some of these states did not have significant political battles over the legislation, the failure of the bills in other states signifies large victories. In Mississippi the opposition to the bill included leadership from the Mississippi Legislative Black Caucus and "the African American community together with immigrants, not just Latinos, to mobilize people" according to the Bill director of the Mississippi Immigrant Rights Alliance. In other states such as UT and KY the estimated cost of the enforcement (\$11 million and \$40 million) was enough to discourage legislatures<sup>clxiii</sup>.

As of March 31<sup>st</sup>, Seth Fred Wessler argued that GA and SC were the most precarious bills, whereas opposition from business groups was slowing down momentum in FL<sup>clxiv</sup>. Later, on April 7<sup>th</sup> Julianne Hing argued that AL could join the list of states that could potentially pass a SB 1070 copycat<sup>clxv</sup>.

While these states only provide a quick snapshot of the recent legislative activity, it is clear that the legislative activity is significant even if many states have stalled or rejected strict enforcement bills. Additionally it should be noted that many progressive advocacy groups have been tracking the successful opposition to these anti-immigrant bills including Progressive States Network, Immigration Policy Center and Colorlines. Each organization released articles in March outlining the steady defeat of anti-immigrant bills (including E-verify and 14<sup>th</sup> Amendment bills), yet the most recent progression of anti-immigrant bills as discussed above presents a counter to their argument.

It is important to note that immigrant right organizers have been consistently concerned about the conditions in the states which are still considering copycat pending legislation. Four (GA, MS, OK and SC) of these seven bills were listed on the "Dangerous List" based on a report released on October 22, 2010 by Immigration Works USA<sup>clxvi</sup>. Even though IN and TN were listed as "Maybe/Maybe not," it is interesting to note that Alabama was not listed in this watch list.

As the legislative session comes to a close in the upcoming weeks and months, we shall see what the final results of these efforts to support and oppose this legislation. Regardless of whether any of these states ultimately succeeds in passing any of the proposed Arizona-style enforcement state laws, the mere existence of the political battle cannot be overstated. The fact that policies that have been wrought with problematic consequences for the immigrant community as well as significant financial and social costs for our society in general have gained enough political traction to create a serious nationwide debate means that the processes of giving states power over immigration issues, and stripping immigrants of civil and human rights has reached a new crescendo.

## Demographic Shifts

Economic, legislative and social factors are responsible for a tremendous demographic shift of immigrants, which has given rise to high levels of political and social tension surrounding immigrant needs, costs, contributions and rights. Unlike political debates around the role of immigrants in traditionally receiving states such as California and New York, debates and policies around immigrants are a largely new phenomenon in new gateway states. Without the collective history of understanding the importance of supporting and investing in immigrants as well as the experience of recognizing the contributions of immigrants, new gateway states are posed with the challenge of adapting culturally and socially to welcome immigrants. Additionally since gateway states have not traditionally had a history with immigrants, they have not had the practice of creating immigrant-related policies and do not have immigrant-related policies in place.

The concentration of immigrants in traditional gateway states was very established until the 1980s. From 1960 to 1980 seven states including California, New York, Florida, Texas, New Jersey, Illinois, and Massachusetts received 60-75% of the country's total immigrant population<sup>clxvii</sup>. Particularly between 1990 and 2000 the country's total immigrant population dispersed; the total foreign-born population grew 57% and the immigrant population in 19 states more than doubled. This trend continued after 2000 to 2009 when it was estimated that the total US immigrant population grew by 24% and the immigrant population grew by 49% or more in 14 states including South Carolina, Alabama, Tennessee, Delaware, Arkansas, South Dakota, Nevada, Georgia, Kentucky, North Carolina, Wyoming, Idaho, Indiana, and Mississippi.

Additionally important for understanding the developing immigrant trends in gateway states is the process of how immigrants came to these new places. In general economic and political factors served to promote the domestic migration of immigrants from traditionally immigrant states, which was coupled and ultimately overtaken by international migration from Mexico and Latin America<sup>clxviii</sup>.

Singer categorizes these demographic shifts and immigrant settlement patterns as the emergence of six different types of gateways: former gateways, continuous gateways, post-World War II gateways, emerging gateways, re-emerging gateways and pre-emerging gateways<sup>3</sup>.

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<sup>3</sup> Former gateways are defined as cities (ex Buffalo and Pittsburgh) that experienced the arrival of a considerable number of immigrants in the early 1900s, but do not currently. Continuous gateways are cities that have traditionally and continue to receive immigrant communities such as New York and Chicago. Post World War II gateways are cities that

Pre-emerging gateways are the principal focus of this paper since they have displayed a tremendous growth of immigrants and are central to understanding tensions around immigration. As the graph reproduced from Singer et al below shows, the number of foreign born arriving to traditional gateways has not stopped, but rather the proportion of immigrants living in traditional gateways has decreased and the proportion of immigrants living in new gateways has increased as well. In other words traditional gateways have maintained an important role, but the demographic changes in new immigrant gateways add complexities to the immigrant landscape.

It was estimated that 20% of the US foreign-born population lived in a 21<sup>st</sup> Century gateway in 2005, showing a tremendous growth since 1970 when only 8% of the foreign-born lived in those cities<sup>clxix</sup> (Anrig 10). Additionally the growth of foreign-born in those cities can be seen through the absolute numbers of immigrants; the population grew tenfold from 1970 to 2005. Meanwhile, even though the number of immigrants living in more established gateways tripled to 19 mill, their share of the national total diminished throughout the period, falling ten percentage points from 64 to 54 percent of the total. It was estimated that many large metropolitan areas saw a doubling or more of their foreign-born populations in the 1990s alone<sup>clxx</sup>.

A further important element of the demographic shifts that occurred in new gateway communities is that immigrants provided significant contributions to the growth of the communities. Even though the total population may have experienced a decline or slowing down of the growth in metropolitan areas designated as former immigrant gateways, immigrants and refugees were sometimes the only source of growth during 1980s and 1990s.

The Hispanic population growth was especially pronounced in rural areas; between 1990 and 2000 throughout the country the growth in rural areas was 67% in comparison to 57% in metropolitan areas; this trend is even more acute in the Southeast<sup>clxxiclxxii</sup>. The domestic migration from traditional states to gateway states was translated in the 2000 census by a 66% to 53% decrease in the percentage of Hispanic population in metropolitan areas in the Southwest.

In order to better understand it is important to understand the underlying motivations and reasons that immigrants chose to migrate both between states in the US as well as internationally.

## Domestic Migration

The shift from traditional immigrant receiving states to new gateway communities is the result of changing economic, political and social factors that pushed immigrants out of states such as California and pulled them towards states without a tradition of migration in the Midwest and the Southeast.

Regional economic changes were instrumental in encouraging and pushing immigrants out of traditional migrant states, particularly California. The high cost of living in California and

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have attracted significant immigrant populations in the last 50 years such as Houston, Los Angeles and Miami. Emerging gateways are cities such as Atlanta, Dallas-Fort Worth and Washington that have begun to accept large populations of immigrants in approximately the past 25 years. Re-emerging gateways are cities that received many immigrants early in the 1900s and recently, but not in between such as Minneapolis-Saint Paul and Seattle. Pre-emerging gateways are cities where immigrant populations have begun to expand dramatically beginning in 1990s, including cities like Raleigh, Durham and Austin.

Texas was coupled with the weakening of local economies such as the loss of defense-related manufacturing jobs and rising interethnic employment competition<sup>clxxiii</sup>. As a result of the legalization policies under IRCA, there was an oversaturation of labor markets in CA since Special Agricultural Workers were concentrated in Southern California<sup>clxxiv</sup>. The combination of economic problems with the loss of thousands of defense-related manufacturing jobs and the political tension surrounding Proposition 187 created a hostile social and political environment for immigrants<sup>clxxv</sup>. Even though the recession had impacts throughout the country, the recession in California was slower to recover in contrast to other areas<sup>clxxvi</sup>.

Additionally the rising anti-immigrant sentiment especially in CA influenced political activity. As economic hardships resulting from the Raegonomics of shrinking safety net set in, Pete Wilson seized the opportunity to capitalize on concerns about immigration trends to scapegoate immigrants during his re-election campaign in 1994. Particularly one of his campaign commercials portrayed a group of dark skinned men crossing the border and the narrator explained ‘they keep coming. Two million illegal immigrants in California. The federal government won’t stop them at the border, yet requires us to pay billions to take care of them’<sup>clxxvii</sup>.

In addition to these factors that pushed immigrants out of traditionally receiving immigrant states, many factors also increased the appeal of new gateway states and encouraged migration. The demographic shift from traditionally receiving immigrant states to new gateways particularly in the Southeast and Midwest corresponded with economic expansion. From 1988 to 1998 job opportunities in California and Illinois expanded by 15%, whereas employment grew significantly faster in other states such as Georgia (30%), Colorado (45%), TN (20%) according to the US Bureau of Labor Statistics in 2000<sup>clxxviii</sup>. These states also enjoyed tremendous population growth California lost a net of 756,000 residents from 1995 to 2000, whereas Georgia gained 341,000, North Carolina 338,000, Colorado 162,000 and Tennessee 146,000. Clearly the growth of jobs in the South was tremendous; 40% of new jobs in the US were located in the South since 1978<sup>clxxix</sup>.

Economic changes in labor markets with significant immigrant populations are key to understanding the rise of gateway communities. One of main contributing factors of was the growth of food industry employment, both in farming operations as well as food processing. Many sources such as MacDonald et al. 2000 as well as Ollinger, MacDonald, and Madison in 2000 explain how meat processing facilities relocated from urban areas to rural areas in the Southeast and Midwest. It was estimated that half of all poultry processing is concentrated in AL, AR, GA and NC<sup>clxxx</sup>. The expansion of these industries is key to understanding the growth of new gateways. Additionally recruiting policies, especially those within rural-based agricultural and manufacturing industries help explain the domestic migration. Active recruitment campaigns in cities such as Miami, Houston and Los Angeles compliment informal, word of mouth practices that recruited friends and family to these new communities<sup>clxxxi</sup>. Processing plants need a constant, not migrant/seasonal workforce since they “operate nearly all day, every day”<sup>clxxxii</sup>. Throughout the South employers complained of labor shortage in industry with wages and conditions at the time.

Many studies, such as those by Hernandez-Leon and Zuniga in 2000, and Fennelly in 2005, have shown that the desire for improvements in basic quality of life conditions serve as motivations for many migrants to move<sup>clxxxiii</sup>. Issues such as public safety, quality educational opportunities, more affordable housing and a calmer living pace were relevant, particularly in

smaller, rural communities. Additionally many immigrants came to gateway states to maintain a community; fieldwork showed individuals from the Mexican districts Chiapas and Oaxaca have migrated in large numbers to the US Southeast<sup>clxxxiv</sup>.

In addition to the large in-migration of newly legalized Latino immigrants from other states, there was an arrival of a significant group of professional and managerial individuals. The 2003 Current Population Survey showed that over 65% of in-migrants over the age of 25 had high levels of college education and 56% were employed in management, professional or service occupations<sup>clxxxv</sup>. This population spurred a high demand for housing, which both bolstered the construction industry as well as required immigrants to build housing. According to a study in 2004 of Conway, Dunn and Khalil, in 2000 construction of infrastructure, home building and remodeling employed 6.7 million people and accounted for 7.6% of the gross national product or about \$800 billion<sup>clxxxvi</sup>.

These push and pull factors were complimented by national economic changes and Congressional legislation that facilitated demographic changes. As a result of the large-scale legalization under IRCA for many workers seized the opportunity to regularize their immigrant status, they had new flexibility to look for work in new places. Additionally many immigrants used the opportunity to bring other family to the US through family reunification, which further expanded the immigrant community<sup>clxxxvii</sup>. Ultimately in spite of the importance of domestic migration, the number of domestic migrants was overtaken by international migration from Mexico and LA<sup>clxxxviii</sup>.

## International Migration

Since domestic migration was ultimately surpassed by international migration in gateway communities, it is essential to understand some of the reasons for international migration. The congressional action has also been largely influenced by US foreign policy and more broadly by economic restructuring trends. The links explaining the reasons individuals move from certain countries or regions and when they immigrate are related to larger economic and global trends. Just as the surge of Irish immigrants coincided with the devastation and economic despair of the Potato Famine, examining the economic and policy context also can explain the migration of new immigrants. According to many academic scholars such as David Bacon, the migration of Mexicans, who made up 30.1% of the foreign-born population based on the 2008 American Community Survey<sup>clxxxix</sup>,<sup>cx</sup>, the forces of globalization and the consequences of NAFTA are essential parts of the explanation why many immigrants chose to migrate. Starting in the 1980s the World Bank and IMF required borrowing, developing countries to adapt to Structural Adjustment Programs (SAPs) that had drastic consequences for the poor. The weakening social service safety net coupled with the privatization of the economy changed the average working conditions for Mexicans. One of the most relevant changes occurred in the agricultural sector. Audley, Papademetriou, Polaski and Vaughnaby reported that Mexico lost 1.3 million jobs from 1993 to 2002 in the agricultural sector<sup>cxci</sup>. It is also interesting to note that a significant portion of the Latino population is of indigenous origins; fieldwork from 1998 and 2000 discovered that numerous indigenous languages were spoken in agriculture, construction and landscaping<sup>cxcii</sup>. As NAFTA began to impact both countries, trade tariffs and other policies dramatically changed the market for both the cost and production of corn, a Mexican staple. Imported corn grown in the US was sold Mexico at 30% below the cost of production from 1999 to 2001 and Mexican farmers were not able to compete. Additionally, urban Mexican consumers also suffered as price controls were removed and the cost of tortillas doubled<sup>cxci</sup>. The consequences of NAFTA



coupled with the devastating effects of the peso devaluation contributed to the setting from which many Mexicans were pushed from economic hardship in Mexico and pulled toward better opportunities in the US.

