Making Immigrants into Criminals: Legal Processes of Criminalization in the Post-IIRIRA Era

Article *in* Journal on Migration and Human Security · September 2017

DOI: 10.1177/233150241700500308

5 authors, including:

Mathew Coleman
The Ohio State University
35 PUBLICATIONS **1,417** CITATIONS

SEE PROFILE

Cecilia Menjívar
University of California, Los Angeles
158 PUBLICATIONS **5,705** CITATIONS

SEE PROFILE

Jeremy Slack
University of Texas at El Paso
56 PUBLICATIONS **690** CITATIONS

SEE PROFILE

Journal on Migration and Human Security

Making Immigrants into Criminals: Legal Processes of Criminalization in the Post-IIRIRA Era

Leisy Abrego
University of California, Los Angeles

Mat Coleman
The Ohio State University

Daniel E. Martínez
University of Arizona

Cecilia Menjívar
University of Kansas

Jeremy Slack
The University of Texas, El Paso

Executive Summary

During a post-election TV interview that aired mid-November 2016, then President-Elect Donald Trump claimed that there are millions of so-called "criminal aliens" living in the United States: "What we are going to do is get the people that are criminal and have criminal records, gang members, drug dealers, we have a lot of these people, probably two million, it could be even three million, we are getting them out of our country or we are going to incarcerate." This claim is a blatant misrepresentation of the facts. A recent report by the Migration Policy Institute suggests that just over 800,000 (or 7 percent) of the 11 million undocumented individuals in the United States have criminal records.[1] Of this population, 300,000 individuals are felony offenders and 390,000 are serious misdemeanor offenders — tallies which exclude more than 93 percent of the resident undocumented population (Rosenblum 2015, 22-24). Moreover, the Congressional Research Service found that 140,000 undocumented migrants — or slightly more than 1 percent of the undocumented population — are currently serving time in

1 These numbers are based on the assumption that "unauthorized immigrants and lawful noncitizens commit crimes at similar rates" (Rosenblum 2015, 22). However, there is research that provides good support that criminality among the undocumented is lower than for the foreign-born population overall (Rumbaut 2009; Ewing, Martínez, and Rumbaut 2015).

prison in the United States (Kandel 2016). The facts, therefore, are closer to what Doris Meissner, former Immigration and Naturalization Service (INS) Commissioner, argues: that the number of "criminal aliens" arrested as a percentage of all fugitive immigration cases is "modest" (Meissner et al. 2013, 102-03).

The facts notwithstanding, President Trump's fictional tally is important to consider because it conveys an intent to produce at least this many people who — through discourse and policy — can be criminalized and incarcerated or deported as "criminal aliens." In this article, we critically review the literature on immigrant criminalization and trace the specific laws that first linked and then solidified the association between undocumented immigrants and criminality. To move beyond a legal, abstract context, we also draw on our quantitative and qualitative research to underscore ways immigrants experience criminalization in their family, school, and work lives.

The first half of our analysis is focused on immigrant criminalization from the late 1980s through the Obama administration, with an emphasis on immigration enforcement practices first engineered in the 1990s. Most significant, we argue, are the 1996 Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) and the 1996 Antiterrorism and Effective Death Penalty Act (AEDPA). The second section of our analysis explores the social impacts of immigrant criminalization, as people's experiences bring the consequences of immigrant criminalization most clearly into focus.

We approach our analysis of the production of criminality of immigrants through the lens of legal violence (Menjívar and Abrego 2012), a concept designed to understand the immediate and long-term harmful effects that the immigration regime makes possible. Instead of narrowly focusing only on the physical injury of intentional acts to cause harm, this concept broadens the lens to include less visible sources of violence that reside in institutions and structures and without identifiable perpetrators or incidents to be tabulated. This violence comes from structures, laws, institutions, and practices that, similar to acts of physical violence, leave indelible marks on individuals and produce social suffering. In examining the effects of today's ramped up immigration enforcement, we turn to this concept to capture the violence that this regime produces in the lives of immigrants.

Immigrant criminalization has underpinned US immigration policy over the last several decades. The year 1996, in particular, was a signal year in the process of criminalizing immigrants. Having 20 years to trace the connections, it becomes evident that the policies of 1996 used the term "criminal alien" as a strategic sleight of hand. These laws established the concept of "criminal alienhood" that has slowly but purposefully redefined what it means to be unauthorized in the United States such that criminality and unauthorized status are too often considered synonymous

(Ewing, Martínez, and Rumbaut 2015). Policies that followed in the 2000s, moreover, cast an increasingly wider net which continually re-determined who could be classified as a "criminal alien," such that the term is now a mostly incoherent grab bag. Simultaneously and in contrast, the practices that produce "criminal aliens" are coherent insofar as they condition immigrant life in the United States in now predictable ways. This solidity allows us to turn in our conclusion to some thoughts about the likely future of US immigration policy and practice under President Trump.

Research on the Criminalization of Immigrants

A growing body of scholarship on the merger of criminal law and civil immigration law in the United States examines the criminalization of immigrants through a number of different theoretical lenses, including "crimmigration" (García Hernández 2015; Stumpf 2006), the "criminalization of immigration" (Morris 1997; Ewing, Martínez, and Rumbaut 2015; Douglas and Sáenz 2013), and the "overcriminalization" of immigration (Chacón 2012). These approaches are conceptually and empirically rich and help to make sense of how immigration enforcement in the United States works. At the same time, we find that these approaches tend to underemphasize the context-specific mechanics of criminalizing state power in favor of broad-brush statements about the overarching logic of US immigration law and enforcement. We also note that the existing literature on immigrant criminalization is heavily focused on the discursive aspects of how states make immigrants into criminals — for example, the ways that elected officials speak about undocumented migration as a threat. In contrast, and especially in this turbulent time of extreme anti-immigrant rhetoric and policies, we think it is imperative to clearly outline and specify immigrant criminalization as an actually existing practice, and not just a legislative or perhaps policy-based speech act. In focusing squarely on the practice of immigrant criminalization, and not just on the act of naming that characterizes immigrants as criminal subjects, we hope to avoid re-naturalizing the links between criminality and immigration (see, for instance, Melossi 2015). Indeed, the difficulty in much of what has been written academically about immigrant criminalization is that it risks repeating the noun-centric logic of "criminal alienhood" at the core of immigrant criminalization, thereby reinforcing the links between criminality and immigration. In this sense, our focus on practice highlights the engineered rather than taken-for-granted nature of criminal alienhood.

Below, we examine the processes of criminalization in three contexts: the legal history that has produced the current situation, enforcement programs and practices at the border and interior, and the consequences for immigrants and their families living in the United States. In doing so, we extend the discussion of the criminalization of immigrants beyond the existing literature, on two basic counts. First, rather than discuss criminalization in the post-9/11 or War on Terror context, we focus on legislative changes that paved the way for the passage of the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) and the Antiterrorism and Effective Death Penalty Act (AEDPA) in 1996, which we understand as a crucial year for the criminalization of immigration. Second, we document how criminalizing state power turns people and indeed whole communities into law enforcement objects through specific programs and practices, and how immigrants experience this power within families and outside the home.

