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Title
Deportation Discretion: Tiered Influence, Minority Threat, and 'Secure Communities' Deportations

Abstract: As deportations from the United States rose to unprecedented levels, a nationwide immigration enforcement program (Secure Communities) helped identify deportable noncitizens under arrest in county jails. The program did not take place on neutral ground. This paper tests and extends immigration policy research by examining how county officials in some locations facilitated exceptionally restrictive deportation outcomes while others exercised the discretion to turn noncitizens over for deportation sparingly. Consistent with a hypothesized 'tiered influence' relationship, but contrary to a 'racial threat' hypothesis, Hispanic concentration predicts the highest levels of exercised discretion where Hispanic concentration is neither too small nor too large. Noncitizens under arrest seem to have benefited from above-average Hispanic concentrations, except in majority-Hispanic counties typically located in southwestern states.

Keywords: immigration, Hispanic, deportation

Introduction

Scholarship on democratic inclusion (Wolbrecht and Hero 2005) and political incorporation (Hochschild et al. 2013) finds inequality in minority groups' ability to influence public policy. This paper emphasizes the role of demographic contexts (Hero 2000) in shaping uneven outcomes in immigration policy. What do we know about how Hispanic and immigrant populations in a political system can affect policy? Studies have argued that demographics act as a source of racial threat, thus catalyzing restrictive policies, or as a source of political power, creating a buffer against such policies. The literature has come to competing conclusions regarding whether minority shares provoke (Avery, Fine, and Márquez 2016) or prevent restrictionism (Newman et al. 2012); whether minority growth dampens (Creek and Yoder 2012) or bolsters restrictive legislation (Hopkins 2010; Monogan 2013); or whether demographics matter at all (Gulasekaram and Ramakrishnan 2015). In order to explain these inconsistent findings, this paper examines whether the relationship between demographic factors and policy varies across different thresholds.

This paper advances empirical and theoretical research on the demographic determinants of policy in three important ways. First, it helps resolve conflicting results in research employing linear measures of threat (Hopkins 2010; Newman 2013; K. Ramakrishnan and Gulasekaram 2013). Linear measures fail to predict policy variation examined in this paper: the local administration of a deportation program (Secure Communities). The program afforded sheriff departments the authority to exercise discretion when deciding whether to turn noncitizen arrestees over to federal authorities. The level of exercised discretion (i.e., proportion of noncitizens who were deported among all noncitizen arrestees) responds to demographics in a nonlinear manner.

Second, this paper tests two explanations of variation in the level of discretion to deport. One extends two-tiered pluralism, which posits minority influence over policy remains unequal despite equal protections under the law (Hero 1993). In this account (hereafter, tiered influence), a concentration of minorities can pressure sheriffs to prioritize shielding noncitizens from immigration authorities. Such influence is not expected to apply uniformly: the highest level of discretion is expected in counties where Hispanic concentration is neither too small nor too large. In contrast, a second explanation stems from research on minority threat (Jackson and Carroll 1981; Jacobs and Tope 2008) and racial representation (Keech 1986; Key 1949). According to this research, the concentration of Hispanics tends to result in resentment, but only up to a point. According to racial threat, we should expect the highest levels of discretion in counties with the largest concentrations of Hispanics.

Third, the analyses match deportation outcomes to decisions made by sheriff departments, thus improving on previous research on the link between state-level policy outcomes and demographics. In this paper, local elected officials were directly in charge of deciding whether noncitizens in custody were transferred to federal agents, and they possessed the authority to exercise varying levels of discretion. The analyses focus on authority exercised by sheriffs in their jails rather analyzing rates of deportation because the latter involve decisions made by multiple law enforcement entities from initial arrest through eventual deportation.

This paper finds no support for a racial threat explanation of variation in the discretion to deport. Rather than trigger resentment, the concentration of Hispanics can influence higher levels of exercised discretion. As evidence of tiered influence, the protective effect of Hispanic concentration is limited to counties where Hispanic concentration is between 20 and 40 percent of the population. The effects apply most reliably to the likely targets of deportation (e.g.,

Hispanics, adult Hispanics, and working Hispanics) compared to other groups such as Hispanic youth, blacks, or the broader immigrant population.

Literature on How Minority Populations Trigger Threat Responses (And Its Limits)

Immigration policy outcomes provide opportunities to test why some places choose to enact policies to either create a restrictive political climate or integrate immigrants. Since the 2000s, legislators have increasingly attempted to address immigration issues while federal immigration reform stalled. Researchers have variously used the concept of minority threat to explain whether policymakers respond to a relative rise or influx of minorities. Yet the collective evidence does not speak with one voice regarding whether minorities trigger restrictionism. Furthermore, some suggest that the growing political power of Hispanic voters acts as a buffer against restrictive policies (Filindra 2017).

In order to test whether minority threat explains restrictive policies, researchers most commonly account for the minority percent of a population and/or the percentage point change in the minority share. Several studies come to a consensus regarding the role of immigrant populations in predicting immigration policies: the concentration of immigrants has a protective effect, but percentage point changes can provoke restrictionist policies (Boushey and Luedtke 2011; Monogan 2013; Newman et al. 2012). Local-level analyses also find percentage point changes in the immigrant population—but not the relative size of the immigrant population—are positively correlated with restrictive policymaking (Hopkins 2010; O'Neil 2011; Walker and Leitner 2011). Shifting attention to the legislative process, one study finds a state's immigrant share predicts the proposal but not the passage of restrictive laws, while the growth of a state's immigrant population is related to the passage of such laws (Ebert, Estrada, and Lore 2014). Based on these results, we might conclude that immigrant demographics reliably predict whether

places enact immigration policies. However, parallel studies using different measures of threat only partially echo these findings.

Several studies similarly test the applicability of minority threat related to Hispanic populations. Some find Hispanic population growth predicts restrictive laws (Marquez and Schraufnagel 2013; Steil and Vasi 2014; Ybarra, Sanchez, and Sanchez 2015). Most other studies measuring Hispanic populations, however, run counter to these results. At odds with other research, one study finds states with sizeable Hispanic populations tend to pass restrictive laws (Avery, Fine, and Márquez 2016), and another reports Hispanic population growth dampens restrictive initiatives (Creek and Yoder 2012). Some researchers find a weak or insignificant relationship between Hispanic population growth and the proposal of restrictive laws (Gulasekaram and Ramakrishnan 2015; S. K. Ramakrishnan and Wong 2010; Wallace 2014; Wong 2012). To complicate matters further, few studies measure the proportion as well as the growth of minority populations. After doing so, Chavez and Provine (2009) and Wong (2012) note Hispanic shares boost integration efforts or dampen restrictive policies, but they contradict other research on the role of immigrant populations as determinants of immigration policies.

The conflicting results might be due to a number of reasons. Differences in coding of the dependent variables are common in this area of research (Gelatt, Bernstein, and Koball 2015) and can yield incongruent results (Monogan 2017). In the discussion above, for example, Newman et al. (2012) focus on the adoption of E-Verify laws, whereas Chavez and Provine (2009) group together restrictive versus integration laws, and Wallace (2014) restricts the sample to specific omnibus laws. In addition, although most studies examine restrictive and protective measures, outcomes rely on counts of laws without regard to variation in the impact or scope of the laws (Marquez and Schraufnagel 2013; Monogan 2013), and few separately analyze policy

proposals versus enactment (Ebert, Estrada, and Lore 2014; Filindra and Pearson-Merkowitz 2013). Results may also vary because researchers rarely report multiple specifications when testing demographic hypotheses, as Filindra (2017) recommends.

In order to help resolve the impasse, this paper builds on research on how demographic thresholds can trigger a threat response. Hubert Blalock (1967) anticipates a nonlinear relationship between demographic contexts and restrictionism. Specifically, restrictive measures should rise as the proportion of whites declines (as also noted by Key 1949) because legislators respond to pressure from a white majority by passing restrictionist policies affecting minority populations. However, as an out-group's relative size passes a threshold, policymakers should feel pressure to represent an ascendant minority group (as also proposed by Keech 1986). In this phase, white proportions could decline due to an absolute rise in a minority population or an overall decline in the white population. Either way, initial restrictionism gives way to less exclusionary measures (Blalock 1967, p147-50). Blalock (1967) cautions a threat curve may not apply if, for example, employers shield minorities from restrictionism (Blalock 1967, p187); which is borne out in research on policymaking in states with immigrant-intensive industries (Commins and Wills 2017; Nicholson-Crotty and Nicholson-Crotty 2011). Nevertheless, researchers have found support for threshold effects (see a related discussion in Canon 2005, p287-88). For example, imprisonment rises alongside the share of the minority population but then falls once the minority share passes a threshold (Jacobs, Malone, and Iles 2012; Keen and Jacobs 2009). Similarly, capital policing expenditures rise alongside increasingly visible black populations, but the relationship reverses course in majority-black locations (Jackson 1986; Jackson and Carroll 1981). Blalock (1967) also predicts large concentrations of minorities should protect against restrictionism if their demographic density is accompanied by robust political

mobilization. Consistent with such a hypothesis, Hispanic elected officials and community-based organizations seem to buffer against restrictionism in places with large minority concentrations (Avery, Fine, and Márquez 2016; Filindra and Pearson-Merkowitz 2013; Steil and Vasi 2014).