## **Part IV North Carolina and Georgia**

New gateway states have complex demographic and political trends; both North Carolina and Georgia have diverse immigrant populations and the native community's response to the new immigrants is also varied. Despite each of the subtle and nuanced realities in each state, in a cross state comparison each state has outstanding characteristics. The amount of the authorized agricultural workers and that group's relationship to unauthorized workers as well as the skilled immigrant workers in the high tech industry are two contributing demographic characteristics that make North Carolina's immigrant debate and policies interesting. In a Southern state that is often considered very progressive for the region immigrants have enjoyed a more welcoming interaction, though issues regarding local and state law enforcement of immigration control have been hostile to immigrant communities.

In Georgia the debate and policies regarding immigrants have been characterized as significantly more conservative and hostile. Despite a varied demographic population of immigrants from different parts of the world as well as different types of immigration status, the immigration issue has been consistently portrayed in a negative light with the exception of the political climate and politics in the carpet-manufacturing city, Dalton. Statewide policies, particularly those relating to law enforcement, have been extremely harsh culminating with the passage of SB 529, an omnibus law encouraging local law enforcement cooperation with federal immigration control and limiting immigrant access to public benefits.

Each state is also largely shaped by their support of federal policies to use state and local law enforcement to enforce federal immigration control, the portrayal of immigrants and immigration in the media, the statewide political party composition as well as the influence and actions of various interest groups. Additionally both states have recently considered bills that mimic aspects of Arizona's SB 1070 and other bills to further the criminalization and marginalization of immigrants.

Both states have higher rates of focusing on serious criminals than the nationwide rate. Whereas the national rate of L1 criminals is about 50% (p 2), North Carolina (13.56%) and Georgia (13.77%) are substantially lowering, symbolizing an overall less "targeted" approach. This trend is also true for Secure Communities where North Carolina and Georgia have very high percentages of noncitizens entered into the system as "noncriminals". According to the Uncover the Truth coalition, around 25% noncriminals are processed as a result of Secure Communities nationwide, compared to average statewide percentages of 46.99% in North Carolina and 31.69% in Georgia.

## North Carolina

### Introduction to North Carolina

North Carolina has history of welcoming other ethnic, religious groups as well as a history of migrant workers, but not a history of settling Latino communities. The immigrant population is very diverse and its reception varies across the state as well as between different groups of immigrants. The immigrant population is involved in a number of economic areas with geographic concentrations. Triad high skilled and Asian immigrants, throughout construction and agriculture and food processing throughout. North Carolina is important nationwide through H2 program a guest worker program. This analysis will focus on the development of that policy, consequences of it and problematic parts of it. Law enforcement 287g agreements and one of 12 states with Secure Communities operating in 100% of its counties.

### History of immigration/new cultures

North Carolina's history has been shaped largely by positive and inclusive interactions with new cultures including the Quakers in the 1700s as well as Germans, Lutherans, Calvinists, Moravian Protestants, and Scotch-Irish Presbyterians in 18th century<sup>cxiv</sup>. These groups largely migrated to North Carolina for religious freedom and economic opportunities. By the mid 1800s a group of Irish Catholics migrated to North Carolina and later following the Industrial Revolution many rich Jewish families came to North Carolina. The wealthy Jewish population profited off the textile industry and fostered "philanthropy, justice and altruism". While a religious diversity flourished, "evangelical Protestantism reinforced an ethno religious identity and promoted a Protestant ethic: neighborliness, family and community responsibility, suspicion of big governments, and self-reliance".

### Recent demographic changes

Though North Carolina has benefited from Latino migrants working in agriculture, the dramatic expansion of the Latino and foreign-born communities is a new phenomenon. In 2010 the Latino population of any race was 8.4% of the total NC population and 800,120 individuals based on the most recent data from the 2010 Census. This represents a growth of 111.1% from 2000. Though this change clearly signifies a significant expansion, it is not as noteworthy as when North Carolina's Latino resident population increased by nearly 400% from 1990 to 2000<sup>cxv</sup>. Additionally the foreign-born population grew from 115,077 to 430,000, from in 1990 to 2000, an increase of 273.6%<sup>cxvi</sup>. It is estimated that more than 60% of the state's foreign-born arrived in these ten years. In between these two Census data collection periods, the Latino population of 383,465 in 2000 expanded to 506,206 in 2004 which represents a 1,066 percent increase in the North Carolina Latino population since 1970, when there were only 43,414 Latinos in the state<sup>cxvii</sup>.

The increase of the Latino population also coincides with a dramatic growth in the overall North Carolina population, which grew 18.5% from 2000 to 2010<sup>cxviii</sup>. Though this is less than the 21.4% overall population growth from 1990 to 2000, it is still significant<sup>cxix</sup>.

The foreign-born immigrant population in North Carolina is very diverse, with many different immigration statuses and different origins. The foreign-born population was estimated to be 618,878 or 6.8% of the state's total population in 2009<sup>cc</sup>. Though many consider the immigrant population to be newly arrived to the US and overwhelmingly Mexican or from

Latino America, the foreign-born population is much more diverse. Not only was it estimated that 40% of the foreign-born population entered the country in 2000 or later and 60% had entered before 2000, but also 28.9% of the total foreign-born population has naturalized to become U.S. citizens.

Though the largest portion of the foreign-born population was from Latin America, immigrants from all over the world moved to North Carolina. By 2009 the foreign-born population consisted of immigrants from Arica (5.7%), Asia (22.2%), Europe (11.7%), North America (2.7%) and .5% from Oceania<sup>cci</sup>.

North Carolina is also home to rapidly growing Asian population. According to recent data from the USEPA on APIRA Demographics, North Carolina is one of the states with the fastest growing Asian population with nearly 150,000 immigrants in 2000<sup>ccii</sup>. Additionally it is estimated that 70% of Asian immigrants nationwide are recent immigrants or refugees.

While it is undeniable that the immigrant population has significant numbers of authorized immigrants, a report by INS in January 2003 explained that North Carolina had experienced one of the largest increases of undocumented immigrant population or more than 100,000 undocumented residents<sup>cciii</sup>. The undocumented population was more likely than immigrant workers from the H-2 guest worker program to create roots to the community<sup>cciv</sup>.

Within the refugee community, there is much diversity. A few groups of immigrants were more educated and of a higher class, such as Ethiopians, Laotians, and Bosnians in Asheville. Other immigrant groups such as Cambodian refugees (rice farmers), Montagnard (Vietnamese soldiers on Cambodian border) and Sudanese (mostly Muslim and pop has largely returned to Sudan after 9/11)<sup>ccv</sup>. African refugee population grew starting in the 1990s, predominantly coming from sub-Saharan countries such as Sudan, Somalia, Niger, Nigeria and Ghana<sup>ccvi</sup>. Between 1990 and 2000 the African immigrant population grew 188% according to the Census in North Carolina.

On the other hand, the undocumented pop and legalized work-based immigrants (ie H-2 guest workers) are intertwined groups; 2 communities support each other socially and often overlap. In nearly all towns with a general population of 15,000 and many with less have a Mexican store where they are able to promote cultural events, economic opportunities and where a social network is developed<sup>ccvii</sup>. The stores are also important because of the rejuvenating effects they have since they are in deteriorating or declined neighborhoods where few other services or business interaction exists.

The growth of immigrants in North Carolina is particularly concentrated around the counties surrounding Charlotte including Mecklenburg, Forsyth, Yancey, Mitchell counties as well as the counties surrounding Fayetteville such as Cumberland and Dillon County, SC. In these counties the Latino population grew by 500% and the asian population grew by 100% from 1990 to 2000<sup>ccviii</sup>. Additionally Latino and Asian growth has occurred in rural areas such as Duplin and Lee counties.

### **Explanations to such growth:**

In addition to the push and pull factors that drew both domestic and international migrants to other gateway states, there are many economic reasons unique to North Carolina that help explain the recent diversification of North Carolina. The principal factors include statewide economic prosperity, worker recruiting practices, and economic changes within the food industry as well as the actions of refugee service providers.

Throughout the 1990s North Carolina maintained an unemployment rate of below 4%, a level where economists consider it to have a tight labor market where there are more jobs than laborers to fill it<sup>ccix</sup>. Additionally there was a wide availability of low-skilled and unskilled jobs. This labor demand continued after 9/11 and Latino workforce expanded tremendously; between 1995 and 2005 the North Carolina workforce expanded by 22.1% and the Hispanic workforce expanded by 431%, thus Latino pop accounted for 35.1% of total workforce expansion. While the largest increase of Hispanic workers or 111,630 workers was in the construction industry, virtually every sector experienced a growth of Latino workers, including manufacturing that lost 327,470 workers overall between 1995 to 2005, but added 14,786 Hispanic workers.

Additionally market changes impacted the demand for immigrant labor within the food industry increased as size of farm and labor shifted. Currently 90% of farm workers are Hispanic<sup>ccx</sup>. A report from the North Carolina Department of Agriculture explained that the number of farms with less than 50 acres decreased by a third from 1982-1997<sup>ccxi</sup>. Additionally existing farm acreage became increasingly more reliant on machinery and often supplemented their profits by pursuing side operations in on-site packing or processing. The number of food processors expanded since they are able to turn a higher profit or a higher share of the “food income dollar” compared with growers. Despite a history of small farms, by 1997 two thirds of agricultural laborers in North Carolina worked on farms that hired ten or more workers<sup>ccxii</sup>. In response to these changes to the agricultural industry, the North Carolina Growers Association was instrumental in advocating for and providing support for farmers to switch from using native labor to the H-2 labor force<sup>ccxiii</sup>.

The expansion of food processors throughout the SE is extremely relevant in North Carolina. According to a 2002 USDA report, of the food processors nationwide, North Carolina is largest in turkey production, fifth largest in broiler production and one of top five of poultry processing<sup>ccxiv</sup>. Nearly all counties in North Carolina have broilers and the largest counties for processing are located in the Southeast part of North Carolina. A total of 8,000 workers are employed in the ten counties with the most broilers. Employers actively solicited workers from FL and abroad to work in North Carolina poultry factories<sup>ccxv</sup>.

Additionally the expansion of nationwide refugee social service provider centers also helps explain the rise in immigrants. The Triad area, the cities Winston-Salem (Forsyth county), High Point and Greensboro (both in Guilford county), emerged in 1990s as area of North Carolina for refugees after Lutheran Family Services, a part of Lutheran Immigration and Refugee Services opened an office in Greensboro in 1979, which served as its operating headquarters<sup>ccxvi</sup>. Other social services such as Jewish Family Services, Church World Service and the Hebrew Immigrant Aid Society established offices in Greensboro through the 1980s and 1990s. The concentration of services in the Triad in general is one reason for the large refugee population as well.

As a growing Latino population arrived and settled in North Carolina, there was a shift from using African American workers to immigrant using workers in many industries. David Griffith’s study suggests that in 1980s significant competition with the native population, especially with low-educated blacks; Latinos held jobs that were previously held by African Americans<sup>ccxvii</sup>. In 1990 black males comprised 62.7% of construction trade workers and Latinos represented less than 1%. Later, in 2000 black males made up 27.3% and the Latino population had grown to 56.9%. He also explained that similar patterns occurred with building and grounds, cleaning, and maintenance occupations.

## **Framing and Perception of Immigrants and Immigration**

The negative and positive portrayal of immigrants in print media helps explain the varied reception and perception of immigrants in North Carolina. According to Mondo newspapers, the ten print media with the highest circulation in North Carolina include the Charlotte Observer, YES! Weekly, Raleigh News & Observer, North Carolina Catholic, Greensboro News & Record, Winston-Salem Journal, Fayetteville Observer, Creative Loafing Charlotte, Durham Independent Weekly and the Wilmington Star News<sup>ccxviii</sup>. Of these top ten newspapers, three sources (YES! Weekly, Creative Loafing Charlotte and Durham Independent Weekly) are primarily for promoting entertainment or “city guides”.

While there has been strict immigration enforcement legislation as well as other restrictive policies regarding immigrants proposed in North Carolina, the legislative activity to pass a restrictive immigration bill in nearby Georgia provides a better glimpse into the content and motives behind the three largest newspaper sources in North Carolina. By examining the immigration related legislation during the April 8<sup>th</sup> to April 15<sup>th</sup> week, it is clear that while North Carolina may have a moderate or more balanced political system, the news coverage is largely tainted by socially conservative values.

The Charlotte Observer with a circulation of 155,995 or almost 7,000 more than the next highest grossing newspaper. The news coverage included many references to phrases “illegal immigration” or “illegal immigrants”, but did not always use this framework. In each of the four articles, the authors wrote about immigration without using the word “illegal” about half of the times. Additionally the newspaper gave the details of the proposals and mentioned the possibility of economic and political challenges to the legislation.

The Raleigh News & Observer has a circulation of 130,555. It also provided minimum coverage of the recent legislative activity in Georgia. Both of the articles explained the bare minimum about issue in Georgia, not going into substantial depth about the issues, the benefits or disadvantages or the costs of the legislation. This superficial news coverage coupled with the frequent use of the phrases “illegal immigration” or “illegal immigrants” represents another media source that does not encourage a better understanding of immigration issues.