We do not suggest that individuals convicted of crimes should be treated less humanely (see Negrón-Gonzáles, Abrego, and Coll 2015); however, it is worth noting that a sizeable proportion of deported immigrants labeled "criminal aliens" have not been convicted of a crime, or have only committed relatively minor criminal violations, such as traffic infractions or drug offenses. For example, from 2010 to 2013, only 3 percent of the 2.6 million immigrants ICE *encountered* through the Criminal Alien Program (CAP) had been convicted of "a violent crime or a crime which the FBI [Federal Bureau of Investigation] classifies as serious" (Cantor, Noferi, and Martínez 2015, 2).[2] And nearly 83 percent of individuals *removed* through CAP during the same period either had no criminal conviction (27.5 percent) or had been convicted of what the FBI describes as nonviolent, non-serious offenses (55.4 percent) (Cantor, Noferi, and Martínez 2015). Even among those whom ICE classifies as "Level 1" priority offenders, nearly 64 percent had been convicted of a non-serious or nonviolent offense.[3] CAP's wide net has ensnared hundreds of thousands of immigrants, but their criminal status remains very much in doubt.

Legal Background: The 1996 Laws and Beyond

IIRIRA is an important starting point for understanding how millions of undocumented immigrants were reclassified as deportable and/or inadmissible through criminal law provisions newly built into the Immigration and Nationality Act. The law also curtailed immigrants' rights of due process on the basis that immigration control is a civil, or administrative, legal power not subject to robust challenge in the courts (Coleman 2007; 2012). However, IIRIRA was not the first law that criminalized immigrants; instead, it was the culmination of a series of legislative actions that started in the 1980s and continued throughout the early and mid-1990s (Inda 2013; Macias-Rojas 2016).

The Immigration Reform and Control Act of 1986 (IRCA) criminalized the hiring of undocumented workers and increased the resources of the then Immigration and Naturalization Service (INS) to patrol the border (Inda 2013). IRCA also contained a provision requiring the US Attorney General to deport noncitizens convicted of removable offenses as quickly as possible. This provision set in motion the practice of targeting immigrants convicted of crimes and expanded the mechanisms for policing immigrants. Later laws, such as the 1988 Anti-Drug Abuse Act and the 1990 Immigration Act, grew the linkages between crime and immigration. For example, the 1988 law created the crime of aggravated felony, which was intended to facilitate the deportation of drug kingpins under murder, drug trafficking, and arms trafficking charges. The 1990 law built on the 1988 law by further expanding the list of deportable offenses.

However, 1996 was arguably the most important year, legislatively, in terms of the criminalization of immigration. A number of important laws were passed that year dealing with crime and immigration. The two most important laws were the Antiterrorism and Effective Death Penalty Act, signed on April 24, 1996, and the Illegal Immigration

2 The Criminal Alien Program (CAP) is an Immigration and Customs Enforcement (ICE)-based umbrella program that includes several key initiatives aimed at arresting, detaining, and removing immigrants whom ICE prioritizes, and based on supporting enforcement through the use of biometric and biographic information in shared databases. For more information, see https://www.ice.gov/criminal-alien-program.

3 See Rosenblum and McCabe (2014) for more evidence of similar patterns since 2003.

Reform and Immigrant Responsibility Act, passed several months later. Together the laws significantly altered the definition of aggravated felony. The aggravated felony charge would undergo a significant expansion via the 1996 laws. By the close of that year, offenses that qualified as an "aggravated felony" would encompass a range of misdemeanors and minor offenses, crimes which are neither aggravated nor felonious — such as prostitution, undocumented entry after removal, drug addiction, shoplifting, failure to appear in court, filing a false tax return, and generally any crime warranting a sentence of one year or more. In addition, the laws restricted due process opportunities for certain classes of individuals in removal proceedings (e.g., exemption from various stays of deportation, as well as from applying for asylum) in an effort to speed up the deportation process. The 1996 laws also included provisions to enlist local law enforcement agencies in the enforcement of immigration law (Menjívar and Kanstroom 2014). The most important provision was the 287(g) program, which we examine below, in addition to the more recent Secure Communities program.[4]

On January 25th, 2017, Trump signed two immigration-related executive orders (EOs) titled "Border Security and Immigration Enforcement Improvements"[5] and "Enhancing Public Safety in the Interior of the United States."[6] The EOs are intended to escalate and intensify immigrant criminalization along the US-Mexico border and in the US interior. The "Border Security and Immigration Enforcement Improvements" EO reinstitutes and expands the 287(g) program, allowing local law enforcement agents in certain western and southwestern states to enforce immigration law, as outlined in IIRIRA, and named after §287(g) of the Immigration and Nationality Act, for which the program was named (DHS 2017a). It allows for sheriffs and police departments, as well as state-level policing agencies — to investigate immigration cases, make immigration-related arrests, and among other things, take custody of immigrants on the basis of both criminal and civil immigration violations. The EO also expands the use of expedited removals in the border region, calls for an additional 5,000 Border Patrol agents, mandates the detention of immigrants apprehended for unlawful entry, and prioritizes criminal prosecutions for immigration offenses committed at the border (DHS 2017a). Similarly, the "Enhancing Public Safety in the Interior of the United States" EO terminates the 2014 Priority Enforcement Program, which shielded approximately 87 percent of the unauthorized population from removal (Rosenblum 2015), restores the Secure Communities program, and authorizes the hiring of an additional 10,000 Immigration and Customs Enforcement (ICE) agents (DHS 2017b). Together, these EOs effectively criminalize all unauthorized immigrants present within the United States by deeming them priorities for removal while simultaneously expanding the immigration enforcement apparatus. Under the current presidential administration, the United States has essentially regressed to the early days of the Secure Communities program, which was characterized as having high levels of collateral damage and whereby

4 Secure Communities is a federal program established under the Obama administration to allow more communication between local authorities, the Federal Bureau of Investigation (FBI), and Immigration and Customs Enforcement (ICE) agencies. For more information about Secure Communities, see https://www.ice.gov/secure-communities.

5 Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, 82 Fed. Reg. 8793 (Jan. 25, 2017).

6 Enhancing Public Safety in the Interior of the United States, Exec. Order No. 13768, 82 Fed. Reg. 8799 (Jan. 25, 2017).

an unauthorized immigrant's chance encounter with a local law enforcement agency could result in criminalization and removal from the United States.

The EOs signed by Trump have generally been understood — especially in the media — as an about-face for US immigration policy and practice. However, although certainly the rhetoric around undocumented migration has been ramped up since President Trump's inauguration, many of the policies that the new administration has endorsed follow from the trajectory of criminalization sketched out above. As noted, the EOs scaled back some of the limited protections enacted in the last years of the Obama administration, and reemphasized the importance of using police as immigration agents, specifically through the 287(g) and Secure Communities programs. Moreover, the administration's plan to pressure sanctuary localities and states by withholding federal block grants can be traced, at least partly, to language in IIRIRA.

