Inside Interior Immigration Enforcement: Understanding Policing and Removals from 287(g) Counties

Thesis

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Abstract

In the past ten years, local law enforcement agencies have increasingly taken up formal agreements with the federal government which allow them to participate in enforcing immigration laws. The most well-known of these agreements is called 287(g). This thesis analyzes the development of 287(g) in Wake County and Durham County, North Carolina, by examining the policing practices that are associated with immigration enforcement and the immigrant removals process. This project uses qualitative data (including interviews, landscape analysis, court room ethnography, and document analysis) and quantitative analysis (based on police documents and census data) to compare policing practices and outcomes related to immigration enforcement. The project shows that local immigration enforcement policies disproportionately effect residents in Latino/a neighborhoods, resulting the arrest and deportation of local residents on the disproportionate basis of minor traffic violations. This thesis contributes to the literature on the geography of state power by demonstrating that immigration enforcement is not only a federal project that targets border regulation, but is a territorial practice which local law enforcement agencies far from the border use to control local immigrant populations and reproduce national boundaries of political belonging.
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Introduction: Law, Mobility, and Race: Researching Immigration Enforcement in the U.S. Interior

With more people moving around the globe than ever before, and more of that movement consisting of undocumented border crossing that results in longer stays in receiving countries, non-border immigration enforcement initiatives have become more widespread. Indeed, immigration enforcement away from international borders has become a cornerstone of immigration control policy throughout the post-industrial West, specifically in the post-9/11 context (Dauvergne, 2008, Walters, 2006, Bigo, 2001). This project explores the question of non-border immigration enforcement in the Southeastern United States by looking at a particular immigration policy known as 287(g). I explore 287(g) in detail in Chapter 2, but for the moment the important point is that it is an historically novel program which essentially devolves a once exclusively federal authority over immigration by enrolling local law enforcement agencies as supplementary enforcers of federal immigration law. I argue in the following chapters that an adequate examination of the policies, mentalities, and practices of 287(g) as a devolutionary authority requires an analysis of key immigration court cases from the post-WW2 era which frame current immigration law (chapter 1), an identification and theorization of current policing practices that are tied to immigration enforcement (chapter 2), and a
detailed accounting of the removal process both from the perspective of local and federal agencies and from the perspective of those entangled in the system (chapter 3).

*Geographic Research and the Question of Global Mobility*

In 2010 the National Research Council published a comprehensive report called “Understanding the Changing Planet: Strategic Directions for the Geographical Sciences”. The title is as bold as the claims inside: geographers are in a unique disciplinary position to render the complex modern world knowable and should organize research around big picture questions. To articulate this vision, the report poses eleven guiding questions that it considers timely and appropriate for geographic research.

I would like to situate my own research within the framework of the NRC report, and specifically the report’s call for more research on how “the movement of people, goods, and ideas, transforming the world” (NRC 2010, Chapter 7). As the report points out, international migration more than doubled between 1970 and 2000, and an increasing percentage of that migration is towards or between developed countries (p. 105). Despite the advancement of communication technology and the increasingly global movement of capital, where people live is still important enough that each year millions of people – single workers, heads of household, entire families – move or are moved around the world. The U.N. report “International Migration Report 2006: A Global Assessment” buttresses the NRC’s call for more research on migration in its claims that 191 million people around the world were migrants in that year – a full 3% of the world’s population (United Nations 2006). Moreover, according to the U.S. Census Bureau, in 2009 there were 38.5 million foreign-born residents living in the U.S., representing 1 in 8 people
living in the U.S. (ACS Brief 2010). However, rather than document the lives of immigrants themselves, I consider my project an attempt to uncover not only what happens to immigrants when they migrate, but how the political category of immigrant itself is constructed and acted upon within local jurisdictions in developed countries. In this way, I hope to offer a perspective on global human movement that does not treat immigrants *per se* as a proxy for mobility, but which uncovers the political, racial, and legal processes that produce the category of mobility that often go unacknowledged when describing migration patterns. I take inspiration for such an approach to migration and mobility from feminist immigration scholars in political geography who have argued that studying the lived lives of the institutions that produce immigrant marginality and precarity is at least as important as studying immigrant marginality and precarity as such (Mountz, 2002, Fincher, 2007). For instance, I ask, how are local jurisdictions attempting to enforce immigration law or control immigrant populations? On the one hand, the question of “reshaping local communities” may overlook how communities are constructed through discourses and practices which constructs political belonging in the first place. My project attempts to show not just how migration itself is shaping communities, but how a network of programs – some explicitly immigration-related, and some seemingly unrelated – come together to produce political subjects on both sides of political belonging. I also attempt to connect those changes to previous “reshapings” and to understand the changes within a useful theoretical framework.
Research Summary

In the popular imagination, immigration “problems” and immigration enforcement are often connected to images of the U.S.-Mexico border (Nevins 2001, Andreas 2001). However, in the past decade, as immigrants have begun to settle farther away from the border and undocumented immigration has increased, federal and local governments have attempted to enforce immigration laws in places far from the border – places like Butler County, Ohio, Charlotte, North Carolina, and the counties surrounding Washington, D.C.. One method of interior immigration enforcement involves enrolling local law enforcement in federal immigration enforcement projects. The most well-known federal-local program is called 287(g), an optional devolutionary program which law enforcement agencies can voluntarily apply for. As of October 29, 2010 (the last available official update), there were 69 law enforcement agencies in 24 states that had signed a 287(g) agreement (http://www.ice.gov/287g/). My current project is to understand what might happen in these 287(g) counties, by taking an in-depth look at just two such counties in North Carolina.

My main research question is this: what do law enforcement agencies do when they sign on to 287(g)? While other research has studied the development of 287(g) policy (Coleman 2007, 2008) and the disciplinary effects of this policy on immigrant communities in general (Hiemstra 2010, Ridgley 2008, Varsayani 2008), little research has been done to illuminate the specific practices and outcomes associated with local immigration enforcement in the interior of the U.S. The outcomes of this research extend well beyond the scope of the current project. In recent years, 287(g) and similar programs
have become more popular and controversial, as seen in Arizona’s SB 1070 and copycat bills which have been introduced other states such as Ohio and Alabama. If growth in undocumented immigration continues to be accompanied by increasingly aggressive efforts at the local scale to enforce immigration law, it is crucial that well-grounded and well-theorized research on these agreements is available. This project aims to produce knowledge about the recent wave of immigration enforcement programs to fill this need.

**Methodology**

I chose to answer the research questions posed above by examining the specific practices of law enforcement that are directly or indirectly linked to controlling immigrant populations. The following chapters, therefore, are the result of fieldwork in two counties in central North Carolina (Wake County and Durham County, which together comprise the Raleigh-Durham metro area), as well as trips to surrounding counties. I interviewed law enforcement officers and immigration attorneys; I performed a landscape analyses in relevant areas across both counties related to police checkpoints; I observed and documented municipal and federal court proceedings; and I analyzed police records and used geographic information systems (GIS) software to visualize the data. More specific details about my fieldwork is included in each of the three following chapters.

**Project Themes**

There are three key themes that permeate this thesis: law, mobility, and race. Given the frequency with which these concepts are referenced, it is important to introduce them early and explain my approach to them. I include a brief discussion on the spatial nature
of each concept, as well.

**Law (and Space)**

There are three ways in which law permeates this study. First, immigration laws – both formal federal laws and local proxy laws – proliferate through a dense web of court decisions, acts of Congress, state codes, municipal ordinances, and administrative policies. These formal laws-on-the-books capture particular moments of state logic which is important to analyze (Coleman 2007, 2008; Herbert 1996). Second, law functions as a form of truth-making, providing ontological categories such as “legal” and “illegal” through which to organize social relations (Heyman 1999). Law-as-truth is only somewhat connected to law-on-the-books, and becomes popularized and diffused through signs and symbols that stand in for law. Third, there is an imminent, performative nature of law which me might call law-as-practice. Whether in the context of the jurisprudence of a panel of judges, the discretionary policing practices of law enforcement agencies, or the way that individuals live out legal identities through everyday practices, law is continually produced through action, not as universal truth awaiting human legal logic to be revealed (Hardie 2007, Martin et. al. 2009). Additionally, these various instantiations of law are created reciprocally with spaces of law (Blomeley 1996, Delaney 2010, Carr 2010, Butler 2009). The tensions and contradictions between these aspects of law and space produce a rich social-legal field which saturates everyday life. This project takes law seriously in its many forms, and seeks ways to document and theorize the role of law in current regimes of immigration enforcement.
Mobility (and Space)

By including mobility as an element of this research, I am attempting to be sensitive to how movement is both an integral part of society, but often overlooked (Sheller and Urry 2006, Featherstone 2004). Mobility includes all forms of human and non-human movement, including the material circulation of people and objects by various technologies (automobile, airplane, by foot) as well as representations and meaning-making through discourses of mobility (i.e. the road as freedom) (Adey 2009, Jensen 2010, Latimer and Munro 2006, Sheller and Urry 2000, Frello 2008). Mobility requires corresponding spaces of mobility which include roadways (Conover 2010), sidewalks (Stangl 2008), and interior car spaces (Laurier et.al. 2008). What is generally overlooked within mobility research, however, is how these spaces and practices of mobility integrate into regimes of social control. Indeed, the history of transportation law is fraught with class tension and racial inequality (Dempsey 2003), and mobility practices themselves are not autonomous from political projects (Cresswell 2006). In the following chapters, we will see mobility emerge as a key element of police discretion and immigration enforcement. Part of this project will be to describe mobility, and also to inquire how and why mobility seems to play such an important role in immigration enforcement.

Race (and Space)

Finally, race figures prominently throughout this research as an element of social and political difference. As we will see, racial and ethnic characteristics are often tied to particular nationalities and corresponding immigrant legalities through Supreme Court
cases. We will also see how racialized policing practices which become legitimized by Supreme Court opinions are tied to specific places, both near to the border and far from it, and also rely on imaginary geographies of race and immigration. Similarly, the implementation of local immigration enforcement agreements are often accompanied by concerns about racial profiling (Blackstone 2010). I grapple with the question of racial profiling and also draw attention to other forms of racialized policing practices. To illustrate the contradictory relationship between race and space, police officers appear more likely to police individual drivers of minority races in heavily majority race communities, even while minority neighborhoods appear to be more heavily saturated overall with population-level policing activities (Meehan and Ponder 2002a/b, Ingram 2007, Roh and Robinson 2009). Race is also connected to mobility. In the U.S., the movement of racial minorities has historically been restricted through pass laws in the South (Hadden 2001), access to public transportation (*Plessy v. Ferguson*), systematic disenfranchisement of minority drivers by car manufacturers and dealerships (Packer 2009), and policing practices which produce vulnerability for mobile minority drivers (Lafave 2004, Johnson 2005). The racial aspects of immigration enforcement will be elaborated using examples throughout the thesis.

**Conclusion**

The result of this research is a grounded account of local immigration enforcement by analyzing the socio-spatial practices that make 287(g) function in Wake and Durham Counties in North Carolina. This analysis combines the three themes discussed above – law, race, and mobility – as constitutive elements of police practices.
that govern immigrants within the U.S. and also produce exemplary cases of removable immigrant subjects.
In this chapter, I will discuss several Circuit Court and Supreme Court cases that shape the way immigration enforcement is practiced by law enforcement officers today. I begin by discussing the relationship between two Supreme Court cases: *Terry v. Ohio* (1968), which appears to have little to do with immigration enforcement, and *United States v. Brignoni-Ponce* (1975), which directly addresses the question of how race is used in immigration enforcement. I then trace the legacy of these two cases through number of more recent cases that directly shape present immigration enforcement, focusing especially on the spatial aspects of race, law, and mobility. I end with a brief discussion of the overall importance of these cases for understanding local immigration enforcement, and the implications for research. The cases discussed below provide an important backdrop to understanding the recent wave of devolutionary immigration enforcement agreements discussed in the following chapters.

*Terry v. Ohio* (1968)

I begin with a case far removed from the U.S.-Mexico border, one which on its face does not appear to be about immigration enforcement. In the middle of the day on October 31, 1963, a white Cleveland police officer in plain clothes saw three African-American men acting in a manner that, the officer would later say, appeared as if the individuals were casing a nearby jewelry shop. The officer intercepted the men and asked...
their names. As they answered, the officer put his hands on John Terry, turned him around and began patting down his clothing. The officer felt what he believed to be a gun. After taking off Terry’s jacket, the officer removed a handgun from the jacket pocket. The officer then proceeded to do the same with the two other suspects, and found a second firearm.

Terry's appeal went all the way to the U.S. Supreme Court. Central to this case is the question of probable cause. At the time of Terry v. Ohio (392 U.S. 1, 1968), as now, police officers were required to have probable cause to make a search and an arrest. Probable cause exists when an officer has reason to believe that a crime is taking place or has taken place. The phrase “probable cause” comes from the text of the Fourth Amendment to the U.S. Constitution (U.S. Const. amend. IV), which reads in full:

“...The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The authority to perform searches and arrests extends to police officers who must have probable cause that a crime has been committed or is being committed, and that such articulable evidence would satisfy the requirements of a warrant issued by a magistrate. The Fourth Amendment is a restraint on law enforcement, so that the public cannot be searched and arrested based upon the whimsical, inarticulable suspicions of police officers.
Two questions about probable cause emerged in the oral arguments of *Terry v. Ohio*. First, did the officer have probably cause to stop and search Terry and his colleagues in the first place? Second, did the actions of the officer qualify as a seizure? The council for Terry claimed that even though the officer did find a weapon in Terry’s possession, the search was invalid because at the time that Terry was stopped, the officer had no probable cause to make the stop. The council for Ohio conceded this point completely. What was then at stake, was whether the officer had, in fact, made a Fourth Amendment seizure. The council for Ohio claimed that based upon the totality of the circumstances, the officer had a right to question and frisk the suspects for the sake of safety, but that such questioning and frisking did not constitute a Fourth Amendment arrest.

In the end, the Supreme Court decided that the initial questioning and pat-down did not constitute an arrest and therefore was not bound by the probable cause requirement in the Fourth Amendment. However, the judges acknowledged that the suspects were subjected to some level of intrusion by the police officer. This less-than-arrest stop-and-frisk could not go completely unchecked. The conclusion settled upon by the Supreme Court was this: officers were required to have reasonable suspicion about a crime, a justification which required less articulable evidence but also permitted less police intrusion. To re-read the *Terry v. Ohio* case backwards from this decision, the police officer was justified with reasonable suspicion to stop and pat-down Terry and his companions. After the officer found the weapon, he then possessed the required probable cause to make a full arrest.
This case is important for several reasons. This is the first time that reasonable suspicion, or any lesser form of justification for police action, is codified into general policing practice. As a result of *Terry v. Ohio*, police were awarded greater discretion to intervene in the everyday lives of citizens due in part to the sheer volume of minor infractions which people knowingly or unknowingly commit on a daily basis. Indeed, *Terry v. Ohio* constitutes an important part of police officers’ general powers of investigation in the course of routine policing. Also, despite (or perhaps as a result of) the intense racial tensions of the early 1960s, it is remarkable that the race of the parties was not even mentioned in the final Supreme Court opinion and barely hinted at in the oral arguments. The *Terry v. Ohio* decision obscures race, effectively positioning legal rationality as an asociological reality stripped of the lived situation in which the legal decision was grounded.

Finally, as a foreshadowing of future cases, Justice William O. Douglas’ sole dissenting remarks are summed up in the following words: “If the individual is no longer to be sovereign, if the police can pick him up whenever they do not like the cut of his jib, if they can "seize" and "search" him in their discretion, we enter a new regime” (392 U. S. 39). Justice Douglas viewed the reasonable suspicion rationale in *Terry* not as a protection for citizens against discretionary police stops, but as a screen of inculpability that justifies enhanced police discretion, even though such grounds would not (as the Fourth Amendment requires) be sufficient to satisfy a magistrate. Reasonable suspicion could be used to justify selective policing practices that would otherwise contravene constitutional protections. In the next section, we see Justice Douglas' concerns realized.
Although *Terry v. Ohio* appears to be unrelated to immigration enforcement, its newly minted reasonable suspicion standard was quickly taken up in the immigration enforcement context. On the evening of March 11, 1973, Felix Brignoni-Ponce, a U.S. citizen of Puerto Rican descent, was pulled over and arrested along with his two passengers. He had been driving north-bound away from the border near San Diego, in the dark and during a rainfall, when two immigration officers spotted him. The officers had been sitting in a vehicle outside a closed traffic checkpoint, and were using their headlights to illuminate and scrutinize oncoming traffic. When they saw Brignoni-Ponce, they initiated a traffic stop and arrested him and his passengers. The officer’s sole rationale for the stop, as articulated in court, was that the occupants of the vehicle in question “appeared Mexican” (422 U. S. 875). After questioning Brignoni-Ponce and his passengers, the officer determined that they had sufficient evidence to believe the passengers were undocumented and arrested the three occupants.

The case went to the Supreme Court. The key question in this case was whether Mexican appearance alone was sufficient to justify reasonable suspicion of being an undocumented immigrant. The government argued that the Border Patrol had unlimited authority within its jurisdiction to stop and question anyone they wished (422 U.S. 873). This argument was rejected. The Supreme Court ruled that Mexican appearance alone was insufficient to justify a stop (422 U. S. 887). The Court did, however, extend the kind of justification that officers could use to make stops based upon the *Terry v. Ohio* decision seven years prior. Reasonable suspicion (rather than probable cause) could
justify what the (then) Immigration and Naturalization Service (INS) assured the Court was a very limited intrusion on the time and mobility of suspects. This is one of the first cases to take up *Terry v. Ohio* and to enumerate specific criteria relevant to reasonable suspicion which, while intended to be limiting, in fact illustrated the Supreme Court’s expansive approach to police officers’ general investigatory authority. The criteria for reasonable suspicion included traffic patterns in the area (too heavy or too light), driving behavior (driving too fast or too slow), and type of vehicle (the Court explicitly mentioned station wagons and any vehicle riding lower than expected), among others.

The last and most important criteria was “Mexican appearance”, which the Court asserted immigration officers were trained to recognize. Thus, while Mexican appearance alone was not held as justifying a traffic stop in and of itself (per the specific case in question), Mexican appearance in combination with secondary elements of reasonable suspicion was considered a justifiable policing practice not in contravention of constitutional protections. As in *Terry v. Ohio*, once an officer has intervened based on reasonable suspicion, it becomes a relatively short leap to identify further evidence which constitutes probable cause for a full-blown search or arrest. The result was that *United States v. Brignoni-Ponce* (422 U.S. 873, 1975) codified race-based immigration stops and resulted in increased discretion for police officers to detain individuals in everyday enforcement scenarios.

The implications of *United States v. Brignoni-Ponce* are worth explaining in some detail. *United States v. Brignoni-Ponce* codified the racialized practices which were certainly part of the training and practice of immigration enforcement in the border
region. “Mexican appearance” is never defined with clarity (legal or otherwise), though the Supreme Court suggests that specific clothing and hair style may be sufficient (422 U. S. 885). Furthermore, there is no mention about how Mexican appearance might be different from El Salvadorian appearance, Honduran appearance, Arab appearance or Southwestern American appearance. As Coleman (2008) explains, instead of governing already-existing people "out there" in the world, the law produces the very subjects that it acts upon. The Brignoni-Ponce criteria produces the image of a deportable Mexican person which, as seemingly objective legal logic, justifies racial profiling on-the-ground. This legal rationality draws upon a global order organized around territorial nation-states as stand-ins for race, conflating controversial racial appearance with a discursively de-racialized national appearance.

