

AMADA ARMENTA

**PROTECT,
SERVE,**

AND

DEPORT

THE RISE OF POLICING AS IMMIGRATION ENFORCEMENT

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Protect, Serve, and Deport

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The Rise of Policing as Immigration Enforcement

Amada Armenta



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Introduction

Juan moved to Smyrna, a small town twenty-five miles outside Nashville, Tennessee, directly from Guatemala in 2005. He drove himself to work every day at a factory that prepared bagged salads. However, because Juan was in the country without permission, he was ineligible for a Tennessee driver's license. This meant that every time Juan got behind the wheel, he was breaking the law.

Within five years of moving to Smyrna, Juan had been stopped by local police three times. The first two stops, which occurred in 2006 and 2007, were virtually identical. Both times officers stopped Juan for speeding and arrested him for driving without a license. The first time Juan was arrested, he was scared. He had not been in the United States long and could not communicate with the patrol officer or jail staff. Moreover, he had never been handcuffed, put in the back of a patrol car, and placed in a jail cell. He was not a criminal. However, Juan was in and out of custody the same day. He paid a fine (\$250), went to community service, and resolved the offense. The same thing happened in 2007. This time, Juan was not scared. He describes his second arrest as "nothing." Again, Juan bailed out, paid the fines, and resolved the offenses.

Thus, when Juan was stopped by local police a third time in 2009, he was not particularly alarmed. He had done this before; he thought he knew what was going to happen: he would bail out, pay fines, and go to community service. However, rather than let Juan post bond, the county detained him until his court date. Juan spent three nights in jail. In court, a judge convicted him of a driving offense, sentencing him to time served. Instead of releasing Juan from custody, however, jail officials held Juan on an immigration detainer.

An immigration detainer, also known as an “immigration hold” or an “ICE hold,” is a tool that the federal government uses to take custody of noncitizens in jails and prisons. Federal officials issue immigration detainers when they learn that a correctional facility has custody of someone who may be deportable. A detainer allows correctional facilities to hold inmates for up to forty-eight hours past the time when they are eligible for release, so that Immigration and Customs Enforcement (ICE) has the option to assume custody. While correctional facilities are not required to hold inmates for ICE, many agencies do so out of professional courtesy.

ICE did not arrive for Juan within forty-eight hours. Instead, two days turned into two weeks, which turned into two months. By the time Juan spoke to an ICE agent, he had been in county custody for 135 days.

Juan recalls that when an ICE agent did finally pick him up to process him for removal, the agent was confused:

They asked what I had done—had I killed or raped or something. Why had I been in jail all that time? I told them it was for not having a license. They didn’t believe me. They said they wouldn’t keep me in jail for all that time just for not having a license, but then they called the jail, and the jail said they didn’t know anything. Like, they wiped their hands of it. They kept saying that they didn’t know, they didn’t know. And the ICE guy said it wasn’t right, that they were going to try to help me because what they did to me was wrong, they were going to deport me, but then they decided to let me go home.

Detaining someone without probable cause is a violation of the Fourth Amendment. Thus Juan’s prolonged and warrantless detention in the Tennessee county jail was unconstitutional.¹ With the help of an immigration lawyer, Juan settled a lawsuit against the Rutherford County Sheriff’s Office for illegally detaining him. ICE declined to deport him, and when I spoke to Juan in 2010 he was waiting for an employment authorization document that would give him permission to work. He looked forward to getting a driver’s license.

I share Juan’s story because it demonstrates the connections between police, jails, and the immigration enforcement system. Between 2008 and 2015, over 2.6 million people were deported from the United States; according to ICE, over half were “convicted criminals.”² With a misdemeanor conviction for driving without a license, Juan is also a “convicted criminal.” However, state laws and police practices are central to producing Juan’s “criminality.”

Between 2006 and 2009, local police stopped Juan three times on his way home from work and arrested him each time. To Juan, driving without a license was not a crime; it was a necessity. As I will explain in chapter 2, driver’s license eligibility requirements in Tennessee have changed several times during the last two decades. By the time Juan moved to Tennessee, state law precluded him from getting

a driver's license. Tennessee legislators made Juan a lawbreaker by making it impossible for residents like him to legally drive. Police further contributed to Juan's criminality by arresting him for violating laws with which he could not comply. Thus a traffic stop set into motion a series of events that almost resulted in Juan's deportation, even though local police do not formally participate in immigration enforcement.

For unauthorized migrants, there is no such thing as a "minor" arrest. Arrests can trigger immigration status checks because removing "criminal aliens" is a central priority of US immigration enforcement. ICE's strategy involves using the criminal justice system, particularly jails, as places to locate deportable immigrants. This means that local police "choose" whom to expose to immigration screening and immigration detainers through their discretionary arrest decisions.³ Therefore, examining the laws and policies that affect police practices is key to understanding how contemporary immigration enforcement works. What are law enforcement policies and practices with respect to suspected undocumented immigrants? How do bureaucratic priorities and local politics influence law enforcement agencies? How do officers understand and respond to (suspected) unauthorized immigrants' mundane legal infractions?

These are the questions I sought to answer when I moved to Nashville, Tennessee, to unpack the role of local law enforcement agencies in immigration enforcement. When I moved to Nashville, the Davidson County Sheriff's Office (DCSO) had recently acquired immigration enforcement authority through a program called 287(g). Before the 287(g) program, the Davidson County Jail had relied on ICE to request immigration detainers for suspected removable immigrants. Under this model, ICE requested an average of ten to fifteen detainers per month. After the jail began operating the 287(g) program, jail employees—newly trained as immigration officers—identified removable immigrants themselves, issued detainers, and held arrestees until ICE assumed custody. During the 287(g) program's five-year tenure in Davidson County, the sheriff's office identified over ten thousand immigrants for removal, most of them Mexican or Central American men arrested for minor violations like driving offenses.

This book is the story of local immigration enforcement under Nashville's 287(g) program. To understand how immigration enforcement operates on the ground, I spent almost two years in Nashville, sitting in on meetings, poring through news reports, interviewing law enforcement administrators, and even riding with police officers as they patrolled immigrant neighborhoods. Specifically, my findings show that police traffic stops played a critical role in channeling Mexican and Central American immigrants into the jail, where newly deputized officials could identify and process them for removal. These traffic stops were part of an institutional effort to "be proactive" by initiating police contact with civilians through the mass deployment of vehicle stops.

This book explains how the convergence of local politics, state laws, institutional policies, and law enforcement practices criminalizes unauthorized immigrants and deposits them into an expanding federal deportation system. For example, Tennessee state laws make unauthorized immigrants ineligible for state-issued driver's licenses, thereby criminalizing immigrants' everyday practices. The police department's dependence on investigative vehicle stops ensures that police will encounter unauthorized immigrants who are driving outside the law. Faced with this criminal violation, officers respond with punitive sanctions through either citation or arrest. The officer's decision to cite generates fees for the city, as residents who are cited must pay fines. The officer's decision to arrest ensures that immigrants are screened for immigration violations because of the county jail's participation in the 287(g) program. While the confluence of these laws, policies, and practices appears to be race-neutral, it conveys powerful messages about race, citizenship, and belonging and reinforces Latinos' subordinate status in the racial hierarchy.

PUNISHING LATINOS THROUGH "ILLEGALITY" AND CRIMINALIZATION

The American obsession with immigrant "illegality" is a relatively recent phenomenon. The term *illegal* rose to prominence in the 1980s and 1990s, when it became the default term for describing immigrants who lived in the United States without authorization.⁴ Since then, social scientists have used a variety of terms to describe the legal circumstances of immigrants who reside in countries without permission, including *undocumented*, *irregular*, *extralegal*, *clandestine*, *liminal*, and *unauthorized*. In this book, I will use the terms *undocumented* and *unauthorized* interchangeably to describe foreign-born residents who are "out of status," or who lack legal permission to live in the country. At its core, "illegality" is a *social* and *legal* construction, a function of laws that dictate which migrants are eligible for legal admission, residence, and regularization.⁵

As "illegal" immigration has become an enduring fact of contemporary American society, public officials and the media have constructed it as a national political crisis that can be solved only through tougher enforcement and more restrictive immigration laws. To that end, the United States has devoted billions of dollars to border enforcement by drastically increasing the number of agents stationed at the border and by adopting new technology and equipment to stop unauthorized entries.⁶ Sociologist Douglas Massey argues that the "rising tide of illegality" among Latinos in the United States stems directly from draconian enforcement strategies.⁷ That is, as the United States drastically expanded its border enforcement efforts, unauthorized migrants opted to stay in the United States, unwilling to go home and face the trials of a future US trip.⁸ As new migrants arrived but few returned to their countries of origin, the unauthorized immigrant

population in the United States grew. Today, over 60 percent of unauthorized residents have lived in the United States for over ten years; immigration law has essentially trapped them in place, with few options to regularize their status.⁹

There are roughly eleven million unauthorized men, women, and children residing in the United States.¹⁰ While they hail from all over the world, nearly 80 percent of them are Latino, hailing from Mexico, Central America, South America, or Spanish-speaking Caribbean countries.¹¹ While not all Latinos are immigrants, and not all Latino immigrants are unauthorized, more Latino residents in the United States are out of status today than at any other time over the last four decades.¹² Today, the majority of Latinos in the United States are of Mexican and Central American origin, the national-origin groups with the highest proportions of undocumented residents.¹³ Moreover, among foreign-born Mexican and Central Americans residing in the United States, over half are undocumented.¹⁴

The growth of the Latino population, and the growing numbers of Latinos who are undocumented, have been accompanied by an intense anti-immigrant rhetoric that often focuses on immigrants' presumed criminality.¹⁵ For example, during his presidential campaign, Donald Trump referred to Mexican immigrants in the United States as "rapists," "criminals," and "bad hombres." This rhetoric is not new; as I will explain in the next chapter, linking immigrants to crime is an American tradition.¹⁶ Yet though many people perceive immigrants as *inherently* delinquent, decades of research conclude that immigrants are *less* likely to commit crimes than the native born.¹⁷ For example, an examination of 2010 Census data reveals that young men born in Mexico, El Salvador, and Guatemala have significantly lower incarceration rates than similarly situated native-born men.¹⁸ Moreover, scholars argue that immigrant populations *decrease* crime because crime rates tend to fall in places with expanding immigrant populations, including those who are undocumented.¹⁹

Some may object to this characterization, arguing that all unauthorized immigrants are "criminals" whose very presence in the country makes them delinquent "lawbreakers." However, like "illegality," immigrant criminality is socially and legally produced through law and discourse.²⁰ Unlawful presence in the United States is a civil violation, not a criminal offense. Moreover, a staggering number of people break laws in the United States. In a hurry, people park their cars in "no parking" zones. They dash across the street outside the designated crosswalk. They choose not to wear seat belts. They drink while underage, they take drugs, and they get in fights. Yet American society would never declare that committing these offenses—illegally driving, parking, walking, drinking, or fighting—transforms the offender into an entirely illegal person. Even people who have been convicted of the most egregious violations imaginable are not described as "illegal" just for existing. This is true for all offenses except residing in the country without the legal right to stay.

Over the last several decades, US immigration law has taken a decidedly punitive turn, blurring the features of crime control and immigration control.²¹ Changes include the creation of new federal immigration crimes, severe immigration consequences for criminal convictions, and new options for local police and jails to participate in immigration enforcement.²² These developments have expanded the criminalization of immigrant communities by elevating crimes that were once considered misdemeanors to aggravated felonies, or recasting formerly civil immigration violations to felony immigration offenses. As a result, immigration violations currently send more people to federal prison than drug offenses do.²³ Moreover, civil immigration offenses result in arrest, prolonged incarceration, and banishment from the country.

To some, the presence of unauthorized immigrants in the United States is proof of the “failure” of American immigration policy, or the “gap” between the nation’s restrictive immigration policies and their outcomes.²⁴ However, an alternate view suggests that immigration laws are designed, not to physically expel undocumented residents, but to assign them a subordinate and marginalized status.²⁵ In this regard, the negative effects of “illegality” stem not only from physical expulsion but from enduring daily life as an undocumented resident.²⁶ Discussing the immigration system in Spain, Kitty Calavita argues that Spanish immigration laws inflict economic punishment on unauthorized immigrants by relegating them to the informal economy.²⁷ Immigration laws are not the only laws that produce unauthorized immigrants’ marginality. Federal, state, and local laws that target immigrants’ economic and physical mobility also remake immigrants into “criminal” subjects.²⁸ Sociologists Cecilia Menjivar and Leisy Abrego use the concept of “legal violence” to capture the “normalized but cumulatively injurious effects” of these laws on immigrants’ daily lives.²⁹ In her seminal article, Juliet Stumpf describes the convergence of immigration and criminal law as “cimmigration,” arguing that this new mode of social control is designed to exclude and punish noncitizens, casting them as outsiders in the nation’s imagined community.³⁰

The law shapes legal status categories and attaches consequences to them, creating boundaries around citizenship and membership. These boundaries are highly racialized, since “being considered an unproblematic part of the imagined nation” is highly dependent on one’s country of origin.³¹ Thus some social scientists describe immigration enforcement as a “racial project,” a set of state practices and structures that create ideas about racial difference.³² Work in this tradition emphasizes the mutual constitution of race and the law; that is, ideas about race shape anti-immigrant legislation, and laws produce racial inequality, foster racial stereotypes, and imbue legal categories with racial meanings.³³ For example, Douglas Massey and Karen Pren argue that the demonization of Latino immigrants expanded the immigration enforcement regime and created a new Latino

underclass.³⁴ Tanya Golash-Boza and Pierrette Hondagneu-Sotelo call the modern immigration enforcement regime a gendered racial removal program, arguing that changes in federal immigration law and administrative enforcement priorities target working-class Latino men.³⁵ The sociologist Jamie Longazel describes the criminalization of Latinos in the United States as a “subordinating myth,” a fiction that is used to racialize immigrants and control them through expanded enforcement efforts.³⁶ As a result, the terms *Latino*, *immigrant*, and *undocumented immigrant* are often treated as interchangeable social categories.³⁷ In the popular imaginary, to be *Mexican* or *Latino* is to be “illegal.”³⁸

IMMIGRATION ENFORCEMENT FROM THE BOTTOM

Restrictive immigration laws cannot regulate immigration without the bureaucratic capacity to enforce and administer them. In this study, I turn my attention to what the geographer Mathew Coleman calls the “local migration state” to examine how immigration control unfolds on the ground.³⁹ Other scholars have described this approach as studying immigration enforcement “from the bottom” or “from below.”⁴⁰ Indeed, research that goes on “inside” the state suggests that laws are implemented through the work of bureaucrats across numerous institutions, operating with competing bureaucratic mandates and levels of autonomy.⁴¹ These studies make the state legible by illustrating how frontline workers regulate non-citizens, often while facing bureaucratic and public constraints.⁴² This approach emphasizes that immigration control does not unfold identically throughout a nation-state. While there is only one set of federal immigration laws in the United States, varied state and local responses to immigrant communities ensure that, in practice, immigration enforcement varies across localities.⁴³ The multilayered structure of American governance creates openings for local actors to transform how immigration controls operates on the ground, creating a “multijurisdictional patchwork of enforcement policies and practices.”⁴⁴

Examining immigration enforcement as a set of on-the-ground practices contributes to a broader tradition in socio-legal research that considers both the law “on the books” and the law “in action.”⁴⁵ This approach lays bare the dilemmas that emerge as a result of unauthorized immigrants’ formal exclusion under the law and their partial incorporation as members of the polity. For example, in a study of deportation officers in the United States and Germany, Antje Ellermann found significant within-country variation in the capacity of bureaucrats to deport removable immigrants.⁴⁶ All deportation officers tried to fulfill their legislative mandates, but officers could do so effectively only when they were insulated from political pressure for nonimplementation. This political pressure emerged when officers sought to deport “deserving” immigrants who were considered legitimate and long-standing members of their communities.⁴⁷

Indeed, localities can also undermine the federal government's immigration enforcement efforts by declaring themselves "sanctuary cities"—cities and towns that refuse to provide information, personnel, or facilities to detain unauthorized immigrants on the federal government's behalf.⁴⁸ On the opposite end of the spectrum, some localities have chosen to amplify the federal government's enforcement efforts by allowing local law enforcement agencies to serve as "force multipliers" that help bring suspected unauthorized immigrants to the attention of the immigration bureaucracy. In this emerging landscape, local law enforcement agencies play a key role in immigration control because their policies and practices mediate immigration enforcement outcomes.⁴⁹ For example, police enforcement of minor crimes related to housing, public space, and antisolicitation ordinances has the indirect but intended effects of immigration policing "by proxy."⁵⁰ A number of studies reveal that police vehicle stops and checkpoints play a crucial role in depositing unauthorized immigrants into the deportation system.⁵¹

The strategic move toward interior immigration enforcement has generated new institutions, actors, and technologies dedicated to policing immigrants. Because of ICE's expansive reach into jails, arrests that once might have resulted in a short sentence and release from custody now lead to deportation. As immigrants' first point of contact with the criminal justice system, local police figure prominently in unauthorized immigrants' potential exclusion.

This book extends the literature on immigration control by examining the role of state law and local law enforcement agencies in producing immigrant criminality. It contributes to the project of "bringing the state back in" to immigration research by focusing on local law enforcement agencies that punish "illegality" through their daily practices. As I show in subsequent chapters, many of these practices are deployed, not in the name of immigration enforcement, but in the name of a color-blind "law and order" rhetoric that local police take for granted. Indeed, common police activities like traffic stops, citations, and arrests discipline Latino immigrants and mark them as criminal subjects. This, in turn, serves as justification for an immigration enforcement regime that focuses on "criminal aliens."

BRINGING IMMIGRATION INTO THE STUDY OF POLICING

Local law enforcement agencies become involved in immigration control in a number of ways: through formal participation in federal immigration enforcement programs, through state and local laws that require local agencies to police immigration, and through the day-to-day enforcement of criminal violations that are often associated with immigrant "illegality."

Scholars interested in understanding the relationship between Latino immigrants and the police note that there is a paucity of research on this subject.⁵²

Qualitative studies of Latino immigrants' experiences with police describe many barriers to effective relationships. For example, in their examination of Latino immigrants' perceptions of the police in Phoenix, Arizona, sociologists Cecilia Menjivar and Cynthia Bejarano find that many immigrants avoid contact with the criminal justice system.⁵³ Immigrants are hesitant to interact with law enforcement because of experiences with corrupt police in their countries of origin and reports from friends and family about negative experiences with police and immigration officials in the United States. Respondents also describe language as an obstacle, expressing doubt about their ability to communicate with officers.

More recent studies argue that the intensification of interior immigration enforcement and the devolution of immigration enforcement authority to state and local agencies have only increased Latino immigrants' fear and distrust of law enforcement.⁵⁴ Although most local police agencies do not technically enforce federal immigration laws, many engage in what scholar Monica Varsanyi calls "immigration policing by proxy" or immigration policing "through the backdoor."⁵⁵ That is, agencies target and arrest undocumented immigrants for violating state and local laws. For example, in Los Angeles, police and health department inspectors surveil, cite, and arrest undocumented fruit vendors because informal vending is illegal.⁵⁶ Similarly, immigrant day laborers risk arrest because of a variety of laws that outlaw their presence in public spaces, such as ordinances against solicitation, loitering, or trespass.⁵⁷ Unauthorized immigrants' ineligibility for state-issued identification cards and driver's licenses also puts them at risk of arrest. This restriction turns the otherwise mundane act of driving into a criminal and arrestable offense and has increased allegations of racial profiling.⁵⁸

Latinos' frustration with their encounters with law enforcement, however, presents only one side of the story. Policing Latino immigrants also poses a challenge for police departments. The most extensive research on police behavior toward immigrants relies on mail-in surveys of police administrators, including a national survey of police chiefs and sheriffs and a survey of police chiefs in California.⁵⁹ This research indicates that most police departments lack instructions from city government officials regarding how their agencies should interact with immigrant communities and that most agencies have no official immigration policy.⁶⁰ In a study of police in California suburbs and towns with relatively new immigrant populations, Paul G. Lewis and S. Karthick Ramakrishnan found that police organizations adapted to the presence of immigrant populations by developing new practices and procedures.⁶¹ In fact, they found that police were more responsive than other branches of city government in providing language support for local immigrant communities.⁶² A different national-level survey asked police chiefs and sheriffs to report how patrol officers might respond to suspected unauthorized immigrants during traffic stops or after arrests for minor or serious violations.

Researchers found greater variation in police administrator's expectations of officer behavior in agencies with no official immigration policies.⁶³

While these studies are tremendously important for understanding the range of official department policies with respect to immigrants, and how police might respond to particular situations, they also demonstrate the importance of grounded ethnographic observations of police officers. Surveys of police administrators reveal what police leaders *think* officers will do, but they cannot fully capture the complexities of on-the-ground police work. Moreover, since most police and immigrant interactions occur in the absence of an official department policy, street-level officers make immigration-related decisions on an ad hoc basis.⁶⁴ In a qualitative study of patrol officers in three cities in the Midwest, for example, officers described immigration fears, language barriers, and Latinos' general distrust of the police as barriers to achieving better relationships with Latino immigrants.⁶⁵ Officers also described their own traffic enforcement activities as a barrier to community relations, since many of Latinos' interactions with the police were involuntary.

Regardless of how sensitive police bureaucracies are to serving the needs of their diverse constituents, the police bureaucracy's regulatory mission is often at odds with its orientation toward public service.⁶⁶ The integration of the criminal justice system with the immigration enforcement system has additionally increased the stakes of contact with criminal justice institutions for immigrant residents. Arrests are especially risky for those who are deportable because state and local jails are the primary sites through which immigration authorities identify, detain, and remove noncitizens from the United States.⁶⁷ Consequently, local police figure prominently in unauthorized immigrants' potential exclusion. They are on the front lines of immigration enforcement, whether they want to be or not.

METHODS AND CASE SELECTION

The fieldwork for this study took place in Nashville, Tennessee. Nashville is located in the southeastern United States, in the north central part of Tennessee. In the late 1990s, Middle Tennessee boomed with construction and service jobs, and Latino workers eagerly filled these positions.⁶⁸ Latinos flocked to the region's employment opportunities and its reasonable cost of living. Tennessee's slower pace, less densely populated neighborhoods, and southern landscapes appealed to Latino immigrants arriving from the more traditional gateways like Los Angeles and Houston. Nashville-Davidson County received more Latino immigrants than any other city or county in the state.⁶⁹ While the population of Nashville's Latino residents was negligible in 1990, they made up almost 5 percent of Nashville's population in 2000 and almost 10 percent in 2010.⁷⁰

Most Latino immigrants continue to reside in traditional immigrant gateway cities such as New York, Los Angeles, and Miami, but in the 1990s Latino residents began moving to urban, suburban, and rural areas across the US South and Midwest.⁷¹ The 1990s saw an explosion of Latino immigrants in “new destinations,” ranging from sprawling metropolitan areas like Atlanta, to industrial towns like Dalton, Georgia, to small rural areas like Tarboro, North Carolina. Newcomers who arrived in these cities and towns were different from their counterparts in traditional gateway cities; they were, on average, more recently arrived, and a higher proportion were unauthorized compared to those in more traditional destinations.⁷²

As has been documented in a variety of studies of immigrant integration in the US South, the local context of reception that Latino immigrants experienced in “new destinations” was initially positive, as immigrants provided labor to important employment sectors.⁷³ However, as temporary immigrant workers gave way to immigrant families and communities, Latino newcomers changed the fabric of southern neighborhoods, workplaces, and schools.⁷⁴ As they settled within cities and towns previously untouched by immigration, immigration enforcement and border security emerged as central political concerns in many southern cities and towns.⁷⁵ In the absence of federal immigration reform, some local governments entered the policy vacuum by adopting their own enforcement measures aimed at punishing undocumented immigrant residents by restricting their ability to drive, work, receive health care, and rent apartments.⁷⁶

Protect, Serve, and Deport examines local immigration enforcement in Nashville, with a particular focus on local-level policies and practices. I chose to do this work in Nashville (Davidson County) because southern cities have been important sites for federal initiatives that devolve immigration enforcement to local law enforcement agencies.⁷⁷ The DCSO, for example, was an early adopter of the 287(g) program, enabling designated county employees to investigate arrestees for immigration status violations and process them for removal. The 287(g) operated between 2007 and 2012 and was then phased out and replaced with a federal immigration enforcement initiative called Secure Communities.

The bulk of the data for this book comes from almost two years of fieldwork in Nashville, conducted between January of 2009 and August of 2010, and during short follow-up trips in 2011, 2012, and 2013. I conducted ethnographic observations at Latino community events sponsored or attended by law enforcement. These included events hosted by the Mexican consulate, community health fairs, community policing fairs, cultural festivals, and community policing meetings.

I also conducted over 120 hours of police ride-alongs with officers in Nashville’s South Precinct, where the majority of Latino residents in Nashville have settled. Ride-alongs began in the precinct roll call room, where officers received instructions about how to direct their enforcement priorities before they went on patrol.

Ride-alongs ended when officers returned their cars at the end of the shift. I rode with one officer at a time but interacted with numerous officers during each shift as they participated in roll call, answered calls for service, and took meal breaks. I used these opportunities to conduct field interviews with officers about their experiences. Because of the nature of police-civilian encounters, I could not conduct field interviews with city residents during ride-alongs. As a result, like officers, I relied on markers such as name, phenotype, language, accent, and identification cards to infer whether residents were Latino. While this does not accurately reflect the diversity of Latinos in Nashville, it does reflect local understanding of Latinos as a homogeneous group. After each ride-along, which spanned between six and eleven hours, I recorded my observations as field notes.

While in Nashville, I conducted forty-seven in-depth interviews with law enforcement personnel, city officials, employees in immigrant advocacy organizations, and Latino immigrants in Nashville. Interviews with police administrators addressed the department's policing strategies, bureaucratic priorities, and policies and practices with respect to driver's license violations. Interviews with sheriff's deputies addressed 287(g) processing and asked deputies to reflect on their experiences of participating in the program. Interviews with immigrants and immigrant rights' advocates provided insights about the community's perceptions of law enforcement and immigration enforcement in Nashville. Eight of the people I interviewed were also members of the 287(g) Sheriff's Advisory Council. The council met quarterly and consisted of law enforcement officials from the police and sheriff's office, city officials and attorneys, and representatives from immigrant advocacy organizations. I asked each respondent to discuss his or her history on the advisory council, experiences at meetings, and details about the 287(g) program's implementation. All interviews, which ranged in length between forty-five minutes and two and a half hours, were audio-recorded and subsequently transcribed.

My ethnographic field notes and interview transcripts yielded hundreds of pages of data, which I manually coded for analytic themes. Drawing from techniques in the grounded theory tradition, I conducted open coding, grouped data according to analytic themes, and wrote and rewrote memos to sort and clarify the identified conceptual categories.⁷⁸ I supplemented qualitative data with public records, including state and county documents detailing policy changes, as well as newspaper articles about policing, the 287(g) program, and unauthorized immigration in Nashville. These additional data sources allowed me to triangulate data from my ethnographic observations and interviews and provided additional local context.

BOOK OVERVIEW

As "illegal" immigration has become an enduring fact of contemporary American society, public officials and the media have constructed it as a national political

crisis that can be solved only through tougher enforcement and more restrictive immigration laws.⁷⁹ To that end, the United States has devoted billions of dollars to border enforcement by drastically increasing the number of agents stationed at the border and by adopting new technology and equipment to stop unauthorized entries.⁸⁰ Although border control continues to be a core immigration enforcement strategy, it has been joined with a growing emphasis on interior immigration enforcement. Today, the most salient developments in interior immigration enforcement are the devolution of immigration enforcement authority to state and local law enforcement agencies, attempts by state and local governments to enact immigration restrictions, and the integration of the deportation system with the day-to-day operations of the criminal justice system.

Protect, Serve, and Deport lies at the intersection of these developments, examining immigration enforcement in Nashville. This book traces the adoption and implementation of the 287(g) program in Nashville, Tennessee. In 2007, the DCSO sought and received the authority to screen foreign-born arrestees who were booked into the local jail for immigration status. The adoption of immigration screenings in the Davidson County Jail raised the stakes of local policing for Latino immigrant communities, complicating relations between Latino residents and the city's two principal law enforcement agencies: the Metropolitan Nashville Police Department and the DCSO. The goal of this book is to take readers inside local immigration control to reveal the logics by which governments and local law enforcement agencies punish Latino immigrants. It pushes readers beyond simplistic accounts of racist police officers and victimized immigrants by offering a rich description of how local officers interact with, understand, and police Latino immigrants and, in turn, how Latino immigrants understand and interpret policing. It also focuses on the intersections of formal law and institutional policies, clarifying how local law enforcement agents intensify the effects of immigration law through their bureaucratic practices.

The book proceeds as follows. Chapter 1 provides an overview of the history of immigration law in the United States, documenting the evolving role of the federal government, states, and localities in regulating the arrival and expulsion of foreigners. Chapter 2 focuses on the particularities of immigration politics in Nashville and Tennessee, documenting how Latino immigrants emerged as a political problem that local and state policy makers scrambled to address through restrictive laws and the 287(g) program. Chapters 3 and 4 examine the Metropolitan Nashville Police Department and its policing practices vis-à-vis Latino immigrants. Chapter 3 argues that the department's emphasis on proactive policing subjects Latino residents to the risk of disproportionate punishment, given their ineligibility for state-issued driver's licenses and the department's ambiguous identification policy. Chapter 4 addresses the department's attempts at Latino immigrant outreach, documenting the remarkable gulf between what Latino residents believe law enforcement agencies in Nashville are doing and how agencies characterize

their activities. Chapter 5 moves from the streets of Southeast Nashville to the corridors of the Davidson County Jail to examine the jail's management of immigrant subjects. The chapter highlights the discursive strategies that deputized immigration officers deploy as they simultaneously seek to take credit for deporting "criminals" and distance themselves from the distasteful realities of immigration processing. By categorizing, sorting, and processing removable immigrants for deportation, deputized officers bring the power and techniques of the state inside the jail, expanding the federal government's deportation infrastructure and enhancing its capacity to expel unwanted members of the polity. Chapter 6 chronicles the effects and formal termination of Davidson County's 287(g) program, highlighting its role in punishing Latino residents. The Conclusion addresses continuing debates about the role of local law enforcement agencies in immigration enforcement with suggestions for reform.

Although the 287(g) program has been phased out in Davidson County, there are two reasons why these findings still matter. First, the federal government continues to use contact with the criminal justice system to identify immigrants for deportation. Second, all indications suggest that the federal government plans to revive the 287(g) program and expand its immigration enforcement efforts in criminal justice institutions like jails and even courthouses. Thus it is crucial to underscore how state laws and on-the-ground policing practices criminalize Latino immigrants and channel them to local jails where they feed the deportation machine.

Who Polices Immigration?

Nations define themselves through their immigration policies. Establishing who may enter, who must leave, and who is eligible for membership is central to nation-state sovereignty. Although the United States prides itself on being a “nation of immigrants,” concerns about “undesirable” newcomers—convicts, the poor, the infirm, and those from groups considered to be “racially inferior”—have been features of American immigration policy from its inception.¹ Early lawmakers worried that admitting the “wrong” kind of immigrants would burden public resources and increase crime. Lawmakers responded to these fears by creating restrictive immigration laws, attaching penalties to violating those laws, and increasing the government’s resources and administrative capacity to implement them. As the chapter explains, during the nation’s first one hundred years, the federal government lacked the capacity to regulate the admission of newcomers. This task fell to the states, which established admissions criteria and created state immigration boards to regulate passengers at ports. The federal government passed naturalization laws but did not regulate the admission and expulsion of foreigners. This balance of power shifted after a series of Supreme Court decisions in the 1880s and 1890s redrew the lines of immigration authority for federal, state, and local governments. These decisions established the federal government’s authority to regulate immigration. From then on, states and localities could pass laws that affected immigrants residing in their jurisdictions, as long as these policies did not venture into immigration control.²

As this chapter shows, however, even after the federal government obtained exclusive control over immigration enforcement, state and local police agencies occasionally helped federal authorities round up foreigners through immigration

raids and unlawful arrests. Indeed, there are numerous examples of police making immigration arrests throughout the twentieth century, despite numerous legal and judicial opinions establishing that only federal immigration officers have civil immigration enforcement authority.

Today, the authority of states and localities to control immigration is once again under debate. State and local governments continue to pass laws that regulate the lives of immigrants, blurring the boundaries between controlling immigrants and controlling immigration. Moreover, the role of state and local law enforcement agencies in immigration enforcement continues to expand as the federal government creates formal avenues for local law enforcement agencies to partner with federal immigration enforcement authorities. These policy choices convey powerful messages about race and national belonging.

THE FIRST HUNDRED YEARS: STATE AND LOCAL CONTROL OF IMMIGRATION

Contrary to popular belief, the United States has never had legally open borders. The border was *physically* open, in the sense that it was not effectively controlled, but attempts to banish “outsiders” date back to colonial times.³ For example, the earliest attempts at regulating newcomers reflected a preoccupation that America would serve as a dumping ground for “sick,” “lazy,” “immoral,” or otherwise unwanted residents from other countries. Immigration laws during the colonial period emerged in response to Britain’s practice of punishing felons by sentencing them to indentured servitude and transport to America.⁴ At the time, English Poor Laws held that local communities were responsible for providing relief to poor residents. As a result, towns had an interest in keeping out residents that might burden public resources. Localities cared little about whether indigent newcomers came from faraway continents or from adjacent towns: both were undesirable if arrivals imposed public costs.

After independence, Americans continued to fear that European countries would send criminals to their shores. In 1788, the Confederation Congress adopted a resolution encouraging individual states to “pass proper laws for preventing the transportation of convicted malefactors from foreign countries into the United States.”⁵ At the time, southern states fiercely opposed federal regulations on the movement of people because this legislation would have threatened the institution of slavery.⁶ The federal government was unable and unwilling to challenge the South because of an agreement that Congress could not prohibit the importation of slaves until 1808, so immigration laws were kept within state authority.⁷ Cities and states regulated immigration through state police powers to control health, welfare, and morals.⁸

In its early years, the federal government passed a series of naturalization laws to establish criteria for citizenship, rather than immigration laws. Sparsely

populated, the country needed new residents and a way to turn foreigners into citizens who would invest in the nation. Eligibility for citizenship was connected to whiteness. The first federal naturalization law, passed in 1790, established that “free white aliens” with two years of residence were eligible for naturalization, as were the children of citizens.⁹ In 1795, Congress extended the required residency period to five years.¹⁰ Amid heightened concerns related to national security, Congress passed a series of laws known collectively as the Alien and Sedition Acts in 1798. Provisions extended the residency requirements for naturalization to fourteen years and established the president’s right to deport dangerous or treasonous noncitizens. Very unpopular, these laws were never enforced, and most of their provisions were repealed or allowed to expire. In 1802, the five-year residency requirement for naturalization was reinstated.¹¹

With Congress relatively inactive when it came to legislating immigration, states and localities filled the void. While some states wanted to attract immigrants to work as laborers, others were concerned about the economic and cultural burdens that “racially inferior” immigrants might impose on their communities. What resulted was a patchwork of laws to encourage the settlement of some immigrants, while regulating the admission of those who were considered “undesirable.” Poor immigrants were seen as particularly undesirable because poverty was considered a moral failing. Laws banned the entry of foreign paupers, made poor immigrants ineligible for public aid, punished those who transported indigent residents into the area, and threatened to remove poor immigrants from the jurisdiction. Convicts were similarly unwanted. For example, a 1787 Georgia law declared that felons arriving from other US states or foreign countries would be arrested, removed from Georgia, and banned from returning. Those who returned after being expelled would “suffer death without benefit of clergy” upon conviction.¹²

State immigration laws also reflected an interest in maintaining the American racial hierarchy. In addition to southern legislation designed to keep black residents in bondage, state laws in the North signaled an unwillingness to receive black settlers, even though many northern states opposed slavery. For example, some northern states passed laws requiring free blacks to register and prove they could support themselves or risk banishment. In the South, emancipated slaves were required to leave the state or risk reenslavement, and free black sailors from other countries were not allowed to land or disembark at southern ports.¹³

Volunteers, philanthropists, and political appointees served on state immigration boards and administered immigration policy. Although immigration control at the time was relatively ineffective, some migrants were advised to seek passage to cities where they would not be subjected to strict scrutiny.¹⁴ Major port cities like New York and Boston developed a robust infrastructure for screening new arrivals. In 1847, the state of New York established a board, called the Commissioners of Emigration, to institutionalize immigration administration. In 1855, the

New York Commissioners of Emigration constructed an immigration depot called Castle Garden; in the years that followed, most immigrants arriving to America passed through it. Its services included caring for the sick, protecting newcomers from being defrauded, sending able-bodied migrants to locations where they might find work, administering medical checks, and prohibiting the entry of passengers who were likely to become charges, sometimes by sending them back to their countries of origin.¹⁵ These services were funded by charging a head tax on each arriving passenger.