This brief overview of the legal and legislative history underpinning the criminalization of immigration suggests that the latter is not a state of legal exception or legal backwardness (Schuck 1984), but instead a systematic legal violence, that is, a strategy coded into law and which uses legal language that not only permits various forms of violence against immigrants, but one that also makes abuses possible and acceptable (Menjívar and Abrego 2012). As Menjívar and Abrego (ibid.) note, the convergence of immigration law and criminal law has resulted in negative consequences for immigrants and their family members by impacting their everyday lives as well as their long-term incorporation into US society, affecting in particular people's interactions with social institutions such as family, work, and schools. From this perspective, the criminalization of immigrants itself constitutes a form of legal violence "because it is embedded in legal practices, sanctioned, actively implemented through formal procedures, and legitimated — and consequently seen as 'normal' and natural because it 'is the law'" (ibid., 1386). The next sections move beyond an exclusively legal approach to explore the lived experiences of criminalization. These practices take place inside enforcement institutions (e.g., federal courtrooms, prisons, detention centers, etc.) and within social institutions such as the family, places of employment, and in dealings with bureaucracies, among others.

Data Sources

The empirical evidence guiding our analyses stem from several research projects. We draw extensively on our research on the everyday aspects and impacts of immigration enforcement in the US-Mexico border region (Martínez and Slack 2013; Martínez, Slack, and Heyman 2013; Slack et al. 2013; 2015) and in the US interior (Abrego 2008; 2011; Coleman and Stuesse 2016; Menjívar 2013; 2016; Menjívar and Abrego 2009; 2012; Stuesse and Coleman 2014). To examine the criminalization of immigrants near the US-Mexico border, we draw on data collected through the first two waves of the Migrant Border Crossing Study (MBCS) (N = 415; N = 1,109), which consist of post-deportation surveys of repatriated Mexican migrants in five cities along Mexico's northern border and in Mexico City administered between 2007 and 2012 (see Martínez, Slack, and Heyman 2013; Slack et al. 2013; 2015; Martínez et al. 2017). Qualitative research projects in Los Angeles, Phoenix, Raleigh-Durham, and Atlanta with Latino migrants of various legal statuses allow us to uncover the everyday consequences of immigration policies (see

Abrego n.d.; Menjívar and Abrego 2012). Findings from this body of work provide greater insight into how IIRIRA and other related legislation have resulted in the criminalization of immigrants beyond a legal, abstract context.

Criminalization along the US-Mexico Border

Every day thousands of people arrive in Mexican border cities, deported after long bus rides to these unfamiliar zones. Many have accumulated notable US experience, while others are relatively recent border crossers. According to data collected through the second wave of the Migrant Border Crossing Study, the typical repatriated Mexican migrant had spent a median of 6.5 years living and working in the United States, and nearly 27 percent of respondents had lived in the country for a decade or longer. Others have only just survived the desert crossing; around 15 percent were first-time border crossers who *did not* successfully reach their desired US destination on their most recent crossing attempt (see Slack et al. 2013; 2015). People apprehended within 100 kilometers of the border for the first time are generally formally removed or returned to Mexico relatively quickly, while those apprehended in the interior of the United States often spend weeks, months, or even years in detention facilities or prisons before being released to the streets of unfamiliar Mexican border cities. Criminalization, and the complex processes that lead to removal, manifest themselves in various ways. In the past, it was generally considered easy to live and work inside the United States once migrants successfully crossed the border, meaning that only those who were "misbehaving" (i.e., violating criminal law) were removed. Although this has changed with mass removal, the stigma associating "misbehavior" with deportation remains (see Albicker and Velasco 2016; Brotherton and Barrios 2011). When combined with the vulnerability to forms of violence such as kidnapping that many migrants experience upon deportation (Slack 2016), the fact that one-in-four migrants surveyed had important identifying documents taken away and not returned (Martínez, Slack, and Heyman 2013), as well as the difficulty of finding work in Mexico, it is not surprising that many decide to cross again. Only 23 percent of MBCS respondents indicated that they would never cross the border again. Similarly, there are also high rates of remigration from northern Central American countries. These migrants will face considerable physical dangers of navigating remote and treacherous terrain, as well as intensified efforts to criminalize and incarcerate them through programs such as Operation Streamline and other zero-tolerance policies aimed at prosecuting unauthorized border crossers.

Operation Streamline and Zero-Tolerance Policies

Each time deportees attempt to cross the border and are apprehended by US authorities, the punishment for unlawful entry attempts increases. The principal drivers of this multiplier effect are Operation Streamline as well as "fast-track" federal court proceedings that systematically criminalize recent border crossers by charging and convicting them of "illegal entry"[7] or "illegal reentry."[8] Currently three of the Border Patrol's nine sectors practice Operation Streamline — Tucson, Del Rio, and Laredo. Operation Streamline can best be

7 8 U.S.C. § 1325 (1994).
8 8 U.S.C. § 1326 (1994).

described as a federal program carried out in federal district courts that systematically charges and convicts for federal immigration crimes up to 70 recent border crossers *en masse* on a daily basis.

Due to recent decreases in unauthorized migration and Border Patrol apprehensions, the Yuma, El Paso, and Rio Grande Valley sectors have discontinued Operation Streamline (OIG 2015). Nevertheless, recent border crossers caught in these sectors can also be prosecuted in federal court through individual "fast-track" proceedings. Fast-track sentencing programs effectively "allow a federal prosecutor to offer a below-Guidelines sentence in exchange for a defendant's prompt guilty plea and waiver of certain pretrial and post-conviction rights" (Gorman 2010, 479). Although fast-track sentencing has likely reduced sentence lengths associated with criminal immigration cases, it has also allowed district courts to process more cases and secure more guilty pleas. This drastically increases the total number of "criminal aliens." Any future contact by these individuals with law enforcement will result in much longer sentences.

Typically, in both Operation Streamline and fast-track proceedings, people without criminal records or a history of formal removals are convicted of "illegal entry," given time served, and immediately deported to Mexico.[9] However, they do receive a misdemeanor immigration conviction, and should they be apprehended again upon trying to enter the United States, they risk being charged with "illegal reentry." Depending on prior convictions, penalties range from a fine and a three-month sentence to a maximum of 20 years in prison, although the latter is rarely, if ever, given.[10] Regardless of whether they were convicted of "illegal entry" or "illegal reentry," 15 percent of MBCS respondents processed through Operation Streamline stated that they would cross the border again within the next week following their most recent deportation, while 47 percent indicated that it was possible that they would cross again sometime in the future. In these cases, individuals must avoid encounters with US officials or risk subsequent incarceration.

Operation Streamline has drawn heavy criticism from immigrant rights activists and academics because it greatly contributes to immigration criminal convictions in federal courts. Prior to Operation Streamline, the vast majority of people apprehended on the US southern border were given a Voluntary Return, an administrative violation that carried no criminal charge. By expanding the use of criminal remedies, Operation Streamline has raised the stakes of apprehension. In 1992, only 1,753 individuals were convicted of federal criminal immigration offenses, by 2012, this number had increased thirteen-fold to 23,250 (Light, Lopez, and Gonzalez-Barrera 2014). In fiscal year 2011, immigration crimes were the most common federal crimes (29,717 cases), surpassing drug crimes for the first time (USSC 2016b). The consequences are severe and ongoing. Once convicted, subsequent interactions with law enforcement and the court system will almost certainly result in a prison sentence.

Moreover, the prevalence of other forms of removal, such as expedited removal which count as a formal removal but do not require review by a judge, as well as the generally confusing nature of immigration proceedings, further complicate people's understanding of how their removals might affect them in the future.

