

# THE AMERICAN PROSPECT

## Local Officials Paid a Price on Tuesday for Cooperating with ICE

**In a number of counties, voters ousted elected officials who'd directed their police departments to aid ICE in its deportations.**

Manuel Madrid

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Local law enforcement officials' cooperation with federal immigration enforcement was on the ballot on Tuesday in counties in Maryland, North Carolina, New York, and Minnesota. In a range of local elections, voters ousted officials who had assisted or worked alongside Immigration and Customs Enforcement (ICE) to implement President Trump's war on immigrants.

The election results are a coup for organizers and activists who have been working to make clear the link between the president's harsh immigration agenda and small-town politics. Their electoral victories may provide a model for future grassroots efforts to curtail abusive policies towards immigrants.

Just days after taking office, President Trump issued an executive order directing federal officials to pursue more 287(g) agreements, which allow for participating state and local law enforcement officers to enforce immigration law after receiving training from ICE. Officers deputized under the program are allowed inquire about the immigration status of detained individuals and keep undocumented people locked up until ICE collects them.

The number of active 287(g) agreements has more than doubled since Trump took office. That's left immigrant advocacy groups worried. Since its founding in 1996, the 287(g) program has attracted a steady stream of criticism from immigrant rights advocates and law enforcement officials alike for leading officers to racially profile people in search of immigration violations, and to deter immigrants from reporting crimes or threats of violence to the police.

It was just such concerns that led immigrant advocates to join a campaign to oust one Maryland county executive who had signed a 287g agreement last year—a campaign that led to an upset victory on Tuesday.

One activist who threw herself into that campaign was Ana Vera, an organizer with CASA in Action, the political arm of the immigrant advocacy group CASA de Maryland, who has had cousins and uncles deported from the country in the past. For Vera, the idea that local officials are offering Trump a hand with immigration enforcement has been terrifying.

“This has really hit home for me,” says Vera, who was brought to the U.S. by her father from Peru when she was still a baby. “I have family that are still immigrants, that are still fighting for the American dream and to get their citizenship.”

In Maryland’s Anne Arundel County, County Executive Steve Schuh’s decision to sign the county on to the 287(g) program became a central issue in the campaign leading up to Tuesday’s election. Schuh had also entered into a separate agreement to house ICE detainees in county prisons in return for payment from the federal government. These housing agreements, known as intergovernmental service agreements, have also begun to proliferate under the Trump administration.

In late June, shortly before dozens gathered in Anne Arundel to protest Trump’s family separation policy, Schuh’s challenger, Democrat Steuart Pittman, pledged to terminate both the 287(g) program and the intergovernmental service agreement.

That was a battle Schuh seemed happy to fight. The Republican incumbent began using familiar scare tactics in campaign mailers. “I am alarmed by my opponent’s plan to release illegal immigrants charged with serious crimes into the community,” one mailer read.

The issue of cooperation with ICE in Anne Arundel would continue to draw headlines in local papers and would feature in an October debate between the two candidates.

While Pittman’s commitment had won the support of immigration advocates and the Latino community, it wasn’t clear how his position would play in the broader community: Anne Arundel is only eight percent Latino and close to 70 percent non-Hispanic white.

Days before the election, Vera and other CASA in Action organizers gathered before embarking on a last-minute canvas of the Glen Burnie neighborhood in Anne Arundel—the same neighborhood where the ICE detention center is located. CASA has a permanent canvas team primarily consisting of children of immigrants or migrant youth lacking permanent legal status themselves. But this was a “volunteer day” and so a diverse group, about 20 in total, gathered in a nearby taqueria for a quick crash course on canvassing.

Lydia Walther-Rodriguez, a lead organizer with CASA in Action, says it’s not only the turnout from Latino youth that’s been impressive in this race, but also the responsiveness of other members within the community. Vera, who is on the permanent canvassing team, says she’s seen the same phenomenon while door-knocking.

“It’s not just Latinos anymore. It’s caucasians and African Americans,” says Vera. “They’re seeing what our government can really do to immigrants and they want no part of it.” On Election Day, Anne Arundel voted by a 52 percent-to-48 percent margin to elect Pittman.