THE RISE OF FEDERAL AUTHORITY OVER IMMIGRATION ENFORCEMENT

States regulated immigration almost exclusively during the nation's first century, but a series of Supreme Court decisions reduced state authority in immigration legislation and made way for federal control of immigration. In the 1849 *Passenger Cases*, the Supreme Court narrowly struck down Massachusetts and New York laws that imposed mandatory head taxes on all incoming passengers.¹⁶ States responded by allowing shipmasters to pay either an "optional" nonrefundable head tax or a refundable, but significantly more expensive, bond on each person transported to the country.¹⁷ Steamship companies opposed these fees because they made operating more expensive and less profitable. In *Henderson v. Mayor of the City of New York* (1875), the Supreme Court struck down the New York state law requiring shipmasters to pay a bond for foreign passengers arriving at ports. In doing so, the Supreme Court invalidated state immigration laws, arguing that they made it impossible for Congress to maintain a uniform admissions policy at all US ports. In *Chy Lung v. Freeman* (1875), the Supreme Court struck down a California law directed at Chinese women, allowing state immigration officials to deny entry to anyone suspected of being lewd or debauched unless the ship's captain paid a substantial bond to the state. In its decision, the Supreme Court declared that the "admission of citizens and subjects of foreign nationals to our shores belongs to Congress, and not to the states."¹⁸

Alarmed that the ban on head taxes would lower the costs of passage and result in new arrivals of poor immigrants, cities and states lobbied the federal government to craft a national immigration law to stem the entry of paupers and convicts and to cover the costs of providing immigrants services.¹⁹ By 1875, millions of European immigrants had arrived on the East Coast, and California had received several hundred thousand Chinese immigrants and laborers. The American Civil War, fought between 1861 and 1865, also changed states' preferences. Battered from the Civil War, southern states were no longer resistant to federal authority over immigration law. On the West Coast, state and local governments in California had enacted numerous racist and discriminatory policies

on the basis of Chinese residents' supposed racial inferiority.²⁰ "Chinamen" (and women) were considered permanently alien and "unassimilable," and their presence threatened Anglo-American superiority.²¹ On the East Coast, organized labor groups called for immigration policies that would protect American workers from European invaders.

The federal government responded to these local pressures by enacting a series of immigration laws. One set of laws created broad race-based restrictions on Asian migrants, while another was directed at European newcomers who were excluded only when they fell into specific "undesirable" categories. The first federal immigration law, the Page Act of 1875, was enacted to appease nativists in California. It barred the entry of Asian contract labor and Asian women suspected of prostitution.²² In 1882, the Chinese Exclusion Act barred the entry of all skilled and unskilled Chinese "laborers" for ten years but allowed for the entry of merchants, clergy, diplomats, teachers, students, and travelers, as well as the reentry of Chinese migrants already present. The law also made all Chinese immigrants in the United States ineligible for citizenship.²³ Subsequent amendments made these provisions even stricter, requiring Chinese migrants to provide documentation to gain admittance and, later, barring reentry of Chinese immigrants under many circumstances.²⁴ Future amendments made legally admitted Chinese residents deportable by creating new documentation requirements. The 1892 Geary Act and the 1893 McCreary Amendment required all Chinese residents living in the United States to obtain and carry certificates of residence and identity or risk deportation.²⁵

In 1882, Congress also passed its first general federal immigration policy to regulate European migration. That year, New York's Board of Emigration Commissioners had threatened to shut down its immigration depot, Castle Garden, if Congress did not act. The Immigration Act of 1882 mirrored New York and Massachusetts state immigration laws by barring the entry of "any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge."²⁶ The law also created a fifty-cent head tax on incoming passengers, to be paid into the US Treasury and distributed to all states that supported foreign paupers. Moreover, since the federal government had no immigration bureaucracy, the law expressly authorized the Treasury to enter into agreements with state boards and officials to help enforce its provisions. As a result, even though states were no longer allowed to craft immigration legislation, state agencies retained substantial authority over immigration enforcement and administration through the 1880s.²⁷ The federal government relied on state officials to collect taxes, inspect arriving passengers, and exclude criminals and paupers.²⁸ In addition, even though the 1882 law allowed officials only to exclude immigrants, state immigration officials in Massachusetts and New York deported immigrants who required public aid.²⁹

Meanwhile, in California, Chinese residents began to test the constitutionality of various provisions of the Chinese Exclusion Acts, and other discriminatory local policies, in a series of Supreme Court challenges. These decisions were important because they established legal doctrine regarding the authority of federal, state, and local authorities to regulate immigration. In 1886, the Supreme Court struck down a San Francisco ordinance that targeted Chinese-owned laundries, declaring that noncitizens were entitled to equal protection under the Fourteenth Amendment.³⁰ In 1889, the Supreme Court unanimously upheld the federal government's absolute and exclusive sovereign authority to create immigration policy and exclude aliens, even those previously granted admission.³¹ In 1893, the Supreme Court affirmed Congress's virtually unlimited authority to set deportation policy and remove foreigners.³² Taken together, these rulings established the federal government's exclusive authority over immigration and made state attempts to regulate immigration through *de facto* immigration policies illegal, at a time when immigration was expanding.

By the beginning of the twentieth century, the courts established that Congress had plenary power over immigration. As a result, when states attempted to regulate immigration, their attempts were often struck down on the grounds of federal preemption (a doctrine holding that federal law supersedes state law) or equal protection. The Chinese Exclusion Acts were a turning point in US immigration policy. Although US policies had always reflected a fear of outsiders, never had they been so singularly focused on racial exclusion. The Chinese Exclusion Acts paved the way for future race-based immigration policies and an administrative apparatus to implement them.³³

BUILDING THE BUREAUCRATIC MACHINERY

Enforcing immigration laws requires a bureaucratic administration. Even as the federal government consolidated control over immigration legislation, it had no bureaucratic apparatus, infrastructure, or employees to implement and enforce the law. Congress solved this problem by creating partnerships with state boards and officials to help enforce immigration provisions. As a result, even though states were no longer allowed to craft immigration legislation, state agencies retained substantial authority over immigration enforcement and administration through the 1880s.³⁴ The federal government relied on state officials to collect taxes, inspect arriving passengers, and deny passage to criminals and paupers.

The Immigration Act of 1891 increased the number of grounds on which prospective newcomers could be denied entry and also made excludable immigrants deportable.³⁵ In addition, it established a federal bureaucracy, the Office of Superintendent of Immigration in the Treasury Department, to oversee immigration enforcement at ports and land borders. For the first time, immigration enforcement

was put into the hands of federal employees rather than state agents.³⁶ Sometimes, however, these federal employees were former state officials who continued to work as immigration inspectors when federal control subsumed state control.³⁷ Although formally under federal authority, immigration enforcement remained highly fragmented. For example, an immigration inspector might be responsible for enforcing either the Chinese Exclusion Act, the Immigration Act of 1891, or an 1885 law that banned alien contract labor, but none had the authority to enforce all three laws at once.³⁸

Moreover, federal officials faced significant challenges enforcing immigration restrictions, which required sorting and classifying people on characteristics that were not readily apparent. When writing the Chinese Exclusion Act, Congress might have believed that discerning between a laborer and a merchant would be easy, but in practice inspectors' decisions were arbitrary and often based on corporeal markers of social class.³⁹ Since it was impossible to determine who was eligible for admission on the basis of outward appearance, lawmakers created requirements for specific kinds of documentation. For example, Chinese passengers had to arrive in US ports with a certificate issued by the Chinese government, certifying that their occupational status made them admissible for entry.⁴⁰ Later, a policy stipulating that Chinese residents obtain a "certificate of residence" required the corroborating testimony of a white witness to verify one's eligibility for admission. Eventually, all residents of Chinese descent, including US citizens, were required to carry photo identification.⁴¹ Each of these documentary requirements laid the groundwork for a regulatory system of processing, tracking, and surveilling immigrants in the name of immigration control. For example, years later, the Immigration Bureau expanded its use of photo identification cards, eventually requiring them of all immigrants entering the country.⁴² The "papers" required to prove one's status in the country during the Chinese Exclusion Acts were the precursors to modern-day visas, passports, and immigrant identification cards, or "green cards."⁴³

With immigration enforcement firmly in the hands of the federal government, lawmakers turned to expanding the country's bureaucratic capacity to administer it. Although the Supreme Court had given Congress a green light to create and enforce virtually any immigration policy it saw fit, immigration enforcement was still quite rudimentary. In the 1880s, for example, just a handful of immigration inspectors were employed at Castle Garden to screen thousands of passengers that arrived daily.⁴⁴ Still, as exclusionary immigration laws and immigration inspections became barriers to entry, some migrants turned to Mexico and Canada, entering the United States via largely unregulated land borders.⁴⁵ In response, the government increased border control on the northern and southern borders, although this "control" consisted of irregular patrols by several dozen mounted inspectors who worked for the Customs Service and were responsible for policing thousands of miles of sparsely populated rough terrain.

In 1924, Congress imposed numerical restrictions on immigration and established a national origins quota system to “preserve” the racial makeup of the country.⁴⁶ The quota system allocated visas proportionate to the number of people who traced their origins to those countries in the 1890 census.⁴⁷ This increased the number of visas allocated to northern Europeans and reduced the visas available for southern and eastern Europeans, who were considered racially and biologically inferior.⁴⁸ The law also categorically excluded Asians and other nonwhite immigrants from being considered for admission by barring the entry of people who were ineligible for citizenship.

Because immigration restrictions are always accompanied by more illegal entries, these quotas “stimulated the production of illegal aliens.”⁴⁹ During the 1920s, the philosophy of immigration enforcement evolved as both border policing and deportation assumed central roles in immigration control. Up to that point, the Immigration Service deported several thousand people a year but generally declined to deport immigrants who had already settled in the country, even if they had entered without permission. In the 1920s, Congress eliminated these long-standing limitations on deportation, made unlawful entry a crime for the first time, and created new state machinery to apprehend and deport unauthorized immigrants. Congress established the US Border Patrol (USBP) in 1924.⁵⁰ The following year, Congress gave the newly formed USBP law enforcement authority to make warrantless arrests of any alien attempting to enter the country without proper inspection and to serve warrants for the violation of any immigration law. The Bureau of Immigration interpreted this authority expansively, taking it as permission to arrest suspected unauthorized immigrants anywhere within the country. As a result, the bureau expanded its reach, dramatically increasing the number of arrests and expulsions occurring in the internal spaces of the nation. In 1933, the Bureau of Immigration merged with the Bureau of Naturalization to form the Immigration and Naturalization Service (INS).

In 1952, Congress passed the Immigration and Nationality Act (INA), which reorganized immigration and naturalization laws, bringing them together within one body of text.⁵¹ While it altered the quota system slightly, it kept racist quotas largely in place. By the 1960s, the nation’s overtly racist immigration policies were an embarrassment on the world stage. In 1965, Congress passed the Hart-Cellar Act, establishing the basic structure of contemporary immigration policy. The Hart-Cellar Act prioritized family reunification and established racially neutral quotas, with each country allotted the same number of visas. These legal changes ushered in a new migration stream, largely from Latin America, Asia, and the Caribbean, that dramatically diversified the United States. However, the Hart-Cellar Act also established limits on migration from the Western Hemisphere for the first time. This coincided with the abolishment of the Bracero Program, a program that had imported hundreds of thousands of Mexican immigrants as

laborers throughout the Southwest. Seemingly overnight, Mexican migrants who had formerly had legal paths to entry became “illegal” immigrants who no longer qualified for legal admission.

The 1986 Immigration Reform and Control Act (IRCA) is widely remembered for granting amnesty to nearly 2.7 million unauthorized migrants living in the United States. IRCA’s employment and enforcement provisions, however, ensured that all future unauthorized residents would find it even more difficult to enter, work, and live in the United States. For example, IRCA made it “illegal” for unauthorized immigrants to work in the United States and established employer sanctions to penalize employers that “knowingly” hired unauthorized workers. However, since the law did not require employers to verify if employment documents were valid, employers could easily avoid penalties by claiming not to know that employees presented false documents. IRCA also called for a massive deployment of resources to the United States-Mexico border, in the form of agents, physical barriers, and technological surveillance, and included provisions for interior enforcement.⁵² Most importantly, IRCA was the harbinger of a new political preoccupation with immigrants and crime. Section 701 of IRCA contained a sentence stating that the attorney general should deport aliens whose criminal convictions made them subject to deportation “as expeditiously as possible after the date of the conviction.”⁵³ This provision made deporting “criminal aliens”—that is, noncitizens convicted of a crime—an immigration enforcement priority.

Before IRCA, the federal government was already allocating additional resources to border enforcement. For example, between 1979 and 1986, the Border Patrol doubled in size from 1,900 to 3,500 officers. IRCA authorized a 70 percent budget increase (\$123 million of supplementary funding) in 1987 alone.⁵⁴ While most of that money went to border enforcement, \$16 million was allocated to the interior and was focused on “criminal aliens.”⁵⁵ For example, to comply with the requirement to deport people “expeditiously” the INS launched two programs to screen inmates in federal, state, and local jails and prisons. The Alien Criminal Apprehension Program (ACAP) and the Institutional Removal Program (IRP) were the first formal “jail status check” programs administered by the INS. These two programs called for immigration officers to conduct on-site interviews with potentially deportable inmates in jails and prisons to prevent their release from criminal custody.

The IRP and ACAP focused on identifying immigrants convicted of “aggravated felonies,” a new immigration offense created by the Anti-Drug Abuse Act of 1988.⁵⁶ In addition, the Anti-Drug Abuse Act created the Law Enforcement Support Center (LESC), an office that provides investigative support for state and local law enforcement agencies attempting to determine if immigrants are deportable. Located in Vermont, it continues to provide 24/7 investigative support to state and local officers who call to determine the immigration status of immigrants in their

custody. Its officials can respond to immigration queries by issuing an immigration detainer, a request that the agency detain the individual in question so that immigration authorities can assume custody. The IRP and ACAP turned into the Criminal Alien Program (CAP), an expansive immigration enforcement program that relies on personnel in local, county, state, and federal correctional facilities to share records and inmate information with ICE officers, who may interview, identify, and detain inmates at their discretion. The largest of ICE's interior enforcement programs, CAP receives hundreds of millions of dollars from Congress every year and accounts for the majority of interior removals in the United States.⁵⁷

POLICE PARTICIPATION IN IMMIGRATION ENFORCEMENT THROUGH THE YEARS

This section provides an abridged history of the police's role in immigration enforcement after the federal government consolidated its control over immigration. It shows that state and local law enforcement agencies have always played a role in immigration enforcement; this includes supporting the federal government by participating in immigration raids and/or making immigration arrests without official authority. Moreover, since "illegality" is associated with being of Mexican and Latino origin, many of these police enforcement actions have targeted minority residents by relying on corporeal markers of race and class.⁵⁸

In 1919, the US attorney general initiated an enforcement campaign, known as the Palmer Raids, to round up and deport "radical" foreigners in response to public hysteria regarding the threats of communism.⁵⁹ Local police and federal officials raided bookstores, union halls, and private homes, detaining immigrants at Ellis Island pending deportation.⁶⁰ Later, when fears of communists gave way to racial and economic frustrations, local police supported immigration authorities by participating in joint immigration sweeps or conducting local sweeps and turning arrestees over to the Immigration Service. During the 1920s, welfare relief workers cooperated with immigration officials to deport immigrants who received public assistance. For example, in 1920, Denver police conducted raids of popular Mexican businesses, arresting three hundred people, after welfare officials complained that hordes of destitute Mexicans were draining social service agencies.⁶¹ However, the immigration inspector determined that the majority of those arrested were US citizens and that only thirty-five "were subject to deportation beyond all doubt."⁶² In the Southwest, millions of Mexicans and Mexican Americans were questioned, detained, and deported through coordinated interagency roundups during the 1930s, '40s, and '50s.⁶³ During an enforcement initiative called Operation Wetback, the El Paso Border Patrol engaged in novel methods to drive up their apprehension numbers, paying the El Paso Police Department between \$1 and \$2 for every undocumented person delivered to their custody.⁶⁴

While there is a long history of state and local police cooperation with immigration enforcement, people continue to disagree about whether police have the *authority* to enforce immigration law. This conflict stems from the INA, which allows local police to enforce the immigration crimes of smuggling, transporting, and harboring, but does not address state and local authority over civil immigration violations, like being present in the United States without authorization.⁶⁵ Since the 1970s, the role of local law enforcement agencies in immigration enforcement has been established through legal opinions, judicial decisions, and additional legislation. For example, in 1978 the attorney general of the Department of Justice (DOJ) issued a press release affirming that “the responsibility for enforcement of the immigration laws rests with the Immigration and Naturalization Service, and not with state and local police.”⁶⁶ The press release indicated that state and local police forces could notify the INS when arresting persons for non-immigration-related criminal violations but that officers should “not stop and question, detain, arrest or place an ‘immigration hold’ on any persons not suspected of crime, solely on the ground that they may be deportable aliens.”⁶⁷

Still, some departments and officers across the country made immigration arrests without legal authority. For example, in 1980 the US Commission on Civil Rights issued two reports that addressed police participation in immigration enforcement.⁶⁸ One report focused on immigration enforcement practices in Southern California and the other on enforcement practices across the country. The reports found that “immigration law enforcement activities by local police . . . have not been confined to the harboring section of the [INA] statute.”⁶⁹ In Los Angeles, San Diego, and Orange County, Latinos reported being questioned and detained during investigatory police stops and being released only when they could supply proof of legal presence. In addition, the reports documented numerous examples of police arresting Latinos for no other reason than suspected immigration violations, sometimes with the encouragement of the INS.

It is worth noting that sometimes officers engaged in these practices in direct violation of police policies. For example, in 1979, the Los Angeles Police Department (LAPD) issued a policy, Special Order 40, banning immigration investigations. The order read: “It is the policy of the Los Angeles Police Department that undocumented alien status in itself is not a matter of police action. It is, therefore, incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and service to the public, regardless of alien status.”⁷⁰ The policy explicitly dictated that officers should not inquire about one’s immigration status or make immigration arrests. However, the US Commission on Civil Rights report revealed that some officers did so anyway. Faced with information that officers were conducting investigatory police stops of Latino residents, a department official conceded that some officers violated policy because of frustration about crime.⁷¹

Although the LAPD established an official policy to ban immigration investigations, the reports revealed that other departments took a more permissive attitude toward immigration enforcement. Quotes from police officials in some departments indicated that officers thought arresting and detaining people for immigration violations was perfectly acceptable. For example, a police officer in Grand Prairie, Texas, arrested and detained a US citizen of Latino descent on an immigration hold for three days. The officer explained that when he could not tell the difference between an “illegal alien or a Mexican” he “put them in jail for investigative charges.”⁷² Similarly, an official from the San Diego Sheriff’s Department acknowledged that officers stopped US citizens of Mexican descent during immigration investigations but explained, “Since most aliens are dark-eyed and dark skinned, most residents of Mexican origin understand that being stopped is merely a matter of being in the wrong place at the wrong time.”⁷³ Not only did these officers engage in racial profiling, but they thought it was acceptable to detain Americans of Hispanic origin, on the off chance that they might be undocumented. In 1983, the Ninth Circuit Court of Appeals analyzed whether state and local police could enforce immigration laws in *Gonzales v. City of Peoria*. Eleven plaintiffs alleged that Peoria police, acting under city policy, unlawfully stopped, questioned, and arrested people of Mexican descent because of their race and appearance. Residents who could not provide proof of legal presence were arrested and detained at the local jail for the INS. The court found that the city, department administrators, and officers expressed a great deal of confusion about what immigration laws (if any) police were authorized to enforce. Still, the court determined that the officers were acting in good faith and were not motivated by racial hostility.⁷⁴ The court further decided that while local police could not enforce the civil provisions immigration law, they could detain or arrest individuals for criminal violations of the INA. This decision effectively expanded state and local immigration arrest authority, giving police a role in “criminal” immigration enforcement.⁷⁵

By the 1980s, courts, legal opinions, and legislation established distinctions between civil and criminal immigration violations. The federal government had the full authority to enforce all provisions of immigration law, but state and local police could enforce only criminal immigration violations. A memo issued by the Office of Legal Counsel at the US DOJ in February of 1996 reiterated this point, stating that “state and local police lack recognized legal authority to stop and detain an alien solely on suspicion of civil deportability, as opposed to a criminal violation of the immigration laws or other laws.”⁷⁶

The 1990s saw increased interagency cooperation between police and immigration authorities, as agencies participated in joint task forces to fight human smuggling, drug trafficking, and gangs. Sometimes local law enforcement agencies initiated cooperation with immigration authorities to serve their own purposes. For example, in 1995 local and city officials in Dalton, Georgia, established

a Criminal Alien Task Force after the rapid influx of Latino immigrants generated racial resentment about jobs and crime. Two Dalton police officers, a bilingual secretary, and two part-time INS investigators staffed the task force, which targeted “criminal aliens” for deportation by reviewing probation files and conducted worksite raids at manufacturing plants. In four years the task force placed almost a thousand people in deportation proceedings.⁷⁷

In Chandler, Arizona, the police department invited the USBP to participate in a joint immigration sweep in 1997. The Chandler Police Department believed the immigration sweep would reduce public disorder in the city’s gentrifying business district by targeting unauthorized immigrants who congregated in the city center. The USBP agreed to participate, and between July 27 and July 31 two dozen city police officers and five USBP agents blanketed the downtown business district during what became known as the Chandler Roundup. Officials targeted residents based on a “Mexican” appearance, using skin color and the ability to speak Spanish as markers for presumed illegality.⁷⁸ During the joint operation, officials detained and deported 432 unauthorized immigrants, all but three of whom were Mexican.⁷⁹ They also detained over forty US citizens.

CARVING OUT A ROLE FOR STATE AND LOCAL POLICE VIA THE 287(G) PROGRAM

In 1994, California voters passed an anti-immigrant bill, Proposition 187, in a landslide victory. Proposition 187 barred undocumented immigrants from receiving most social services, including nonemergency health care, prenatal care, and public education. The law obligated law enforcement officials to investigate and report the immigration status of arrestees, and it required government officials to notify immigration enforcement officials about persons they believed were illegally present. Although it was immediately challenged, and a federal judge ruled it unconstitutional before its measures could take effect, the law sent a clear message to federal legislators that California voters were unhappy with the status quo.

Federal lawmakers heard the message. Just as states pressured the federal government to enact restrictive immigration policies in the 1880s, Proposition 187 spurred lawmakers into action. The year 1996, when Republicans were still riding high off of an electoral landslide in 1994, marked a turning point in immigration policy. Amid “tough on crime” legislation spurring dramatic growth of the prison population even though crime in the United States was falling, a number of immigration laws drew on similarly punitive logic to criminalize immigrants.⁸⁰ In fact, scholars identify 1996 as a watershed year in the criminalization of immigration law or the emergence of the crimmigration system.⁸¹ For example, The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Anti-terrorism and Effective Death Penalty Act (AEDPA) increased the list of crimes

considered “aggravated felonies” for immigration purposes. Prior to 1996, only noncitizens who received prison sentences of five years or more were deportable under the aggravated felony statute. The new laws changed the aggravated felony statute so that a conviction for any crime that carried a one-year *potential* sentence became a deportable offense, even if the violation was not a deportable offense when it was committed. IIRIRA also strengthened the enforcement arm of the INS by calling for one thousand new Border Patrol agents yearly and creating a multilayered border fence. In addition, it barred judicial review of most deportation cases and mandated immigrant detention pending removal. As a result, relatively minor offenses could trigger the expedited removal of legal permanent residents.

Perhaps most significantly, IIRIRA and AEDPA expanded the role and authority of state and local police in immigration enforcement by allowing greater cooperation between agencies. AEDPA gave local police the authority to detain unauthorized immigrants who had previously been deported, and IIRIRA included an amendment that authorized local and state law enforcement agencies to receive training to enforce federal immigration laws. The fact that local police did not have the authority to make civil immigration arrests rankled some members of Congress. After a high-profile crime involving an undocumented immigrant assailant, legislators from Iowa sponsored an amendment to allow local police to work with immigration enforcement agencies more closely. This amendment, which would come to be known as 287(g), called for allowing police to detain immigrants with pending deportation orders.

The members of congress backing the amendment drew on a racialized political rhetoric that linked immigrants and crime. Introducing the amendment on the House floor in March of 1996, Congressman Tom Latham (R-IA) said:

Mr. Chairman, I rise today to offer this amendment in remembrance of Justin Younie, the 19-year-old son of Rick and Vicki Younie, who was brutally attacked, stabbed, and murdered in the small Iowa town in which he was born and raised. Justin’s killers were illegal aliens to our country, our state, and to the quiet community of Hawarden. While Justin’s murder is the real tragedy from that night, many in the community were further incensed that the crime was committed by illegal aliens. . . . My amendment will allow state and local law enforcement agencies to enter into voluntary agreements with the Justice Department to give them the authority to seek, apprehend, and detain those illegal aliens who are subject to an order of deportation.⁸²

While both the victim and the perpetrators were Iowa residents at the time of the crime, the statement magnifies the victim’s ties to the state by describing Iowa as the place of his birth. Unlike the assailants, who are characterized as outsiders to the country, state, and “quiet community of Hawarden,” the victim is referenced

by name and described in relation to his family. The congressman suggests that the crime is even more deplorable because the assailants were unauthorized immigrants who should not have been residing in Iowa. At the core of this statement is an assertion about who belongs in “America’s heartland.”

Only three representatives spoke out against the amendment on the House floor. In contrast to Congressman Latham, who positioned immigrants as outsiders who did not belong, these legislators asserted that immigrants were members of the towns and cities in which they lived. They also argued that inviting police to conduct immigration enforcement would undermine the police’s ability to protect and serve. For example, Congresswoman Sheila Jackson Lee (D-TX) said, “It is dangerous to put immigration authority in these local law enforcements so that they cannot do their real job, which is to protect those communities and protect the larger communities and engender trust in the community so they can get the job done.”⁸³ Congresswoman Nancy Pelosi (D-CA) also spoke out against the amendment, saying that Congress should “allow our state and local law enforcement officials to protect and serve within communities, rather [than] to increase the fear.”⁸⁴

The amendment, which was codified as section 287(g) of the INA, passed as part of IIRIRA. It was a major innovation. For the first time, state and local law enforcement agencies could, with training and approval from the federal government, enforce both civil and criminal immigration laws directly. The federal government approved three types of federal-local policing partnerships for the 287(g) program. The task force model allowed officers to directly enforce immigration law concurrent with their regular policing duties, the jail model allowed officers to investigate immigration status violations in correctional facilities, and the hybrid model combined features of both the jail and task force models.

Local agencies did not clamor to participate in the 287(g) program. Indeed, in the six years after the passage of the amendment, only one agency seriously considered this local-federal partnership. In 1998, the Salt Lake City Council explored a one-year pilot project to cross-deputize police officers as INS officers. Frustrated by a shortage of bed space, too few federal immigration officers to pick up inmates with deportation orders, and a police chief who claimed that 80 percent of the city’s felony drug arrests were committed by unauthorized immigrants, officials in Salt Lake City began drafting plans to allow twenty cross-deputized police officers to identify, detain, and transport immigrant detainees to INS facilities in adjacent states.⁸⁵ Since the agreement was publicly supported by the county sheriff, the local police chief, and several city council members, most expected that the city council would approve the one-year 287(g) pilot program. However, at a four-hour public hearing on the evening of the city council vote, Latino community members packed the room and spoke passionately against the plan. Residents voiced concerns about racial profiling and challenged the police chief’s contention that

members of the immigrant community constituted a large proportion of felony arrests in the city.⁸⁶ By the end of the meeting, community members convinced one council member who had promised to vote for the agreement to change his mind, and the council narrowly voted against the agreement 4–3.⁸⁷ No other agencies considered participating in the 287(g) program until after the September 11, 2001, attacks. After 9/11, the federal government began pouring money into interior immigration enforcement, providing additional resources for the federal government to police noncitizens in the name of national security and counterterrorism. The newly formed Department of Homeland Security (DHS) sought to enlist police and sheriffs as immigration enforcement partners and encouraged agencies to participate in the 287(g) program. The DOJ also encouraged local police and sheriffs to participate in immigration enforcement. On June 6, 2002, Attorney General John Ashcroft announced that state and local police had the “inherent authority” to enforce civil provisions of immigration law, particularly as it related to the country’s antiterrorism mission.⁸⁸ Ashcroft’s interpretation of police authority in immigration enforcement directly contradicted long-standing legal opinions issued by the DOJ. His new stance was released as a classified memo, and it has never been withdrawn.

In 2002, the Florida Department of Law Enforcement became the first law enforcement agency to participate in the 287(g) program. The agency framed its participation as a counterterrorism strategy. Several of the 9/11 hijackers had lived in Florida before the attack and had been stopped by state and local police for traffic violations but had not been investigated. A number of officers working in one of the area’s regional domestic security task forces, task forces specifically designed to prevent and respond to acts of terrorism, received immigration enforcement training.

In the following years, a few more law enforcement agencies sought immigration enforcement authority through 287(g), but these agencies narrowly tailored their enforcement efforts by focusing on “high-priority” targets.⁸⁹ The state of Alabama signed on to participate in 287(g) in 2003 to address identification and document fraud.⁹⁰ In 2006, the 287(g) program shifted when the Mecklenburg County (North Carolina) sheriff, Jim Pendergraph, implemented a 287(g) designed to identify as many unauthorized immigrants as possible.⁹¹ While Pendergraph’s stated motivation for participating in 287(g) was public safety, the Mecklenburg County Sheriff’s Office used the 287(g) program to conduct immigration inquiries on every single immigrant booked into jail. Unlike the 287(g) programs in Florida and Alabama, which utilized risk-based approaches to identify several hundred removable immigrants per year, Mecklenburg County’s dragnet placed 2,321 unauthorized immigrants in removal proceedings in 2007. Over half were arrested by local police for low-level traffic violations.⁹²

In his 2006 testimony to Congress touting the early successes of the 287(g) program, Sheriff Pendergraph explained his belief that federal immigration

enforcement was ineffective. “Think of the frustration we feel when a group of illegals leaves my jail for deportation and they smile and say, ‘We’ll see you next week,’” Pendergraph told Congress. The sheriff was also incensed by social service provisions. He complained that the county health department paid translation costs for Spanish speakers seeking medical attention and predicted that in five years 20 percent of children starting kindergarten would be “children of illegal immigrant parents with little or no English skills.”⁹³ The sheriff seemed to resent the fact that undocumented residents had rights. Medical providers were legally required to provide language access to patients, and schools were legally required to educate children who lived in their districts, regardless of their origins or legal status. Thus, rather than see children growing up in North Carolina as fellow North Carolinians, the sheriff made clear that these students, by virtue of their parentage, were not legitimate members of the “imagined community.”⁹⁴

In 2007 and 2008, fifty-four additional agencies signed 287(g) agreements with ICE, authorizing them to conduct immigration investigations, issue detainers, and generate the charging documents that begin the deportation process. At its peak, about seventy agencies participated in the 287(g) program. Most agencies implemented programs modeled after Mecklenburg County’s jail enforcement program. The majority of 287(g) programs were implemented in the US South, where immigrant populations were small but growing rapidly. The Davidson County Sheriff’s Office, which I will discuss at length in the next chapter, signed a 287(g) agreement in 2007.

The enforcement of immigration laws by state and local officials raised immediate concerns among national law enforcement associations, criminal justice research foundations, immigration policy research organizations, and immigrants’ rights groups across the nation. For example, reports issued by the Police Executive Research Forum and the Major Cities Chiefs Police Association indicated that some law enforcement officials worried that enforcing immigration laws would jeopardize trust between departments and immigrant communities, making it less likely that immigrants would cooperate with authorities by reporting crime.⁹⁵ Officials also voiced concerns that their agencies lacked the personnel, resources, and expertise to enforce immigration laws and that doing so might distract departments from their core public safety missions. Moreover, civil rights and immigrant rights organizations drew a direct link between 287(g) programs and the racial profiling of Latino immigrants.⁹⁶

The 287(g) program even faced criticism from federal government agencies. For example, a report issued by the Government Accountability Office (GAO) in 2009 found that while ICE officials stated that the program’s objective was to address serious crime, these objectives were not articulated on any program-related documents, including 287(g) agreements, case files, brochures, and training materials.⁹⁷ In practice, ICE allowed local law enforcement agencies to run the 287(g)

program according to individual agency preferences, and some agencies used their authority to process individuals arrested for minor crimes. In 2010, the DHS's Office of Inspector General issued an equally critical report, concluding that ICE did not supervise 287(g) programs sufficiently and ignored potential civil rights violations by participating agencies.⁹⁸

The most infamous example of 287(g) civil rights abuses occurred in Maricopa County, Arizona. Maricopa County Sheriff Joe Arpaio used his agency's immigration authority to enlist over 160 deputies to conduct immigration patrols, neighborhood sweeps, investigative police stops, raids on local businesses, and immigration investigations in the local jail. For years, residents in Latino neighborhoods accused the sheriff's office of widespread racial profiling, alleging that deputies were using brown skin and "Latino or Mexican appearance" as probable cause to stop and detain residents for suspected immigration violations. After a series of lawsuits alleging various civil rights abuses, a three-year DOJ investigation found that the Maricopa County Sheriff's Office (MCSO) had engaged in "a pattern or practice of unconstitutional policing."⁹⁹ The MCSO's discriminatory practices included racial profiling; unlawfully stopping, detaining, and arresting Latinos; retaliating against individuals who criticized MCSO policies; and denying services to Latino inmates in the jail. The DHS terminated its 287(g) task force agreement with Maricopa County in December of 2011. The government also restructured its existing 287(g) agreements.

In 2012, ICE announced that it was phasing out 287(g) task force agreements in favor of other enforcement programs that could identify removable immigrants more efficiently. Many of the agencies that had 287(g) programs allowed their agreements to lapse, although some jail enforcement programs continued operating. A program called Secure Communities, which began in 2008, was central to ICE's new enforcement strategy. The Secure Communities (S-Comm) program automated immigration status checks in jails and prisons by linking the fingerprint data that state and local police had gathered during arrest and booking to federal databases containing information about immigration and criminal history. When the arrestee's fingerprints matched those in ICE's biometric database, ICE notified the correctional facility to hold the individual until ICE could assume custody. Initially, federal officials indicated that state and local officials could opt out of S-Comm, but after several jurisdictions attempted to do so ICE changed course, stating that the program was mandatory. After criticisms that the majority of people removed through S-Comm were not criminals, and after a number of lawsuits challenging the government's contention that it could force correctional facilities to participate, ICE announced its intention to phase out S-Comm for a new program called the Priority Enforcement Program (PEP). Like S-Comm, PEP relied on biometric information sharing, but it outlined stricter enforcement priorities

regarding when federal officials could issue immigration detainers. In January 2017, a new executive order eliminated PEP's enforcement priorities, marking a return of the more expansive Secure Communities Program.¹⁰⁰ The executive order also communicated the federal government's renewed interest in reviving the 287(g) program. As of April 2017, thirty-seven agencies in sixteen states continue to run 287(g) programs in local jails.¹⁰¹

THE RISE OF STATE AND LOCAL IMMIGRATION POLICIES

At the height of the 287(g) program's popularity in the mid- to late 2000s, an anti-immigrant backlash was occurring in cities, towns, and states across the country. This backlash occurred amid accusations that the federal government did not have the resources or the political will to enforce immigration laws in the nation's interior. Slowly, state and municipal legislatures began to adopt legislation to signal their pleasure or disapproval over the presence of unauthorized immigrants within their boundaries. For example, in 2005, state lawmakers introduced 300 immigration-related bills, but between 2007 and 2011 that number jumped to an average of 1,475 immigration-related bills a year.¹⁰² Some of these bills were proimmigration policies that offered protection to unauthorized residents by expanding access to driver's licenses, limiting police cooperation with immigration investigations, and providing health, welfare, or educational benefits to residents, regardless of status. However, most were anti-immigration bills with a variety of provisions, including making proof of legal status a requirement for obtaining services that had previously been available to all residents, mandating police enforcement of immigration laws, and criminalizing immigrants through new work and documentation requirements. Many of these bills were never formally passed or implemented, and several were vetoed by state governors.