The North Carolina Catholic is published weekly but since the majority of the legislative activity happened after the 15<sup>th</sup> it did not cover the Georgia immigration debate and legislative activity in their April 15<sup>th</sup>, April 8<sup>th</sup> or April 1<sup>st</sup> issues. In each of the issues immigrants or the issue of immigration was discussed, but only once was the word “illegal” used to describe either. Though the coverage of the political activity in Georgia did include one mention of “illegal immigration”, the media coverage of immigration and immigrants in the Catholic News Herald is tremendously more positive. Not only were there announcements for public education initiatives on immigration such as a teach-in from the League of Women Voters showing a support for comprehensive immigration reform, but there was also educational articles explaining the Census information about Latinos. This proactive media source went beyond a neutral framing of immigrants to encourage readers to understand immigrant issues and foster tolerance and acceptance.

## **Political Party Affiliation**

North Carolina is a Southern state with a mixture of Democrats and Republicans in power throughout state government. This mixed representation of both conservative and liberal

political interests suggests a political climate where both restrictive and inclusive policies are possible.

The congressional representation of North Carolina is bipartisan with an even number of representatives from each party in both the Senate and the House of Representatives. Based on ratings from collaboration between the Immigration Policy Center and the media source *Hispanically Speaking News*, Senators Burr and Hagan have an interesting cumulative voting record<sup>ccxi</sup>. Though the Republican, Senator Burr received an “F” for his votes on border security amendments of HR 2892, the funding for sanctuary cities amendment of HR 2847, the opposition to E-Verify in HR 2892 as well as the extension of E-Verify in HR 1105 and the support of the DREAM Act, the Democrat, Senator Hagan did not receive all “A” ratings. Her negative ratings for the DREAM Act and an E-Verify mandate for federal contractors suggests that the state has a conservative leaning though it may have equal partisan representation.

Within the state government North Carolina has a more conservative political representation. There are 68 Republicans and 52 Democrats in the State House of Representatives, whereas there are 31 Republicans and 19 Democrats in the State Senate<sup>ccxx</sup>.

In addition to Governor Perdue, the Secretary of State, Attorney General and State Treasurer are also Democrats.

### **Immigrant rights groups**

A variety of players work together to work for immigrant rights in North Carolina. Several organizations form local community based organizations throughout the state. COLAWN a regional network that coordinates many of these community based organizations in the mountains. Two nationwide networks of community based organizations such as NNIRR and FIRM are active. Additionally many refugee groups advocate and serve immigrant communities, largely based on ethnic and religious characteristics.

As a response to the large farm worker population and the problems the community faces, worker rights organizations such as FLOC have been instrumental in publicizing problems within the H2A program as well as using litigation and labor organizing in efforts to improve the situations. Their well-known victory against the NCGWA and Mt Olive Company brought farm worker issues in North Carolina to the forefront across the country.

Additionally local groups such as Adelante and El Pueblo lobby state government on issues such as community college, health care and the 287 g programs. There are also a few nationwide affiliation groups that are very active such as the ACLU, NCLR and the NAACP. Other political groups such as NC Justice provide multi-issue research about progressive issues including immigration.

Universities and students in general have been strong force for immigrant rights battles. In NC debates over always changing access to higher education have been prevalent as well as forces within academia in North Carolina such as UNC and UNCG are often sympathetic and focus on immigrant issues.

As explained above, agricultural growing associations are powerful business interests involved in immigration debate. The North Carolina Grower’s Association was instrumental in setting up and maintaining the H-2A guest worker program. There are no members of SLLI in NC. There is a chapter of FAIR.

## Support of Federal Immigration Control Policy

The support of state and local cooperation with federal immigration control authorities is one important element of restrictive immigrant policies. Despite North Carolina's mixed reception of immigrants with other policies, the prevalence of counties under the Secure Communities and 287g agreements contributes to a significantly more conservative and restrictive policy toward immigrants. Additionally the Alamance County Sheriff's Office is responsible for starting the "universal" policing model that has been replicated throughout the Southeast.

With every single county in North Carolina currently participating in the Secure Communities program according to the latest report from ICE, it is clear that Secure Communities is an influential federal policy in North Carolina. Of the 100 counties in North Carolina, 4% of the counties joined in 2008, 9% of the counties joined in 2009, 64% joined in 2010 and 23% in 2011<sup>ccxxi</sup>. According to ICE estimates 2,925 "convicted criminal aliens [were] administratively arrested or booked into ICE custody" and of those individuals, 1,915 were deported.

As a result of nationwide data recently released as a result of a Freedom of Information Act lawsuit filed against ICE by collaboration between National Day Laborer Organizing Network, Center for Constitutional Rights and the Kathryn O. Greenberg Immigration Justice Clinic of the Benjamin Cardozo School of Law, detailed information is now available about the results of a significant majority of counties that established Secure Community programs during or before 2010. Though information is lacking from 29 counties all of which were established alongside other counties that were included, the data detailing 47 Counties is very useful for understanding the consequences and results of the programs.

The Secure Communities program is responsible for a very large number of submissions and many removals as well. The average number of submissions was 6,045 with the top five counties (Wake, Mecklenburg, Durham, Buncombe, Gaston) responsible for more than 20,000 submissions each. Of these five counties, Wake, Buncombe, Gaston were the three counties with the most immigrants removed with 1,218, 736 and 210 individuals removed respectively. Additionally of the ten counties with the most submissions (Wake, Mecklenburg, Durham, Buncombe, Gaston as well as Cumberland, Catawba, Henderson, Harnett and New Hanover), eight of them were in the ten counties with the highest number of removals as well.

There is a pattern between the date the program was established and the effectiveness of both the number of submissions and the number of removals. The four oldest programs (Wake, Buncombe, Gaston, Henderson) were the first, fourth, fifth and eighth counties with the most submissions ranging from 72,565 in Wake to 11,705 in Henderson. Additionally these counties were also among the counties with the most removals, ranking first, fourth, fifth and sixth ranging from 1,218 removals in Wake to 200 in Henderson. A similar trend also occurred with the programs established in 2009. With the exception of Duplin county the 2009 counties ranked in the top fourteen by the number of submissions and all of the 2008 and 2009 counties made up the top fifteen counties with the highest number of removals.

Besides the total number of submissions and removals for which each county was responsible, it is important to examine and understand what type of individuals are being removed as a result of the program. In order to better understand this, it is essential to examine the percentage of noncriminals removed of the total removals. Since many of the counties (31)

have very small sample sizes of three or less, it is important to focus on the counties with more numbers of removals since the large number of high percentages of noncriminals removed is inflated. Of the ten counties with the most removals (Wage, Mecklenburg, Durham, Henderson, Gaston, Buncombe, New Hanover, Catawba, Union, Harnett), each county had a significant amount of their total removal population as noncriminals. Of these counties with high numbers of removal population, the percentages of noncriminals of the total ranged from 53.19% in Gaston County to 30.95% in Buncombe County.

Of these ten counties with the most removals, each had very high percentages of non-criminals and L3 removals from 64.29% in Durham to 86.52% in Gaston. Additionally since the end of the 2010 fiscal year, 23 additional counties joined the program, connecting the entire state.

In addition to the Secure Communities programs, there are also eight jurisdictions with 287g agreements in nine North Carolina counties. There are six jail enforcement models in place in Alamance County Sheriff's Office, Cabarrus County Sheriff's Office, Gaston County Sheriff's Office, Henderson County Sheriff's Office, Mecklenburg County Sheriff's Office and Wake County Sheriff's Office. There are also two task force models instituted with the Guilford County Sheriff's Office and the Durham Police Department.

After the first 287 g agreement was signed in February 2006 in Mecklenburg County, the remaining agreements were created in 2007, 2008 and 2009. Though a pattern seemed to emerge with three agreements made in both 2007 and 2008, the final agreement was created in Guilford County in late 2009.

Though the most detainers were filed in the County with the oldest agreement, there is not a strong pattern between the age of the agreement and the number of detainers filed.

Most of the counties had low percentage of processing serious L1 criminal offenders. With the exception of Guilford and Mecklenburg counties where more than a quarter of the processed criminals were serious offenders, the remaining counties processed between 1.67% (Wake County) and 15.97% (Durham) serious criminals.

On the other had all of the jurisdictions with the exception of Guilford and Durham, the majorities of detainees were for L3 criminals and traffic violators. The percentages of these two types of detainees of the total ranged between 60.94% in Mecklenburg and 71.94% in Henderson County.

The task force programs, Guilford and Durham each have the lowest percentages of processed immigrants as a result of L3 and traffic violation charges. Guilford had a rate of 25% and Durham had a rate of 4.55%, though it must be noted that in Durham 75% of processed immigrants were coded as other, defined as "offenses coded as 'drugs', 'civil,' 'other criminal' or 'no data'". It is unclear the reason behind such a prevalence of these types of offenses, but it is clear that regardless the majority are not serious criminals.

Additionally there are parts of NC where law enforcement cooperates with ICE through both Secure Communities and a 287g agreement. In fact, each of the jurisdictions with 287 g agreements also have established Secure Communities programs. These jurisdictions include Gaston, Henderson, Cabarrus, Mecklenburg, Alamance, Guilford counties. Additionally Durham has a countywide Secure Communities program coupled with a citywide Durham 287g agreement. Each of these jurisdictions signed their 287g agreements before their Secure Communities programs were established.



Even though Mecklenburg and Wake counties produced the highest number of both detainees under the 287g program and the highest number of submissions under the Secure Communities program, there is not a distinct pattern between the other jurisdictions that emerges when the two data sets are compared.

It is also important to consider that the counties with both programs are among the counties with the most submissions and the most removals; four of the five counties with the most submissions under Secure Communities also have established 287g programs (Wake, Mecklenburg, Durham, Gaston). The other counties with both programs ranked eighth, fourteenth, fifteenth and twenty-first. This trend is also reflected in the number of removals; the five counties with the most removals all had both Secure Communities and 287 g programs (Wake, Mecklenburg, Durham, Henderson, Gaston). The other counties with both programs ranked twelfth, seventeenth and twenty-first.

### **Unique Policy: H2A**

One of the unique policy characteristics of North Carolina is its use and promotion of the H-2 guest worker program. The H-2 program was created to allow Florida sugar cane plantations to use Caribbean workers in 1943<sup>ccxxii</sup>. Similar to the Bracero guest worker program created in 1942 to fill the labor shortage during WWII, the H-2 program has provisions in place to protect worker rights though they are seldom respected or enforced<sup>ccxxiii</sup>. Even though Bracero workers were supposed to be given many contractual protections such as minimum wage, housing and minimum working days, the conditions for the 4.5 million workers who had participated in the program until the program's end in 1964 were far from that ideal vision. Even though Bracero workers had 10% of their wages withheld for a pension similar to Social Security for US citizens, they were never paid.

The H-2 program was modified under IRCA in 1986 to divide the program into the H-2A program for agricultural workers and the H-2B program for non-agricultural workers. H-2 workers are supposed to have additional protections such as free housing, worker's compensation, receive at least three quarters of the hours promised in contracts, travel compensation (one way if worker stays for at least half of contract and both ways if worker stays entire contract), funded legal services regarding work related issues, and most importantly the same health and safety worker regulations as US citizens<sup>ccxxiv</sup>.

The North Carolina Grower's Association was instrumental for bringing workers to North Carolina through lobbying work as well as helping to provide assistance to farmers with paperwork. Additionally they prioritize the farmers' interest over the farm workers'<sup>ccxxv</sup>. In one of the latest publicity examples, the website states:

NCGA members who have already received their first H-2A worker, and in some cases local US workers, and have been paying an hourly wage rate of \$9.59 per hour CAN/SHOULD lower the hourly wage rate to \$9.30 per hour. NCGA staff have disclosed to the H-2A workers during orientation and the US applicants during the telephone interview that the wage rates would be going down in late February or early March. If you already have workers on your farm that have been earning the \$9.59 hourly rate you should notify the workers in writing that the wage rate is \$9.30 per hour as of March 1 (see enclosure). NCGA wrote language into the work agreement/contract that authorizes you to lower the wage rate to \$9.30 effective March 1st.<sup>ccxxvi</sup>

Even though the H-2A program aims to recruit single men and women, the demographic implications of the program is much more complex. Some women participate in the H-2A

program while pregnant and give birth to their children on US soil, but women are not trying to use opportunity to have US citizens, but rather want to work and not be separated from children<sup>ccxxvii</sup>. Employers clearly dislike the process and have even elected not to renew workers' contracts as a result. Additionally a study of 734 H-2 workers from 2001 showed considerable flexibility between undocumented and H-2 workers—25% admitted to being undocumented before and 2/3 said they would work consider or would work without papers in the future<sup>ccxxviii</sup>.

Zuniga found that H-2 workers were more in shadow than undocumented, H-2 workers were very hesitant to discuss their workplace conditions and stories. H-2 workers frequently work under exploitative conditions and are frequently denied basic rights. Employers often use fragility and vulnerability of immigrants' legal status as leverage to avoid paying due wages, giving medical compensation or other problems. It is common for growers to withhold their employee's passport as means to control<sup>ccxxix</sup>.

The housing for H-2 workers on 19,000 farms across the state remained unregistered and uninspected in 2009<sup>ccxxx</sup>. Additionally the inspection of farm worker housing is not a high priority for regulators; in 1998 for example less than 25% of the housing of registered guest and domestic migrant workers was inspected<sup>ccxxxi</sup>.

