

UC Berkeley

California Journal of Politics and Policy

Title

The Politics of Interior Immigration Enforcement

Permalink

<https://escholarship.org/uc/item/83c0g65q>

Journal

California Journal of Politics and Policy, 6(3)

ISSN

1944-4370

Author

Wong, Tom K.

Publication Date

2014-07-01

DOI

10.5070/P24S4Q

Peer reviewed

Tom K. Wong*

The Politics of Interior Immigration Enforcement

Abstract: Who supports and who opposes legislation that seeks to tighten interior immigration enforcement among members of Congress, and why? Interior immigration enforcement is one of the critical, but often overlooked aspects of the comprehensive immigration reform debate in the US. An analysis of 3330 roll call votes among U.S. House Representatives since H.R. 4437 in 2005 shows that voting patterns can overwhelmingly be explained by partisanship, as Republicans are significantly more likely to support tightening interior immigration enforcement than Democrats. Moreover, the only factor analyzed here that leads Republican representatives to become less likely to support stricter interior immigration enforcement is the size of the Hispanic/Latino population in a district. However, what the data also show is that Republicans and Democrats tend to align when it comes to opposing the most restrictive attempts to tighten interior immigration enforcement, as evidenced by bipartisan opposition to the Sullivan amendment to H.R. 4437.

Keywords: immigration; interior immigration enforcement; politics; SAFE Act.

DOI 10.1515/cjpp-2014-0005

1 Introduction

Interior immigration enforcement is one of the critical, but often overlooked components of comprehensive immigration reform (CIR) in the US. While contentious debates over the question of how to address the status of the estimated 11 million undocumented immigrants living in the country, as well as how to secure the nation's borders, continue to dominate the discussion, an increasing number of studies have shifted the analytical lens to the growing role that subnational actors – state and local governments, in particular – are playing in the design, implementation, and enforcement of federal immigration policies (De Genova 2002; Coleman 2007, 2012; Esbenschade 2007; Varsanyi 2008; Hopkins 2010; Ram-

*Corresponding author: Tom K. Wong, University of California, San Diego, Department of Political Science, 9500 Gilman Drive, La Jolla, California 92093, USA, Tel.: +16193549913, e-mail: tomkwong@ucsd.edu

akrishnan and Wong 2010; Harrison and Lloyd 2012; Provine and Varsanyi 2012; Wong 2012; Jones-Correa and de Graauw 2013). That phrases such as “self-deportation” and “attrition-through-enforcement” have entrenched themselves in the vernacular of U.S. immigration policy debates reflects the growing importance of interior immigration policies. As Coleman (2012) describes, “immigration enforcement has migrated inwards to such an extent that everyday spaces away from state borders are sites of immigrant surveillance and regulation” (p. 164).

In the US, the Immigration and Customs Enforcement (ICE) agency, which is housed within the Department of Homeland Security (DHS), is tasked with the work of interior immigration enforcement. Over the course of the past 10 years, ICE’s budget has increased from \$3.3 billion in 2003 (when the agency was created) to \$5.6 billion in 2013 (IPC 2013). Moreover, the number of ICE Enforcement and Removal Operations (ERO) personnel – agents who are tasked with identifying, apprehending, detaining, and deporting undocumented immigrants – has increased by over double, jumping from 2710 in 2003 to 6338 in 2012 (IPC 2013).

This increased investment in interior immigration enforcement has not, however, yielded clear results. On the one hand, as Panel 1 in Figure 1 shows, the apprehension and removal of undocumented immigrants from the US has increased in lock step with increased ICE spending and personnel. This is to be

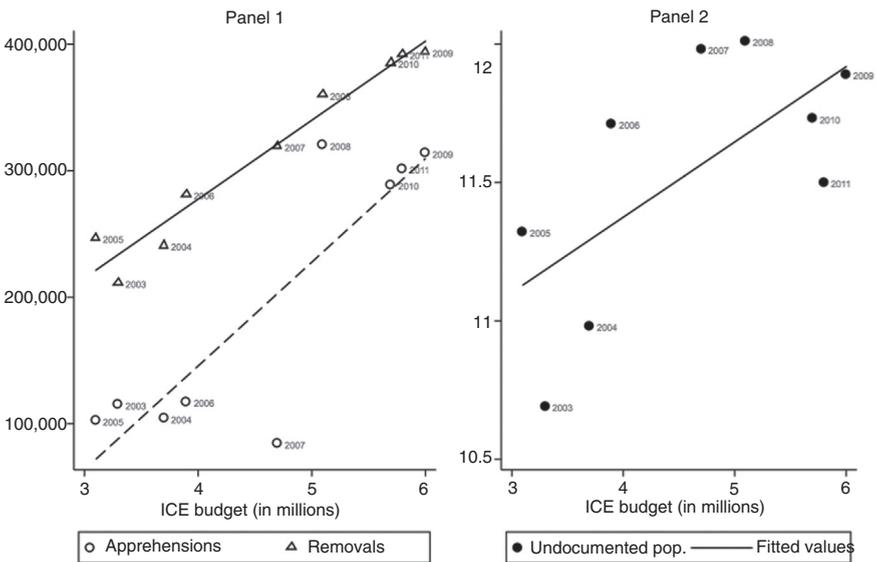


Figure 1: Panel 1 shows the relationship between spending on interior immigration enforcement and immigration enforcement outcomes. Panel 2 shows the relationship between spending on interior immigration enforcement and the estimated size of the undocumented population.