In 2006, the small former coal-mining town of Hazleton, Pennsylvania, became famous for its efforts to make Hazleton "one of the toughest places in the United States for 'illegal' aliens."¹⁰³ Hazleton officials passed the Illegal Immigration Relief Act, which called for punishing landlords who rented apartments to undocumented residents and punishing businesses who hired them. It also declared English to be the city of Hazleton's official language. In the years that followed, more than one hundred localities attempted to pass Hazleton-style exclusionary measures.¹⁰⁴

In 2007, Oklahoma passed HB 1804, which required police to check the immigration status of any persons "suspected" of being unlawfully present in the United States, required proof of legal presence for accessing services that had previously been available to all residents, and made it a felony to offer undocumented immigrants transportation, jobs, or shelter. Called the Oklahoma Taxpayer and Citizen Protection Act, the law read: "The State of Oklahoma finds that illegal

immigration is causing economic hardship and lawlessness in this state and that illegal immigration is encouraged when public agencies within this state provide public benefits without verifying immigration status.”¹⁰⁵ The text of the law made clear that immigrants were, by their mere presence, responsible for the suffering of Oklahoma taxpayers. Three years later, Arizona passed SB 1070, which critics called the “show me your papers” law for its provision requiring police to investigate a person’s immigration status during any stop, detention, or arrest and mandating that noncitizens carry proof of legal presence.¹⁰⁶ The states of Alabama, Georgia, Indiana, South Carolina, and Utah followed Arizona’s lead, passing their own draconian bills to push immigrants out or prevent them from settling. Boasting about the state immigration bill in Alabama, a lawmaker said the bill “attacks every aspect of an illegal’s life. . . . The bill is designed to make it difficult for them to live here so they will deport themselves.”¹⁰⁷ Numerous local and state immigration bills were challenged on the grounds that they violated the federal government’s plenary power over immigration and immigration enforcement. At issue was whether these bills regulated immigration or immigrants. Recall that states and localities can pass laws that affect immigrants’ lives, but they may not pass their own immigration laws. Of course, although some state and local agencies already enforced immigration laws through the 287(g) program, there are important differences between the 287(g) program and state and local bills that mimic the 287(g) program. Chiefly, localities may not conduct this type of enforcement by themselves; participating in the 287(g) program requires training and permission from the federal government.

In 2012, the Supreme Court ruled that most of the provisions in Arizona’s SB 1070 were unconstitutional and preempted by the federal government’s plenary power over immigration.¹⁰⁸ The court found, for example, that the state could not *require* local police to verify the citizenship of people with whom they came in contact and that officers could not make warrantless arrests on suspicion of removability. However, the court left in place one provision that allowed officers to ask individuals about their legal status. The decision stipulated that delaying someone’s release to investigate suspected immigration status violations would raise “constitutional concerns” but left the provision in place because of uncertainty as to whether implementation would “require state officers to delay the release of detainees for no reason other than to verify their immigration status.”¹⁰⁹ After the court’s decision, the five states that had similar laws on the books also ended their enforcement initiatives; since Arizona’s law was struck down, no additional states have passed similar legislation.

As this chapter shows, immigration control efforts span the nation’s history and reflect deliberate political choices to “design” the nation.¹¹⁰ During the nation’s first one hundred years, state legislators established immigration policies and set up

state immigration boards to execute them. Ultimately, these immigration controls were relatively weak, and the biggest barrier to entry was whether one could pay for the cost of passage. Over the last 150 years, the federal government has expanded its administrative capacity to implement immigration laws, creating a sprawling bureaucracy and a large federal police force dedicated to immigration enforcement. While there is only one set of *federal* immigration laws, varied state and local responses to immigrant communities ensure that, in practice, immigration control varies across localities.¹¹¹ Some localities have amplified the effects of immigration enforcement by passing restrictive anti-immigrant laws and formally cooperating with ICE, and others have attempted to attenuate its effects by resisting ICE's efforts.

Although US immigration policies no longer *formally* select immigrants by race, immigration control continues to be driven by ideas about race, nation, and who “belongs” in America. The US-Mexico border is a militarized fortress, but politicians continue to insist that it is “out of control,” even though net migration has been at zero or negative since 2008.¹¹² It is not clear how much immigration enforcement is necessary to convince the public, or media pundits, that the government is sufficiently regulating migration.¹¹³ The moral panic about unauthorized immigrants, and more specifically *Latinos*, convinces some that an immigrant invasion is threatening “American” communities and degrading “national identity.”¹¹⁴ And since few politicians can afford to be “soft” on immigration or crime, they give immigration controls their enthusiastic support, with little regard to whether additional laws are effective.¹¹⁵ Enacting tough immigration policies is politically expedient at multiple levels of government.

In the next chapter we turn our attention to Nashville, Tennessee, and its politics of immigration enforcement. The chapter examines Nashville's march toward immigration restriction, showing that state and local laws that regulate the lives of immigrants blur the boundaries between controlling immigration and controlling immigrants.

Setting Up the Local Deportation Regime

The city of Nashville conjures up specific “All-American” images: honky tonk bars, country music, and southern fried chicken. Miles away from downtown tourist destinations, major thoroughfares in Southeast Nashville are lined with storefronts and businesses where most transactions occur in Spanish. Small grocery stores sell tortillas and Mexican products, boasting an impressive variety of Mexican candy, chips, and cookies. Among the businesses catering to Mexican and Central American residents are *panaderías* (Mexican bakeries), *peluquerías* (hair salons), *carnicerías* (butcher shops), *taquerías* (taco shops), *pupuserías* (restaurants serving Salvadoran *pupusas*, a thick corn patty stuffed with cheese or meat), and *llanterías* (tire shops). On weekends, parks host men’s and women’s soccer leagues where teams of young Latino men and women compete with one another. Families arrive to watch the games and enjoy the snacks that vendors sell in the park: *tacos*, *elote en vaso* (corn in a cup, served with mayonnaise, cream, cheese, and salsa), *paletas* (popsicles), and *chicharrones de harina* (puffy fried wheat snacks doused in lime and hot sauce). These scenes, a visual depiction of a city in transition, have played out in cities and towns across the country but have been particularly pronounced in the South.

Between 1990 and 2000, the percentage of Mexican immigrants in the traditional destination states of California and Texas declined, and the states of Georgia, Alabama, Tennessee, Arkansas, and North Carolina emerged as new immigrant destinations.¹ Indeed, eight of the ten states with the highest percentage change of the Mexican-born population between 1990 and 2000 were located in the South; in most of these states, foreign-born populations more than doubled in size.² Nashville was no exception, experiencing a 134 percent increase in its Latino

population between 2000 and 2010. Indeed, without the arrival of new Latino residents, the city's population would have declined in the 1990s and 2000s.³ This trend continued through the 2000s, as Latino immigrant workers gave way to entire families and communities.⁴ By 2010, Latinos constituted almost 10 percent of Davidson County's population, up from 4.5 percent in 2000.⁵

Most foreign-born Latinos in Tennessee were born in Mexico and arrived in the United States via the traditional gateway states of California, Florida, and Texas. Unemployment was low, and new residents easily found employment in construction and service industries.⁶ Latino immigrant residents I spoke to during the course of this fieldwork described their move to Nashville in favorable terms. For example, Alfonso, who had arrived in Nashville from Texas in 1988, explained: "I worked in Houston and San Antonio, but I came here because there was more work and also they paid higher wages, and things are cheaper here than in other states. That's why I came. I feel more comfortable in Tennessee." David, who moved to Nashville in the mid-1990s from Los Angeles, expressed similar sentiments: "Well, my brother was here, and so I sent my wife and my daughters from Los Angeles and they liked it. Then I followed, for the future of my family. It's much calmer here in Tennessee, so I like it as a place to raise my family."

In the mid-2000s, the region's changing demographics became a lightning rod for political controversy.⁷ State and local actors passed a number of anti-immigrant bills and punitive policies directed at making life harder for the area's Latino immigrant residents. For Latino residents, this shift was tangible. Maria, a Mexican immigrant who had moved to Nashville from Los Angeles in 1994, told me that the city had changed since she arrived:

When I got here it's like, at that time we had access to a driver's license without a social security number and there were more services available. It was less difficult than now. There was a radical change. You could feel the change, there were more laws affecting us, they took away programs that benefited the undocumented community, and since then we have felt anti-immigrant sentiment more.

Jesús, a Mexican immigrant who owned a popular Mexican restaurant, attributed the backlash to immigrants' expanded visibility in the city. On March 29, 2006, thousands of Latino immigrants and their supporters marched for immigrants' rights in downtown Nashville. The Nashville march occurred in response to a proposed federal immigration law that would have criminalized undocumented immigrants by making living in the United States without authorization a felony. Immigrant advocacy networks across the United States organized against the bill, and marches for immigrant justice occurred in more than 140 cities across thirty-nine states. Building on the momentum of the marches, organizers called for a national day of boycott on May 1, 2006, and urged immigrants and their supporters to demonstrate their importance to

the US economy by not shopping or working. Thousands of Latinos in Nashville participated in the national “Day without Immigrants” boycott, including Jesús, who closed the restaurant. However, Jesús grew to have mixed feelings about his decision to participate in the boycott, saying that he did not regret his decision but also describing it as a mistake:

We closed on the national day of boycott, we participated and I don't regret doing it, but looking back on it, I feel that it was a mistake to close the restaurants because our customers had been patronizing my businesses the whole time and it wasn't their fault. . . . I think that they would have had a more favorable opinion of us if that day we had said, “Support our cause, but here we are to work for you.” To deny my clients service when they had been coming every week or twice a week to eat with us . . . we felt that after we closed some clients never came back. We lost clients, so I think it was a mistake to participate in that way.

Jesús believed that his patrons were willing to tolerate the immigrant community as workers who *served* them but not as residents who mobilized for justice and equality.

The widespread mobilization for immigrants' rights in the spring of 2006 also fueled an anti-immigrant backlash. Media coverage of the immigrant rights' movement shifted from a debate about immigration reform to the presence of unauthorized immigrants as a social problem.⁸ In Nashville, conservative media pundits were furious that so many Latino immigrants had marched in downtown Nashville. Speaking to a reporter, conservative radio host Phil Valentine explained how the protests had galvanized area residents: “Before the protests, [people] were sitting on the sidelines, but now they are incensed. They see that these people are carrying Mexican flags, they don't speak English—they are in your face. People are more attuned to what the problem is.”⁹ Indeed, some of the anti-immigrant state and municipal laws detailed in the last chapter, including Hazleton's ordinance, emerged several months after the immigrant rights' marches.

The perceptions articulated by Latino immigrant residents in this section are testament to the region's shifting context of reception. In the sociological research on immigration, *context of reception* refers to the structural and cultural characteristics of specific places that affect how immigrants experience or are incorporated into those places.¹⁰ A number of studies of Latino migration to the South have documented that the cautious optimism with which Latino immigrants were initially received was replaced by explicit hostility.¹¹ As I detailed in the last chapter, anti-immigrant sentiment became pervasive in the South and many other destinations across the country in the mid-2000s, resulting in a flurry of restrictive and punitive laws directed at unauthorized immigrants. These punitive laws change an area's context of reception.

According to political scientist Daniel Hopkins, localized anti-immigrant responses emerge in places that are undergoing sudden demographic changes at the

same time that immigration is a nationally salient issue.¹² Additional research suggests that localities with higher concentrations of Republican voters are significantly more likely to propose and pass exclusionary immigration laws than localities that trend Democratic.¹³ This chapter examines Nashville's changing context of reception by focusing on three policy areas that generated substantial controversy and redrew the boundaries around local membership for unauthorized immigrants: access to state driver's licenses and identification cards, Davidson County's participation in the 287(g) immigration enforcement program, and an "English-only" ordinance that attempted to make English the Nashville government's official language. I employ the sociological literatures on citizenship and boundaries to argue that these policy changes institutionalized a hostile context for undocumented residents, establishing a local deportation regime.

THE BOUNDARIES OF CITIZENSHIP FOR UNAUTHORIZED IMMIGRANTS

The concept of citizenship is often used to describe one's formal legal status vis-à-vis the nation-state. Those with formal citizenship are presumed to "belong" to the nation-state and therefore are able to enjoy the rights that full membership in the national community entails.¹⁴ Understandings of citizenship as existing within the territorial boundaries of nation-states have evolved with the recognition that citizenship is more than legal standing in a politically bounded community. Modern conceptions of citizenship identify its four dimensions as legal status, rights, political participation, and notions of belonging.¹⁵ The substance and status of citizenship do not perfectly converge; formal citizenship does not guarantee full membership rights, nor does lack of citizenship imply an absence of rights.

Research on "citizenship" for noncitizens shows how immigrants who lack legal membership in the national community can accrue rights on the basis of their physical presence and/or deservingness.¹⁶ For example, in some locales, unauthorized immigrants have the right to vote in municipal elections and have access to municipal ID cards. These are examples of subnational or urban citizenship, a form of local membership that confers rights based on one's residence in an inclusive municipality or state.¹⁷ In contrast, the Deferred Action for Childhood Arrivals (DACA) program confers rights on the premise that undocumented young people are more "deserving" than the larger undocumented immigrant community because they arrived in the United States as children, some achieved educational mobility, and many consider themselves American. DACA allows eligible undocumented young adults to obtain temporary lawful presence, enabling recipients to receive a social security number, a work permit, and temporary protection from deportation.

Citizenship regimes can also be understood as delineating the symbolic and social boundaries of membership.¹⁸ Symbolic boundaries are distinctions that actors use to justify people's inclusion or exclusion from group membership, whereas social boundaries confer unequal access to rights and opportunities on the basis of these symbolic boundaries.¹⁹ Boundaries shift when the lines that differentiate insiders and outsiders move in the direction of inclusion or exclusion.²⁰

As this chapter shows, the presence of unauthorized Latino immigrants generated heated political debates in Tennessee. As the Latino immigrant population grew, they came to be constructed as a political problem, often by media shaping the meanings of local events. Compelled to "do something" in response to a growing backlash, city and state officials responded by stripping unauthorized immigrants of driver's licenses, forging new immigration enforcement partnerships, and considering a host of restrictive and exclusionary ordinances. In doing so, state and local legislators redrew the boundaries around local membership, drawing on powerful discourses about Latino immigrants' place as outsiders. Their choices set the stage for a local deportation regime that criminalized Latino immigrants and placed them at risk of deportation.

SHIFTING DRIVER'S LICENSE ELIGIBILITY

When Latino immigrants began arriving in Tennessee, they were eligible for Tennessee driver's licenses and identification cards, provided they could prove they were state residents. That changed in 1997, when Tennessee legislators changed state law to require that all applicants provide their social security numbers on license applications. The policy change emerged in response to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), a federal welfare reform law. The PRWORA devolved responsibility for welfare programs to the states and made large categories of noncitizens ineligible for means-tested social problems. It also required states to collect social security numbers on license applications so that states could identify "deadbeat" parents who were not fulfilling child support obligations and could punish them by denying or revoking their licenses.

A social security number is a nine-digit number issued by the US government as a way to track individuals for social security and tax purposes. Citizens and noncitizens with permission to work in the United States are eligible for social security numbers, but not all noncitizens who live in the United States have one. When Tennessee legislators changed license eligibility standards to require a social security number, they effectively excluded all foreign-born residents without one from accessing state identity documents. At the time, this was not their intent. In fact, a newspaper article documenting the policy change made no mention of its effects on foreign-born residents.²¹ In the late 1990s, Latino immigrants

were largely invisible to state legislators and government offices.²² The local anti-immigration laws that would emerge in the South were still a decade away.

A number of states changed eligibility for licenses in response to the PRWORA. Quickly, questions emerged about whether the federal government intended to exclude residents without social security numbers from obtaining driver's licenses and identification cards. As additional states sought clarification, the commissioner at the Office of Child Support Enforcement explained that the law was not intended to make getting a license contingent on having a social security number: "We interpret the statutory language . . . of the Act to require that States have procedures which require an individual to furnish any social security number that he or she may have. . . . The Act does not require that an individual have a social security number as a condition of receiving a license."²³

In 2000, a group called the Coalition for a Safer Tennessee quietly began lobbying a few sympathetic state legislators to drop the social security number requirement on licenses. The coalition was composed of immigrant advocacy groups, religious groups, unions, employers, and public safety institutions. Rather than describe the policy change as a way to integrate a small number of unauthorized immigrants, the bill's sponsors emphasized that the law would protect all Tennesseans. Their pitch was simple: state residents are safer when drivers learn traffic laws, pass exams, and have access to car insurance. With little fanfare, Senator James Kyle, a Democrat from Memphis, and Representative Mike Turner, a Democrat from Nashville, introduced legislation to amend driver's license eligibility in February of 2001.

Some Republicans objected to the new legislation and attempted to add an amendment to require driver's license applicants to show proof of legal presence, but their attempts failed. At the time, public safety for all state motorists superseded immigrant exclusion, and legislators easily passed the bill to make unauthorized immigrants eligible for driver's licenses in April 2001. The local paper announced that legislators were putting "motorists' safety over [the] legal status of immigrants."²⁴ Quoted about the policy change in the article, Representative Mike Turner (D-Old Hickory) said, "I don't know of any organizations except the Klan that's against this bill."²⁵ The bill, which was signed into law in May 2001, amended the Tennessee Code to require applicants to provide a social security number "if the applicant has been issued a social security number" but allowed applicants who did not have a social security number to complete an affidavit stating that fact.²⁶ This new state law was a *de facto* acknowledgment that unauthorized immigrants were part of Tennessee's populace. Expanded eligibility for driver's licenses and IDs shifted the boundaries of state membership, resulting in a form of "local citizenship" for unauthorized Latinos. With a driver's license, unauthorized residents had the freedom to drive without breaking the law and could identify themselves to state and government agencies.

The number of residents in Tennessee without social security numbers had grown between 1997 and 2001. Within days of the policy change, the *Tennessean* reported that “legal and illegal immigrants” were “flooding driver’s license testing stations.”²⁷ In the first few months of expanded eligibility, the Tennessee Department of Safety issued almost thirty thousand licenses to noncitizens, the vast majority of whom were unauthorized Latino residents.²⁸ Government offices were overwhelmed and unprepared for the surge of new applicants, and few testing centers had bilingual employees. Newspaper stories documented chaos at testing centers, describing native-born residents who were angry about waiting in line for eight hours “behind people who couldn’t understand the state workers’ instructions.”²⁹

Legislators who supported unauthorized immigrants’ access to driver’s licenses framed their support in terms of public safety, but after 9/11 the meaning of public safety changed. Lawmakers worried about the freedom of movement that ID cards provided to noncitizen residents. Others believed that issuing driver’s licenses made Tennessee a “magnet” for unauthorized immigrants. In reality, unauthorized immigrants composed a very small percentage of all drivers’ licenses issued each year. In 2003, for example, the Tennessee Department of Safety issued approximately 1.4 million driver’s licenses; fewer than 2 percent were issued to applicants without a social security number.³⁰

Attempts to push unauthorized immigrants outside the boundaries of membership began immediately, as state legislators who opposed the new law began working to repeal it. They introduced over fifteen repeal bills between 2001 and 2004. These various bills provide insight into how state legislators draw membership boundaries, as some repeal bills were veiled attempts to eliminate only *some* immigrants’ access to identification cards and driving privileges. For example, a failed 2002 bill sought to delimit eligibility for driver’s licenses by requiring applicants to present documents establishing proof of identity and residency: a US birth certificate or passport, immigration documentation proving legal residence, or a Canadian birth certificate and driver’s license. As the bill was written, Canadians would have been exempted from the requirement to have a social security number. A 2003 repeal bill was clearly designed to exclude Mexicans. This law would have banned consular identification cards as proof of identity for driver’s license applicants; at the time, Mexico was the only country issuing identification cards to foreign nationals in Tennessee.

In 2004, after years of political wrangling, Tennessee passed a new “get tough” measure to restrict driver’s licenses to US citizens and legal permanent residents. Everyone else—including unauthorized immigrants, international students, and temporary legal residents—would receive a new document called the “Certificate for Driving” (CFD). This legislation blurred the boundaries between unauthorized immigrants and legal immigrants without permanent residence by making both

groups ineligible for standard Tennessee driver's licenses and IDs.³¹ Hailed as a compromise, the certificate conferred driving privileges but did not verify identity, thereby eliminating the state's role in legitimizing or institutionalizing immigrants' identities. Supporters hoped it would "slow the migration of undocumented or illegal immigrants" into the state.³²

The CFD was a new document that did not exist anywhere else in the country. It created a tiered system of driving privileges, with significantly fewer protections for certificate holders compared to license recipients. For example, motorists had to renew the driving certificate yearly, whereas licenses were valid for five years. Car insurance companies did not cover certificate holders at the same rates or at all, making it challenging for immigrants to secure and afford insurance. Moreover, unlike driver's licenses, CFDs were not recognized in other states, restricting immigrants' freedom to travel.

The creation of the CFD also opened the door for frontline bureaucratic workers to police Latinos. Under the new policy, state employees inspected documents to determine whether prospective applicants were eligible for driver's licenses or CFDs. Although all foreign-born residents without citizenship or permanent residence were supposed to receive certificates, the CFD was understood as a document for Latinos. Acting on persistent stereotypes that undocumented immigrants were predominantly Latino, or that Latino residents were predominantly unauthorized, frontline bureaucrats were inordinately suspicious of residents who appeared to be of Latino descent. Legally present Latino immigrants reported having their legal documents—such as passports, birth certificates, social security cards, or green cards—seized by suspicious clerks who claimed the documents were fake. For example, a permanent legal resident of Nicaraguan descent had her passport, Florida driver's license, and green card confiscated after a state clerk accused her of trying to illegally obtain a driver's license.³³ Clerks also attempted to seize birth certificates belonging to American citizens born in Puerto Rico, perhaps unaware that these Spanish-language documents constituted proof of citizenship.³⁴ In addition, some legally present Latino immigrants reported being issued CFDs, even though they were eligible for driver's licenses.

Tennessee's CFD experiment was widely maligned. By 2006, reports that a department of safety employee sold driver's certificates to unqualified immigrants received almost daily attention on conservative talk radio. Additional investigations suggested that buses full of out-of-state residents were descending on the state to fraudulently obtain driver's certificates.³⁵ In February 2006, the Tennessee Department of Safety announced it would stop issuing CFDs to unauthorized immigrants for the "security of Tennesseans." In an e-mail from the department of safety commissioner to state employees, the commissioner wrote: "Today, the Department of Safety is halting the issuance of Certificates for Driving to people who cannot prove they have legal presence in the U.S. . . . The CFD program was a good

idea, but there have been implementation issues. We need to give it a thorough review, to make sure we're doing what's best for Tennesseans. . . . The bottom line is this: immigration is essentially a federal issue. But ensuring the security of Tennesseans is a state issue, and it's one that both the Governor and I take very seriously." This decision "brightened" or hardened the boundaries between unauthorized immigrants and legal immigrants, as unauthorized immigrants lost all access to legal driving privileges in the state. Moreover, changes to federal law made it unlikely that driving privileges would ever be restored. In 2005, Congress passed the REAL ID Act to impose federal standards on state-issued photo identification cards. One of these standards was to make lawful immigration status a prerequisite for obtaining a driver's license or state ID card.

In 2007, the Department of Safety worked with Tennessee legislators to pass new driver's license legislation. The new law formally abolished CFDs and replaced them with temporary driver's licenses. Citizens and legal permanent residents would remain eligible for standard Tennessee driver's licenses, and temporary driver's licenses would be issued to legal immigrants who could prove they were legally authorized to be in the United States for at least a year. As written, the law excluded thousands of legally present foreign-born Tennessee residents from obtaining driving privileges, because not all legal immigrants are issued visas in multiyear segments. Foreign-born residents who could not prove that their legal presence was authorized for at least a year were ineligible for temporary driver's licenses until 2008, when legislators eliminated the one-year length of stay requirement for noncitizens.

IMMIGRANT CRIMINALITY AND THE 287(G) PROGRAM

On June 8, 2006, at 11:30 a.m., a Mexican man named Gustavo Reyes García swerved into oncoming traffic and struck a silver Buick sedan headfirst. The driver and passenger in the silver Buick, a married couple from a Nashville suburb, died. The driver who had caused the accident emerged unscathed; his blood alcohol content was 0.34 percent, more than four times Tennessee's legal limit. Officers arrested Reyes García and booked him into the Davidson County Jail. This was not his first time in custody. His county arrest record dated back to 2001; since then, he had been arrested and convicted dozens of times on a variety of charges related to drunk driving.

When officials booked Reyes García into jail after the accident, they submitted his fingerprints to ICE's LESC in Vermont. This was a long-standing practice; the Davidson County Jail had been submitting arrestees' fingerprints to the LESC voluntarily since 2000. Between 2000 and 2007, the LESC requested that the county hold 151 arrestees on immigration detainees, but officials had never issued a

detainer for Reyes García. After Reyes García was charged with a double homicide, ICE issued a detainer. This came as a shock to Davidson County's sheriff, Daron Hall, who explained their long-standing practice of sending information to the LESC:

The person, Reyes Garcia . . . his data was sent every time electronically. It was checked, supposedly, or at least received by the ICE office in Vermont. They sent notification back to us they received it, and he was cleared to be released. On this thirteenth or fourteenth arrest for the double homicide, it was the same process, except this time they said, "Don't let him go. He's a bad guy. He's been all over the board. He's illegally here." . . . But we had him three months before this, same data, same system, and they said let him go.

Public outrage was swift as a number of news stories documented Reyes García's long arrest history and undocumented status. Sheriff Hall remembers the swell of media attention: "The first day, the story said two people were killed tragically in a head-on collision by a drunk driver. The next day, the headline said the drunk driver was illegally in the country. That got everybody else fired up. The third day, it was "illegally here, in the jail fourteen times, sheriff let him go," Sheriff Hall said.

According to media scholars, how stories are framed determines whether the public views them as problematic.³⁶ Rather than critique Tennessee's lax punishments for repeat DUI offenders, stories made Reyes García's immigration status the dominant frame for his case. After the accident, print, radio, and television media outlets around the country covered the Reyes García story for weeks. A local headline announced, "ICE Overrun by Number of Illegal Aliens."³⁷ Soon people linked Reyes García's drunk driving offense to the earlier political fights about driver's licenses for unauthorized residents. Conservative talk radio host Phil Valentine served as the leading voice of the nativist backlash. Valentine appeared on Fox's *O'Reilly Factor*, describing the accident as "completely preventable" and calling for those who had supported driver's licenses for unauthorized immigrants to "explain themselves to the family of these people who died."³⁸ Not to be outdone, television personality Bill O'Reilly described the accident as "a failure of Davidson County justice."³⁹ Thus Reyes García's drunk driving offense turned into an indictment of local officials' supposedly permissive attitudes toward unauthorized immigrants.

After the media reframed the story around the problem of immigrant criminality, local officials scrambled to account for their "failure" to keep the city safe. The sheriff and district attorney vowed to get answers from ICE officials. Sheriff Hall explained:

It took a couple of weeks of phone calls from the district attorney and myself to figure out what in the heck happened in the federal ICE office. Eventually, we got a midlevel

person in the ICE office who told us that they no longer have the resources to check everybody. They only check people who commit aggravated felonies, which really are murders and rapes. Not because they want to, but because they don't have the resources. So they were telling us that all these people we'd been sending them, they hadn't been checking anyway.

By that time, several counties were participating in the federal government's 287(g) program, including Mecklenburg County, North Carolina. Incidentally, Sheriff Hall knew the sheriff of Mecklenburg County and called him for information about how to apply to the program. Sheriff Hall drafted a letter to the DHS in August 2006 to request immigration enforcement authority. Sheriff Hall indicated that he had been in contact with the local ICE agent in charge, local law enforcement officials, and their US congressman to pursue the program. Hall believed the 287(g) program would allow him to identify "criminal illegal" aliens who posed a risk to citizens of Davidson County.

On September 5, 2006, the county sheriff, the police chief, and the district attorney held a joint press conference announcing "sweeping changes" to "deal with criminal illegal immigrants" in the city.⁴⁰ Press releases issued by the sheriff's office and police department made clear that the sheriff was speaking for the police chief and the district attorney at the press conference. Their joint statement read as follows:

During 2006, several very serious cases involving criminal illegal immigrants in Nashville prompted the three of us to begin formulating plans to better protect the citizens of Davidson County. Recognizing that no plan or program is perfect, the 287(g) option appears to be well suited for Nashville and we immediately began making further inquiries. . . . While Nashville is doing more than most cities by routinely checking foreign-born arrestees against an ICE database, it is clear that we can make our processes even stronger, but the federal government must grant our request. The three of us agree that the process we propose is in the best interest of everyone, including the law-abiding immigrant population. . . . It is important for us to emphasize that this program will affect only those illegal immigrants who have a blatant disregard for laws in Davidson County. If you are in this country illegally and commit a crime, we will process you under the federal authority given to us through 287(g).⁴¹

As this statement makes clear, Davidson County law enforcement officials decided to pursue immigration enforcement authority in response to several high-profile crimes with undocumented immigrant assailants. Officials used the crimes of a small number of undocumented offenders to suggest that the larger undocumented immigrant population might contain criminals in waiting. Their statement linked "illegal immigrants" and crime, suggesting that more robust immigration enforcement was necessary to protect Davidson County citizens. By implementing the 287(g) program, Davidson County officials transformed the discourse about immigrant criminality from a symbolic boundary to a social one.

Racial politics is central to understanding the implementation of the 287(g) program. To justify their draconian measures, lawmakers invoked what anthropologist Leo Chavez calls the “Latino threat narrative,” discourses that portray Latinos as an invading force that endangers US citizens.⁴² While crimes committed by citizens are often invisible, crimes with citizen victims and undocumented immigrant perpetrators receive disproportionate attention. This occurs because discourses linking immigrants to crime are influenced, not by crime rates, but by the perception that *any* crime committed by an undocumented immigrant is unacceptable.⁴³ Crimes in which the suspected assailant is unauthorized are considered extraneous crimes, or crimes that would not have been committed with stricter immigration regulations.⁴⁴ This framing demands that local authorities respond to “immigrant criminality” by “doing something” to protect residents. For example, sociologist Jamie Longazel argues that Hazleton’s anti-immigration law emerged after legislators connected Latino assailants to white victimization.⁴⁵ Comparing local responses to two homicides allegedly committed by (unauthorized) Latino perpetrators in Hazleton, Longazel shows that the homicide with the white victim engendered outrage and panic, while the homicide with the nonwhite victim went largely unnoticed. Even though crime in Hazleton had been falling for several years, lawmakers insisted the anti-immigrant ordinance was necessary to combat a crime wave that was not actually happening.⁴⁶

It is worth noting that sheriff’s departments are more likely than police departments to report cooperating with immigration enforcement authorities.⁴⁷ For example, virtually all 287(g) programs were implemented by local sheriff’s offices, which have different responsibilities and accountability structures than police departments. Sheriffs are locally elected officials and accountable to voters, whereas police chiefs are appointed and accountable to local government.⁴⁸ Generally, police departments serve particular cities and towns, whereas sheriff’s departments have jurisdiction over counties. In some places, including Nashville, the sheriff’s office does not provide direct law enforcement services but administers the county’s correctional facilities. However, in jurisdictions where both police departments and sheriff’s offices provide law enforcement services, police departments generally handle calls and enforcement inside city limits, while sheriff’s offices tend to patrol sparsely populated unincorporated county areas. A national survey of police chiefs and sheriffs throughout the country revealed that sheriffs were twice as likely as police chiefs to report that federal officials influenced their agency’s immigration enforcement practices; in addition, police chiefs were more likely than sheriffs to express concern about the department’s standing and reputation in immigrant communities.⁴⁹

In January 2007, the DHS approved Davidson County’s participation in the 287(g) program. Immediately, immigrant organizers and advocates expressed concerns that the sheriff might use the program to initiate mass deportations. “We

can't emphasize enough that if this program is implemented in a way where someone could be deported simply for driving without a license, then that's not the kind of program that was pitched at the outset," David Lubell, president of the Tennessee Immigrant and Refugee Rights Coalition, told the *Nashville City Paper*.⁵⁰ The *Nashville City Paper* quoted Sheriff Hall as agreeing with members of the Sheriff's Advisory Council (SAC) and stating that local officers should not detain suspected unauthorized immigrants who posed no threat to the public. "The purpose of this [program] is not to automatically deport people. It's to avoid ignoring them," said Sheriff Hall.⁵¹

When the Davidson County Sheriff's Office (DCSO) signed the memorandum of understanding to participate in 287(g) program, the county did *not* decide to run a targeted enforcement model, as members of the immigrant advocacy community had hoped. Instead, the county designed their program like Mecklenburg County's, screening every foreign-born person arrested in Davidson County by local police for immigration violations. This decision ensured that the program would ensnare thousands of low-level misdemeanor violators.

ENGLISH ONLY

Amid debates about the 287(g) program, another political battle was being waged over a symbolic ordinance to declare English the official language of the city of Nashville. In January 2007, the Nashville Metro Council considered several anti-immigrant ordinances.⁵² Several of the bills under consideration were modeled after bills in Hazleton, Pennsylvania. While the bills to punish businesses for hiring unauthorized immigrants and landlords for renting to them were deferred indefinitely, the council passed an English-only ordinance, declaring English the city's official language. Nashville mayor Bill Purcell vetoed the ordinance the same month that Davidson County was approved to participate in the 287(g) program, saying that it conflicted with the city's values. "This ordinance does not reflect who we are in Nashville," said Mayor Purcell, arguing that the ordinance would make Nashville "less safe, less friendly, and less successful."⁵³

By the summer of 2008, the 287(g) program had been running in the county jail for over a year, but frustration about Latino immigration continued to simmer. Councilman Eric Crafton tried again to make Nashville an English-only city, this time by making the issue a ballot amendment. Although Crafton collected the ten thousand required signatures to get the law on the ballot of the 2008 general election, the Davidson County Election Commission declined to put the law to a vote. Nashville's Metro Charter allows for only one voter-led amendment each two years, and the Metro Department of Law determined that Election Day came three days too soon, one year and 362 days after the last voter-led amendment. The councilman sued the election commission, but the English-only bill did not make it on the ballot for the November 2008 elections. Undeterred, Crafton started the

petition process again, collecting over five thousand signatures to force a special election on the bill. Crafton's efforts were payrolled by a national group that calls itself ProEnglish, whose founder is behind several organizations that the Southern Poverty Law Center counts on their list of hate groups.⁵⁴

As a new immigrant destination, Nashville has no recallable history of immigrant sentiment through which local residents can make sense of new arrivals. As residents try to understand new demographic diversity, they rely on available discourses and frames about Latino immigrants. The notion that Latinos cannot or will not learn English is a recurrent theme in immigrant threat narratives.⁵⁵ Indeed, supporters of the English-only charter amendment saw it as a way to reclaim and reassert Nashville's status as an "American city." Like other pieces of anti-immigrant legislation being considered across the country, debates about English-only legislation reflected anxiety over the meaning of American identity.⁵⁶ To white residents of diversifying neighborhoods, Latino immigrants represented the loss of their idealized communities and encroached on their sense of belonging.⁵⁷

Supporters of English Only believed that Latino immigrants should conform to their linguistic expectations. Their campaign's website stated: "By expecting immigrants to learn English we encourage them to improve their skills and earning power, pursue the American dream and become fully self-sufficient participants in our democracy—just as our ancestors set in motion for us."⁵⁸ While this statement appears to be race-neutral, narratives that draw on America's immigrant past trigger comparisons between the "successful" incorporation of European immigrants across generations and the current standing of Latino newcomers and their children. These narratives are frequently deployed to rationalize exclusions against contemporary immigrants, who are seen as undesirable.⁵⁹

Opponents of the English language charter amendment mobilized to oppose the bill under the banner of "Nashville for All of Us" (N4AOU). N4AOU stressed that the law was not a referendum on immigration and would tarnish the city's reputation as friendly to international businesses and tourists. The local political establishment considered the ordinance so important that the newly elected mayor's senior adviser took a two-month leave of absence from his job with the city to run the campaign against English Only. Opponents to English Only included major local corporations, religious organizations, business groups, over two hundred religious and spiritual leaders, and the Nashville mayor and Tennessee state governor.

Despite a carefully orchestrated campaign, members of N4AOU feared they might lose the vote. At a December campaign meeting, phone bankers told stories about calling voters who supported the amendment because they believed Nashville was losing its character. As the election approached, news coverage speculated about what bilingual city services might be eliminated if English Only became the law.

On voting day, Governor Bredesen and the newly elected Nashville mayor, Karl Dean, cast their votes against English Only at side-by-side voting machines. It was the largest turnout for a special election in a decade. The night of the election, N4AOU members gathered for a party at Lowe's Hotel in West Nashville. Cheers erupted as they learned Crafton's English Only referendum had suffered a sound defeat. Amid loud cheers and whistles, a campaign member yelled loudly, "Today English Only, tomorrow 287(g)!"

Ultimately, businesses and political leaders lined up to reject English Only, arguing that the ordinance tarnished Nashville's reputation as a welcoming city for all visitors. While the frame of a welcoming Nashville won out against the symbolic anti-immigrant ordinance, public figures who mobilized against English Only declined to speak out publicly against the 287(g) program because it was understood as targeting "criminal aliens."

SETTING UP 287(G) IN THE DAVIDSON COUNTY JAIL

DCSO employees lined up for the opportunity to rid Davison County of "criminal aliens." Over two hundred people, one-fourth of all DCSO employees, applied for sixteen positions to participate in the 287(g) program. The sheriff and his staff enthusiastically endorsed picking the "best" employees in the organization and tried to weed out those who wanted to do the job for the "wrong" reasons. They implied that wanting to deport "illegal aliens" for breaking the law was fine, but openly expressing hostility or antagonism toward immigrants was not.