There are other implications, as well. First, in United States v. Brignoni-Ponce as in other cases which will be elaborated in a Chapter Two, law enforcement in general and immigration enforcement in particular depend significantly upon personal automobility and traffic to filter roads for suspicious persons. Yet the importance of mobility practices to statecraft and enforcement is frequently overlooked and certainly under-theorized. Mobility (walking, driving, taking a bus or taxi, riding a bicycle) is subject to a broad police discretion and interrogation, and as such is a site of intense vulnerability. In fact, the reason the officers in United States v. Brignoni-Ponce were required to have reasonable suspicion rested upon the decision by the Supreme Court to identify their traffic stop as a roving patrol (422 U. S. 887). Fixed checkpoints do not require even reasonable suspicion to target drivers. Johnson (2010) notes that had the Court decided
that the stop in question was a checkpoint, not even reasonable suspicion would have been required. As we shall see, this distinction will haunt police checkpoint cases to come.

Second, the application of *Terry* in *Brignoni-Ponce* illustrates the connection between interior policing and border policing decades before immigration enforcement is officially devolved under 287(g). My point is not that *Terry* is really about immigration enforcement, nor that *Brignoni-Ponce* is really about everyday beat policing. Rather, my point is that border policing and interior policing should not be seen as two entirely distinct areas of enforcement which have only recently been brought together (cf. Coleman and Kocher 2011). Indeed, there is a much longer standing strategic complementarity between the two.

Finally, race is central to both cases, yet in neither case is race confronted directly. Law, it would appear again, operates in an a-racial realm beyond lived reality. As Omi and Winant (1994) show, the "racial state" is implicated in the construction of racial categories and practices of oppression, which become legitimated through normalizing discourses and legitimating ideologies (84). The law figures centrally here by providing such distinctions as "legal" and "illegal", which obscure the lived reality of marginalized racial groups. Richard Ford (1994, 1999; see also Delaney 1998) similarly explores how space functions as a racial proxy in law, legitimating inequality through discursively naturalized spaces of race. Historically, various schemes of spatial segregation have been constructed in the U.S. using the law as a guiding discourse, including slave spaces in the South, segregates spaces on busses and trains, and racial redlining particularly in northern cities. While many of the formal aspects of these laws have been overturned, the
consequences live on as naturalized racial difference which appears as racial segregation today. The concept of jurisdiction similarly "tends to present social and political relationships as impersonal" (Ford 1999, 854). Jurisdiction projects imaginary legal spaces in an apparently gapless fashion across territory, at the same time obscuring jurisdiction as a contested social practices that draws deeply upon social relations of power. This is the context that immigration enforcement enters, or rather, which various notions of immigration and political belonging have helped construct over the past half a century (and certainly much longer).

Before moving on, however, it is important to recall Justice Douglas, who dissented strongly in *Terry*. While concurring with the decision in *Brignoni-Ponce*, he qualified his support with these words:

“The fears I voiced in Terry about the weakening of the Fourth Amendment have regrettably been borne out by subsequent events. Hopes that the suspicion test might be employed only in the pursuit of violent crime -- a limitation endorsed by some of its proponents -- have now been dashed, as it has been applied in narcotics investigations, in apprehension of "illegal" aliens, and indeed has come to be viewed as a legal construct for the regulation of a general investigatory police power” (422 U. S. 889).

Whereas the reasonable suspicion criteria codified in *Terry v. Ohio* appeared to allow police a way to investigate serious crimes, in practice it was a method of justifying virtually any level of police intrusion. The expansion of police discretion, as we are beginning to see, is grounded in policing practices that include regulating black urban communities and regulating Latinos in border spaces. These cases spatialize the relationship between race and the law: black bodies stand out specifically on a street near a jewelry store, and brown bodies stand out specifically in mobility spaces near the border. The reasonable suspicion doctrine allows racialized notions of political belonging
within the territorial space of the nation-state to justify police intervention. This transformation becomes normalized through general police practice in a way that obscures its emergence. Later, when 287(g) policies are activated in local jurisdictions, it is precisely these technologies of policing which emerge as key in regimes of local immigration enforcement.

*Extending Terry and Brignoni-Ponce*

In this section, I trace the decision in *Terry v. Ohio* and *United States v. Brignoni-Ponce* to cases that follow it with an emphasis on the following implications. First, race plays an important role, which is often absent from the official court opinion. Second, space is central to analyses of police actions even though space is often not critically engaged as a legal concept. Third, mobility frames these cases as conditions of police investigation, whether regarding the nature of how suspects walk on a sidewalk as in *Terry v. Ohio*, or regarding the nature of vehicle traffic near the U.S.-Mexico border as in *United States v. Brignoni-Ponce*. The cases cited here do not represent the corpus of cases influenced by these two landmark decision. Rather, what I intend to show is how these cases influence and mutually frame law enforcement and immigration enforcement prior to (and in some sense set the stage for) the more recent devolution of immigration enforcement authority to state and local agencies. This approach allows us to situate the later application of 287(g) in North Carolina within a larger legal-spatial context, instead of viewing it as an entirely new and unique program.

In the cases that follow, a few main contested issues appear which were central to *Terry v. Ohio* and *United States v. Brignoni-Ponce*. One is the kind of stop that occurred
– and by stop, I mean almost exclusively traffic stops. The type of traffic stop determines the kind of justification that officers need to single out individuals, and therefore frames the kind of protections that individuals have against selective enforcement. A second issue is the role of race. As we saw in the opening narrative, concerns about racial profiling regularly surface (Aguirre 2004, Romero 2008). The Supreme Court has both been remarkably silent about the racial aspects in some cases, while explicitly linking race to justifiable enforcement practices in others. Third, there is a regular question of how space itself can be a proxy for police discretion, and how discretion might be enhanced or restricted depending on where the situation occurs.

In order to understand how border enforcement and interior enforcement are intertwined through traffic checkpoints, we turn to the case Michigan State Police v. Sitz (496 U.S. 444, 1990). The Michigan State Police (analogous to State Highway Patrol in other states) established a checkpoint at night at an unannounced location. As drivers approached the checkpoint, they were stopped and briefly questioned. If officers detected signs of intoxication, the driver was asked to pull to the side for further questioning. A class action suit quickly followed, alleging that the State Police violated the Fourth Amendment by stopping and interrogating drivers on the roadways without individualized suspicion. After a Michigan Court ruled that the checkpoint violated the Fourth Amendment (170 Mich. App. 433, 429 N.W.2d 180, 1988), the case went to the Supreme Court.

The Supreme Court ruled in favor of the State, which has a “grave and legitimate interest” (496 U. S. 449) in eradicating the “alcohol-related death and mutilation on the
Nation's roads” (496 U. S. 451). Without citing evidence of the success of such checkpoints, Michigan v. Sitz authorized police checkpoints in the interior, an uncommon practice prior to 1990. What is remarkable is that the Supreme Court’s primary justification for interior checkpoints rests upon the 1976 case United States v. Martinez-Fuerte (428 U.S. 543, 1976), in which Border Patrol officers operating a fixed checkpoint were awarded the authority to scrutinize drivers on a road leading towards and away from the border based on the argument that the uncontrolled flow of undocumented immigrants across the border presented a security threat. Drawing on arguments in United States v. Brignoni-Ponce, decided just a year before and cited side-by-side with Terry v. Ohio (428 U.S. 554), the Court in United States v. Martinez-Fuerte observed that given the uncontrollable flows of undocumented immigrants across the border and the dependence of undocumented immigrants upon automobile travel (428 U.S. 556), the state has an interest in performing traffic checkpoints and roving patrols to intervene in illegal travel despite its challenge to normally accepted constitutional safeguards (428 U.S. 555). In other words, despite the Supreme Court’s acknowledgement that such stops are seizures under the Fourth Amendment, the Supreme Court nonetheless allowed such practices given the exceptional nature of border enforcement and undocumented immigration. Having thus allowed in United States v. Martinez-Fuerte that such seizures are permissible in the vague interest of national security, a similar logic is applied in Michigan v. Sitz related to intoxicated driving. Despite the fact that DUI checkpoints contravene the Fourth Amendment (since there is not so much as reasonable suspicion to pull over drivers), it is nonetheless permissible
given the dangers of drinking and driving to society. The extension of reasonable suspicion in *Terry v. Ohio* to *United States v. Brignoni-Ponce*, and the subsequent extension of constitutional exceptionalism from *United States v. Brignoni-Ponce* to *United States v. Martinez-Fuerte*, becomes internalized in the *Michigan State Police v. Sitz* decision to allow police to intervene in traffic through sobriety checkpoints.

The discursive connection between border checkpoints and interior checkpoints is illustrated in the dissenting remarks. Dissenting judges Stevens, Brennan and Marshall in *Michigan State Police v. Sitz* cite research and media accounts of DUI checkpoints, arguing that the “net effect of sobriety checkpoints on traffic safety is infinitesimal and possibly negative” (496 U.S. 460) and that checkpoints are “elaborate, and disquieting, publicity stunts” (496 U. S. 475). They disagree with the applicability of the *United States v. Martinez-Fuerte* exception, noting that “Martinez-Fuerte is the only case in which we have upheld suspicionless [sic] seizures of motorists” (496 U.S. 463).

Regardless of the legal legitimacy of these arguments, the exceptionalism of border policing in *United States v. Martinez-Fuerte* becomes internalized to policing practices in the interior of the United States through *Michigan State Police v. Sitz* through a similar logic of vague national threat which justifies the enhanced investigatory powers of police, particularly on the roadways.

In the next chapter, I will discuss the use of police checkpoints in North Carolina and their role in immigration policing. It is important here, however, to trace the connection between checkpoints near the border and checkpoints in the interior. First, if there is any similarity between border checkpoints related to immigration enforcement
and police checkpoints such as DUI and/or driver's license stops, it is precisely because their legal histories are inseparable. The power to stop general automobile traffic and screen drivers based on a set of criteria is a territorial practice which is taken up in multiple settings, and which, according to numerous Supreme Court decisions, rests upon the exceptional nature of uncontrollable, illegal bodies. What this means is that interior policing practices and border enforcement practices are already sutured together prior to the much more recent wave of devolutionary immigration enforcement powers, awarded mostly in the wake of 9/11. Second, this series of cases openly extends police discretion beyond Fourth Amendment protections, explicitly conditioned by the vague “interest of the State” (*Brown v. Texas*, 443 U.S. 47, 1979) and “totality of circumstances” (*Illinois v. Gates*, 462 U.S. 213, 1983). This discretion is then taken up in projects that range from the “war on drugs”, efforts to curb drinking and driving, and undocumented immigration enforcement. These observations help us understand how and why 287(g) functions in interior jurisdictions, and why traffic enforcement and checkpoints reappear as key elements of local immigration enforcement.

*On Race and Policing*

*Terry v. Ohio* and *United States v. Brignoni-Ponce* signal a complicated and contradictory relationship between race and policing. Legal decisions from the Supreme Court appear to ignore or obscure the role of race in some cases while legitimating racial profiling in others. While the history of race and policing cannot be captured here in its entirety, the aim of this section is to explore how race figures into border and non-border law enforcement in order to frame current debates about racial profiling.
In a recent article on racial profiling, Johnson (2010) traces the link between racial profiling and immigration enforcement through *United States v. Brignoni-Ponce*. Recall from the discussion above that *United States v. Brignoni-Ponce* is one of the first times the Court applied the reasonable suspicion criteria in the aftermath of *Terry v. Ohio*. While the decision in *United States v. Brignoni-Ponce* dismissed the government’s claims to unlimited authority to search and seize in the border region, it also laid out criteria for traffic stops which apply broadly and with little protection for individual rights. Indeed, an officer with a thorough knowledge of traffic laws can likely find a reason to pull over nearly anyone on the road (Moskos 2008). For example, the criteria for reasonable suspicion in *United States v. Brignoni-Ponce* included “Mexican appearance”, a phrase left undefined, but which might include, according to the court, style of hair and clothing (422 U.S. 887). While Mexican appearance cannot be used alone to justify a stop, the list of secondary criteria leaves little doubt that appearance combined with virtually any other behavior would be sufficient to justify a traffic stop. For instance, citing dissenting remarks from *United States v. Zapata-Ibarra* (223 F.3d 281, 282-83, 2000) in which the defendant claimed his arrest was based on an unconstitutional traffic stop, attorney Renata Ann Gowie shows how virtually anything and everything can constitute a justified stop:

“The vehicle was suspiciously dirty and muddy or the vehicle was suspiciously squeaky-clean; the driver was suspiciously dirty, shabbily dressed and unkempt, or the driver was too clean; the vehicle was suspiciously traveling fast, or was traveling suspiciously slow (or even was traveling suspiciously at precisely the legal speed limit); the [old car, new car, big car, station wagon, camper, oilfield service truck, SUV, van] is the kind of vehicle typically used for smuggling aliens or drugs; the driver would not make eye contact with the agent, or the driver made
eye contact too readily; the driver appeared nervous (or the driver even appeared too cool, calm, and collected)” (Gowie 2001).

The Brignoni-Ponce opinion conspicuously says nothing about skin color, only about nationality. But the statements of the officers involved leaves little doubt that physical appearance was an central element of their suspicion.

The effect of United States v. Brignoni-Ponce was born out through subsequent decisions. The Court in United States v. Martinez-Fuerte, described above, maintained that police were justified in using Mexican ancestry to investigate drivers at a checkpoint. The major difference between the two cases lies in the fact that the additional reasonable suspicion criteria required in United States v. Brignoni-Ponce was due to the decision that the officers were on a roving patrol, while in United States v. Martinez-Fuerte the officers were working at a fixed checkpoint. As such, no secondary requirements were necessary in addition to Mexican appearance in United States v. Martinez-Fuerte. The significance of the distinction between individual traffic stops and fixed checkpoints becomes important, when we see how race plays out in these different contexts. The dissenting response in United States v. Martinez-Fuerte offered by Brennan and Marshall foreshadows future policing practices:

“Every American citizen of Mexican ancestry, and every Mexican alien lawfully in this country, must know after today's decision that he travels the fixed checkpoint highways at the risk of being subjected not only to a stop, but also to detention and interrogation, both prolonged and to an extent far more than for non-Mexican appearing motorists” (428 U. S. 572).

Thereafter Mexican appearance does figure into testimony about profiling in the border region accompanied by increasingly vague secondary rationales. For example, in Nicacio v. INS (768 F.2d 1133,1986), a border patrol officer testified that he could rely on
“Mexican appearance and a hungry look” to investigate suspects. In United States v. Ramos (591 F. Supp. 2d 93, 96 D. Mass., 2008), a Mexican national was arrested based on his “Arab appearance”. The Court in Habeeb v. Castloo (434 F. Supp. 2d 899, 2006) draws upon United States v. Brignoni-Ponce to justify profiling based on physical appearance, in this case used to identify and interrogate an Iraqi refugee who did not attend a special registration hearing established by the Attorney General for particular nationalities following 9/11.

Perhaps the most important case that takes up and extends United States v. Brignoni-Ponce and Terry v. Ohio is the 1996 case Whren v. United States (517 U.S. 806, 1996). Whren v. United States takes up a controversial type of seizure known as a pretextual stop. The use of minor violations in order to search for and investigate more serious offenses is known as a pretextual stop. Police can and do use minor traffic violations to pull over and investigate people on the road ways for the sole purpose of checking for more serious crimes (Blomley 2010, Moskos 2008). The broad authority over traffic enforcement and violations can lead to police making a number of secondary discoveries in the course of the traffic stop. Police can pursue evidence found while looking into vehicles, observing driver behaviors or talking to drivers or passengers. Officers are also able to ask a wide variety of questions in order to develop reasonable suspicion or probable cause of other violations. Stops of this kind can lead to arrests based on intoxication, drug use, lack of proper identification, and drug paraphernalia in clear sight. Given the broad authority over traffic and the selective enforcement of traffic law, concerns abound about the role of race in pretextual stops (Vito & Walsh 2007).
The Court took up the issue of pretextual stops in *Whren v. United States*. Two plainclothes officers working in a “high drug area” (517 U.S. 806) in Washington, D.C., observed two black males in a truck waiting at a stop sign. The officers observed that they waited longer than normal and then turned right without signaling, and drove away at an “unreasonable” speed (517 U.S. 806). When the officer approached the vehicle, he observed two bags in Whren’s hands, which he suspected to contain crack cocaine. An investigation revealed that the bag contained illegal drugs and the officer arrested the two men. At the trial, the defendants filed for a motion to suppress, given that a reasonable officer would not normally have pulled a vehicle over for such a minor traffic offense, and that the stop was racially motivated. The Court ruled against the defendants, deciding that even if the officer was motivated by racial factors – that is, even if the officer had openly claimed to use race as an explicit factor for the seizure – the fact that the driver could have been pulled over on legitimate traffic charges alone meant that the evidence could not be suppressed. In effect, this means that even if it can be shown that an officer is racially profiling drivers, drivers have no protection so long as the officer documented at least one traffic violation regardless of the seriousness of the charge.

As in *Terry*, the final Court opinion makes no mention that the two defendants were black, and that the arresting officers where white. Nor does the opinion address possible implications for racial profiling. And as in *Brignoni-Ponce* and *Sitz*, the case is explicitly and implicitly framed by the war on drugs, which, like immigration and drinking and driving, has been constructed as an uncontrollable threat to society which warrants enhanced policing (Romero 2006). What *Whren* ultimately does, according to
Johnson (2010), is to authorize pretextual stops regardless of discriminatory intent, effectively extending the racialized criteria of reasonable suspicion in *Brignoni-Ponce* to the interior.

The two sections above on checkpoints and profiling can be synthesized. Over the past 40 years, policing practices have circulated between the border and the interior of the United States, increasing the discretionary authority of law enforcement to police mobility throughout the United States. Despite the racialized situations that become translated into legal mentalities, race remains officially unacknowledged and yet crucial to law enforcement. The result is a regime of traffic policing practices that appear routine, race-neutral and self-apparent. There is concern that immigration enforcement policies will *lead* to racial profiling. What this line of reasoning misses is that the normalized policing technologies that allow 287(g) to function are themselves already born from controversial scenarios of the past which were centrally framed by issues of race, immigration status, and a systematic weakening of Fourth Amendment protections. In other words, rather than asking if 287(g) enforcement encourages racial profiling, it may be more relevant to examine the ways in which traffic enforcement and police checkpoints are already tied to a complex history of race and immigration enforcement. The policing practices employed in 287(g) counties already draw upon legal reverberations that have circulated between the border and the interior for half a century (and certainly much longer than that). Therefore, without dismissing concerns about 287(g) causing racial profiling, research on immigration enforcement should keep in
mind that the connection between racial profiling and 287(g) is reciprocal rather than unidirectional. In Chapter Two, I will show grounded examples of this in North Carolina.

Space and Spaces of Immigration Enforcement

The final section in this chapter is focused on how geography figures into immigration law and immigration enforcement. In the cases so far, space has figured prominently. In Terry v. Ohio, the officer claimed that he was attracted to Terry and his companions due to their unusual behavior on a sidewalk in a popular Cleveland shopping district. Sidewalks are spaces of flows, upon which users are encouraged to keep moving, whether implicitly by the design of street space or by enforcement in the form of anti-loitering laws (Jensen 2006, Blomley 2007, Vergunst 2010). Additionally, the downtown shopping district in Cleveland in 1963 was still predominantly white, rendering black bodies conspicuously out-of-place. In Brignoni-Ponce, proximity to the border is central to the government’s argument that they should have unlimited authority given the chaotic nature of the 100-mile border zone. As enhanced discretion becomes linked to a balance of interest that favors the state, internal places such as roadways can become “battlefield”-spaces (United States v. Sitz) where police are granted continually expanding authority. A defining context of Whren, repeated throughout the opinion, is that the arrest took place in a “high drug area”, which advanced the argument that police intervention was justified given the discourses of chaos and lawlessness associated with the war on drugs. In each of these cases, policing space becomes a proxy for policing racialized, mobile bodies. In fact, mobility spaces loom large throughout the immigration enforcement and racial profiling literature.
Other cases point to the particularity of space in immigration enforcement. In *United States v. Orona-Sanchez* (648 F. 2d 1039, 1981), the conviction of a person charged with immigrant trafficking was reversed due to the lack of convincing evidence that the Border Patrol had reasonable suspicion to pull over three men in a pick-up truck. One of the Supreme Court’s arguments supporting their decision included that observation that there was nothing “vaguely suspicious about the presence of persons who appear to be of Latin origin in New Mexico where over one-third of the population is Hispanic” (*Orona-Sanchez*, 648 F. 2d 1042). This argument draws directly from the criteria developed in *Brignoni-Ponce*, which includes “characteristics of the area in which the vehicle is encountered” (*Orona-Sanchez*, 648 F. 2d 1042; *Brignoni-Ponce*, 422 U. S. 885). This is echoed in a 9th Circuit decision (*United States v. Montero-Camargo*) that Latino or Mexican characteristics cannot be considered in areas that are heavily Latino. While the decision appears to advance individual rights, the argument conversely implies that there might be something suspicious about people of "Latin" origin in states where they constitute a relatively small percentage of the population, including new immigrant locations in the U.S. Southeast (Winders 2005, Haverluck and Trautman 2008).

