

Why some NC sheriffs are staying close to ICE as state's biggest counties move away

Teo Armus

April 16, 2019

When it comes to immigration, the new sheriff in town here has done little to shake things up.

Van Shaw, a Republican and career investigator elected last fall, keeps receiving thousands of dollars from Immigration and Customs Enforcement for his office to hold immigrant detainees in the Cabarrus County jail.

And last year, he sent 83 inmates to ICE through 287(g), a long-held partnership that enables sheriff's deputies to carry out immigration enforcement.

It's a stark contrast from most of North Carolina's biggest counties, where newly elected African-American sheriffs have loudly cut their ties with the federal agency. But Shaw is bucking the trend.

The 287(g) program, he said, helps maintain the county's unusually low crime rate by taking criminals who are here illegally off the streets, out of the county -- and, then, out of the country.

"When they come into our jail, they're coming in as an offender," he told a few dozen people at a meeting here Thursday. "If a person is here illegally and committing crimes in our community, then we need to get that person out of our community."

His willingness to work with ICE reflects a much broader trend: Nationally, the 287(g) program has moved away from cities like Charlotte and Raleigh and expanded its foothold in suburban counties like Cabarrus and Nash, where immigrants are a small fraction of the total population.

"A lot of conservative counties are taking it up to signal, 'We're conservative, and we still care about this issue,'" said Alex Nowrasteh, a senior immigration policy analyst at the libertarian Cato Institute.

The shifting geography of ICE cooperation

Nowrasteh, who studied the program's use in North Carolina from 2003 to 2013, found that there was no statistically significant difference in crime rates between those counties that took up the program and those that did not.

That was a major talking point used by newly elected sheriffs in Mecklenburg and Wake counties, both of whom campaigned on withdrawing from the 287(g) program. But both Garry McFadden and Gerald Baker, in fact, went much further: They stopped cooperating with the agency entirely on immigration.

Across the state, three other counties -- Buncombe, Durham and Forsyth -- also voted in black sheriffs who have distanced themselves from federal enforcement: They stopped honoring immigration detainers, which keep unlawful immigrants in jail until ICE can take them into custody.

But new sheriffs in Cabarrus, Henderson and Gaston counties -- all of them white -- are as close to ICE as ever. Nash County signed onto the 287(g) partnership last year, and all four continue to keep immigration detainees in their jails. All four counties honor ICE detainers.

While 287(g) is a kind of “force expansion,” allowing sheriff’s deputies to check the legal status of inmates, detainers are what allow ICE officers to take custody of those inmates.

Julie Mao, a senior staff attorney at the National Immigration Project of the National Lawyers’ Guild, said that these suburban and rural counties are only just beginning to see a rise in immigrant populations that North Carolina cities underwent a few decades ago.

That demographic shift, she said, arguably contributed to the election of sheriffs like McFadden and Baker locally.

“There was this political and moral transformation of the law enforcement leadership around whether they saw immigrants as an asset or as a threat to the community,” she said. “In other places in North Carolina, those conversations are still being had.”

While Mecklenburg County saw widespread political organizing around 287(g) in recent years, little of that has transferred north to Cabarrus.

287(g) in Cabarrus County

Each county with 287(g) is required to hold a public “steering committee” meeting, where officials from the sheriff’s office and ICE present data and answer questions about the implementation of the partnership locally.

Under the program, inmates are asked about their citizenship status and country of birth. Depending on their answers, trained deputies may check a federal database to see if they are in the country illegally.

In the most recent fiscal year, Cabarrus County checked the legal status of 131 inmates in that federal database, Shaw said at the meeting in Cabarrus. Of those, 83 were actually taken into ICE custody, while 56 people were deported.

He pointed out that these encounters made up only about 2% of the county’s total arrests, which is a fraction of the county’s 8% foreign-born population.

“In no way are we suggesting that the foreign born are more likely to be criminal offenders,” said Bryan Cox, an ICE spokesman.

Activists have long criticized 287(g) for increasing fear and mistrust of law enforcement among immigrant communities, while targeting those with low-level misdemeanors like driving without a license.

In Cabarrus County, 66 inmates detained under 287(g) had already been convicted of a criminal offense, while 61 had pending charges, Shaw said. Neither ICE nor the sheriff’s office immediately provided a breakdown of how many were charged with only misdemeanors.

But Stephen LaRocca, who oversees the ICE partnerships in Cabarrus and Henderson counties, said that the vast majority of those arrested locally had been charged with DUIs.

Consequences for ICE

Mao, the lawyer, said ICE suffered a major blow regionally when McFadden and Baker -- new sheriffs in Mecklenburg and Wake Counties, respectively -- cut their ties with the agency.

Following Gwinnett County, in the northern suburbs of Atlanta, those two N.C. counties maintained the highest numbers of arrests for the regional ICE office overseeing Georgia and the Carolinas. Suburban counties like Cabarrus have a fraction of the size in comparison.

“They’re definitely upset,” Mao said, “because the ICE detention numbers are going way down because of it.”

ICE officials like Cox have also been open about the fact that reality has forced them to ramp up their enforcement outside of county jails. At a press conference in February, he said the decision to cut ties with the agency entirely has given officers “no choice” but to ramp up targeted enforcement in streets and neighborhoods.

And at a more basic level, the end of 287(g) in Mecklenburg has also resulted in a loss of office space.

LaRocca, who used to oversee the program out of Mecklenburg, is now based out of Cabarrus County. And his old partner, former Mecklenburg County Sheriff Irwin Carmichael, is now a deputy at the Gaston County Sheriff’s Office.

“We miss him,” LaRocca said of Carmichael. “He was one of the better sheriffs in North Carolina.”