9 While there are parallels with other national origin groups, MBCS data only includes Mexican deportees.
10 Current sentencing guidelines for illegal reentry have recently been amended (USSC 2016a).

Furthermore, unauthorized migrants processed through Operation Streamline experience forms of *social* criminalization, especially those who had never been tried and convicted in a formal court setting. Because immigrants prosecuted through the program are typically held in short-term detention facilities or federal prisons, and are shackled at the hands, waist, and feet, many report being treated as serious, violent, or chronic offenders. Some even began to internalize these labels. For example, an older, more experienced migrant from Michoacán, Mexico, Benjamín, stated "I felt bad when it happened (the court proceeding) . . . that has never happened to me, I have never been chained up like that . . . now they treat you like an animal" (Martínez and Slack 2013, 11). Javier, a young man from Chiapas, Mexico, expressed a similar sentiment, "We all went in a big group in front of the judge . . . they put the chains on us really tight . . . the whole time there they made me feel like I killed someone" (ibid.). This dehumanizing experience feels especially grave for people convicted in a formal court setting, leading some to internalize the negative labels as "criminal alien." In the midst of broader social criminalization of immigrants, especially under President Trump's rhetoric and executive actions, the consequences for immigrants are likely to be dire.

Criminalization in Detention

Unauthorized migrants also experience criminalization when they are sent to long-term detention or prison. Many migrants convicted of federal immigration crimes express fear and insecurity while being incarcerated alongside other more serious offenders. For instance, Mercedes expressed concern about her time in detention by stating ". . . there is a lot of violence, drugs and weapons inside . . . people smoke weed there openly . . . someone even got stabbed right before I left" (Martínez and Slack 2013, 13). But the consequences of long-term detention extend much further (for instance, see Ryo 2016). Many are exposed for the first time to illicit social networks, including prison gangs and drug trafficking organizations. Octavio, a 19-year-old from Chiapas, Mexico, notes "[t]here are more Sureños (a Mexican/Mexican-American gang) in jail than any other group. They protect us because we are all 'paisanos' [countrymen]. You have to join with them and they make sure no one touches you" (Martínez and Slack 2013, 12-13). With social and economic pressures mounting to provide for one's family or to be reunited with loved ones, we found that some detainees explore opportunities offered through these new social networks (e.g., human smuggling or drug smuggling), which could lead to further criminalization and stigmatization (Martínez and Slack 2013).

Criminalization through Interior Enforcement

To reiterate, IIRIRA is best understood not as a watershed event with respect to the criminalization of immigration but rather as a significant ratcheting up of punitive aspects of US immigration law then already in place. However, the 1996 law did inaugurate new practices related to the criminalization of immigration.

Prior to IIRIRA, with the exception of the mid-1950s when more than a million Mexican nationals (and American citizens) were rounded up with assistance from non-federal authorities, immigration enforcement was understood as a strictly federal power operative

principally at the US-Mexico and US-Canada borders. Indeed, there was a widespread legal and practical consensus among government and legal officials that immigration enforcement was an exclusively federal authority. As a result, even immediately subsequent to the passage of IIRIRA, well over 90 percent of deportation cases originated with the Border Patrol in California, Arizona, New Mexico, and Texas (INS 1999, 209-10, Tables 59 and 60).

Written into IIRIRA, the 287(g) program emerged as a legally straightforward way to deputize state and local authorities to enforce immigration law (Valdez, Coleman, and Akbar 2017). Although initially very few localities expressed interest in 287(g), later the practice took shape in the form of "street" and "jail" programs; the former gives police the power to ask about immigration status during routine policing, whereas the latter's check for status was incorporated into the jail intake process.

Given the prominent place that the 287(g) program occupied in discussions of homeland security after 9/11, it is important to note that the program has had a relatively narrow reach. By 2010, the peak year for 287(g) operations, there were but 70 programs in effect across the country, and by 2012, the program had been scaled back to some 30 core agencies. This said, a very large number of individuals have been identified as deportable as a result of 287(g) — some 400,000 as of 2016 (ICE 2016). It is also important to stay focused on the larger policing landscape to see how 287(g) helped spawn arguably a much more significant role for state and local law enforcement in federal immigration enforcement efforts. The key program here is the Secure Communities program, inaugurated in 2008. Secure Communities is a "287(g) lite," which operates strictly as part of the jail intake process, but like 287(g), greatly increases the chances that people who encounter state and local law enforcement on an everyday basis will have their immigration status checked. Importantly, the reach of Secure Communities is much larger. By 2012, Secure Communities was extended nationwide to all 3,100 county sheriff's offices in the country, and by the time Secure Communities was shelved in 2014, the program had identified an astounding 2.4 million people as deportable (ICE 2015).

The link between 287(g) and the criminalization of immigration is not merely about state and local police helping to deport individuals arrested and convicted on serious criminal grounds. Rather, 287(g) criminalizes immigrants by leading to the deportation of individuals on a wide variety of misdemeanor as well as civil immigration grounds, and not on serious criminal grounds. The program also attaches additional consequences to police-civilian interactions for communities of color across the United States, with respect to their already routinized contact with both state and local authorities. The hyper-policing of communities of color is compounded by the fact that even when no criminal charges are brought, individuals can be detained for suspected immigration violations and even removed.

On the one hand, despite executive orders and memoranda directing authorities to focus only on serious felony offenders, both the 287(g) and Secure Communities programs have not focused narrowly on individuals arrested and convicted on serious criminal grounds. For instance, of the global number of individuals detained and deported under Secure Communities between 2009 and 2015, 33 percent (or 135,000 cases) concern so-called "level one" offenders — that is, cases involving serious felony crimes. The remainder of

convicted individuals — some 50 percent of all cases — fall into categories of individuals who were not supposed to get deported through the program, including "level two" offenders (for example, misdemeanor-level drug and property offenses with less than a year of jail time imposed or served) and "level three" offenders (for example, basic traffic offenses and various other minor infractions). Another 18 percent of deportees under Secure Communities are considered noncriminal. Indeed, together "level three" offenders and noncriminal cases constitute nearly half of all deportations processed under the program. The data on 287(g) — which is not readily available except through federal records requests — suggests a similar pattern, although more skewed towards non-serious and ultimately noncriminal cases. For example, published research on 287(g) shows that the program typically works by stopping suspected immigration violators on the road, while driving, for basic traffic offenses (Stuesse and Coleman 2014; Coleman and Kocher 2011; Coleman and Stuesse 2016; Coleman 2012).

A second aspect in which programs such as 287(g) and Secure Communities (which were later rolled into the Criminal Alien Program, or CAP) relate to the criminalization of immigration involves "social control" of immigration. By this term we mean the ways that the attachment of new immigration consequences to a pre-existing landscape of police-civilian contacts results in newly disproportionate risks for communities of color, such that undocumented immigrants face the threat of deportation as a result of basic noncriminal activities related to work and social reproduction (Coleman and Stuesse 2014; Coleman and Stuesse 2016; Stuesse and Coleman 2014). From this standpoint, criminalization is based on the active presumption that immigrant communities are criminal enclaves and as such somehow legitimate objects of disproportionate policing. Immigrants, therefore, run significant risks when they are in public due to the likelihood of a routine encounter with a police officer, which may result in an immigration query (Menjívar 2013). Criminalization also refers to the knock-on effects of this process, as undocumented communities are driven underground, out of fear that being public will increase the chances of being deported. In short, the context created through these programs heightens fear, insecurity, and unpredictability among people in vulnerable legal statuses. The following section outlines, in a series of vignettes, the struggles people face in different public and private contexts while living in the shadow of removal.