Pittman’s commitment to ending the county’s cooperation with ICE was hardly the only issue on the minds of Anne Arundel voters, of course. The Davidsonville Democrat ran on a platform that included, among other things, more affordable housing and poverty reduction programs. But Trump’s anti-immigrant rhetoric along with his administration’s brutal policies—detaining thousands of migrant children for months at a time, separating migrant families at the border—clearly upset many voters and provided Pittman with the opportunity to draw a starker contrast with his opponent.

Anne Arundel wasn't alone on Tuesday. Another upset came in Wake County, North Carolina, where a four-term incumbent sheriff was rejected for his defense of the county's participation in the 287(g) program. In Wake County, Republican sheriff, Donnie Harrison had entered into a 287(g) agreement in 2007, and during just the last four years had helped deport more than 1,500 undocumented immigrants.

His opponent, Democrat Gerald Baker, pledged to back out of the agreement if elected, citing worries that the program could lead to the deportation of immigrants for small offenses or traffic violations. Latino residents only make up 10 percent of the population in Wake County, which encompasses the state capital Raleigh. As in Anne Arundel, non-Hispanic whites are a majority in Wake. On Tuesday, Baker ousted Harrison, 55 percent to 45 percent.

The victory in Wake County came only months after two other sheriffs criticized for their cooperation with ICE were voted out in North Carolina during the state's May primary elections.

In Durham County, a Democratic incumbent who had come under fire for honoring ICE's request to detain undocumented people in local jails for 48 hours, regardless of whether they'd been convicted of a crime, was trounced at the polls. In Mecklenburg County, which contains the city of Charlotte, another incumbent was defeated for his support of the 287(g) program.

ICE responded to the Mecklenburg election results with warnings of increased raids, should the county go through with backing out of its 287(g) agreement.

"This campaign [in Mecklenburg] was a local referendum on immigration detention," says Stefania Artega, an organizer with grassroots immigrant-advocacy organization Comunidad Colectiva.

The upset victory in Mecklenburg has particular significance in the fight against 287(g).

Before 2006, the year that Mecklenburg began its participation in 287(g), the program's scope remained limited: Only seven jurisdictions participated, and its deportation efforts were confined to convicted criminals and security threats. That all changed when former Mecklenburg sheriff Jim Pendergraph, a Democrat, began to use the program to target any and all undocumented individuals, directing his deputies to inquire about immigration status while in the field rather than after an immigrant had been detained for a non-immigration related crime and take to jail. Pendergraph defended the decision to federal legislators in a House subcommittee hearing, arguing that undocumented immigrants were a tremendous burden on local taxpayers and a growing source of crime.

Pendergraph would go on to become chief of ICE's Office of State and Local Coordination. His aggressive application of the 287(g) program, which came to be called the "task force model," would spread across state and local police departments in southeast states. Mecklenburg, which since 2006 has processed more than 15,000 arrestees for deportation, was the cradle for the new approach.

This dragnet type of application of 287(g)'s would remain in vogue until the end of 2012, when the Obama administration officially scuttled the task force model of enforcement—though reports of local officers overstepping their bounds continue to this day. For years, both the Department of Homeland Security and the Justice Department had scrutinized excesses in

287(g) program, finding that worrying patterns of racial profiling and unconstitutional policing had developed in certain counties operating under the task force model.

Beyond issues of profiling, the overall effectiveness of the program in targeting criminals has been questioned repeatedly over the years. A 2011 study from the Migration Policy Institute found that roughly half of immigration detainees issued under the 287(g) program were for people arrested for traffic violations and misdemeanors. Supporters of the program regularly claim that it allows law enforcement to turn serious criminals, particularly those using false names or identities, over to ICE rather than letting them back on the streets. However, a recently released working paper from the Cato Institute examining 287(g) enforcement in North Carolina found that removals under the program did not actually lead to lower crime levels.

The number of jurisdictions participating in 287(g) dropped sharply under Obama, from 72 in 2011 to 32 at the end of 2016. Then came Trump. After Tuesday's election, there were 78 active 287(g) agreements in 20 different states.

The Trump administration has also hinted towards a return of the task force model. In February 2017, then DHS Secretary John Kelly issued a memo ordering the commissioner of Customs and Border Patrol (CBP) and the ICE director to structure 287(g) agreements in the "most effective enforcement model" for any given jurisdiction, including the task force model.