Indeed, this is precisely how it is taken up in *United States v. Manzo-Jurado* (452 F.3d 1028, 9th Circuit 2006). Manzo-Jurado, a construction worker from Mexico, and five co-workers were attending a football game in Havre, Montana, a small town 57 miles south of the U.S.-Canada border. A local police officer at the game noticed the men talking to each other in Spanish, and suspected they were undocumented. The officer called a Border Patrol officer in the area and asked him to investigate. This resulted in
Manzo-Jurado’s arrest and detention due to lack of proper documentation. Manzo-Jurado appealed, arguing that the Border Patrol officer did not have proper justification to investigate and make an arrest. The case went to the 9th Circuit, who, citing Terry and Brignoni-Ponce as the guiding precedence, upheld the appeal; the Border Patrol officer did not have the necessary reasonable suspicion. Two elements of the government’s case are nonetheless important. First, the government argued – and the 9th Circuit upheld – that proximity to the U.S.-Canada border was a relevant factor, even for Mexican nationals. We recall that this is one of the factors in the Brignoni-Ponce criteria near the Mexico border, but here we see that proximity to any U.S. border is reasonable suspicion for any persons which Border Patrol officers wish to investigate (more generally on the exceptionality of all U.S. territorial borders in immigration enforcement, see Coleman 2011). Second, citing U.S. Census data and the inverse of United States v. Montero-Carmargo (208 F.3d 1122 9th Cir., 2000), in which a 9th Circuit Court of Appeals ruled that Mexican appearance was not relevant in places where there were a significant percent of Hispanics, the Court ruled that Mexican appearance was significant in Havre, Montana, since the town was only “sparsely populated with Hispanics” (208 F.3d 1131).

It appears that racial characteristics are factored differently depending on the location of those racialized bodies. Any Mexican-looking person may be subject to investigation if they are near any border where Hispanics are generally known to be (Brignoni-Ponce) or generally known not to be (Manzo-Jurado). These justifications point towards a form of racialized border policing which seeks any circumstantial justification of arrest and detention after the fact. However, given the reciprocal relationship between immigration
law and interior law enforcement, it remains to be seen how interior immigration enforcement practices take race and place into consideration within 287(g)-compliant counties. I will take this up more in Chapter Three.

**Conclusion**

The goal of this chapter has been to frame the recent proliferation of local immigration enforcement agreements in jurisdictions far from the U.S.-Mexico border. Instead of finding a neat division of jurisprudence between immigration and non-immigration law enforcement practices, the two are intertwined by Circuit Court and Supreme Court decisions which draw on and produce a legal logic that percolates throughout the national jurisdiction. This is important because it shows how features of current law enforcement have been conditioned by immigration enforcement in the past.

Throughout these cases, three themes dominate. First, courts often attempt to put legal rationality above geography, as in this quote from the opinion in *Whren v. United States*: "Nor can the Fourth Amendment's protections be thought to vary from place to place and from time to time" (517 U.S. 807). However, attempts to sanitize the law from space and race obscures how enforcement practices are rooted in the spatial imaginaries of a racially coherent state and in the spatial practices of enforcement in the field. Second, racial profiling remains not only prevalent in immigration enforcement, but is in fact partially protected by *Whren v. United States* and explicitly codified in *United States v. Brignoni-Ponce*. Finally, mobility appears repeatedly as a site of vulnerability and police scrutiny, especially for racialized bodies in an era of political wars on drugs and aggressive immigration enforcement. I contend that while the political vulnerability of
mobile persons has been overlooked both in legal history and current research, mobility is central to regimes of belonging and social inclusion and therefore central to exclusionary policies and practices. In the next chapter I turn to specific examples of local immigration enforcement.
Chapter 2: Mobilizing 287(g) – Traffic Enforcement, Police Discretion, and Geographies of Risk

In the first chapter, I explored the legal antecedents that conditioned the recent spate of devolutionary immigration enforcement agreements. However, as I explained in the introduction, I am interested in understanding how 287(g) functions on the ground. In this chapter, I will analyze two adjacent counties in North Carolina – Wake County and Durham County – each with active 287(g) agreements. I will first explain the relatively recent context of 287(g) agreements at the federal and local levels. Next, I provide a framework for analyzing police practices with an emphasis on the role of mobility in the everyday operation of police power, drawing on arguments about the importance of traffic enforcement from Chapter One. I also explain the relevance of traffic enforcement to immigration enforcement in North Carolina. The majority of the chapter is spent processing fieldwork from North Carolina, in which I use quantitative and qualitative data to construct an understanding of local police practices that are directly and indirectly linked to immigration enforcement. I close by arguing that the synergistic link between uneven traffic enforcement projects and the potential for arrest and deportation produces a vulnerable Latino/a population.

Understanding 287(g)

In this section, I would like to clarify the term 287(g) which, like many laws and
policies, has taken on a life of its own in academic and popular discourse. In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which overhauled immigration laws in the U.S. by positioning the immigrant subject at the intersection of national security (as potential terrorist) and domestic security (as potential public charge) (Coleman 2008). In an effort to extend immigration enforcement to interior U.S. spaces, section 287(g) of the IIRIRA formally authorized the Attorney General to partner with non-federal agencies in matters of immigration enforcement. This "devolution" of immigration enforcement was a significant change in how immigration enforcement was perceived. Until then, an administrative border existed between local law enforcement agencies and federal immigration enforcement officials built upon a series of Supreme Court cases which explicitly prohibit such partnerships.

From an administrative perspective, section 287(g) provides the authority for law enforcement agencies to sign a Memorandum of Understanding (MOU) with Immigration and Customs Enforcement (ICE) which operates under the Department of Homeland Security (DHS). The MOU designates which particular immigration-related functions an agency may perform. Technically, "287(g)" is not a program itself, but is the authorizing legislation which allows ICE and local agencies to work together, and the Memorandum of Understanding is the name for the agreement itself. However, since there are many types of MOU's between various agencies, the term "287(g)" has become the popular designation for such agreements.

Despite the availability of devolutionary authority since 1996, however, 287(g) sat idle for several years. The first 287(g) agreement was signed in 2002 between
Immigration and Customs Enforcement (ICE) and the Florida Department of Law Enforcement. Between 2002 and 2006, only another six law enforcement agencies signed on and most agreements during this time were located in the U.S. Southwest.

In 2007, however, this changed dramatically. Twenty-two law enforcement agencies signed agreements with ICE in 2007 and 30 agencies signed on in 2008 (ICE, 2010), 12 and 14 of which (respectively) were located in the U.S. Southeast in places not traditionally considered to be immigrant destinations. North Carolina, for instance, signed a total of seven devolutionary agreements, Georgia signed five, and Tennessee signed two. While Latino/a immigrants do not constitute anywhere close to an ethnic majority in Southeastern states – 7.4% in North Carolina, 8.1% in Georgia and 3.8% in Tennessee – relative increase of immigration in these states are among the highest in the years between 2000 and 2008. North Carolina has become a leading immigrant destination with a 79.8% increase over an eight-year period, with Georgia (79.7% increase) and Tennessee (64.4% increase) following closely (Pew Hispanic Report 2008). At a smaller scale the distribution of 287(g) agreements in (Figure 2 below; Ice Fiscal Year Annual Report, 2008) corresponds in many cases to counties in the Southeast identified by Haverluk and Trautman (2008) as areas with particularly high Latino/a growth (Figure 1). Notable areas include central North Carolina, central Florida, and northern Georgia.
It is important to note that the proliferation of 287(g) agreements in 2007 and 2008 was not the result (or only the result) of efforts at the federal level to expand immigration enforcement to local agencies. As former Mecklenburg County (North Carolina) Sheriff Jim Pendergraaff wrote in a newsletter in 2007, he "discovered" 287(g) by discussing his frustration about immigrants with Orange County (California) Sheriff Mike Carona who was in the process of signing an Memorandum of Understanding with ICE. Pendergraaff quickly submitted an application to start 287(g) in his county with the help of U.S. Representative Sue Myrick who petitioned on his behalf. Alamance County (North Carolina) Sheriff Terry Johnson similarly describes his frustration after finding that "30% to 40%" of people in his jail had "foreign names" (Johnson 2009; Author's Transcript). Having heard about 287(g) from Pendergraaff, Johnson successfully applied for a 287(g) program. Both Pendergraaff in his newsletter article and Johnson in his speech at the Fire and ICE conference implore other agencies to apply for 287(g) agreements, as well. Pendergraaff clearly describes the process of applying for an MOU with ICE, and even
explains how he was able to side-step opposition from Latino/a community organizations who were concerned about racial profiling. Pendergraft ends his newsletter article by extolling the benefits of 287(g) for the community and telling his readers:

"There is room in the United States for one loyalty, that is to the American flag; loyalty to one people, that is to the American people; and loyalty to one language, and that is the English language. Any real American cannot have two loyalties and if you do, you need to reassess your priorities." (Pendergraft 2007)

Sheriff Johnson similarly argues that his audience should petition their own Sheriffs to apply for MOU’s, since "...any Sheriff or Chief of Police that does not get involved in our immigration programs, such as 287(g), is not living up to their oath of office" (Johnson, 2009; Author’s Transcript). As these examples show, adoption of and subsequent advocacy for 287(g) agreements allow officials to discursively participate in protecting national interests and reinforcing local expressions of authentic "American" identity, and protecting the financial stability of constituents by removing those who are perceived as likely to become the care of social institutions.

To summarize, while the possibility of devolutionary authority to enforce immigration laws existed since 1996, it has only been in the past five years that 287(g) agreements have become active and widespread. Furthermore, the proliferation of 287(g) agreements has been significantly (though perhaps not exclusively) coordinated by activist law enforcement officials motivated by a racialized understanding of American identity. Sheriffs (in the examples above) rely on their own social filters to produce deviant immigrant categories, and draw upon their social networks to create socio-legal programs to address this deviance. This account contradicts dominant explanations of "deportation regimes" and "states of exception", which view immigrant management as
the attempts of sovereign state to regulate bodies through top-down programs (Walters, 2002; Agamben, 2005; De Gevova and Peutz, 2010). By investigating "actually existing" immigration enforcement projects, I seek to draw attention away from the federal government as the exclusive site of immigration politics. Thus, while programs such as 287(g) are often described as "devolutionary" – that is, authority which proceeds from federal to local institutions, we see that, in fact, 287(g) has evolved as much out of local contexts as they are handed down from the federal government (see also Dunn 2009 for an example at the U.S.-Mexico border).

287(g) in Context: Wake County and Durham County, North Carolina

Given the need to provide a grounded analysis of 287(g), I will now begin to provide the context for my study of 287(g) in Wake County and Durham County in North Carolina. Wake and Durham Counties are located adjacently in central North Carolina; both have active 287(g) agreements with ICE. Together they make a useful research site due to their proximity with one another, large increases in Latino/a immigration, and the importance of this site for experimental ICE initiatives (Coleman 2011). Wake County, the larger and considerably more rural of the two, includes Raleigh and a number of smaller suburbs and municipalities, many with their own police departments. Durham City is the only incorporated area in Durham County, and takes up most of the county. Since Sheriff's offices mainly patrol unincorporated areas, the Wake County Sheriff's Office is much larger than the Durham County Sheriff's Office. Raleigh and Durham City each have large and active police departments. State Highway Patrol has statewide authority primarily over infractions on the roadway.
The two counties differ substantially in how 287(g) is implemented. In Wake County, the 287(g) agreement is between ICE and the Wake County Sheriff's Office. This MOU is written as a "jail model" agreement; that is, individuals who are arrested are not checked for immigration status until they are booked at the county jail. Officers are not trained to check immigration status on the road. In Durham County, the 287(g) was signed with the Durham Police Department. This MOU is written as a "task force model" agreement; that is, police are trained and authorized to check for immigration status in the
field as a part of routine policing or as a part of special police operations. At first glance, it might appear that the task force model is a more aggressive form of 287(g) which could lead to immigrant "round-ups" and egregious civil rights violations (Chacon 2010). A jail model agreement, such as in Wake County, might appear as a more benign and community-friendly form of immigration authority. After all, only those who are arrested for some other local crime will be arrested and booked at the jail.

In practice, however, these two agreements function remarkably differently. In 2008 and 2009, 42 and 22 immigrants respectively were arrested and put into removal proceedings on charges from Durham Police Department, for a total of 64 deportation cases over two years. In those same two years, Wake County arrested and put into removal proceedings 1,144 and 1,981 respectively immigrants respectively for a total of 3,125 deportations over two years. In other words, 40 times as many immigrants were deported from Wake County as from Durham County. The arresting charges differ remarkably, as well. I obtained case summaries of each of the original local charges from Durham Police Department and they consist exclusively of serious felony charges related to cocaine or violent crime. In Wake County, 18.8% of the original local charges were for DWI. 28.5% were for no operating license, driving without insurance or other minor traffic violations, making 47% of local charges in Wake County the result of routine traffic enforcement. In Wake County overall, 83% of cases resulting in removal proceedings were for non-criminal charges, while only 17% of detainees were identified as criminals. What we see in this context is two counties with 287g agreements in effect, but with remarkably different outcomes, both in terms of raw numbers but also in the
types of charges that lead to deportation.

Without implicitly accepting the legitimacy of immigration enforcement tactics in Durham County, my research interest bends toward understanding the policing practices in Wake County. As I hinted in the introduction, I am especially interested in the ways that social projects – such as immigration enforcement – are produced from the strands of other seemingly unrelated historical processes, which allow hegemonic projects to appear normal and routine. My interest is piqued by the observation that so many immigrants who are removed were arrested on everyday traffic charges. What follows is an attempt to understand how and why traffic charges result in so many removals from Wake County. As I indicated in the introduction, I will pay special attention to issues of race, law, and mobility throughout this chapter.

*Police Mobility and Policing Mobility*

Now that I have described the recent history and context of 287(g) in Wake and Durham counties, I want to step back briefly from 287(g) itself. The emphasis on the devolutionary nature of 287(g) has led to a general oversight of what precisely 287(g) is being devolved to, namely a landscape of overlapping law enforcement jurisdictions each with their own social history and sets of practices. Therefore, before discussing specific policing practices associated with 287(g) agreements in Wake and Durham counties, I want to establish a framework for policing and mobility more broadly. I began this project in chapter one, where, in reviewing immigration-related court cases from the past 50 years, I emphasized how the police have been shaped by an extension of discretion for policing mobility that itself was tied to immigration enforcement practices. In this section,
I want to expand that project beyond formal legal history, and provide a more theoretical approach to understanding how police power and mobility intersect around specific law enforcement projects.

My discussion of policing and mobility is heavily influenced by recent work in geography which criticizes geographers’ near exclusive focus on place and territoriality, as forms or practices of immobilization. This research suggests that although geographers have done a good job of thinking through the society-space dialectic in terms of how practices and processes get spatially fixed on the face of the earth, the assumption is that the social production of space (and vice-versa) necessitates immobilization and precludes mobility. Following specifically Cresswell’s (2006, 2010) critique of the “sedentarist metaphysics” in much human geography research, my goal is not to highlight the irrelevance of territoriality or spatial strategies of immobilization to the social world. Nor do I want to romanticize mobility as a theoretical abstraction (for example, see Hardt and Negri 2004 on immigrant mobility). Rather my goal is to explore the ways in which mobility – and immigrant mobility specifically – is structured non-normatively and as a result subject to intense scrutiny by the state. In other words, as a geographer I am interested in mobility as a social production of space and how as such it is framed, and above all, made subject to immobilization.

I want to caution against a reading of mobility which uncritically attaches positive attributes to mobility and negative attributes to immobility. While mobility may be seen as a scarce resource disproportionately accessed by the privileged (Turner 2007 & 2010, Ureta 2008), relative immobility is not necessary an indication of marginality. Such
moralized distinctions risk uncritically reproducing the way in which some activities are categorized as mobility while others are categorized as immobility. Rather, what is at stake in studying mobility is how various kinds of social practices are invested with notions of mobility and immobility (Frello 2008, Bissell 2007, Cresswell 2007, Marston et al 2005, Sheller & Urry 2006). For instance, while a romanticized discourse of the globally mobile capitalist emphasizes a contrast with relatively immobile global proletariat, undocumented labor migration suggests that such global mobility is not absolutely unequal, but rather that mobility is constructed differently for different people. For example, private gated communities and exclusive resorts all suggest that immobility can be as much an element of privilege as mobility (Davis 2007). Conversely Alice Goffman (2009) shows how constant police supervision of black men in urban neighborhoods produces a population of wanted suspects who are perpetually "on the run", a relational state of transience that, while not necessarily expansive across Cartesian space, constantly disrupts social relations. For the present research, then, the goal is not to seek out instances of immobilized and therefore marginalized Latino/a populations, nor to suppose that immigration enforcement strategies seek only to make immigrants immobile. Rather the goal is to explore how immigrant populations are governed through legal representations of legitimized mobility, as well as through their own oscillating practices of immobility and mobility. Thus, policing practices may be both productive and restrictive of various kinds of mobility.

I am indebted to established research in geography on the police (Herbert 1997, 2006). However, if this research shows clearly the importance of territoriality, or
immobilizing productions of space, to police power, it tends to overlook mobility as a component itself of police power. The ability for police to move about is a territorial practice, one that is often overlooked in police research. According to Klockars (1985, page), “Police are institutions or individuals given the general right to use coercive force by the state within the state’s domestic territory.” In other words, the purpose of the police is to make people do things. Police, therefore, have a wide jurisdiction to intervene in a variety of social situations. Police also have a number of tools at their disposal, including the potential for lethal force. Those principles of intervention and force become tied to particular practices and technologies. Police can intervene at their discretion in various social situations, such as parties, drug deals, and driving. Intervention may be tied to particular legal justifications, such as reasonable suspicion and probably cause. Intervention practices might include simply walking up to an individual, using a door ram to open a locked door, or pulling over a driver on the street. The principle of force, especially deadly force, is often tied to a firearm, but it does not need to be. Police who receive training with collapsible batons are also taught that the baton can be used as lethal force. On the more benign end, most continuums of police force have “presence” as the first level of force. The ability to intervene and the potential to use force are intertwined, so that intervention into social situations – even benign ones – is itself a manifestation of force, while the use of force is always conditioned by clearly articulated legal justifications.

The mobility of police through the use of cruisers might appear self-evident, banal, and unremarkable. Yet despite its centrality, few police researchers have remarked on it,
and those that have give it remarkably little attention. In geography this is particularly the case. In his 1997 book “Policing Space” geographer Steven Herbert spent hundreds of hours on patrol with LA police officers, most of them “on the move” in police cars (Herbert, 1997). However, Herbert barely mentions mobility as constitutive of police power and authority. For instance, even when Herbert remarks on the importance of the police helicopter, or the “eyes in the sky”, it features as a panoptic, immobilizing power of the police to patrol a specifically territorialized space. It is arguably important to look at police as a mobile form of power and authority. And yet, in the majority of cases, it is the police cruiser, as a specific technology, which spatially projects a sense of security and police presence. Police officers’ ability to scrutinize large swaths of space, and respond in force where necessary at specific points, is a function of their mobility. In terms of pragmatics, if there is a chase, it will probably begin and end by vehicle. If someone is arrested, the car is most likely the first holding cell. If a shootout occurs, the car will be both a source of firearms (the shotgun and assault rifle are in the cab or trunk), and it will also serve as a barrier of protection for the officers and a threat to suspects.