Prospective applicants coveted these positions for a variety of reasons. Many believed that the program would enhance public safety. Some believed the job represented an opportunity for upward mobility and professional development, which was uncommon in the sheriff's office. Others were motivated by the program's novelty, which allowed them to perform tasks that were completely unlike their previous ones. Chad, a DCSO employee who was picked to participate in 287(g), explained why the program was so exciting for applicants: "It was something new, it was something that it was kind of in the news, a lot of people were aware of it and wanted to be part of something different. The federal training, I think was kind of intriguing to people to basically . . . to say we're designated ICE officers. We have IDs that say I'm an immigration officer." He opened a black leather wallet and proudly displayed his badge.

Officers endured four weeks of training that all described as challenging. Michael, a former booking officer, described walking into the classroom on the first day of training and briefly regretting his decision to participate in the program. "We got there, we saw all these books piled up on immigration law and everything, and I thought, 'What have I gotten myself into?'" he explained, chuckling. Because their positions were so highly coveted and officers received special

training, they believed their designation as immigration officers represented a professional achievement. “Look at the picture on the wall,” Ronnie said, pointing to the snapshot of his smiling coworkers. “All these individuals, they were the ones who started this and no one else. Whether they come to replace [us] or not, they can’t say they were at ground level when it got started. . . . My number one reason [for applying] was I kind of felt like it was cutting-edge law enforcement. You know, it was kind of what was coming. You could see it coming across the board in the entire nation.”

Before the federal government had the capacity to automate immigration screenings through biometric databases, federal immigration officers interviewed suspected immigration violators in jails through ICE’s Criminal Alien Program. Without the time or resources to check everyone, federal officers used shortcuts, interviewing Spanish speakers with Latino surnames. When the 287(g) program started in Davidson County, an initial concern was how officers would select immigrants for screening without relying on racial markers of “illegality.” The jail addressed these by taking steps to eliminate discretion. Booking officers relied on information from the police officer’s arrest report (which indicated each arrestee’s place of birth) to determine whom to flag for questioning. A supervisor explained how this worked:

Everybody who is foreign-born gets the [red] stamp on their paperwork to go to ICE. They’re not in the decision making, they’re just basically filtering the paperwork to us. Our people are looking at the police report and looking at the place of birth, so if it says Guatemala, then they put in Guatemala, and it says foreign-born so that goes to us. So, they’re not really—the police aren’t checking a box, they’re just putting their place of birth, and we kind of take that information and go from there.

Since all foreign-born arrestees were flagged for immigration screenings, all foreign-born inmates were put on an ICE investigative hold until cross-deputized officers determined their immigration status. Officers used a database from the DHS to determine if the arrestee was legally present, was a US citizen, or had had previous contact with the immigration bureaucracy. When the officer determined that the arrestee was legally present, the officer removed the investigative hold. If the officer believed the arrestee was removable, the officer would conduct an administrative interview to collect additional information.

During interviews, officers referred to an ICE handout that outlined a series of questions officers might ask to determine the arrestee’s removability. While this interview was part of the investigation of a person’s status, it was characterized as a mundane administrative task. The ICE official who supervised Davidson County’s 287(g) program explained the interview as follows:

It’s not an interrogation by any means, it’s almost like general information, almost like if you were going to get booked and a police officer was to ask you the same

information, almost. We just get a little more of the information for immigration purposes. . . . And honestly, most people are very nice and forthright and say I swam the Rio Grande or I paid a *coyote* or I came through Laredo, you know.

When the interview revealed that the arrestee was removable, deputized immigration officers turned the investigative ICE hold into a regular ICE hold, or immigration detainer. This was a signal that the inmate would not be released from custody but would be transferred directly to federal authorities at the conclusion of his or her criminal case.

Next, DCSO officers compiled various documents in one file associated with the arrestee's assigned alien registration number (also known as an A number). The DHS assigned an A number to all noncitizens who interacted with the immigration bureaucracy, whether they were seeking citizenship, applying for asylum, or in removal proceedings. Once officers prepared the various documents required to pursue a person's deportation, immigration officers handed off the A file to their ICE supervisor, a federal DHS employee, who was stationed at the jail. The ICE agent signed off on the document, ensuring that the arrestee would be deposited in the immigration enforcement bureaucracy, rather than released from custody after his or her criminal case was resolved.

Since the DCSO was approved to house ICE inmates through an intergovernmental service agreement, this shift in custody did not necessarily involve a transfer out of the county jail and into an ICE detention facility. An immigrant arrestee could go from DCSO custody to ICE custody while never leaving his or her cell. The county absorbed the costs of incarcerating people who were in DCSO custody but received sixty-three dollars for each day they held someone for ICE. Two to three times a week, ICE picked up and took physical custody of detainees from the Davidson County Jail.

CONTESTING THE BOUNDARIES OF IMMIGRANT CRIMINALITY

While officials used rhetoric about immigrant criminality to justify the 287(g) program's adoption, local officials designed the program to ensnare as many unauthorized immigrants as possible. In Nashville, as was the case across the South, traffic enforcement and misdemeanor violations were central to the 287(g) program's expansive reach. The program's design was a blow to immigrant advocates who insisted that the sheriff had implied he would target only offenders convicted of serious crimes. Throughout the program's tenure, this would be a central disagreement between the sheriff and critics of his enforcement policies.

Before the 287(g) program's implementation, Sheriff Hall assembled a group of people to form a Sheriff's Advisory Council (SAC). The SAC was composed of

representatives from the DCSO, the police department, the public defender's office, and the district attorney's office, as well as academics, immigrant advocates, and private attorneys. The SAC convened for its first meeting in December of 2006. Not surprisingly, immigrant advocates were cautious about any program that expanded immigration enforcement by local authorities. According to SAC participants who were involved in the earliest conversations about the program, the sheriff suggested the program would target criminal offenders. For example, the director of a local immigrant rights organization remembered the first SAC meeting as follows:

At this point, the program was still hypothetical. We thought, what is one more tool to identify people who are really dangerous? It was a pretty good little road show the sheriff put on. . . . What he said was, "I'm doing the program for this reason. The focus of the program is for this reason, so good and hardworking neighbors and friends don't have anything to worry about with 287(g)."

An immigration attorney described Sheriff Hall's initial descriptions similarly:

The way he described it to me is that it would only be applicable to dangerous criminals—that is, people who were undesirable, people who had committed a serious crime or crime of violence that we didn't need remaining here in Nashville. And, so he said, given those parameters, would you be interested in serving on the Sheriff's Advisory Committee for this 287(g) program? I said yes. My thoughts were that it was a meritorious program. If we could identify those people that were causing violence and committing serious crimes in this community, and get rid of them, then it would help allay community concerns about undocumented immigrants in general and might help cast the rest of the immigrant population in a better light.

Another member of the SAC described his understanding of the program as follows:

I definitely am of the opinion that the sheriff promoted this program as a program that really was the result of certain major crimes or certain proportionate incidents in the community. . . . I'll say to my dying day that the sheriff promoted this program as one that deals with dangerous and violent offenders—which you know what? I didn't initially have any trouble with, and I still don't, I still don't to this day. If 287(g) is narrowly tailored to deal with major offenses, criminal offenses, and I know that the original intent was for things such as drug trafficking, human smuggling, major offenses, I have no problem with 287(g) because I don't want those folks in our community either. The problem is . . . the net that has been cast has been much broader than the program was ever promoted as.

Ultimately, these disagreements stemmed from the stark differences in each group's understanding of immigrant criminality. Most unauthorized immigrants who ended up in DCSO custody were arrested for misdemeanor driving offenses

and booked because they did not have valid identification. This did not happen because immigrant residents were inherently “criminal”; it happened because legislators changed laws and police enforced them. Still, Davidson County officials used these misdemeanor arrests as proof of unauthorized immigrants’ criminality. For example, early in the program the sheriff told a local paper, “I wouldn’t want to detain people just because they were in the country illegally. But if you’re violating the law locally, criminally, and you’re an undocumented person we don’t believe we should just release you and ignore your status. And if you’re a risk to public safety, you should be detained.”⁶⁰ This statement suggests that to local officials a misdemeanor arrest was proof of criminality, even if that arrest never resulted in conviction. To them, arrested immigrants *deserved* to be processed through the 287(g) program.

The 287(g) program represented a substantial escalation in immigration enforcement because it transformed the Davidson County Jail from a site where ICE occasionally issued detainers to pick up noncitizens to one in which DCSO employees issued detainers en masse. This model reflected local preferences, as the DHS gave local law enforcement agencies wide latitude to use the 287(g) program to suit their own preferences and priorities.⁶¹ Some law enforcement agencies used this flexibility to design targeted 287(g) programs. For example, the Durham Police Department utilized the 287(g) program as a tool for “gang suppression” policing, investigating the immigration status of individuals arrested for felony weapons, narcotics, and property offenses. In contrast, the Wake County Sheriff’s Office, with the support of the county government, used the 287(g) program to conduct expansive immigration status checks for all immigrants housed in the county jail, arrested on any charge. While both agencies directly enforced immigration laws, Durham’s task force program resulted in the deportation of several dozen people, whereas Wake County’s jail enforcement model resulted in the deportation of several thousand.⁶²

The policy choices outlined in this chapter are crucial for understanding Latino immigrants’ marginalization in Davidson County and the region’s changing context of reception for immigrant residents. Scholar Lisa Marie Cacho argues that legislators do extensive ideological work to construct imaginary boundaries around deserving and undeserving members of the public.⁶³ Debates about driver’s licenses, 287(g), and English-only laws bring this boundary making into sharp relief. As this chapter shows, the presence of unauthorized Latino immigrants generated heated political debates in Tennessee. Drawing on discourses of immigrant criminality, city and state officials made unauthorized immigrants ineligible for driver’s licenses and identification cards and forged new immigration enforcement policies. These decisions turned Nashville’s streets and neighborhoods—the spaces of everyday life—into zones of immigration policing.

Driving is crucial for living and working in Nashville; the inability to drive legally restricts immigrants' freedom of movement and contributes to a sense of insecurity. According to Mathew Coleman and Angela Stuesse, programs like 287(g) "have resulted in a climate of terror, in which immigrants live in fear they may be separated from their families every time they step outside their homes."⁶⁴ Cecilia Menjívar and Leisy Abrego similarly argue that the criminalization of immigrants at the federal, state, and local levels creates fear, anguish, and social suffering related to immigrants' vulnerability to deportation.⁶⁵

It is not an accident that excluding unauthorized immigrants from driver's licenses and IDs makes immigrants more arrestable but not less employable. Punishing "illegality" by socially and symbolically excluding unauthorized immigrants from membership is perfectly compatible with integrating undocumented workers in low-wage labor markets. Deporting everyone is neither practical nor possible. Keeping immigrants as outsiders while they remain *inside* the boundaries of the state serves a productive function in that it helps maintain a compliant and exploitable workforce.⁶⁶ In this way, immigration enforcement is not only about banishing people through deportation but about controlling and disciplining deportable immigrants in the nation's interior.

In the next chapters, I move beyond a description of the criminalization of immigration law to consider the on-the-ground processes that criminalize Latinos and channel them into the immigration enforcement system. Frontline bureaucratic actors, particularly local police, play a crucial role in Latino immigrant removal. The next two chapters examine how the Metropolitan Nashville Police Department and its officers dealt with the challenge of policing Latino immigrants. I highlight the department's extraordinary efforts, and sometimes failed attempts, to improve the department's standing in the Latino community. I also highlight the dilemmas that officers experienced as they attempted to balance the bureaucratic priorities, department policy, and their own ideas about what constituted good policing.

Being Proactive

On the Streets in Southeast Nashville

When I began riding with officers, I naively assumed that they would make stops when motorists clearly violated the law, such as by speeding or running a traffic light. These are what scholars Charles Epp, Steven Maynard-Moody, and Donald Haider-Markel call traffic safety stops.¹ Drivers who are on the receiving end of them may bemoan their bad luck and get upset, but most motorists accept traffic safety stops as a legitimate use of police power. Motorists leave these stops understanding why they were pulled over, and they tend to accept the accompanying sanction—typically a warning or a ticket—as appropriate.²

Officers in Nashville's South Precinct made traffic safety stops occasionally, but they were far more likely to make stops for minor technical violations: expired registration tags, broken taillights, and too-dark window tint. Unlike traffic safety stops, which occur because a motorist has driven recklessly, these stops are called investigatory stops, and they occur because the officer wants to investigate the driver. Rather than target egregious violations, investigatory stops “target people who look suspicious.”³ Unlike traffic safety stops, these types of stops are experienced by motorists as an assault on personal dignity (see chapter 6).

In Southeast Nashville, most vehicle stops were investigatory. They were akin to fishing expeditions; officers used them to check people out. Routine procedures during the stop included running the car's license plate number through the dashboard computer so the officer could determine if the car was stolen, if the registration was current, if the plates matched the vehicle, and if the car had a BOLO (a note indicating that officers should “be on the lookout” for the vehicle because police suspected it had been used for criminal activity). When running a motorist's driver's license number, officers checked if the license was valid, if the picture on

the license matched the one in the state database, if the driver who had furnished the license was the person pictured, and if the motorist had any outstanding arrest warrants or criminal history. During investigative stops, the officer might ask the motorist additional questions and attempt to search the car, either by asking for permission or by articulating probable cause.⁴

As state legislators were battling over driver's license eligibility in the mid-2000s, changes were also under way in the Metropolitan Nashville Police Department (MNPd). In 2004, a new MNPd police chief, Ronal Serpas, arrived in Nashville and implemented an operational strategy he called the "accountability-driven leadership model," which used many of the tactics associated with order-maintenance approaches to policing.⁵ A key tenet was the department's expectation that officers should "be proactive." That is, rather than wait for people to call the police for help, the department expected officers to proactively target misdemeanor and noncriminal offenses, positing that doing so would allow officers to identify more serious violations. The department expected officers to target these offenses through the widespread deployment of vehicle stops.

THE LOGIC OF PROACTIVE POLICING

As early as 1978, police scholars James Q. Wilson and Barbara Boland argued that police should pursue field stops and car checks of "suspicious" people or vehicles to reduce crime.⁶ The authors noted that aggressive patrol dictated that officers maximize "the number of interventions in and observations of the community."⁷ They suggested that an aggressive patrol strategy could be achieved through recruitment, training, and incentive systems that "encourage them [officers] to follow the intended strategy."⁸ In 1982, James Q. Wilson and George Kelling introduced the "broken windows" theory, which asserted that minor forms of disorder—such as panhandling, public intoxication, prostitution, littering, and broken windows—generate more serious crime in neighborhoods.⁹ According to their theory, police could reduce crime by cracking down on minor violations in high-crime neighborhoods. A number of studies in the 1990s found that police "crackdowns"—targeted enforcement of specific (or all) offenses through pedestrian and vehicle stops—are effective at reducing crime and seizing contraband.¹⁰ The New York City Police Department is famous (or infamous) for its deployment of stop-and-frisk tactics where officers stopped, questioned, and searched a staggering number of minority pedestrians to check them for warrants, weapons, and drug possession.¹¹

The Supreme Court gives police an extraordinarily amount of leeway regarding how they conduct stops. Virtually any legal violation, no matter how minor, can be used to justify a stop, and officers may use these stops to identify more serious crimes.¹² Officers may also search vehicles and occupants if it is necessary for "officer safety" or if officers have "reasonable suspicion" of criminal activity. Indeed,

even if the officer stops a car on the basis of a misunderstanding of the legal statute, the stop does not violate the Fourth Amendment as long as the officer's mistake is "reasonable."¹³ As a result, police officers may stop, question, temporarily detain, and search motorists with little evidence of wrongdoing, so long as they can articulate a plausible reason for doing so.¹⁴

In their book *Pulled Over*, Charles Epp, Steven Maynard-Moody, and Donald Haider-Markel argue that investigative police stops became popular in the 1990s, as articles lauding the tactic were published in law enforcement trade publications and as information regarding how to conduct investigative stops formed part of policing training manuals.¹⁵ These publications recommended that officers use vehicle stops as a pretext to investigate unrelated and more serious criminal offenses and offered tips so that officers could stop cars effectively. Over time, investigative police stops became an institutionalized practice, unquestioningly accepted by agencies and officers as the "right" way to police.¹⁶

MNPD police chief Serpas considered investigative police stops essential to proactive policing. He hoped that officers would take initiative to solve problems, rather than wait for people to call the police for service. In an interview with me, he described his definition of "proactive policing" and explained why he believed the practice was effective:

Proactive policing, from my point of view, essentially boils down to this, if you are not on a directed mission for some reason, either answering calls for service or on your way to the lockup or on your way to testify in court or anything that you're being told to do. Proactive would be, let me get out of this car and walk around this neighborhood a little bit and see if I can get to know some people, let me stop by this business at 2:00 a.m. and rattle their doors and see if their doors are locked. . . . Proactive is doing something other than what's being directed. . . . We are going to stop vehicles without breaking the law, we are going to interview people without violating their rights, we are going to answer calls as quickly as we can, we are going to do proactive work. Well, I know there's warrants out that I need to serve on this street, so let me go check on those warrants. That's proactive. I'm doing something beyond being told by the radio. Well, there's a car that's speeding through this neighborhood, and that's against the law. Let me go stop this car and see what's going on.

According to Serpas, a significant proportion of the department's arrests stemmed from vehicle stops. He raised his right hand and began counting on his fingers as he listed the benefits of aggressive traffic enforcement, from one to three:

One, you have lighted up police service in the neighborhood. Two, you can reduce collision and injuries. And three, you can do an awful lot about crime. Criminals carry guns in cars, and they go from place to place with their guns in their car. We're routinely pulling illegal weapons out of people's cars all the time.

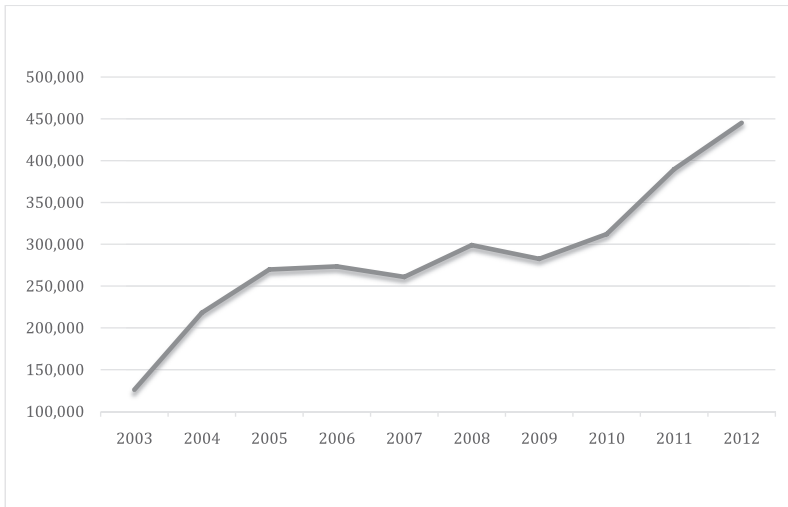


FIGURE 1. Traffic stops per year made by Metropolitan Nashville Police Department, 2003–12.
SOURCE: Metropolitan Nashville Police Department Crime Analysis Publications.

At every turn, police administrators spoke with one another, and with rank-and-file officers, about the importance of being proactive and getting their numbers up. Officers meticulously documented their policing activities on a log that they turned in to their superiors during “mail drop.” These statistics were compiled and reviewed to identify how changes in enforcement were associated with changes in crime. Every week, dozens of police administrators convened at a Compstat meeting to review crime trends and enforcement activities across the city’s precincts. At meetings, supervisors and precinct commanders explained week-to-week upticks in crime or reductions in vehicle stops, providing plans for improvement.

As a result of the department’s shifting bureaucratic priorities and incentives, officers in Nashville made a staggering number of vehicle stops (figure 1). For example, in 2003, Metro officers made a little over 125,000 stops a year—an average number of stops for cities of its size. However, after Chief Serpas joined the department and institutionalized new policing priorities, vehicle stops skyrocketed. By 2007, for example, vehicle stops had doubled. Metro police averaged about five thousand traffic stops a week, over twice the average number of stops in similarly sized cities.¹⁷ With the exceptions of 2007 and 2009, when vehicle stops fell modestly from the year before, this figure demonstrates the department’s dramatic escalation.

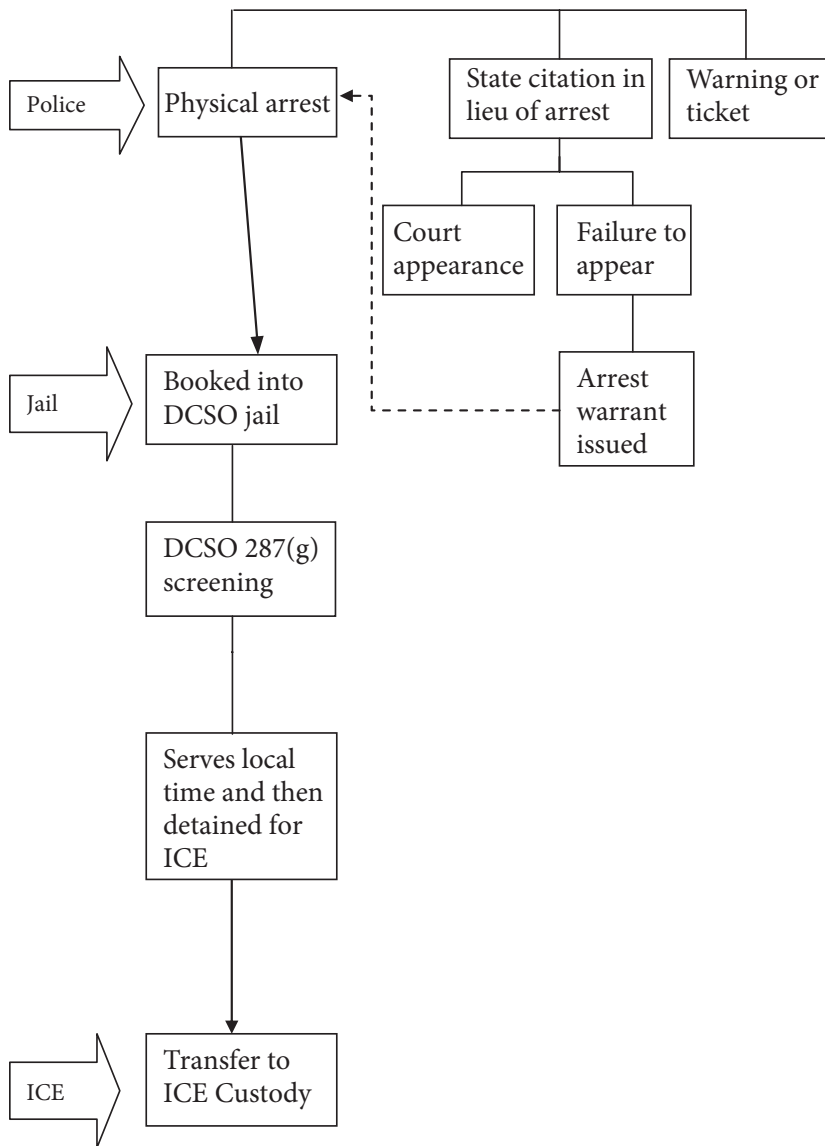


FIGURE 2. Possible outcomes of police traffic stops for unauthorized immigrants in Davidson County.

Officers made investigative traffic stops because the department expected them to. A department priority, vehicle stops were fundamental to what it meant to be a good patrol officer. Although aggressive policing tactics form part of the occupational culture of policing, these institutionalized practices have consequences. While intentionally targeting minority drivers for scrutiny is illegal, encouraging officers to make large numbers of stops for minor technical infractions is not. In Southeast Nashville, the sheer number of vehicle stops that officers made ensured that officers would stop Latino motorists. These stops inevitably put Latino motorists at risk of arrest (and deportation) given unauthorized immigrants' ineligibility for state-issued driver's license and identification cards (figure 2).

INCENTIVES

Making stops was built into the department's incentive structure. To meet the department's expectations and to climb up the ranks, officers had to use their time between service calls to engage in officer-initiated activities. Doing so was in their best interest. The more productive officers received better evaluations and were more likely to have their preferences accommodated when they requested new shifts, assignments, or promotions. In contrast, unproductive officers received the less desirable shifts, assignments, and equipment. The department did not have official quotas, but it did have expectations, and officers knew when they were not measuring up.

Rookie officers tended to unquestioningly accept the department's mission. They did not know any other way to police; the department's philosophy made sense to them. These officers reinforced the department's priorities by making stops a frequent topic of conversation and by good-naturedly teasing one another if their stats were down. They described being proactive as "earning their paycheck." In their view, officers who were not proactive were lazy. For example, Officer Thompson credited his "good days off" (Sunday and Monday) to his productivity. He told me, proudly, that he makes between sixty and sixty-five vehicle stops a month.

When I asked another officer how many stops he thought that the department expected, he responded, "Honestly, I have no idea, but everyone should be able to get three or four stops a night without much of a problem. I want to do flex so I try to do a lot." The flex team was a proactive unit of officers in a precinct who worked together to saturate particular hot spots (geographic locations associated with crime) with a goal of disrupting criminal behavior. Unlike patrol officers, flex officers did not answer calls for service, did not clear traffic accidents, and were not dispatched to take reports. They often drove in unmarked cars, with some officers in plainclothes and others in uniform. Since they spent all their time doing proactive enforcement, flex officers tended to make the most arrests and confiscations.

For young officers who were itching to be part of the action, being on flex was desirable, and showing that one could consistently put up good numbers was key to winning a flex spot.

While most patrol cars were assigned to patrol and answer calls in particular zones, sometimes officers were assigned to “enforcement only.” Officers assigned to enforcement did not have to answer calls and instead moved from one vehicle stop to another. These were also desirable posts, as officers assigned to enforcement made more stops than officers who had to respond to calls.

It is worth noting that not all officers embraced the department’s emphasis on proactivity. Some disliked making traffic stops because it required no skill; it was like shooting fish in a barrel. This dragnet approach to finding violations made each police encounter less productive. “I used to make one or two arrests for every ten traffic stops, now I probably make an arrest every twenty traffic stops,” an officer said. “You’re pushing the numbers up because you’re making stops and *trying* to find illegal activity,” another said in disgust. Veteran officers complained bitterly about the department’s shift in priorities; they felt that their seniority and experience went unrewarded. They described feeling stressed and resented competing with young officers for days off and preferred shifts. One officer believed that the department had taken away his assigned patrol car to punish him for low productivity. An officer with over twenty years on patrol complained, saying, “It used to be that it [job performance] was how quick can you answer your calls, and do you answer your own calls. . . . Now, by making so many stops, people aren’t even available when the calls come out. Back then, we *never* would have let someone else take calls in our zone! No. But the chief has said he doesn’t mind, that these stops matter, so calls can wait. Now people have to wait when they make calls because all the officers are out on traffic stops.”

CALLS FOR SERVICE

While the department prioritized proactive enforcement, officers could not be proactive all the time. In fact, a great deal of police work involves sitting around and doing tasks that are not particularly exciting: answering routine calls for service, taking reports, filling out paperwork, and clearing traffic accidents. Officers on patrol balanced several responsibilities. While they had instructions from their superiors to be proactive and make traffic stops, they also had to respond to calls for service.

Operators at the Emergency Communications Center assigned each service call the number one, two, or three to designate the level of urgency with which officers should respond. “Code one” indicated that the officer should proceed to the location when available; these calls were not urgent. The officer might make traffic stops along the way or be redirected to a higher priority call. “Code two”

indicated that the officer should proceed immediately to the location, but without lights and sirens. “Code three” calls were for emergencies and indicated that the officer should ride *with* lights and sirens and arrive as quickly as possible. Officers were dispatched to respond to calls in their zones, but if the officer assigned to the zone was unavailable to answer a high-priority call, dispatch might pull an officer from a nearby zone to respond.

When an officer was on a call, the officer was doing police work, but he or she was not being proactive. As a result, there was a tension between answering calls for service and being proactive. For example, after wrapping up a call about a domestic disturbance between roommates, three officers and I stood in the parking lot before returning to patrol. It was just after 9:00 p.m. on a Friday night. The call took over an hour to resolve. “I didn’t make *any* stops tonight,” Officer Kerry said glumly. “I was going from call to call to call. It just didn’t seem right to make stops when there were so many calls.” The other officers murmured their agreement and nodded.

Officers acknowledged that there were strategies to minimize answering calls. For example, officers might “ride out a stop” so that they were unavailable to be dispatched to a low priority call. One officer was notorious for being “checked out” until he heard a call that he wanted to take. Then he would check back in. Colleagues did not appreciate this behavior because they had to pick up the slack. I asked how they balanced answering calls and making stops, and an officer responded, “I try to get in stops when I’m on my way to stuff, but you have to be careful. You don’t want to be that guy who left your buddy hanging on a call because you want to pad your stats and then something goes wrong. You don’t want to be that guy.”

Once a city dispatcher indicated that a caller required police assistance, an officer was obligated to answer the call, even when experience dictated that doing so was pointless. People call the police for astonishingly trivial reasons. They call because their neighbor’s music is too loud, because a kid is throwing rocks that land on their lawn, because they are upset or angry at their roommate, their friend, their partner, or spouse.

Many times, there is nothing for an officer to do except document the caller’s complaint and attempt to resolve the disagreement. If the officer hears loud music, the officer will knock on the neighbor’s door and request that the neighbor lowers the volume. The officer will tell the kid not to throw rocks and will tell the caller that a kid throwing rocks requires police intervention only if the kid is obviously trying to hurt someone. In cases of nonviolent interpersonal disputes, officers will allow both parties to air their grievances and suggest that one of the parties take a walk or stay with a friend to “cool off.”

Answering calls can be frustrating. An anonymous caller will report that a person is screaming, but the officer *never* finds a screaming person by the time he or

she arrives at the indicated location. The alarm company will call the police about a triggered security alarm, but officers will arrive and discover that the building is secure (false alarm) or that the assailant is long gone. For each of these calls, the officer must stop what he or she is doing, drive to the appropriate location, and attempt to resolve issues that usually have no legal resolution. Still, each of these calls generates additional paperwork that the officer must complete.

Thus officers are not particularly excited about answering calls for service. They take a long time, and since many calls are not about *actual* crimes, they force officers to respond as social workers instead of law enforcement. Often, neither the officer nor the caller will be satisfied with the officer's response.

Still, while officers did not respond to calls eagerly, when they arrived they behaved professionally and resolved situations as best as they could. For example, called about a fight at an apartment, we arrived to find out what had happened. An upset middle-aged man complained bitterly that his girlfriend had kicked him out of her car on another side of town, forcing him to walk home three or four miles after she found texts from another woman on his phone. He was sweating and his face was red. The walk had taken him over an hour. As he spoke, the man took a small pair of scissors out of his pocket, and accused his girlfriend of having used them to attack him. He pointed to a spot on his ear, where he had a small nick that looked a lot like a paper cut.

"Why don't you let me hold on to those scissors?" asked Officer Kerns smoothly, before asking the man to continue.

Something about the scene—the small red-faced man whose girlfriend had been so upset she forced him to walk home, the scissor attack that had resulted in a paper cut, and the man's righteous indignation as the wronged party—struck me as extremely funny. In fact, I worried that I might explode with laughter at any second.

The man was quite short, so Officer Kerns looked over the man's head and we locked eyes. Kerns did not say a word, but his eyes twinkled, and when the man looked away Kerns winked at me. Slowly, I turned around and stared at the wall, hoping that it would help stifle the giggles I could feel building up inside of me. Finally, I scurried outside for a breather. In contrast, Officer Kerns maintained his composure, never indicating to either party that he found the call amusing (although we cracked a few jokes about it later in the shift). Kerns documented the dispute but left without arresting anyone.

When we got two calls one afternoon about a child with a sword, we rode to the block with lights and sirens since a child's welfare was at stake. None of us expected to find a kid with a real sword, since one does not often stumble upon a sword-wielding child on a city sidewalk. We figured it was fake and joked that we should all be very careful since there was someone with a weapon on the loose. After we tracked down the person who had called the police, we knocked on the door where the child allegedly lived. After talking to his parents, we learned that

he had, indeed, been playing with a real sword. The child's parents explained that the sword was used for history reenactments and was not sharp. Officers kindly asked the kid's parents not to let their child play with weapons.

Once we spent almost two hours at an apartment after an eighteen-year-old nonverbal autistic young man assaulted his home health aide. When we arrived, one side of the health aide's cheek was starting to swell. The young man was sitting on the couch looking at a book. The fire department was also there. Neither the police department nor the fire department medics could figure out who was empowered to make medical decisions for the young man and whether a bureaucratic response was even appropriate. Officer Hamilton refused to take him into custody, saying, "He doesn't need to be in jail. He won't last and they won't know what to do with him." After calling a mobile crisis unit and learning that the young man did not qualify for their intervention, the fire department medics decided to take the young man to a hospital where he had previously received treatment, hoping the hospital could help figure out who had previously attended to the young man.

Answering calls required that officers communicate with a wide cross section of the city's residents. Sometimes this was challenging. Called about loud yelling in an apartment, we arrived at the home of a family who spoke a Middle Eastern language we could not identify. We flagged down two residents who were walking by to ask for help. The neighbors, a father and his teenage daughter, were reluctant to stop and indicated they had no desire to be involved. We asked if they might identify what language the family was speaking so we could try to find a translator, and finally they agreed to help out. What ensued was similar to a game of Telephone, in which a message is relayed through a line of people until the last player announces the message to the group. The young woman's father spoke to the family in one language, he translated to his daughter in another language, and she relayed the information to us in English. She could not communicate with the family directly because she did not speak that particular dialect, and while her father did, he did not speak English. Through this chain, we learned that this young family had only recently arrived in Nashville and were overwhelmed. The young mother had three children, and the youngest, four years old, had behavioral issues. As we stood there, he yelled, threw objects, and jumped off furniture. Officers looked at the boy and decided there was no reason to intervene at the moment. We thanked the neighborhood translators for assistance, filled out a report, and left. As we walked away, the officers discussed kicking the report to another division so that officers could follow up later.

HOW TO BE PROACTIVE

Patrol officers knew that they were supposed to do more than just respond to service calls. Their stats were a frequent topic of conversation among their colleagues

and superiors. They were habitually reminded to be proactive while on patrol. To meet the department's expectations, patrol officers engaged in numerous "proactive" activities that intruded on the lives of Nashville residents. This behavior did not stop when officers answered calls. Officers used calls for service as opportunities to ask for identification cards (or names and dates of birth) for every person with whom they came into contact. Thus even calls for service became interactions in which officers could identify people to determine if they were "wanted."

MNPD officers could "be proactive" in a number of ways. On patrol with officers, I quickly learned some tricks of the trade. Passing through the parking lot of an apartment complex was an "apartment check." Chatting with residents through the window of a squad car, or stopping someone on foot to ask for identification was a "community contact." Even buying a soda at a convenience store or eating at a restaurant for lunch could be "proactive" if the officer designated the stop as a "business check." Of course, the prized proactive activity was the traffic stop.

When shifts were busy, officers had to squeeze in stops between their other activities. For example, an officer might try find a stop on his way to a low-priority call. Or an officer might choose to stay "checked out" on a service call or a meal break until the officer found a traffic stop. This allowed the officer to check back in on a stop and ensured that he or she would not be immediately dispatched to the next call.

To meet the department's expectations, officers were constantly on the lookout for minor violations that would allow them to legally pull over vehicles. For example, as we drove, Thompson had his left hand on the steering wheel and his right hand poised above the computer keyboard in the patrol car. He ran license plate numbers frequently, in case he discovered that the car was stolen or registered to someone with a warrant. While none of his inquiries generated hits, he finally spotted someone with a malfunctioning brake light out and pulled it over. In general, officers pulled over more motorists for equipment failures than for moving violations.

When I asked an officer about this preference, he explained:

Well, speeding is harder because you have to prove it, and what are you going to say? I paced him for three counts? You can't necessarily prove that. If we say we initially pulled them over for something technical, there's no disputing that.

Since officers had to generate stops to show that they were being productive, most officers were not choosy about who they pulled over. Calls for service were unpredictable: a call could take anywhere from several minutes to several hours. Officers were never sure if and when they would have time for traffic enforcement, so they had to fit enforcement into whatever time they had available. That is, if they had time to make a stop and they spotted one, they would pull the car over.

In contrast, they might ignore violations if they were busy running from one call to the next or needed to transfer an arrestee downtown. One night near the end of the shift, Officer Henderson considered pulling someone over and decided against it because he did not want to make a stop that might delay his return home.

Ideally, an officer spotted a violation and made a stop. In practice, an officer might see a car that he or she wanted to pull over before the officer had identified a reason to do so. More than one officer mentioned that it was almost always possible to make a stop, given the innumerable provisions of the Tennessee Code. Officers must always be able to *articulate* a legitimate reason for making a stop, but they do not necessarily have to be right.