The threshold effects described above predict resentment due to racial threat. In this account, legislators view small minority groups as constituents without clout. Once minorities comprise a formidable enough presence, their influence over legislative priorities translates into less restrictionist or welcoming policies. If such a process shapes the level of discretion exercised by sheriffs administering Secure Communities, we would expect Hispanic concentrations to negatively affect the level of exercised discretion because sheriffs feel pressure to contain the group most associated with deportations: Hispanics. Such a response should taper off in communities where Hispanics are numerous enough to amass influence over local enforcement priorities. The resulting U-shaped curve anticipates the highest level of exercised discretion where a sufficiently large concentration of Hispanics pressure sheriffs to deport sparingly.

This paper proposes a new, nonlinear relationship applicable to deportations under Secure Communities. If a tiered influence effect explains the administration of Secure Communities, we should observe the highest level of exercised discretion in counties whose Hispanic proportion is neither too small nor too large. In this case, sheriff departments should feel little pressure to exercise their ample discretion if the Hispanic share of a county is small. Where Hispanics comprise a formidable share of the population, sheriffs should instead view Hispanics as influential constituents with expectations that sheriffs cooperate with immigration authorities judiciously. Notably, sheriffs may not face pressure to administer high levels of exercised discretion in every county with a sizeable Hispanic presence. Indeed, Hispanics do not uniformly advocate against restrictive policies (Newton 2000; Pantoja, Ramirez, and Segura 2001; Pantoja

and Segura 2003; Stringer 2016). In fact, consistent with two-tiered pluralism, counties with substantial Hispanic populations may support galvanizing restrictionist immigration policy (Hero 2000; Tolbert and Hero 1996, 2001), and they may not necessarily view immigration issues as a priority (Valenzuela and Stein 2014). Counties with the largest Hispanic concentrations—which are almost exclusively in southwestern states—fit Tolbert and Hero's (1996) description of 'bifurcated' counties whose populations consist predominantly of Hispanics and whites. Such counties should not pressure sheriffs to exercise high levels of discretion because advocating against deportations in these southwestern counties is unpopular. In sum, the tiered influence effect should be nonlinear and follow an inverted, U-shaped curve.

The Secure Communities Program and Its Relevance for Minority Threat Theory

Deportations have become more commonplace following changes to immigration law in 1996 (Hagan, Rodriguez, and Castro 2011). A central element of the Department of Homeland Security's (DHS) deportation system rests on discretion when deciding whether to deport noncitizens. Preexisting enforcement programs focus on high priority cases, such as recent border crossers or immigrants in prison (Armenta 2015; Capps et al. 2011; Rosenblum and Kandel 2012). In contrast, the first-ever nationwide immigration enforcement program called 'Secure Communities' identified noncitizens booked into all county jails, including people in custody for low-level offenses. Elected sheriffs run these jails and had ample latitude when deciding whether to turn noncitizens over to federal agents for deportation proceedings. DHS requested that county officials hold arrestees for 48 hours. Had Secure Communities helped deport all arrestees, the program would have amassed over 2 million deportations. In practice, the program deported a fraction of noncitizens under arrest (Rosenblum and Meissner 2014) because DHS repeatedly issued guidances to county officials to exercise discretion and prioritize

serious offenses (bilnded; Stumpf 2015). As a result, 18 percent of noncitizens identified by Secure Communities for lower-level offenses were deported as of May 2013.

Research on Secure Communities has documented an uneven enforcement landscape. Cox and Miles (2013) demonstrate the program mirrored federal rather than local priorities and rolled out according to where Hispanics resided rather than where crime was high. Jung (2015) categorized counties according to how restrictively they administered the program. Chand and Schreckhise (2014) found Republican-leaning counties reported more deportations, while Jaeger (2016) contends partisanship predicts deportations where counties have sufficiently large policing budgets. Pedroza (2013) found variation in how much states targeted noncitizens arrested for serious offenses versus other offenses. In sum, deportation data reveal where localities ramped up deportations while others shielded portions of noncitizens from deportation.

Hypotheses

Secure Communities provides an opportunity to test whether demographic contexts account for variation in the level of exercised discretion to deport noncitizens. A series of models accounts for the relative size and growth of minority populations (Hispanics vs. immigrants), following research which recommends using multiple specifications in threat research (Filindra 2017). This paper also tests whether minority shares are nonlinearly related to deportation outcomes. Two scenarios are possible. First, consistent with a resentment account of minority threat and racialized representation, sheriffs should exercise less discretion as the relative size of Hispanics rises because Hispanics trigger a threat response as they become visible, but only up to a point. Beyond a threshold, sheriffs should exercise high levels of discretion because only the most concentrated Hispanic communities motivate county officials to transfer relatively few noncitizens to immigration agents. According to a racial threat perspective, we would expect a

U-shaped curve [Figure 1]. Conversely, as an extension of two-tiered pluralism, sheriff departments should exercise more discretion to deport as the concentration of Hispanics increases because sheriffs in these places heed expectations to protect noncitizens from expedited deportation proceedings. However, the protective effect should then taper off in counties with the largest Hispanic concentrations, including majority-Hispanic counties. This tiered influence relationship should resemble an inverted, U-shaped curve [Figure 1].

[Figure 1 about Here]

Data

The primary source of data comes from Secure Communities indicators available through the Immigration and Customs Enforcement (ICE) Freedom of Information Act (FOIA) online library (Department of Homeland Security 2013). The analyses supplement ICE data with county-level variables collected by federal agencies and secondary sources cited below.

Dependent variable

In order to test the above hypotheses, this paper measures how strictly county officials administered the Secure Communities program; namely, to what extend they exercised discretion after arrests. DHS issued requests to county officials to hold noncitizens after their scheduled release, and county law enforcement either ignored or honored requests. Using program data, the ***level of exercised discretion*** captures how stringently counties administered the program:

$$Y = \frac{m - d}{m},$$

where the denominator equals the total number of noncitizens in custody identified as a *match* (*m*) and the numerator is the proportion of noncitizen arrestees *not* deported (total matches minus

total deportations, $m - d$).[1] The denominator (*biometric matches*) approximates the number of noncitizen arrestees eligible for deportation in each county. As a result, low scores (minimum of 0) indicate jurisdictions where administrators used less discretion in handling noncitizen arrestees while high scores indicate the use of more discretion (maximum of 1). For example, administrators of Secure Communities using low levels of discretion turned over as many noncitizens as possible to federal authorities for deportation. If county officials instead decided to comply with DHS requests only for select cases, then only a small number of arrestees would end up in deportation proceedings (signaled by a high exercised discretion score).

To test whether exercised discretion is responsive to demographic factors, this study analyzes counties with at least one biometric match for noncitizens under arrest (N = 2,669).[2] The analyses focus on low priority offenses because local law enforcement actors have ample latitude when deciding whether to exercise social control over low-level offenses and misdemeanors (Olzak and Shanahan 2014; Stumpf 2015). The analyses exclude matches and deportations following arrest for top priority offenses (e.g., murder and rape), which are often governed by mandatory detention policies that constrain discretionary authority. Finally, this study analyzes Secure Communities activity through May 2013, before a wave of localities limited their cooperation with the program (Immigrant Legal Resource Center 2016).[3]

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[1] Secure Communities data exclude deportations under the purview of Customs and Border Enforcement, whose discretion is limited compared to law enforcement officials on the interior.
[2] The data exclude more than 400 counties with no matches and home to five percent of the nation's Hispanic population. 19 counties with missing covariate data are also excluded, and these are mostly in Alaska where election data do not conform to county boundaries. Alaska had 400 matches and 1 deportation as of May 2013.
[3] Denying DHS detainer requests beyond 'sanctuary cities' (Congressional Research Service 2006; Ridgley 2008) became more common after the summer of 2013. By 2015, over 300 counties limited the transfer of noncitizens arrestees (Immigrant Legal Resource Center 2016).