The car is the more likely source of actual police power and a more regular image of presence than the helicopter could ever be.

Police officer turned academic Peter Moskos makes a similar assertion: “Traffic citations reflect the presence of police much more than they reflect the distribution of traffic offenses” (Moskos 2008, 156). First, this has interesting implications for empirical police research, such as mapping traffic citations by location as proxy for police saturation. Second, it illuminates traffic enforcement as an area of law enforcement which
is highly discretionary. Unlike crimes on private property which generally require an initiation on the part of the public (a 911 call, flagging down an officer), traffic citations are most often initiated by the police officer. Third, calls for service from the public which are not related to an actual crash are generally unreported and ignored. Examples include near-crashes, speeding, driving too slow, riding a bicycle on the sidewalk (illegal in most states), failure to signal a turn, running a red light, driving with a broken headlight or taillight, crossing center, and jaywalking. It is notable, then, that these crimes (as most traffic laws are criminal) are generally policed only when they occur in the presence of an officer. As we see later, these are also the kinds of traffic stops that produce the highest number of deportable immigrants.

The practical function of these laws is to serve as a proxy for investigating and enforcing other crimes. As Moskos describes, police may choose to use obscure bicycle traffic laws to target potential drug runners who use bicycles to distribute drugs at night (Moskos 140). Enforcement therefore is conditioned by, among other factors, time of day, mode of mobility, and neighborhood conditions. These are factors which I take up in my analysis of police data later on. Being in motion is subject to discretionary policing, but so is the failure to be mobile. Loitering is defined (according to Moskos) as “impeding vehicle or foot traffic after a warning”, indicating that being non-mobile in some spaces might also draw police attention. Furthermore, the legal connection between mobility and the more serious crimes which police claim to be enforcing is tenuous. That is, there is not something inherently criminal about standing on the sidewalk or riding a bicycle or driving a car. These laws are taken up by police officers to exercise their power to
intervene, and regardless of the legal connection between loitering and drugs, they become connected in police practice.

These ideas about policing and forms of mobility are connected to a longer history of policing and spatial order. Philip Reichel (1988), for instance, describes Southern slave patrols in detail. Reichel notes that there was a spatial division of policing, whereby slave patrols would operate more heavily in rural areas where traveling slaves were more likely to be found on the road alone, beyond sight of their owners, and less likely to be emancipated. Patrols were also timed around slave travel patterns, such as increasing rural roves on weekends when slaves were more likely to be traveling for religious services or just to visit friends and relatives. In this way, slave patrols organized their roving authority based on knowledge about slave mobility. As a transitional police type, slave patrols developed practices of patrolling which drew upon their own ability to be mobile and upon certain types of slave mobility in order to maintain a racist spatial order.

Neil Websdale's book "Policing the Poor" (2001) illuminates this as well. Websdale identifies the historical and geographic contingencies of policing, suggesting that modern regimes of policing the urban poor are connected to both the history of policing slaves in the South, as well as the regulation of class order in Northern cities and in England. In his book, Websdale suggests that the racial practice of regulating slavery in the South and the bureaucratic practice of supervising urban labor in the North contribute to modern day practices of regulating the lives of the (often black) urban poor. In other words, policing practices are tied to specific forms of spatial order (or imagined, or desired spatial orders) that are historically contingent. Following this approach to
policing, Websdale claims, "The ideology of community policing fits sweetly with the spread of global capitalism and the joblessness, anomie, and despair left in its chaotic wake" (218). That is, local forms of policing cannot be separated from political, economic, and social transformations at other scales. As I pointed out in the introduction, while the fieldwork in this thesis is particular to central North Carolina, my guiding interest in this research is to develop a unique approach to understanding how actors at different scales attempt to govern increased flows of politically undocumented persons around the world.

In this section, I provide an explanation of the role of mobility in police power in order to offer a framework for understanding why traffic enforcement emerges as an important practice in 287(g) counties. Before returning to Wake and Durham County, I want to ground this framework by discussing the implications of a program known as REAL ID which is tied both to immigration status and traffic enforcement.

_Policing Practices on the Road in North Carolina: REAL ID_

In this section, I look more specifically at traffic enforcement as a technology of governing the visibility of Latino/a residents through their mobility practices. While police are called to a variety of situations on a regular basis, the attention to traffic here is intentional. As described in published research related to this thesis (Coleman 2011, Coleman and Kocher 2011), traffic enforcement can figure significantly in terms of the criminal charges used to detain individuals which are subsequently detained and deported on civil immigration grounds. Traffic enforcement is also an area of police practice where the initial intervention is typically based upon police discretion and not on a response to
service. Furthermore, as seen in the last chapter on immigration law decisions in the courts, traffic enforcement looms large in immigration enforcement and racial profiling.

Following recommendations by the 9/11 Commission to enhance and standardize identity documents across the U.S., the REAL ID Act was passed in 2005 just as 287(g) was expanding. One of the main purposes of REAL ID was to close so-called gaps in drivers license security. Driver's licenses are issued by states, but they are the most frequently used form of photo identification presented at internal security checks, including airline check-ins, which are covered by federal law. Immigration law is a federal issue, however, which means that people who may not have formalized legal status in the U.S. might be able to obtain state-issued identification. REAL ID attempts to standardize state-issued identification by tightening restrictions on who can obtain a driver's license. The most important restriction under the REAL ID bill is that potential drivers are required to provide proof of U.S. citizenship or proof of legal immigration status before they can qualify for a driver's license (on other immigration related aspects of the law, see Neuman 2007 and Kanstroom 2007). North Carolina is among the states which has used REAL ID as a way to increase local discretion over immigration enforcement (Denning 2009). In 2006, North Carolina adopted the REAL ID requirements and began restricting driver's licenses only to applicants who could prove citizenship or legal residence status. One officer I spoke with reflected on what it was like before and after REAL ID went into effect in North Carolina:

"North Carolina was known for that, for giving away ID cards and driver’s licenses left and right. They weren’t necessarily always trying to get a driver’s license card, ‘cause they’d actually have to take a test. But you could just go in there and get an ID card. And it’s government issued, and shows that you’re legal, so to speak. Now
they’re requiring you to bring a social security card. When they first came, we were really having a lot of problems. But now that they require that, our problems have really minimized a lot” (Author's Interview, 2 August 2010).

While fewer undocumented persons are able to obtain a state driver's licenses and other state issued ID, a practice the officer above is glad to see "minimized", the result is an increase in drivers on the roadways who do not have official driving privileges but who still need to drive to work, drive to the grocery store, and drive for social gatherings. The local result of REAL ID is the production of unlicensed immigrant drivers who can be targeted for driving without an operator’s license – no operator’s license, or NOL – which allows law enforcement in Wake County to indirectly enforce immigration laws.

Crucially, arrests based on the REAL ID provisions alone would not necessarily result in removal; but when combined in particular counties with a jail-based 287(g) agreement in Wake County, deportation becomes all but guaranteed. The roll-out of REAL ID in combination with police discretion on the roadways and an active 287(g) agreement provides yet another example of how law, mobility, and immigration enforcement can become woven together. I am specifically interested in the following trifecta: how official identity in the U.S. is intimately tied to automobile driving; how federal and local laws about mobility produce immigrant subjects who are able to be arrested and deported; and how, since driving without a license is not a violation that can be observed prior to a traffic stop, racially and geographically disparate forms of traffic enforcement play a role in initiating these traffic stops.

One important enforcement technology is the random screening of drivers on the roadway through temporary license checkpoints (traffic laws can be found in chapter 20, section §20-16.3A of North Carolina’s General Statutes ). According to the statute,
checkpoints can be used to “determine compliance” with any provisions related to traffic law. At checkpoints, police who have reasonable suspicion (Terry v. Ohio, 1968) to believe that traffic laws or any other laws are being violated, have the authority to detain and question drivers. Checkpoints must be planned in advance as well as documented, and are required to be placed randomly and not repeatedly in the same location – although research done for this thesis suggests that checkpoints are not always spatially random.

License checkpoints are not the only type of traffic checkpoint. Following the Supreme Court case Michigan v. Sitz (1990), many states have used traffic checkpoints to check for driving under the influence of alcohol (DUI or DWI). Based on police records obtained through a public request for records, law enforcement agencies in Wake and Durham County utilize both types of checkpoints. There are important differences between DUI checkpoints and license checkpoints. License checkpoints require as few as two officers to operate, are established at location at the discretion of individual officers or section chiefs, require only one form to be filled out, are often established on smaller rural roads, and require little equipment. For these reasons, I consider license checkpoints to be highly discretionary. On the other hand, DUI checkpoints require several pages of documentation, often involve more than one agency, involve upwards of 30 staff, are planned days or weeks in advance, require extensive equipment, and are often set up on major roadways. For these reasons, DUI checkpoints may be less discretionary as far as location is concerned.
Traffic Checkpoint Analysis Methodology

All traffic checkpoints in North Carolina are required by state law to be documented. To understand more about traffic checkpoints, I partnered with an agency who had successfully submitted a public records request for copies of the checkpoints documents, and used these documents to partially reconstruct how checkpoints were operated and where they were located. The checkpoint forms contained the following information: date of checkpoint, time of checkpoint, location, minimum number of officers required, reason for checkpoint, and the license and registration information asked of each driver. To understand trends across these official forms, the forms were coded into a spreadsheet. Location data was coded using ArcGIS mapping software to visualize the spatial distribution of checkpoints. Checkpoint locations were overlaid with race/ethnicity and income data (among other demographic indicators) to understand populations living around checkpoints. Checkpoints were further categorized by law enforcement agency, day of the week and time of day. Several versions and scales of these maps were produced to provide multiple visual interpretations. Latino/a concentration was broken down into five categories using a Jenks natural breaks method. I then counted the number of checkpoints that residents in each class experienced in their neighborhood, and used this number to calculate the overall number of checkpoints per total blocks in that class. Finally, risk measurements were produced using the same statistical scheme on the maps in order to provide a more quantitative interpretation of the relationship between checkpoints and the concentration Latino/a residents. This was done by calculating the saturation of checkpoints by different concentrations of Latino/a
residents. The result is a risk measurement chart which compares the likelihood that persons residing in neighborhood with various concentrations of Latino/a residents will encounter a traffic checkpoint.

Quantitative Analysis of Traffic Checkpoints in Wake County and Durham County

The first characteristic of reported Latino/a residential patterns in the Southeastern U.S., is that unlike other parts of the country, Latino/as are not clearly concentrated in specific areas of the county and city at a scale that is reflected in block level analysis (on the lack of sustained residential clustering among Latinos in the US South, see Winders 2005, Fink 2003, Smith and Furuseth 2006, and geographer Richard Wright’s race and ethnicity data at http://mixedmetro.com/). This doesn’t mean that there is no clustering at all, only that any clustering that is happening is not as clearly marked as Latino/a and African-American neighborhoods in other parts of the county. As can be seen on the map below, no neighborhood in Wake and Durham Counties (2010 American Community Survey) has an absolute majority of Latino/a residents. While the causes of this distribution is historical, the relevance is that Latino/a residents in Wake County are more likely to live in places where they are the minority. In other words, there is no clear residential center to Wake County’s Latino/a community. Also, most likely due to the agricultural labor history of immigration in the area (generally, see Fink 2003 and Haverluk and Trautman 2008), Latino/as in the Southeast are more rural than their counterparts in other parts of the country. This does not mean that there is no pattern. Latino/a residents appear to live more in the southern and eastern rural parts of the county, as well as the northern part of Raleigh. These characteristics of Latino/a residential
patterns makes it more difficult to correlate particular police activity to the demographic features of certain neighborhood. In other words, if Latino/a ethnicity influences policing practices, it may not be clearly localized to particular areas. On the other hand, immigration policing programs that are county-wide and not neighborhood-specific (or targeting certain neighborhoods) may just as effectively ensnare Latino/a residents due to the broad distribution of Latino/a residential patterns.

Figure 4: Checkpoint Locations and Latino/a Ethnicity Data
First, I want to begin by briefly showing three perspectives on the checkpoint data, and then work through some conclusions that demonstrate the relationship between those three perspectives. First, the map above includes all geo-coded checkpoints from both counties in one large map against a backdrop of Latino/a ethnicity estimates from the 2010 American Community Survey (ACS) report. The following agencies are represented on the map: Wake County Sheriff’s Office (287(g)), Raleigh Police Department, State Highway Patrol (in both counties), Durham County Sheriff’s Office, and Durham Police Department (287(g)). Overall, checkpoints in Durham County are more heavily concentrated in the urban area of Durham City, while in Wake County the checkpoints tend to dispersed beyond the main urban area of Raleigh. This appears to roughly parallel the distribution of Latino/a residential patterns, which is more concentrated in the urban areas of Durham County, but more rural and dispersed to the South and East in Wake County.

Second, while difficult to see on this map, the most active agency in the smaller Durham County is the State Highway Patrol, while in Wake County the Sheriff’s Office operates the majority of the checkpoints. The following table illustrates the division of labor between the five major jurisdictions on the two counties. While no data is available on Durham Police Department, conversations with local residents and activists seems to confirm that cruisers at checkpoints in Durham County generally have Highway Patrol signification on the side, indicating that if Durham PD is involved in checkpoints, it may not compare significantly to the level of Highway Patrol activity.
Table 1: Traffic Checkpoints by County and Agency

<table>
<thead>
<tr>
<th>County</th>
<th>Total Checkpoints</th>
<th>Percent of Agency within County</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Wake County</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wake County Sheriff's Office *287(g)</td>
<td>299</td>
<td>100%</td>
</tr>
<tr>
<td>Raleigh Police Department</td>
<td>190</td>
<td>63.5%</td>
</tr>
<tr>
<td>State Highway Patrol</td>
<td>34</td>
<td>11.4%</td>
</tr>
<tr>
<td><strong>Durham County</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Durham County Sheriff's Office</td>
<td>178</td>
<td>100%</td>
</tr>
<tr>
<td>Durham Police Department *287(g)</td>
<td>No Information</td>
<td>No Information</td>
</tr>
<tr>
<td>State Highway Patrol</td>
<td>164</td>
<td>92.1%</td>
</tr>
</tbody>
</table>

Third, of the checkpoints presented on the map and in the table above, only a small fraction (about 7%) are DUI checkpoints. A majority (77%) are driver's license checkpoints, while about 16% are intended to check for seatbelt, registration, or insurance violations. The distinction between these checkpoints and license checkpoints are minimal; they are operated in a manner indistinguishable from license checkpoints and they each generally require officers to check for all related violations.

Figure 5: Primary Purpose of Checkpoints
Important initial conclusions can be drawn from these three perspectives on the traffic checkpoint data. The main point of this data is to show that the overwhelming majority of checkpoints in Wake and Durham County include a high degree of officer discretion. These checkpoints can be located in neighborhoods and intersections at the discretion of individual officers, and allow officer to scrutinize drivers in the area for nearly any offense based upon the very broad "reasonable suspicion" provision provided in *Terry v. Ohio* (1968) and expanded through subsequent courts cases described in the preceding chapter. Based on the map above, checkpoints appear to be more concentrated in the southern and eastern rural parts of the county where Latino/as also live. Since these checkpoints are designed to filter drivers on the roadway, the locations of these checkpoints may disproportionately subject Latino/a residents to investigation while driving on the roadways. Furthermore, since driver's license restrictions provided by REAL ID in North Carolina explicitly target undocumented immigrant drivers in the first place, discretionary license checkpoints are directly tied to efforts to target undocumented immigrants at the local scale. Residents in higher-Latino/a neighborhoods, therefore, face a higher risk of encountering police in situations where drivers are required to provide forms of identification which have been recently restricted based on formal citizenship.

REAL ID provisions become especially productive in Wake County where, as a result of a jail-based 287(g) agreement, anyone arrested for driving without a license will be screened for immigration status. The contrast of traffic enforcement in Wake County with traffic enforcement in Durham County shows the dramatic effect of this particular
assemblage of laws and policing practices. In Durham County the Durham Police Department has a task force model 287(g) agreement, but the police do not operate the jail. While Durham Police may work in conjunction with ICE personnel for specific operations, the relationship is not institutionalized within the jail. Therefore, an arrest in the field for NOL will not necessarily result in individuals being screened for immigration status in the county jail and being subsequently put into removal proceedings.

The division of labor between the five agencies is also remarkable. The State Highway Patrol is much more active (from a checkpoint perspective) in the central urban areas of Durham County, even though Wake County has more miles of major roads and more unincorporated territory, both of which characterize the primary activity areas of Highway Patrol. In Durham County the Highway Patrol operated 166 checkpoints over a three year period, and the locations of those checkpoints are predominantly in urban neighborhoods where the Durham Police Department also has jurisdiction. The Raleigh Police Department and the Durham County Sheriff’s Office are only marginally active in operating traffic checkpoints. This suggest that there may be a number of discretionary or institutional factors at the agency level which animates interest in operating license checkpoints. If local Sheriffs and other law enforcement administrators can be instrumental in advocating for and securing 287(g) agreements, it is possible that police leadership might also promote traffic enforcement strategies that target undocumented drivers, as well.

In order to better comprehend the relationship between checkpoints by individual
law enforcement agency and local ethnicity, a risk measurement was calculated based upon checkpoint forms and demographic data. The measurements intend to show the concentration of traffic checkpoints by concentration of reported Latino/a residents. In order to quantify subjective impressions from the maps, each census block unit is taken as a discrete spatial unit and associated with Latino/a ethnicity and number of checkpoints. A Jenks natural breaks methodology was used to group Latino/a concentration into five categories. Each category is then associated with a risk measurement. It is important to note that concentration is measured both in number of checkpoints per Latino/a classification, an indicator that ignores contiguity of census blocks, and a relative risk measurement (RR) that shows the percent of individual blocks in a category which experience 1, 5 or 10 checkpoints in a three year period. Higher RR values indicate tracts which are targeted repeatedly for traffic checkpoints. Only data which had sufficient geographic information is included in the tables below; the total numbers of checkpoint by agency below may be less than the total number of checkpoint on record. This analysis uses various indicators to show that neighborhoods with higher concentrations of Latino/a residents experience a disproportionate number of traffic checkpoints, most of which provide police with broad discretionary powers.

Using Wake County as an example, the table reads like this: block areas with less than 5.3% Latino/a concentration have a checkpoint density of .06 checkpoints per square mile and never experience more than 10 checkpoints, while areas with 11.6%–21.0% Latino/a concentration experience a checkpoint density 4 times higher (0.24 checkpoints per square mile) and 1 in 6 (16.6%) experience 10 checkpoints or more. Checkpoints
operated by the Wake County Sheriff's Office become more concentrated over the first three categories of percent Latino/a, from .06 checkpoints per square mile below 5.3% Latin/a, to .14 and .24 checkpoints per square mile in the second and third classifications. No checkpoints appeared in the two highest categories of percent Latino/a, but those area comprised a combined total of 18 square miles, compared to 837 square miles in the dominant three classifications. This is largely a result of Latino/a residential patterns in the Southeastern U.S., which, unlike other parts of the country, are not clearly concentrated in specific areas of the county and city at a scale that is reflected in block level analysis (see discussion above). Similarly, while the number of blocks experiencing at least one checkpoint show some disparity (24%, 40%, and 33% as we move into more Latino/a neighborhoods), the disparity is starker at 5 and 10 checkpoints, where blocks with higher concentrations of Latino/as experience much higher instances of repeat checkpoints – from 0 blocks experiencing 10 checkpoints in the lowest percent Latino/a areas to 8.6% and 16.7% in more Latino/a areas.