expected. But when looking through the lens of what is arguably the most important metric when it comes to evaluating the efficacy of immigration enforcement, which is the size of the undocumented population, the data provide little evidence to show that increased interior immigration enforcement means fewer undocumented immigrants. In fact, the data show the opposite. As Panel 2 in Figure 1 shows, as the annual ICE budget has increased, so to has the size of the undocumented population. This holds true even if we lag spending on interior immigration enforcement. The logic of the lag is this: more spending on interior enforcement in 1 year deters prospective undocumented immigrants from attempting to enter the US (or encourages those who are here to “self-deport”) in the subsequent year(s). However, this logic is also not supported by the evidence. This illustrates what Jones-Correa and de Graauw (2013) note is the curious emphasis on enforcement in U.S. immigration policy debates, as “Despite evidence that the 20-year rise in the undocumented population in the US is a direct response to increased border enforcement and a lack of legalization opportunities, calls for an enforcement-only approach have grown only louder in recent years” (p. 189).

Debates over the efficacy of interior immigration enforcement in the US will undoubtedly persist – my purpose here is thus not to try to settle these debates. Instead, this article draws attention to the question of who supports and who opposes legislation that seeks to tighten interior immigration enforcement among members of the U.S. House of Representatives, and why? Answering these questions can, perhaps, provide insights into why the demand for increased enforcement persists in U.S. immigration policy debates despite (at best) mixed evidence regarding its effectiveness. In the post-November 2012 push for comprehensive immigration reform in Congress, the seemingly perpetual demand for increased interior enforcement is best evidenced by the *Strengthen and Fortify Enforcement (SAFE) Act*. This article thus analyzes the determinants of voting on interior immigration enforcement with an eye towards explaining support and opposition to efforts to tighten interior immigration enforcement via legislation such as the SAFE Act. I begin by describing the SAFE Act and by placing it in the broader context of interior immigration enforcement. I then briefly describe the literature on the determinants of U.S. immigration policy before turning to the empirical analysis.

2 The SAFE Act and Interior Immigration Enforcement

In June 2013, House Judiciary Committee (HJC) Chairman Bob Goodlatte (R-VA) and House Immigration Subcommittee Chairman Trey Gowdy (R-TX) introduced

the SAFE Act. Later that same month, the Act was voted out of committee by a straight party line vote of twenty Republicans in support and fifteen Democrats in opposition. In sum, the SAFE Act tightens interior immigration enforcement by, most notably, allowing states and local governments to enact their own immigration laws, but only as long as they are consistent with, and their penalties do not exceed, federal statutes. The Act also makes undocumented presence a federal crime (which is currently a civil offense).

2.1 Local Cooperation with Federal Immigration Enforcement Officials

As the enforcement of federal immigration laws falls within the plenary powers of the federal government, states and localities have mostly played a secondary role in contemporary immigration law enforcement (state-level laws like Arizona's SB 1070 and the Secure Communities program are notable exceptions). However, in attempting to address what Coleman (2007) describes as the "deteriorated tangle of law enforcement practices" that characterizes interior immigration enforcement in the US, local law enforcement agencies were given more authority over immigration matters under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. Section 287(g) of IIRIRA gave ICE the ability to train local law enforcement officers to enforce federal immigration laws. More technically, it authorized DHS to enter into agreements (via memorandums of agreement) with state and local law enforcement agencies permitting cross-designated officers to perform immigration law functions, provided that they received the appropriate training under the supervision of ICE.

Despite the demand for increased interior immigration enforcement and legislation facilitating state and local partnerships with federal immigration enforcement officials via IIRIRA, only a handful of localities have become 287(g) partners (Wong 2012). Currently, there are only thirty-six 287(g) partners across nineteen states. On the one hand, some argue that vertical law enforcement partnerships such as those represented by the 287(g) program are essential for effective immigration law enforcement. With a small number of agents relative to the large number of undocumented immigrants in the US, such partnerships act as a force multiplier that would greatly expand the capacity of the federal government to enforce its immigration laws more effectively (Booth 2006). On the other hand, such partnerships can also have adverse consequences. In a report issued by the International Association of Chiefs of Police (IACP), the group notes:

“Many law enforcement executives believe that state and local law enforcement should not be involved in the enforcement of immigration laws since such involvement would likely have a chilling effect on both legal and illegal aliens reporting criminal activity or assisting police in criminal investigations” (IACP 2004: p. 1).

These concerns have led to a review of the 287(g) program by the Obama administration and to efforts by members of Congress to defund the program altogether.¹ Nevertheless, consistent with what Jones-Correa and de Graauw (2013) describe as the “illegality trap,” calls for increased local cooperation with federal immigration enforcement officials continue, manifesting most recently in the form of the SAFE Act.

Title 1 of the SAFE Act addresses the issue of immigration law enforcement by state and local governments. One of the main provisions of the SAFE Act is to allow states and localities to enact, implement, and enforce their own penalties (criminal and civil) when it comes to federal immigration violations, but only as long as these penalties do not exceed those given under federal statutes [see section 102(a)]. Local law enforcement personnel are also given enhanced authority under the Act to investigate, identify, apprehend, arrest, and detain undocumented immigrants “to the same extent as Federal law enforcement personnel” [see section 102(b)]. This, in effect, makes the 287(g) program nationwide and permanent.