The level of exercised discretion varies widely across the nation. Figure 2 plots discretion adjusted for the size of a county's Hispanic population. The weighted level of exercised discretion has a mean value of 82, which means 18 out of 100 noncitizens identified in a typical county were deported.

[Figure 2 about here]

Main Independent Variables

Since county officials can turn arrestees over to federal authorities for deportation, sheriffs and their deputized officers can either facilitate or prevent noncitizen deportations. A resentment account of racial threat anticipates lower levels of exercised discretion as Hispanic shares rise, except where Hispanics represent a formidable presence. This paper proposes a contrasting relationship whereby the exercised level of discretion rises alongside the concentration of Hispanics but not in counties with the largest Hispanic proportions. In this paper, the racial/ethnic group representing a threat in local communities is a county's Hispanic population because the visibility of Hispanics is expected to predict how restrictively sheriff departments administered the Secure Communities program. Notably, more than nine out of ten Secure Communities deportees are from Latin American countries (Kohli, Markowitz, and Chavez 2011). By contrast, a county's immigrant population excludes the broader Hispanic community associated with immigration-related demographic change. Moreover, the foreign-born share of a county's population also includes immigrant groups at much lower risk of experiencing deportation and which are also not perceived to be in danger of deportation. I use American Community Survey (ACS) data to measure a county's Hispanic proportion (Census Bureau 2013).

Other Independent Variables

Following the literature on the rapid growth of a minority population as a trigger of restrictionist outcomes, this paper measures the percentage point change in the foreign-born population as well as the Hispanic population. In past research, the baseline for measuring percentage point changes is either 1990 (Chavez and Provine 2009; Newman et al. 2012), 2000 (Commins and Wills 2017), or ten years prior to the passage of immigration laws (Ebert, Estrada, and Lore 2014); and one study models county-year demographic changes (Creek and Yoder 2012). Growth rates predicting the level of exercised discretion are calculated using two baselines: 1990 and 2000 (Census Bureau 2013).

Previous research finds immigration policymaking is highly partisan (see especially Chavez and Provine 2009; Gulasekaram and Ramakrishnan 2015; Monogan 2013; Ramakrishnan and Wong 2010; Zingher 2014). Studies also find a relationship between Republican support and deportations (Chand and Schreckhise 2014; Jaeger 2016; Jung 2015). This paper measures *Republican vote share* based on 2008 and 2012 presidential election results (Leip 2012).

Furthermore, the timing of Secure Communities activation is tied to the Hispanic share of a local population (Cox and Miles 2013; Jung 2015). The models account for early, middle, and late adopters of the program (Department of Homeland Security 2013). Moreover, prior research ties demographic variables to restrictionism (Creek and Yoder 2012; O'Neil 2011; Wong 2012). The models include a categorical variable to differentiate between (a) counties restrictive local policies including 287(g) agreements to help enforce immigration law as well as other related policies; (b) counties with failed efforts to enter into 287(g) agreements; and (c) counties with none of the above as the reference (Department of Homeland Security 2010, 2012; O'Neil 2011).

A series of controls accounts for other possible explanations of the level of exercised discretion. An index of *criminal justice capacity* adjusts for counties with a vast capacity to

conduct policing and deportation activities compared to counties with meager capacity.[4] In addition, results also account for *unemployment rates* (Department of Labor 2013) because downturns can influence immigration policymaking (Hopkins 2010; Ybarra, Sanchez, and Sanchez 2015). Finally, since state and regional contexts shape county officials' relationships with immigration authorities, the analyses include state fixed effects (reference: Washington, DC) and cluster robust standard errors across 24 enforcement regions designated by DHS. State fixed effects account for states where sheriffs are appointed: Connecticut, District of Columbia, Hawaii, and Rhode Island.

Analytic Approach

The level of exercised discretion varied widely across the country. After testing whether linear measures of threat employed in recent research on immigration policies predict the level of exercised discretion, the analyses examine whether the outcome follows a nonlinear function:

$$\mathrm{Y} = \beta_0 + \beta_1 \boldsymbol{Percent\ Hispanic} + \beta_2 \boldsymbol{Percent\ Hispanic^2} + \mathbf{Z} + \epsilon$$

My main explanatory factors (percent Hispanic and its exponent) are followed by *Z*, a set of correlates of restrictive immigration policies and related measures: minority population growth;

[4] The *criminal justice capacity* index includes factors related to how law enforcement interacts with immigrants (Decker et al. 2009; Farris and Holman 2016; Lewis et al. 2013; Provine et al. 2016; Varsanyi et al. 2012; Williams 2015). The index equals:

$$\sum \{\frac{X_C - M_C}{SD_C}\},$$

where X_C denotes an indicator of capacity. The index equals the sum of X_C minus its mean value (M_C) divided by its standard deviation (SD_C). The indicators reflect county-level rates—adjusted for the relevant population—for the following: *patrol* and *booking officers* (Department of Justice 2011); *drug arrests* (Department of Justice 2014); *removal capacity* prior to Secure Communities (Transactional Records Access Clearinghouse 2008); *deportations* under 287(g) agreements (Department of Homeland Security 2010); and *federal reimbursements* for holding unauthorized immigrants (Department of Justice 2012).

Republican vote shares; timing of Secure Communities activation; presence of local restrictionist measures; a criminal justice capacity index; and unemployment.[5]

Counties are the relevant unit of analysis because sheriff departments are elected to run jails and can decide whether to turn arrestees over to immigration authorities. Central city police departments regularly transfer noncitizen inmates to sheriff-administered jails (Koralek, Pedroza, and Capps 2010). Of course, analyzing county data challenges the assumption of independent observations in linear regressions. In response, standard errors are clustered across 24 regional jurisdictions designated by DHS, and state fixed effects account for policy variation between states. On balance, the analyses account for interdependence among counties while leveraging program data to contribute to policy research.

Results

Table 1 presents results from a series of models employing two common measures of threat (minority shares and growth rates) for two groups (Hispanics and immigrants). The alternate specifications are included to determine whether the relationship between, for example, Hispanic growth rates or the foreign-born share of a county is a reliable predictor of the level of exercised discretion across models. None of the existing measures employed in the literature on immigration policymaking are statistically significant, and the direction of the foreign-born population coefficients is inconsistent across models. In sum, existing linear measures of threat offer little guidance when predicting exercised levels of discretion to deport.

[Table 1 about here]

[5] The analyses use weights to ensure the estimated relationships between discretion and independent variables are adjusted for a county's Hispanic population size. Results are substantively the same when using noncitizen weights. The models use analytic weights because the contextual factors are mean county characteristics rather than a probability sample.

Hispanic shares are nonlinearly related to the level of exercised discretion. The relative size of the Hispanic population predicts discretion differently along escalating levels of Hispanic concentration [Table 2].[6] Sheriff departments in places with a noticeable Hispanic presence reported lower levels of discretion than other places. For example, in models 2 and 3, which account for the Hispanic growth rate, a county where one-quarter of residents identify as Hispanic is predicted to have deported only one out of six noncitizens under arrest (exercised discretion score between 0.84). By contrast, a county where Hispanics comprise a small (five percent) share of the population is expected to have deported more than one-fifth of noncitizens in custody (exercised discretion score between 0.77 and 0.79). The level of discretion then reverses course where Hispanics approach more than half of the population. The inverted, U-shaped curve is consistent with a protective effect at above-average levels of Hispanic shares, a relationship which then weakens at the highest levels of Hispanic concentrations [Figure 3]. The relationship runs counter to the effect hypothesized by a racial threat perspective.

[Table 2 about here]

The results above are substantively similar after conducting a series of robustness checks.[7] First, the inverted, U-shaped relationship remains consistent when substituting percent Hispanic with the Hispanic share of the labor force or the adult share of the population. Second, Hispanic workers and adults exert more influence on the discretion to deport than Hispanic youth (under age 18). Moreover, the effect is unique to Hispanics. Previous research finds a curvilinear effect on legislative action as a function of Hispanic and black proportions (Jacobs and Tope

[6] State fixed effects in Table 2 improve fit over models without state dummies (R^2: 0.43-0.44) and confirm the important role of state contexts. Absent state fixed effects and clustered standard errors, the results are substantively similar. Variance inflation factors (VIF) have a mean of (1.3) in models without squared terms or state-level indicators, and no VIF exceeds 1.6.
[7] Results available upon request.