<table>
<thead>
<tr>
<th>% Latino</th>
<th>Total Checkpoints</th>
<th>Checkpoints per Area (sq mi)</th>
<th>Checkpoints per sq mi</th>
<th>Total Tracts</th>
<th>≥1</th>
<th>≥5</th>
<th>≥10</th>
<th>≥1 RR</th>
<th>≥5 RR</th>
<th>≥10 RR</th>
</tr>
</thead>
<tbody>
<tr>
<td>58% - 5.29%</td>
<td>37</td>
<td>19.5%</td>
<td>350.8</td>
<td>0.06</td>
<td>41</td>
<td>10</td>
<td>4</td>
<td>0</td>
<td>24.4</td>
<td>9.8</td>
</tr>
<tr>
<td>5.3% - 11.61%</td>
<td>91</td>
<td>47.9%</td>
<td>349.5</td>
<td>0.14</td>
<td>35</td>
<td>14</td>
<td>7</td>
<td>3</td>
<td>40.0</td>
<td>20.0</td>
</tr>
<tr>
<td>11.6% - 21.0%</td>
<td>62</td>
<td>32.6%</td>
<td>138.6</td>
<td>0.24</td>
<td>18</td>
<td>6</td>
<td>4</td>
<td>3</td>
<td>33.3</td>
<td>22.2</td>
</tr>
<tr>
<td>21.0% - 33.9%</td>
<td>0</td>
<td>0</td>
<td>12.2</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>33.9% - 50.4%</td>
<td>0</td>
<td>0</td>
<td>6.08</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Totals</td>
<td>190</td>
<td>837.2</td>
<td>0</td>
<td>105</td>
<td>30</td>
<td>15</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 2: Checkpoint Risk Measurements, Wake County Sheriff's Office

While the Raleigh Police Department operated relatively few checkpoints within their city-wide jurisdiction, those, too, appear to be more concentrated in higher Latino/a neighborhoods. However, they do not appear to repeat in the same neighborhood at the level, as seen be the 0's in RR columns of ≥5 and ≥10.
Raleigh Police Department, Wake County

<table>
<thead>
<tr>
<th>% Latino</th>
<th>Total Checkpoints</th>
<th>Checkpoints/Total</th>
<th>Area (sq mi)</th>
<th>Checkpoints/sq mi</th>
<th>Total Tracts</th>
<th>≥1</th>
<th>≥5</th>
<th>≥10</th>
<th>≥1 RR</th>
<th>≥5 RR</th>
<th>≥10 RR</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.8% - 5.29%</td>
<td>4</td>
<td>15.4%</td>
<td>124.0</td>
<td>0.03</td>
<td>23.0</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>17.4</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>5.3% - 11.61%</td>
<td>14</td>
<td>53.8%</td>
<td>135.3</td>
<td>0.10</td>
<td>25.0</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>36.0</td>
<td>4.0</td>
<td>0</td>
</tr>
<tr>
<td>11.6% - 21.0%</td>
<td>4</td>
<td>15.4%</td>
<td>29.4</td>
<td>0.14</td>
<td>11.0</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>27.3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>21.0% - 33.9%</td>
<td>1</td>
<td>3.8%</td>
<td>12.2</td>
<td>0.08</td>
<td>7.0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>14.3</td>
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<tr>
<td>33.9% - 50.4%</td>
<td>3</td>
<td>11.5%</td>
<td>6.1</td>
<td>0.50</td>
<td>4.0</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>75.0</td>
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<tr>
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<td>306.9</td>
<td>0.05</td>
<td>67</td>
<td>20</td>
<td>1</td>
<td>0</td>
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</table>

Table 3: Checkpoint Risk Measurements, Raleigh Police Department

The State Highway Patrol is not nearly as active in Wake County as in Durham county. However, their checkpoint activity appears to mirror the Wake County Sheriff's Office by corresponding to high-Latino/a areas with repeat traffic checkpoints. Checkpoints appear more dense in higher Latino/a neighborhoods, and higher Latino/a areas are much more likely than lower Latino/a areas to experience repeat checkpoints.

State Highway Patrol, Wake County

<table>
<thead>
<tr>
<th>% Latino</th>
<th>Total Checkpoints</th>
<th>Checkpoints/Total</th>
<th>Area (sq mi)</th>
<th>Checkpoints/sq mi</th>
<th>Total Tracts</th>
<th>≥1</th>
<th>≥5</th>
<th>≥10</th>
<th>≥1 RR</th>
<th>≥5 RR</th>
<th>≥10 RR</th>
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<td>350.8</td>
<td>0.05</td>
<td>41</td>
<td>7</td>
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<td>0</td>
<td>24.4</td>
<td>9.8</td>
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<tr>
<td>5.3% - 11.61%</td>
<td>21</td>
<td>47.7%</td>
<td>349.3</td>
<td>0.06</td>
<td>35</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>40.0</td>
<td>20.0</td>
<td>8.6</td>
</tr>
<tr>
<td>11.6% - 21.0%</td>
<td>4</td>
<td>9.1%</td>
<td>138.6</td>
<td>0.02</td>
<td>18</td>
<td>4</td>
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<td>0</td>
<td>33.3</td>
<td>22.2</td>
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<tr>
<td>21.0% - 33.9%</td>
<td>1</td>
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<td>12.2</td>
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<td>0.0</td>
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<tr>
<td>33.9% - 50.4%</td>
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<td>2.3%</td>
<td>6.06</td>
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<td>4</td>
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<td>22</td>
<td>2</td>
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<td></td>
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</tr>
</tbody>
</table>

Table 4: Checkpoint Risk Measurements, State Highway Patrol in Wake County

The Durham County Sheriff's Office is only marginally active in implementing traffic checkpoints, with a total of 14 over the course of three years. The lowest level of Latino/a concentration experiences only 2 checkpoints despite constituting, by far, the largest area of land in the county. Higher Latino/a neighborhoods experience a greater likelihood of checkpoints, but no neighborhoods appear to be targeted for repeat checkpoints.
The State Highway Patrol is very active in Durham County, and produces the most significant risk indicators. The concentration of checkpoints consistently increases as concentration of Latino/a residents increases: from only .12 checkpoints per square mile in the least Latino/a areas, to .67, 1.77, 2.33, and finally 4.35 in the most Latino/a areas. Similarly, while all classifications of Latino/a concentration experience some repeat checkpoints, higher Latino/a areas experience a much higher rate of repeat checkpoints: only 4.3% of the least Latino/a areas experience 10 or more checkpoints, while 16.7% of the highest Latino/a neighborhoods do – a rate nearly four times higher.

These tables generally confirm initial observations that checkpoints appear to be more common in areas which also have a higher concentration of Latino/a residents. This is not to say that Latino/a ethnicity is the only rationale behind the decision about where to operate checkpoints. Indeed, even when disparate policing is observed, it is notoriously difficult to identify a single driving factor. Other factors such as income may also
correspond with increased level of policing and crime, though identifying a single causal relationship between crime, poverty, race/ethnicity, and intensity of policing is difficult to establish. However, the data above support that argument that Latino/a residents are disproportionately likely – in many cases, much more likely – to experience traffic checkpoints in their neighborhood, and that such checkpoints are clearly connected to citizenship status. Latino/as therefore experience a higher risk of police encounter on the road than non-Latino/as. Latino/as may perceive these checkpoints to be targeting them, resulting in attempts to take care to avoid interactions with the police, regardless of immigration status. When police encounters become tied to arrest and deportation, driving itself becomes a risky practice, which compromises the ability for residents to get to work, buy groceries, visit friends, attend public functions, and be present in recreational spaces.

The final analysis of the checkpoint documents involves understanding the timing of checkpoints. The goal here is to draw general conclusions about checkpoints trends in order to understand how they may disproportionately affect Latino/a drivers or parallel other immigration enforcement programs more broadly. In this section, I am especially interested in Wake County Sheriff’s Office, who has already emerged as the primary traffic checkpoint agency in Wake County as who also voluntarily sought a 287(g) agreement. First, I look at trends in the total number of checkpoints by month. The following graph was made by aggregating checkpoint dates into calendar months and constructing a graph to represent all checkpoints over the three-year period from January 2007 to December 2009, the time period for which I have data.
From this graph, it is evident that 2008 was the busiest calendar year for checkpoints for the WCSO, as 65% of checkpoints were operated between January and December of 2008. In 2008, there were four months which included more than 10 checkpoints, reaching a maximum frequency of 23 checkpoints in a single month (October 2008). As a point of comparison, checkpoints appear to be a relatively inconsistent practice in 2007 and 2009, including several months in which no checkpoints were operated; few months included as many as 5 checkpoints and no month including more than 10 checkpoints. Importantly, the 287(g) agreement went into effect for Wake County Sheriff’s Office in July of 2008 at the middle of the height of checkpoint
frequency. The application process for 287(g) started in late 2007, however, suggesting that the Sheriff’s Office may have already developed an interest in immigration enforcement provisions prior to the formal implementation of 287(g). It may not be that traffic checkpoints follow directly from the implementation of 287(g), but rather that an interest at the state level to enforce the citizenship requirement of licenses and local interest in aiding in immigration removals overlap productively in the same calendar year. This is significant from the perspective of risk for undocumented Latino/a drivers. The key point is that during the same time period that license checkpoints (which are already tied to citizenship status) become disproportionately common on roadways in high-Latino/a areas, the outcome of arrests becomes dramatically more severe, potentially leading to removal from the United States.

The final description of WCSO checkpoints breaks down to time of day. This graph was created by breaking down the day into 24 1-hour categories. Each checkpoint was then categorized by start time into a corresponding hour. This chart shows some clustering around the 10:00 o’clock and 2:00 o’clock hour during the day, with a majority of checkpoints occurring in the evening hours between 5:00PM and midnight. Almost half of the checkpoints (47%) started between 7:00PM and 9:00PM. Given the rural dispersion of Latino/a residents and the corresponding spatial organization of checkpoints, this graph suggests that checkpoints significantly affect evening commutes and after-work discretionary travel. As I explain later through an examination of one location, evening checkpoints may be set up directing adjacent to rural Latino/a trailer parks at a time of day when laborers are on their way home from work.
Qualitative Analysis of Traffic Checkpoints in Wake County and Durham County

In this section I take a qualitative approach to investigating checkpoints from an on-the-ground perspective using landscape analysis. By physically visiting each site in the county, I was able to gain an understanding of what these locations look like, including types of housing, traffic density, local commerce, and potential employment types. This data provides the researcher some perspective of the lived experience of these spaces. Furthermore, to understand the relationship between police activity and local demographics, a saturation study has limits. By aggregating checkpoints into census blocks and comparing it to reported race and ethnicity, it might appear as if police action itself was able to be aggregated based on objective knowledge about local demographics.
A landscape analysis is useful because it provides an increased granularity, complimenting my previous work.

As stated already, each checkpoint was located on a map, with some checkpoints occurring repeatedly in the same location. Each checkpoint was visited, field notes were made about the type of housing in the area, type of road and traffic density, agricultural and economic activity, and other notable characteristics. A series of digital photos were then taken of each intersection which could be reviewed at a later time. It was difficult in the data analysis phase to determine the usefulness of doing a landscape analysis of over 200 checkpoint locations. It was often unclear if landscape indicators could contribute to an overall understanding of checkpoint locations. It was, however, useful for me to have a first-hand account of the geography of the county in order to make sense of the mapped checkpoints; the activity provided an important contextual understanding that was useful in interviews and case analysis. Finally, the landscape analysis did yield several important discoveries that, while not statistically significant at the county level, pointed towards specific instances of targeting Latino/a resident areas including trailer parks.

One of the widely cited (but poorly understood) spatial clustering pattern of Latino/a residents takes place in rural trailer parks, a topic that came up repeatedly in interviews and discussions. For instance, after asking a senior attorney at the Wake County District Attorney's office about where Latino/as might be arrested, he suggested that "...there are some of the mobile home parks out in the county where perhaps a Latino/a community and there might be more arrests there" (Author's Interview, 11 August 2010). Similarly, in his speech at the Fire and ICE conference on January 12,
2009, Sheriff Johnson from Alamance County claimed, "A lot of our calls for services – we have actually three large mobile home parks [audience laughter in background] where a lot of our calls have to go to, and most of those mobile home parks, those three mobile home parks, is big Latino/a population" (Johnson, 2009; Author's Transcript). Rural trailer parks appear to function as an indicator of undocumented Latino/a residents.

There were several instances of checkpoints set up directly outside of trailer parks or within a block of the entrance. The following collection shows nine locations where license checkpoints were proximal to rural trailer parks. The black triangles each represent one instance of a checkpoint; locations with multiple checkpoints are represented by a cluster of triangles. Trailer parks are roughly shaded in contrasting polygons. These images were produced from the same map, which included ethnicity data taken from the 2000 Census. If the trailer parks represented below have high concentrations of Latino/a residents, it is significant that the areas surrounding the trailer parks have varying concentrations of Latino/a residents. In location #8, the trailer park is located in an area with a relatively high concentration of Latino/a residents, but at locations #4 and #6 the surrounding area is overwhelmingly non-Latino/a. These observations reinforces the earlier claim that instances of residential clustering may be overlooked by using only a block level spatial analysis.
Figure 8: Checkpoint Locations Near Rural Trailer Parks

Wake County Checkpoints Near Trailer Parks
In the following example, I will look at just one such trailer park, represented by location #2 in the collection above. There had been three checkpoints on record at this location that appeared directly outside of a very large – perhaps the largest – trailer park in the county. Two of the checkpoints were set up during weekday evenings, possibly during end of the day commute times: one on a Monday from 9:00PM to 10:30PM, and another on a Thursday from 8:00PM to 10:00PM. The third checkpoint was set up on a Sunday morning from 9:40AM to 11:10AM. During the landscape analysis phase of research, I drove to the intersection and noted that I had passed several large fields near the intersection. I encountered very little traffic along the way and no cars passed through the intersection while I made my observations and took photographs. I noted that one road leading away from the intersection was less well maintained than the other streets and seemed to lead back to a residential area, although there was no signage visible from the intersection. I also identified a church across the street which had signage in English and Spanish. A checkpoint on Sunday as mentioned above would likely have effected resident accessibility to the religious service. I drove down the residential road and came to a parking lot with several large mail box stands and a sign with the name of a residential community. There was one main road which looped through the community. The road I drove in on was the only connecting road in and out. I drove the loop road and passed children playing outdoors, men working on vehicles, and several soccer goals and a basketball court, all of which appeared to be reasonably well-maintained and in regular use. The housing design was consistent with typical manufactured mobile homes, although many were improved upon with variously sized porches.
On a later research trip, I spoke with a manager of the trailer park, and asked the manager about her experience with renters and perceptions of police activity in the area. She said her residents were divided by ethnicity into about 70% Latino/a, 20% black, and 10% white. After I commented on the number of children I saw playing outside, she said, “This is a very family oriented place.” When asked about police checkpoints in the past, she said, “I feel like they were targeting my Latino/a residents. … They are here and at Lizard Lick [Road], all the ways they [Latino/a residents] would be coming home in the evening.” (Author's Interview, 16 August 2010). I asked about any cases where residents
were deported. She said several residents had been deported, though she was not certain if they had been arrested at license checkpoints near the community. She usually found out about residents being removed when family members came to explain why they could pay their rent in full, or when they told her they needed to move. Recently, for example, a wife had come to her to say that because her husband was in jail, she wouldn’t be able to make rent for the month. While a more ethnographic approach would likely produce a better understanding from the perspective of those being policed, the Internal Review Board (IRB) documentation for this project was not written to include interviews with residents. Future iterations of this project will seek to gather first-hand accounts from resident in trailer parks.

Her comments seem to resemble the description of the checkpoint data, that checkpoints may be set up around days and times when people are driving home from work. The redundancy of some checkpoint locations implies intentionality, and though it is difficult to ascertain the motives of individual officers, locations such as this one clearly show that Latino/a residents could be the targets of such tactics. Given that driver’s license laws have been used as a means of social exclusion of undocumented immigrants, checkpoints saturate areas of the county with police presence, stimulating fear and self-management in immigrants. In the case of the trailer park, we see that these checkpoints can be strategically used to at choke points where a high number of Latino/as live. These checkpoints function as a reminder that police have the authority to arrest and deport on the roadways and discipline Latino/a residents to maintain a low profile.

It was difficult to analyze the arrest outcomes of checkpoints, since no specific data...
was available for that purpose. Instead, I used interviews and discussions with immigration attorneys to identify removal cases which originated from driver's license checkpoints. Despite access to several attorneys in three offices, I could only find two cases which originated from license checkpoints and I gathered no additional information on the local arresting charges. However, regardless of whether or not checkpoints themselves result in cases, nearly 50% of removals originate from traffic enforcement charges. As I elaborate in the conclusion, it is important to reconsider that the central aim of immigration enforcement projects is to physically remove a substantial number of undocumented immigrants. Despite the real impact on the lives of those caught up within the removals system, the more substantial function of immigration enforcement may be to produce a population of politically undocumented people who nonetheless are able offer their labor to the U.S. economy so long as they remain out of sight and well-behaved. In the next section I analyze individual traffic stops, a practice which does produce a significant percentage of federal removal cases.

An Analysis of Traffic Stops

In this section, I move from analyzing traffic checkpoints to analyzing individual traffic stops. The relevance of this analysis is that, as noted above, traffic stops produce nearly half of the number of removals from Wake County – almost 1,500 over 2008 and 2009 alone. It is important, therefore, to understand how traffic stops can produce so many removable immigrants. There are a few contrasts between traffic stops and traffic checkpoints. Both forms of enforcement are territorial practices by the police to manage the roadways and to influence people who constitute their jurisdiction. Checkpoints,
while in operation, filter particular populations of drivers by setting up in a single location and relying on traffic to pass through the checkpoint for inspection. Traffic stops, on the other hand, require officers to use their own automobility in proactive ways to observe, target, and isolate other drivers on the road for individualized inspection. As noted in chapter one, various aspects of police rationale for traffic stops and traffic checkpoints has been contested in court, and each court decision has reconfigured the kinds of information that are relevant and the ways in which that information is relevant. That is, by the time 287(g) agreements began to proliferate in the U.S. Southeast, racialized policing practices have already been folded into existing policing practices through the legitimation of explicitly racial proxies in border policing and implicitly racial proxies in interior policing (*United States v. Brignoni-Ponce*, 1975; *Whren v. United States*, 1996; and *Terry v. Ohio*, 1968). In this section, my goal is to bring together, once again, the relationship between border policing and interior policing around the issue of traffic enforcement in contemporary North Carolina.

Unlike the traffic checkpoint data above, traffic stop data – including race/ethnicity and reason for stop – from jurisdictions in North Carolina is available to the public through the following website: [http://www.ncdoj.gov/Crime/View-Traffic-Stop-Statistics.aspx](http://www.ncdoj.gov/Crime/View-Traffic-Stop-Statistics.aspx). Data is available for State Highway Patrol through this site, but it was aggregated for that state; hence, there was no way to meaningfully incorporate State Highway Patrol information in this section. On the other hand, Durham City Police Department is included in this section, despite their lack of representation in the previous section. Data was obtained through this website for calendar years 2004–2009,
overlapping the three-year period of checkpoint data. The data was graphed using a relative risk measurement (as described above), taking the county average of Latino/as as the normalizing indicator, and calculating the over- or under-representation of Latino/as from the traffic stop data for each year. The graphs below should be read as follows: data points that appear at 1.0 on the vertical axis indicate that the percentage of Latino/as stopped for that particular offense is exactly as expected from the percentage of Latino/as county-wide. Data points below 1.0 indicate that Latino/as are under-represented, while data points above 1.0 indicate that Latino/as are over-represented. This method is not unusual in research which evaluates racially disparate policing practices (Smith and Petrocelli, 2001; Eugenio, 2002; Barnum and Perfetti, 2010; Cleary, 2000; though for a useful critique of outcome-based tests see Engel 2008). A review of the literature was conducted in order to determine what counts as a meaningful over-representation of minorities. Studies by Lamberth Consulting (2006, methodology also cited in State of New Jersey v. Soto et. al, 1996) use 1.8 as relevant indicator of over-representation; I adopt this same threshold here.