Under the SAFE Act, state and local law enforcement officials will also be put on the front lines when it comes to collecting information on the (suspected) undocumented population. Upon the apprehension of a (suspected) undocumented immigrant, state and local officials would be required to collect information on the following: the person’s name, address, physical description, any identity documents the person may have, the date, time, and location of the “encounter,” the reason for “stopping, detaining, apprehending, or arresting” the person, and a photo and fingerprints if they are readily obtainable [see section 105(b)]. While the title of this section, “State and Local Law Enforcement Provision of Information About Apprehended Aliens,” conveys that information will only be collected on those who are in fact *apprehended*, the actual language of the section requires that information be collected on those who are also merely stopped by law enforcement. Coupled with language stating that this section applies to those who are *believed* to be inadmissible or deportable, this means that the SAFE Act would, in practice, potentially create a nationwide

¹ See Representative Jared Solis (D-CO), Representative Judy Chu (D-CA), and Representative Tony Cardenas’s (D-CA) amendment to Department of Homeland Security Appropriations Act, 2014. The amendment failed by a vote of 180 to 245.

“show me your papers” requirement disguised in a large-scale data collection effort.²

To carry out their work, state and local law enforcement would also receive increased federal assistance via “grants for special equipment for housing and processing certain aliens” (see section 106). This, in effect, reimburses states and localities for the costs incurred in the investigation, apprehension, detention, and the transfer of undocumented immigrants, as well as other administrative costs. These reimbursements are not, however, without further conditions. States and localities that receive federal grants for interior immigration enforcement are also required to cooperate in the Secure Communities (S-Comm) program. S-Comm is a program that identifies undocumented immigrants who are in correctional facilities by checking the fingerprints of detained individuals against immigration databases. S-Comm is already deployed nationwide (3181 out of 3181 jurisdictions), however, some localities have opted not to cooperate with ICE in this program (for example, see California’s TRUST Act).

The SAFE Act would not only require cooperation in S-Comm in order to receive federal reimbursements [see section 114(d)], but it would also expand what states and localities are expected to do. Specifically, if S-Comm identifies a person as being undocumented, ICE will send an immigration detainer request to the local law enforcement agency holding the undocumented immigrant. An immigration detainer generally gives ICE 48 hours to take custody of an undocumented immigrant. The SAFE Act would expand this to require local agencies to hold undocumented immigrants for up to 14 days, even after the completion of their original sentences. Similarly, the Act preempts efforts by state and local officials to push back against tighter interior immigration enforcement efforts by prohibiting them from passing ordinances that limit local cooperation with federal immigration enforcement authorities [see section 104(d)(1)].

2.2 Criminalizing Presence

Under current law, the *crime* of illegal entry applies only to those apprehended while attempting to enter the US without authorization. However, Section 315 of the Act makes one’s undocumented presence an ongoing criminal offense irrespective of one’s path to “illegality” (e.g., crossing the border without authorization, overstaying a visa, etc.). The SAFE Act creates criminal penalties for

² It is important to note here that the “show me your papers” provision of Arizona’s SB 1070 survived a recent Supreme Court ruling.

a) entering or crossing the border at any time at a place other than a port of entry, b) knowingly eluding an immigration officer at any time, or c) violating for a period of 90 days or more the terms of one's admission into the US. A first violation carries a 6-month prison sentence. A second violation carries a 2-year prison sentence. Under certain conditions, criminal penalties under the SAFE Act can lead to up to a 20-year prison sentence [see section 315(a)(2)(e)]. Altogether, this makes one's *presence* in the US as an undocumented person a criminal offense, which is one that "continues until the alien is discovered" [section 315(a)(4)]. To be clear, this is a significant departure from existing laws, as being undocumented is currently a civil offense that does not immediately trigger imprisonment.

Table 1 identifies other key provisions of the SAFE Act, including the expansion of immigration detention and deportation capacity and the broadening of the crimes included in the definition of an aggravated felony under immigration law, which is extremely consequential given non-citizens and even legal permanent residents who are convicted of aggravated felonies can be subject to deportation and permanent inadmissibility.

3 H.R. 4437 Redux?

After the SAFE Act was successfully voted out of the House Judiciary Committee, Representative Goodlatte issued a statement praising the bill for "maintaining the integrity of our immigration system by granting states and local governments the authority to enforce federal immigration laws" and for "strengthening national security and protecting our communities from those who wish to cause us harm."³ Opponents of the bill, on the other hand, decried its passage out of committee. For example, a statement issued by the National Immigration Law Center (NILC) expressed the sentiment that, "If enacted, the SAFE Act's single-minded focus on immigration enforcement will increase detentions and deportations, and will create an environment of rampant racial profiling and unconstitutional detentions without fixing the immigration systems' problems."⁴ These debates echo those that catapulted immigration onto the national stage in 2006.

³ Available online at: http://judiciary.house.gov/news/2013/06182013_3.html.

⁴ Available online at: <http://www.nilc.org/safeactsummary.html>.

Table 1: SAFE Act.