The Consequences of Criminalization in Immigrants' Lives Outside of the Home

Education

Criminalization is evident in the experiences of immigrants, their relatives, and communities, within the home and as they interact with central social institutions in their everyday lives. For young undocumented immigrants, the structural challenges that arise from criminalization powerfully shape their experiences with education and with the labor market. When they learn that their undocumented status will block them from opportunities for higher education, many young people struggle to stay motivated. Eighteen-year-old David, for example, had stopped attending school early in his junior year when he felt

constricted by the lack of options due to his undocumented status. Despite his mother's pleas to stay and finish high school, he got a job at a warehouse, moving packaged seafood eight hours per day, six days per week, making only $8 per hour. He hated his mind-numbing job but could not find motivation to pursue other goals.

Employment

As they enter the workplace, young undocumented immigrants struggle with the harsh realities of illegality that make them especially vulnerable. Sisters Flor and Fabiola, arrived in the United States from Oaxaca, Mexico at the ages of three and five, respectively. They excelled in school. When they were old enough to work, they wished to help their single mother, Fara, so they worked at the swapmeet where employers do not request social security numbers. Working conditions were harsh. They were paid $45 daily for 9- or 10-hour days. On most days, they got only one 15-minute break, which they had to forgo if customers happened to have questions about the merchandise at that time. Worst of all, their employer was verbally abusive. Under these working conditions, the sisters did not earn enough to notably improve the family's financial situation. Instead, they toiled for hours, during time that they would have preferred to be studying or better using their language and intellectual skills in other jobs.

Licenses and Dealing with Bureaucracies

Twenty-four-year-old Eva is Salvadoran and a college graduate. She describes the stress her undocumented father experiences when he drives:

> My dad has been stopped twice and both times they have taken his car. I know he has a lot of trauma because of that . . . . He just had an accident last month and he was in a really bad accident, like the car is just gone. When I got there, the first thing he told me was, "the police is going to come and I don't know what they are going to say." I was crying . . . you feel so powerless . . . You just had this huge accident. It could've been worse and the first thing he was thinking was, they are going to ask me for my license . . .

Eva, who was a Deferred Action for Childhood Arrival (DACA) recipient, had also driven without a license for years.[11] Although she received an official driver's license through DACA, she continued to act in ways that were permeated with fear she had learned:

> [D]riving, you learn a lot of things, like you see a cone up ahead like[, "H]ey, what's that? Let me turn here.["] You see a light up ahead and all these things that you automatically switch on when you are driving without a license and I still do it. Like this month, I was still doing it and [my partner] was like, "Hey, you have a license now. Relax." I would be like, "What's

11 Deferred Action for Childhood Arrivals (DACA) is a program that President Obama established in June 2012 through executive action. It grants a subset of 1.5 generation undocumented immigrants access to a work permit, state-issued identification, and makes them low priority for deportation. For more information about DACA, see https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca. At the time of this writing, President Trump announced the end of the DACA program.

> that cone over there? Do you see a retén [sobriety checkpoint]?" She's like, "You have a license." I'm like, "oh, yeah," but you still feel like, I shouldn't go through there. I'm going to turn here, because you have internalized it for so many years.

Similarly, there are numerous stories of people arriving late to school, work, and other important appointments because their journeys required them to deviate from direct routes to avoid checkpoints and police officers.

Internalized fear similarly applies to licenses to practice an occupation, which can have far reaching negative effects for a person who is denied such benefits. DACA recipients were especially vulnerable in states that did not recognize DACA as a legal status and thus refused to issue these recipients licenses. A young DACA recipient in Phoenix enrolled in an 18-month vocational program to become a respiratory technician in lieu of the medical career she had dreamed about. After her family had spent a considerable sum of money for her to attend a for-profit school to obtain her training, the Arizona licensing board informed her that she was ineligible because Arizona did not recognize her status as legal. In tears, she noted, "I have been left in debt and without a job. Now I have to go back to working at the restaurant [where she worked with her mother] even though I now have an education. All that effort for nothing."

Beyond fear, anxiety, and strategies to avoid situations that can risk detention,[12] temporary and uncertain statuses such as DACA or Temporary Protected Status (TPS) present multiple everyday life challenges for those who hold them (Abrego and Lakhani 2015; Menjívar 2011). For instance, while DACA and TPS holders have the benefit of a work permit and a stay of deportation provided they meet other requirements, including a clean criminal record, their immigration statuses are not always understood in bureaucracies. Bureaucrats and employers tend to be more used to the black and white classification of documented and undocumented, and are familiar with "green cards" but not with temporary statuses (Menjívar 2017). Thus, immigrants who live in temporary statuses often face blocked access to employment or to a service to which they rightfully have access because officials or employers do not understand their status. For instance, a Honduran TPS holder who fell into a coma in a Phoenix hospital was nearly deported, in comatose state, because the hospital personnel could not understand her status and assumed she was undocumented. No other healthcare facility would accept her as a patient either, due to her "financial and complicated immigration status" (Kiefer 2008). Her family had to hire an immigration lawyer to explain to hospital administrators that the woman was "documented" in the country and not deportable even when she could not produce a "green card."

Today's enforcement context overwhelmingly targets Latinos, and moreover conflates Latinos and undocumented immigrant status. As a result, even US-born Latinos may suffer negative consequences in the form of discriminatory treatment, denial of services, and infringement of their rights.

12 DACA recipients have protections from deportation if they are caught in a workplace raid, for instance, but with the recent change in administration in Washington, DC, it appears that the days are numbered for these protections.

The Consequences of Criminalization in Immigrants' Lives within the Family

Inequalities across Siblings with Different Statuses

Hector is a 23-year-old community college student and a worker at a community organization. His parents migrated from Mexico to Los Angeles leaving behind him and his brother, who were a baby and a toddler, respectively. When the parents got to the United States, they had one more child. It took the family nine years to gather the financial resources to reunite the family. Although they tried to avoid treating the children differently, the legal status distinctions became more evident as they got older. One summer, US-born Heidi had an opportunity to visit family in another state. Hector and his brother wanted to go on this trip, as well, but they were not allowed. They were confused about the unequal treatment:

> So my dad explained to us, "You guys are different. Even though you go to the same school and do the same thing, you guys are different. You cannot go to places that she can go. You can't do what she can do." And the way he explained it, he was really messed up in a way, but it was the most honest way to say it. Pretty much *nos dijo* [he said], "*Ella nació aquí y tú no naciste aquí. Tú no tienes los mismos derechos*." [She was born here and you were not. You don't have the same rights.] I perfectly understood, but it was messed up.