Indeed, I saw officers pull people over for suspected tint violations because the officer “believed” that the window tint was too dark. I never saw an officer use a tint meter to determine if the tint was actually too dark or issue a ticket for a tint violation. This signaled that officers did not make these stops because they cared about window tint. The stops were a pretext. Officers made them to generate contacts with civilians to try to identify additional violations. The law generally permitted this approach to policing, and the department believed it was good practice.

In addition, officers pulled people over for a number of violations that I never knew existed. In Tennessee, it is illegal to operate one’s windshield wipers *without* the vehicle’s headlights on.¹⁸ This means that any time it rains and a car is using its wipers, an officer can pull over the motorist if the headlights are off. Some motorists like to place a tinted cover over their license plate to protect it; this too, is illegal. Tennessee state law prohibits any tinted materials over the plate, even if the tint does not obstruct the officer’s view of the plate.¹⁹ There are times when it is *impossible* to avoid violating this tint law. For example, a new car owner might have a temporary license plate, made of paper, hung up with tape in the car’s back window until the permanent plates arrive. If the car’s back window is tinted (as many are), the driver has violated the prohibition against tint covering the license plate.

Occasionally, officers attempted to enlist me in the relentless quest for stops. “Tell me if you see anything suspicious,” an officer said, indicating we could pull over a car of my choice. They instructed me to look out for broken taillights and faulty blinkers. When an officer asked me to confirm his suspicion that a driver was not wearing a seat belt, I answered vaguely and uncertainly, “Hmmm . . . I’m not sure.” Partly this was because I did not want my input to sway officers’ decisions one way or another. I certainly did not want to be responsible for a traffic stop that might result in someone’s arrest. Officers were so keenly aware of potential violations that I never spotted a violation before the officer did. In fact, when officers asked me if I saw anything, I explained apologetically that long hours in

front of the computer had ruined my vision. I am incredibly nearsighted. This is true. I do not see well, and I chose not to try very hard.

PUSHING THE STOP

After the officer initiated a vehicle stop, sometimes he or she would try to “push the stop,” taking additional steps to investigate the driver and vehicle. Research shows that police consistently subject minorities to more intrusions than white motorists, because investigative stops encourage officers to activate embedded racial stereotypes about what kinds of people are “suspicious.”²⁰ Indeed, a few times while we were on patrol, officers voiced suspicions about young Latino men that hinged on whether they believed Latino men were *workers* or possible gang members. Some officers believed that they could make these determinations on sight because as officers they had a “sixth sense” or “hunch” about who might be involved in criminal activity.

For example, I was on a ride-along with Officer Smith on a Saturday night when Smith spotted a maroon Honda Accord. The car immediately made him suspicious because of the number of passengers. “Where *you* going?” he asked aloud, craning his neck to look at the car as it passed him going the opposite direction. Smith peered up at the rearview mirror and quickly made a U-turn across a double yellow line, calling the vehicle’s license plate number over the radio. An officer responded, saying that the car sounded like a “BOLO” (be on the lookout) vehicle that was suspected to have been used in a robbery earlier that week. Now Smith was right behind the car. “Are they wearing seat belts?” he asked me. Before I answered, he flashed his lights and sirens, signaling the car to pull over. “Why are you pulling them over?” I asked.

“Uh—tint violation,” he responded, in a distracted voice.

The car pulled into the parking lot of a large shopping center and stopped. The stores were closed, and the parking lot was empty. Officer Smith got out of the car and approached the driver cautiously, peering through the car’s windows as he approached the driver. A few moments later, he returned to the patrol car with the driver’s license. Two additional officers arrived. After quickly conferring with Smith, each officer approached a passenger to request identification. One passenger handed over a Tennessee ID. The other did not have one and gave the officer his name and birthday.

The officers punched the teenagers’ names into their respective computers and got no hits. Undeterred, they huddled and decided to ask for consent to search the car. Smith approached the driver and asked casually, “Do you mind if we take a look inside your vehicle?”

The passenger raised his eyebrows in surprise and paused. He seemed to be weighing his options. “Sure,” he said reluctantly. He opened the door and walked away from the car slowly.

“Just have a seat right there,” Smith said, pointing to a spot on the pavement. The young man sat down. I stood close by, surveying the scene. He glanced at me, sizing me up. Then he spoke.

“*Hablas español?*” he asked me.

I was surprised to hear him speak Spanish. It had not been obvious to me that he was Latino. I responded, also in Spanish, saying, “Of course.”

“You with them?” he asked, gesturing toward the officers holding flashlights and rifling through his trunk and back seat.

“I’m riding with them—not a cop,” I answered. “I’m interested in how they treat Latinos.”

“How do you think?” he said, looking toward the flashing blue lights of his patrol car and giving a sarcastic chuckle. “I’m so fucking tired of this,” he continued in Spanish. He had been pulled over and searched before. He was frustrated by the continuous intrusions and by the officers’ assumptions that he had done something wrong. A few minutes later, the officers returned and told him he could leave. He looked at me as if to say, “See? I told you.”

On another evening, a different officer (Brady) and I were on our way back to the police precinct when we saw a white sports utility vehicle roll through a stop sign. Brady immediately flashed his lights and pulled the car over.

After approaching the driver and arriving at the window, Brady motioned for me to come closer. “Ask him for his license and registration,” Brady told me.

Before translating, I paused to tell the driver that I was not an officer but that I would be helping the officer with translation. I asked for his license and registration.

The driver, a Latino man wearing a white ribbed tank top, told me that he did not have a license. His eyes darted back and forth nervously and he gripped the steering wheel tightly. Knowing that the officer would want more information, I asked the driver for any form of identification—a passport, a *matrícula*—anything. He shook his head.

“*No tengo nada*” (I don’t have anything).

I relayed this information to Brady, who promptly asked the young man to get out of the car. The man complied and stepped to the curb. Officer Brady patted him down outside his clothing for weapons but found nothing. He noticed that the man’s belt buckle was emblazoned with the letter M.

“Ask him if he’s in a gang—is he in MS?” the officer asked, accusingly, mentioning a well-known Salvadoran gang.

I dutifully translated: “He wants to know if you’re a member of a gang—La Mara?”

The young man shook his head.

The officer’s questions and assumptions struck me as problematic. “Is being in a gang illegal?” I asked, as innocently as possible.

The officer responded that being in a gang was not illegal but that he was trying to decide whether he should arrest the man for driving without a license, since he did not have ID.

The young man turned to me, and pleaded, “*Dile que no me arreste. Dile que no me arreste.*” (Tell him not to arrest me. Tell him not to arrest me.)

I turned to the officer to relay the message. “He asks . . . that you don’t arrest him.”

The officer stood there looking annoyed, shifting his weight from one leg to the other as he weighed his options. He looked at his watch. I knew that making an arrest could take a few hours, given the distance to central booking and the paperwork requirements. Even issuing a misdemeanor state citation could delay our return to the station by twenty minutes. Ultimately, Hansen’s desire to go home won out over his instinct to make an arrest. He cut the man loose. On our drive to the precinct, he lamented not pressing the young man for additional questions about his possible gang involvement.

THE UNCERTAINTY OF IDENTITY

The first thing an officer does when encountering a civilian—whether answering a call, taking a report, or stopping a vehicle—is request photo identification. To the officer, this is an unproblematic request; establishing a person’s identity is central to police work. “We really have to guard against fake ID schemes and things of that nature going on,” an officer explained. In fact, officers shared stories with one another about “getting burned” on an identification or making mistakes. For example, an officer vividly described misidentifying a person a decade earlier, when he was a rookie officer. He issued a misdemeanor state citation to a woman who had no identification, thinking he was giving her a break. Instead of providing her own information, however, she claimed to be her cousin. Not surprisingly, neither the woman nor her cousin showed up in court. Police picked up the cousin on a warrant, and, upon booking, deputies saw that the prints on the paper citation did not match. The officer was terribly embarrassed and was careful to not repeat his mistake. “You learn your lesson,” he said.

Establishing a person’s identity allows officers to determine if the person poses a threat to community safety, if the person is wanted by any jurisdiction, or if the person has some relevant criminal history that the officer should know about.²¹ The “gold standard” of identification is a state-issued driver’s license. Officers can verify that state-issued driver’s licenses and identification documents are valid by looking up the card on their computer. They can compare the picture on the card and the computer to the person in front of them and feel with certainty that they have established a person’s identity. When people do not exist in the state’s documentation scheme—as is the case for

many unauthorized immigrants—officers have discretion to establish identity however they see fit.

Nikolas Rose coined the phrase “securitization of identity” to argue that demonstrating one’s legitimate identity is a prerequisite for exercising freedom.²² Indeed, in many countries, national identification cards are a mechanism that allows nation-states to sort citizens from noncitizens, excluding nonmembers from advantages for which they are not eligible.²³ Individuals depend on states to legitimize their legal identity, but a state must unambiguously identify its members so it can develop laws to govern them.²⁴ Identification documents play “a crucial role in modern states’ efforts to generate and sustain their ‘embrace’ of individuals.”²⁵ Legal identification is crucial for access to rights and services. The wrong kind of ID, or no ID at all, can impinge on one’s opportunity to work and move freely through society.

Uncertainty about identity is at the core of Latino immigrants’ vulnerability to arrest. Department administrators knew that the standards their officers used to establish identity were an important issue for Nashville’s Latino immigrant community. As a result, they tended to describe scenarios in which officers worked exhaustively to make a positive identification. According to the commander of the South Precinct, police officers were “very willing” to find “everything they can” to make a positive identification. He explained:

The officer, obviously what we hope to see is a valid DL with your picture and everything. If that’s not the case, then the officer has several things at his or her disposal. At the end of the day in that situation the officer has to feel 100 percent confident that they’ve been able to properly identify who I’ve got, and how I’m, who I’m dealing with. So that’s really the ultimate goal is to make sure that I’ve established the fact that the person I’m actually dealing with is this person by name and DOB [date of birth] and things of that nature. . . . The officer can, there’s not really a definable list of how an officer, what he uses to determine if that’s the person he has or not. It can be several different things. Picture IDs are always good. Work IDs with a picture. An NES [Nashville Electric Service] statement with a name. Maybe a family member that shows up and can verify who the person is, so it’s a mixture or combination of one thing or ten things. Whatever the officer can build to be able to say, this is who I’ve got, this is who I’m dealing with here.

Thus the department’s *laissez-faire* identity policy empowered officers to issue misdemeanor citations, but it did not require that they do so. Chief Serpas emphasized that he expected police officers to rely on their professional experience and expertise when deciding whether to cite or arrest. That is, he believed that officers’ investigative training entitled them to judge whether documents were valid. He explained:

Ultimately, at the end of the day, we rely on police officers, who are investigators. They’re trained to be investigators. We rely on them to make a value judgment and

then explain it in their document. That's all we ask them to do. And I've got examples that I know of where an officer had what appeared to be valid information and said, "I'm not gonna do the misdemeanor arrest." But likewise, if the officer cannot articulate why he or she is comfortable telling the court that I know so-and-so is gonna show up, then they end up having to do a physical arrest. So it's up to them to articulate.

The police chief's statement is instructive because it demonstrates the standards to which the department held officers. The chief did not say he expected officers to identify documents correctly; he said he expected officers to make a "value judgment" and defend their decisions. That is, the ability to articulate one's decision superseded the need to be correct in one's assessment.

It is also worth mentioning that Chief Serpas's statement is a misrepresentation of Tennessee's state citation statute. The chief indicates that officers may conduct physical arrests when they cannot articulate they are "comfortable" that the suspect will appear in court. The Tennessee statute, however, does not require that officers articulate an expectation that suspected misdemeanants will show up in court as a condition of receiving a state citation. Rather, the law states that misdemeanor state citations should be issued when "there is no reason to believe the suspected misdemeanor will not appear as required by law."²⁶ These are not the same. The chief's statement suggests that officers must *believe* (or articulate a belief) that the suspected misdemeanor will show up in court; the law directs officers to give citations as long there is *no reason to believe* that the suspected misdemeanor will not appear.

What these statements make clear is that, above all else, the department's expectations regarding how to establish identity were flexible—producing variable results and implications. While officers *could* use a variety of documents to establish a person's identity, they could also decide that these documents did not constitute sufficient proof if it "didn't feel quite right." The department suggested that officers needed to feel "comfortable" and "certain" that they knew the identity of the person in question. Officers could deny someone their physical liberty with the mere *assertion* that the person might not show up for their court date.

Without a clear department policy to guide their behavior, police responses to misdemeanor driving offenses were highly variable. That is, facing identical circumstances, one officer might issue a misdemeanor state citation and another might decide to make a physical arrest. Officer Moreno, a longtime officer who ran a community policing program called El Protector (see chapter 4), explained that the decision to arrest depends on the officer. "Well, uh—it could be based on experience. . . . The officer is probably gonna be reluctant to accept something that doesn't, that doesn't feel quite right. It depends. It depends on the officer," he said. Officers' decisions about the legitimacy of identity documents were important because this determination affected whether suspected misdemeanants were

arrested and taken to the Davidson County Jail (and screened for immigration violations through the 287(g) program) or released with a citation and a notice to appear in court. On patrol, officers weighed multiple considerations—the law, productivity, and their own sense of justice—when deciding how to respond to Latinos who drove outside the law.

THE HIERARCHY OF DOCUMENTS

Although we often describe immigrants as “undocumented,” most immigrants have some form of identification and documentation, just not the ones that grant them legitimacy in the eyes of the state. Anthropologist Nicolas De Genova argues that US immigration laws are designed not to exclude unauthorized immigrants, but to socially include them with subordinate status and “under imposed conditions of protracted vulnerability.”²⁷ The policies and practices dictating whether documents confer driving privileges and proof of identity provide an illustrative example of this subordinate inclusion.

By the time I conducted my fieldwork all the driver’s licenses and certificates for driving that had been legally issued to unauthorized immigrants in the state of Tennessee were expired. When police encountered motorists with expired documents, officers were authorized to confiscate them, making it impossible for motorists to identify themselves upon future encounters with law enforcement.

Foreign driver’s licenses also did not protect motorists from sanction. According to Tennessee state law, the state recognizes driver licenses issued in other countries, but only under certain conditions.²⁸ Technically, the law allows noncitizen *visitors* with valid passports to drive with foreign driver’s licenses. In contrast, noncitizen *residents* must apply for Tennessee documents within thirty days of establishing residency. Thus police officers may reject foreign driver’s licenses if they determine the motorist is a resident (rather than a visitor) or if the motorist does not have a passport.

Consular identification cards are also not necessarily “satisfactory” identification. For over a hundred years, the Mexican government has issued an identification card called the *matrícula consular* to Mexican citizens living abroad. Given the importance of establishing identity and immigrants’ ineligibility for many US-issued identity documents, the cards are even more ubiquitous now. A number of other foreign governments also issue identity cards to their residents living in the United States. Still, the cards are not without controversy. Critics resent that *matrículas* make it easier for immigrants to secure services in the United States.²⁹ Officials with the DOJ and FBI have also argued that the cards pose a threat to national security.³⁰ Speaking specifically about Mexican consular identification cards before the House Judiciary Subcommittee on Immigration and Border Security, FBI official Steven McCraw testified that the cards could be

obtained under any name and were easily counterfeited. McCraw also asserted that non-Mexican foreign nationals had been able to obtain Mexican *matrículas*, creating fictitious identities that enabled them to move freely throughout the country without triggering the attention of law enforcement.

In response to these concerns, the Mexican consulate began issuing a “high-security” *matrícula* with more security features and more documentation requirements in 2002. Mexican citizens must apply for *matrículas* in person and must present a variety of documents to prove their citizenship, identity, and US place of residence. The cards have a number of security features designed to make them difficult to fraudulently replicate and easy to authenticate for law enforcement agencies.³¹

Across the country, the issue of whether to accept consular identification cards is highly contentious. While many local and county governments, financial institutions, and law enforcement agencies accept *matrículas* as a matter of policy, others do not.³² In Nashville, the cards are accepted at financial institutions and state benefit offices, but they are not officially accepted by the MNP. The chief explained:

Chief: The *matrícula*—we recognize it, but we’re not going to be able to value it the same as the issuing document of one of the fifty states because that would turn into, well, what do we tell a police officer that gets something from Poland? What do we tell a police officer if they see something from the Soviet States? We don’t know the value of how the *matrícula* was created. Now, the *matrícula* people tell us how they created it. That’s fine. I have no reason not to believe them. But just like driver’s licenses are being faked all over America, you can’t tell me that you don’t think that those are being faked. So we value them as part of another nation’s identification system, but we do not lose sight of the fact that that they can’t be trumped by anything we might want to use.

AA: Do you mean that officers don’t accept the *matrícula* as valid ID?

Chief: No, that’s not what I said at all. What I said is, they accept it in the process of what they’re looking at. If you had a *matrícula* with your name and your picture, and it exactly matched your name and address, which exactly matched the name and address on an electric bill or whatever, that starts to make sense to an officer and I trust them to get that right. But what we find is a lot of times none of the information matches.

The chief’s statement explains why police officers could choose to arrest immigrants who present foreign identification. According to the chief, the department “recognized” *matrículas* as inferior cards that were less valued than any card issued in the United States. He suggested that accepting the *matrícula* would require officers to accept all foreign identity documents, an impossibility since officers did

not know how to evaluate, or even read, documents from every country. Relatedly, the chief expressed doubt about the integrity of foreign identification cards, saying that the cards could be faked and the department did not know how the cards were issued.

The chief also suggested that officers could verify a motorist's identity by triangulating identification cards with other documents such as utility bills. Indeed, this was a popular statement among department administrators. Even if officers were inclined to attempt these procedures (and they were not obligated to try), there were a variety of reasons that they would not work for Latino immigrants. First, not every resident who lives in a dwelling will have utility bills issued in his or her name. Second, because Latino immigrants hail from countries where it is customary to use both their maternal and paternal surnames, in the United States these last names may be hyphenated, they might be separated as middle and last names, or one might be dropped altogether. Describing this issue, Officer Moreno said, "Well, if your name is Juan Gonzalez and it comes back to Juan Gonzalez Mirales, is that really the same? Maybe, maybe not. It depends. It depends."

Sometimes immigrants possessed non-government-issued photo identification that was marketed to immigrants but was not valid. These cards were sold under a variety of names, such as international driver's licenses, international driving documents, and international driver's permits. Some cards appeared to be specific to Tennessee and had the state's name emblazoned on the top. The cards could be purchased at stores and remittance offices and conferred neither driving privileges nor proof of identity because they could be issued under any name.

Indeed, the only documents that the department officially accepted were out of reach for unauthorized Latino residents. Police could cite or arrest Latino motorists who presented a foreign driver's license if the license was not accompanied by a US passport. Conversely, if a driver presented a foreign passport or identification card but no license, the officer arrested on the grounds that this was insufficient proof of identity or cited using the passport as ID. If a driver presented a foreign driver's license and a foreign passport, the officer might still make an arrest if the motorist was a Tennessee resident and not a visitor. Thus, while officers could (and did) accept a variety of documents to establish proof of identity, the only documents for which unauthorized immigrants were eligible could not protect them from arrest.

BALANCING DISCRETION

In the sections that follow, I detail officers' responses toward driving offenses. Officers weighed multiple considerations—the law, public safety, supervisor preferences, practicality, and their own sense of morality—when deciding how to respond to Latinos who drove outside the law.

During a ride-along, Patrol Officer Lopez, a bilingual officer on the B shift in the South Precinct, explained to me how he went about making identifications when an individual did not have a driver's license:

They'll tell me straight up—hey, I don't have papers and that's why they get so scared with us. I'm like—you have no papers, do you have *any* ID on you? If you have some type of ID on you that I can use, I can work with that, but if I can't ID you, then *yes*, I've got to take you to jail if I don't know who you are. I can accept, *me personally*, I'll accept certain IDs. I'll accept an out-of-country ID, which you can accept as long as it's valid, you can even drive on a—if I have somebody from Honduras and they have a valid Honduran license that you can verify that it's real, they can drive with it, but if you don't have one . . . I can take you . . . because if I don't know if it's real or not—I can't, I'm not gonna say, "Yeah, you're good," you know, if I don't know that it is good or not. It all depends.

Officer Lopez expressed a willingness to use alternate forms of identification, asking people if they had *anything* that he could "use." When he said that he, personally, accepted certain IDs, he signaled that he was more accommodating on the ID issue than fellow officers. Officer Lopez was Hispanic and felt comfortable working with different types of identification because he was a fluent Spanish speaker and his previous job frequently put him in contact with the immigrant community.

With this case in mind I asked Officer Lopez what happened when officers misidentified valid identification as false. Officer Lopez responded:

There's no way of proving it—the only reason I know certain IDs are good or not is because I've seen so many of them, I've dealt with enough people that have used them that I can tell certain things. I had a guy give me an ID that said from Mexico but it had all English writing on it. I'm going—it had one of those peel, somebody could just pull the film off is not valid, he probably bought this at the store. A lot of guys say I just bought this—this universal, universal license—over at el Mercado. And I'm like—you know they can't sell that, it's not valid.

Ultimately, Officer Lopez was sympathetic to immigrant workers who crossed the border to support their families and found themselves without a driver's license. However, even he felt obligated to arrest people he could not identify.

WARNINGS

Of the dozens of traffic stops I observed, officers issued warnings to unlicensed Latino motorists twice. One afternoon, Officer Lopez and I drove slowly through an apartment complex, doing an "apartment check." As we entered the complex, I unbuckled my seat belt, having learned that officers unbuckle when they drive slowly through parking lots, in case they have to get out of the car to give chase.

“How’d you know to do that?” Lopez asked, with his eyebrow raised. “I know how you roll,” I responded, and we burst out laughing.

In the complex, Lopez engaged in four “community contacts.” This entailed slowing down and calling out the window to ask people if they lived in the apartment complex and, if so, in which apartment. He could do this because the complex had a trespass warrant on file with the police department; this allowed police to arrest nonresidents who were in the complex and “up to no good.” When we saw a middle-aged Latina woman carrying brown grocery bags into her apartment, Lopez hollered a greeting in Spanish as we slowly drove by: “*Hola, Señora*. How are you?” She looked at Lopez and a flash of recognition crossed her face as she waved. We continued driving and Lopez explained that he had met the woman, Mrs. Martínez, at a community policing event.

Several minutes later we left the apartment complex and Lopez announced that it was time to make some traffic stops. As we were stopped at an intersection Lopez pointed to a black sports utility vehicle in front of us, saying, “Oh, that’s an easy stop right there.” The car’s license plate was covered by a translucent tint. Lopez flashed his lights and sirens, indicating the car should pull over. Lopez approached the driver’s side window cautiously, with his fingers gently touching the top of the weapon in his holster. Upon seeing the driver, his demeanor changed immediately—the officer relaxed his posture, smiled, and started chatting amiably with the driver. It was Mrs. Martínez, the same woman we had just seen in the apartment complex. We were practically across the street from her home. After asking about her son, Officer Lopez wagged his finger at her, saying he did not want to see her driving again. However, his tone suggested concern for her well-being rather than concern about the law. When we returned to the car, Lopez said that he understood that people like Mrs. Martínez had to drive out of necessity but that it was against the law. Still, he felt positive about giving Mrs. Martínez a break. “It makes you feel good,” he said.

On one occasion, Officer Henderson pulled over a white station wagon with expired tags. After speaking briefly to the driver, a Latina woman in her early thirties, Henderson returned to the patrol car with her driver’s license, which was recently expired. He verified that the card had been legally issued, and with no reason to believe that she had done anything else wrong he overlooked the violation and let her go with a warning. He explained, “I don’t write those up because people with expired DLs went through the trouble of *getting* a license. They went down there and filled out the paperwork when the state would give it to them, but now Tennessee decided they’re not going to give them licenses? I just think it’s messed up.” As he saw it, the driver had tried to comply with the law, but the law had changed. Henderson also mentioned that he could confiscate the expired driver’s license, but he did not because the card was useful as identification.

While those were the only two warnings I saw for misdemeanor driving offenses, other officers described letting some unlicensed drivers go with warnings.

For example, when discussing stats over a meal break, Officer Neal said that sometimes he did not even bother issuing state citations because there was no way to know if he was issuing it under the correct name. Officer Thompson looked surprised by this admission, and Neal explained. “Sometimes I cut them loose. What are you going to do? People are going to drive. They need to drive to work.”

While numerous officers expressed some level of sympathy or understanding regarding unauthorized immigrants’ ineligibility for driver’s licenses, most were unwilling to simply overlook misdemeanor driving offenses. In the overwhelming majority of interactions, officers chose between the more legalistic options of issuing misdemeanor state citations and making arrests.

MISDEMEANOR STATE CITATIONS

Although officers could always arrest unlicensed drivers, they did not always do so. Tennessee’s “cite and release” statute directs officers to issue misdemeanor state citations, instead of making physical arrests, whenever suspected misdemeanants “qualify” for one. Indeed, officers used a variety of documents to establish motorists’ identity, including foreign driver’s licenses, identification cards, and passports, and even non-government-issued photo identification (though far more reluctantly).

Sometimes officers issued misdemeanor state citations because of their positive evaluations of immigrants’ good character. Officers described Latino residents as hard workers who were generally law abiding and devoted to their families. “These are not bad guys. They’re just on their way home from work. How do you arrest someone for feeding their family? The only way you *don’t* give them a misdemeanor citation is if they’ve failed to appear a bunch of times but they’re going to do it again,” said Officer Clark. Issuing state citations made some officers feel altruistic; they felt they were doing motorists a favor. Latino motorists who responded appreciatively when receiving citations reinforced these perceptions.

Officer Phillips and I parked in the parking lot of an old gas station that was no longer in business. I was riding along with Officer Phillips in his patrol car, and he was schooling me on the art of making vehicle stops. We were at his go-to spot, a reliable location, he said, to catch people rolling through stop signs so he could pull them over. We had not been there for two minutes when a red late-model Honda with tinted windows cut through the parking lot to make a right turn, cutting ahead of the line of cars waiting at the four-way stop.

“Here we go!” Officer Phillips said, in a satisfied voice. He sprang into action, quickly pulling up behind the car and flashing the patrol car’s lights.

The Honda stopped, never making it out of the parking lot. The driver was a young man who appeared to be about twenty. He wore blue jeans, a maroon striped polo shirt, and aviator sunglasses. With his chocolate brown skin and dark brown spiky hair, I guessed he was Latino. When Officer Phillips requested his

license, the young man handed over a Mexican driver's license, issued from the state of Chihuahua. Upon seeing that the driver's license was foreign, Officer Phillips asked for the young man's passport. Shaking his head apologetically, the young man explained he did not have his passport with him.

Officer Phillips returned to the patrol with the driver's license in hand. He inspected it closely, then held it up in the air, as if trying to see through it. He ran his finger along the front and back of the card to check for blemishes. Shrugging, he handed it to me. Unfamiliar with Mexican driver's licenses, he wanted my opinion.

"It's real, isn't it? It has holograms," Officer Phillips said, as I handled the card. As a third-generation Mexican American, I had no idea what a Mexican driver's license from the state of Chihuahua looked like, but I doubted it looked like this. This card said "Chihuahua" in an unprofessional bubbly font. The back of the card had a spot for a signature, but instead of a signature, the young man's name was printed in a large cursive font. I was not willing to express my skepticism, so I told Officer Phillips that the card looked official, agreeing that the holograms were a mark of the card's veracity.

Persuaded that the card was real, Officer Phillips was still not sure how to proceed. Technically, foreign visitors may use their country's driver's licenses while visiting, but only when the license is accompanied by a passport. Phillips reached into his breast pocket for his cell phone and dialed his sergeant for clarification. He explained the situation, asking if he could accept the young man's driver's license. Phillips got his answer and hung up. He told me that without an accompanying passport the driver's license was not valid. Technically, this young man was driving without a license, a misdemeanor in Tennessee. He told me he was going to issue the young man a state citation for driving without a license, as well as a ticket for illegally cutting through the parking lot.

A misdemeanor state citation is technically a noncustodial arrest in which the suspected misdemeanant is given a paper citation and released, rather than taken into custody and booked at the county jail. According to the statute, police officers should cite suspected misdemeanants as long as they have provided reasonable proof of their identity and the officer does not have reason to believe that the suspected misdemeanant will fail to appear for court. People who cannot or will not produce "satisfactory" evidence of identification are ineligible for misdemeanor state citations and are subject to arrest.

"Shit," said Phillips, looking out the window. In the minutes that we had been sitting in the car, the sky had opened up and it was pouring. Officer Phillips got out and ran to the driver's side of the Honda, gesturing for the young man to get out of his car and follow. The young man obliged, following Phillips back to the patrol car and sliding into the back seat as Phillips held the back door open for him. Phillips got back in the car and explained that this was a better alternative than both of them standing in the rain getting wet.

This alarmed me. I was uncomfortable with this young man sitting in the back seat of a patrol car, merely for the officer's convenience. The officer's demeanor was pleasant, but the practice seemed punitive and intimidating.

"How long have you been in Nashville?" asked Officer Phillips as he looked through a pile of documents contained in a black aluminum clipboard with a storage compartment.

"Uh—My dad has a business, but like—since I'm fifteen," responded the young man politely, in slightly accented English.

Officer Phillips raised his eyebrow, telling the young man that he had been in Tennessee long enough to be a resident. The rules for international visitors and immigrant residents are different. Technically, foreign driver's licenses are valid for visitors, but anyone who moves to Tennessee is supposed to obtain a state driver's license within thirty days of establishing residency. Officer Phillips told the young man to get a Tennessee license and that if he planned to continue using the Mexican driver's license he should carry his passport as well.

The young man nodded. "I didn't know," he said.

"I can't guarantee that it will work, but it should," said Officer Phillips.

Officer Phillips asked a series of questions so that he could fill out the documents on his clipboard. He took the young man's fingerprints for the citation and explained he was issuing a state citation for driving without a license and a ticket for cutting through the parking lot.

"You have forty-five days to take care of this ticket, okay? It's not going to be that much."

The young man nodded and apologized, explaining that he had not known that cutting through a parking lot was wrong. Phillips was about to hand the young man the ticket and citation, but he paused, explaining that it was "very important" that young man goes to court when he was supposed to. He could not ignore these violations. Phillips told him that the court date was in thirty days.

"Where will you be in thirty days?" Phillips asked the young man.

"In court."

"That's right. Because you don't want a warrant."

The man nodded. Phillips explained what would happen next. "You don't have a license, so you shouldn't be driving, but after I leave, I'm not going to be watching," he said. "One sec—I'm going to drive you to your car." Phillips drove the patrol car and stopped next to the Honda, telling the young man he was free to go. The man was momentarily confused, not sure where to open the door since there was no interior door handle. He noticed that Phillips had rolled down the window and reached through it to open the door using the outside handle. The young man thanked him repeatedly. He stood there, watching us drive away.

"Can you believe that? He said thank you," Phillips said, in surprise.

In fact, the young man was so polite that later in the shift Phillips expressed some regret about having issued him a state citation. He had been courteous. He had a

foreign license and a visa. Perhaps he should have gotten a warning. Phillips shrugged off this idea and attributed his own behavior to the department's emphasis on productivity, saying that at least he had gotten a (noncustodial) arrest out of the stop.

Aside from officers' moral evaluations, some issued misdemeanor state citations for practical reasons. While a state citation could be dispensed in fifteen to twenty minutes, booking someone took an officer off patrol for hours. This could be a deterrent. "Sometimes, I don't think officers want to go through the booking process because it takes them off the street for a long time. It's easier to write someone a citation than it is to book somebody," Moreno explained.

One afternoon, as Officer Jones and I were en route to a call, we saw a car swerve erratically into another lane. Jones had not planned to make any more stops that shift; it was a busy evening. Still, out of concern that the driver might be intoxicated, Jones pulled the car over. The driver, a Latino man who appeared to be in his early twenties, explained that he had dropped something in the passenger seat and that he had swerved when he tried to retrieve it. He did not have a driver's license and handed Officer Jones a card emblazoned with the words "International Driver's Document" (IDD). The card looked official, but small print on the back stated it was not valid for identification. IDD applicants did not have to present any proof of their identity when applying for the card; it could be purchased at a local store under any name. Jones looked pensive as he twirled the card with his fingers and tapped it on the steering wheel, saying that he thought he would have to "take the driver in" because the card was not sufficient proof of identity. Unsure, he decided to call his supervisor and explain the situation. His supervisor's response came quickly and decisively: "State citation, okay." I thought it was ironic that Jones used the IDD, which listed the motorist's name and address, to fill out the information on the misdemeanor state citation.

One afternoon Officer Henderson and I responded to a minor traffic accident. A middle-aged white man who had failed to yield clipped the bumper of a Latino motorist at a busy intersection. After Henderson asked both motorists for driver's licenses, the white motorist produced a Tennessee license and the Latino gave him a consular identification card, saying it was all he had. Henderson returned to the car and wrote the young Latino a state citation, saying that he felt bad about it because the accident was not that driver's fault. Thus, in the end, the white motorist left with an admonition to be more careful, while the Latino motorist left with a damaged bumper and a state citation. Issuing the citation bothered Officer Henderson enough that two hours later he recounted the story to another officer, saying that he felt bad. The officer interrupted him: "Be honest, will it keep you up at night?" The officer paused and snorted. "No," he responded firmly.

During a meal break Officer Hawk indicated a general willingness to make custodial arrests for driver's license violations, saying, "The law is the law," but he also mentioned other incentives: "In the time it takes to make one arrest, I could make *three* misdemeanor citations." As he made this statement he held up his hand,

rubbing his thumb and index finger together—he was making the sign for money. Officer Thompson looked surprised: “You get court for that? I never get called in for that.” Hawk laughed and shrugged.

Sometimes officers believed that driver’s license arrests were not worth making because of the severity of the offense. For example, Officer Thompson told me he used to regularly arrest people for driving without a license, but “now, I do mostly state citations.” “Why’d you change?” I asked. “I just . . . I didn’t feel like I was making a difference. Neal has opened my eyes to things. He’s taught me there’s a lot going on in South. It’s not just burglaries. There’s guns and dope. Traffic, it’s not really a serious offense. I’d rather be getting guns and drugs off the street.”

Thus misdemeanor state citations were often described as a compromise between ignoring an offense and being unnecessarily punitive. Still, misdemeanor state citations are more regulatory than their rhetoric suggested: they are still a criminal sanction. Three weeks after one receives a state citation, one must undergo a lengthy booking process at the Davidson County Courthouse—the procedures of which include entering the offender’s fingerprints and mug shot into a county database and imposing steep fines. For those who appear, the process is inconvenient, costly, and stressful. The courthouse is downtown, far from Nashville’s Latino immigrant neighborhoods. Getting there requires driving, perhaps without a license. The courthouse is across the street from the county jail where the sheriff’s office screens inmates for immigration violations. Citations booking is also expensive, requiring individuals to miss a day of work *and* pay fines that amount to several hundred dollars.

For those who do not go to court on their booking date, consequences are severe. Failing to appear results in an immediate arrest warrant, to be executed by the police department’s warrant division or upon the department’s next interaction with the individual in question. Once a person has a warrant, the officer must and will arrest the individual, regardless of the initial offense. That is, it does not matter *why* the warrant was issued or if the officer encounters the person with warrants on a service call; arresting people with warrants is a police priority. People with warrants are presumed to be criminals who must be taken off the streets. As a result, misdemeanor state citations are also a path to a subsequent physical arrest.

SERVING WARRANTS

One night during a lull on patrol, Officer Brown and Officer Lopez decided that they should try to serve a warrant to be proactive. I was riding with Officer Brown, but Lopez met us at the apartment complex where they were going to try to serve the warrant. Lopez checked the warrants list on the dashboard computer. A number of residents in the apartment complex had outstanding warrants, but many of the warrants were old. Brown and Lopez decided that they were most likely to find

the newest person on the list because other officers had probably already tried to serve the older warrants. After they chose someone to look for, we got out of the car to find the apartment. After we had walked a few yards, Brown stopped and conferred with Lopez.

“Shit. Do you remember the name?” he asked.

“Errr. Hernandez. Jimenez?” Lopez responded, shaking his head and laughing.

“Gonzalez. Rodriguez,” Brown responded. He popped back into the patrol car to check the name. “Martinez!” he called out.

They approached the apartment door, and Brown and Lopez stood shoulder to shoulder in front of it. I stood a few steps behind them. Brown knocked. A Latina woman turned the knob and peered cautiously around the door. She opened it a little wider when she saw the uniformed officers.

Lopez took the lead, extending a formal greeting and asking, in Spanish, if he could speak to Señor Martinez.

She shook her head apologetically and politely responded that he was not there.

Lopez asked some follow-up questions. His tone was friendly and conversational. Did she know Martinez? When was the last time he had been home? When might he return? She told us that she did not know him but she knew his girlfriend, and they had moved apartments several weeks ago. She gestured to unpacked boxes in the apartment and explained that she had just moved in. She apologized for the mess.