Section	Title	Summary
107	Increased Federal Detention Space	The Act mandates the building of new detention facilities to ensure that the number of detention beds available matches the demand created by increased enforcement.
108	Federal Custody of Inadmissible and Deportable Aliens in the US Apprehended by State or Local Law Enforcement	Requires that apprehended immigrants be transferred to DHS no later than 48 h after a detainer has been issued and that states and localities temporarily hold the immigrant in their custody until transfer to DHS.
109	Training of State and Local Law Enforcement Personnel Relating to the Enforcement of Immigration Laws	Creates a "training manual and pocket guide" for state and local law enforcement personnel to reference when it comes to enforcing federal immigration laws.
110	Immunity	State and local law enforcement personnel are immune from personal liability when it comes to any duty described in the Act, including investigating, identifying, apprehending, arresting, detaining, and transferring undocumented immigrants to federal custody.
206	Background and Security Checks	Eliminates prosecutorial discretion when it comes to reviewing immigration cases, which would effectively end the Obama administration's policy of Deferred Action for Childhood Arrivals (DACA) and preclude the possibility of similar programs in the future.
301 & 302	Definition of Aggravated Felony and Conviction; Precluding Admissibility of Aliens Convicted of Aggravated Felonies or Other Serious Offenses	Expands the crimes included in the category of aggravated felony and the definition of conviction. Both are extremely consequential when it comes to immigration law, as non-citizens convicted of aggravated felonies can be subject to deportation and permanent inadmissibility.
308	Precluding Refugee or Asylee Adjustment of Status for Aggravated Felons	Makes those convicted of aggravated felonies inadmissible for refugee or asylum protections.
309	Inadmissibility and Deportability of Drunk Drivers	Makes those convicted of two drunk driving incidents (whether classified as misdemeanor or felony offenses) subject to deportation.
310	Detention of Dangerous Aliens	Provides broad authorities for indefinite detention.
314	Increased Criminal Penalties Relating to Alien Smuggling and Related Offenses	Makes a wide-range of interactions with undocumented persons – including "encouraging" a person to come or to live in the US without authorization and providing transportation – a criminal offense.
502	ICE Detention Enforcement Officers	Authorizes the hiring of 2500 additional ICE detention enforcement officers.
506	Additional ICE Deportation Officers and Support Staff	Authorizes the hiring of 5000 additional ICE deportation officers and 700 full-time support staff.

3.1 H.R. 4437

The SAFE Act carries many of the hallmarks of H.R. 4437, a restrictive immigration enforcement (interior and border) bill passed by the House in December of 2005.⁵ In response to H.R. 4437, which was regarded by many as an excessively punitive bill, an estimated 3.5 to 5.1 million people took to the streets during the Spring of 2006 in over 200 coordinated marches across forty-four states (Bada et al. 2006). Catalyzed by opposition to H.R. 4437, these marches affirmed a strong sense of solidarity among Hispanics/Latinos (Getrich 2008; Martinez 2008; Barreto et al. 2009; Benjamin-Alvarado et al. 2009). The marches also joined Asians, as well as immigrants from other racial and ethnic groups, with Hispanic/Latino immigrants around the issue of immigration (Rim 2009).

The SAFE Act replicates many of H.R. 4437's interior immigration enforcement provisions. For example, much of the language used in the SAFE Act regarding local cooperation with federal immigration enforcement officials can be found in sections 221, 222, 223, 224, and 225 of H.R. 4437. Moreover, section 315 of the SAFE Act, which criminalizes undocumented presence, is almost a carbon copy of section 203 of H.R. 4437.

4 The Politics of Interior Immigration Enforcement

Although it failed to become law, Congressional efforts to tighten interior immigration enforcement did not end with H.R. 4437. Year after year, legislation has been introduced and voted on that either affirms the authority of localities to enforce federal immigration laws or facilitates and enhances it – the SAFE Act being the most recent exemplar of this. However, while immigration remains one of the most contentious political issues in the US, the salience of immigration and the passions it evokes belies the surprising dearth of systematic research that exists on the determinants of U.S. immigration policy.

4.1 Demographics and Partisanship

In analyzing the H.R. 4437 vote, Fetzer (2006) hypothesizes that, as reelection depends on the support of voters within a representative's district, "one would expect [...] the demographics of a particular Congressional district to influence

⁵ H.R. 4437 did not become law, as it was not voted on by the Senate.

whether or not a given House member voted for H.R. 4437” (p. 699). He finds evidence to support this hypothesis, as larger Latino, Asian, and African-American populations in a district are significantly related to decreased support for H.R. 4437. Moreover, Republican, first-term, and Southern representatives are significantly related to increased support for H.R. 4437.⁶ This leads him to conclude, “Instead of thinking only of how to please white Anglo constituents who oppose immigration, members of Congress may increasingly have to fear alienating the ever-larger groups of pro-immigration Latino voters in their districts” (p. 704). This argument generally echoes the argument made by Goldin (1994) in her analysis of the role that immigrants themselves played in (temporarily) stemming restrictive immigration policies (i.e., the introduction of a literacy test) during the late 19th and early 20th centuries.

In contrast recent research by Casellas and Leal (2013) finds that partisanship is the “only consistent factor” that explains voting on immigration legislation in Congress and that demographics “were not consistently associated with votes” (p. 48). The significance of partisanship belies the “strange bedfellow” coalitions that have long characterized U.S. immigration policymaking (Tichenor 2002), but is consistent with broader partisan trends in immigration politics that some date back to the late 1970s and early 1980s (Gimpel and Edwards 1999).