Hardship for US Citizen Children in Mixed-Status Families

Twenty-one-year-old Cesar is a US citizen by birth. Both of his parents and his older brother were undocumented throughout his childhood. At the time of the interview, Cesar's parents had both been able to legalize their status and his brother, Camilo, had obtained DACA. Reflecting on his experiences as a US citizen in this family, Cesar shares:

> I always lived with that same fear of everything, as if I were the target. I never felt immune to what happens to immigrants . . . because we are a close family . . . I never felt completely like a citizen until now, now that nothing and nobody can kick them out . . . As a child, I'd be in the car with my father and we'd see the police and I felt the same fear he felt. We'd be in the car and my father drove perfectly so that no one would stop him.

Even without verbal cues, parents' body language can communicate fear to their children. As evident in Cesar's reflections, undocumented status and the fear of deportation and family separation is felt palpably by all members of a family, even those who are not directly targeted by immigration laws.

While families may try to compensate for the fear and instability associated with their status, the consequences are pervasive and long-lasting. Twenty-year-old Nayeli who grew up with an undocumented father and a US citizen mother understood early on that her father was vulnerable and she must keep their secret. Reflecting on why this was difficult, she expressed, "It's hard for me to even admit that my father is undocumented. I've kept

it a secret for so long, and I feel like it's my secret and I don't want to tell people about it. It's the way I internalize it. We do it to protect my dad." She shared that she had difficulty telling even close friends, making it difficult to develop close relationships in other realms of her life.

Inability to Reunite with Family

A major negative consequence of the enforcement regime for immigrants today is family separation, which infringes on the fundamental human right to live with and have a family. Through detention and deportation, in conjunction with family reunification laws, immigrant families are fundamentally altered in composition and dynamics. Enforcement practices separate and restructure families by removing members already in the United States, creating single-parent households or leaving children without a parent or an adult without a spouse. At the same time, in a twist of irony, family reunification laws in the context of bars to readmission, contribute to maintaining families separated, leading to a reorganization of families, adjustment of expectations, and changes in roles and power dynamics. In the case of immigrants in temporary statuses, they are barred by law from petitioning for family members, which in practice contributes to institutionalizing family separations (Enchautegui and Menjívar 2015). Members of a mixed-status family in Phoenix have only witnessed their family in El Salvador change — births, marriages, deaths — through photos because in 16 years of TPS status they have been "stuck" in the United States and unable to take part in person of any of those moments that redefine their family life.

Discussion and Conclusion

We have outlined here only a few of the specific mechanisms of criminalization and their impacts on people's lives. Our analysis emphasizes that the census-like counts of "criminal aliens" obfuscate the active process of criminalization that underpins US immigration policy. Our work, therefore, makes visible the processes of lawmaking and enforcement practices that produce the notion of "criminal aliens." By connecting programs such as Operation Streamline that exponentially increase the number of people who fall into the "criminal" category, with interior enforcement programs such as 287(g), Secure Communities, and the Criminal Alien Program, it clearly demonstrates how people are located, labeled, and removed by agents of the state. These programs in turn have distinct impacts in terms of day-to-day mobility, as many people are unable to drive to and from work or school. Families become disposable units to the monolithic criminal label as people with tenuous legal status, such as DACA, must constantly negotiate their removal or the removal of a family member for an increasingly subjective list of mostly benign infractions.

At the time of authorship, President Trump's regime has quickly made good on his anti-immigrant campaign promises and there are important indications that the United States is entering a new phase of hypercriminalization (see Chishti and Bolter 2017). The executive orders of January 25, 2017 will largely alter the immigration enforcement landscape and increase immigrant criminalization. At the beginning of the Trump administration, arrests on civil immigration charges increased by 38 percent compared to the same time frame one

year earlier (Duara 2017). Furthermore, the 287(g) and Secure Communities programs, both shelved during the Obama administration, have been revived through the executive orders, which perversely make no mention of the tense legal debates over these programs as well as the Department of Justice lawsuits, and other civil rights lawsuits, brought against prominent 287(g) agencies in North Carolina and Arizona. In this rapidly changing and dynamic context, in which recent legal histories are getting quickly forgotten, we urge scholars to remain focused not just on the big picture of criminalization but, we think more importantly, on carefully tracing the mechanisms and programs used to locate, arrest, and prosecute immigrants under the umbrella of criminalization, as well as the direct impact criminalization has on people while in the United States and post-deportation in their countries of origin. This means understanding which policies have been accelerated through the same mechanisms discussed here, and which are new. This also entails a keen focus on the continuities and discontinuities of US immigration enforcement across multiple administrations, from Reagan through Obama, and in particular on a greater understanding of the role of the Obama administration both in eroding migrants' rights and providing new protections, sometimes both, simultaneously.

One example of this was the Priority Enforcement Program (PEP), which went into effect on July 1, 2015 to increase the number of people who would potentially receive relief from deportation. The new PEP redefined how the Department of Homeland Security (DHS) would allocate its detention and deportation resources. It allowed DHS supervisors and officers to exercise prosecutorial discretion to not remove certain people even if they fell within one of the "enforcement priority categories" (Rosenblum 2015, 1). Perhaps most important, the new changes in prosecutorial discretion made "it unlikely that unauthorized immigrants who would qualify for DACA or DAPA [Deferred Action for Parents of Americans] [would] be deported" (Rosenblum 2015, 3). Moreover, Rosenblum (ibid.) estimated that nearly 87 percent of the 11 million unauthorized immigrants who were residing in the United States when PEP was enacted would have fallen outside of the enforcement priorities. However, the enforcement priorities focused heavily on recent arrivals, particularly border crossers, amplifying the impact of border enforcement programs in the criminalization of immigrants.

The new executive actions effectively terminated PEP, returning us to the previous system whereupon all immigrants with questionable status are arrested, criminalized, and removed. Because PEP was relatively low profile, as opposed to DACA, there has been little outcry about its removal. These changes that are occurring behind the scenes and often with little fanfare must also garner the attention of scholars and policymakers. Perhaps most damaging of all has been the attacks on visa holders and legal permanent residents, with 100,000 visas revoked as a result of Trump's Muslim ban (Jouvenal, Weiner, and Marimow 2017). It is important to note that some of the more extreme criminalization elements of the EOs, such as the provision that would charge the parents of unaccompanied minors for human smuggling as well as the infamous "Muslim ban," have either been held up in court or have not been fully enacted at the time of writing. Regardless of whether or not the EOs stand up in court, they have a chilling effect, one that is similar to, but much greater than the social stigmas and stress described in this article.

The EOs could indirectly accomplish what H.R. 4437,[13] the so-called "Sensenbrenner Bill," attempted to do — to make criminals out of unauthorized immigrants. The Sensenbrenner Bill, which passed the US House of Representatives but failed in the US Senate, included several provisions that would have criminalized "violations of federal immigration law, including illegal presence" (NCSL 2017, paragraph 2). The bill also would have given local law enforcement agencies the authority to enforce federal immigration law (NCSL 2017). The implications of the Sensenbrenner Bill were quite straightforward and understood by immigrants, immigrant rights activists, and their allies. This resulted in mass mobilization and protests, culminating in the 2006 immigration marches throughout the country, ultimately leading to the bill's demise in the US Senate and serving as a catalyst for the DREAM movement.