“Don’t be embarrassed,” Lopez responded, waving off her concern about the state of her apartment. He continued asking about Mr. Martinez, and the woman responded, “Seriously. He’s not here. He doesn’t live here.”

“Okay, no problem,” Lopez responded. “Would you mind if I take a look at your ID to verify your name and make sure that your last names don’t match, for example?”

She walked over to her purse and returned, handing him a passport. Their names were different.

Lopez thanked the woman, wishing her a good day, and we turned to leave. Lopez left in a perfectly good mood, willing to accept the woman’s explanation. In contrast, Officer Brown was agitated.

“She’s flat out *lying*,” he said bitterly as he returned to his patrol car and slammed the door in a huff.

Lopez and I looked at each other with raised eyebrows, surprised by Brown’s displeasure.

ARRESTS

In 2007, only 8 percent of all traffic stops resulted in arrests; however, stops made on Latino drivers led to arrests 29 percent of the time.³³ While the department

encouraged officers to make state citations for misdemeanor offenses, including driver's license offenses, officers could also choose to make physical arrests. These arrests were driven by state law (unauthorized immigrants' ineligibility for state-issued driver's licenses and identification cards), institutional practices (the department's prioritization of investigative vehicle stops), and individual officer discretion. The confluence of these factors compelled officers to make physical arrests, even as they acknowledged that driver's license offenses were not serious. "You make the effort to look them up in the system, but they're not there. You don't want to arrest someone for no DL but sometimes you have to," explained Officer Brown.

On a lunch break at Taco Bell, a group of officers began discussing their stats. Between bites, Officer Calvin mentioned that he was "tired" of "no DLs." I clarified, asking him if he was tired of *arresting* people for driver's license violations, and Calvin shook his head. "No, I'm tired of *not* arresting them. I'm tired of state citations for no DL. If it's illegal, we should arrest people." Calvin went on to say that issuing too many state citations was bad for his stats. Arrests looked better, and when they resulted in getting called to court he could earn overtime. Officer Brown, in an attempt to be helpful, pointed out that he *could* make arrests instead of issuing state citations: "Just write 'No ID, insufficient proof of ID.'" Officer Hendrick chimed in, "But if we arrested everyone who was driving without a license, there wouldn't be people left on the streets to patrol!" The table exploded in laughter.

While Officer Hendrick quickly changed the subject with his well-timed joke, I found the conversation between Officer Calvin and Officer Brown to be very revealing. Officer Calvin complained about writing citations for driver's license violations because he felt that arrests were more richly compensated. Here the officers were discussing, not the severity of the offense or whether civilians "deserved" to be punished, but how their decisions aligned with the department's incentive structure. Trying to solve his problem, Officer Brown told him how he could justify making arrests instead of issuing state citations.

Indeed, officers could invoke a number of justifications to assert that Latino misdemeanants were ineligible for citations and had to be taken into physical custody. An officer might arrest an unlicensed motorist because he or she had outstanding arrest warrants, likely issued after the motorist had missed a court date for a misdemeanor state citation. An officer could arrest a person with a history of driving offenses, stating that the motorist was ineligible for a state citation because the offense was "likely to continue." An officer might assert that a suspected misdemeanant had to be taken to jail because he or she would not appear for court and this would jeopardize the officer's prosecution of the offense. This is what one officer asserted on his arrest report after booking a woman involved in a car accident: "The defendant was involved in a car crash. The defendant identified herself

as the driver. The defendant states she has lived in Nashville for over two years and have [sic] never obtained a driver's license. The defendant could not show proper ID, and it is reasonable that prosecution would be jepordized [sic] if not taken into physical custody." Note that the officer claimed, not that the woman failed to present identification, but that she could not show "proper ID." Indeed, officers might summarily reject any identification presented to them. For example, after an officer conducted an investigative stop because a car was driving through a deserted business park late one night, the officer arrested the driver for driving without a license, even though the driver presented a consular identification card. On the arrest report the officer wrote, "Defendant has a Mexico ID, but no DL."

An analysis of arrest reports shows an uptick of characteristics related to "foreignness" and "immigration status" after the sheriff's implementation of the 287(g) program.³⁴ For example, some arrest reports refer specifically to Latinos' "immigration status," indicating either that immigrants confessed to being "illegal aliens" or that the officer suspected them to be. According to police administrators, these statements were not supposed to be in charging documents for local criminal violations, but the fact that they are suggests that some officers believed that immigration status was relevant. Thus, while local police were not supposed to arrest people *because* they were undocumented, officers' virtually unfettered discretion to arrest unlicensed drivers provided plenty of opportunities for officers to act on their prejudices.

RACE, PROFILING, AND POLICING

When I tell people I have spent many hours riding with police officers, they inevitably want to know if the police racially profile. In Nashville, as in most US cities, racial minorities are more likely than whites to be stopped by the police. In addition, decades of studies show that police stop and search black and Latino motorists at much higher rates than white drivers.³⁵ The source of these racial disparities engenders intense debate among researchers, agencies, and the general public. For example, police agencies argue that racial disparities are at an artifact of geography: minorities are more likely to live in high-crime areas that are heavily patrolled.

Courts have consistently found that police stops are discriminatory only if the officer articulates racial discrimination. That is, the officer would literally have to announce that the motorist's race, and nothing else, triggered the stop. Obviously, no officer would ever admit to this. As I discussed in this chapter, officers can use a number of legal justifications to make stops that are perfectly acceptable by contemporary legal standards. Thus, as long as the officer articulates a legal justification for making the stop that does not invoke race, the officer is not racially profiling according to the legal definition.

Obviously, I never heard an officer articulate racially discriminatory intent. It is highly unlikely an officer would express such intent with a Mexican American woman riding as a passenger. This is, of course, a very narrow standard for racially biased policing. In fact, the preoccupation with identifying racism in *individual officers* ignores how deeply racism is embedded in laws, institutions, and routinized practices. As I argued in chapter 1, American immigration laws have a history of racial exclusion that continues to this day. In chapter 2, I argued that state laws that punish illegality are similarly racially motivated, even though these laws are couched in a color-blind rhetoric. In this chapter I show how institutionalized police practices ensure that police punish illegality just by doing their jobs. Police do not need to *want* to target Latino immigrants to cite and arrest them. They need only behave exactly as they are supposed to, making large numbers of stops for minor technical infractions. Unauthorized immigrants, the majority of whom are Latino, are outside the law by design.

In Southeast Nashville, officers came into contact with Latinos every day. Much of this contact was involuntary, occurring after an officer stopped a resident's car for a minor traffic violation or pounded on the door to serve a warrant. Through their repeated interactions with Latino residents, police came to associate particular circumstances—such as driving without a license, not having state-issued identification, furnishing a consular identification card, and speaking Spanish—with foreignness and “illegality.” I observed these types of assumptions in action when an officer stopped a young Latino man near a gas station for having expired tags. Speaking in lightly accented English, the man apologized for not having a license, saying that he had just moved to Nashville from California. He showed the officer several credit cards and the car registration in his name. “I don't want no trouble, officer,” he said, apologetically. The officer decided to give him a state citation. Without asking where the man was born, the officer began writing “M-E-X” in the designated space. Only as an afterthought did he pause to confirm. “Born in Mexico?” the officer asked. “Orange County, sir,” the man responded, naming a location in Southern California.

Officers would not necessarily treat Latino immigrants that they assumed to be undocumented more punitively than they would other residents. Officially, the department did not allow officers to enforce immigration laws. To the department, immigrant illegality was a professional problem that could be addressed via community outreach (see chapter 4). Indeed, when officers voiced concerns about Latino immigrants in my presence, their concerns were not about immigration law but about how inconvenient it was for officers that many did not have state-issued ID. Of course, even the most sympathetic officer would cite and arrest undocumented immigrants for license violations. It was part of the job. Officers had discretion, but they did not have complete freedom to ignore an entire category of violations. Even if they did, ignoring license violations would be bad for their

stats. On the other hand, officers who *wanted* to punish suspected undocumented immigrants could do so legally by articulating a number of justifications: The officer was not “comfortable” with the motorist’s ID. The officer believed the motorist would commit the offense again. The officer believed the motorist would fail to appear for his or her court date. These legal justifications were intricately connected to immigration status, as the officer might use an immigrant’s suspected illegality as justification for the belief that the motorist would fail to appear. Moreover, the department *chose* to give officers wide latitude regarding their identification standards. The department could decide that passports, consular identification cards, and international IDs were “valid” forms of identification. The fact that they did not disproportionately burdened Mexican and Central American immigrants, the groups who were most likely to be out of status.

Patrol officers made stops for technical violations because it was a bureaucratic priority. While their tactics might put officers into contact with all residents, they subjected only some residents to increased levels of scrutiny. Thus, through their implementation of the MNPD’s policing priorities, officers subjected Latino residents to lengthy stops because writing a citation and deciding to make an arrest took longer than issuing a warning. As Latino motorists awaited their fate, they sat idly on the side of the road, on display for all passing motorists to see. These intrusive encounters sent a powerful message about Latino residents’ place in the racial hierarchy, marking Latinos as less than full citizens in the polity.

Seeing and Not Seeing Immigration

Immigrant Outreach in an Era of Proactive Policing

A growing body of research examines how government bureaucracies—particularly those in new immigrant destinations—integrate or respond to immigrant residents.¹ For example, Michael Jones-Correa coined the term *bureaucratic incorporation* to describe schools’ and libraries’ positive orientation toward immigrant residents in the suburbs of Washington, DC.² Jones-Correa documented a number of examples where these institutions acted *against* their political interests by redistributing resources to help disadvantaged immigrants, at the risk of antagonizing more advantaged middle-class constituents. These examples of “bureaucratic incorporation” flew in the face of long-standing theories of political incorporation, which assume that minority groups must have political power before bureaucracies respond to their needs.

Since then, scholars have documented numerous examples of bureaucracies’ positive orientation toward immigrant communities, as well as variation in bureaucrats’ abilities or inclination to incorporate them.³ For example, recognizing that gaining immigrants’ trust is important to police work, many police departments across the country have developed policies that are generally supportive of immigrants.⁴ Departments’ “welcoming” practices may include recruiting bilingual officers, providing services in multiple languages, and engaging in symbolic or substantive immigrant outreach.⁵ For example, when police officers attend immigrant community events to send a message that immigrants are valued members of the community, the department engages in symbolic outreach. In contrast, when the department uses information from the immigrant community to change or formulate policies, these efforts are substantive. Both substantive and symbolic outreach represent conscious and

deliberate attempts to respond to immigrants' needs and incorporate immigrants into the community.

Jamie Winders argues that to understand how bureaucracies respond to Latino immigrants, one must understand how bureaucrats *see* and *do not see* them.⁶ When immigrants are institutionally invisible, bureaucracies will not address their concerns. Thus bureaucratic incorporation depends on bureaucrats *seeing* immigrants as residents who are entitled to services and as legitimate constituents with a stake in the city's future.

This chapter examines how police see, and do not see, Latino immigrants in Nashville. The chapter documents the attempts of the Metropolitan Nashville Police Department (MNPD) to improve relations with the Latino immigrant community by both symbolic and substantive outreach efforts. These efforts, which appear to be sincere, acknowledge that the department sees Latino immigrants as residents who are entitled to police protection. However, Latino immigrants' institutional visibility is uneven. The department *sees* Latino immigrants, but Latino immigrants' concerns, *particularly* as they relate to the implications of "illegality," are either unnoticed or purposely ignored. Police administrators and police community liaisons extol the department's outreach efforts while ignoring or denying that police practices have immigration consequences. Patrol officers are only vaguely aware of the department's Latino immigrant outreach efforts, and they are similarly oblivious to Latino immigrants' concerns.

THE EL PROTECTOR PROGRAM

In 1999, an investigative journalist, Willie Stern, wrote a series of stories in an alternative weekly newspaper, the *Nashville Scene*, detailing how private security guards terrorized Latino residents at an apartment complex in Southeast Nashville called Ivy Wood. Guards beat, robbed, and harassed Latino residents whom they were hired to protect, betting that residents would not report the abuse for fear of deportation.⁷ The abuse was extreme—some guards seemed to enjoy forcing their way into apartments and dragging residents out of their cars.

A follow-up article detailed close relationships between the security firm and members of the MNPD.⁸ The firm employed forty police officers as private security guards during off-duty hours. While none of the guards who perpetrated the abuses were police officers, three officers allegedly knew about the abuses but did nothing. Moreover, an anonymous letter detailing the security firm's abuses was sent to the police department's internal affairs division, but the unit did not investigate until after the *Nashville Scene* broke the story. Federal and local authorities launched probes as well. The police department assigned one of its few Latino officers, Juan Borges, to work on the investigation's task force, citing Officer Borges's effectiveness at communicating with Latinos in the community.⁹

In the aftermath of the scandal, the security firm went out of business. The three police officers accused of knowing about the guards' violations were remanded to desk duty, pending further investigation. Two years later, the MNPDP deputy police chief cleared the officers of all charges and the officers returned to active duty.¹⁰ No one from the security firm was ever punished.

In 2004, the MNPDP launched a community-policing program called *El Protector*. Newly hired police chief Ronal Serpas announced the *El Protector* program at a "listening event," a public forum that invited Latino immigrants to a local high school to talk about policing. Modeled after successful community policing programs in California and Washington, the program aimed to improve the department's relationship with Latino residents. At the time, only 6 of the department's 1,300 officers were bilingual and few were Latino. The department picked a bilingual and bicultural officer who would focus only on outreach, rather than enforcement, to be *El Protector*.

Chief Serpas designated police veteran Juan Borges to run the program. In some ways, Borges's job as *El Protector* was a continuation of work he had already been doing. In 1998, Borges estimated that he was spending up to twenty hours a month helping officers communicate with Spanish-speaking residents.¹¹ In 1999, Borges helped the department during its internal investigation of the Ivy Wood scandal.¹² He was eager to take charge of the department's new community outreach program.

Borges was a charismatic detective who had been on the force since 1995. Born in Puerto Rico, Borges had moved to the United States on a college baseball scholarship. After college, he began a career in law enforcement. Officer Borges was not a big man, but he was a commanding presence. He walked in long strides, always with his shoulders back and his head held high. He had salt-and-pepper hair, a broad smile, and an accent that revealed his place of birth.

In the MNPDP's 2004 annual report, the department devoted two pages to describing the new *El Protector* initiative. The report read:

Many in the Hispanic community are reaching out to Metro Police through a man known as "El Protector." He is an officer who speaks English and Spanish. His job is to bring information about the police department to Nashville's Hispanic community and to build trust between the department and the community. . . . Officer Juan Borges, known as "El Protector," says it's the number one problem and that's why the police department is working to help Spanish speaking people find ways to communicate with police.¹³

In the report, Borges described his role as helping "improve the everyday lives of Hispanic people who live and work in Davidson County." During the program's first years, his work included setting up an *El Protector* Advisory Board and convincing a national cellular provider to donate dozens of cell phones for a

Volunteer Translator Program. Officer Borges also established relationships with local businesses, organizations, and churches, speaking frequently at public events and meetings, as well as on Spanish-language radio. His talks addressed domestic violence, crime prevention, public safety, and DUI laws.

Despite Borges's efforts, questions about his temperament surfaced a few years into his tenure. While the police department continued to tout the El Protector program as proof of its exemplary ties to the Latino community, tensions simmered between El Protector and those he was purportedly protecting.¹⁴

THE ATTACK OF EL PROTECTOR

In 2006, debates over unauthorized immigrants' driving privileges were in full swing (see chapter 2). Undocumented residents lost eligibility for driver's licenses in 2004 and lost eligibility for driving certificates in 2006. In addition, a string of Hispanic businesses had been targeted for armed robberies that year, and the manager of a popular Mexican restaurant was beaten to death.¹⁵ Shortly thereafter, the Nashville Area Hispanic Chamber of Commerce announced that it was hosting an event to "discuss increasing criminal activity in our neighborhoods and the need for solutions and better avenues for communication."¹⁶

The day before the public meeting, business owners wrote a public letter to the police chief, requesting that the department adopt a policy banning immigration-related inquiries. The police chief had already gone on record saying that officers would not enforce immigration laws. In 2004 he told the paper, "With great respect and deference to our federal partners, we are not the INS. As long as I am chief of the Nashville police department, I'm going to be steadfastly against police being INS agents. It's just not our job."¹⁷ Much to business owners' disappointment, the chief declined to modify department policy, saying, "It would be improper for this department to implement a written policy that would preclude enforcement of any legislative act."¹⁸

The meeting took place in a large banquet hall in Southeast Nashville, and more than one hundred people attended. While the chief did not attend, Officer Borges attended with a number of other police officials. Business owners hoped that the meeting would facilitate conversation and communication, but the meeting quickly became contentious. Apparently Officer Borges refused to speak Spanish, despite repeated requests from assembled business owners for translation.¹⁹ A fluent Spanish speaker, Borges said that navigating both languages was burdensome and unfair to English-speaking police officials at the meeting.

Esteban, who owns a number of Mexican grocery stores in Nashville, recalls that the meeting was acrimonious. He saw the comportment of department officials—from the chief's lack of attendance to Borges's refusal to speak Spanish—as a clear message that the department did not care about their concerns.

“At the end, instead of having something positive, we left angrier, business owners against the police, police against business owners,” Esteban said.

The relationship between El Protector and Latino residents deteriorated further when Officer Borges threw his hat into the ring in local politics. That fall, Borges ran as the Republican candidate against a Democratic incumbent for state representative of District 60. Borges’s entire platform was his opposition to illegal immigration. He pledged to end driver’s licenses and state welfare benefits for unauthorized residents, even though they were eligible for neither. In addition, Officer Borges supported a city English-only language policy and advocated for allowing local police to enforce immigration laws. While his policy positions mirrored those of many Republicans running for state office in 2006, they were shocking when coming from the man who was charged with Hispanic community outreach.

Borges’s about-face did not go unnoticed. On November 5, 2006, Telemundo ran a story called “The Attack of El Protector.”²⁰ The story opened with Borges doing his El Protector work in the community: a montage showed images of Latino businesses and residents in Southeast Nashville interspersed with Borges speaking, in uniform, at a community event. A broadcast journalist, Cristina Lodoño, narrated (in Spanish):

Nashville is one of the cities with the fastest growing Latino population in the last several years. More businesses, more work, and more customers, but it was the rise in crime against Latino victims that introduced the community to Juan Borges. This Puerto Rican officer was baptized as El Protector. His job was to be the principal translator and ally of the Latino community, to win their trust, but few could have imagined what he thinks about the undocumented.²¹

The story cut to an image of Borges and Lodoño sitting on white rocking chairs on the front porch of a small gray house. Borges wore blue jeans and a white long-sleeved shirt. Speaking to Lodoño in Spanish, he said his experience as an officer had convinced him that undocumented residents harmed the city. “Sometimes they don’t want to work,” Borges said. “It’s more easy to sell drugs.” During the short segment, he railed against birthright citizenship and multiculturalism, saying, “When a person comes to a country illegally and has a baby, those children shouldn’t be American citizens. When people come here, they have to integrate. They have to learn the language that is spoken here, and if they don’t like those conditions, they should return to their country.”²²

George Ramirez, a local attorney and member of the El Protector Advisory Board, remembers being disgusted by Borges’s statements. Ramirez, who is Mexican American and originally from Texas, saw Borges’s candidacy and political platform as a great hypocrisy. As a Puerto Rican, Borges had the privilege of birthright citizenship, unlike many Latino newcomers to the city. Ramirez could also

not understand why Borges, who did not speak English with the fluency of a native speaker, was attempting to score political points by supporting the English-only initiative. “I don’t want to be mean, but he’s the last one who should criticize other people for taking a longer time to learn the language,” Ramirez said indignantly.

Frustrated by the turn of events, Ramirez met with Officer Borges and the police chief to express his concerns about the future of the El Protector program. He described the meetings with each of them:

I said, “I’m just going to be upfront with you, Juan, and I want you to hear it from me instead of hearing it from anyone else. I don’t think you can go campaign on this anti-immigrant basis and still expect to be the bridge to the Hispanic community for the department. The two are just totally inconsistent. It doesn’t make any sense.” And basically, his response to me was, “These folks don’t read the papers, and they don’t know what I’m saying.” In other words, he was saying these folks are all ignorant and that they didn’t matter. I thought that just showed how out of touch he is, that he didn’t respect the people that he supposedly is trying to build this bridge with. So I went to the chief and I said, “Look, let me make clear, Juan can say anything he wants on a campaign trail. I’m not here to demand he be removed as a police officer, that he be fired, I’m only saying this: you can’t expect to bridge between the Hispanic community and the police department with the man who is going out on the campaign trail making all kinds of anti-immigrant statements. That’s the wrong man to be El Protector.”

The department acknowledged the controversy surrounding Borges’s candidacy: “There are those in the Latino community that believe that [Borges’s] effectiveness in the role of El Protector may be diminished because of some of his statements during the campaign,” said MNPD spokesperson Don Aaron.²³ Seeking to minimize Borges’s role in the program that he helped launch, the department assigned Officer Ramon Iglesias to serve as an El Protector officer in an adjacent precinct. In 2008, Borges resigned his position and returned to patrol, and Officer Genaro Moreno, also Puerto Rican, took Borges’s place in the South Precinct.

When I conducted my fieldwork, Officer Borges was back on patrol and no longer affiliated with the El Protector program. His successors were tight-lipped about the divergence between Borges’s political statements and his professional responsibilities. One shrugged off the controversy, saying, “Juan’s views had nothing to do with the program. We didn’t discuss it during our duty hours. In fact, they never had a problem with how he was running the program, it was just his views.”

EL PROTECTOR 2.0

Borges’s tenure as the face of the El Protector program cast a long shadow on the department and its relations with Latino residents. When the Vera Institute of Justice (a research organization that focuses on access to justice) recognized the

El Protector program as one of the nation's best practices with respect to policing immigrants shortly after Borges stepped down, some wondered if the department really deserved it. An immigration lawyer remarked upon the irony:

They won the award primarily because of the El Protector program. The idea of the program is excellent. The idea of reaching out to the community, having certain officers act as that bridge to the community. Has the program done some good things? Yes. But I don't think the people who gave that award really knew about all the [bad] things that were going on at the time.

While the anti-immigrant El Protector made Latino residents doubt the sincerity of the department's Hispanic outreach efforts, Officers Moreno and Iglesias worked hard to change their opinions. Officer Iglesias explained, "Our thing is community outreach. How are we gonna reach out to the community? How we gonna let them know that we're here to help them out? How are they gonna know that we as police officers are there to help them out?"

Officers set up booths at community events, shaking hands with countless residents and distributing El Protector trinkets to children. They spoke at local schools, churches, and community groups. They wrote articles for Spanish-language newspapers. They answered questions on the radio. They hosted numerous events including car seat safety inspections (where they inspected and replaced faulty car seats), community baby showers (where they distributed gifts to expectant mothers), community health fairs, annual festivals in different areas of town, and soccer tournaments. Indeed, when I rode with officers in Southeast Nashville, I regularly saw Officer Iglesias in the neighborhood distributing flyers and talking to people about upcoming events. Through these activities, officers tried to make personal connections with residents, community groups, and local businesses.

One summer weekday morning in 2009, I walked into the South Precinct roll call room. Three times a day, officers started their shifts in this large classroom to receive directions from their superiors before hitting the streets. This morning, however, the room was full of giggling teenagers rather than uniformed patrol officers. These teenagers, all of whom were Latino, were the first participants in the precinct's Hispanic Teen Police Academy. At the front of the room, a detective explained investigative work and showed students how to dust for fingerprints. Students were delighted as their prints, which had previously been invisible, appeared after a quick dusting. At the end of the week, students and their families attended a graduation ceremony in the precinct's multipurpose room. Students, holding certificates documenting their participation in the program, posed for pictures with family members and police officers. The precinct's commander, Mike Alexander, surveyed the scene with his arms folded across his chest and a look of satisfaction on his face. "When we have kids hugging our officers after a few days with them and asking if they come back, then we've won," he said.

The police department described the El Protector program as a great success and pointed out the various awards and recognition that the program had received. In doing so, it privileged the assessment of researchers and police practitioners over that of the Latino community. For example, in a 2008 article published in the *Tennessean*, Chief Serpas insisted that immigrants were not afraid of the police and were reporting crime: “To the concern that there is some gap occurring between crime reporting of Hispanics and fear of the police department, I think we have two things to point to. Our program has been identified as a best practice in the nation, and we’re seeing more crime reports from Hispanic surnames coming through the police department.”²⁴ However, if department representatives truly believed this, it was only because they were choosing to deliberately ignore the many people who told them otherwise.

LOST IN TRANSLATION

It is not unusual for police and community residents to fail to see eye to eye. Police tend to feel misunderstood and unappreciated by the public.²⁵ Publicly embattled, police agencies filter and transform all the information they receive to suit their own needs, creating and reifying the social world in which they do their work.²⁶

Officers and Latino residents have different ways of seeing and understanding policing in Southeast Nashville. The police department cares about Latino outreach, but only in the context of the activities and mission of the El Protector program. Latino residents appreciate that the El Protector program exists, but they see the program as symbolic. Police administrators and El Protector officers respond to the concerns of Latino immigrants in *principle*, but they have no interest in changing their practices. Most Latino residents come into contact with patrol officers who do not see establishing positive relationships with the precinct’s diverse communities as an integral part of their work. Instead, patrol officers are socialized to pursue proactive policing and chase stats, policing tactics that make Latino residents feel alienated and surveilled. Even when Latino immigrants and police representatives make legitimate and earnest attempts to communicate with one another, their respective messages are lost in translation.

This became clear to me at a “Hispanic Community Business Meeting” that took place in a dining room at Los Arcos, a large Mexican restaurant on Nolensville Drive. The South Precinct invited Latino business owners to a meeting to discuss property crime and share the department’s community policing initiatives. Officers Iglesias and Moreno (of El Protector), the precinct commander, and thirteen Latino community members (who I assumed were business owners) attended the meeting.

As the meeting began, Officer Moreno thanked us for coming, switching between English and Spanish: “*Es muy importante que están aquí* [It’s very important

that you are here] so we'll know if we're doing a good job or not." He launched into a short presentation about the El Protector Program and its many efforts to reach out to the community. As he talked, a slideshow projecting images of police officers interacting with Latino children appeared on a screen beside him. We saw children holding prizes at a festival, children sitting raptly in a classroom watching an officer give them a lesson, and children crawling in and out of police helicopters and armored vehicles.

The slideshow ended, and the commander spoke next, making an emotional plea about the department's commitment to serving the businesses, patrons, and workers of those in attendance. "We want to know what we can do to help you," the commander said. "We want to talk more and trust each other more. We're begging for your input."

At the commander's invitation, attendees at the meeting took turns speaking. A petite woman, Teresa, stood up and took the floor, saying, "The reason why I'm here is that I have a store, a Latino grocery store on Murfreesboro Road, and every day there's police on the street stopping cars. It's too much. Too many police officers, too many. It hurts our business. Everybody's walking now because they're afraid. Then lots of times they park in our parking lot and block the entrance. When the police are stopped outside, everyone freezes. And I think, what's going on? No one's going in or going out. And it's not just one, it's more than one. It's like a party. I understand if they're working, but they're talking about something else, like TV. And I'd like to ask them, 'Hello, Officer, can you move your car a little bit? Or, how long are you going to be here?' But they're just rude!"

As she spoke, other business owners nodded in agreement. The police commander listened with his head cocked and nodded sympathetically at her. He explained that officers could not control where drivers decided to pull over. Some drivers might choose to pull into her parking lot out of comfort or convenience. He addressed Teresa's concerns about officers' comportment. "They shouldn't be rude," he said, "You can make a courtesy complaint about that."

While the commander *might* have thought that he adequately addressed Teresa's concerns, he did not engage with her biggest complaint. Teresa objected to the department's widespread deployment of vehicle stops. She described streets oversaturated with police activity. She explained how traffic enforcement produced immobility, curtailing residents' freedom of movement and locking them in place.

As I showed in the last chapter, these effects are consistent with the department's priorities. The department believes that aggressive traffic enforcement pushes crime to other zones by sending a message that police are hypervigilant. Thus, while the commander may have *heard* her concerns, he likely felt the department's mission superseded her grievances.

The next person to stand up and speak was Ricardo Chairez, a Mexican immigrant and business owner who had arrived in Nashville in 1987. Clearing his throat,

he announced that he was going to share someone else's experiences. He gestured to the woman standing next to him. She was a waitress at Los Arcos and was taking a break from busing tables while Ricardo recounted her story. He began, "Okay, her story is very clear. Adela works here, she gets out late. She was on her way out of the parking lot one night and an officer followed her for three or four miles: all the way down Nolensville Road, all the way down Harding Place, until he stopped her at Haywood Lane. Eventually he pulls her over. He said the reason he stopped her was she didn't use her turn signal. But she says, 'How could that be? If I know that the police is following me, why would I make that mistake?'"

Adela nodded, confirming the details of his account. Ricardo continued, telling us that after Adela was stopped, multiple police cars arrived on the scene. Officers asked to search Adela's car and purse and commented on the large sum of cash she had in her wallet. Ricardo seemed particularly disgusted by this intrusion, stating that he had \$400 in his pocket and asking, rhetorically, if that made him a criminal. Ricardo conceded that the stop had ended fairly; Adela was given a citation for driving without a license and was permitted to leave. However, he objected to the police officer's tactics, tailing Adela for miles until he spotted an alleged violation. He also wondered why so many officers had arrived on the scene for a simple traffic infraction.

The commander responded to Ricardo's story, saying he could not comment on the traffic stop without more detail but that the department would investigate any allegations of wrongdoing if there were concerns. He explained how he directed patrol officers:

Wherever we have crime occur, that's where we're going to send our people. This Saturday night, just one example, we got hit with a personal robbery spree, okay? Armed suspects were going up to people and robbing them. At the Maple Crest Apartments, four personal robberies within an hour Saturday night. They drove right over to the Sunrise Apartments, four personal robberies there. Between those locations, just this Saturday night, I had eight people robbed by armed suspects. Therefore, I'm going to put the police there. It's not just me sending folks out and saying, "Hey, go do whatever you think you can do best." No. We've got problems here, we've got armed suspects that are still on the loose that we still haven't caught, and we've got to find them. I want you to know that's my reasoning behind where we deploy our resources.

Ricardo shook his head and held up his hand, unsatisfied with the commander's reply. Ricardo insisted there was a difference between what the commander was saying and what the police officer was doing by stopping Adela. He argued that the department's standing in the community was in jeopardy:

You work so hard, Commander, and Officer Moreno. I've worked with the department over ten years. I helped put the El Protector program together. I taught at the police academy. So they've been reaching out to the Hispanic community for a *long*

time. I appreciate that very much, and I appreciate all the hard work that you do. That's a lot of work. I know what it is to put a program like that together. But all that work that you're doing will *fail* if you do not get to your officers and make them understand that they've got to stop profiling.

Ricardo's statement gets at the heart of the tension between law enforcement agencies' dual missions of service provision and social regulation. Like Teresa, Ricardo asserts that the department's aggressive traffic enforcement undermines its social standing in the Latino immigrant community.

Of course, as I showed in the last chapter, officers had several ways to rationalize an officer's behavior as a "good stop." Having identified an alleged violation, the officer was free to pull Adela over. Since the stop was legally acceptable, and in line with the department's priorities, it could not be unfair. Coming to the officer's defense, Officer Moreno explained officers' numerous rationales for making vehicle stops. Speaking in Spanish, he said:

Sometimes people drive and they think they're in their own country. One has to forget those ways and learn how to drive here. Okay? Tennessee state law says that when a person drives and their taillight is broken, that's a traffic stop. If they don't have their seat belt on, it's a traffic stop. If your headlights aren't on and it's raining and you're running your windshield wipers, that's a traffic stop. One day I stopped six Latinos, and I'm Latino! I'm not looking for people, I'll stop whomever. But that day they were all Latino. I asked the first guy I stopped, "Why did I stop you?" He said, "I don't know, because I'm Latino?" "No, look, you didn't have your seat belt on." Then I asked, "Where's your driver's license? Your ID? Your passport?" Nothing. And that's why we take people downtown! I don't know who this person is, he could be whoever. He could have committed a crime in California and come over here. I don't know who he is, so I *have* to take him downtown. I go to the consulate and I always tell people to have their ID so that officers can know exactly who you are. Show your *matricula*. Show your passport. Show whatever documents. Show this one and that one, and that's how an officer will know. They'll just give you a fine, but you have to go and pay it.

Officer Moreno looked at Adela and put her on the spot, his voice booming. "What happened to you?" he asked her, rhetorically. She did not respond, and he continued, "They gave you a fine and you left, right?"

Adela nodded slowly.

"Did Immigration take you?" Officer Moreno asked, accusingly. He was no longer speaking to Adela and was addressing the group instead.

"No? Okay. What happened? You paid a fine. You paid a fine, and Immigration wasn't there," insisted Officer Moreno.

He continued, exasperated, "I mean, there's all these rumors about court, and they say not to go because Immigration is there, and the community is hurting *itself* with the rumors. You have to do your part too, that's the problem here. We can tell people and tell people to go to court, but you have to help too."

As a Latino officer who ran a Hispanic community outreach program, Officer Moreno should have been the most receptive to Adela's concerns. Still, he saw Adela's experience through the gaze of a patrol cop. To Officer Moreno, pulling over vehicles for minor violations was perfectly legitimate. He acknowledged that Latino motorists *thought* he was profiling them, but he dismissed the possibility given his own ethnic background. As he understood it, the problem was not that officers made stops—the problem was that some Latino residents did not conform to legal requirements. He explained his frustration that some residents did not present appropriate identification. He blamed Latino residents' fear of the criminal justice system on rumors, rather than on their vulnerability to arrest and deportation. He suggested that their fears were misplaced, emphasizing that, at least in Adela's case, "Immigration wasn't there."

POLICE NOT SEEING IMMIGRATION ENFORCEMENT

Police administrators seemed both frustrated and puzzled at any suggestion that the organization contributed to deportations through their power to arrest. They emphasized that immigration enforcement was a federal responsibility and that the county's implementation of the 287(g) program had nothing to do with the MNP. They asserted that the Davidson County Sheriff's Office was a separate and autonomous agency. According to the MNP, policing had not changed at all. Police administrators sidestepped concerns about immigration enforcement and instead drew attention to their efforts to improve police relations with the Latino community. The El Protector program was used as a shield, to be deployed against any suggestion that the department neglected the concerns of undocumented Latino residents. Indeed, officials used expansive rhetoric to assert their commitment to serving all Nashville residents.

Indeed, the police chief consistently emphasized that the department did not enforce immigration laws and that he would not support such an effort. He categorically rejected any suggestion that police arrests were equivalent to immigration enforcement. Instead, he emphasized the sheriff's role in enforcement and argued that deportation was a result of being out of status, not a result of police practices:

I did get agitated because advocates in the media were propositioning that because the sheriff was deporting people, police officers are destroying families. And I got really agitated about that and say, whoa, wait a minute, you are not going to successfully convince our officers that they are somehow or another destroying families when they themselves are not the one that are here in the condition that's here. . . . They're not the ones who were here without the proper status. They were doing their job. They were expected to do their job. They're not expected to ignore things that they couldn't ignore. I think they thought, let's attack the cops and make them feel

guilty about doing this, and maybe they'll leave it alone. And I said that's not right. I can't sit by and let you try to have my officers feel guilty. It's not of their making.

Of course, the chief's assertions were disingenuous in light of his early support of the 287(g) program. When Sheriff Hall announced that his agency would pursue immigration enforcement authority, the MNPD issued a joint press release touting the program's capacity to protect residents. The press release conveyed that the 287(g) program had the endorsement of Davidson County's two top law enforcement officials. After that early announcement, the police chief neither publicly supported nor opposed 287(g). The department insisted that immigration inquiries should be directed to the sheriff's office because 287(g) was the sheriff's program.

The commander of South Precinct explained to me in an interview that the department had an obligation to "serve everyone regardless of where they may be from, in the best way we possibly can." He also said that the department never formally addressed the 287(g) program with officers because they did not believe that the 287(g) program affected their practices:

It's entirely the sheriff's idea, and he implemented it. It has not changed anything as far as how we conduct our business, because we're completely separate from that. That's why our officers have no immigration enforcement authority—so immigration status cannot enter our officers' minds whatsoever in terms of if we do something or if we don't. It can't. We have no authority to do it.

Similarly, at an event hosted by Mexican consulate, I watched Officer Moreno pace the stage with a mic in his hand, telling corny jokes and exhorting attendees to wear seat belts and never drink and drive. He also answered questions that reflected attendees' concerns about immigration enforcement. Officer Moreno tried to assuage residents' concerns, telling them, "We don't care about that stuff. We're not Immigration. . . . That immigration enforcement program is in the jail. We don't run the jail, but police don't care about immigration."