Wage theft is common through the practice of under-reporting the number of hours worked; for example it is common to pay workers for an eight hour day despite extended hours during peak season. Some protections exist for farm workers even if not enforced. For example the federal laws of minimum wage were extended to farm workers in 1966, minimum housing regulations in 1986 and pesticide regulations in 1993. Under the H-2A program, workers are supposed to be paid the federally mandated 'adverse effect wage rate' or the AEWR that is higher than the minimum wage and is based on the average wage of domestic farm workers<sup>ccxxxii</sup>. Recently the AEWR was lowered from \$9.59 to \$9.30 as of March 1<sup>st</sup> 2011<sup>ccxxxiii</sup>.

There is common knowledge that the Migrant and Seasonal Agricultural Workers Protection Act (MSAWPA) federal law is more strictly enforced in Virginia than in NC. This is as a result of jurisdictions; VA is under the US Department of Labor Philadelphia office instead of the Atlanta Regional Office. This division is very important; as Griffith explains, "In so far as this translates into farm labor contractors refusing to take crews north of the North Carolina-Virginia line, it means that, for many Mexican farm workers, even deep inside the United States a border remains a significant force in their lives."<sup>ccxxxiv</sup>

Workers are discouraged from pursuing the legally guaranteed grievance procedure. Public defense lawyers are blamed for alleged employer economic hardships. Workers are routinely given negative propaganda about legal aid resources and labor organizers<sup>ccxxxv</sup>. Additionally labor organizers from FLOC have been arrested for 'trespassing'.

The main exception to these worker problems with H-2A are at small farms. Positive relationships between farmers and workers exists, where employers continue to hire the same H2A workers through the seasons, but these cases mostly concentrated on smaller farms where less than 10 farm workers are hired<sup>ccxxxvi</sup>.

There have been multiple efforts to expand or compliment immigration control efforts with guest worker programs. The most well known one, under the Bush administration ultimately failed. Despite the attempts to create a guest worker program under the Bush administration in 2001, the political climate shifted dramatically after the 9/11 terrorist attacks

and efforts for comprehensive immigration reform ultimately failed<sup>ccxxxvii</sup>. Similar to conservative reactions in 2001, many conservatives in Utah perceive the recent state immigration bills as efforts for amnesty. On the other hand many immigrant advocates pointed out that the creation of a state-authorized guest worker program would fall short of its goals since the program would require a federal “waiver”, so that immigrants that are authorized to work in Utah would not be pursued by federal immigration authorities<sup>ccxxxviii</sup>. Despite its shortcomings, it is clear that the idea of a guest worker program has not been lost to Americans and with a renewed curiosity about guest worker programs it is very possible that there could be efforts to further expand the H2A or H2B programs. Knowing this, it would be essential for lawmakers to have a full grasp of the consequences and problems with the existing programs.

### Emerging Policy Analysis

The policy toward undocumented immigrants has changed significantly over the course of the last five to ten years<sup>ccxxxix</sup>. Even though the Plyer vs Doe case in 1982 guaranteed the right to a public K-12 education, regardless of immigration status, legislative efforts to include undocumented students in higher education as in-state students failed in committee in 2003, but the University of North Carolina System adapted a system where immigrants could be considered for admission as out-of-state residents for educational studies requiring professional licenses. Though this is clearly a step forward for immigrant access to education, it is also influenced by federal policy that requires immigrants have access to professional licenses. Similar legislation to that of 2003 was proposed again in 2005 that would have allowed undocumented students who had lived in North Carolina for at least four years, and graduated from a North Carolina high school to qualify for in-state tuition. Even though that proposal also died in committee, the North Carolina Community College System (NCCCS) announced in 2007 that their official policy would be to admit undocumented students though they would still continue to be considered out-of-state residents for tuition purposes. This policy was reversed in 2008 and despite the NC Attorney General’s legal opinion as well as the Department of Homeland Security clarification that the admission of undocumented students did not interfere with any federal regulations, undocumented immigrants were still barred from NC public higher education institutions based on a decision from the NCCCS in August 2008. Later in 2009 John B. Lee, who was hired in 2007 to assess a study on the admissions process, presented his report, though the NCCCS board did not announce their decision<sup>ccxli</sup>. Finally in September 2010 they decided to allow undocumented students to enroll in community colleges given that they had graduated from a US high school, that they pay out-of-state tuition (approximately \$7,7500 per academic year) and that they do not take the place of a NC or US resident.

The constantly vacillating policy shows how the North Carolina public has viewed immigrants through a negative filter considering which the costs and consequences of giving immigrants rights a high priority. Not only are students considered literal outsiders for tuition purposes, but they are also explicitly given a low priority for educational access. While the final policy reflects a flexibility to allow students to benefit from educational opportunities in North Carolina, it also does it at a very high cost. By charging students out-of-state tuition, many students are financially excluded and the state would clearly benefit from investing in the next generation, regardless of immigration status.

While law enforcement and the need to “crackdown on illegal immigration” is a prevalent issue in other states, the issue does not have as much traction in North Carolina. While

a SB 1070 has been proposed and organizing has shown opposition to SB 343, it was considered “unlikely” to pass.

## Georgia

### Introduction to Georgia

Even though Atlanta is heralded as a part of the New South that is “too busy to hate” and has re-branded itself as an international city, the current social and political climate in Georgia is dominated by anti-immigrant sentiment and policies. While immigrants have been welcomed to the state to help with construction before the Atlanta Olympics and to work in the carpet manufacturing industry, immigrants have faced considerable discrimination and restrictive immigrant-related statewide policies. The passage of SB 529 in 2006 articulated the hostile tone for the political and social climate with regards to immigrants. By restricting immigrants’ access to public benefits and encouraging the identification of unauthorized immigrants in the criminal justice system, Georgia both built upon other restrictive policies and set a precedent for similar legislation that spread to other parts of the country.

The historical context of SB 529 is also complimented by a very conservative and Republican state government as well as a local news sources that overwhelmingly portrays immigrants as “illegals.” Georgia also has a record of collaborating with federal immigration authorities, which has tremendous consequences for the immigrant community. All of these elements help explain and set the context for the recent anti-immigrant SB 87, which was modeled after Arizona’s SB 1070 and recently passed by the State Senate and State House of Representatives.

### Demographic:

The Georgia immigrant population is composed of a variety of ethnic groups with differing legal immigration statuses. Though Georgia does not have a large immigrant population when compared to the overall population, the foreign-born population has expanded dramatically recently. As a percentage of the total statewide population the foreign-born population has grown from 2.7% in 1990 to 7.1% in 2000 to 9.4% in 2009<sup>ccxli</sup>. Additionally the statewide foreign-born population grew by 233.4% from 1990 to 2000. These statistics of the portion of foreign born from the total population are significantly less than the nationwide rates, which include 7.9% in 1990, 11.1% in 2000 and 12.5% in 2009. Of the foreign born population in 2009, it was estimated that 12.0% entered the US before 1980, 14.9% during the 1980s, 31.7% in the 1990s and the remaining 41.1% after 2000.

While the largest percentage of the foreign born population in 2009 is from Latin America (54.6%), immigrants from Georgia are also from other parts of the world. It was estimated that of foreign born population 8.2% was from Africa, 25.0% was from Asia, 10.0% was from Europe, 2.1% was from Northern America and 0.2% was from Oceania. When compared to the nationwide foreign-born population statistics, there are significantly more immigrants from Africa (3.9%) and less from Asia (27.7%) and Europe (12.7%). Additionally the top three sending countries in Georgia are similar to nationwide rates from both 2009 and 1990. In 1990 the top three sending countries in Georgia were Mexico (11.4%), Germany (7.8%) and Korea (6.5%); later in 2000 the top three sending countries were Mexico (29.8%), India (5.9%) and Korea (4.1%). These demographic characteristics are similar to the nationwide rates in both 1990 and 2009; the top three sending countries in 1990 were Mexico (21.7%), the

Philippines (4.6%) and Canda (3.8%) and in 2009 they were Mexico (29.8), the Philippines (4.5%) and India (4.3%).

A large percentage of immigrants live in the Atlanta metropolitan area (AMA), though immigrants have a large presence throughout the state. This is a result of many immigration-related policies as well as urban planning decisions to incorporate a large geographic region into the metropolitan area. In 1950 Atlanta consisted of the three main counties (Fulton, DeKalb and Cobb)<sup>ccxliii</sup>. In 1960 two counties were added to the AMA, fifteen more were incorporated in 1980 and by 2000 twenty counties were economically integrated in the metropolitan area. The large geographic region in 2000 includes one-eighth of the state's geographic area and half of the state's population or more than four million people. Immigrants have contributed to a large portion of the growth. By 2000 10% of the metro area's population was foreign born<sup>ccxliii</sup>. Additionally it was estimated in 2000 that 73.3% of the statewide immigrant population lived in the AMA. In the metropolitan area undocumented immigrants make up 40.4%, refugees make up 10.5% and authorized immigrants through employment or family reunification<sup>ccxliv</sup>.

Even though the immigrant population is concentrated in Atlanta and its surrounding areas, there is also a strong immigrant presence in other parts of the state. In the 1990s there were 25 counties that experienced a growth of the immigrant community by at least 50%<sup>ccxlv</sup>.

The public perception and government policies focus on the undocumented immigrant population. While it was estimated that around 40% of GA immigrants are undocumented, but overall the undocumented population is only 2.6% of the total GA population. It is believed that 65% of undocumented population in US lives in six states, but GA is not one of them.

Georgia has a significant refugee population. The African refugee community is 9% of immigrants, compared to 3% of all immigrants in the US<sup>ccxlvii</sup>. This concentration of African refugees is a result of refugee policy and African refugees' desire to live in residential areas with other blacks. Of this population, official reports explain that 49,000 refugees came to GA between 1981 and 2002. 50% from Asia fleeing largely as a result of Vietnam War; 25% European counties, more than half of them from Bosnia, most from former USSR countries<sup>ccxlviii</sup>. Additionally one out of every six refugees are from Africa, half of whom came from Somalia after civil war began in 1991, almost a quarter are from Ethiopia and the remaining refugees are from Sudan and other countries<sup>ccxlviii</sup>. The refugee population is 11.7% of international immigrants in GA.

### **Framing and Perception of Immigrants and Immigration**

The portrayal of immigrants in the local and statewide media plays a large role in the perception of immigrants and the understanding of immigration issues. The ten print news sources in Georgia with the highest circulation (in order) are the Atlanta Journal-Constitution, Bright Side, Creative Loafing Atlanta, Georgia Bulletin, Vida Latina, Mundo Hispanico Atlanta, Atlanta Inquirer, Augusta Chronicle, Gwinnett Daily Post and the DeKalb Neighbor<sup>ccxlix</sup>. Of these ten sources of print media, many are not conventional newspapers including Bright Side, the DeKalb Neighbor and Creative Loafing Atlanta. Bright Side is a group of community newspapers "filled with positive news about the folks that live in Kennesaw, Acworth, Marietta, Powder Springs, Smyrna/Vinings, and South Cobb - all located in Cobb County, GA."<sup>cccl</sup> The DeKalb Neighbor is a similarly local newspaper comprised many smaller papers serving North, Mid and South DeKalb County in addition to many other parts of Georgia. Creative Loafing Atlanta is an entertainment and city living guide. Additionally there are multiple racial or ethnic-

oriented newspapers such as the Vida Latina, Mundo Hispanico Atlanta, and the Atlanta Inquirer. The Georgia Bulletin is the newspaper of the Roman Catholic Archdiocese. The remaining sources including the Atlanta Journal-Constitution, Augusta Chronicle and the Gwinnett Daily Post are conventional newspapers.

In the week from April 8<sup>th</sup> to April 15<sup>th</sup> many of these sources framed the issue of immigration control and immigrant rights using a conservative and restrictive framework. During this week significant legislative activity concerning immigrant-related bills in the General Assembly as well as political demonstrations related to the proposed legislation occurred. In order to characterize the portrayal of the immigrant-related issues I will examine how immigrants are described, as undocumented or illegal.

While I would ideally have analyzed each media source, my research was limited to articles that were available online, which meant that I did not have access to Bright Side, the Vida Latina, the Atlanta Inquirer or the DeKalb Neighbor. Additionally I was working under a tight deadline and I prioritized keeping my analysis up to date with the current news. My analysis is therefore limited to the newspaper with the highest circulation, the Atlanta Journal-Constitution with a readership of 181,504 or just over 72,000 more than the newspaper with the next highest amount of circulation, Bright Side.

Of the ten articles that ran during April 8<sup>th</sup> to April 15<sup>th</sup> each one used the phrase “illegal immigrant” or “illegal immigration” at least once. Some articles used the word to describe immigration or immigrants with extreme frequencies (3/3 or 12/13), while others used it comparatively fewer times. Additionally two of the articles had “illegal immigrant” in their titles.

Clearly the frequent use of “illegal immigrant” and “illegal immigration” portrays a certain image of immigrants. The furthering of such a criminalized and negative perception of immigrants is extremely important to understanding both the political climate as well as the public perception of immigrants. For a more complete understanding of the articles see appendix.

Clearly it is very problematic for the public perception of immigrants that a news source that is allegedly politically neutral and considered to be reputable uses these phrases so often.

### **Political Party Affiliation**

Georgia is a conservative state with Republican majority in both of the state legislatures and many conservative leaders in other powerful governmental positions. Additionally the newly elected Governor Nathan Deal emphasized his experience opposing unauthorized immigration as a Congressman in his recent election campaign<sup>ccli</sup>. In fact, his voting history in the legislature shows a very conservative bend; he offered amendments to require citizenship verification for individuals applying for and renewing Medicaid benefits and also sponsored four bills that would have ended citizenship for children born in the US of undocumented parents (challenging the 14<sup>th</sup> amendment). Additionally other key officials in the executive branch are Republicans including the Secretary of State, Attorney General and State Treasurer.