Each time an officer stops a driver for a traffic violation, she or he must document the initial reason for the stop. None of the various reasons for a traffic stop require an office to take a particular action, from writing a ticket to making an arrest. Indeed, a great deal can happen between a decision to pull a driver over and the termination of the encounter – which can be anywhere from a verbal warning to arrest and booking to the death of an officer or suspect. An analysis of the reason to stop does, however, provide some insight into the rationale and discretion used by officer on the road, and can
illuminated the kinds of charges that may animate racialized policing practices.

First, I would like to discuss data for Wake County Sheriff’s Office and Raleigh Police Department. Note that in the previous section on checkpoints, while the Raleigh Police Department was not a significant actor in traffic checkpoints making comparisons difficult, checkpoints overall presented disproportionate risks for drivers living in Latino/a neighborhoods. The traffic stop data below shows a clearer difference in policing trends between Wake and Durham County. Latino/a drivers are significantly over-represented in the following types of stops initiated by the Raleigh Police Department: driving while impaired (between 2.2 and 3.3), investigations (between 1.6 and 2.4), and other motor vehicle violations (between 1.7 and 2.6). Of particular concern here are investigative traffic stops and other motor vehicle violations, both of which may serve as catch-all categories for discretionary traffic stops that are motivated by difficult-to-articulate rationales. Both of these categories are consistently above the relevance threshold. Interestingly, traffic stops for speeding, safe moving violations, or stop light/sign violations are within the normal threshold. This is telling, as these three violations are based on relatively more objective, articulable criteria. Furthermore, if Latino/a drivers were, at the population level, demonstrably less safe drivers (thus justifying over-representation in some categories), one would expect that they would be over-represented for all moving violations, not just the most discretionary. Vehicle equipment violations figure relatively somewhat high overall; but this is likely related to the race-class nexus, where racial minorities are less likely to have the financial resources to purchase and maintain reliable vehicles (see Pickerell, Mosher, and Pratt, 2009, for
more on the complex sociological factors influencing discretion during traffic stops).

Traffic stop data from the Wake County Sheriff's Office indicates similar trends as Raleigh PD, but with even higher disparity. Latino/a drivers are significantly over-represented in the following types of stops: driving while impaired (between 1.9 and 2.9), investigations (between 2.2 and 3.9), and other motor vehicle violations (between 1.7 and 3.2). As in the Raleigh PD jurisdiction, moving violations such as speeding and failure to stop at stops signs/lights are well within the noise threshold, while more discretionary violations are above the threshold. The main story here is the dramatic increase in Latino/a drivers being stopped for investigations and "other" traffic violations, both of
which nearly doubled over the same time period that the Sheriff's Office actively sought and secured a 287(g) agreement with ICE.

![Diagram of Wake County Sheriff's Office Relative Risk of Latino/as During Traffic Enforcement]

Figure 11: Latino/a Traffic Stop Risk, Wake County Sheriff's Office

In contrast, data from the Durham Police Department and Durham County Sheriff's Office do not show such dramatic over-representation of Latino/a drivers in areas other than DWI. In stops by the Durham Police Department, Latino/a drivers are significantly over-represented in driving while impaired stops (between 5.0 and 2.3) and close to the threshold for investigations (between 1.7 and 2.0), but within the threshold other motor vehicle violations (between 1.2 and 1.8). Data from the Durham County Sheriff's office investigations shows a somewhat similar pattern early on, but more recent data shows
that Latino/as are become increasingly over-represented. DWI's figure large (but inconsistently so – between 1.4 and 3.6), with investigations becoming increasingly disparate in 2008 and 2009 (between 1.0 and 2.4 overall), and "other" motor vehicle stops becoming similarly disparate in recent years (from 1.1 and 2.1). Using a simple visual comparison based around a relative risk factor of 2.0, stops involving Latino/as in Durham County appear generally below 2.0 while in Wake County there is significant activity on the graphs above 2.0.

Figure 12: Latino/a Traffic Stop Risk, Durham Police Department
The difference between policing in Wake and Durham may not be due entirely to the presence or absence of 287(g), since 287(g) agreements are active in both counties. Rather, the institutional and social histories of these counties plays a significant role (Coleman 2011). It may be that jurisdictions with more disparate existing policing practices are more likely to seek out legal projects which allows them to increase the impact on vulnerable populations, while counties with more inclusive policing histories may seek to limit the negative impact on minority communities. Regardless of rationale, since the Raleigh Police Department and Wake County Sheriff's Office have become tied to immigration checks in the jail, Latino/a drivers are at greater risk on the roadways to
come under police scrutiny for crimes that are arrestable. By analyzing checkpoints in the previous section, I already argued that immigration-related policing is not solely tied to 287(g). Similarly, as this data precedes 287(g) implementation in Wake County, over-representation of Latino/a residents appears to be common regardless of formal immigration policy. This illuminates an important oversight in arguments against 287(g) agreements, namely that 287(g) will lead to policing practices based on racial profiling. What this research shows is that 287(g) is not necessarily the primary cause of racially disparate policing practices. Rather, 287(g) reconfigures the legal landscape and draws upon existing policing practices in order to function successfully. In this light, a focus on 287(g) as solely a devolutionary agreement – from federal to local jurisdiction – might obscure the existing geopolitical landscape of local law enforcement jurisdictions. In the devolutionary story, local police become animated by federal immigration agreements. In fact, the opposite is just as true: it is the complicated legal and institutional genealogy of law enforcement as a geopolitical and territorial practice which animates 287(g) and produces removable immigrant subjects. This study focuses on the local context of immigration enforcement; however, it remains to be seen how state-level policies in Arizona (under SB 1070) and Georgia (under HB 87) complicate local policing practices in other parts of the country.

That police actively participate in geopolitical projects should not be surprising when we consider that the development of different law enforcement organizations – municipal police, county Sheriff, and highway patrol – can be traced back to moments of tension around political inclusion: the control of the visibility and movement of slaves in
the South and North (Reichel 1988, Websdale 2001) which influenced the development
of police; the management of an influx of "invading" immigrants in the late 1800's and
early 1900's which greatly influenced the development of the highway patrol in contrast
to local (potentially immigrant-friendly) police agencies (Ray, 1995); and to the role of
Sheriffs as frontline law-establishing officers during the U.S.' westward expansion
(Billington 2001). The development of various legal jurisdictions which may seem
common-place now, were once controversial and each was accompanied by particular
mentalities of political belonging (see Ford 1999 for a legal history of territorial
jurisdictions). This under-researched topic would likely yield a good return on academic
investment by political and legal geographers.

Conclusion

In this chapter, I have analyzed how immigration enforcement has been taken up
in local law enforcement jurisdictions. The most important formal immigration policy is
known as 287(g), and allows police to participate in immigration enforcement with
Immigration and Customs Enforcement through either a jail model post-arrest agreement,
or a task force model that can be enacted in police operations. In my comparative analysis
of Wake County and Durham County in North Carolina, I find that the jail model, which
has been sold as a less aggressive form of 287(g), actually produces far more removable
subjects. Given the high numbers of traffic-related charges which lead to removals, I
became interested in how traffic enforcement and driving figure into policing practice in
general. I already attempted in the first chapter to understand the legal context of
immigration enforcement and policing more broadly, and found that the connection
between the two predates current agreements, including the increased discretion of police on the road and the justification of checkpoints in the U.S. interior. By developing a framework for understanding the police which explicitly includes police automobility as a territorial practice, I argued that traffic enforcement is an important site of police discretion which is tied to forms of political belonging and population management. I then examined two forms of police practices: traffic checkpoints and traffic stops. Through court cases presented in chapter one and more recently the REAL ID program, traffic enforcement has already become tied to systems of political inclusion and exclusion based on enhanced police discretion on the roadways and access to driver's licenses. Using geographical and statistical analysis, I showed that both checkpoints and traffic stops disproportionately put Latino/a drivers at risk for arrest, immigration status checks, and potentially removal proceedings. However, I argue that two complimentary projects are at work. First, while checkpoints do not appear to result in a significant number of removal cases, they nonetheless saturate higher-Latino/a areas with police presence and encourage Latino/a drivers to limit their own visibility on the roads. This form of police power contributes to the production of a compliant Latino/a population which is tolerated, but only so long as they remain out of sight. Second, individual traffic stops appear to produce nearly half of all removal cases in Wake County. Public data from traffic stops in Wake County shows that Latino/a drivers are more likely than their non-Latino/a counterparts to be pulled over for more discretionary traffic-related offenses, charged for driving without a license, arrested, and interrogated within the jail about their immigration status. Thus, traffic enforcement serves both to discipline the larger Latino/a
community to regulate their own visibility, but also produces exemplary cases of removal which substantiate the threat of driving while undocumented in Wake County.

A review of immigration cases yields few instances of removals resulting from traffic checkpoints. One might conclude, therefore, that traffic checkpoints play a peripheral role in immigration enforcement. However, this conclusion only holds if one assumes that the goal of immigration enforcement is to deport a significant number of undocumented immigration. There are good reasons to believe this. The Department of Homeland Security document "Operation Endgame" from 2003 asserts that the primary goal is to "increase its overall number of removals annually in order to thwart and deter continued growth in the illegal alien population and move toward a 100% rate of removal of all removable aliens" (DHS 2003, p. 4-4). It would seem, therefore, that key outcome indicator would be the gross number of removals, rendering license checkpoints merely interesting but peripheral in a final analysis. However, there is also very good reason to doubt that total removals are the most significant – or even intended – outcome of immigration enforcement under programs like 287(g).

As undocumented immigrants have moved further into the U.S. interior and remained for longer periods of time, federal and local enforcement agencies have sought ways to extend immigration enforcement to challenge these changes. 287(g) is one such policy that claims to empower law enforcement to police immigration. However, immigration is significantly driven by labor conditions, providing opportunity to both rural Mexican laborers and U.S. industry. Removal of a significant population of laborers would likely disaffect the industries that rely on immigrant labor. It is likely, therefore,
that the function of 287(g) is to provide local politicians and law enforcement administrators with the appearance of aggressive policing without significantly compromising local industry. This doesn't imply that deportations are irrelevant, only that a narrow look at only deportations might not reveal the broad scope and purpose of local immigration enforcement. This is how I believe 287(g) should be understood. By targeting Latino/a drivers on the roadways, police do little to disrupt the process of social reproduction within the home, nor do they compromise accumulation by entering labor spaces.

This does not mean, however, that the effects of this policing technology is limited to roadways. Car mobility is deeply integrated into the fabric of daily life in North America. A local researcher and community organizer in a nearby county said, "if you go to Wal-Mart during the day you would never know how many Latino/as live here. But if you go after ten or eleven at night, that's when they all go shopping." Latino/a workers may also modify the time and route they take to work due to fears about being pulled over by a police officer. Even everyday travel to visit friends and family is influenced by fears of racial profiling and an awareness about which jurisdictions represent greater threat for profiling. For instance, after I attended a dinner that included individuals who were Mexican, there were reminders and reassurances to follow the speed limits carefully and for guests to call when they arrived home safely. An interview with a program administrator in a Latino/a non-profit had this to say when I asked about how drivers change their behaviors on the road since the implementation of 287(g):

"They avoid busy streets. And, I don’t know exactly how you say... They call each other. And as soon as someone see something, or heard something, or friend
On two occasions, I asked younger Latino/a residents about how they felt about checkpoints, and they claimed that if they saw a police checkpoint they would alert their friends by posting the information on Facebook or by texting one another.

The technology of license checkpoints projects police power across the jurisdiction, reminding immigrants of their precarity on the roadways and resulting in drivers who are careful where they drive, when they drive, and with whom they drive in order to maintain a small profile on the roadways. Indeed, law enforcement leadership themselves acknowledge that residents who are well-behaved and out of sight might go unscrutinized by officers. Sheriff Johnson of Alamance County claims that the 287(g) program doesn't result in round-ups, but that "the criminal self-identifies himself by being a criminal" who then gets booked and deported (Johnson, 2009; Author's Transcript). Another officer from a police department claimed that they do not typically arrest anyone—including suspected undocumented immigrants—for driving without a license unless they are stopped several times within their jurisdiction. The implication is that Latino/a immigrants should police their own behavior and visibility in public space or be at risk of arrest and deportation.
Chapter 3: Inside the Black Box of the Immigration Removals System

In the first chapter, I examined situations that produced key court cases related to immigration in order to situate the devolution of immigration enforcement in recent years. In the second chapter, I looked more specifically at the law enforcement practices in a 287(g) county and concluded by arguing that a key effect of this agreement was to create a regime of governance that does not necessarily result in widespread arrest and removal. In this chapter, I want to look at what happens when individuals are arrested and put into removal proceedings. Rather than focusing on the theoretical possibility of removal, I will look at the removals system as a social practice. In one sense, this appears to bring us full circle back to courts and judicial procedure. However, this study focuses on the new removal process that is created by stitching federal authority into the fabric of everyday policing and local bureaucracy. The result is a system which complicates the already contradictory demands put upon law enforcement officers, while complicating administrative pressures on local civil employees, immigration attorneys, and police leadership. Finally, the removal process produces uncertainty and vulnerability for individuals and families who are within the removals process or connected to someone in proceedings. The emphasis here is to expose how the removals system functions (and disfunctions) by drawing on a range of socio-legal projects and relationships that appear tangential to immigration itself. I also examine how various actors – including
immigration attorneys, police officers, and detainees themselves – negotiate their relationship with the removals process based on their understanding of legal proceedings and their individual goals. To that end, in this chapter I will describe the removal process for cases that originate from Wake County. I will start by outlining the importance of understanding real cases and situate this within current research. Second, I will argue for a legal framework which emphasizes law as produced by and productive of social relations. Third, I will spend most of the space below working through a number of cases at a different points in the removals process in order to explain both the formal legal implications at each step as well as the subjective transformations that various participants experience along the way.

**Methodology**

The goal for this chapter is to understand removals system from the inside, by taking account of the situations and contingencies that are part of the removals process. While my theoretical aim is to open up new ways of thinking about law and immigrant removals, my project is still grounded in Wake and Durham County in North Carolina. The majority of the material for this chapter was gathered from cases that originated in Wake County. As I indicated in chapter two, immigration related cases in Wake County appear to involve considerably more banal types of policing, and results in 40 times more removal cases than in Durham County. This does not mean that I accept the jurisdictional boundary of Wake County as given, or that processes Wake County function in isolation. For instance, I attended immigration court proceedings in Charlotte, North Carolina, which is several hours from Raleigh. But to be consistent with my analysis from chapter
two, my focus remains on how individuals from Wake County pass through – or might pass through – the removals system.

The following methodologies were used to create data for this chapter: formal and informal interviews, participant observation, court room ethnography, and case analysis. I interviewed two police officers, a representative with the Wake County District Attorney’s office, five immigration attorneys, and three program leaders with Hispanic organizations. I also had informal discussions with representatives from the Mexican consulate in Raleigh, traffic attorneys, volunteers with a local Hispanic-oriented non-profit organization, and a county staff member who works in an administrative position close to the jail. Some interviews were obtained through existing contacts, while others, mostly the interviews with law enforcement, were obtained through cold-calls. Interviews which were recorded, were transcribed, while unrecorded interviews were documented through note taking. I also transcribed an online video of a presentation by a Sheriff who advocated for and obtained a 287(g) agreement. On several occasions, I accompanied two immigration attorneys through their daily routine, including processing cases and attending federal immigration court. During the federal immigration court hearings, I took notes about cases and used my notes as prompts for discussion with the two immigration attorneys afterwards. I took notes while attending traffic court proceedings and magistrate court in Wake County, both of which included immigration-related components. Finally, using court room observations, interviews, and immigration case files from one immigration attorney’s office, I reconstructed several narratives of individual immigration cases. The bulk of the field data below was created through
observations and discussions which were recorded as field notes. While I attempt to establish a theoretical perspective in the first part of the chapter drawing on academic scholarship, the field notes read unconventionally, as more space is given to description than to formal citation.

_A Nomospheric Approach to Understanding Legal Process_

In this section I attempt to provide a framework for analyzing legal processes without necessarily resorting the purely legal frames of reference. Although this discussion might be just as appropriate in the first chapter which is dense with court citations, this need emerged largely from fieldwork, which is why I include it here. While law in Supreme Court cases appears to demand the most critical legal minds, through talking with people that actually work within various legal bureaucracies – police officers, immigration attorneys, district attorneys, social workers, magistrates and judges, respondents themselves – I found that formal legalisms were generally employed alongside other apparently non-legal ideas about gender, morality, affection, and personal beliefs. One way to approach this would be to treat these "extra-legal" concepts as just that – concepts which may influence or even corrupt the law from a place beyond the objectivity of law. This was unsatisfactory to me, because it was clear that the law itself already includes within it a number of uncritical assumptions about social relations, and real existing social relations themselves are at least partially organized around popular notions of law. Nicholas Blomley (1996, page) similarly argues: “Central to Western law and legal practice is the assertion of legal “closure”, this being the characterization of law as an autonomous, self-sufficient field that can be marked off… (in several important
ways) from the vagaries of social and political life." From a research perspective, the "legal closure" argument suggested that I had to choose between writing a formal legal account of the removals process, or write a purely anthropological narrative of individuals and their personal experiences. Instead what I attempt to do, is to write an account of the immigration removals process with an emphasis on how law is produced and experienced through everyday moments which cannot be reduced either to personal narrative nor to a laundry list of applicable laws and statutes. I am also careful not to approach law as merely a proxy for other forms of race or class dynamics, as if law is a fabrication that hides reality. This does not imply that power is absent in law. As Josiah Heyman suggests:

"It is important to remember that we should not simply tell plausible stories about what functions a legal intervention serves for the state or ruling classes, but should uncover the processes by which the intervention came about whether or not the consequences are planned. States and illegal practices offers important terrain for studying the complexity of power and ‘common sense’ (Heyman 1999, page).

Law is as tangible and illusory as categories of class, race, or gender. It became important for me, therefore, when examining immigration enforcement and removals proceedings to take law seriously but not to accept it as an isolated and impenetrable system.

Two legal geographers provide a way forward in this project. David Delaney and Nicholas Blomley have both petitioned in their careers to bridge the law-and-geography divide. As they both claim, while scholars in both geography and law have borrowed concepts from other’s discipline, finding examples of geography in law or discovering legal elements of a geographical world, at the end of the day, geographers and legal scholars return to their respective fields with a relatively unchanged fundamental view of
their discipline. One (among many) reasons for this fundamental division is legal positivism, which constructs law and jurisprudence as the progressive unearthing of universal truths which are founded about legal rationalism rather than constructed through social practice and representing the coalescence of power. Blomley situates the mutual embeddedness of law and geography in one another when he writes:

“Embedded within the law are a rich and complex set of “maps” of social life. Legal categories are used to construct and differentiate material spaces which in turn, acquire a legal potency that has a direct bearing on those using and traversing such spaces” (Blomley 1996, page).