Although Trump's EOs do not explicitly criminalize unauthorized presence, they do strip away the few protections unauthorized immigrants gained during the Obama administration, prioritize unauthorized immigrants for removal, and expand the immigration enforcement apparatus by re-instituting and expanding 287(g) and the Secure Communities programs as well as by increasing Border Patrol and ICE staffing.

We acknowledge that there are many steps in the path to becoming a "criminal alien" under the EOs, but this process is in fact playing out on a daily basis throughout the United States, albeit slowly. The slow pace and hidden nature of this criminalization process may partially explain why Trump's EOs did not mobilize protests to the same extent as the Sensenbrenner Bill. It is likely that the immediate and long-term implications of the EOs are difficult for the public to comprehend given their complexities, which may help explain why people have not mobilized to the same extent as they did a decade ago. In other words, the blurring of immigration law, criminal law, and deportation obfuscates the criminalization process inherent within the EOs. To us, this makes Trump's EOs much more ominous, daunting, and dangerous than the Sensenbrenner Bill.

Understanding the full scope of this impact will require a critical examination of all associations between immigration and crime, including terminology such as "crimmigration" that can serve to normalize the linkages between human mobility and crime. This will be paramount in the weeks, months, and years ahead.

REFERENCES

Abrego, Leisy J. 2008. "Legitimacy, Social Identity and the Mobilization of Law: The Effects of Assembly Bill 540 on Undocumented Students in California." *Law & Social Inquiry* 33(3):709-34. https://doi.org/10.1111/j.1747-4469.2008.00119.x.

———. 2011. "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First and 1.5 Generation Immigrants." *Law & Society Review* 45 (2): 337-69. https://doi.org/10.1111/j.1540-5893.2011.00435.x.

13 Border Protection, Anti-terrorism and Illegal Immigration Control Act of 2005, H.R. 4437, 109th Cong. (2005).

———. n.d. “Mobility and Independence: DACA’s Consequences for Latino Recipients and Their Families in Los Angeles.” Unpublished manuscript.

Abrego, Leisy J., and Sarah M. Lakhani. 2015. “Incomplete Inclusion: Legal Violence and Immigrants in Liminal Statuses.” *Law & Policy* 37(4): 265-93. https://doi.org/10.1111/lapo.12039.

Albicker, Sandra Luz, and Laura Velasco. 2016. “Deportation and Stigma on the Mexico-US Border: Trapped in Tijuana.” *Norteamérica, Revista Académica del CISAN-UNAM* 11(1): 99-129.

Brotherton, David, and Luis Barrios. 2011. *Banished to the Homeland: Dominican Deportees and Their Stories of Exile*. New York: Columbia University Press.

Cantor, Guillermo, Mark Noferi, and Daniel E. Martínez. 2015. *Enforcement Overdrive: A Comprehensive Assessment of ICE’s Criminal Alien Program*. Washington, DC: American Immigration Council.

Chacón, Jennifer M. 2012. “Overcriminalizing Immigration.” *The Journal of Criminal Law and Criminology* 102(3): 613-52.

Chishti, Muzaffar, and Jessica Bolter. 2017. “The Trump Administration at Six Months: A Sea Change in Immigration Enforcement.” Washington, DC: Migration Policy Institute.

Coleman, Mathew. 2007. “Immigration Geopolitics Beyond the Mexico-US Border.” *Antipode* 38(2): 54-76. https://doi.org/10.1111/j.1467-8330.2007.00506.x.

———. 2012. “The ‘Local’ Migration State: the Site-Specific Devolution of Immigration Enforcement in the U.S. South.” *Law & Policy* 34(2):159-90. https://doi.org/10.1111/j.1467-9930.2011.00358.x.

Coleman, Mathew, and Angela Stuesse. 2014. “Policing Borders, Policing Bodies: The Territorial and Biopolitical Roots of U.S. Immigration Control.” In *Placing the Border in Everyday Life*, edited by Reece Jones and Corey Johnson, 33-63. Farnham: Ashgate.

———. 2016. “The Disappearing State and the Quasi-Event of Immigration Control.” *Antipode* 48(3): 524-43. https://doi.org/10.1111/anti.12209.

Coleman, Mathew, and Austin Kocher. 2011. “Detention, deportation, devolution and immigrant incapacitation in the U.S., post 9/11.” *Geographical Journal* 177(3): 228-37. https://doi.org/10.1111/j.1475-4959.2011.00424.x.

DHS (US Department of Homeland Security). 2017a. “Fact Sheet: Executive Order: Border Security and Immigration Enforcement Improvements.” Washington, DC: DHS. https://www.dhs.gov/news/2017/02/21/fact-sheet-executive-order-bordersecurity-and-immigration-enforcement-improvements.

———. 2017b. “Fact Sheet: Enhancing Public Safety in the Interior of the United States.” Washington, DC: DHS. https://www.dhs.gov/news/2017/02/21/fact-sheet-enhancing-public-safety-interior-united-states.

Douglas, Karen M., and Rogelio Sáenz. 2013. "The Criminalization of Immigrants & the Immigration-Industrial Complex." *Daedalus* 142 (3):199-227. https://doi.org/10.1162/DAED_a_00228.

Duara, Nigel. 2017. "Arrests on civil immigration charges go up 38% in the first 100 days since Trump's executive order." *Los Angeles Times*, May 17. http://www.latimes.com/nation/la-na-ice-deport-trump-20170517-story.html.

Enchautegui, Maria E. and Cecilia Menjívar. 2015. "Paradoxes of Family Reunification Law: Family Separation and Reorganization under the Current Immigration Regime." *Law & Policy* 37(1-2): 32-60. https://doi.org/10.1111/lapo.12030.

Ewing, Walter, Daniel E. Martínez, and Rubén G. Rumbaut. 2015. *The Criminalization of Immigration in the United States*. Washington, DC: American Immigration Council.

García Hernández, Cesar Cuauhtemoc. 2015. *Crimmigration Law*. Chicago: American Bar Association.

Gorman, Thomas E. 2010. "Fast-Track Sentencing Disparity: Rereading Congressional Intent to Resolve the Circuit Split." *University of Chicago Law Review* 77(1): 479-519.

ICE (US Immigration and Customs Enforcement). 2015. "ICE's use of IDENT/IAFIS Interoperability, Monthly Statistics through February 28 2015." Washington, DC: ICE. https://www.ice.gov/sites/default/files/documents/FOIA/2015/sc_stats_YTD2015.pdf.

———. 2016. "Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act." Washington, DC: ICE. https://www.ice.gov/factsheets/287g.

Inda, Jonathan Xavier. 2013. "Subject to Deportation: IRCA, 'Criminal Aliens,' and the Policing of Immigration." *Migration Studies* 1(3): 292-310. https://doi.org/10.1093/migration/mns003.

INS (US Immigration and Naturalization Service). 1999. *1998 Yearbook of Immigration Statistics*. Washington, DC: INS.

Jouvenal, Justin, Rachel Weiner, and Ann E. Marimow. 2017. "Justice dept. lawyer says 100,000 visas revoked under travel ban; State Dept., says about 60,000." *Washington Post*, February 3. https://www.washingtonpost.com/local/public-safety/government-reveals-over-100000-visas-revoked-due-to-travel-ban/2017/02/03/7d529eec-ea2c-11e6-b82f-687d6e6a3e7c_story.html.