The Republicans also have a majority in the both the State Senate where 36 are Republicans and 20 are Democrats as well as the State House of Representatives<sup>cclii</sup>. There are currently 177 Republicans and 62 Democrats Representatives<sup>ccliii</sup>.

In addition to the state government, Georgia’s representatives in Congress have a conservative voting pattern. Both US Senators are Republicans and nine of thirteen US

congresspersons in the US House of Representatives are also Republicans. A partnership between the Immigration Policy Center and the media source Hispanically Speaking News rated all 50 states based on the political climate in each state as well as the voting pattern of the state's Senators on key immigration bills<sup>ccliv</sup>. Georgia representatives failed to support positive immigrant-related bills or oppose negative immigrant-related bills including the border security amendments of HR 2892, the funding for sanctuary cities amendment of HR 2847, the opposition to E-Verify in HR 2892 as well as the extension of E-Verify in HR 1105 and the support of the DREAM Act. Based on the grades IPC and Hispanically Speaking News gave to the Georgia representatives individually and the state overall based on its political climate, Georgia did not receive a good rating. Not only was it one of 17 states to receive a negative state immigration rating, it was also one of 11 states to receive an "F" grade for each of the bills and the overall political climate in Georgia.

### Georgia's Political Climate

With the exception of an innovative educational policy from Dalton, the general climate around immigrant-related issues is negative. In recent history, the passage of SB 529 represented an anti-immigrant bill that addressed a variety of issues. The recent legislative activity around immigrants fits into this historical context, during which restrictive policies have gained the necessary public support to have the political traction to enact anti-immigrant legislation. The recent passage of SB 1070 in the final days of the legislative session suggests that Georgia is a part of the current hostile backlash against immigrants.

The Georgia Security and Immigration Compliance Act (SB 529) dealt with immigrant-related issues including workplace immigration enforcement, state cooperation with federal immigration control authorities, access to public benefits, public notary fraud, human trafficking and law enforcement must track the movement of immigrants in the criminal justice system<sup>cclv</sup>. As Raymond Rico from NILC explains, SB 529 was the most comprehensive of all immigrant-related state legislation in 2006. In addition to mandating the use of Basic Pilot (a previous version of E-Verify) for all public employers, employers were required to withhold 6% of an employee's income if he or she does not provide a valid tax identification number. To further enforce immigration law, the state Department of Public Safety was to begin a 287 g program and social service agencies were to ensure that local, state and federal benefits were limited to individuals with authorized immigration status, excluding emergency health care benefits. Additionally the bill mandated that a "reasonable effort" be made to determine the nationality of individuals in jails who have been charged with a felony or a DUI. For immigrants who have a different nationality, officers need to make an effort to check the immigration status of the immigrant and notify DHS if necessary. Almost as an afterthought, legislators included two provisions to address immigrant needs; the legislation also including provisions about punishing notary agencies and advertising companies that falsely advertised legal advice as well as provisions to increase penalties for sex or labor trafficking offenders.

While many other anti-immigrant bills were proposed in 2006 including the infamous HR 4437, which prompted large scale immigrant rights protest in major cities, passed around the country, Georgia's immigration control legislation had a very wide scope drew from many different perspectives and issues. Many other proposed immigrant bills that had previously failed were incorporated such as requiring proof of citizenship to vote and apply for public assistance as well as legislation that would raise the consequences for holding false documents to a misdemeanor<sup>cclvi</sup>.

A comparison of local issues found that: “the multiple layers of governance at city, county, and state levels have led to a diverse array of measures that often differ from county to county and city to city...the exclusionary policies are directed almost exclusively against undocumented Latino immigrants”<sup>cclvii</sup>. In contrast to the hostile statewide immigrant policies, some local policies are more receptive to immigrants such as in Dalton, Georgia. In what is known as the Carpet Manufacturer’s capital of the world, immigrant workers have had a tremendous influence on the local economy, politics and culture. In contrast to other areas of Georgia where immigrants have played an important contributing economic role to the community yet have still been subject to anti-immigrant sentiment and policies, Dalton can be characterized by its pro-immigrant environment and policies, particularly with education.

In Dalton the business interests defended immigrant rights, complicating a long history of divisive racial economic politics. Even following the civil rights advances throughout the South and Georgia in the 1960s, African Americans were systematically excluded from the higher paying jobs in the mills, an important part of the local economy<sup>cclviii</sup>. It is widely believed that this explains the significant out-migration of blacks from Whitfield County; the black population dropped from 15% in 1890 to 6.6% in 1930 to 3.8% in 2000<sup>cclix</sup>. This pro-immigrant attitude in Dalton is very different from Gainesville, GA where a large Latino work force is used and needed for poultry-processing centers. Zuniga argues that despite demographic similarities, it is the fact that the business interests in Gainesville are headed by multinational corporations that explains their relatively little investment in the social and political local affairs. It is widely believed that the “Carpet Capital’s urban regime” is responsible for the framing of immigrants as positive for the local economy in the local media, the positive reception of the Georgia Project and the development of the Catholic Church. Despite this warm welcome to immigrants, the Whitfield County entered into a memorandum of agreement with the ICE in the 287 g program in 2008.

Though Latino migrants were recruited from TX to build water dam north of Dalton and for the nearby poultry industry in the 1970s, the small population size limited the potential opportunities for conflict<sup>cclx</sup>. Latinos were largely an invisible population, and though discrimination was not uncommon, the general population was unaware of immigrant issues<sup>cclxi</sup>. There was a significant rise of the number of Latinos from 1990 to 2000 when the Latino population rose from 6.5% to 40.2% of the total population. Additionally the percentage of Latinos in the surrounding county rose from 3.2% of residents in 1990 to 22.1% in 2000. The influx of Mexican workers transformed the working environment; before the arrival of Mexican workers, white workers were able to switch between plants easily because of abundant employment opportunities<sup>cclxii</sup>. Later the new workers limited their options and broke production records. The racial tensions were very poignantly portrayed when a few white workers showed authorities where Mexican workers were hiding during workplace raids.

The growth in the immigrant workforce also was accompanied by an expansion of immigrant families. Whereas Latinos were less than 4% of the students from 1989 to 1990, the Latino population had grown to 51% by the 2000-2001 school year<sup>cclxiii</sup>. Additionally a survey in 1997-1998 showed that 90% were born in Mexico.

Despite the significant demographic shift, the state was reluctant and slow to fund local assistance to assist Spanish speakers. Before the federally mandated NCLB Georgia did not provide adequate ESOL curriculum<sup>cclxiv</sup> 83 -Anrig. For example in southern GA opportunities were only available for migrant workers, but if the ESOL was a legal permanent resident, they



were considered ineligible. Many point to the problem as an issue of access; certification programs are in northern Georgia, so Dalton, Atlanta and Gainesville have an abundance of ESOL teachers, but southern districts do not. To address this concern the state began a started online certification program in 2006.

The local problem stemmed from institutions like universities and GA Department of Education, so local leaders contacted Mexican University of Monterrey to ask for assistance. The collaboration was also a result of economic ties the Carpet manufacturer in both cities as well as the personal connections a manufacturing administrator had to the President of the University<sup>cclxv</sup>. The collaboration between local schools and Universidad de Monterrey became known as the Georgia Project with four parts: bilingual educational curriculum, bilingual teacher graduates from University of Monterrey coming to Georgia, Latino adult education and summer institute to learn about Mexican culture and history.

Additionally the creation of the HOPE Scholarship sought to encourage college attendance through which all GA residents who graduated with B average would qualify for a stipend for books and free tuition at state colleges and universities<sup>cclxvi</sup>. Under state policies undocumented students are not GA residents so they do not qualify, and therefore the HOPE scholarship is referred to as 'Big Lie' among Latino high school students.

### **Support of Federal Immigration Control Policy**

There is currently a significant amount of data released about the 287g and Secure Communities program in Georgia. This data provides a meaningful reflection of the state's enforcement strategies and priorities.

There are five 287 g programs set up in Georgia, of which there are three jail enforcement models (Cobb County, Gwinnett County Sheriff's Office and Whitfield County Sheriff's Office), one task force model with the Georgia Department of Public Safety and the remaining program is a hybrid model in the Hall County Sheriff's Office<sup>cclxvii</sup>. Surprisingly enough, the statewide task force model with the Georgia Department of Public Safety produced the fewest number of detainees. As a result of this data outlier, the following analysis will focus on the other countywide programs.

The first agreement was signed in Cobb County in 2007, followed by the creation of the Georgia Department of Public Safety task force program. After these programs were initiated two more counties (Whitfield and Hail) signed agreements in 2008 and one more signed in 2009 (Gwinnett). There is not a strong pattern between the initiation date of the 287g program with the number of detainees filed. The county with the highest number of detainees (Gwinnett) was the most recent county to sign a MOA and the county with the second highest number of detainees (Cobb) was the first county to sign a MOA. The fact that the two counties' totals can be compared in spite of the different time lapsed is extraordinary and suggests that Gwinnett is very effective.

The range of the total detainees filed and the proportion of each type of offense from the total detainees cannot be explained by the program's initiation date nor the type of model used. The program in is Gwinnett County responsible for the most detainees and is also the newest one with 1,964 detainees filed, whereas the oldest program is in Cobb County is the program responsible for the second most detainees. Additionally the use of different 287g program models cannot explain the range of total detainees nor the effectiveness of targeting serious

criminals. The hybrid program is not responsible for the most or the least total detainees nor the highest or lowest percentage of L1 offenses.

All of the counties had high percentages of L3 and traffic violator charges, meaning that of the total detainees filed against noncitizens, a large portion of the total detainees were filed as a result of minor crimes and traffic violations. The average combined percentage was 72.98% and the percentages ranged from 83.25% in Cobb County to 57.23% in Gwinnett County.

On the other hand, the percentages of the total detainees filed as a result serious crimes committed was very low, especially considering it is the goal of the program. The average of all of the programs was 11.61% and besides the Georgia Department of Public Safety (7.33%) and the Gwinnett County 287g program (18.74%) each of the other programs was just over 10%.

For further information on 287 g iGA see the ACLU report from Cobb County in 2009, available <http://www.acluga.org/287gReport.pdf>.

There are 24 Secure Communities programs in 15% of the total 159 counties in Georgia based on the latest information released in date. Clayton, DeKalb and Gwinnett Counties were the first three counties to establish Secure Communities program, followed by 7 additional programs in 2009 and 13 more counties in 2011<sup>cclxviii</sup>. The following analysis is based on information released as a result of a FOIA lawsuit between ICE and the Uncover the Truth collaboration<sup>cclxix</sup>.

There is a pattern between the age of the Secure Communities program and the effectiveness of the program in terms of the total submissions and the total removals. Besides the exception of Henry County, the data clearly shows that the longer the program is in existence, the more submissions and the more removals each county accumulates. A similar pattern emerges when the counties are ranked by the number of total removals. Unlike the Secure Communities' program in North Carolina, the amount of total submissions and of the total removals increases directly with the age of the program.

The Secure Communities programs displayed a range of patterns with regards to the total percentages of non criminals. Though the average percentage of noncriminal removals in the total was 31.69%, there were many counties that were either below or above the average. There were seven counties with more than 35% and two of them had half or more non criminals. On the other hand, Muscogee and Cherokee counties had a significantly smaller portion of their total as noncriminals with 16.67% and 14.29% respectively.

It is additionally important to examine how large the prevalence of noncriminals and L3 offenders from the total. The two percentages shows that every single Secure Communities program in GA was not successful in focusing on serious criminals with the percentage of noncriminal and L3 offenses; The average percentage of noncriminal and L3 offenses of the total was 71.43% and ranged from 100% in Henry County to 54,17% in Whitfield county.

Additionally there are four counties where Secure Communities programs and 287g agreements work simultaneously. Cobb, Gwinnett, Hall and Whitfield counties all signed 287g MOAs with ICE before their Secure Communities programs were established. With the exception of Gwinnett county each of the counties also waited over two years to establish their Secure Communities programs—it is unknown whether this is a result of political sway or a result of the decisions and complications on the part of the federal government.

Gwinnett County is the program that produced the highest number of both detainees under Secure Communities and under the 287 g agreement, but the remaining counties did not

display a distinct pattern between the number of submissions and the existence of both programs in that jurisdiction. Additionally Gwinnett County had the highest percentage of noncriminal of the total, but the remaining jurisdictions with both Secure Communities and 287g programs did not have outstanding characteristics when compared with the other Secure Communities programs.

While this analysis begins to examine the consequences and impacts of counties with both Secure Communities and 287g agreements, the full community effects is an area for further research.

### Emerging Policy Analysis

A range of anti-immigrant bills was proposed during the 2011 legislative session including legislation addressing E-Verify, education funding, mandating 287g agreements and government benefits. According to both Adelina Nicholls and Teodoro Maus from the Georgia Latino Alliance for Human Rights, during an interview on date SB 87 was emerging as most important bill since it embodied many of problematic aspects of other bills<sup>cclxx</sup>. Additionally the absorption of other bills into one omnibus bill follows history of SB 529.