To expand on material from Chapter 2, the boundaries of police jurisdictions are illusory, and yet different territorial practices across jurisdictions produce a real sense of vulnerability and risk for some residents who, as a result, police their own social visibility. Drawing as Blomley does on critical legal scholarship, Delaney attempts to bridge the geography-and-law divide by introducing the neologism “nomosphere” as a conceptual framework. The nomosphere, writes Delaney:

“...refers to the cultural–material environs that are constituted by the reciprocal materialization of “the legal”, and the legal signification of the “socio-spatial”, and the practical, performative engagements through which such constitutive moments happen and unfold" (date, page)

The term nomosphere is a concept which implies from the outset that law, space and society are produced together, though not necessarily in unison. The application of the nomosphere is scalable, offering the opportunity to engage with the spatial-legal characteristics of international warfare, abortion legislation in particular states, and domestic partner rights within a single home. For my purposes, the language of the nomosphere is not intended to be a silver bullet for dealing with the disciplinary gap between legal studies and geography. Instead, it signals an inclination towards engaging
directly with the production of both law and space as interrelated phenomena. A nomospheric approach also enables me to take the law seriously as a productive element of power relations. As Delaney argues, "a fundamental effect of everyday nomospheric operations is the legitimation of ordinary expressions of power." As I explained in Chapter 2, citizenship has become tied to access to driver's licenses, making traffic enforcement one component of immigration enforcement, even though the social practice of driving appears as normalized. Nancy Hiemstra also speaks to the ways in which the "illegality" of undocumented immigration becomes a technique of governance which while “rooted in legal classifications, its strength lies not just in law, but also the discourses, politics, and practices which accompany the interpretation and implementation of law” (date, page) I would add that local immigration enforcement projects like 287(g) do not simply rely upon an already existing political exclusion, but actively produce exclusion and "illegality" by programs such as REAL ID that create a class of unlicensed drivers based on citizenship status.

As an example of how a nomospheric approach might be helpful, consider how legal status draws upon biological processes, familiar relationships, and the reproduction of the territorial nation-state. Formal legal status implicitly co-constructs a range of social opportunities, which includes access to education and health care. The reality of undocumented immigration draws attention to the way in which formal legal status provides a foundation for social relations. The notion of family, for instance, is as much a legal construction as a sociological. Political belonging is often passed on through the biological act of birth, which in the U.S. is formally documented using a birth certificate.
The biological act of birth and familial affections produce a sense of belonging which can become formalized in law, even as law contributes to a sense of belonging in the first place. It is little surprise, then, that these minutiae such the precise date of birth, marriage certificates, and legal status of closest kin become crucial in immigration court proceedings.

Through a nomospheric investigation of 287(g) and the removals process, I argue that 287(g) is a project which draws upon existing social practices – such as driving and the spatial segregation of rural areas in the U.S. South – in order to make national political status figure into everyday life at the local scale. This process necessarily produces new practices and consequences by virtue of the laws entanglements with many aspects of social life. In the following sections I seek to trace the precise entanglements at various stages of the removals process.

Nomospheric Situations of Deportation

In this section I will proceed through various situations or moments that constitute the removal system. There are two complimentary ways of thinking about this part of the research. First, I wanted to understand from a procedural perspective how the removal process works from beginning to end, from the experiences of officers and immigrants before the arrest takes place until after a person is removed from the United States. As this system is not masterminded, but is instead assembled from existing bureaucratic regimes, a process model must be created through research rather than discovered. The value of this research is to create clarity around the removals process and open up potential for public awareness and future research. The second way to understand this
research is as an attempt to capture the embodied, contingent moments of life that count as immigration enforcement, and to investigate the connections between these moments and other moments which don’t count as immigration enforcement.

Central to both of these approaches is the concept of legal procedure and the law. A process model presents a more traditional view of the law as a rational and coherent set up unbiased decisions. A situated view of law as an embodied, contingent experience emphasizes the law as a social product which produce and reproduce power relations. Delaney’s approach to law and space through the language of nomosphere provides one unit of analysis, using what Delaney calls “nomospheric situations”.

“Situations are one point of entry… not to be understood as merely “subjective” or “private occurrences. They are always, and complexly, social entities… enmeshed within socio-spatial and socio-legal (nomic) constellations” (Delaney 2010, 38-40).

I approach the removals process as a series of situations, and proceed to investigate each one, with an emphasis on the way in which situations beyond the removals process is brought near to it, and the way in which elements of each nomospheric situation push out beyond it and connect to other nomospheric projects.

Finally, by examining the lived experience of nomospheric situations rather than formal legal spaces, I intend to populate immigration enforcement with real people. I reflect Lynn Staeheli’s lamentation that "citizens – individuals – seem to have been lost in the approach to citizenship" (Staeheli 2010). Abstractions about citizenship, whether based upon citizenship as an identity or as a set of coherent practices, ignore the ways in which citizenship is always fragmented, partial, and in a constant state of production without finality. The following sections include descriptions of police officers who use
discretion to negotiate the potential removal of spouses in domestic violence situations, immigration attorneys who transform their client's stories into legal arguments, and young couples for whom marriage decisions becomes wrapped up in immigration proceedings. In all, the following vignettes provide a useful inside look at the consequences of 287(g).

Removals System Overview

To provide an initial frame of reference, I want to describe the removal system from local jurisdictions through removal proceedings. In Wake County, which utilizes a jail-model 287(g), individuals are checked for immigration status at the point of booking. However, as I noted in the last chapter, there are law enforcement activities that govern immigration populations without necessarily resulting in arrest. The first stage of removal then, I argue, is the production of vulnerability and risk, which is based in part on the potential of removal. Of those people at risk, some will come into contact with law enforcement officer in various situations, and fewer still will be arrested. Once arrested, that person will be taken to the county jail, which is used by all law enforcement agencies in the county, and processed according to local booking procedures. If a person is identified as being present without documentation, that person will be taken into federal custody and transferred to one or several detentions facilities until they have a hearing with a federal immigration judge. There are different types of removal which the judge may offer and which individuals may take, but after the immigration hearing the individual in proceedings will leave or be removed from the territorial United States.
To pick up where chapter two leaves off, I begin this section from the perspective of what it might be like to live in a county where there is a constant risk of arrest and deportation. One of the ways that this risk might manifest itself is in individual attempts to initiate contact with the formal immigration bureaucracy in order to seek relief. For instance, the Mexican Consulate in Raleigh provides Mexican citizens with matricula cards which are formal identification cards issued by the Mexican government, and can function within the U.S. as positive I.D. Others, like those in the story below, may seek out immigration status changes by asking around to friends and co-workers about attorneys who can articulate the demands of the state to them and explain possible routes to legalization. This indicates that being undocumented is not just a label, but a legal category which many live with despite an incomplete knowledge of the repercussions that might result.

As my first example, I point to a situation I got to experience where I sat through a family’s meeting with an experienced immigration attorney. The family members were all U.S. citizens, but the daughter’s boyfriend was undocumented. The dating couple was
in their mid-20s. The family was supportive of the relationship, but as the attorney explained, there was no immediate relief available to the man. So the attorney provided the following usual advice. She suggested that the two get married, for him to return to Mexico and for the woman to then petition for his return. In the course of the petition, however, the woman (future wife) would have to demonstrate that without her husband she would be completely inconsolable and their separation would put an “extreme hardship” on her as a US citizen. If he was able to return, the young woman would then have to demonstrate her ability to completely take care of her immigrant husband for ten years, regardless of whether they remained married or not. The attorney asked the young woman how she would feel if she never got to see her boyfriend/husband again. When the girl did not provide a particularly emotional response – she wasn’t a very dramatic woman – the attorney continued to tug at her, saying, “You need to go home tonight and sit in a corner and really think to yourself exactly how you would feel if you could never see the man you love again. The further in the past, the better.” Meaning that the more she could connect losing James to losing her own father as a child, which she did, the better her case would be for securing her boyfriend/husband's reentry into the U.S. as a legal immigrant. Then she chuckled with encouragement, “You’re just not pitiful enough. You need to be more pitiful.” (citation)

There are two important features of this meeting which I would like to draw attention to. First, is the way in which attorneys time and again broker the connection between clients and formal legal demands. By acting as nomospheric agents, attorneys translate and transform meaning from one form to another. In the example above, the
attorney translates the complex the legal process into a simple narrative from the perspective of what the couple needs to do in order to help the boyfriend become legalized. At the same time, however, by making the demands of the law knowable, the attorney offers a way for the clients to transform their story into the language of the law in order to obtain the outcome they desire. It is important that attorneys are understood as active agents (Martin, Scherr, and City, 2009). Second, these transformations depend upon "social maps" (Blomley 1996) which make possible an understanding of gender relations, marriage, and separation. Legal transformation can also entail the production of new subjectivities based on these social maps. Even within the attorney's chambers, it's as if the girlfriend was already becoming a wife, who was expected to perform an appropriately sentimental mourning of her separation from her husband in order to earn favor in the eyes of the state. Even if the attorney seems harsh in making this suggestion to her client, the attorney understood completely that no less than a fully pitiable, feminized subject-wife was needed, and that only the client herself could perform that transformation of subjectivity. She also understood that at a different moment a fully capable and self-sufficient subject-citizen was needed in order to argue convincingly that even a documented immigrant would not become the burden of the state. This is the stuff of a nomospheric approach to immigration law: law is not merely the function of thousands of faceless documents, but the enrollment of individuals across space into a performing the law through their own subjectivization, and writing back to the law from new subjective positions.
Next I look situations which bring police officers and potentially undocumented immigrants together. The act of arrest is a remarkable human practice in which the force of the state is channeled through the authority of a police officer to take physical custody of a person who, in the snap of a pair of handcuffs, crosses the deep historical chasm between freedom and captivity. While a full understanding of arrest powers depends upon an analysis of seemingly abstract notions of sovereignty, we can be sure that the moment is anything but abstract to those on both sides of the badge who experience it. Arrests may become an everyday occurrence for officers on the beat whose main concern may be about following the paperwork than the outcome of the suspect. But for residents without formal political status within the U.S., police scrutiny and arrest is a constellation just over the horizon of everyday life, particularly while mobile. The potential for arrest and removal guides systems of self-management on the roadway that draw upon knowledge of police tactics in a kind of spatial dialogue. Arrest powers also permeate the many situations that police are called to investigate. These are nomospheric situations, places where everyday encounters – a domestic argument, walking out of a convenience store, crossing the street – contain the potential to become legal cases, and where the law might become reified through the apparently objective application of municipal ordinances and state laws. This is all the more true for arrests in a 287(g) county where the result could be removal from the legal territory of the United States.

This potential is not only registered by those who might come under the scrutiny of the law, but also those tasked with enforcing it. I spoke with Juana, a police officer who
was assigned to a domestic violence unit. She shared a story of a case from the week before. She was working with a family that was experiencing some level of violence in the home. She suspected that the husband was not documented, and while there was clearly stress within the home, the wife had no intention of leaving her husband, much less seeing him deported. The general rule has become in recent years to arrest without question people who are involved in domestic violence. This is an intentional swing away from the older practice of considering domestic violence to be a “personal” matter, not a police matter. However, the officer exercised discretion in this case, intending to put the project of private familial stability above the project of weeding out non-citizens from society. Juana considered her work with this family a success. One day the prior week, however, while she was on leave, a male officer unfamiliar with the family was called to the home once again and, following unwritten protocol, arrested the husband who was subsequently put into proceedings. This was a loss for Juana. However, she also found the potential deportation of abusers under 287(g) to be quite useful. Rather than a weekly or monthly catch-and-release of abusers, an arrest for domestic violence could result in the relatively swift removal of an abuser who might otherwise continue to abuse a partner.

A representative from a state-wide coalition against domestic violence voiced worsening concern for Hispanic victims. Since 287(g) policies have gone into effect, “the consequences of calling police now are more serious than before”. She added, “people who are being abused want the abuse to stop; they don’t necessarily want the abuser deported.” (citation) Then she relayed this story. She had been working with a couple who had two children; the oldest daughter was eight years old. After one severe assault the
daughter, in an attempt to help the mother, grabbed the phone and hesitantly asked the mother whether she should call the police, because she didn’t want “you and daddy” to get deported. The result, the advocate said, is that families have to be “more creative than typically calling the police.” Given the often unwanted consequences of arrest, people in situations that appear to have little to do with immigration enforcement – indeed those in the most vulnerable position – must negotiate the potential for arrests. In Delaney’s language, these actors must actively negotiate their everyday lives with an awareness of the nomospheric potential of seemingly straightforward actions to protect oneself of family.

I also discussed questions of discretion and arrest with a police officer in smaller municipality in order to understand the kinds of decisions that an officer on the beat might consider. A key issue that emerged from this discussion was the importance of documentable identity. This applied broadly, not just for immigration status. For instance, arrests were important for driving while intoxicated (DWI) cases since field DWI tests are not as legally productive of convictions as a DWI breath test from the machine in the county jail, which produces a legally admissible printout. More central to immigration enforcement, however, was the officers emphasis on having identification to the show the officer. He said, “We’ll arrest someone that we don’t know who they are … so it could be for speeding, for example. You know, as long as it’s a misdemeanor and arrestable, if we don’t know who they are, we’re going to arrest them” (Author's Interview, 2 August 2010). The rationale for this, he explained, was that without official identification it is difficult to follow through with charges. Officers write hundreds of traffic tickets each
year, and the case in question may not be pursue in court until much later, at which time it would be difficult for an officer to identify a driver from a night months ago. There was a moment where race subtly emerged. I asked if everyone who didn’t have license would be arrest, to which he responded, “You know, like, if we stopped you and you didn’t have it with you, the likelihood of you getting arrested is probably less than if we stopped you and you had just never been issued one.” (citation) The italics are mine, and indicate emphasis he made in my direction. Finally, though, the officer distanced himself from the idea that people would be arrested based on immigration status. Instead, his officers arrest people for breaking laws, such as driving drunk or assault, not for undocumented status. However irrelevant immigration status might be on paper, undocumented status clearly increases the risk of being arrested for an offense that would not normally result in arrest.

Not all officers are as adamant about arresting individuals without identification. I spoke with another officer from a suburb who said he and his chief had no interest in policing immigration issues, and that the goal of his department is strictly public safety. If they have someone without a license or identification, his department won’t automatically arrest. If they get the same person four or five times, then they might arrest them and attach what he called an ICE label” to their arrest. To confirm this statement, James from the first story who has no drivers license had a total of five speeding tickets in the last 8 years, three with this department. He appeared proud of his department’s close relationship with immigrant organizations in the community, which included a significant share of Hispanics, Indians, and Muslims. He emphasized his willingness to
meet with people where they were most comfortable, including Mosques or organizational offices, and explained how his department regularly puts out messaging in Spanish on Spanish radio stations. As if to demonstrate his commitment to community policing, the officer stood up and walked over to a little boy standing over my shoulder next to his father. He had apparently been staring at the officer for several minutes, or more specifically, the officer’s handgun. The officer kneeled down and explained that sometime “good people like cops need to carry gun”. He then removed a golden sticker in the likeness of a badge from his breast pocket and began to peel it from the backing. “Do you know what being deputized means?” he asked. “It means listening to your dad, and brushing your teeth.” He then carefully put the sticker on the front of the boy’s shirt while the frozen child carefully avoided direct eye contact, fixed either by reverence or fear. “Our goal is not immigration enforcement,” he said at the end of our interview. “It’s simply to keep the bad guys out.” (Author's Interview, 30 July 2010)

The arrest of a person who is undocumented is an important step in the removals process, even though it appears administratively separated by jurisdictional divisions of policing, different approaches to policing by various agencies and officers, and by arrestable offenses that seem unrelated to immigration enforcement. Due to the fact that all jurisdictions book arrested persons into the county jail, which runs the 287(g) agreement, the arrest of an undocumented person anywhere in the county will likely result in that person being identified in jail and put into federal removal proceedings. Jurisdictional divisions play an important role, however, in providing a degree of deniability for agencies not formally enrolled in 287(g) agreements, while simultaneously
linking them up to the removals system. While 287(g) has prompted concerns about *causing* racial profiling, I am more interested in how the successful functioning of 287(g) depends on existing policing theories and practices across law enforcement departments. Finally, as I have shown above, the existence of devolutionary agreements radically changes the consequences of arrests, and actors either exploit or avoid this potential based on their legal subjectivity.

**Jail**

In the jail model of 287(g), the county jail is clearly of central importance. The most immediately apparent change as a result of 287(g) is that people who are being booked in the jail will be scrutinized for immigration status. In the last chapter, we saw how this is not the only effect of devolutionary agreements, since the mere potential of removal and a variety of police tactics lead immigrants to manage their own social visibility. However, the booking process is, if you like, the real locus of formal 287(g) policy. When a person is booked at the county jail, they will be asked two questions: Were you born in the United States? and Are you a U.S. citizen? The only burden of proof that ICE has is to show that one of these two things are not true. If you confess and sign a document saying accepting these charges, ICE’s job is that much easier. Now technically, you are not required to answer these questions. You could refuse to answer these question until you were able to speak with your own attorney. This did happen in one case where and Irish man was arrested and held. In his case, having an attorney wasn’t helpful because he was undocumented without the possibility of relief and was later removed to Ireland. However, for Latino/a immigrants, this is actually quite
important. The condition under which people are answering these questions is, said one immigration attorney, “a highly coercive environment”, often cuffed in a jail with armed officers and no legal representation. In this environment, many or most suspected undocumented immigrants sign the paperwork admitting to ICE’s accusation. This is quite an important moment because in many cases it may not actually be entirely clear what the status of a person is, if they have some kind of relief, and they may not even know themselves. This is one important moment with legal council might be crucial, but none is afforded. Often by the time that attorneys have access to clients, the most important paperwork has already been signed, and all the attorney can do is mitigate the consequences.

The first issue is what to do with the local arresting charges. While the individual is still in custody on local charges, they are under the jurisdiction of local law enforcement. Once released from the local charges, rather than be physically released from jail the individual will be immediately held on a federal detainer. There are several triggers for this transfer of custody. First, the individual in custody may pay the criminal bond associated with the local charges. This results in the person being released into federal custody, even while the person is sitting on the same bed. Second, when someone is arrested, they make an initial appearance before a magistrate who reviews their case and assigns a court date. At this appearance, a magistrate may dismiss the arresting charges or the district attorney’s office may drop the charges, again releasing the arrested person into federal custody. In many cases, once the District Attorney’s Office realizes that the person is undocumented and will be put into removal proceedings, they will
automatically drop the charges anyways, given that removal from the U.S. likely trumps the consequences that the county would mete out for, say, driving without an operator’s license. There is a potential contradiction here between the District Attorney’s Office’s desire to prosecute and ICE’s desire to remove immigrants. In many cases, immigrants have paid the local criminal bond which moves them quickly out of the county into detention centers in other parts of the state or beyond. From the county perspective, however, the suspect has been released on bond and ought to be available for their court date. It may only be once that person does not show for court that the District Attorney’s Office’s discovers that the person has been removed from the U.S. In this way, introducing 287(g) into the jail has created a situation where more than one state actor is vying for custody over the body of an immigrant, resulting in a contradictory system which may actually restrict attorney’s ability to prosecute crimes. It is important to note how the local charges fall away after a person has been put into removal proceedings, making accusations of racial profiling on the part of local officers difficult or legally irrelevant. Finally, while immigrants may have been arrested on local criminal charges, there is little prosecution of those charges, which indicates that accusations of immigrants committing crimes depends mostly on arresting charges, not on the outcome of judicial process.

ICE and the District Attorney’s Office’s are not the only actors interested in immigrants in the county jail. Based on the estimate of one interviewee, the third busiest Mexican consulate in the U.S. happens to be in Raleigh, North Carolina. The Mexican government often takes an interest when its nationals come under scrutiny of the U.S.
legal system. For instance, the Mexican government pays for legal counsel for its nationals in the US who are being tried on death penalty charges, because in Mexico death penalty has long been outlawed. Similarly, in Wake County the Mexican consulate is actively trying to provide legal services to their citizens. Thus, it’s important to remember that while undocumented immigrants are often referred to as non-citizens, this isn’t actually true. Undocumented Mexicans, for instance, are citizens, just not citizens of the U.S. Among various outreach efforts to the local Mexican community, the consulate provides matricula cards which can be used as official identification while in the U.S. and they provide a network of legal services by keeping local attorneys on retainer. An outreach coordinator explained that they are attempting to require law enforcement agencies to contact the consulate whenever a Mexican national is the local jail. In effect, the Mexican national government has taken an interest in local immigration enforcement in order to protect its citizens, who are being policed based on their lack of U.S. citizenship. This is an under-research aspect of devolutionary agreements in the U.S.