2007). However, in the context of deportations, the effect of black shares and percent black^2 is not significant after accounting for the curvilinear effect of Hispanic shares. Furthermore, modeling discretion as a curvilinear function of immigrant shares does not yield substantively similar results: the coefficients (percent immigrant and its exponent) are statistically significant but the relationship is only weakly curvilinear and does not resemble the relationship reported above [Figure 3]. As discussed previously, foreign-born shares are not expected to predict the level of discretion because a county's immigrant population excludes US-born Hispanics in households affected by deportation and includes immigrant groups unlikely to face (or be expected to face) deportation. Notably, the nonlinear effect of Hispanic shares applies to exercised discretion but not rates of deportation, where patrol officers decided whether to arrest someone but may have had no control over whether the arrestee was transferred to DHS. Finally, controlling for the unauthorized share of a county's noncitizen population does not alter the results. Not surprisingly, discretion is lower in counties where unauthorized immigrants comprise more than half of all noncitizens; which is likely due to the broader range of deportable offenses for unauthorized detainees compared to green card holders (Rosenblum and Kandel 2012).[8]

[Figure 3 about here]

Discussion

This paper aims to test whether the exercised level of discretion under Secure Communities responds to variation in threat measures. The linear proxies of threat yield

[8] Using Migration Policy Institute data (Migration Policy Institute 2016), supplementary analyses account for the unauthorized immigrant proportion of a county's noncitizen population. These analyses create a categorical variable to identify counties where the unauthorized proportion is more than half of the estimated size of the noncitizen population or less than half. Counties with no unauthorized population estimate are the reference.

contrasting and imprecise estimates, echoing the bewildering results of the literature on the role of minority shares and growth rates as predictors of immigration policymaking. This paper then explores how demographic composition might affect exercised discretion in a nonlinear manner. The association between the level of discretion to deport and Hispanic concentration does feature threshold effects. When elected sheriffs decided how much to use their discretion to cooperate with federal authorities, the relative size of the Hispanic population appears to have influenced their exercised discretion. Consistent with a tiered influence hypothesis, the results suggest Hispanics' influence over the discretion to deport is highest where Hispanic concentration is neither too small nor too large.

The inverted, U-shaped curve reflects how demographic contexts can shape the discretion to deport. The curvilinear results contradict the relationship anticipated by racial threat research and suggest exercised discretion fell into one of three categories of tiered influence. We observed low levels of exercised discretion among counties where the Hispanic share of the population is low (below 20 percent; N=2,338 counties). Notably, nearly one-third of the Hispanic population in the study sample lives in these counties, and these places by far out-number counties with large concentrations of Hispanics. In these locations, Hispanics exert little influence, and elected sheriffs routinely complied with requests to turn noncitizens over to DHS authorities.

Among a second and influential group of counties, sheriff departments generally helped deport a lower share of noncitizens under arrest if Hispanics comprised a substantial but not overwhelming (20 to 40 percent; N=194 counties) share of the local population. In these places, local officials appear to have yielded to Hispanics' influence over local enforcement priorities. Counties with high levels of discretion and a large Hispanic concentration tend to be located in

established immigration destination states away from the US-Mexico border: Florida, Illinois, New Jersey, and New York.

Finally, exercised discretion plummets in counties with the largest concentration of Hispanics (over 40 percent; N=137 counties). These locations closely resemble Tolbert and Hero's (1996, 2001) bifurcated counties. Located near the US-Mexico border, Hispanics in these counties applied little pressure on sheriffs to use more discretion because slowing down deportations from southwestern counties was unpopular given the intensification of enforcement near the southern border. As a result, DHS disproportionately relied on these counties to reach record-high deportations during the period of study. In fact, a relatively small number of majority-Hispanic counties along the southwestern border (N=76) accounted for an outsized portion (one-ninth) of Secure Communities deportations analyzed above, which exclude deportations overseen by Customs and Border Patrol. In sum, DHS successfully requested high levels of local cooperation with detainer requests in majority-Hispanic counties, and elected sheriffs generally complied rather than exercise discretion to release noncitizen arrestees.

Conclusion

Noncitizens under arrest for low-level offenses faced starkly different odds of being transferred to DHS depending on where they were booked into jail. This paper proposed two scenarios whereby specific thresholds of Hispanic concentration are related to the level of exercised discretion in a nonlinear manner. The evidence contradicts the racial threat scenario, whereby rising Hispanic proportions trigger a threat response followed by acquiescence to pressure from Hispanics in places where they comprise the largest shares of a county's population. Instead, sheriff departments administered the highest levels of exercised discretion where Hispanic concentration was between 20 and 40 percent. In sum, the ability of Hispanic

minorities to influence Secure Communities outcomes highlights the entrenchment of Hispanics' tiered influence over elected sheriffs, which then exercised relatively low levels of discretion in all but a narrow group of counties.

This paper offers lessons for analyzing how demographic contexts shape immigration policymaking. Following Filindra (2017), studies should test whether results are sensitive to competing measures of minority composition and alternate model specifications. This paper argues in favor of measuring minority shares and their exponent, especially when analyzing sub-state variation or continuous outcomes. Notably, the level of discretion to deport was very responsive to local demographics but the direction of the effect changed at varying levels of Hispanic proportions. Hence, it comes as no surprise that previous research comes to competing conclusions about the role of demographics when predicting state-level policymaking data and zero-bound counts of legislative activity. In order to leverage state-level variation in minority composition as well as account for pre-existing trends, researchers can also leverage panel data to examine changes in states' demographic makeup in the same places over time (Commins and Wills 2017; Creek and Yoder 2012; Ybarra, Sanchez, and Sanchez 2015) and also test whether policy phenomena are a function of nonlinear contextual effects.

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Table 1: Linear Models of the Level of Exercised Discretion (2,669 counties with noncitizen arrestees)

Demographic Measures	**(1)**	**(2)**	**(3)**	**(4)**	**(5)**
Percent Hispanic	-0.07		-0.06		-0.07
Hispanic growth (since 1990)		-0.21	-0.18		
Hispanic growth (since 2000)				-0.43	-0.41
R-squared	0.64	0.64	0.65	0.64	0.65
Demographic Measures	**(6)**	**(7)**	**(8)**	**(9)**	**(10)**
Percent Foreign-Born	0.09		0.11		0.08
Foreign-Born growth (since 1990)		-0.14	-0.18		
Foreign-Born growth (since 2000)				-0.27	-0.19
R-squared	0.64	0.64	0.64	0.64	0.64

Note: *** $p<0.001$, ** $p<0.01$, * $p<0.05$. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Table 2: Nonlinear Models of the Level of Exercised Discretion (2,669 counties with noncitizen arrestees)

Demographic Measures	(1)	(2)	(3)
Percent Hispanic	0.21	0.54**	0.42**
Percent Hispanic^2	-0.31**	-0.65***	-0.54**
Hispanic population growth (since 1990)		-0.55***	
Hispanic population growth (since 2000)			-0.92***
R-squared	0.66	0.69	0.68

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Figure 1: Anticipated Shape and Direction of Relationship between Percent Hispanic (X) and the Level fo Exercised Discretion under Secure Communities (Y)