According to the Community Outreach Advocate for Partnership Against Domestic Violence, survivors of domestic violence are at a heightened risk as a result of HB 87<sup>cclxxi</sup>. Currently women are already hesitant to reach out to local law enforcement because of the fear that asking for legal assistance could influence their immigration status as a result of 287g agreements. This fear is based in reality; in July 2009 a domestic violence victim called 9/11 asking for assistance and as a direct result was arrested, separated from her infant daughter, detained in the Cobb County Jail and was placed in immigration deportation proceedings.

The predictions of the importance of 87 were confirmed when Senate approved on March 3<sup>rd</sup><sup>cclxxii</sup>. The Georgia House of Representatives passed the Illegal Immigration Reform and Enforcement Act of 2011 or HB 87 by a vote of 113-56 that split almost directly along party lines and showed very high levels of support for the bill. The bill's sponsor directly criticized the federal government as the motivation for the bill, announcing at the beginning of the debate "No doubt about it. Our federal government has failed us, and our citizens in Georgia are suffering the consequences." The bill proposed punishments for individuals who use false documents in Georgia as well as punishing those who knowingly transport or harbor unauthorized immigrants. Additionally the bill included an expansion of E-Verify and allowed residents to sue local and state governments if they did not enforce immigration control laws similar to legislative activity in MS.

Even in the earlier stages of the bill's development it was met by opposition from agricultural business interests, the Mexican ambassador, the Catholic bishops of Georgia, local and regional labor, immigrant and African American civil rights groups, as well as national advocacy organizations such as Amnesty International and the American Civil Liberties Union. Additionally many Democrats spoke out against the bill including Rep. Pedro Marin, who said "Do we really believe now is the time to create a Gestapo state, where every person who looks or sounds [like] or has the surname of an immigrant must provide papers -- as in South Africa -- to prove their citizenship or legal residence?"

Despite the organized opposition to the bill, it was passed and sent to the State Senate. Between the dates of the two votes, there was significant opposition organization including a large demonstration on March 24<sup>th</sup> of over 8,000 protesters<sup>cclxxiii</sup>.

After a 10-day break<sup>cclxxiv</sup> the Senate re-introduced the bill on April 11<sup>th</sup> and was approved by a 39 to 17 vote<sup>cclxxv</sup>. The three-hour debate to resolve issues mainly revolved around E-Verify and ultimately the Senate eliminated the House version's provision to require E-Verify for some businesses.

The same day as the Senate vote, there were two simultaneous organizing efforts to discourage Governor Deal signing bill or to encourage the governor to veto the bill. NDALON sent a public letter with the threat of statewide boycott<sup>cclxxvi</sup>. Additionally other progressive groups such as A Rising Tide or Shrinking Pie, Center for American Progress, Immigration Policy Center, National Lesbian and Gay Task Force and a group of organized farmers expressed opposition to the bill, some of who threatened to boycott the state as well. Also 23,000 petitions delivered to Gov. range of organizations involved<sup>cclxxvii</sup>. A large protest that occurred simultaneously also used the imagery and symbolism of tombstones reading "RIP Hotel Industry" to warn of economic hardships that would accompany the bill. Blacks divided across the state, but many civil rights leaders are speaking out very strongly against bills. Rep John Lewis said at protest "We are all brothers and sisters it doesn't matter whether we are black, white, Latino, Asian-American, Native American. We are one people. We are one family," Lewis said, eliciting cheers. "We all live in the same house. If any one of us is illegal, then we all are illegal. There are no illegal human beings."

The use of religious and creative ideas is being incorporated into the political activity against the bill. A religious pilgrimage for April 20<sup>th</sup> that would link the suffering of Christ to the potential suffering that would take place if SB 87 were passed<sup>cclxxviii</sup>. Despite this political activity, the Governor has pledged to sign the bill.

The tremendous organizing efforts on behalf of immigrant rights advocates and allies should not be belittled by what appears to be the soon passage of an Arizona SB 1070 copycat in Georgia. As the organizing efforts will most likely shift away from political efforts to creating a protest and boycott movement, the immigrant rights movement should aim to address the range of influences the permeating effects the anti-immigrant movement has had in Georgia. From the law enforcement cooperation's and the media to the public perception of immigrants, efforts should be made on a variety of levels to oppose anti-immigrant sentiment that has led to the legislation. For further recommendations for Georgia immigrant rights advocates and allies see Recommendations.

## Part V Recommendations and Resources

### Conclusion

Fear, resentment, intolerance has permeated the negative perception of immigrants throughout the United States. Policies at local, state and federal levels have encouraged the marginalization and criminalization of immigrants. In order to create a more equitable and free society changes need to be made within the general US public, the media and most importantly state and federal legislation and policy.

As a society we need to change all three so that our policies and legislation reflect and set the tone for the tolerance and accepting of immigrants of all cultures. Changes need to allow for immigrants to come out of the shadows as well as to raise the minimum expectations for the protections and rights of all members of our society. As this paper aimed to document, the anti-

immigrant movement has largely set the tone for the social and political climate around immigrant and immigration issues, so that anti-immigrant sentiment is reflected in legislation and policy for a variety of issues and at different jurisdictional levels.

Even though some jurisdictions and states have sought to create inclusive policies that opposed the widespread marginalization and criminalization of immigrants, anti-immigrant organizers were largely successful in establishing such policies through Congressional legislation, ICE law enforcement policies and state legislation and policies. As efforts to mandate E-Verify or to deny driver's licenses to unauthorized immigrants show, there have been multiple examples of restrictive policies that were established by the federal government, but were expanded upon at the state and local level. The shifting of jurisdiction and responsibility from the federal government to state governments was coupled with law enforcement programs that blur the line between the levels of government have also coincided with a significant rise in anti-immigrant state policies. These coinciding trends can be clearly understood from the politics and policies in both Georgia and North Carolina.

While their successes may seem overwhelming or insurmountable, I am confident that meaningful is possible. Immigrant community should lead and seek alliances across racial, ethnic and status lines so that organizing, advocacy and research groups can push for positive changes. Since policies that support immigrant rights such as work compensation protections benefit all members of our society, changes should not be limited to immigrant community. Additionally since progressive rights such as civil rights or political rights, benefit immigrants, the potential for coalitions is significant. Also since anti-immigrant policies have set the tone for legislation at all government levels, it is important to address nativist sentiment at various federal, state and local levels as well as in legislation, popular culture and media.

### **Recommendations.**

In order to effectively oppose the anti-immigrant movement and create the possibility for pro-immigrant legislation, immigrant rights organizers; advocates and sympathetic academic researchers must work together. While each of the groups must aim to most effectively maximize the benefits inherent to their group, a lack of collaboration could limit their collective results.

- **ORGANIZING:** A mass movement is necessary to justify, push for and demand accountability for immigrant-related policies. In order to best maximize the results, coalition should be built across racial, ethnic and economic divisions. In addition to the inherent power of a group of united people, it is important that individuals involved form relationships to strengthen their commitment to the immigrant rights cause. For example demonstrations effectively changed also LAPD policies for enforcing immigration law at driving checkpoints in South LA. Additionally member-based groups can provide the manpower to organize and execute boycotts, protests and influence policies on a mass scale. Organizing efforts by network coalitions have proven successful in the past and could provide an important piece of the puzzle to connect on the ground challenges.
- **RESEARCH:** Sympathetic academic researchers should use participatory research as a tool to legitimize the goals and actions of the advocacy and organizing constituencies. There is a deep need for clarity in immigration issues, so researchers could fill this need by articulating the truth about what is really going on. Effective research could also help

the two main factors (media and public) that influence legislation. It is essential that each group can rely facts, instead of stereotypes to advocate for immigrant rights.

- **ADVOCACY:** As a mix of both organizing and research, advocacy organizations must provide a more formal perspective to compliment the work of organizers. The work of the Uncover the Truth is very telling; the use of FOIA lawsuits to hold governments accountable is essential. Advocates need to work to examine the motivations behind policies and ensure accountability within progressive community. Based on their work, it could be possible to shift the emphasis away from criminalizing policies to human rights framework.

These groups must collectively work to oppose the anti-immigrant movement that has had successes in three areas: legislation/policy, the media and the general public. Just as the media often informs the public perception of immigrants and immigration, these areas of interest overlap.

- **LEGISLATION:** With the pervasive already enacted anti-immigrant legislation, it may seem unfeasible, but immigrant rights movement should aim to reverse the problematic federal and state policies. Clearly the movement should prioritize easier battles so that “an easy win” can sustain and grow the movement. Additionally they should rely on framing techniques to convince to neutral or conservative audiences and also aim to reframe the debate so that it is clear that threats to immigrant rights also undermine other “rights”. There should be explicit explanations so that the legislators and public understands implications of enacted and proposed legislation in terms of both consequences and benefits. Improvements to immigration policy (more equitable refugee and end to quota system) have been at expense of immigrant policy where rights of immigrant community at society at large are undermined. At the federal level, the government should be more explicit and hold itself accountable to its enforcement priorities. While each has a different role, Congress, DHS official and the executive branch currently led by President Obama should contribute. Their guidelines should be respected throughout the country. In terms of social services, the federal government should give incentives to invest in all members of society. The federal government should reassert federal control on immigration law enforcement; the current lack of control of ICE ACCESS programs carries too high costs. State and local policy should uphold or expand on federal minimum guidelines; the governments should be innovative linking inclusive economic development to all communities. For example there is an initiative to create a new economic monetary circulating system in Oakland, CA. There is an overall need to give incentives for immigrants to come out of the shadows—less exploitation, fear and better for our society (economic and moral).
- **MEDIA REFORM:** The public needs to understand the real problems of immigration and national security. The media should give the context for displacement, foreign policy and global economic restructuring. The media should discredit false information and anti-immigrant propaganda. The media should explain threats to worker rights, civil rights, women’s rights in the name of punishing immigrants. It should emphasize and publicize process for legislative changes, since some individuals act out on laws that are still in the proposal stages. It should explain truthful influence of hate groups and nativist groups,

not to glorify them but rather to understand their influence. It should oppose the practice “if it bleeds it leads” present a balanced range of perspectives and should be inclusive.

- **POPULAR CULTURE:** Popular culture most delegitimizing fringe movements (Minuteman) and politicians that seize upon fears around language, culture, education and economic problems to promote anti-immigrant fears and policies for “personal” political gains/attention. There should be an empowering of “minorities” since the attack on immigrants often has dramatic consequences for others and strong minority rights also improves immigrant rights. The tolerance in the general public should be transnational; immigrants may arrive with pre-conceived ideas about culture/race and there is a need to encourage tolerance through popular education innovative programs through education, workforce and community development. There need to exist more opportunities for voicing concerns about community problems and for communities to honestly learning from one another. There needs to be a deep cultural assessment of the levels of fear and stereotyping. Coupled with media reform, changes to the popular culture would create a knowledgeable public, one that is grounded in academic knowledge as well as through personal relationships.

A variety of strategies should be used to oppose the anti-immigrant movement from inside and outside the “system”. The failure of the DREAM Act, which had prevalent popular support, signals a significant need for political and social action. Here are a few strategies that could link all of these factors.

- **EDUCATION:** Initiatives in schools but also in communities with popular education should strive to reach a better understanding of the political process, American history of immigrants and the important politics/policies that have been used to exclude and include immigrants. Past organizing movements should serve as examples of both successes and failures. By understanding of the local, state and national heritage with regards to immigrants and minorities, all of our society should be more open to immigrants.
- **FRAMING:** It is essential that the immigrant rights movement challenge the view of immigrants and others as expendable, disposable and exploitable. It is important that legislators, activists and the public understand the real demographics of immigrants and their motivations to immigrate. Additionally the immigrant rights movement should strengthen protections for all community members; the immigrant community is exposed to a range of issues including women’s, LGBTQ, children’s, disabilities and environmental issues. The alliance against most recent anti-immigrant bill in Georgia reflects the need to protect all members of society and seek inclusive coalitions. Positive potential frameworks include ideas around public safety, public health, and economic investment/development.
- **CONVEYING IMMIGRANT PERSPECTIVE:** It is important to re-write history and explain the present. Visual and well-known events should publicize anti-immigrant movement (group, individuals and policies).
- **POLITICS (inside the system):** The immigrant rights movement should seek outspoken, visual support from politicians for immigrant rights.
- **PROTEST/DEMONSTRATION (outside the system):** An immigrant and progressive coalition should use voter registration and GOTV as first steps to encouraging political

involvement. They should also use lobbying and economic boycotts. As opposition to political activity in Georgia has conveyed, protests should be symbolic and fun.

- **STRENGTHEN THE IMMIGRANT COMMUNITY:** Additionally an alliance between groups across ethnic and immigration status should be built. There are certain threats that are specific to the immigrant community and educational programs like know your rights trainings are important. Additionally self-respect for the collective immigrant history, and the organizing struggles/successes are essential.
- **INSTITUTIONAL:** There need to be higher levels of accountability for proposed policies and enacted policies. A similar process to an EIA should be implemented to understand the consequences of policies for immigrants and migrants.

Notes on:

- **IMMIGRATION REFORM:** Many of the issues and debates at the federal and state level are a result of a large undocumented population. Though many of the consequences of restrictive policies are felt by all immigrants (and native born residents that are perceived as immigrants), the mantra of illegal immigrants whose very unauthorized presence is deemed offensive justifies many of the current policies. Many of the immigrant specialists that I spoke to believed that some of the current political challenges facing immigrants would gradually go away with new generation of US citizens. Given the current anti-immigrant climate and the types of legislation and policies being proposed, seems like goal for the future.

The final section of this paper is also a compilation of some of the resources I have come across during my writing process that I hope can help immigrant rights folks. There are many helpful resources available to help the immigrant community, si se puede!