An unanswered question in the debate that pits demographics on the one hand and partisanship on the other is whether Republicans and Democrats similarly respond to the diversity of their constituencies. For example, none of the studies mentioned above analyzes the interaction between demographics and partisanship. Thus, in addition to estimating the independent effect of demographics and partisanship, I also analyze the interaction between the size of different racial and ethnic groups in a district with the party affiliation of each district’s representative. I note here that simultaneously estimating the effects of different racial and ethnic groups, particularly Hispanics/Latinos and Asians, is not possible given multicollinearity.⁷ I thus estimate separate models for Hispanics/Latinos and Asians. Moreover, votes on amendments to H.R. 4437, as well as votes on subsequent legislation, provide a much larger pool of information by which to evaluate why legislators support or oppose efforts to tighten interior

⁶ A large percentage of blue-collar workers in a district also increases the likelihood of voting yes. Whereas the size of the Asian population in a district is not significantly related to how House members voted on H.R. 4437, large African-American populations did decrease the likelihood of supporting the legislation.

⁷ The correlation between the foreign-born population and the Hispanic/Latino population is $r=0.75$. For the Asian population it is $r=0.64$.

immigration enforcement than does the analysis of just a single vote (e.g., just analyzing H.R. 4437) or a handful of votes on different aspects of immigration policy (e.g., implicitly assuming that the logic that undergirds support and opposition to interior enforcement is the same as the logic that undergirds support and opposition to increased border security, legalization, etc.).

In the remainder of this article, I empirically analyze legislative voting behavior among U.S. House Representatives when it comes to interior immigration enforcement. This analysis goes further than previous studies by examining the interaction between district-level demographics and partisanship, which allows us to evaluate whether Republican and Democrat representatives respond similarly to the diversity of their respective constituencies, as well as by examining a fuller set of votes that speak directly to interior immigration enforcement.

4.2 Voting on Interior Immigration Enforcement

In addition to the H.R. 4437 vote, a keyword search in THOMAS, the Library of Congress database, shows eight additional votes that are germane to interior immigration enforcement since 2005. Table 2 details what these votes are. They include votes on amendments to H.R. 4437, stand-alone efforts to expand local law enforcement cooperation with federal immigration authorities (e.g., Immigration Law Enforcement Act of 2006), legislation prohibiting federal funds from going to so-called “sanctuary cities,” and votes related to the funding of the 287(g) program. Altogether, these votes arguably provide the best approximation of why legislators “do what they do” when it comes to interior immigration enforcement, as they cover the wide array of mechanisms that collectively comprise the apparatus of contemporary interior immigration enforcement in the US.

Each piece of legislation included in the analysis is first assigned a valence. After distinguishing between votes on “restrictive” and “permissive” legislation, each bill is then recoded so that all votes reflect the same valence. The results can thus be interpreted in this way: why do legislators vote for restrictive interior immigration enforcement legislation? I model how representatives vote as being primarily a function of partisanship and district-level demographics. Data for district-level demographics come from the American Community Survey (ACS). I interact partisanship with district-level demographics, as Democrats and Republicans may very well respond differently to demographic change – indeed, this is the core of the ongoing debate within the Republican Party about the importance of the Hispanic/Latino vote. Consistent with other recent studies, I also account for geography (Southern state), the personal traits of representatives (non-White

Table 2: Interior Immigration Enforcement Legislation.

Year	Description	Valence	Vote #	Yea/Nay
2013	Polis amendment to DHS appropriations bill to defund 287(g)	Permissive	195	180/245
2012	Sullivan amendment to DHS appropriations bill to prohibit the Obama administration from defunding 287(g)	Restrictive	366	250/166
2011	Polis amendment to DHS appropriations bill to defund 287(g)	Permissive	407	108/314
2006	Resolution in support of H.R. 6095, the Immigration Law Enforcement Act of 2006	Restrictive	462	227/195
2006	Prohibits funds from being used in contravention of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which prohibits localities from enacting laws that prevent police officers from reporting immigration information to the federal government.	Restrictive	223	218/179
2005	Amendment sought to give willing state and local law enforcement the ability to detain undocumented immigrants in the course of their regular duties; require federal authorities to respond to and detain all undocumented immigrants reported to DHS; expand expedited removal nationwide for all undocumented immigrants who cannot prove to an immigration officer they have been in the US for more than a year; and require that, by 2008, all non-citizens who enter or exit the country be processed through an automated entry-exit control system that Congress mandated in 1996.	Restrictive	659	163/251
2005	Amendment reaffirms state and local law enforcement's existing inherent authority to assist in the enforcement of immigration law, provides for training at no cost to the local agency, increases law enforcement's access to information on undocumented immigrants who have committed crimes, and provides increased and additional resources (SCAAP grants, Institutional Removal Program, and a new grant program) to help assist in the enforcement of immigration laws.	Restrictive	656	237/180
2005	Amendment sought to provide guidelines for implementing the secured alternatives to detention provision in section 402(a).	Permissive	639	162/252

representative),⁸ and district-level economic factors (unemployment).⁹ Data on the personal traits of representatives come from the CQ Press Congress Collection and data on district-level economic factors come from the ACS.