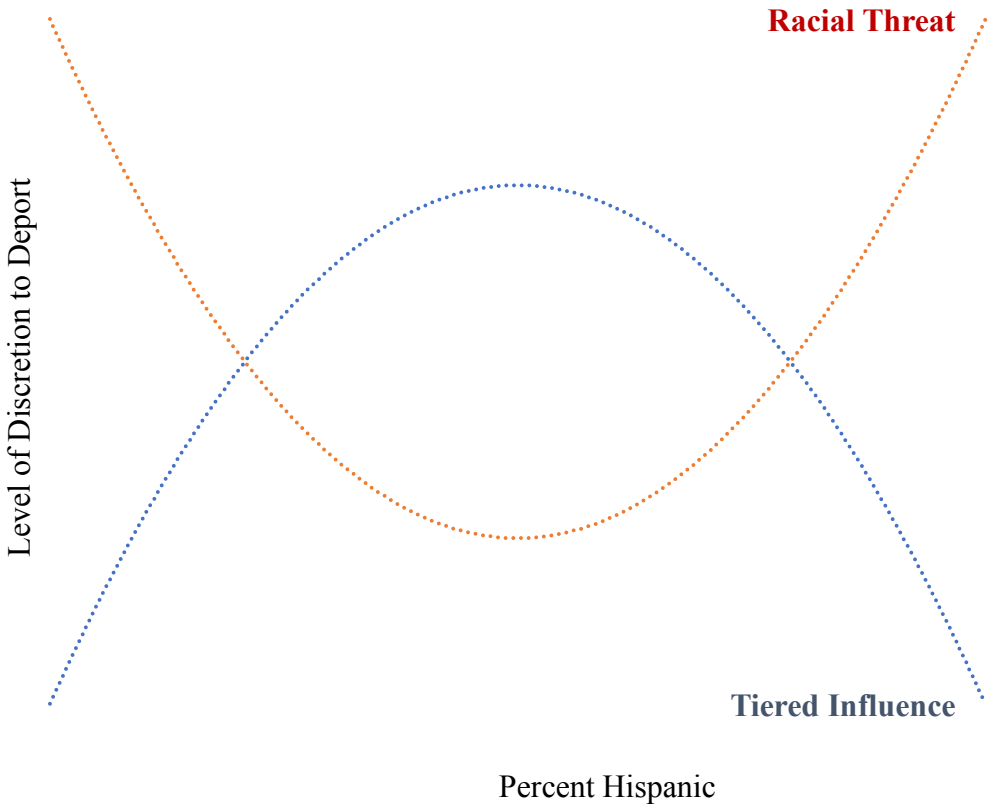


Figure 2: Percent of Analysis Sample by the Level of Exercised Discretion

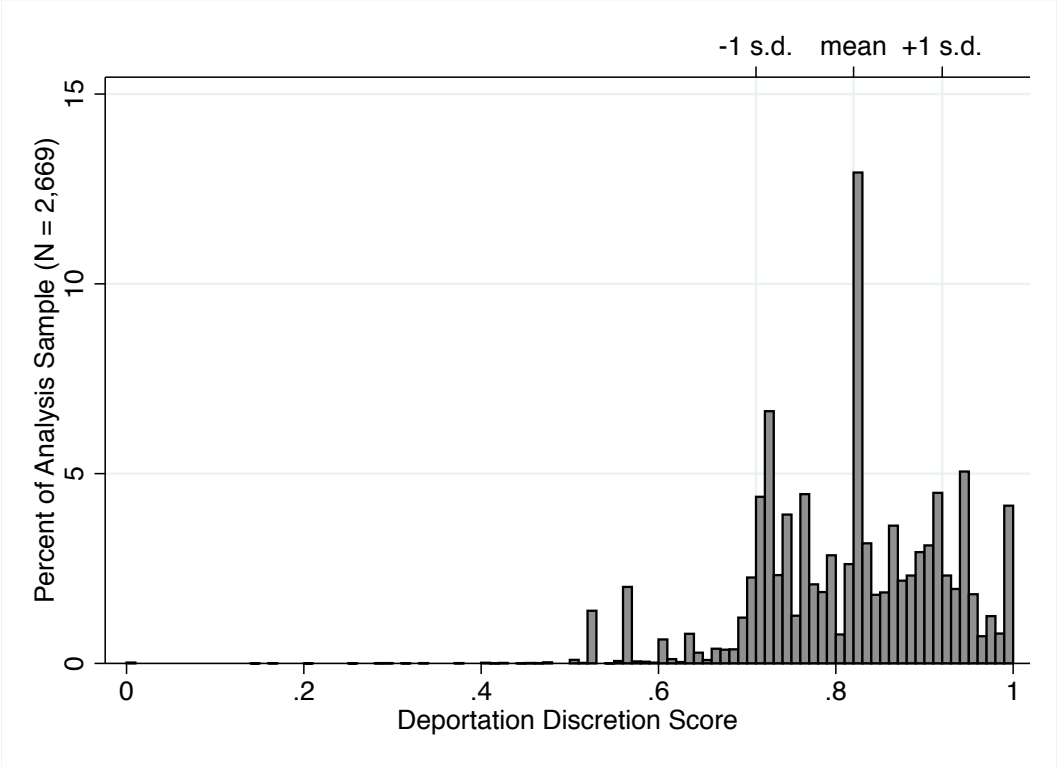
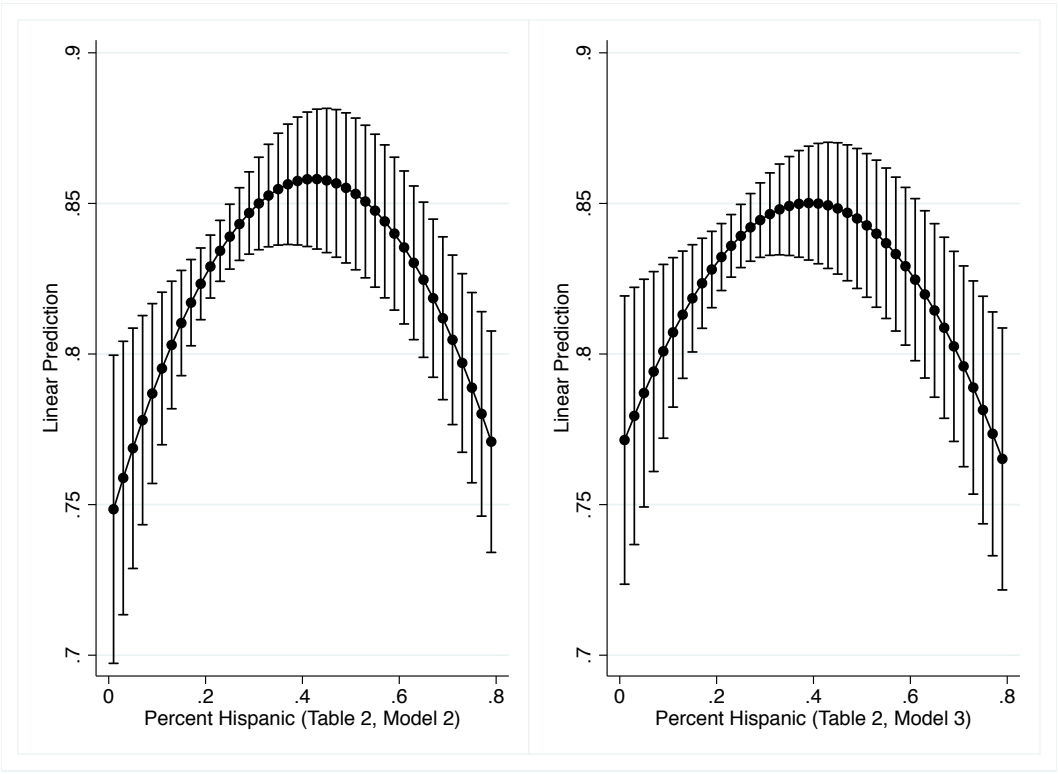


Figure 3: Curvilinear Relationship between the Level of Exercised Discretion and Relative Size of Hispanic Population



Appendix to "Deportation Discretion" Manuscript

Below are supplementary results from the "Deportation Discretion" manuscript, including:

1. **Appendix Table A**: coefficients for full models presented in Table 2

Also included are models which use alternate specifications in the nonlinear models:

2. **Appendix Table B**: Hispanic share of the labor force
    a. The curvilinear shape is comparable to results displayed in Figure 3.

3. **Appendix Table C**: Hispanic adults as the share of the total population
    a. The curvilinear shape is comparable to results displayed in Figure 3.

4. **Appendix Table D**: Hispanic youth as the share of the total population
    a. The curvilinear relationship based on these results is less pronounced than among Hispanic workers and adults.

5. **Appendix Table E**: Foreign-born share instead of the Hispanic share
    a. The influence of immigrant concentration on the outcome is narrower than the Hispanic share of local populations, and the shape of the relationship does not resemble the main effects of percent Hispanic and its exponent.

6. **Appendix Table F:** Black (non-Hispanic) share instead of the Hispanic share
    a. In models which include percent Hispanic and its exponent, neither percent black nor percent black^2 are statistically significant.

Also included are models in Table 2 with additional controls discussed in the paper:

7. **Appendix Table G:** Results with an indicator for whether counties are located in states which have elected sheriffs (0 if sheriffs are appointed in state; 1 if sheriffs are elected)
    a. Counties with no elected sheriffs report lower levels of discretion but results in Table 2 remain unchanged because these models include state fixed effects.