My own discussions with officers indicated that some were in the dark about the 287(g) program's consequences and priorities. Officers saw arrests as an ordinary and mundane feature of policing and were largely blind to its possible consequences. Some had vague knowledge that the 287(g) program existed, but some believed that the program targeted only serious offenders. Even Officer Moreno, who in his job as El Protector should have known how the program worked, occasionally insisted that arrests did not result in deportation.

There are two possible explanations for officers' misunderstanding of the program. First, a police officer with years of experience would inevitably arrest some repeat offenders. Some officers saw jail as a revolving door. They were not immigration experts. It might not occur to them that one's immigration status would affect how one was processed through the jail, particularly when a driver's license

arrest would not have resulted in deportation before the implementation of the 287(g) program. Second, deportation is not necessarily a discrete event: for some it is a process. Thus officers might have assumed that because some immigrants got bailed out of jail they were no longer in deportation proceedings. This was an erroneous assumption. It is, of course, also possible that police knew about the effects of their practices but willfully cultivated ignorance because they were unconcerned.

WHO WILL PROTECT US FROM THE POLICE?

In Spanish, the term *El Protector* does not simply mean “one who protects,” as it does in English. In Spanish, the term conjures up an image of a kick-ass vigilante superhero—a caped crusader who keeps the public safe from harm or injury. While the El Protector program intervened to help Latino residents manage *some* interactions with the department (such as reporting offenses, filing reports, or speaking to detectives), these officers could not change the culture of the department. Sometimes Latino residents indicated that they needed protection *from the police* (see chapter 6).

Thus the El Protector program was criticized because some found its title a misnomer. The program facilitated the flow of information, but it could not protect Latino residents. Lydia, a Mexican immigrant from Jalisco who worked for an immigrants’ rights organization, explained:

This is why we’re so mad about the Protector program. This is where the rage comes from. I’m not against the El Protector program. Their mission is good. They educate about traffic laws, seat belt laws, car seat laws, that’s good. But I’m very against the fact that they say they don’t do immigration enforcement. Look, they always say you should call the police. Nothing will happen to you. We are not Immigration. But the police are very ignorant about immigration laws.

As a result, a number of immigrant advocates said they felt conflicted about recommending that Latinos call the police because they could not be sure that residents who *called* the police would not wind up arrested themselves. Mario, who worked for a nonprofit organization that helped Latino immigrants secure loans to buy houses, explained:

Look, people don’t want to report crimes to the police. I understand police campaigns like the El Protector program. They’re saying that they’re not from Immigration, they’re not from Immigration, but we all know that if you call the police you place your future in their hands, because it’s the officer that’s going to decide what to do with you. . . . I’ve seen cases like that. I know of cases like that, some more confusing than others, but with the same conclusion. “I called to report a crime and it ended badly.” They say it doesn’t happen, but I know it does. I know it does.

CAN I GIVE YOU A HUG?

Like Lydia and Mario, I was acutely aware that interactions between Latino immigrants and the police could result in arrest and that arrests came with particularly severe penalties for undocumented residents. When Latino immigrants responded to police officers with fear or apprehension, I thought their concerns might be related to concerns about immigration status. As a migration scholar, I read interactions between Latino immigrants and the police through an immigration lens. In contrast, immigration status appeared to be institutionally invisible to most officers. Officers acknowledged that their presence made Nashville residents nervous (indeed, they griped that traffic slowed perceptibly when residents saw police cars), but they never linked this anxiety to concerns about immigration status.

One evening I was riding with Officer Bard, a white twenty-six-year-old officer. Over the radio, the dispatcher alerted us to an emergency in progress: a young girl had called 911 to report that her dad had a knife and was threatening her mom. We hurried to a large apartment complex, going fifteen to twenty miles over the speed limit, with lights and sirens blaring. We located the right building and arrived with two other patrol cars. Three officers bounded up the stairs and I followed closely behind them. They identified the right door.

Officer Bard pounded on the door with the side of his fist four times. "Police—open up," he called loudly. He pounded again.

Moments later, a girl, whom I'll call Maricela, opened the door. Tears stained her face. Her mother stood five feet behind her, hugging Maricela's younger sister, who was also crying. Maricela opened the door wide and stepped back, retreating to her mother's embrace and whimpering.

Bard asked if we could come in and Maricela nodded, opening the door wider and taking a step back. Bard told them we were responding to a call about someone with a knife and asked if everyone was okay. Maricela's mother looked at us blankly. I immediately stepped forward and asked if she spoke Spanish. When she said that she did, I told her that I was not a police officer but I was accompanying them for the evening. She nodded, and I looked at Bard for instructions.

Bard told me to ask if anybody had a knife. Maricela's mom looked confused and shook her head no.

"What happened?" I asked.

She said that she had had a "disagreement" with her husband but failed to offer more details. Bard asked me to ask her if the officers could take a quick look around the apartment to make sure he was gone, and she nodded. The two other officers stepped into a bedroom and bathroom but returned quickly, saying it was "clear." One officer stood close by and watched the scene unfold, while the other officer stepped into the hallway.

Bard asked if her husband had hurt her. “Are you hurt?” he asked, peering at her intently and looking her over. I knew he was looking for visible marks that she had been hit or assaulted because this would require the mandatory arrest of her assailant. She shook her head and said that she was fine. When I asked if her husband had hit her, she avoided the question.

We asked for her name and her husband’s name and she gave us both. A minute later we heard an officer yell in the hall and Bard stepped out to see what was happening. “We’ve got him,” an officer yelled. They returned to the apartment followed by a man wearing worn jeans, a faded sweatshirt, and sneakers. He had bronzed skin, short dark brown hair, and the hands of someone who had done years of hard labor.

“Is this him?” Bard asked.

I asked Maricela’s mom if this was her husband and she said he was. As she verified this, she stared at the floor. An officer led Maricela’s dad across the apartment, about ten feet away from his wife and daughters, and told him not to move. The officers distributed themselves in the room strategically: one officer standing next to Maricela’s dad, one officer standing next to Maricela’s mom, and one officer standing between them.

Maricela’s mom ushered her daughters toward her, and I resumed trying to piece together what had happened. By now, they had stopped crying, although the girls—and their mother—looked distressed. I told Maricela’s mom that we had been called about a domestic assault. She stared at me with wide eyes but didn’t respond.

“Can you tell us what happened?” Bard asked Maricela.

Maricela, responding very timidly, said that her parents had gotten into a fight and she had been scared. They had gotten in fights before, and she did not want anything to happen to her mother. Her dad had not brandished a knife, but Maricela had thought he was going to.

I started asking if that was why she had called the police, but the look of alarm on her face stopped me. I paused. She looked at me and pleaded, “Don’t tell them I called. Don’t tell them I called.” By the time Maricela’s words registered with me, she was looking toward her dad. He looked scared, and he seemed to be shaking his head no, almost imperceptibly. He took a step toward his daughter, and an officer barked at him, telling him not to move.

Bard and the officers conferred. If Maricela’s mom was not willing to tell them what had happened, there was nothing they could do. There was no evidence that she or her children had been assaulted, and there were no previous incidents of assault. They decided that the best thing they could do was “cool down” the situation by asking Maricela’s father to leave for the night, even though they could not legally obligate him to do so.

“We’re going to make him leave, okay?” Bard asked Maricela and her mom. They nodded.

The officers turned their attention to her father. “You have to go,” an officer told him. Maricela’s father looked at the officer and didn’t move. “You have to stay somewhere else,” the officer said more loudly. “Get some stuff and let’s go.”

Tentatively, Maricela’s dad shuffled toward the bedroom. An officer followed him. Thirty seconds later they reemerged, and Maricela’s dad was carrying a plastic grocery bag with a few pieces of clothes in it.

“He’s going to leave, okay?” Officer Bard said to Maricela and her mother. Maricela’s mom whispered something in Maricela’s ear. Maricela looked up at her and sighed.

“If my dad can give us money,” she said quietly.

Bard looked at her and held up his hands, as if to indicate that he could not enforce this kind of request. She walked toward her dad.

“Can you give us some money, *papi*?” her voice wavered.

He turned his empty hands palm up.

“I don’t have any, *mijita*,” he told her, using a diminutive Spanish term of endearment referring to Maricela as his daughter.

“Please, *papi*,” she said, imploringly, “please.”

“I don’t have any.”

She took a step back, and an officer waved Maricela’s dad to the hallway. They began to ask him more questions, including if he had been drinking.

I turned my attention back to Maricela’s mom. Officer Bard explained that the police were not going to press charges but that she could go downtown to file an order of protection against her husband if she was worried about her safety. “Would you like to file an order of protection?” he asked.

Maricela was nodding her head emphatically, even before we translated for her mother. I translated the officer’s statement and Maricela’s mom looked at the officer, then at Maricela. She hesitated. Maricela encouraged her with “Yes, Mom.”

Officer Bard said again that she could file an order of protection and that he could help her. I translated. Maricela’s mom stood up straighter and nodded affirmatively. She would file the order.

Bard explained that we would drive her downtown where she could testify in front of a judge, and then her husband would not be able to bother her anymore. Bard told us to wait a second and went to see what was happening outside.

When he left the room, Maricela’s mom started pacing around the kitchen. Maricela ran her hands through her hair.

“You ok?” I asked her.

She looked at me, shame flitting across her face, and said, almost in a whisper, “I’m so tired of it. Sometimes I wish I weren’t alive anymore. I just want to die.”

I was at a loss for words. At that moment, Bard returned. Maricela's mom was still pacing. Bard asked if we were ready to go, but Maricela's mom had changed her mind, saying she'd rather stay home. "No, Mom, let's go," Maricela told her.

Another officer peeked in from the hallway and said he was taking off. Bard told him that that was fine and brought his attention back to Maricela's mom. Officer Bard told her that it was her decision but that if she wanted we would all go downtown together and she could file an order of protection. He looked at her expectantly. She did not respond. Bard told her that she did not have to decide now and that she could always go downtown and file it herself. I told her in Spanish, and she nodded that she understood.

"I'll go another time," she said.

"Are you sure?" I answered. "We can take you now. Do you have a way to get there?"

Maricela's mom did not respond.

Officer Bard asked her again, offering to take her downtown, but she told us that she would go herself. Bard nodded and told her that they had instructed her husband to stay away for the evening but that they could not really enforce the request without an order of protection. I told her in Spanish and she said, "Okay."

Bard asked if she felt safe in their apartment. Did she want to go to a shelter with her daughters? She said she'd rather stay in their home, and Bard nodded. Bard began filling out an incident report on a clipboard. He asked Maricela to confirm her name, her parents' names, and their address.

Officer Kerns stepped inside and asked if everything was okay. Bard responded that we were wrapping up. Bard started chatting with Kerns, and I turned my attention back to Maricela, wondering if I could say anything that would offer relief.

"Can I give you a hug?" I asked her.

She nodded.

I wrapped her in my arms. I wanted to tell her that things would get better or that it would be okay, but these words rang hollow. I wanted to tell her something that was true. "You're very brave," I told her, staring into her eyes.

Bard and the other officer were still chatting. Bard finished the incident report and tore it off the pad, ready to give it to Maricela's mom. He handed it to her, gave her the phone number to the department's domestic violence division, and told her that she could always call for additional help. She thanked us and we left. We went back to the two patrol cars.

Officers dislike responding to domestic violence calls. Responding to them can be dangerous for officers and victims. Often there is no easy resolution. Victims may be reluctant to cooperate with officers or file for an order of protection. Moreover, incidents of alleged domestic violence require that officers fill out additional paperwork.

“DV calls are the worst,” said Kerns. He looked at his watch and let out a low whistle.

“What?” I asked.

“How long do you think that took?” he asked me.

“I dunno. Twenty minutes?”

He shook his head. “An hour and a half.”

“Really?” I answered.

“An hour and a half and we didn’t do nothing,” responded Kerns.

“Let’s get the fuck out of here,” said Bard.

I got into the car with Bard, and Kerns drove off.

This stop stayed with me. I remember the look of terror on Maricela’s mom’s face as she opened the door and saw uniformed officers. I remember Maricela’s vacant and expressionless eyes, and her shaky confession that she sometimes wished for death. Maricela’s revelation left me in an ethical quandary. I did not want to share her family’s situation, but I worried that she might hurt herself. The next morning, I called a friend who worked in the elementary school district as a social worker. I explained what had happened and asked if she might check on Maricela’s well-being. A few days later, I learned that school social workers had spoken with Maricela. She was stressed out but relieved to unburden herself. I do not know what happened to her or her family.

YOU’RE NOT IN TROUBLE

This was not the only time I saw possible concerns about immigration when officers did not. When Officer Hansen and I arrived at a local park after being called about a disturbance at a birthday party one Saturday afternoon, we thought we might be breaking up a fight or an argument between adults. We arrived to find a peaceful and happy child’s birthday party. I thought we had arrived at the wrong park, but a white woman wearing a striped shirt walked toward us and flagged us down. She held a lit cigarette and intermittently puffed as she recounted her complaint. A little boy who had not been invited to the party had arrived and caused trouble. He had thrown sticks and hit her son, the birthday boy.

While I kept an impassive expression on my face, I wanted to scoff at her. Couldn’t she handle this on her own? Hansen was used to answering calls and responded professionally. “Was your son hurt?” he asked.

The woman said he was fine and pointed her son out. Oblivious to his mother’s agitation, the blond boy played gleefully with other partygoers. The woman continued, telling us that the boy who had hit her son was gone but that his sister was still there. Both children were unsupervised, and the woman did not want the responsibility of looking after them.

I looked at the little girl who was the alleged stick thrower’s sister. She was about four years old and appeared to be Latina. She had chocolate brown skin and dark

brown hair pulled back in a high, tight braided ponytail. Officer Hansen walked toward her with his hand outstretched and asked her to take us to her mother. The little girl's shoulders slumped and her face fell. She looked up at the officer's outstretched hand and reluctantly extended her own, allowing the officer to hold on to it.

She led us across an expansive green lawn toward the apartment complex across the street. The closer we got to her apartment, the more upset she became. Tears streamed down her face. Twice she tripped over her own feet and was kept upright by Officer Hansen, who was still holding her hand. Seeing her distress, he tried to reassure her.

"You're not in trouble," he said lightly, with a smile. This did not assuage her fears.

We climbed up three flights of stairs and arrived at a door. The officer knocked loudly, and several moments later a young woman in her early twenties answered the door. She was holding a sleeping infant who was wrapped tightly in a thin baby blue blanket.

The little girl flung herself at her mother, wrapping her arms around her legs and sobbing and hiccupping loudly.

"What happened?" the mother asked her daughter in Spanish, in an alarmed voice. She tried to pry the girl from her legs to get a look at her but was unsuccessful.

The officer looked at me and nodded me forward. I took the cue and explained, in Spanish, that a mother at a birthday party had called us because of a squabble between their sons. She nodded while patting her daughter on the shoulder, telling us that she couldn't leave because she had just had a baby and he was too young to go outside. I suggested that her son stay away from the woman and her child, because the woman had been very upset. She nodded in agreement, sharing that the little boy had played roughly with her son in the past.

"ID?" the officer asked, pointing at her and placing his hands in the shape of an identification card. The woman nodded and turned to a back room to retrieve her purse. She returned with a shoulder bag and rummaged through it, finally producing a Mexican consular identification card. The officer grabbed the card and quickly began filling out an incident report on his clipboard.

As the woman waited, she turned her attention to her daughter, whose sobs had become the occasional snuffle. "There, there, there, don't cry anymore," the young mother told her daughter. Looking down at her with a reassuring smile, she said, "Everything's going to be fine!" The girl seemed unconvinced, and she hovered around her mother's legs until we left.

The officer handed the woman a copy of the incident report and told her to have a nice day. The woman nodded and thanked us, and we pounded down the stairs. Hansen was anxious to get back to patrol.

Sociologist Joanna Dreby has found that children in Mexican immigrant households worry about family stability and the consequences of "illegality." Unable to

distinguish between police and immigration enforcement authorities, both parents and children believe that the police may separate their families. Through their parents, children learn that they need to be cautious when police are around. Even the *threat* of deportability has negative effects on children's well-being and identity.²⁷

During this interaction, I saw a little girl who had learned through experience that the police represented danger. However, as we got back in the car, it was clear that Officer Hansen did not arrive at the same conclusion. Hansen remarked on the little girl's demeanor, but he was puzzled by it. According to Hansen, the little girl's behavior bothered him because she had not been taught that police were the "good guys." He believed children should respect, or even idolize, the police. He did not understand why she, or any child, might regard the police with such apprehension.

"Yeah, it's weird," I agreed, mimicking Hansen's bewilderment, even though I did not think it was weird at all.

COMMUNITY RELATIONS IN AN ERA OF PROACTIVE POLICING

There is a remarkable contrast between the police department's perception of its activities vis-à-vis Latino residents, and Latino residents' perception of those activities. Police department administrators pointed out that the department devoted considerable resources to improving their relationship with Latino residents. Police officials knew that they are not perfect, but they believed they work hard to demonstrate a sincere commitment to serving Latino immigrant residents. As this chapter demonstrates, the MNPDP devoted time and attention to improving the department's standing in the Latino immigrant community. Indeed, the El Protector program largely exemplifies the processes of bureaucratic incorporation described by Jones-Correa. However, while the MNPDP's El Protector program and its numerous activities represented a genuine effort to make inroads with Latino residents, the program's dubious origins and the department's emphasis on proactive policing raise doubts about the program's effectiveness and sincerity. Police saw Latino immigrants as residents who were worthy of protection, but they did not care to see how their own practices contributed to immigrants' precarity. Patrol officers, who were inculcated with the wisdom of proactive policing, were similarly indifferent to Latino immigrants' concerns.

These days, virtually all American police departments invest energy and resources to demonstrate that they engage in "community policing."²⁸ Indeed, departments invoke the idea of community policing as a way to claim legitimacy and to imply that residents endorse their approach.²⁹ The department similarly touted the El Protector program as an example of "community policing." While

there is some disagreement about what policing practices constitute community policing, scholars agree that it consists of partnerships between police and the citizenry to solve community problems.³⁰ Thus, although the El Protector program incorporated some community policing philosophies, such as listening to residents' concerns and trying to improve police relations in the community, ultimately the El Protector program served primarily to educate Latino immigrants, not to incorporate them as partners to solve problems. The goals and philosophy of the El Protector program were not integrated into the department writ large. Latino residents' most pressing concerns related to the behavior of patrol officers. While Officers Iglesias and Moreno attended events to spread the message that the department could be trusted, patrol officers were searching cars, asking residents for IDs, and serving warrants.

Inside the Jail

Processing Immigrants for Removal

Two sheriff's deputies and I were sitting in the small office that housed the 287(g) program in a Davidson County Jail. The office had a glass window with a view of the open booking area. In the booking area, three men sat languidly on plastic chairs, waiting to be issued orange jumpsuits and moved into cells or pods. The office was sparsely furnished and industrial, with a few hard metal and plastic chairs, a large metal desk, and a computer. Deputized immigration officers sat in these offices waiting to screen foreign-born arrestees. I was there to interview these officers when Chad, one of the jail's twelve deputized immigration officers, invited me to watch him conduct an interview.

A Latino man who appeared to be in his forties shuffled into the office. He wore denim shorts, a turquoise T-shirt, and athletic shoes. He sat down in a plastic chair and hunched over, rubbing his hands together over and over as if he was cold or nervous.

"*Como se llama?*" asked Chad slowly, in heavily accented Spanish. He was standing at a computer, poised to input the man's name.

"Rigoberto Celaya Araujo," responded the man quickly and quietly.

The officer started typing this information slowly, using only his index fingers. He stopped and asked Rigoberto to repeat his name. After hearing it again, Chad sounded out each syllable slowly, "Ri-go-ber-to. A-rau-jo. Ce-la-ya." But he had mixed up the order of Rigoberto's surnames. Chad was also stumped by the name "Araujo." After he had asked Rigoberto to repeat it two more times, Rigoberto finally stood up and approached the computer to assist the perplexed immigration officer. Rigoberto peered at the computer screen intently and pointed out where Chad had gone wrong. I was moved by the sight of Chad working to place Rigoberto in

removal proceedings, and Rigoberto helping him do it competently. After Rigoberto was confident that Chad had correctly spelled his name, he sat down again.

Chad cleared his throat and began asking a series of questions in rudimentary Spanish. He asked Rigoberto's age, his parents' names and place of birth, his marital status, whether he had kids under eighteen, and if he had a passport, social security number, visa, or any other legal immigration status. Rigoberto responded to each question, but some he answered more reluctantly than others. He seemed particularly alarmed by the officers' questions about his family, probably wondering if his answers put his family in danger. Officers assured me that ICE does not use this information to go out to look for people but that it is important to know the detained person's family history because it could have a bearing on his or her immigration status. Rigoberto answered that he was separated, that he had two adult children in Mexico, and that he was from a small town in Guerrero called José López Portillo.

This name, too, stumped Chad, and he asked Rigoberto to repeat it twice. "*Mas despacio, soy gringo,*" he said grinning widely, telling Rigoberto in Spanish to speak more slowly. Rigoberto looked amused and repeated the name of his town syllable by syllable.

Chad asked Rigoberto how he had arrived in the United States. Rigoberto told him that in 2002 he had walked through the Arizona desert for four days after paying a *coyote* \$1,500.

"*En que trabaja?*" asked Chad, inquiring about Rigoberto's job.

"*Cocinero.*"

"A cook!" said Chad, writing it down with satisfaction. "Where?" he asked, without looking up.

"*Casey.*"

Chad looked up, confused. This was not a restaurant he was familiar with. "Where?"

"*Casey.*"

"Where?"

"*KAY-SEE.*"

I finally interjected, communicating to Chad what I had immediately understood. "Kentucky Fried Chicken," I said. Rigoberto nodded vigorously.

"Oh!" said the immigration officer, recognition flashing across his face. "KFC!" He wrote it down and asked Rigoberto how long he had worked there.

"Four years."

"He must be a good worker," Chad said under his breath as he recorded the information.

After quickly jotting a few more lines on the piece of paper, the officer asked Rigoberto to sign the document. Rigoberto gripped the pen awkwardly in his right hand and wrote his name in slanted block letters.

Chad handed him a form with information about consular services and asked if he wanted his information forwarded to the Mexican consulate in Atlanta. Rigoberto glanced at the form halfheartedly and agreed.

The officer handed Rigoberto another piece of paper. He could request an immigration hearing before a judge or he could waive his right to a hearing and return home more quickly. Chad looked at Rigoberto expectantly, his pen poised above another form. “Would you like to stay or go home?” Chad asked simply.

“I’d like to stay, but they won’t give me permission,” said Rigoberto, his voice trailing off.

Hearing only that he would prefer to stay, Chad checked the box indicating that Rigoberto wanted an immigration hearing. Chad invited questions and Rigoberto asked when he would get out of jail. Chad could not be sure; he could provide more information about a possible immigration bond when Rigoberto finished his criminal sentence.

“More questions?” the officer asked.

Rigoberto shook his head, and the officer opened the door and directed him back to the booking area. “Good luck,” he said, patting him amiably on the back as he walked past.

Rigoberto shuffled into the booking area clutching a handful of forms. I checked my watch. Twenty-five minutes. Just an hour before, Rigoberto had been one of thousands of Nashville residents whose presence was formally unauthorized by law but tacitly accepted as a member of Nashville’s low-wage workforce. However, by integrating immigration screening into the booking process, immigration officers had turned Rigoberto into an immigrant detainee. He would appear in ICE statistics as a “criminal alien,” someone who was deported after an arrest for a criminal violation. His crime was driving without a license.

The last two chapters addressed how police administrators and officers see, understand, and interact with Latino immigrants. I argued that the police department’s bureaucratic emphasis on traffic enforcement funnels Latino immigrants to the county jail, where arrestees are at risk of deportation. In this chapter, I turn from the streets of Nashville to the halls of Davidson County’s jail facilities. I focus on the Davidson County Sheriff’s Office (DCSO) and its management of immigrant subjects. I show that the jail’s participation in the 287(g) program, through which Chad and other deputized immigration officers performed tasks formerly assigned to ICE officials, turned them into parts of the deportation machinery. Using “preexisting logics, structures, and modes of action,” officers categorized, sorted, and processed removable immigrants for deportation.¹ In doing so, they brought the power and techniques of the state inside the jail, expanding the federal government’s deportation infrastructure and enhancing its capacity to expel unwanted members of the polity. Rarely did they stop and wonder if these were the people the state should remove. Although the rote aspects of bureaucratic

processing threatened to subsume immigrants' humanity, officers inevitably confronted stories of tragedy and human suffering. Not everyone the state sought to deport was "deserving" of removal. The discourses and practices at work in the jail reveal the contradictions that lie at the heart of the state's coercive regulatory authority.

TURNING ARRESTEES INTO DETAINEES: THE MECHANIZATION OF IMMIGRANT REMOVAL

Immigration officers saw only a small part of ICE's bureaucracy and were automata in the agency's deportation machinery. Their work was mundane, and with no authority immigration officers merely did as they were told. They were content to do this and felt that extra responsibility was above their pay grade. Since their participation in deportation amounted to completing programmatic tasks, they turned their attention to the more minute details of their work. To the extent that they were sometimes frustrated by their jobs, their frustration stemmed from satisfying their superiors.

During the program, a series of ICE officials worked at the jail to oversee its implementation. Each of these officials had different preferences regarding how officers should fill out the paperwork, annoying officers who had to change the way they documented cases. Larry expressed his frustration with an overly particular ICE agent by joking about placing drawings in the arrestee's immigration file: "We just do what we're told to do. I don't take any of this personal. I remember one time I was joking with one of the agents because they were extremely picky. I said, 'If you want me to draw pictures of George W. Bush and put it in the file, I'll do it. I'll draw the picture, I'll make a hundred copies and I'll put it in the file. I'll do it. Just make sure it's consistent.'" While Larry was joking, his statement underscores the arbitrariness of his supervisors' documentation requirements. Some of the changes his supervisors requested seemed as trivial to him as including a picture of the former president in an A file. He was willing to follow instructions, but it was difficult to do so when ICE kept changing the rules of the game.

Officers were frustrated by inconsistencies about whom to detain. Following ICE's guidelines, deputized immigration officers prepared the documents that dictated whether the arrestee would get an immigration bond, get a release on recognizance (ROR), or be detained pending removal. Andrea explained the various policy changes she had observed since she became an immigration officer:

At first, we were no-bonding everybody because our signature authority at the time didn't bond. He was in charge of the local office, and they no-bonded everybody. They kept everybody in custody, so that's how he told us to do it. And then we went to where we were bonding just about everybody, just about everybody in bond, except for serious charges. Then we were ROR'ing everybody that didn't have any

serious charges, and of course, bonding the people that did. Then we went back to no RORs. Then we went back to RORs again, and now we're back to no RORs. So we've kind of gone back and forth. And a lot of those changes have been from whoever's in charge in Washington saying, "Okay, we're not doing this anymore." I don't know.

According to the ICE supervisor, these changes in policies and procedures were a result of the "allocation of positions and infrastructure." For example, when Davidson County's immigration officers began processing arrestees for removal, they swamped an overburdened detention and immigration court system. The 287(g) program director explained, "I'm sure we overwhelmed them a little bit. If you think about it, we put an extra two to three thousand bodies through the deportation system that weren't there before, so I'm sure there were space issues and money issues. We're adding extra stress to a system that's already a little stressed out, in my opinion."

Running out of bed space and facing an enormous backlog, ICE directed program officers to release more people. Later, when ICE became concerned that people would escape their reach, ICE directed the program to let fewer people go. As with all their other tasks, DCSO immigration officers did not decide who was bonded, paroled, or remanded from custody. Officers could make a recommendation, based on federal guidelines, but ICE had the final say.

Ironically, deputized officers' impotence lay at the heart of the program's awesome regulatory power. The delegation of immigration authority to nonfederal agencies created a seamless chain of custody between local and federal authorities. Once deputized immigration officers had identified the arrestee and completed the paperwork, ICE would pursue that person's removal because he or she was already in custody. People were removed because they were *removable*, not because they were "criminals."

WE ARE NOT DEALING WITH CATTLE: EMOTION WORK IN DEPORTATION PROCESSING

Immigration law is notoriously unforgiving. In the eyes of the immigration bureaucracy, undocumented immigrants who moved through the Davidson County Jail were nothing more than cases to be processed. The routinization of immigrant removal dehumanized immigrant arrestees, turning them into detainees through a series of interviews and bureaucratic processing. During face-to-face encounters, however, deputized immigration officers could not ignore the fact that the arrestees who stood before them were people.

Andrea felt a tension between the bureaucratic mandate to impassively document immigration violations and her own sensibility that people were not easy to sort. "You cannot classify people!" she told me passionately. "It's based on immigration status, okay, that's fine, but we're dealing with *humans* here. We are not dealing with cattle. Everyone has a particular situation, and even though things are

repetitive in terms of why they came to the United States, you have to be able to understand the motivation.” Her statement suggests an uneasiness with her work, which she likened to herding cattle.

Deportation is an emotional process, not just for those who are facing expulsion, but for the state actors who encounter or participate in it. Daily contact with immigrants, particularly those who are sympathetic, can provoke anxiety, discomfort, and confusion among bureaucrats who are tasked with implementing national policy. On the front lines of immigration enforcement, officers encountered stories of exploitation and tragedy: young men being left to die in the desert, women packed in truck containers during the journey north, and families torn apart. Some of these stories bothered officers, but they placed immigrants in removal proceedings with no regard to their extenuating circumstances:

Henry: We have a lot of sympathy for people who come through this program. There are a lot of people who are good people and we feel sorry for them. They’ve been here for years, or they’ve been here since they were two, went to school and everything, and then they get in trouble and get deported. I feel really bad. It’s probably not their fault, but we can’t be subjective in how we deal with people because that’s how you get in trouble. . . . We have to be consistent, and the only way to be consistent is to process anyone.

Ella: You get the ones that start crying, but it’s jail. Once you come to jail, nobody wants to be in jail. I mean, so they’ll tell you more than they have to. They’ll tell you whatever they can to, you know, pity party, make you take it easy on them, but it’s the same for everybody. No matter what the story, it has to go through the same process.

Placing people in deportation proceedings involves “emotion work,” in which officers manage their physical expressions of emotion while fulfilling their bureaucratic mandate.² Emotional labor involves managing one’s face, body, and compartment to project the “right” kind of emotion for one’s job.³ Not every emotion is appropriate for public display, and organizational actors must learn to perform only those that are “appropriate” to the organization’s culture, values, and traditions.⁴ For example, we expect service workers and caregivers to be upbeat and positive, expressing happy or caring emotions.⁵ In contrast, we expect law enforcement professionals to keep their cool and remain calm during catastrophic events.⁶

Davidson County’s immigration officials told themselves stories to justify, manage, and explain their participation in deportation. These stories, and the emotions that accompanied them, get at the “moral heart” of immigration policy.⁷ They illustrate the organizational norms and identities that officers must “put on” to make deportation work. Thus, my interest in examining the moral worlds and values that immigration officers espouse goes beyond wanting to understand their individual

dilemmas as bureaucratic workers. Rather, their expressions and performances provide a window into the state and its regulatory power, revealing how bureaucracies mark people as “illegal” and removable. As such, these performances reveal the fantasies that officers seek to maintain about their work and about the deportation process more generally.

PROMOTING THE MYTH OF IMMIGRANT CRIMINALITY

One of the most powerful stories that the DCSO sought to maintain was that the 287(g) program promoted public safety by identifying “criminal aliens.” In 2009, seeking approval from the Nashville Metro Council to renew the program, the sheriff’s office released a report lauding the program’s “successes.” The report boasts that “over 5,300 illegal aliens, who were first arrested for a crime, have been processed for removal from the United States.”⁸ Six mug shots of ominous-looking men are splashed across the report’s pages, accompanied by their countries of origin and extensive immigration and criminal histories. Some are labeled as “known gang members.” The report claims that before 287(g) these “illegal aliens” would have been released back into the community.

Next to one man’s mug shot, the report lists a series of crimes. He was apprehended by the US Border Patrol (USBP) four times and was deported, but each time he returned. He has known aliases. Arrested in Davidson County for trespassing, the man is an aggravated felon. His inclusion in the report suggests that he is a poster child of immigrant criminality, but his criminality has been created by the very institution that seeks to deport him. He is an aggravated felon because the Illegal Immigration Reform and Immigrant Responsibility Act made reentry after a previous removal an aggravated felony. His “aliases” reflect inconsistencies in how US bureaucracies register people with two surnames—each “alias” is his name, but with one of his last names omitted or placed in a different order.

What is interesting about the inclusion of this man’s mug shot in the report is that he—along with most of the men pictured—is deportable with or without his criminal history. His removability does not stem from his alleged criminal violations; rather, his illegal presence *makes* him deportable. To highlight the typical civil immigration violator, however, would reveal that the 287(g) program is not about public safety but about ensnaring anyone that the government can deport. This reality does not line up with the moral economy of immigration enforcement, which constructs immigrants as either “deserving” or “undeserving” of removal.⁹ Instead, the program’s legitimacy lies in identifying those who conform to the worst stereotypes of Latino immigrant criminality.

When confronted with people like the men in the mug shots, people who “deserved” to be deported, officers did not think of themselves as pawns in the

immigration bureaucracy. These encounters allowed officers to imagine themselves as active participants in immigrants' deportation, playing an integral role in promoting public safety:

- Ella: Some days you're more than happy to do your job because you have a real criminal. A child rapist or all the horrible people that we get in here. I'm just like, "Yes! We've got to get them out of here!"
- Chad: This is the way I think about 287(g), it's to promote a safer community. So what we do when we screen people, we get rid of some pretty desperate people, pretty bad, pretty rough people. Gang members, MS-13, Latino Kings, people like that.
- Mike: It's a tool to help our community to try to make it safer. It's a service for the community. Try to document some of these individuals. If they're, let's say, a threat to the community, we deal with them. . . . I think back to a couple months ago. We had two cases that were involved in Brown Pride and one of them was even on the History Channel when they had that show *Gang Land*. If we can get individuals out like that, then obviously we're making a difference.

In each of these statements, immigration officers claim ownership over immigrants' banishment. Their statements make clear that they see themselves as protectors of "the community" and that the people they process for removal are not part of "the community" they are tasked with serving.¹⁰ Having established that these are the people who deserve deportation, they see their roles as more than merely filling out paperwork. Instead, they are expelling sex offenders, "getting rid" of desperate people, and "dealing with" gang members. However, their statements also make clear that these cases are in the minority. For example, Ella says she is happy to do her job *some* days, when she processes a "real criminal." The "gang members" that Mike references are cases from months before. Linking Latino status, illegality, and criminality, Chad and Mike both refer specifically to Latino gangs, parroting a common justification for draconian immigration enforcement policies.¹¹

JUST DOING OUR JOBS

Officials in the DCSO had no problem extolling their participation in deportation when those they removed had committed serious violations. However, the majority of people processed for removal through 287(g) could not accurately be described as "criminals." Immigration officers confronted uncomfortable realities as they encountered people who were facing removal because of bad luck or misfortune.

When deputized immigration officers were not able to claim that they were making the community safe, how did they justify doing their jobs? Instead of highlighting their role in deporting immigrants, they pointed out that what they

did could not be accurately described as deportation. They did not *deport* anyone; they *placed them in deportation proceedings*. In their minds, they were the powerless intermediaries caught between institutions with a great deal more discretion. Police officers could choose to overlook violations; deputized immigration officers could not. Upper-level ICE officials could choose not to prosecute low-priority immigration cases; deputized immigration officers had to process everyone identically. Last, immigration judges were the final arbiters of justice; they had the power to let people stay. Deputized immigration officers could make no such choices. Officers developed different strategies to reconcile these enforcement dilemmas. For example, Emily acknowledged that she felt happier when removing a “gang member” than a person with a driver’s license offense but reminded me that the arrestees’ “illegality” made them equally removable. She coped with her job by actively striving to maintain emotional distance. She tried to treat people kindly but emphasized that decisions about their fates were made elsewhere:

It’s not my responsibility to carry that burden on me. The law is what it is. I don’t do that. I have kids at home I need to go home and take care of. I try not to get too emotionally involved into it because that can be draining for me and *my* family. So I just listen, help as much as I can. If they need to make phone calls, whoever they need to contact—lawyers, counselors, the consulate—or whatever they need, I make sure that they have plenty of time and I let them use the phone as much as they need, but that’s all I can do. I can do no more than that. The rest is up to the immigration judge.

Amber told me that she did not always agree with how the 287(g) program was administered but that she did whatever the job required. When I asked her to share some aspect of the program that she disagreed with, she told me about one of her first cases. She interviewed a young man in his early twenties; he had arrived in Nashville from Mexico when he was fifteen. Up to that point, he had never been in trouble and had never had any contact with law enforcement. After Nashville police officers served an arrest warrant at his house for failing to appear in court, the young man turned himself in at the jail, as the warrant required. The 287(g) program had just started, and Amber determined he was in the country illegally. Quickly she completed the paperwork that would initiate his deportation proceedings. At the time she felt satisfied with her work, but the next day she learned that the police made a mistake:

Amber: They had served the warrant at the wrong house. It wasn’t even for him. So I felt horrible. I mean, there was nothing I could do. But I felt so bad for that guy because he had not done anything wrong. I mean, the warrant was not even for him.