4.3 Results

An analysis of 3330 roll call votes on interior immigration enforcement legislation shows that voting patterns can overwhelmingly be explained by partisanship. Republicans are significantly more likely to support tightening interior immigration enforcement than are Democrats. Moreover, consistent with previous research, the likelihood that a legislator supports tightening interior immigration enforcement significantly decreases with district-level demographic factors (e.g., the size of the Hispanic/Latino and Asian percentages of the total population) and significantly increases with geography (being in the South). However, these effects are not unconditional. The most striking results relate to the interaction model. As Model 2 in Table 3 shows, the size of the Hispanic/Latino percentage of the total population in a district is significantly related to a decreased likelihood of supporting legislation that tightens interior immigration enforcement for both Republican and Democratic representatives. Moreover, while non-white Democratic representatives are significantly less likely to vote “yes,” being a non-white Republican representative has no significant bearing on voting behavior when it comes to restrictive interior immigration enforcement legislation.

Altogether, what this means is that the only factor analyzed here that leads Republican representatives to become less likely to support restrictive interior immigration enforcement legislation is the size of the Hispanic/Latino percentage of the total population. Figure 2 shows how the predicted probability of voting “yes” decreases among Republican representatives as the Hispanic/Latino population in a district grows. The y-axis is the predicted probability of voting “yes.” The x-axis represents the 1st (0.78%), 25th (3.44%), 50th (8.46%), 75th (19.03%), and 99th (73.68%) percentiles of the Hispanic/Latino population. For example, less than 1% of Kentucky’s 5th Congressional District (represented by Republican Hal Rogers) is Hispanic/Latino, which puts it in the 1st percentile.

⁸ Models that include the term (Fetzer 2006; Casellas and Leal 2013) or gender (Fetzer 2006; Casellas and Leal 2013) of representatives do not substantively change the results.

⁹ Models that include the skill ratio of a district (Scheve and Slaughter 2001; Mayda 2006; Hainmueller and Hiscox 2010; Facchini and Steinhardt 2011) or poverty (Casellas and Leal 2013) rather than unemployment also do not substantively change the results.

Table 3: Voting on Restrictive Interior Immigration Enforcement Legislation in the House.

	1	2	3	4
Partisanship (Republican=1)	5.542*** (0.2169)	3.463*** (0.7724)	2.187*** (0.2992)	1.493 (1.714)
Hispanic/Latino%	-0.0221*** (0.0058)	-0.0157*** (0.0061)	-0.0297*** (0.0105)	-0.1339*** (0.0642)
Asian%	-0.0727*** (0.0209)	-0.1064*** (0.0332)	-0.0349 (0.0419)	-0.0386 (0.1419)
Southern State	0.7908*** (0.1517)	0.6471*** (0.1591)	1.523*** (0.2956)	2.256*** (0.5153)
Non-White Representative	-1.964*** (0.2278)	-1.858*** (0.2278)	-1.432*** (0.5947)	-1.598 (1.006)
Unemployment%	0.1723*** (0.0267)	0.1488*** (0.0278)	-0.0960 (0.0929)	-0.1.364 (0.1706)
Partisanship * Hispanic/Latino%		-0.0327*** (0.0125)		0.1152* (0.0657)
Partisanship * Asian%		0.1586** (0.0660)		0.0325 (0.1509)
Partisanship * Southern State		1.445** (0.1509)		-1.099* (0.6168)
Partisanship * Non-White Representative		-0.1083 (0.6115)		0.4435 (1.389)
Partisanship * Unemployment%		0.2569** (0.1128)		0.0456 (0.2098)
Constant	-2.255** (0.2749)	-0.5063* (0.2742)	-1.069 (0.7703)	-0.5107 (0.2098)
% Correctly Predicted	91.2%	91.3%	73.7%	77.8%
Observations	3330	3330	415	415

Notes: Multivariate logistic regression results. Standard errors clustered by district in parentheses. *Significant at 0.10 level, **Significant at 0.05 level, ***Significant at 0.01 level.

In contrast, just over three-fourths of Florida's 21st Congressional District was Hispanic/Latino during the 112th Congress (represented by Republican Mario Diaz-Balart), which puts it in the 99th percentile. The hollow circles represent White Republican representatives and the hollow circles represent non-White Republican representatives. As the figure shows, the effect is greatest when the Hispanic/Latino population reaches its highest levels. Moreover, the impact of the Hispanic/Latino population is more pronounced for non-White Republican representatives than it is for White Republican representatives.

There is also another set of dynamics to consider. During the debate over H.R. 4437, an amendment was introduced and voted on (the Sullivan amendment) that

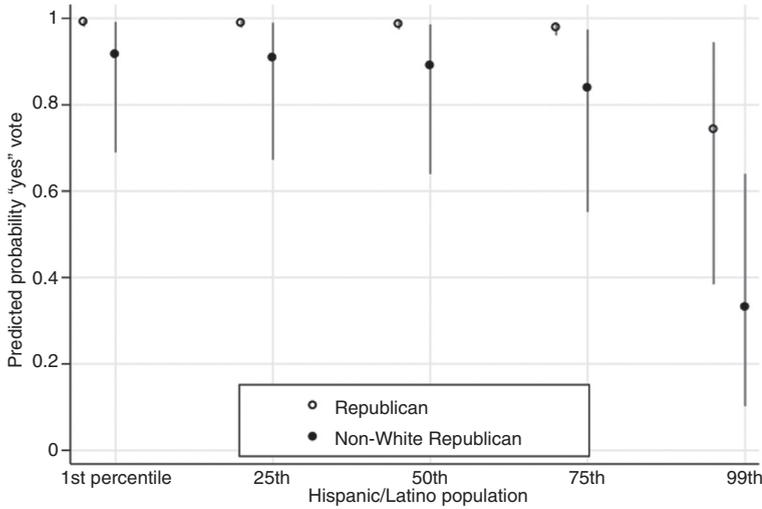


Figure 2: Predicted probability of voting “yes” on restrictive interior immigration enforcement among Republican representatives. Predicted probabilities obtained from Model 2 in Table 3 using Clarify.