8. **Appendix Table H:** Results with a categorical variable capturing the unauthorized immigrant share of the noncitizen population at the county level (see footnote 8)
    a. Counties where unauthorized immigrants comprise the majority of noncitizens report lower discretion scores, but the main effects are largely the same.

Also included are results referenced in the results section and following footnotes 5 and 6:

9. **Appendix Table I:** using noncitizen weights instead of Hispanic weights
10. **Appendix Table J:** models without state fixed effects or clustered standard errors

Also included are models which predict rates of deportation rather than discretion to deport:

11. **Appendix Table K:** Models with deportation rates as the dependent variable are not reliably related to the curvilinear effects hypothesized in the paper.

Appendix to "Deportation Discretion" Manuscript

1. Coefficients for full models summarized in Table 2

These are the coefficients for all independent variables in Table 2 in the paper (robust standard errors in parentheses).

APPENDIX TABLE A

Variables	(1)	(2)	(3)
Percent Hispanic	0.21	0.54**	0.42**
	(0.10)	(0.15)	(0.14)
Percent Hispanic^2	-0.31**	-0.65***	-0.54**
	(0.10)	(0.16)	(0.15)
Hispanic population growth (since 1990)		-0.55***	
		(0.13)	
Hispanic population growth (since 2000)			-0.92***
			(0.23)
Republican vote share	-0.03	0.03	0.04
	(0.06)	(0.05)	(0.05)
Pre-existing local restrictive policies (reference: none)			
Implemented 287(g) or other restrictive policy	-0.01	-0.01	-0.01
	(0.02)	(0.01)	(0.01)
Attempted to implement 287(g) policy	-0.02	-0.01	-0.01
	(0.01)	(0.01)	(0.01)
Index of criminal justice capacity	-0.00	0.00	0.00
	(0.00)	(0.00)	(0.00)
Unemployment rate	-0.45	-0.16	-0.16
	(0.32)	(0.31)	(0.33)
Program activation (0: early adopter)			
Middle adopter	0.02	0.02	0.02
	(0.01)	(0.01)	(0.01)
Late adopter	0.08***	0.07***	0.07***
	(0.01)	(0.01)	(0.01)
Constant	0.92***	0.89***	0.89***
	(0.04)	(0.04)	(0.04)
Observations	2,669	2,669	2,669
R-squared	0.66	0.69	0.68

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models include state fixed effects and standard errors are clustered across 24 DHS enforcement jurisdictions. Observations are weighted by the estimated size of the Hispanic population (Hispanic total + 1).

Appendix to "Deportation Discretion" Manuscript

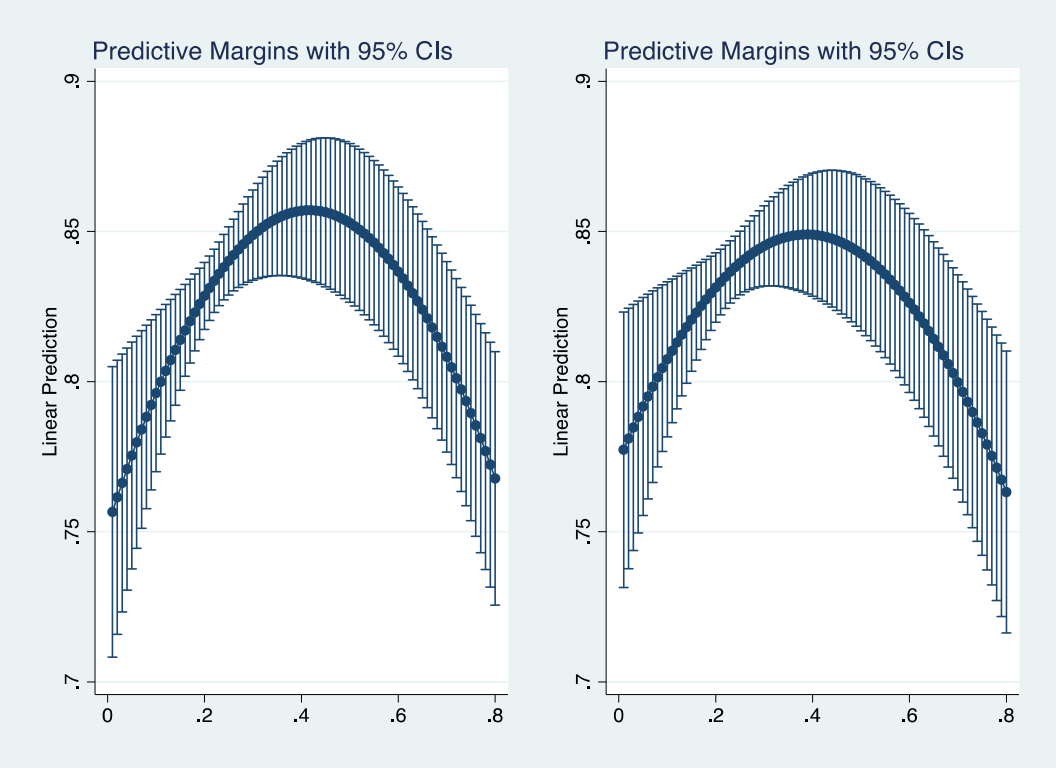
2. Results using the same approach as Table 2 in the paper and replacing Hispanic percent with the ***Hispanic share of the labor force***: the curvilinear relationship displayed on this page is based on predictive margins from models 2 and 3 in Appendix Table B table below, and the relationship is similar to the main results in Figure 3 of the paper.

APPENDIX TABLE B

Demographic Measures	(1)	(2)	(3)
Hispanic share of labor force	0.19	0.51**	0.39**
Hispanic share of labor force^2	-0.29**	-0.61***	-0.50**
Hispanic population growth (since 1990)		-0.52***	
Hispanic population growth (since 2000)			-0.89***
R-squared	0.65	0.68	0.68

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Relationship between Hispanic % of labor force (X) & exercised discretion (Y), Models 2-3



Appendix to "Deportation Discretion" Manuscript

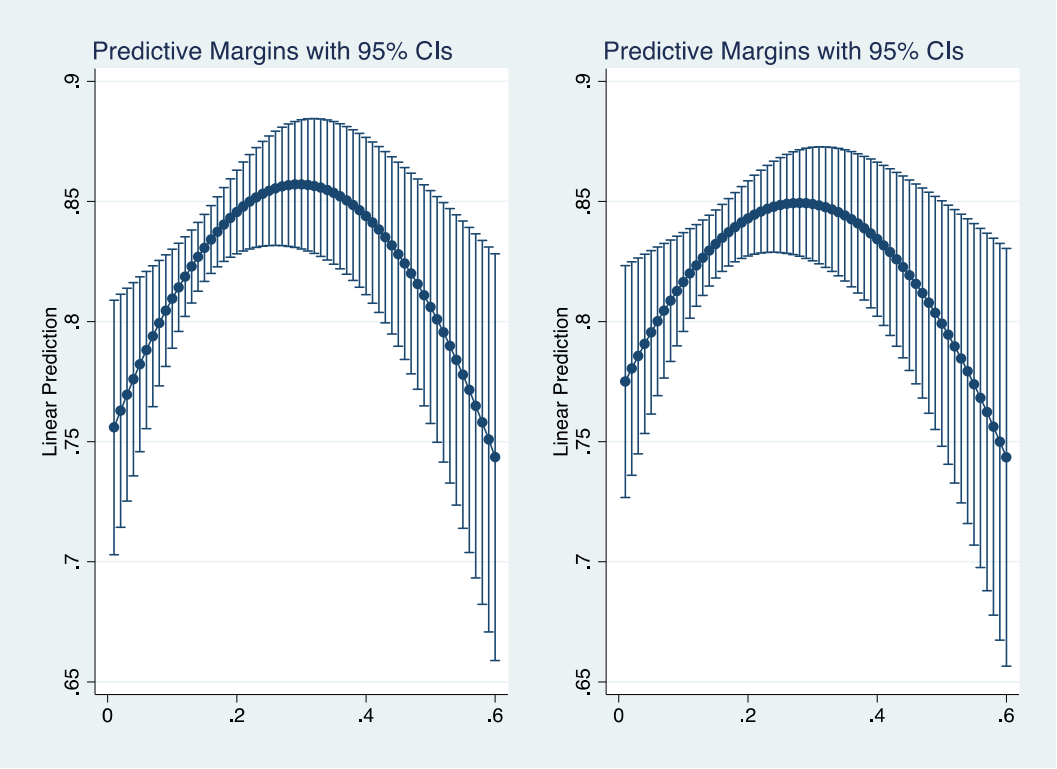
3. Results using the same approach as Table 2 in the paper and replacing Hispanic percent with ***Hispanic adults*** as a percent of the total population: the curvilinear relationship displayed on this page is based on predictive margins from models 2 and 3 in Appendix Table C table below, and the relationship is similar to the main results in Figure 3 of the paper.