Kiefer, Michael. 2008. "Hospital Will Keep Honduran." *The Arizona Republic*, May 24 http://www.azcentral.com/news/articles/2008/05/24/20080524coma0524.html.

Light, Michael T., Mark Hugo Lopez, and Ana Gonzalez-Barrera, A. 2014. *The Rise of Federal Immigration Crimes*. Hispanic Trends Project, March. Washington, DC: Pew Research Center.

Lydgate, Joanna Jacobbi. 2010. "Assembly-line justice: A review of Operation Streamline." *California Law Review* 98(2): 481-544.

Macias-Rojas, Patrisia. 2016. *From Deportation to Prison: The Politics of Immigration Enforcement in Post-Civil Rights America.* New York: New York University Press.

Martínez, Daniel E., and Jeremy Slack. 2013. "What Part of 'Illegal' Don't You Understand? The Social Consequences of Criminalizing Unauthorized Mexican Migrants in the United States." *Social & Legal Studies* 22(4): 535-51. https://doi.org/10.1177/0964663913484638.

Martínez, Daniel E., Jeremy Slack, and Josiah Heyman. 2013. *Bordering on Criminal: The Routine Abuse of Migrants in the Removal System*. Washington, DC: American Immigration Council.

Martínez, Daniel E., Jeremy Slack, Kraig Beyerlein, Prescott Vandervoet, Kristin Klingman, Paola Molina, Shiras Manning, Melissa Burham, Kylie Walzak, Kristen Valencia, and Lorenzo Gamboa. 2017. "The Migrant Border Crossing Study: A Methodological Overview." *Population Studies* 71(2): 249-64. https://doi.org/10.1080/00324728.2017.1306093.

Meissner, Doris, Donald M. Kerwin, Muzaffar Chishti, and Claire Bergeron. 2013. *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. Washington, DC: Migration Policy Institute.

Menjívar, Cecilia. 2011. "The Power of the Law: Central Americans' Legality and Everyday Life in Phoenix, Arizona." *Latino Studies* 9(4): 377-95. https://doi.org/10.1057/lst.2011.43.

———. 2013. "Central American Immigrant Workers and Legal Violence in Phoenix, Arizona." *Latino Studies* 11(2): 228-52. https://doi.org/10.1057/lst.2013.6.

———. 2016. "Immigrant Criminalization in Law and the Media: Effects on Latino Immigrant Workers' Identities in Arizona." *American Behavioral Scientist* 60(5-6): 597-616. https://doi.org/10.1177/0002764216632836.

———. 2017. "Spaces of Legal Ambiguity: Central American Immigrants, 'Street-level Workers,' and Belonging." In *Within and Beyond Citizenship: Borders, Citizenship, and Belonging*, edited by Nando Sigona and Roberto Gonzales, 36-52. New York: Routledge.

Menjívar, Cecilia, and Leisy J. Abrego. 2012. "Legal Violence: Immigration Law and the Lives of Central American Immigrants." *American Journal of Sociology* 117(5): 1380-421. https://doi.org/10.1086/663575.

Menjívar, Cecilia, and Daniel Kanstroom, eds. 2014. *Constructing Immigrant "Illegality": Critiques, Experiences, and Responses*. New York: Cambridge University Press.

Morris, Helen. 1997. "Zero Tolerance: The Increasing Criminalization of Immigration Law." *Interpreter Releases* 74: 1317-26.

NCSL (National Conference of State Legislatures). 2017. "Border Protection, Antiterrorism and Illegal Immigration Control Act of 2005." Immigrant Policy Project. Washington, DC: NCSL. http://www.ncsl.org/research/immigration/summary-of-the-sensenbrenner-immigration-bill.aspx.

Negrón-Gonzales, Genevieve, Leisy J. Abrego, and Kathleen Coll. 2015. "Immigrant Latina/o Youth and Illegality: Challenging the Politics of Deservingness." *Association of Mexican American Educators Journal* 9(3): 7-10.

OIG (US Office of Inspector General). 2015. *Streamline: Measuring Its Effect on Illegal Border Crossing*. Washington, DC: OIG.

Rosenblum, Marc. 2015. *Understanding the Potential Impact of Executive Action on Immigration Enforcement*. Washington, DC: Migration Policy Institute.

Rosenblum, Marc, and Kristen McCabe. 2014. *Deportation and Discretion: Reviewing the Record and Options for Change*. Washington, DC: Migration Policy Institute.

Rumbaut, Rubén G. 2009. "Undocumented Immigration and Rates of Crime and Imprisonment: Popular Myths and Empirical Realities." In *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, edited by Anita Khashu, 119-39. Washington, DC: Police Foundation.

Ryo, Emily. "Detained: A Study of Immigration Bond Hearings." *Law & Society Review* 50(1): 117-53. https://doi.org/10.1111/lasr.12177.

Schuck, Peter. H. 1984. "The Transformation of Immigration Law." *Columbia Law Review* 84 (1):1-90. https://doi.org/10.2307/1122369.

Slack, Jeremy. 2016. "Captive Bodies: Migrant Kidnapping and Deportation in Mexico." *Area* 48(3): 271-77. https://doi.org/10.1111/area.12151.

Slack, Jeremy, Martínez, Daniel E., Scott Whiteford, and Emily Peiffer. 2013. *In the Shadow of the Wall: Family Separation, Immigration Enforcement and Security*. Tucson, AZ: University of Arizona.

———. 2015. "In Harm's Way: Family Separation, Immigration Enforcement Programs and Security on the US-Mexico Border." *Journal on Migration and Human Security* 3(2): 109-28. https://doi.org/10.14240/jmhs.v3i2.46.

Solbakken, Lisa C. 1997. "The Anti-Terrorism and Effective Death Penalty Act: Anti-Immigration Legislation Veiled in an Anti-Terrorism Pretext." *Brooklyn Law Review* 63: 1381-410.

Stuesse, Angela, and Mathew Coleman. 2014. "Automobility, Immobility, Altermobility: Surviving and Resisting the Intensification of Immigrant Policing." *City & Society* 26(1): 51-72. https://doi.org/10.1111/ciso.12034.

Stumpf, Juliet. 2006. "The Crimmigration Crisis: Immigrants, Crime and Sovereign Power." *American University Law Review* 56(2): 367-419.

USSC (US Sentencing Commission). 2016a. "Amendments to the Sentencing Guidelines." Washington, DC: USSC.

———. 2016b. *Overview of Federal Criminal Cases: Fiscal Year 2015*. Washington, DC: USSC.

Valdez, Inés, Mathew Coleman, and Amna Akbar. 2017. "Missing in Action: Practice, Paralegality, and the Nature of Immigration Enforcement." *Citizenship Studies* 21(5): 547-69. https://doi.org/10.1080/13621025.2016.1277980.

Waslin, Michele. 2010. "Immigration Enforcement by State and Local Police: The Impact of the Enforcers and Their Communities." In *Taking Local Control: Immigration Policy Activism in U.S. Cities and States*, edited by Monica W. Varsanyi, 97-114. Stanford, CA: Stanford University Press.