Unsurprisingly, some sheriffs have jumped at the possibility of returning to street enforcement under 287(g). Shortly after the issuance of the DHS memo, Milwaukee County Sheriff David Clarke released a letter announcing his plans to pursue an agreement with ICE that would allow officers in his jurisdiction to operate under the defunct task force model. The month before in South Carolina, Beaufort County Sheriff P.J. Tanner sent a similar letter to DHS.

Abandoning any hope for a decent federal policy, activists and advocacy organizations turned to local races as the best way to beat back Trump's immigration agenda. It's one reason why national groups like the American Civil Liberties Union (ACLU) have jumped into the electoral space—a first in the organization's long history.

The ACLU spent a stunning \$175,000 on the Mecklenburg race, mostly on ad-buys, and at least \$140,000 on radio ads in the Wake County campaign. Through its state affiliates in North Carolina and Maryland, the organization coordinated and did canvassing work with groups like Comunidad Colectiva in Mecklenburg County and Fairness Maryland in Frederick County.

Frederick County, Maryland, provides a particularly interesting example of the promise of the push to end local cooperation with ICE—as well as the challenges that face it.

In Frederick, the push against 287(g) and three-time incumbent Chuck Jenkins, a Republican, fell just short last Tuesday. Jenkins, a Trump ally who fashions himself a hard-on-crime sheriff, has been attacked over the years for the county's participation in the 287(g) program as well its intergovernmental service agreement with ICE. The Migration Policy Institute study found that between 2009 and 2010, more than 80 percent of detainees issued by 287(g) officers in Frederick were for minor offenses and traffic violations.

But Jenkins has responded to the criticism by doubling down on the programs. As a result, he earned the label of America's second 'toughest' sheriff on immigration, according to Fox News in 2011, coming in one spot behind infamous former Maricopa Sheriff Joe Arpaio.

Fairness Maryland, which coordinated with the ACLU through the campaign, poured in more than \$160,000 on digital ad buys and direct mailers favoring his challenger, Democrat Karl Bickel. The campaign almost worked. Jenkins beat Bickel by roughly 6,000 votes, about 5.5 percent of the vote. That's a knife's edge-margin compared to Jenkins' landslide victory in 2014, when he defeated Bickel by more than 25 points.

Fairness Maryland president and treasurer Michael Macleod-Ball says the organization's internal polling had Jenkins up 17 points before they began their messaging campaign. Macleod-Ball sees a future for protecting immigrants' rights by progressive groups focusing on smaller races like sheriff's and county executive elections.

"It's become harder and harder to make a difference in large races," says Macleod-Ball, who is a former legislative chief of staff of the ACLU's Washington, D.C., office and now runs his own political consulting firm, 627 Consulting. "One of the interesting things with this one is that 287(g) is one of the few clear areas of intersection between the federal government and local government."

"Usually you can't engage in a sheriff's race and say 'look what's happened to you and your community', and then tie that to particular issue voters know and care about on the federal level," Macleod-Ball adds.

Frederick wasn't the only county where 287(g) supporters held firm on Tuesday. Local officials supporting cooperation with ICE won election or reelection in Harford County, Maryland and Alamance County, North Carolina. The result in Alamance County is astonishing for all the wrong reasons.

Alamance was one of two counties found by the Justice Department under the Obama administration to have engaged in unconstitutional racial profiling of Latinos (that the other county was Arpaio-led Maricopa County should come as no surprise). ICE suspended its agreement with Alamance in 2012 as a result of the Justice Department's two-year investigation, which, among others things, included allegations against Alamance Sheriff Terry Johnson and his office for ordering officers working checkpoints to "go out there and get me some of those taco-eaters."

Now, with Trump in office, Johnson wants to rejoin the program. Local officials appear to be considering the prospect. On Tuesday, two Republicans, one an incumbent, in favor of 287(g), won races for the county commission, which will have to give Johnson the green light before he can move forward. Republicans control the commission.

While it's true that certain sheriffs still pine for the golden years of no-holds-barred 287(g) enforcement, their constituents may yet surprise them. Tuesday's election also saw sheriff's opposed to cooperation with ICE elected in Hennepin County, Minnesota, and Ulster County, New York.

The road to beating back Trump's deportation machine may be a long one, but at a time when local issues increasingly only seem to attract interest as they relate to national politics, targeting 287(g) agreements and other collaborations between small-town law enforcement and ICE at least offers a way forward.