APPENDIX TABLE C

Demographic Measures	(1)	(2)	(3)
Percent Hispanic adults	0.14	0.59**	0.44*
Percent Hispanic adults^2	-0.33	-1.00*	-0.80*
Hispanic population growth (since 1990)		-0.43**	
Hispanic population growth (since 2000)			-0.76**
R-squared	0.70	0.71	0.71

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Relationship between Hispanic adult % (X) & exercised discretion (Y), Models 2-3



Appendix to "Deportation Discretion" Manuscript

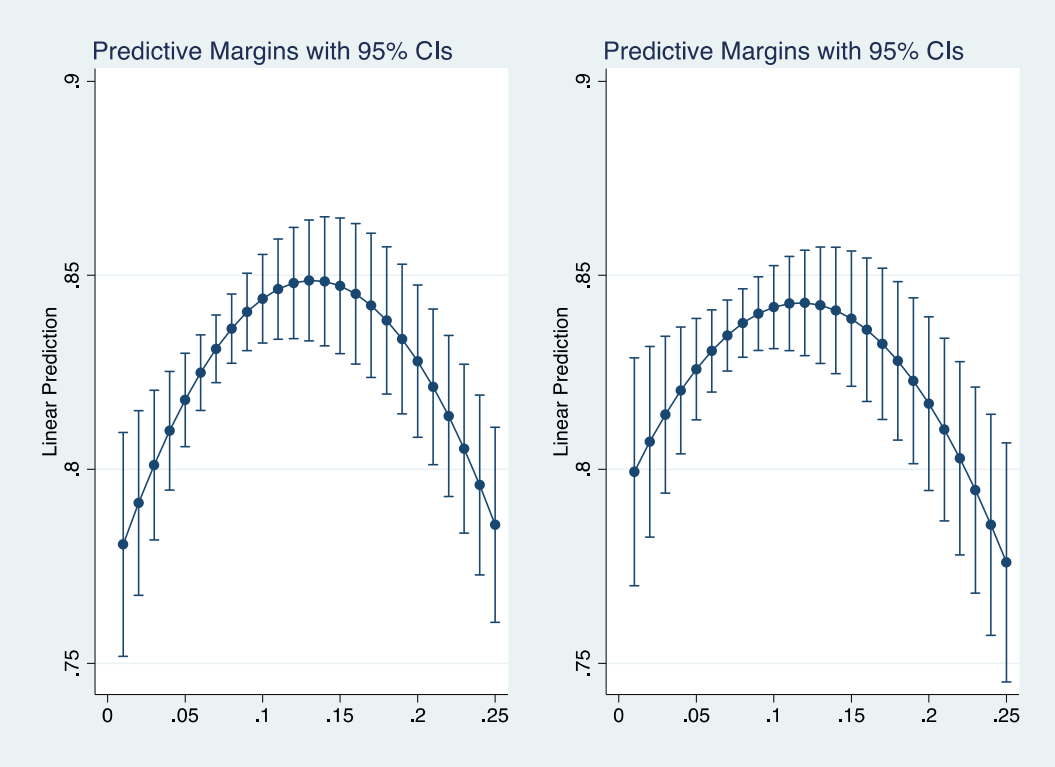
4. Results using the same approach as Table 2 and replacing Hispanic percent with ***Hispanic youth*** (age 17 and under) as a percent of the total population: the demographic coefficients in models 2 and 3 are statistically significant, but—as displayed below—the protective influence is less pronounced than models for either Hispanic adults or workers.

APPENDIX TABLE D

Demographic Measures	(1)	(2)	(3)
Percent Hispanic youth	0.26	1.06***	0.77**
Percent Hispanic youth^2	-2.06**	-4.20***	-3.51***
Hispanic population growth (since 1990)		-0.43***	
Hispanic population growth (since 2000)			-0.74**
R-squared	0.72	0.73	0.73

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Relationship between Hispanic youth % (X) & exercised discretion (Y), Models 2-3



Appendix to "Deportation Discretion" Manuscript

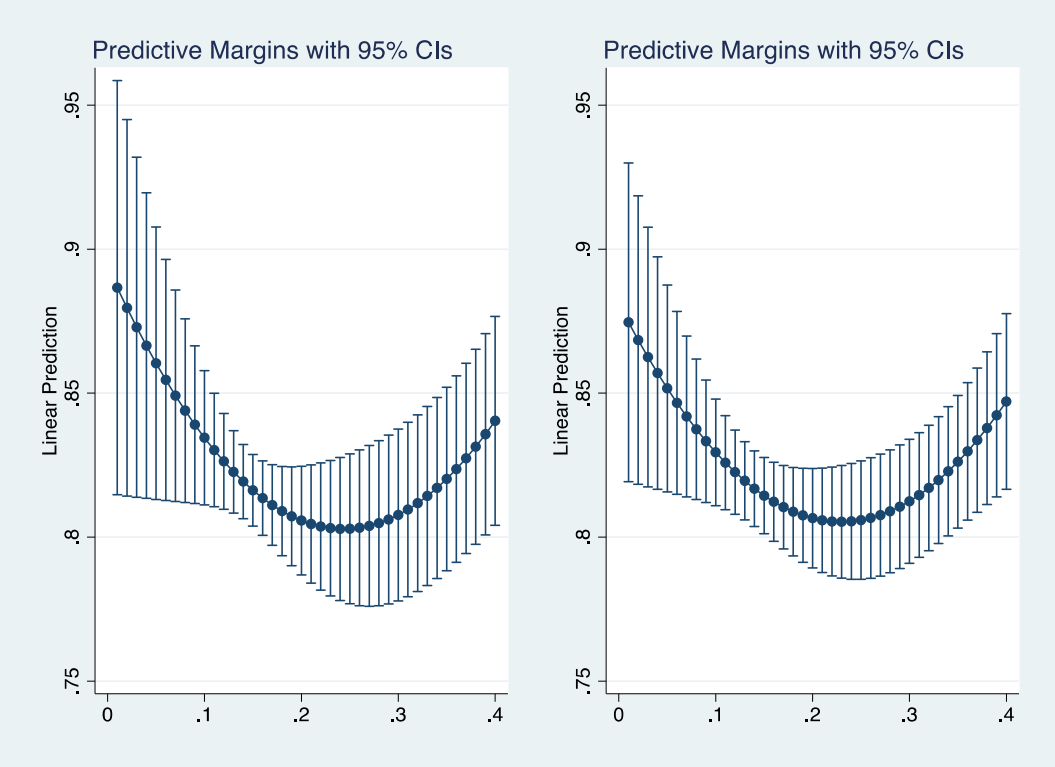
5. Results using the same approach as Table 2 and using ***percent foreign-born*** (instead of percent Hispanic): the effects are significant, but the influence of immigrant concentration is not as pronounced as that of Hispanics nor is the shape of the effects similar.

APPENDIX TABLE E

Demographic Measures	(1)	(2)	(3)
Percent foreign-born	-0.56*	-0.75*	0.66*
Percent foreign-born^2	1.21*	1.54*	1.44*
Hispanic population growth (since 1990)		0.20	
Hispanic population growth (since 2000)			0.34
R-squared	0.66	0.66	0.66

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Relationship between foreign-born % (X) & exercised discretion (Y), Models 2-3



6. Results using the same approach as Table 2 and replacing Hispanic shares with ***percent black*** (non-Hispanic): percent black and percent black^2 coefficients are only significant in models that do not also account for percent Hispanic and its exponent.