## Community Resources

Understanding statistical data

Migration Policy Institute's MPI Data Hub:

<http://www.migrationinformation.org/datahub/>

<http://pewhispanic.org/>

Blogs:

<http://nnirr.blogspot.com/>

<http://immigrationimpact.com/>

Resources on immigrant-related law:

<http://www.aila.org/>



<http://www.immigrationforum.org/>

<http://www.nilc.org/>

Academic resources

Resource prepared by UCLA law librarians-has organized information tracking responses to SB 1070 reactions, Immigration Resources, Costs/Effects, Community Immigration Organizations, Copycat legislation, Race, the Border, etc.

<http://libguides.law.ucla.edu/content.php?pid=129802&sid=1113372>

List of community organizations across the country of various interests

<http://comm-org.wisc.edu/node/4>

“NOT IN OUR STATE: What Community-Based Organizations Can Do to Combat SB1070 Copycat Legislation.”

A comprehensive and accessible toolkit explaining the content and consequences for Arizona-style enforcement. It also includes strategies, talking points and statistics for community organizers.

<http://www.nclr.org/images/uploads/pages/Not%20in%20Out%20State%20What%20Community-Based%20Organizations%20Can%20Do%20to%20Combat%20SB%201070%20Copycat%20Legislation.pdf>

Analysis of black-brown coalitions in SE (2009)

<http://www.southerncouncil.org/pdf/BlackBrownCoalitions.pdf>

Chart of Immigrant access to Social services

[http://www.nilc.org/pubs/guideupdates/tb11\\_ovrvw-fed-pgms-rev-2010-10-07.pdf](http://www.nilc.org/pubs/guideupdates/tb11_ovrvw-fed-pgms-rev-2010-10-07.pdf)

Coalitions:

<http://www.americanworker.org/>

Charts ex chart about public benefits, flow chart about deportation process through 287g model and comparison of ICE programs.

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## Appendix

### I. SLLI Members in Leadership Positions.

#### LEADERSHIP POSITIONS

State	Name	Title	Branch
AZ	Russell Pearce	Senate President	Senate
CO	Michael Copp	Minority Leader	Senate
CO	B.J. Nikkel	Majority Whip	House of Representatives
CO	Scott Renfroe	Minority Whip	Senate
CT	Vincent Candelora	Deputy Republican Leader	State Assembly
KS	Ray Merrick	Majority Leader	House of Representatives
MA	Robert L. Hedlund	Assistant Minority Leader	Senate
MI	Dave Agema	Majority Caucus Chair	House of Representatives
MO	Sue Allen	Majority Caucus Secretary	House of Representatives
MT	Cary Smith	Majority Whip	House of Representatives
MT	Wendy Warburton	Minority Whip	House of Representatives
OK	Randy Terrill	Assistant Majority Floor	House of

WA Matt Shea  
 WV Carol Miller

Leader  
 Assistant Minority Floor  
 Leader  
 Assistant Minority Whip

Representatives  
 House of  
 Representatives  
 House of Delegates

**NC Media Analysis Chart**

Date of article	Number of references to immigration or immigrants as “illegal”	Number of times word immigrant or immigration is used.
The Charlotte Observer		
4/16/11	2	13
4/18/11	1	3
4/18/11	3	6
4/18/11	4	13
The Raleigh News & Observer		
4/15/11	1	3
4/13/11	4	12
Catholic News Herald		
4/15/11	0	6
4/8/11	1	8
4/1/11	0	18

Here is the list of links used in analysis of North Carolina print media sources:

<http://www.charlotteobserver.com/2011/04/16/2226704/immigration-bill-likely-to-get.html#storylink=misearch>

<http://www.charlotteobserver.com/2011/04/15/2225768/georgia-governor-says-hell-sign.html#storylink=misearch>

<http://www.charlotteobserver.com/2011/04/14/2224431/tough-illegal-immigration-bill.html#storylink=misearch>

<http://www.charlotteobserver.com/2011/04/13/2221217/ga-immigration-bill-in-doubt-as.html#storylink=misearch>

<http://www.newsobserver.com/2011/04/15/1132286/georgia-governor-says-hell-sign.html#storylink=misearch>

<http://www.newsobserver.com/2011/04/13/1128232/ga-immigration-bill-in-doubt-as.html#storylink=misearch>

[http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04\\_15.pdf](http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04_15.pdf)

[http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04\\_08.pdf](http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04_08.pdf)

[http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04\\_01.pdf](http://www.charlottediocese.org/customers/101092709242178/filemanager/CNH%20Docs/2011CNH04_01.pdf)

### GA Media Analysis Chart of the Atlanta Journal-Constitution

Date of article	Number of references to immigration or immigrants as “illegal”	Number of times word immigrant or immigration is used.
4/15/11	3	3
4/15/11	1	3
4/15/11	2	4
4/14/11	8	20
4/14/11	6	22
4/13/11	7	9
4/12/11	7	11
4/11/11	6	13
4/11/11	2	23
4/10/11	7	34
4/9/11	12	13
4/8/11	12	8

The immigration and immigrant-related articles are listed here in reverse chronological order:

[http://blogs.ajc.com/kyle-wingfield/2011/04/15/deal-gets-mostly-good-marks-in-first-session-as-governor/?cxntfid=blogs\\_kyle\\_](http://blogs.ajc.com/kyle-wingfield/2011/04/15/deal-gets-mostly-good-marks-in-first-session-as-governor/?cxntfid=blogs_kyle_)

[http://www.ajc.com/news/now-its-up-to-910983.html?cxntfid=blogs\\_news\\_128746](http://www.ajc.com/news/now-its-up-to-910983.html?cxntfid=blogs_news_128746)

[http://blogs.ajc.com/jay-bookman-blog/2011/04/15/georgia-immigration-law-extreme-far-reaching/?cxntfid=blogs\\_jay\\_bookman\\_blog](http://blogs.ajc.com/jay-bookman-blog/2011/04/15/georgia-immigration-law-extreme-far-reaching/?cxntfid=blogs_jay_bookman_blog)

<http://www.ajc.com/news/georgia-lawmakers-pass-illegal-909988.html>

<http://www.ajc.com/news/georgia-politics-elections/immigration-bill-passes-discussion-909442.html>

<http://www.ajc.com/news/nation-world/ga-has-1-more-908652.html>

<http://www.ajc.com/news/georgia-politics-elections/illegal-immigrant-protesters-wont-907078.html>

<http://www.ajc.com/news/georgia-politics-elections/senate-alters-oks-immigration-905568.html>

<http://www.ajc.com/news/nation-world/how-to-fix-massive-905129.html>

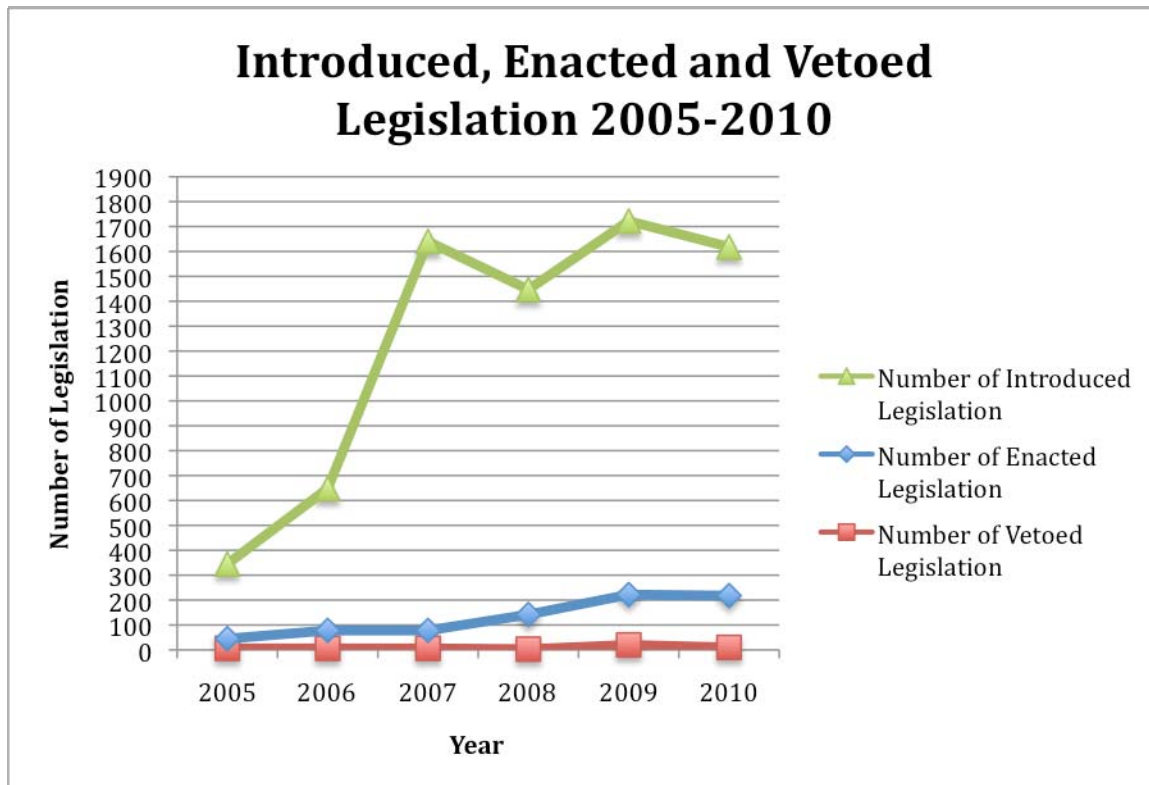
<http://www.ajc.com/news/nation-world/immigration-court-troubled-system-904887.html>

<http://www.ajc.com/news/georgia-politics-elections/civil-rights-activists-join-904550.html>

<http://www.ajc.com/news/nation-world/md-house-oks-illegal-903990.html>

## Graphs

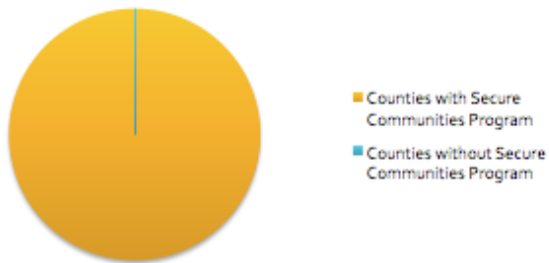
Rise of Immigrant-related state legislation





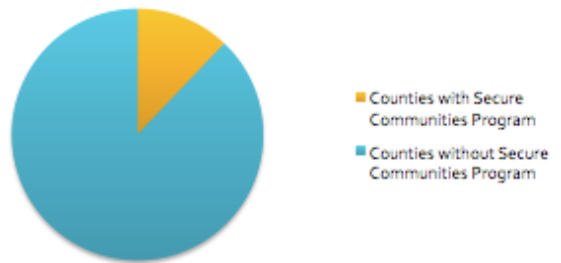
## Secure Communities

### Secure Communities Participation in NC



**100% Counties have Secure Communities Programs**

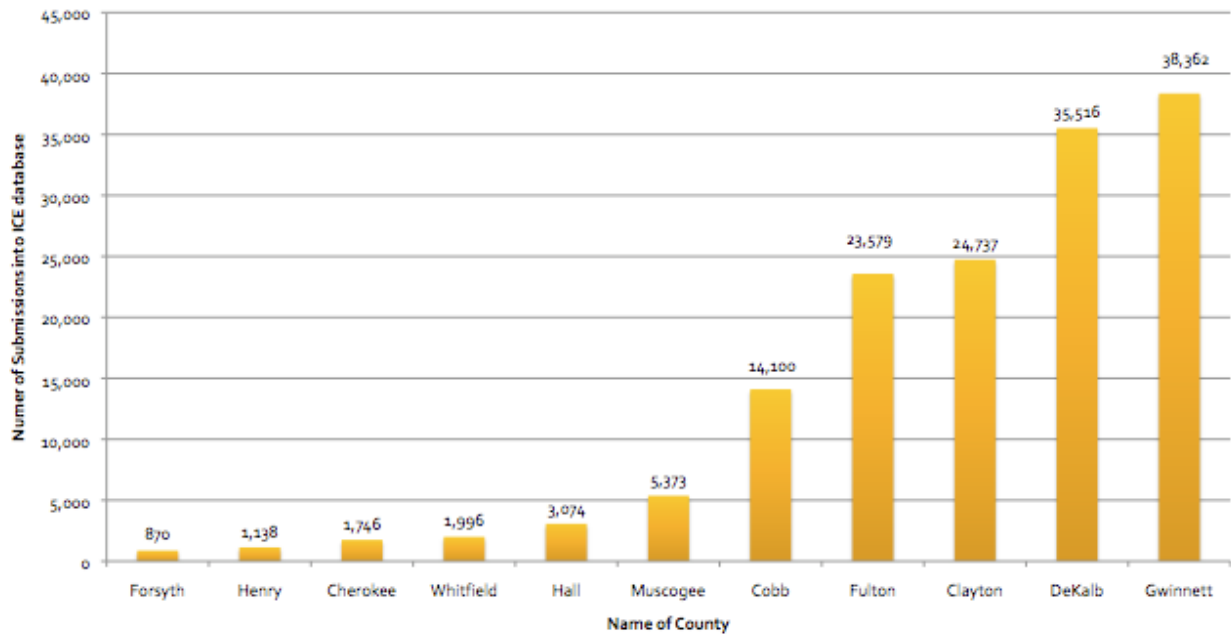
### Secure Communities Participation in GA