moved interior immigration enforcement significantly further to the right when thinking in terms of a permissive to restrictive spectrum. This amendment not only sought to affirm the authority of states and localities to enforce federal immigration laws, but it also amplified their capacity to do so via changes to immigration detention policies [see section 240(d) of the amendment]. In short, all apprehended undocumented immigrants, with some exceptions, would be required to be held in immigration detention. Moreover, the amendment would have also expanded the practice of expedited removal to include all undocumented immigrants who were not able to prove that they have been in the US for more than a year, irrespective of where they were apprehended. Expedited removal gives DHS the authority to remove (deport) undocumented immigrants without the oversight of an immigration judge. Currently limited to undocumented immigrants apprehended in border regions (within 100 miles of the border), the Sullivan amendment would have extended this practice to all parts of the country. Surprisingly, during the floor debate, the detention component of the amendment was criticized by Representative Jim Sensenbrenner (R-WI) as being “unworkable” given it would lead to overcrowding of immigration detention centers and thus “all of a sudden, there are going to be criminal aliens that are going to be either released on the street or not being put in detention simply because there are not the slots that are available.” He also voiced practical concerns about infrastructure and

costs. Representative Sheila Jackson-Lee (D-TX) then took to the floor to criticize the amendment's attempt to expand the practice of expedited removal on the grounds that this would clearly violate civil liberties and due process rights.

Analyzing the Sullivan amendment as a distinct brand of interior immigration enforcement shows that the effects of partisanship become less absolute when enforcement practices move too far to the right. As Model 4 in Table 3 shows, the effect of partisanship is no longer statistically significant when analyzing this amendment.

4.4 Simulations

What do the results suggest about the prospects of the SAFE Act and, more generally, for legislation that seeks to tighten interior immigration enforcement? I use Model 2 in Table 3 to simulate the vote on the expansion of interior immigrant enforcement in a "SAFE Act Lite" bill. I also use Model 4 in Table 3 to simulate a vote on a "SAFE Act Heavy" bill. The former refers to legislation that affirms the inherent authority of states and localities to enforce federal immigration laws, prohibits federal funding from going to so-called "sanctuary cities," and funds the 287(g) program, while the latter refers to a Sullivan amendment-esque bill.

Based on the composition of the 113th Congress, the "SAFE Act Lite" simulation returns 233 "solid yes" votes.¹⁰ An additional nine representatives are categorized as "lean yes." This gives a range of 233 to 242 potential "yes" votes. Among these, 232 are Republicans and ten are Democrats. Analyzing the Sullivan amendment and then simulating a vote for current House members shows 193 "solid yes" votes. An additional fifteen representatives are categorized as "lean yes" – nine are Republicans and six are Democrats. This gives a range of 193 to 208 potential "yes" votes. Thirty-two Republicans are categorized as "lean no." These results are consistent with the finding that the most restrictive attempts to tighten interior immigration enforcement are likely to meet bipartisan opposition.

5 Conclusion

Why do legislators "do what they do" when it comes to voting on legislation that tightens interior immigration enforcement? As the data show, partisanship

¹⁰ The first step is to estimate the models. I then construct categories of likelihood wherein each predicted probability is characterized as a "solid yes," "lean yes," "lean no," and "solid no" vote. These categories take into account the confidence interval around each predicted probability.

overwhelmingly explains voting patterns, as Republicans are significantly more likely to support restrictive interior enforcement legislation. However, the data also show that the size of the Hispanic/Latino percentage of the total population in a district can dampen the effects of partisanship. A current debate among scholars of immigration politics pits the role that demographics play in immigration policymaking on the one hand, and the role that partisanship plays on the other. These results suggest that the interaction between these two factors is important to model, as Republicans and Democrats do not appear to respond similarly to the diversity of their constituencies when it comes to voting on interior immigration enforcement legislation. The data also show that a large number of Republicans are not likely support legislation that moves interior immigration enforcement too far to the right, as illustrated by the Sullivan amendment.

What do these results say about interior immigration enforcement legislation moving forward? Regarding legislation such as the SAFE Act, if such legislation affirmed the authority of localities to enforce federal immigration laws, withheld federal funds from so-called “sanctuary cities,” and maintained funding for the 287(g) program, the results and simulations show passage in a Republican-controlled House. However, if such legislation goes as far as the Sullivan amendment to H.R. 4437, the results and simulations show that many Republicans would join with Democrats in opposition. To be clear, while this contrast represents two very different positions along the interior immigration enforcement spectrum, it is instructive in that it shows that certain reforms to interior immigration enforcement can attract bipartisan support, whereas extreme reforms are likely to attract bipartisan opposition. This bipartisan opposition, as the Sullivan amendment shows, not only aligns across claims to civil liberties and rights of due process, but also aligns on the practicality and costs associated with significant changes to interior immigration enforcement.