APPENDIX TABLE F

Demographic Measures	(1)	(2)	(3)	(4)	(5)
Percent black (non-Hispanic)	0.31**	0.42**	0.41**	0.27*	0.42**
Percent black (non-Hispanic)^2	-0.35*	-0.49**	-0.46**	-0.33	-0.50*
Percent Hispanic				-0.04	0.00
Percent Hispanic^2					
Hispanic population growth (since 1990)		-0.31*			-0.31*
Hispanic population growth (since 2000)			-0.65*		
R-squared	0.65	0.66	0.66	0.65	0.66

Demographic Measures	(6)	(7)	(8)	(9)
Percent black (non-Hispanic)	0.39**	0.09	0.16	0.14
Percent black (non-Hispanic)^2	-0.45*	-0.11	-0.17	-0.13
Percent Hispanic	-0.01	0.18	0.51**	0.39**
Percent Hispanic^2		-0.27*	-0.58**	-0.48**
Hispanic population growth (since 1990)			-0.56***	
Hispanic population growth (since 2000)	-0.63*			-0.95***
R-squared	0.66	0.66	0.69	0.68

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

7. Adding an indicator for states with ***no elected sheriffs*** reveals the level of exercised discretion is lower in those counties than other places, but none of the other coefficients in Table 2 are affected because the models in the paper include state fixed effects.

APPENDIX TABLE G

Independent Variables	(1)	(2)	(3)
Elected sheriff (0: no; 1: CT, DC, HI, RI)	-0.19***	-0.21***	-0.20***
Percent Hispanic	0.21	0.54**	0.42**
Percent Hispanic^2	-0.31**	-0.65***	-0.54**
Hispanic population growth (since 1990)		-0.55***	
Hispanic population growth (since 2000)			-0.92***
R-squared	0.66	0.69	0.68

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

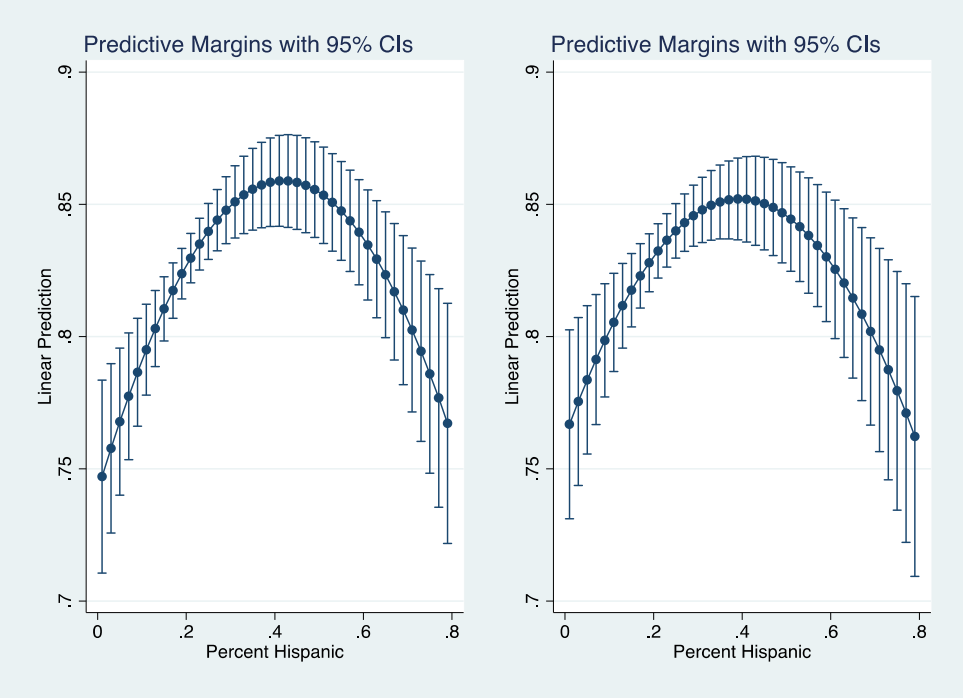
8. Counties where ***unauthorized immigrants*** are more than half of noncitizens report lower levels of discretion, and the main effects remain largely the same (see figure below).

APPENDIX TABLE H

Independent Variables	(1)	(2)	(3)
Unauthorized share of noncitizens *(reference: no unauthorized estimate, N=2,922)*			
Unauthorized are >50% of noncitizens	-0.06***	-0.05***	-0.06***
Unauthorized are <50% of noncitizens	-0.05	-0.04	-0.04
Percent Hispanic	0.29**	0.56***	0.45***
Percent Hispanic^2	-0.40***	-0.67***	-0.58***
Hispanic population growth (since 1990)		-0.46***	
Hispanic population growth (since 2000)			-0.77***
R-squared	0.68	0.70	0.70

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

Relationship between Hispanic % (X) & exercised discretion (Y), Models 2-3



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9. Using ***noncitizen weights*** (rather than Hispanic weights) alters the main effects only slightly. In models 1 and 2 below, which use Hispanic weights, counties where five percent of the population identifies as Hispanic are predicted to report a discretion score between 0.77 and 0.79, and counties where one-quarter are Hispanic have a predicted score of 0.84. In models 3 and 4, which use noncitizen weights, the difference between those two thresholds is a similar rise in the level of discretion: about a 0.05 point increase from 0.81 to 0.86.

APPENDIX TABLE I

Demographic Measures	(1)	(2)	(3)	(4)
Percent Hispanic	0.54**	0.42**	0.48***	0.35**
Percent Hispanic^2	-0.65***	-0.54**	-0.58***	-0.47***
Hispanic population growth (since 1990)	-0.55***		-0.51***	
Hispanic population growth (since 2000)		-0.92***		-0.85***
Population weights (estimated size + 1)	**Hispanic**	**Hispanic**	**Noncitizen**	**Noncitizen**
R-squared	0.69	0.68	0.73	0.72

Note: *** p<0.001, ** p<0.01, * p<0.05. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.

10. The models below ***exclude state fixed effects*** and ***standard errors are not clustered*** regionally. The principal difference between the models in Table 2 of the paper (Appendix Table A) and these results is the influence of other factors (e.g., especially Republican vote shares and the implementation of restrictive immigration policies at the local level), which—unlike the main effects of Hispanic concentration—appear to be explained in large part by variation in state level contexts.

APPENDIX TABLE J

Variables	(1)	(2)	(3)
Percent Hispanic	0.16***	0.26***	0.20***
Percent Hispanic^2	-0.38***	-0.49***	-0.43***
Hispanic population growth (since 1990)		-0.22***	
Hispanic population growth (since 2000)			-0.23**
Republican vote share	-0.15***	-0.13***	-0.14***
Pre-existing local restrictive policies (reference: none)			
Implemented 287(g) or other restrictive policy	-0.03***	-0.03***	-0.03***
Attempted to implement 287(g) policy	0.01	0.01	0.01
Index of criminal justice capacity	0.01**	0.01**	0.01**
Unemployment rate	-0.01	0.07	0.03
Program activation (0: early adopter)			
Middle adopter	0.05***	0.05***	0.05***
Late adopter	0.10***	0.10***	0.10***
Constant	0.88***	0.87***	0.87***
Observations	2,669	2,669	2,669
R-squared	0.43	0.44	0.44

Note: *** p<0.001, ** p<0.01, * p<0.05. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates. No state fixed effects or clustered standard errors are specified.

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11. The curvilinear effect in Table 2 of the main paper is not applicable to deportation rates (logged), which are the total number of deportations (adjusted for the estimated size of each county's noncitizen population as well as how long each county had administered the program as of May 2013). The first three models below use the same sample as the appendices below: 2,669 counties where the level of discretion can be measured. The next three models also include all counties (without missing covariate data) where deportation rates can be measured. The hypothesized curvilinear relationship between percent Hispanic and deportation activity is either weak or not significant when predicting rates of deportation.

APPENDIX TABLE K

Demographic Measures	(1)	(2)	(3)
Percent Hispanic	-0.86	-2.04*	-1.45
Percent Hispanic^2	1.47	2.65*	2.09*
Hispanic population growth (since 1990)		1.92*	
Hispanic population growth (since 2000)			2.54
Total Analysis Sample	2,669	2,669	2,669
R-squared	0.65	0.66	0.66

Demographic Measures	(4)	(5)	(6)
Percent Hispanic	-0.82	-2.03*	-1.43
Percent Hispanic^2	1.43	2.63*	2.07*
Hispanic population growth (since 1990)		1.95*	
Hispanic population growth (since 2000)			2.59
Total Analysis Sample	3,100	3,100	3,100
R-squared	0.65	0.66	0.65

Note: *** $p<0.001$, ** $p<0.01$, * $p<0.05$. Robust standard errors clustered across DHS jurisdictions. Models control for Republican vote share, existing restrictive laws, the timing of program activation, criminal justice capacity, unemployment rates, and state fixed effects.