**14% Counties have Secure Communities Programs**

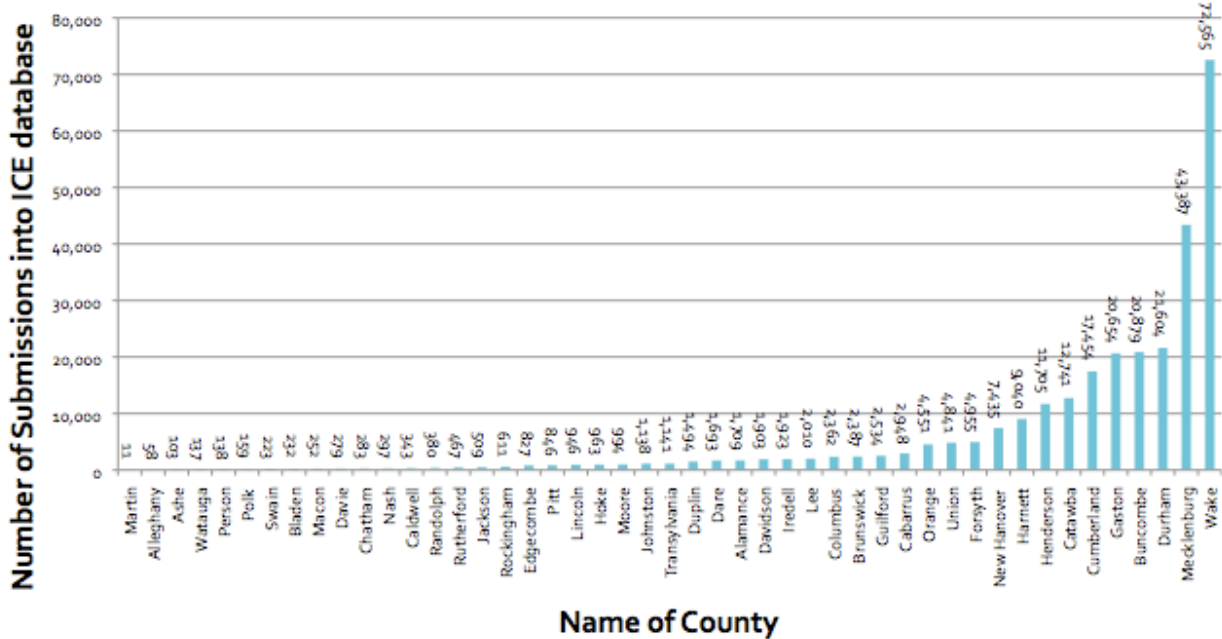
## Secure Communities in GA

### Total of Submissions into ICE database Through Secure Communities in GA



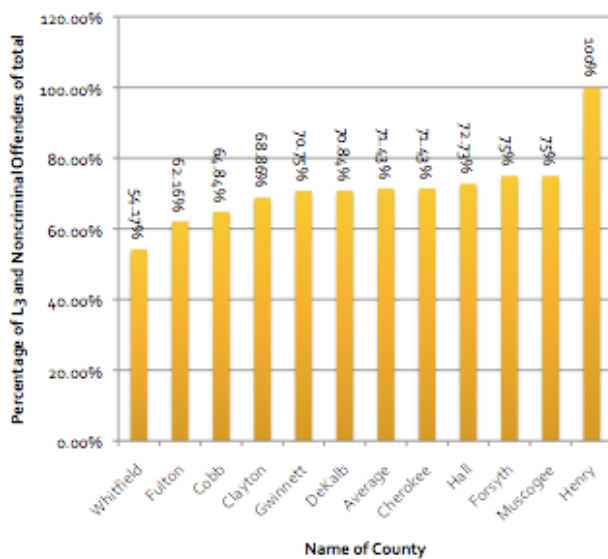
Secure Communities in NC

**Total Number of Submissions into ICE database Through Secure Communities in NC**

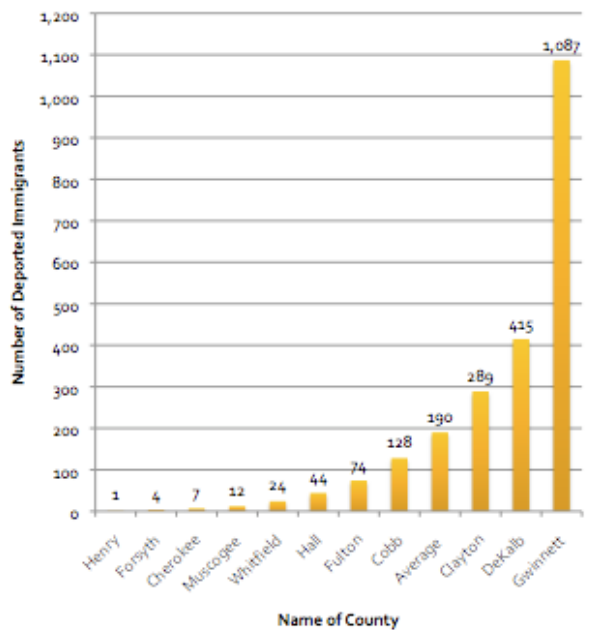


Secure Communities in GA

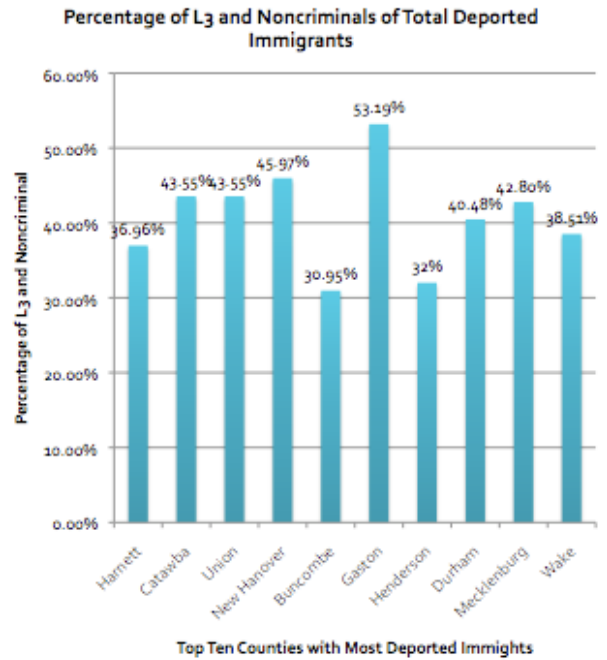
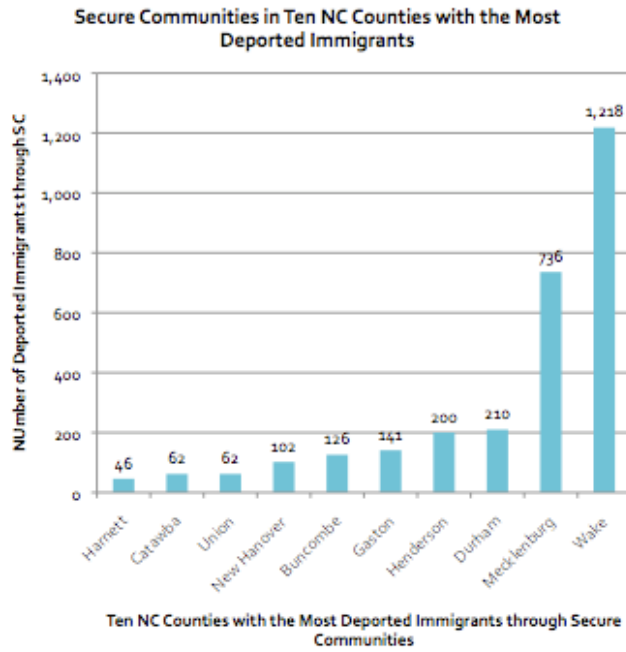
**Percentage of L3 and Noncriminal offender of total submissions of Secure Communities in GA**



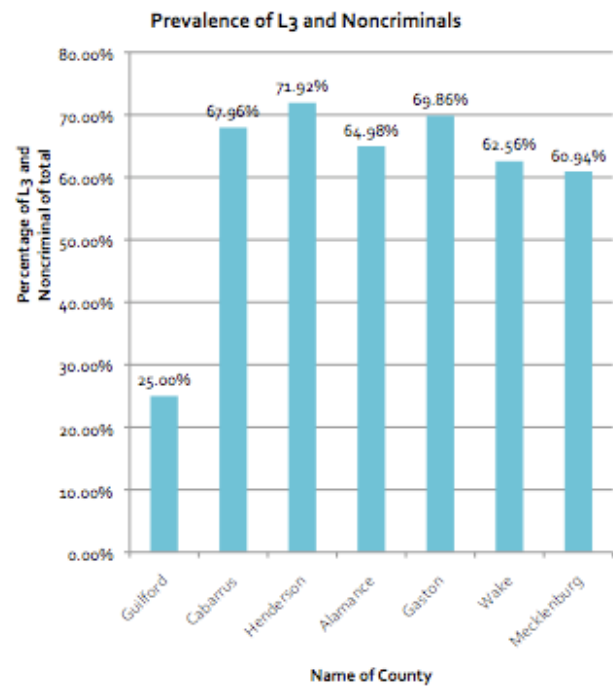
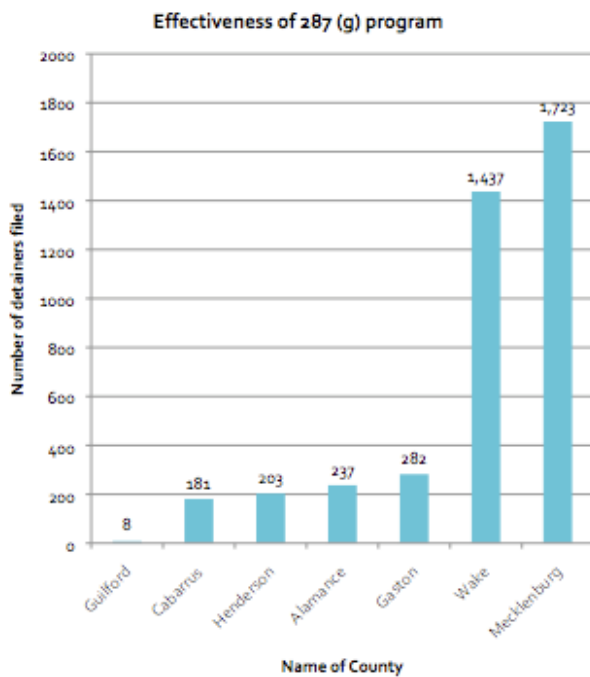
**Deported Immigrants through Secure Communities**



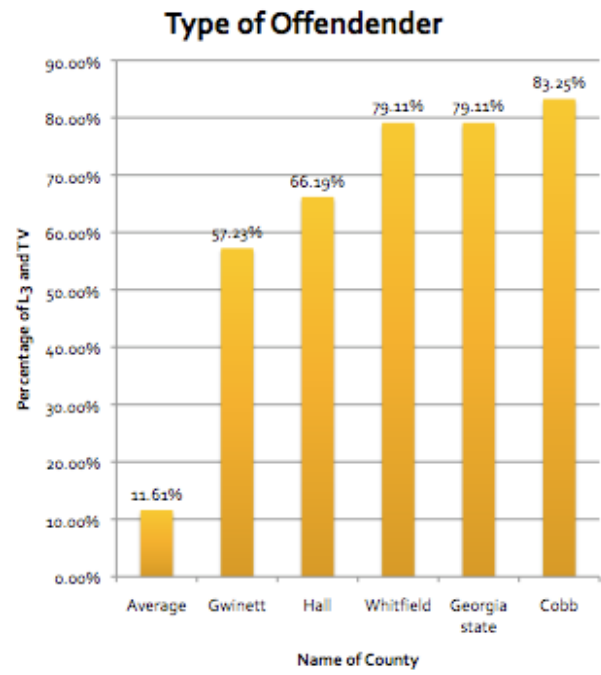
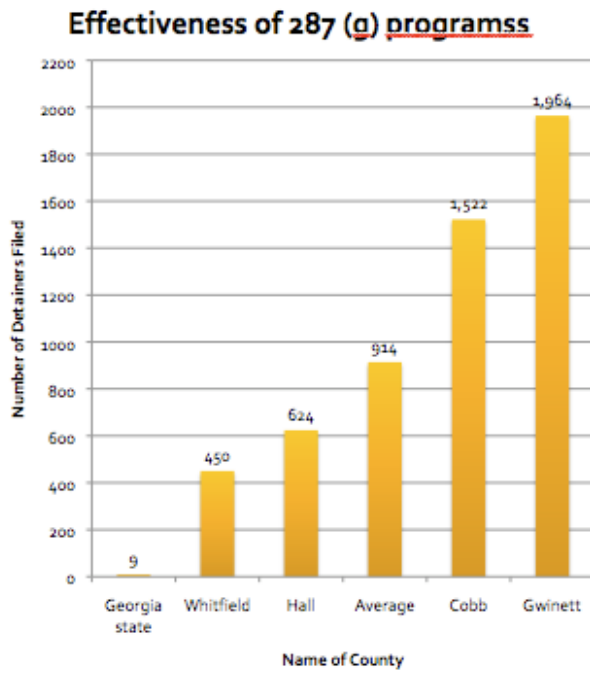
## Secure Communities in NC



## 287(g) Programs in NC



## 287(g) Program in GA



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<http://www.civilrights.org/publications/hatecrimes/escalating-violence.html>
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<http://libguides.law.ucla.edu/content.php?pid=129802&sid=1113372>
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