A nomospheric approach helps to illuminate the fact that detainees in county jails cannot be reduced to a physical body being held by the state. Rather, the detention of an individual become a legal case which many agencies are attempting to lay a hand on. Local jurisdictions may wish to prosecute suspects and immigration attorneys prepare an application for relief, while the U.S. government aims to remove the undocumented immigrant, and the Mexican government attempt to provide material support for its citizens. Jail is a nomospheric situation which reaches beyond the confines of the prison walls, even if the body of the detainee remains physically isolated.
Detention

Much has been written on the mistreatment of people in detention centers, difficulty of locating family members within detention, and the growing economy of immigrant detention. This section addresses none of those important issues. Instead, I draw only upon the interviews and cases available to me to understand what happens – or what can happen – within and between detention centers in relation to the rest of the removals process.

The first detention center (in this case) is the Wake County jail, where the body behind bars transfers from local to federal custody. In a matter of hours or a few days, that person will be transferred to a recently remodeled and expanded county jail in Alamance County. The speed of transfers depends upon whether the number of people available for transfer can fill a federal transfer van. At Alamance, individuals appear to be divided up based on individual options of removal, country of origin, and disability. If a detainee will be removed expeditiously and there are enough fellow nationals to warrant a full bus or flight, they will likely be moved along relatively quickly. On the other hand, if they are from a country with fewer detainees, or if they are scheduled to appear before the regional immigration judge in Atlanta, they are more likely to sit in detention. An local immigration attorney who deals mostly with individuals already in detention described the following pattern of detention centers and nationalities: Stewart Detention Center in Lumpkin, Georgia holds detainees from Mexico and Central America; Etowah County jail in Gadsen, Alabama holds those from Asia, Africa and other countries; North Georgia Detention Center in Gainesville, Georgia is a temporary holding center for those
on their way to Stewart and also holds non-Latino detainees for longer periods of time; Columbia Care in South Carolina is a holding facility for those with mental illnesses and other medical detainees from all nationalities; York detention center (of unknown location to me) holds Hispanic women. This geographical division of detainees appears to hold through several cases I reviewed, as I will discuss later. Importantly, the detention centers within the Southeast attempt to mirror the global order of nation-state organization on a smaller scale, while also separating out mentally and physically disabled persons in classical asylum-like fashion.

It would appear that once a person is in detention there is no way out. But in fact this is not quite true. There is an option known as “voluntary removal” – or VR – which immigration officers can offer to detainees who perceived as compliant or have no criminal background. If a person in detention sign voluntary removal paperwork, it appears that he or she agree to leave the country within period of 90 to 120 days. According to an immigration attorney and a criminal attorney I spoke with, the rules around voluntary removal are not well documented, leading attorneys to be concerned about the repercussions of voluntary removal in the case that someone stays past their departure date, or in the case that they request formal re-entry into the United States. According to one public defender, around 40% of individuals eligible for removal who are identified in Wake County jail will be released on voluntary removal. It also appears that women are disproportionately likely to get voluntary removal. Despite voluntary removal being a poorly understood practice and the potential for problematic legal ramifications, the two attorneys were reticent to challenge the practice since, as they said,
“it is a benefit” and ICE could just as easily refuse to offer voluntary removal. Many detainees are hesitant to sign voluntary removal paperwork in Wake County because they don’t understand what is being asked. These eligible detainees may also be offered voluntary removal again at other detention centers down the line, however, and if taken would result in their release from jail at a point far from where they were arrested. This is one factor that may help explain stories of immigrants stranded in rural towns with detention centers.

Another option for release is known as “released on your own recognizance” or “ROR” in legalese. ROR applies most often in cases where a person has a court date and is entrusted to their own responsibility to appear in court. Like voluntary removals, ROR tends to be offered to women with children and rarely to men. An immigration attorney explained that ICE has begun to experiment with using ankle bracelets to track immigrants who have taken ROR between the time of their release and their court date. It is unclear if this practice is common in South Carolina. In one case file, an Mexican national was arrested for not having an driver’s license (NOL) and released the following day on his own recognizance following an order to appear at immigration court in Charlotte.

A final way to be released from detention is to secure an immigration bond. Like a criminal bond, an immigration bond is an amount of money deposited against the condition of appearing in court or removing oneself from the U.S. Immigration bonds may also be secured at any point in the removals process pending the authorization of an immigration judge or an ICE official. In several cases detainees were released from Wake
County on an immigration bond, while in at least one case a detainee was released from Stewart detention center. The bond must be paid by a U.S citizen, and ranges from $1,000 to $3,500 in the cases that I was able to review, which would likely be a hardship for laborers and their families. While being released on bond gives one the opportunity to apply for voluntary departure from an immigration judge (more on this in the next section), retrieving the bond money requires completing a number of forms submitted after one leaves the country, making it administratively difficult to recover the funds. In several cases, detainees also had to pay a criminal bond from their local charges, resulting in several hundred or thousands of dollars in bonds before they have even appeared before a judge. Regardless, securing an immigration bond is a third way to be released from the immigration detention and removal system.

While people in detention are physically isolated, they also exist as a legal case which circulates beyond the walls of the jail. Immigration attorneys can attempt to track their clients through an automated phone system that links physical bodies to case numbers. Attorneys can and do arrange for their clients to be moved between detention centers so they can appear in immigration court. In one case, a detainee was transferred out of North Carolina making it difficult for his attorney to appear in court. The attorney successfully petitioned that the client be transferred back into North Carolina in order to appear at the closer immigration court in Charlotte. In another fascinating case, a West African immigrant was arrested and being held at the Etowah County jail, which we remember is used for non-Hispanic detainees. The young man’s fiancé, U.S. citizen, was pregnant and due in a few months. Using dozens of documents attesting to the legitimacy
of the relationship, his attorney petitioned for a marriage. Documentation showed that couple had already been through marriage counseling at their church. His fiancé described how he “holds the key to her heart”, and that he calls her “bunny” and “sunshine”. This administrative display of affection mirrors the kind of heteronormative legal requirements also described earlier in this chapter. The immigration attorney petitioned for client to follow through with his plans to marry his fiancé based on the constitutional protection of marriage, and after some wrangling with ICE officials, the two were married by a magistrate while the husband was still in custody.

These cases are intended to suggest that immigration detention facilities are transparent and porous. For many they are cruel holding facilities where detainees have little communication with family members and are moved about for reasons that are left unexplained. Nonetheless, by reviewing case files and listening to attorney’s narratives, it is possible to illuminate – if dimly – situations whereby detainees are transferred between and exit detention centers.

Immigration Court

I received a phone call late on a Monday night from an immigration attorney I was working with. “We’ve got a hearing in Charlotte tomorrow. If you can pick me up at 4:00AM, you can come with us.” For attorneys who live far from the recently established federal immigration court in Charlotte, North Carolina, five minutes in front of a judge costs several hours of preparation and commuting. Due to these costs, many attorneys who have a client in federal immigration court elect to appear in court “telephonically” by calling in to the court room instead of appearing in person. I agreed, eager to see
federal immigration proceedings, and even more eager to spend six hours in car with two knowledgeable attorneys.

The immigration court in Charlotte is known simply as Tyvola as in Tyvola Avenue, the nondescript suburban side street where families mill about on picnic tables waiting to find out if a judge will tell them to go back to Liberia, Columbia, or Vietnam. For many, Tyvola is good news. If detainees are sent directly through to the immigration court in Atlanta, Georgia, they will likely wait in detention longer and be formally removed by force to a country the U.S. government decides is their home. At Tyvola, immigration attorneys who know how to ask appropriately can earn a voluntary departure order for their clients, an outcome which regarded as a success.

As a nomospheric situation, Tyvola is not just a formal immigration court chamber, but a place which is produced through desire. One pro-bono immigration attorney’s office developed strategies to ensure that clients in detention elsewhere in the state could get a hearing in Tyvola. This knowledge was produced by a trial and error process of applying for a change in venue from Atlanta to Charlotte. It was described to work like this: if a knowledgeable attorney was contacted soon enough after an undocumented person was arrested, and if that person was being held in the local jail after the local charges had been resolved but before being transferred down the line to the next detention facility, the attorney could file a change of venue request with the reasonable expectation that detainee would get a hearing at Tyvola where an immigration attorney would have time and ability to review the case and file for relief. Reflecting on attempts to understand the removals process for this purpose, one attorney told me, “We lost a lot
people before we got it right.” Most detainees who pass through the removal system never have access to legal counsel in this way, due to the way that civil immigration proceedings are shielded from public scrutiny, and those within the system are not afforded mandatory access to attorney as in criminal proceedings. When I asked one attorney to describe the most important thing the public should know about the immigration system he said, “it is absolutely key that people understand the gravity of not having a right to free representation.” Tyvola is partially produced through attorneys in order to address institutional attempts to maintain a monopoly over the nomospheric situations experienced by detainees.

Post-deportation

The end of removals proceedings is not the end. As I described in the last section, respondents may be offered the option of self-removal. While this is genuinely better than being forcefully removed without the knowledge of one's family or time to prepare, the voluntary departure process introduces a number of new administrative responsibilities. For one Colombian client I observed in court, even though the government attorney had his Colombian passport in his file, the client still had to first purchase airline tickets to Colombia and take them to the local ICE office in Charlotte. At that point the man will be given his passport and voluntary departure paperwork, which he will have to take with him back to Colombia and turn in to the U.S. consulate in Bogotá. The U.S. consulate is responsible for returning the document to Department of Homeland Security in the U.S., and only then is he considered to be formally removed according to his signed agreement in the court room. Given the number of cases where U.S. administration has lost
voluntary departure forms, immigration attorneys I spoke with ask clients to fax them a copy of the form from the consulate, as well. If these procedures are not followed, the advantage of taking voluntary departure, namely being able to apply for re-entry sooner that those formally removed, is lost. If the U.S. government does not receive the form, or receives it too late, the benefits are forfeited. Furthermore, without a properly completed voluntary departure form, his girlfriend in the U.S. will not be able to retrieve the $2,000 cash posted for his immigration bond. There is one more unresolved issue in this case. The Colombian gentleman is a single parent with two children who are U.S. citizens, neither of which have a U.S. passport. Without a passport, his children will not be allowed into Colombia, leaving them separated. His children are about to experience all the problems of their father in reverse. Even though there may be closure to the uncertainty surrounding detention and removal proceedings, his relationship with the U.S. immigration enforcement regime is far from over. And should he decide to petition for re-entry into the country he has lived in for ten years, he will revisit many of these issues all over again.

The case of the Colombian man, who is well-educated and has never had so much as a traffic ticket, is likely to make it through this process successfully. That’s not the case for everyone. In one case, a client was offered voluntary departure and agreed to it. A short time later, however, he was re-arrested on charges of driving while intoxicated (DWI). The arresting officer found counterfeit bills in his pocket. Later, during a random cell inspection at the county jail, an officer found heroin which the inmate obtained while in jail. At this point, there is little opportunity for relief. In the words of his attorney,
“he’s toast”. In this case, as in similar cases, the federal immigration detention officers presented him with the option to sign a stipulated order of removal, a (technically) voluntary route to removal in which the detainee waives his or her right to an immigration judge, and expedites the removal process. In other words, instead of waiting in detention for an immigration hearing which is unlikely to be helpful, the detainee can be removed quicker.

One of the main benefits of getting voluntary departure is the opportunity to get one’s life in order before leaving the U.S. There is one lingering issue that was hinted at much earlier in the process. It is possible, even likely, that the original charges that led to an arrest are unresolved in the local jurisdiction. It is not uncommon for individuals getting out on VD to have a court date for criminal charges. In one case, a Mexican national was arrested after walking out of Wal-Mart with two auto parts for which, according to a staff member, he did not pay. After being released on an immigration bond in the county where he was arrested, he appeared for his criminal court case and was found innocent. In the case involving a Nigerian man described earlier, criminal charges were pending in the local jurisdiction while he sat in detention. In addition to working with an immigration attorney, this detainee was also working with a local public defender. The District Attorney’s Office dropped the charges, however, after the defendant’s brother was found to be responsible for the initial crime. In the case that someone was given a court date for the local criminal charges, for which the suspect did not appear due to their federal detention, it is possible that the judge issued a arrest warrant based on a failure to appear in court. If that individual obtains voluntary departure and returns to his
or her country of origin before leaving the U.S., the local warrant might result in the person being arrested yet again. More problematic still is that in an effort to serve criminal warrants, law enforcement officers could be led to residences where documented or undocumented family members might feel threatened or be arrested.

Conclusion

    The goal of this chapter has been to examine the actual practices of the removals process by looking at actual situations and cases that originate in Wake County. In the first chapter I analyzed the historical legal context of immigration enforcement that precedes and frames the current era of devolutionary agreements. In the second chapter I discussed how traffic enforcement practices disproportionately put Latino/a drivers at risk on the roadway. This chapter attempts to complete the project by providing a close look at the daily workings and outcome of 287(g) agreements, especially in cases which lead to removals.

    There are two main conclusions for this chapter. First, I emphasize the importance for scholars who are not lawyers to deal with legal processes head-on, yet without accepting the fundamental assumptions of law. This involves not just examining the social origins of abstract legal logic, but tracing the way in which law, society, and space are continually bound up together through lived experience. Despite the potential for abuse within the detention system, the cases that I partially reconstructed are characterized more by how they continually cross the legal inside-outside threshold that characterizes many accounts of deportation. The formal chambers of federal immigration court are disrupted by a crying baby; police officers exercise discretion both for the
benefit and detriment of potentially undocumented persons; immigration attorneys translate the process for clients even as they transform their clients' narratives into legal arguments; many detainees are released from the removals system in the same county or state in which they were detained; a young couple was married within a federal immigration detention facility. These examples suggest that immigration enforcement functions by drawing on the material of everyday life, even as it is the law itself which provides legitimacy and substance for everyday events such as birthdates and weddings.

By engaging with law in this way, my goal is not to empty law of power, but rather to show that the power of law is developed reciprocally through social relations. From a theoretical perspective, I aimed to make the law-space-society nexus of the removal process an object of research in its own right.

Second by engaging with the legal process directly I aimed to expose the dependencies and linkages that create the removals process. This is a more pragmatic goal which seeks to dismantle the black box around deportation and providing an opening for debate about the legal process of removal itself. To that end, I argue simply that the removals process is not unknowable, and any critical analysis of immigration enforcement should take into account the actual functioning of legal assemblages surrounding it.

While I aimed to examine the removals process in this chapter, I have no doubt that my account is incomplete. The attorneys I worked with were among the best in the state and were generous with their time and expertise. I had glimpses of how different it might have been for detainees who did not have knowledgeable council and may have indeed
been thoroughly isolated within the detention system. The removals system is indeed different for different people within the same county, just as it remains to be seen how 287(g) touches down differently or similarly in other counties across the U.S. I look forward to continuing my work on this project and expanding the scope of my research to address those questions.
Conclusions and Further Research

People are moving around the planet more than ever before through the process of economic and political globalization. However, global mobility is becoming increasingly restricted and enforced by receiving localities, particularly in developed countries. Formal political borders, while still relevant, are becoming internalized as bordering practices become distributed throughout nations and touch down at different scales and locations to produce novel regimes of immigration enforcement. In the United States, for instance, while the U.S.-Mexico border remains an important site of increasingly aggressive immigration restriction strategies, immigration enforcement is no longer located – indeed, never was – only at the border. Instead, formal immigration enforcement saturates the U.S. landscape, both through historical legal precedence and racialized policing practices of the past, as well as through contemporary formal policies, such as 287(g), which link local law enforcement agencies to Immigration and Customs Enforcement at the federal level.

An investigation of 287(g) in Wake and Durham County in North Carolina yields a number of important conclusion. First, the law – including immigration law – depends upon lived experience for raw materials, while at the same time obscuring those situations by sanitizing elements of race and inequality from the record in order to
produce an seemingly objective legal rationale. Even seemingly banal policing practices should not be taken at face value, but must be traced through their historical roots to understand how they became taken up as everyday policing. In Chapter One, I analyzed court cases over the past 50 years in order to demonstrate that immigration enforcement has significantly shaped policing in the United States as part of a legacy which now includes current 287(g) agreements. Police discretion and traffic enforcement are technologies which predate 287(g), and which reinforce the political boundaries of citizenship. This analysis helps explain why discretionary traffic enforcement is the most common local charge in removal cases originating from 287(g) counties. In Chapter Two, I analyzed traffic enforcement practices in Wake County and Durham County, and concluded that Latinos are significantly more at risk of encountering police officers on the roadway in situations where they will have to produce driving documents that are prohibited for undocumented residents. It is important to note that while 287(g) figures centrally into regimes of policing, immigration-related laws and policies may come from other levels of the state and local government, as I showed through the discussion of REAL ID in North Carolina. 287(g) agreements result in more deportations when they are linked up with traffic enforcement and other exclusionary policies at the state and municipal level. In Chapter Three, I described the removals process from the point of view of the individuals involved. I emphasized that rather than functioning smoothly as a swift deportation machine, there are considerable contingencies as federal, state, and local legal systems attempt to link together in only partially successful ways. Furthermore, as the unpredictable realities of everyday life become translated and transformed into
legal cases, there are moments of possibility for relief through knowledge of the system itself. This research provides an important inside view of the themes that permeate interior immigration enforcement, and hopefully provides examples of how to approach such research in the future.

Understanding immigration enforcement practices in the United States is becoming ever more important. Between the time I joined this research project nearly two years ago and the completion of this thesis, Immigration and Customs Enforcement under the Obama Administration has continued to expand programs to enroll local law enforcement in immigration enforcement efforts. Under the Secure Communities program, a data sharing program similar but not identical to the jail model of 287(g), ICE claims to have removed 77,160 undocumented immigrants through local law enforcement custody in the past three years (Immigration and Customs Enforcement 2011). Like the jail model of 287(g), Secure Communities integrates into the booking process at a jail. Biometric data are sent from the local law enforcement agency to the Department of Homeland Security for screening, potentially leading to the identification and removal of undocumented immigrants or other categories of undesirable political subjects. And like the jail model of 287(g), the success of Secure Communities depends upon unequal legal regimes and police practices that have been sanitized through decades of court decisions. Unlike 287(g), Secure Communities may not require any formal agreement, and, indeed, has proliferated at a much faster rate in the past few years while the number of 287(g) counties has plateaued. There are currently 1,379 jurisdictions – 43% of the 3,181 jurisdictions in the United States – involved in ICE’s Secure Communities program, with
an intended goal of 100% enrollment by 2013. The research presented in this thesis is crucial as immigration enforcement becomes a routine part of policing in non-border spaces – not just in Wake County and Durham County, but in every county in the United States.

I have sought in this thesis to develop theoretical frameworks for understanding undocumented immigration enforcement accompanied by relevant field research. There is, however, considerable academic work ahead in order to understand changes in global mobility and the corresponding regimes of immigration regulation. I suggest the following two broad research agendas, both of which I hope to address through research for my PhD. First, I intend to broaden the number of sites to include many more jurisdictions across the U.S. Southeast. The data created in this thesis draws upon two important counties in North Carolina, yet immigration enforcement agreements have saturated areas such as central Florida and northern Georgia, as well as many other counties and states. I intend to explore other sites of interior immigration enforcement in order to do a comparative analysis and draw more generalizable conclusions. Second, as I indicated in the introduction, undocumented immigration is not just a North American phenomenon – it's a global phenomenon. Similarly, undocumented immigration enforcement is increasingly being taken up by states and localities around the world in ways that are perhaps analogous to or different from cases in the United States. In future research, I intend to seek out opportunities for comparative studies of immigration enforcement in other sites around the world. By pursuing this research agenda, I aim to
provide relevant, critical scholarship on how global mobility is being simultaneously produced and regulated.
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