References

- Bada, X., J. Fox, E. Zazueta and I. García (2006) *Immigrant Rights Marches*. Washington, D.C.: Woodrow Wilson International Center for Scholars.
- Barreto, M. A., S. Manzano, R. Ramirez and K. H. Rim (2009) “Mobilization, Participation, and Solidaridad: Latino Participation in the 2006 Immigration Protest Rallies,” *Urban Affairs Review*, 44(5):736–764.
- Benjamin-Alvarado, J., L. DeSipio and C. Montoya (2009) “Latino Mobilization in New Immigrant Destinations The Anti-HR 4437 Protest in Nebraska’s Cities,” *Urban Affairs Review*, 44(5):718–735.
- Booth, D. (2006) “Federalism on ICE: State and Local Enforcement of Federal Immigration Law,” *Harvard Journal of Law and Public Policy*, 29(3):1063–1083.

- Casellas, J. P. and D. L. Leal (2013) "Partisanship or Population? House and Senate Immigration Votes in the 109th and 110th Congresses," *Politics, Groups, and Identities*, 1(1):48–65.
- Coleman, M. (2007) "Immigration Geopolitics Beyond the Mexico–US Border," *Antipode*, 39(1):54–76.
- Coleman, M. (2012) "The 'Local' Migration State: The Site-Specific Devolution of Immigration Enforcement in the US South," *Law & Policy*, 34(2):159–190.
- De Genova, N. (2002) "Migrant 'Illegality' and Deportability in Everyday Life," *Annual Review of Anthropology*, 31(1):419–447.
- Esbenshade, J. L. (2007) *Division and Dislocation: Regulating Immigration Through Local Housing Ordinances*. Washington, D.C.: Immigration Policy Center, American Immigration Law Foundation.
- Facchini, G. and M. F. Steinhardt (2011) "What Drives US Immigration Policy? Evidence from Congressional Roll Call Votes," *Journal of Public Economics*, 95(7):734–743.
- Fetzer, J. S. (2006) "Why Did House Members Vote for HR 4437?" *International Migration Review*, 40(3):698–706.
- Getrich, C. M. (2008) "Negotiating Boundaries of Social Belonging Second-Generation Mexican Youth and the Immigrant Rights Protests of 2006," *American Behavioral Scientist*, 52(4):533–556.
- Gimpel, J. G. and J. R. Edwards (1999) *The Congressional Politics of Immigration Reform*. Boston, MA: Allyn and Bacon.
- Goldin, C. (1994) "The Political Economy of Immigration Restriction in the United States, 1890 to 1921." In: (Claudia Goldin and Gary D. Libecap eds.) *The Regulated Economy: A Historical Approach to Political Economy*. Chicago, IL: University of Chicago Press, pp. 223–258.
- Hainmueller, J. and M. J. Hiscox (2010) "Attitudes Toward Highly Skilled and Low-Skilled Immigration: Evidence from a Survey Experiment," *American Political Science Review*, 104(1):61–84.
- Harrison, J. L. and S. E. Lloyd (2012) "Illegality at Work: Deportability and the Productive New Era of Immigration Enforcement," *Antipode*, 44(2):365–385.
- Hopkins, D. J. (2010) "Politicized Places: Explaining Where and When Immigrants Provoke Local Opposition," *American Political Science Review*, 104(1):40–60.
- IACP. (2004) *Enforcing Immigration Law: The Role of State, Tribal and Local Law Enforcement*. Alexandria, VA: International Association of Chiefs of Police.
- Immigration Policy Center (IPC). (2013) *Cracking the SAFE Act*. Washington, D.C.: Immigration Policy Center, American Immigration Law Foundation.
- Jones-Correa, M. and E. de Graauw (2013) "The Illegality Trap: The Politics of Immigration & the Lens of Illegality," *Daedalus*, 142(3):185–198.
- Martinez, L. M. (2008) "'Flowers From the Same Soil' Latino Solidarity in the Wake of the 2006 Immigrant Mobilizations," *American Behavioral Scientist*, 52(4):557–579.
- Mayda, A. M. (2006) "Who is Against Immigration? A Cross-Country Investigation of Individual Attitudes Toward Immigrants," *The Review of Economics and Statistics*, 88(3):510–530.
- Provine, D. and M. W. Varsanyi (2012) "Scaled Down: Perspectives on State and Local Creation and Enforcement of Immigration Law," *Law & Policy*, 34(2):105–112.
- Ramakrishnan, K. and T. Wong (2010) "Immigration Policies Go Local: The Varying Responses of Local Governments to Low-skilled and Undocumented Immigration." In: (Monica W. Varsanyi ed.) *Taking Local Control: Immigration Policy Activism in US Cities and States*. Palo Alto, CA: Stanford University Press, pp. 73–93.

- Rim, K. H. (2009) "Latino and Asian American Mobilization in the 2006 Immigration Protests," *Social Science Quarterly*, 90(3):703–721.
- Scheve, K. F. and M. J. Slaughter (2001) "Labor Market Competition and Individual Preferences Over Immigration Policy," *The Review of Economics and Statistics*, 83(1):133–145.
- Tichenor, D. J. (2002) *Dividing Lines: The Politics of Immigration Control in America*. Princeton, NJ: Princeton University Press.
- Varsanyi, M. W. (2008) "Immigration Policing Through the Backdoor: City Ordinances, The 'Right to the City,' and the Exclusion of Undocumented Day Laborers," *Urban Geography*, 29(1):29–52.
- Wong, T. K. (2012) "287(g) and the Politics of Interior Immigration Control in the United States: Explaining Local Cooperation with Federal Immigration Authorities," *Journal of Ethnic and Migration Studies*, 38(5):737–756.