AA: How could he be put in custody if the warrant wasn’t for him?

Amber: I don’t know. I don’t know if that was a Metro mess-up or what, and I don’t know if somebody just took out a warrant on the wrong person. . . . I don’t

know. But all I know is that I heard the next day that that wasn't even—the charge had got dismissed, and it wasn't even his. . . . I don't know. And I don't know what happened when he went to court. I mean, they may have allowed him to stay, I don't know.

This case bothered Amber because it violated the purported aims of the 287(g) program. She had signed up to identify “criminals,” but this young man never should have been in custody. Still, she did not feel responsible for his fate. The error was someone else's mistake, and some other institution (the court) was responsible for rectifying it. She allowed herself to imagine that the young man was able to stay.

Officers wielded their relative powerlessness as a shield against accusations that they were committing injustices. They resented media and television coverage that placed the burden of deportation on their shoulders. They felt maligned by prominent local advocates who accused the program, and by extension, *them*, of hurting people. For example, Henry pushed back against the assertion that immigration officials played any part in “breaking up families,” saying, “As far as breaking families up, we don't arrest them. Metro police arrest them. If they break the law, they break the law. We just do our job.”

When those they encountered were arrested for minor offenses, DCSO officers could not claim that their alleged improprieties made them *deserving* of removal. As a result, they rejected responsibility for immigration enforcement altogether, shifting blame to the police who delivered people to their custody. The following statements represent the common ways that deputized immigration officials minimized their part in immigration enforcement:

Ella: We have nothing to do with them getting arrested. We get called heartless. We're cold. We're breaking up families. But they don't understand. We don't go out and get these folks. They get dropped off to us. We have no control on who gets stamped with ICE. That's not in our control. Once they get arrested, they get dropped off. The people in the front stamp them ICE. My job is to get the packets that get put in there, so I have nothing to do with the arrest, whether it's for fishing with no license, that's not on me. All my job is, once they get brought in here, I just have to find out their legal status. So all this, that we go out and we're breaking up families, and we're arresting people for—I mean, we have nothing to do with that. That's not our job.

Chad: We're *helping*. I think this gets lost a little bit, we're *helping* the federal government with their immigration issues, so we're a force multiplier, so there are more ways for us to get people to immigration court. I don't know what happens to them when they go to immigration court. I don't know if they get deported, I don't know if they come back. I don't know what happens.

Malik: Well, of course, my powers are the power to question someone as to their admissibility or inadmissibility [for deportation], and beyond that my powers are none. I get all the guys [who say], “You can let me go,” and “You can let me go.” And I say, “You don’t understand. I’m not the man.”

In each of these statements, immigration officers assert their limited responsibility in immigrants’ possible subsequent removal. Instead, they point to other agencies and actors who they believe are more culpable than they are. Like police officers, these immigration officers believed it was unfair to burden them with the possible consequences of their work. As Emily said, “It’s not my concern. That’s a concern for higher-ups. Like I said, all I do is, they come in here, I have a job to do.”

In sum, immigration officers did not challenge the premise that immigration enforcement broke up families, but they rejected the contention that *they* broke up families. In fact, the list of things they did not do was long: They did not arrest people. They did not control whom they screened for immigration status. They did not decide who would be subsequently deported. They did not break up families.

“COMPASSIONATE” REMOVAL: LEGITIMATION STRATEGIES ON THE FRONT LINES

If deputized immigration officers did not participate in deportation, what, exactly, did they think they did? Immigration officers stressed that they only determined arrestees’ legal status. They were a technology of the state, making immigrants “legible” to immigration authorities.¹² In the hierarchical chain of command, deputized immigration officers were functionaries who carried out tasks. Since they had no way of knowing whether (or when) immigrants they identified for removal were *actually* deported, they were able to morally disengage from deportation, denying their own agency and diffusing responsibility.¹³ This allowed them to see themselves as decent and compassionate workers rather than participants in “legal violence.”¹⁴

Didier Fassin introduced the concept of “compassionate repression” to highlight how immigration enforcement bureaucracies reframe coercive elements of social control as a form of relief or support for immigrants.¹⁵ A number of scholars have identified that agents in correctional facilities use tropes that emphasize their “humanity” and “compassion” even while they exercise systematic control over immigrant subjects.¹⁶ For example, in her interviews with agents of the USBP, Irene Vega found that some officers made a point of mentioning their magnanimous gestures, highlighting times they had offered toys or blankets to children confined in detention centers.¹⁷ “Compassion” did not involve *changing* practices so much as making practices seem more agreeable.

In Davidson County, immigration officers constructed a narrative where they were compassionate and altruistic actors in a “scary” bureaucratic process. The

hallmark of this compassion involved being polite and empathetic. Henry explained, “We treat people civilly and tell them, ‘This may stink, I agree with you, but here’s what’s going to happen.’” Andrea also said she took great care to speak respectfully to those that she encountered. To her, being polite was an acknowledgment that the arrestees she encountered were real people, not just a collection of characteristics that she had to sort. She believed that arrestees would notice her kindness. She hoped she could shine “a different light on what immigration officers can do and what we’re like.”

Officers also normalized deportation processing by characterizing it as pleasant. The majority of immigration officers I interviewed described going to great lengths to make arrestees laugh. They were invested in making immigration processing seem enjoyable. They did this by pivoting from the *outcomes* of immigration processing to draw attention to their comportment while they were executing their tasks. For example, Chad surmised that he made people feel comfortable while placing them in removal proceedings because he often had arrestees in stitches:

When I interview people, I try to be courteous and try to be understanding of them. Most of the time when they’re in the office with me they’re laughing because it makes them more comfortable. They’re already in an uncomfortable situation if they’re facing deportation and if they’ve got family here, so I try to break the ice. I try to make them feel comfortable and let them know what their options are. I let them use the phone to call their family. And I think they feel more comfortable when they come to us than they are out there. When they come to us, I make it a habit to go a little further with them just because I understand what they’re facing. Out there it’s pretty much an assembly line, whereas with us they get one-on-one.

In addition to pointing out the various courtesies that he extended toward immigrants, Chad suggested that arrestees preferred immigration processing to other aspects of incarceration. He believed that the twenty to thirty minutes that arrestees spent with immigration officers were a respite from the “assembly line” of the booking process. Indeed, Henry said something similar, suggesting that DCSO officials were generous because they gave immigrants “the opportunity to tell us their side of the story.”

Malik, a middle-aged black officer built like a linebacker, also described injecting humor into the interview process. He explained, “I’m a big man, you know, so people get intimidated with me. But I have them laughing. If you look at most of the shots I take of the people, I have them laughing. I’ll say something to them to make them laugh or something like that because I know it’s—it’s a messed-up situation. I understand that.”

These attempts at joviality were also preemptive; they staved off displays of emotion from those whom officers were processing for removal. Humor and empathy were tactics that made the process run more smoothly. “You just sit and joke

around with them, and make them feel as comfortable as you can because the more comfortable they are, the more willing they are to answer your questions,” Ella said. Making people laugh, in other words, made processing them for removal easier.

In a similar vein, Amber said she enjoyed speaking to arrestees and described some of her interactions as amusing: “I actually do enjoy talking to the folks that come in. Some of them are quite funny, so I mean, it’s just always interesting. You never know what’s going to happen. Some of them, they’ll be so drunk, they’ll tell you, ‘I’m drunk!’” At that moment, Amber let her body go limp and slid down in her chair. She dropped her chin and let her head hang as she rolled her eyes. She seemed to be mimicking intoxication. Then she quickly sat upright and continued:

So you’ll laugh with them. And you’re like, “You shouldn’t be driving.” They’re like, “I know, but I went to the fight” or “I went to the rodeo.” I’ll ask them, how was the fight? How was the rodeo? “I do construction.” What kind of construction? Why are your fingerprints so bad? “Well, I do construction.” How long have you been doing it? Just a casual conversation, get them comfortable. Don’t let them think that you’re after them, that you are against them. Just like you talk to anybody else.

Diffusing responsibility for deportation and attempting to make it less unpleasant for immigrant arrestees are legitimization strategies. They are attempts to make immigration officers’ participation in deportation more palatable. Legitimation strategies allowed immigration officers to construct new narratives about immigrant removal, one where officers treated immigrants kindly, even while depriving them of their freedom. Some officers even reimagined deportation processing as a process that *helped* immigrants by putting them in front of an immigration judge. Ultimately, these narratives allowed officers to cope, placing the burden of deportation on other institutions.

DEPORTATION PROCESSING AS RACIALIZED PUNISHMENT

Once immigrants were identified for removal, they experienced stricter criminal justice processing than other arrestees. DCSO officials assigned a low, medium, or high security risk classification to all inmates at the county jail, corresponding to their alleged violations. These risk classifications determined inmates’ eligibility for spaces, activities, and programs within correctional facilities. The DCSO designated ICE holds as medium-security inmates, even when their arrest offenses corresponded to the lowest risk classifications. Because the overwhelming majority of removable immigrants were Latino, this bureaucratic decision essentially restricted Latino arrestees’ access to spaces, activities, and programs to which other “less risky” inmates had access. The bureaucratic decision to transform low-level misdemeanor arrestees into medium-risk offenders made incarceration *more* punitive for Latino arrestees.

In another attempt to make immigration processing seem more humane, the sheriff's office hired a bilingual Latina as a case manager to attend to the numerous immigrants being detained at the county jail. Linda helped arrestees understand the detention process, facilitated communication with consular offices and their families, and helped return their property to family members after arrestees were transferred to ICE custody.

Linda saw her role as making sure that detainees had the same rights and privileges as other inmates in the jail. As a result, she was sometimes frustrated by perceived injustices. Linda objected to immigrants' differential treatment during incarceration and lamented that "her guys" did not have the same privileges inside the jail as other arrestees. "Okay. So what you're telling me is this African American and this one guy and this Oriental who is in here can go down the hall fifteen steps but Latinos, because they're not legal, are more of a safety risk? Where are they going to go?" she asked incredulously.

Linda's strategy for coping with her role in the jail was to cultivate ignorance. Although the reason for her employment was the large number of detainees in the jail through 287(g), Linda tried not to think about why people were arrested and detained. She said:

I'm assuming the licenses are 287(g). You're gonna get stopped; you're gonna get stopped. Now, is there profiling? I say yes. That might be because of 287(g). I don't know. Like I said—I don't know anything about the program. I really don't want to know because I think it might muddy my reasons for doing what I do.

Although Latinos constituted the majority of immigrant removals from Davidson County, officials insisted that they were "color-blind." Indeed, officers touted the "diversity" of immigrant removals, pointing out that they screened foreigners from various countries of origin. Malik explained, "I've sent individuals from Canada, England, Germany, and Russia through immigration court. People like to use the phrase *Mexicans*, but not everyone is from Mexico." Mike said something similar:

The basic misconception—and that's even if you look in the newspaper at the news articles and stuff—the misconception is that we are just deporting everybody Mexican. If you Mexican, they gonna deport you, and that's not true. I mean, nine times out of ten, majority of the cases that we do are Mexican—Mexican descent. But, we got Honduras, El Salvador, and all this and that.

What's telling about both of these statements is that even as officials were making assertions about the diversity of immigrant removals they referenced Mexicans. "Illegality" is a racialized social condition that has become a defining feature of "Mexican"-ness.¹⁸ To both officials, Mexicans were the "master category" for "illegality," a category synonymous with removability.

Immigration officers were sensitive to accusations that they used Latino status as a marker to screen people for removal. Andrea, one of two Latina immigration officers, said:

I hate the fact that people feel like we're profiling. If you have somebody who comes in and they say, "I was born in Utah." Okay. And they speak Spanish. Okay, you're a Spanish-speaking person that was born in Utah. If you have a social security number and we know it's a good number, by all means, you belong here, you're an American.

Andrea did not conflate language with citizenship. Using the hypothetical example of a Spanish-speaking US citizen born in Utah, she asserted that as long as that person had a valid social security number, officers would know that he or she "belonged" and was American.

Emily also asserted that race and citizenship had nothing to do with one another, using the unlikely hypothetical example of a white arrestee with a quintessentially American name, born in an East African country. "It doesn't matter if your name is Joe Smith and it says you're from Uganda, you could be as white as can be, they're still going to stamp you ICE because of the simple fact you're not born in the US," explained Emily.

"What if your name is José Ramirez, you're born in Houston, and you don't speak English?" I asked.

"No," Emily responded, pausing.

You've got a social. I mean, you don't speak English, fine, but you've got a social. The arrestee report contains everything from address, height, weight, place of birth, social security number, and birthday. So all that stuff is on there, and when they drop the paperwork off, booking looks at it. If it says Mexico, they'll automatically stamp them, but if it says Houston and his name is Juan Manuel Rodriguez, but he has a social, there's really nothing we can do about that.

Emily's hypothetical description of the jail's response to a US citizen of Latino descent who was Spanish monolingual was different from Andrea's. Andrea described this hypothetical American citizen as someone who belonged. But Emily did not assert that the hypothetical Juan Manuel Rodriguez *belonged* in the United States. Rather, she said that the county could not screen him for immigration violations if he had a social security number. She almost seemed to lament this, saying there was nothing that officers could do.

Political scientist Jaqueline Stevens has documented thousands of examples of federal immigration officials detaining US citizens and placing them in removal proceedings.¹⁹ In the American criminal justice system, one is considered innocent until proven guilty. The state has the burden of proof to show that one is guilty, and the accused has the right to defense counsel. The immigration system offers no such protections. Instead, individuals are responsible for proving to immigration officials that they are present legally. Gathering this type of evidentiary

proof when one is detained is not easy. However, without it, the immigration bureaucracy can consider a US citizen to be “an alien whose status has not been verified.”²⁰ In 2010, Davidson County officials placed an immigration detainer on a US citizen of Mexican descent named Daniel Rentería. Born in Portland, Oregon, Daniel never should have encountered Davidson County’s 287(g) officers. He did, however, because the arresting officer listed his place of birth as Mexico, rather than Oregon. Daniel, who spoke limited English, was unable to convince officials in the Davidson County Jail that he was, in fact, American. During his interview, he named the Portland hospital where he was born, supplied a Tennessee ID that required proof of citizenship to obtain, and recited a valid social security number, but officials kept him on an immigration detainer to investigate further. Despite their claims to the contrary, Davidson County used Daniel’s Latino status and less than perfect English to signal “illegality.” Denied the right to post bond, Daniel remained in custody until the local charges against him were dismissed for lack of probable cause. Still, he was not immediately released. Instead, Davidson County officials kept Rentería in custody for nine additional hours and released him only after relatives arrived with documentation proving his citizenship. By this time Daniel had been in jail for over ten days. Officials insisted that they were just doing their jobs.

Technically, it is illegal for localities to deny criminal bond to people solely because of their immigration status. Immigration detainees are not supposed to affect local criminal justice processing. In practice, immigrants on detainees move through the criminal justice system differently than the native born, with less access to bail, longer durations in jail, elevated risk classifications, and the looming threat of deportation. Arrestees on immigration detainees also have trouble securing pretrial release because release from local custody only triggers a transfer to federal custody; moreover, they are summarily denied access to alternative and diversionary sentencing programs, a practice that results in longer overall stays in custody.²¹ Just as the police department’s bureaucratic emphasis on traffic stops funneled Latino immigrants to jail, the jail’s institutional policies and practices converged to produce extra punishment for Latinos from the moment they arrived in custody. Despite claims to the contrary, the 287(g) program empowered DCSO officials to detain arrestees on “suspected” immigration violations, allowing them to use accent, phenotype, or last name as markers for “illegality.”

RHETORICAL FIGHTS ON THE FRONT LINES

On June 4, 2008, a group of ten people sat around a table in a conference room in the administration offices at the DCSO for a quarterly meeting of the 287(g) Sheriff’s Advisory Council (SAC). The meeting started cordially, with Sheriff Hall

updating the group about 287(g)'s administration. But it quickly became heated as the sheriff and members of the council quarreled over the 287(g) program's implementation and motives.

At the SAC meeting that June, Sheriff Hall was visibly agitated by any suggestion that implied that he had misrepresented the program's intentions. While members of the council had been telling him this at meetings for over a year, when they took their assertions to the press, the sheriff became angry:

What totally concerns me is, look, we can talk about merits, but what totally concerns me is that they're saying that what we said we are going to do and what we're doing are two different things. That's totally disappointing because we've been consistent. We debated for months before this program started. We always said that once they're arrested we were *always* going to process them. We always said that once they were booked into jail we were never going to ignore it. But the *Tennessean* wrote that what we said we were going to do and what we are doing is not the same. We spent a lot of time saying who the issue would affect—Did we ever say the program was going to deal only with violent offenders? *NO*. We can talk about it forever, but what should *not* be said is that what we said is different than what we did. That's totally inaccurate.

Scott, the executive director of an immigrant rights organization, responded to him coolly, saying, "I think the program *was* presented with an objective different than what we're seeing. What are we trying to achieve? Are they dangerous to the community? On what are we spending our resources? You were clear that you were not going to target all undocumented people."

In Phillip K. Dick's 1950s science fiction short story "The Minority Report" (subsequently a Stephen Spielberg movie starring Tom Cruise), Dick imagined a "pre-crime" police unit devoted to incapacitating offenders *before* they committed the offense.²² A number of criminologists have used the term *precrime* when referencing a trend in criminal justice frameworks toward anticipating and managing risks.²³ Davidson County officials used a similar precrime logic, arguing that immigration enforcement could protect against imaginary future harms. For example, the sheriff insisted that if the 287(g) program had been in place sooner, lives would have been spared. "To us, the breakdown of classifications was not important because, for example, Reyes García should have been removed before it got to that point," he said. Here the sheriff was referring to the infamous case that had preceded the 287(g) program. His argument was that if Reyes García had been deported on any of his previous fourteen arrests, which included multiple drunk driving and driver's license offenses, then the fatal accident he caused would not have happened. This logic erases the root causes of the offense (drunk driving and alcoholism) and repackages it as an immigration problem.

Members of the SAC pushed back against this claim, telling the sheriff that he "beat everyone over the head with Reyes García." Ramona, the director of an immigrant-serving social service agency, added:

Yes, there were those two big DUI cases and that's how you positioned 287(g) in the community, so that's how it was understood. Now we have three thousand people who have been processed through the program. We're seeing the results of the program, but what's the effect? There's no conversation about whether we are making our community safer. We're telling you this is causing problems in our community. We're telling you people are scared and they don't want to call the police. You're saying you want information, but you don't want to listen.

Shaking his head, Sheriff Hall ignored Ramona's statement and returned to airing his own grievances:

How are we going to trust each other and move forward? What I'm saying is that he should have been removed after the misdemeanors. I let him go *thirteen* times. *We wouldn't have let him go if we knew he was here illegally*, and this program is to prevent that from happening again. Fourteen arrests was the issue to me. We were never told he was illegal. Why didn't they tell us he was illegal when he was arrested? That's a failure to me. We were clearing him of his immigration status. My frustration is we can't get to that point in the conversation where we're sharing true information.

Ramona shook her head and held up her hands in exasperation. "We spend time educating our community helping them understand. I'm hearing it from families. They're trying to understand, but they're scared."

Sheriff Hall responded, insisting that if people were scared it was because they did not understand how immigration processing worked. Like DCSO immigration officers, Hall argued that people were deported, not for having been *arrested*, but for being undocumented. Like the police chief who argued that immigrants' fear was not the police's fault because immigrants *chose* to be out of status (chapter 4), Sheriff Hall maintained that others were responsible for the distress that immigrants experienced:

We need to get a better message out about 287(g). Because it's also inaccurate, driving without a license does not get you deported. It is lack of documentation that gets you deported. To tell someone they're deported for not wearing a seat belt is wrong. My frustration is we can't get to that point in the conversation. . . . It's not fishing; it's not getting the license. There was fear put into people's minds, and that was not put there by us.

"Okay, but eleven million people in this country are deportable. Why do we as a county, and you as a sheriff, *care* about these people? Why do they come into contact with you at all?" Scott asked.

"What ultimately gets you arrested is that you can't document who you are. The middle of the story is very important. This is a sensational fear," responded Sheriff Hall.

"We have a different perspective. There's a substantive difference there, but you need to trust us too," said Scott.

"It's completely fair to disagree. That's why we want you here, but everything we said, it's never wavered. What we said we were going to do is what we're doing."

Many of the divisions between DCSO officials and immigrant advocates about the 287(g) program mirrored disagreements about the police department's El Protector program. Latino immigrant advocates felt that the sheriff's office ignored their concerns, while the agency believed that advocates misrepresented law enforcement practices.

By 2010, members of the SAC considered resigning from the council in protest. Members worried that by participating in the council they were giving the sheriff legitimacy. They believed that the sheriff was using them for political cover. Scott said:

I think we are just window dressing so he can say he has an advisory council made up of advocates in the community. It's really a pretty ineffective advisory council, but we get information, we at least get information about how the program is being run and the numbers of the program, and so that's why up until now we've decided to continue to be a part of it. The sheriff really doesn't listen to anything we have to say. I've asked him from day one, I said the problem is that this thing is being operated too broadly, this program encourages racial profiling or ethnic profiling. . . . He has refused to consider that from day one. I think if new parameters are set he'll abide by them, but he's not gonna do it on his own.

In truth, the DCSO never considered running a targeted 287(g) program and never intended for residents to have input about the program's implementation. One of the DCSO officials who oversaw the program admitted it was a mistake to suggest that the advisory council would serve an advisory function. He explained:

Calling it an *advisory council* may have been an odd word to use too, because most people thought they were going to *advise* us on the program. Well, the program was the program, and we were going to run it how it was set up to do, mostly it was a problem-solving issue group to say, "Here's what we're hearing." I think it was a good idea; I just think the purpose of it may not have been as clear as it should have been, and a lot of it was our fault. But we thought we were doing the right thing, we thought, "Hey, let's get this thing going." Looking back on it, we probably would have done it differently.

The official's claim that "the program was the program" was a misrepresentation of reality. Davidson County officials were not powerless over the 287(g) program's implementation. As I explained in chapter 2, the 287(g) program was not originally designed to identify every removable immigrant in correctional facilities for deportation. Instead, ICE allowed local jurisdictions to use the 287(g) program to suit their preferences. Indeed, dozens of agencies ran a targeted enforcement model, identifying far fewer arrestees for removal than were identified in Davidson County. Contrary to this assertion, the sheriff's office did not run the program "how it was set up to do." They ran it as they wanted. As I explain in the next chapter, the 287(g) program served to punish Latino immigrants for being undocumented.

Punishing Illegality

In 2008, a local independent weekly called the *Nashville Scene* published a story describing the policing philosophy of the MNPDP with a flashy headline announcing, “Chief Serpas’ Plan for a Safer Nashville Is to Pull You Over Early and Often.”¹ The article described the MNPDP move toward mass vehicle stops as a deliberate strategy. “Talk to almost anyone in town,” the article read, “and you’ll hear stories of being pulled over.”² Indeed, at a city council meeting in 2009, Sheriff Hall quipped that he had been pulled over more times in the previous year than in all his years of residence combined. City council members and meeting attendees laughed in recognition. Latino residents also identified the transformation of policing practices in the city, but unlike the mostly white residents at the city council meeting, they did not consider it a laughing matter. Indeed, Latino residents and immigrant advocates were critical of the police department’s emphasis on proactive policing. Their complaints stemmed from a feeling of omnipresent surveillance; the police seemed to more invested in *patrolling* Latino communities than protecting them. A pastor at a Methodist church with a Hispanic ministry and an immigration legal clinic was convinced that police profiled Latino congregants. “There is *no question* the police are going after immigrants. We call it ‘driving while Hispanic,’” she said.

An accumulating body of research suggests that police policies that rely on making high numbers of stops lead to the disproportionate arrest of black and Latino men.³ Not everyone thinks this is a problem. Police, for example, argue that they focus on minority neighborhoods because their neighborhoods tend to have higher rates of delinquency. While some may think that subjecting (minority) residents to aggressive policing tactics enables officers to find contraband, research suggests

that investigative traffic stops have a low “hit rate” and that officers overstate the amount of contraband they seize.⁴ In addition, this style of policing comes at the cost of police-community relations. Black and Latino motorists experience these “proactive” policing practices as oppressive and deeply unfair.⁵ Latino immigrants’ concerns about policing are also exacerbated by the close connections between the immigration enforcement and criminal justice system.⁶

Latino residents’ perceptions of the police matter. Indeed, the MNP’s El Protector program started because the police chief understood the importance of cultivating trust and legitimacy among Latino immigrant newcomers. Many police departments across the country explicitly reject enforcing immigration laws and cooperating with immigration enforcement authorities because agencies want unauthorized immigrants and their families to feel safe interacting with police authorities.⁷

Research on procedural justice, the process-based model through which people evaluate their interactions with legal authorities, suggests that when people believe that police enforce laws fairly they are more likely to cooperate with them.⁸ In contrast, when people believe that the police or legal system is unfair, they can develop cynicism that undermines public safety because they will not regulate delinquent behaviors that occur in their neighborhoods or call the police for help.⁹ Perceptions and experiences with the police are key determinants of legal socialization, as these encounters “teach” people about their relationship with state authorities. For example, researchers find that involuntary police contacts teach young minority men that they are objects of heightened surveillance.¹⁰ Perceptions of the police are also influenced through vicarious experiences, such as accounts from friends or police activity that people witness in their neighborhoods.¹¹ Witnessing and experiencing negative police attention makes people feel demeaned; an accumulation of these experiences erodes trust and confidence in police legitimacy. While immigrants tend to hold more favorable perceptions of the police than US-born minority residents, order-maintenance policing strategies and enhanced immigration enforcement threaten police legitimacy in immigrant communities.¹² Moreover, researchers find that although undocumented immigrants articulate the most fear of the police, even US citizens and legal permanent residents of Latino origin report negative perceptions of the police linked to their perceptions of immigration enforcement.¹³

This chapter shifts focus from how local officials and officers understand law enforcement practices as they relate to Latino immigrants, to how Latino residents understand and experience them. As this chapter shows, the convergence of policing and immigration enforcement threatens police legitimacy among Latino respondents. In Southeast Nashville, Latino residents describe a police force preoccupied with making vehicle stops at the expense of residents’ safety. These vicarious and personal experiences with the police teach Latino residents that they

are powerless, subject to the laws of an unfair justice system and at the mercy of individual officers who can stop and arrest them for trivial reasons. I also highlight the stories of two unauthorized Latino immigrants who were arrested and processed through the 287(g) program to illustrate how state laws, aggressive policing, and immigration enforcement collide to produce extraordinarily punitive experiences. I end the chapter by discussing the end of the 287(g) program in Davidson County and the jail's transition to the federal program called Secure Communities.

“WE ARE DROWNING IN PATROLS”

Riding with police officers in Southeast Nashville revealed that officers were almost always on the lookout for vehicles they could pull over. Traffic stops were a feature of the job that officers took for granted. For them, each stop was the opportunity to achieve professionally by finding weapons or drugs. The department reasoned that getting contraband off the street, or finding people with warrants, made the city safer. As I touched on in chapter 4, Latino residents were weary of the department's policing practices. Residents described neighborhoods that were oversaturated with police officers making traffic stops. This was the police department's goal. According to their policing philosophy, lighting up a neighborhood “in blue” deterred delinquent activity by sending a message to lawbreakers that they should go elsewhere. However, business owners complained that police activity also sent this message to their patrons.

Esteban, a Mexican immigrant entrepreneur who owned multiple grocery stores, believed that police practices were disastrous for his businesses. Esteban had lived in Nashville for almost twenty years and had owned stores for over a decade. While relations with the police had always been strained, he believed that things had gotten demonstrably worse because of the MNPd's emphasis on vehicle stops. Esteban's store had been robbed several times, and each time police did not respond to these calls for service as promptly as he would have liked. Esteban felt officers did not care about the damage to his store. Moreover, detectives did not follow up, and Esteban felt he was chasing officers to get status updates about their investigations. When he complained to the police chief at a meeting, the chief explained that officers were overburdened and were not always available to answer calls and respond to requests. This did not make sense to Esteban, who saw that officers were readily available to make traffic stops and that many of these stops resulted in multiple patrol cars on hand to offer backup. Esteban was disgusted by the department's deployment of resources, stating that officers racially profiled Latino motorists while simultaneously ignoring *real* violations and calls for help:

They invite us to all these (El Protector) meetings, but when there's an armed robbery they arrive half an hour, an hour, two hours later—or they simply don't come. The

police chief says it's because they have too few officers, but if you or I committed a traffic infraction out here on Nolensville Road, because of the color of our skin the police would stop us, and within five minutes there would be two or three police cars on the scene. Why are there so many officers available for traffic violations when it's just traffic, but when there is a real danger to our businesses or our lives, they don't appear? I asked the police chief if this was just the police response for our community or if it was that way for everyone, because if it's just happening to us, it's racist, but it's normal. . . . But if they're doing that to everyone then we've got an even bigger problem, because thieves are free to act without the slightest worry that the police will ever arrive. . . . They like to brag about their stats, show that they're bringing down crime and making so many arrests, but those arrests are mostly happening to our people.

Esteban's complaint was not *just* that police disproportionately targeted Latinos for traffic stops because of the color of their skin but that they ignored calls for service in the Latino community. While the police argued that traffic stops deterred crimes, Esteban saw it differently. To him, police were arresting Latinos for minor infractions at the expense of responding to calls where police might find real lawbreakers. He disregarded police claims that "stats" indicated their practices were working, because these arrests were happening to Latinos, or as Esteban described them, "our people." To Esteban, Latinos were being victimized by lawbreakers *and* the police.

Manuel was a thirty-five-year-old legal permanent resident from Colombia who worked in a nonprofit that provided services to Latino immigrants. Since Manuel was legally present, he had a driver's license and could drive freely. Still, he heard people's fears about police encounters regularly and was himself pulled over multiple times for minor violations.

Manuel: It's different than it used to be. *I feel it*. We could feel it when here in South Nashville when we started seeing a lot of police on patrol, even though the police say nothing has changed. The police presence is intensely felt. Maybe in some neighborhoods they say they need more policing, like the police never go there, but here—we are drowning in patrols.

AA: Can you give me an example?

Manuel: Of this type of thing? Yes, examples of how people cannot move around safely, not just those who are, let me tell you, undocumented, people also with documents, because they feel a little like, um, maybe, using me as an example, they've stopped me at least five times, mostly for little things that, including, look, they stopped me twice, they almost, probably in three cases it was routine. The officer told me I ran a stop sign. And I said, "When did I pass it? I didn't see, I don't know what happened," but he told me, "Oh, you didn't realize," and I didn't realize, but he saw my, that I had a license and he let me go. And they stopped me another time for whatever reason, I don't even remember what they

told me, but they've stopped me three times and I never got more than a fine a long time ago. They took my license to see it and then, "Drive carefully." If I had been undocumented they already would have deported me five times.

Alicia, a Mexican American woman who had moved to Nashville from Texas, also described being pulled over multiple times. Alicia worked as an office assistant in an immigration law office. She explained, "In May, I was pulled over six times over a two-and-a-half-week period and every time I was driving my father-in-law's work truck with big rails that go on top." One of the traffic stops was for a seat belt violation and another was for a broken headlight, but Alicia thought it was ridiculous. "It's eight in the morning. I don't need my lights on! They just wanted to pull me over," she said. "They would come up to me and ask, 'Can I see your driver's license,' and I'd say, 'Sure.' I thought—I guess [it's] driving the work truck because it's so loud. All six times—not once did they ask me for registration, not once did they ask me for insurance, all they asked me was for my driver's license." Alicia was frustrated that she had been pulled over multiple times but had never been cited for any violations. To her, this was proof that officers never should have pulled her over in the first place. "I think it's because there was no real reason they pulled me over and because of course—I'm Hispanic. . . . If I didn't have a driver's license they would book me every time, I bet you. They just want to see if I have my driver's license or if I can speak English. It's awful."

Mario, a Guatemalan immigrant who had lived in Nashville for fourteen years, believed that living in the city had gotten more dangerous for Latino residents.

When I got here it was more—how can I explain it, how can I explain it? You didn't hear, you didn't hear about people getting deported for not having a license. They would arrest you and let you out, but they wouldn't give you a deportation order. As opposed to now, they arrest you for no driver's license and they want to deport you. I think it's not fair. That's what I think.

What is remarkable about these various accounts is their consistency across Latino residents of various legal statuses. Esteban and Manuel were legal permanent residents, Alicia was Mexican American, and Mario was unauthorized. Each described a police department that prioritized vehicle stops above other enforcement priorities, each articulated a belief that police singled out Latino residents for enforcement because of their race, ethnicity, or presumed immigration status, and each understood these practices to be deeply unfair. For example, Alicia and Manuel described being pulled over numerous times for minor violations and released, with officers acting polite and professionally during vehicle stops. While neither resident was *afraid* of contact with the police, both objected to the department's

practices because they recognized how these stops would have unfolded differently if they had been present without authorization. Alicia believed that officers stopped her because she was driving her father's work truck and they expected to book her for driving without a license. Manuel said that if he *had* been in the United States without permission, he would have been deported "five times." Residents did not *confuse* police officers with federal immigration enforcement officials, but they saw policing and immigration enforcement as connected in two ways. First, motorists believed that police targeted Latino residents for vehicle stops to identify and punish unauthorized immigrants for driver's license violations. Second, motorists identified deportation as a possible outcome of police interactions. Thus, even when their sense of antipathy did not stem from personal fears of deportation, it stemmed from an acute understanding of how the department's proactive policing tactics amplified Latino immigrants' insecurity. Latino residents believed that police targeted them to enforce unjust laws and that the punishment for violating these laws had grown more severe because of the county's 287(g) program.

It is important to point out that while each of these residents believed that Latinos were collectively subjected to excessive traffic enforcement, none experienced obvious signs of officer disrespect. Residents were frustrated by these repeated intrusions, but they invariably described officers as polite and professional. For example, after Manuel described being pulled over numerous times for no reason, I asked him how police treated him. He paused and said, "Well, up to now, I've had good experiences with the police. We've been conversational. I can't say I've had a bad experience."

In the next section, I turn to the experiences of two residents whose involuntary encounters with the police led to their arrests. In both cases, officers used their discretionary authority to apply harsher punishments than *required*.

PUNISHING "ILLEGALITY" BY "MISTAKE"

José Estrada moved to Nashville from Houston in 1996. To José, Nashville felt like a step up. Work was easier to come by, the pay was better, and the pace of life was slower. José felt ready to plant roots; he married and had two children. An unauthorized immigrant, José had tried to get a driver's license in the past, when he was (presumably) eligible, but he was rebuffed by employees at the Department of Safety, the office responsible for issuing licenses in Tennessee. According to state employees, José was ineligible for a Tennessee driver's license because he had a suspended license in Illinois. José insisted they were wrong. "It was a different person. It wasn't me. I gave them information to show them I had always been in Tennessee and I've worked, but it didn't help. I couldn't get the license." José left the office with an identification card, which he obtained by showing employees his Mexican birth certificate and passport.

As years passed, José felt less comfortable in his adopted city. While driving without a license had not bothered him when he moved to Nashville, he began to feel more apprehensive about it after being pulled over twice for minor violations. “It’s changed a lot,” he told me. “It’s changed because before the police never bothered me like now. For example, you go to work and for anything, for any little thing, the cops stop you. Before it wasn’t like that.”

José was stopped by the police twice—once in 2006 and a second time in 2008. José described the first stop:

I was driving on Dickerson and there was a pothole, and I guess one of my headlights burned out. The police followed me. He flashed his lights and he stopped me. I asked why, I was driving fine. He told me he stopped me because I had a headlight out. I didn’t have a license, but I gave him my state ID and that’s what helped me. He said he was just going to give me a ticket and that I could pay it and it would be fine. He didn’t detain me or take my car or anything, he just said to pay my ticket and I wouldn’t have a problem.

While José thought this stop was unnecessary, he described his experience as nothing more than an inconvenience. The officer issued José a misdemeanor state citation, and three weeks later José went to the courthouse to go through the state citations docket. According to José, the room was full of other Latino immigrants waiting to be fingerprinted and fined. This traffic stop was expensive. José paid several hundred dollars and lost two days of wages: he missed one day of work to go to the courthouse and another day of work to complete eight hours of community service at a local church.

Two years later, José had another encounter with a Nashville police officer, but with decidedly different results. This time, José was not driving but sitting on a curb outside the laundromat where he worked, waiting for his boss to arrive and unlock the doors. It was 5:45 a.m. on September 2, 2008. A patrol officer saw José sitting on the curb outside the laundromat and decided that José was an appropriate target for the proactive activities the department prizes so highly. José remembers:

He told me, “Stand up!” and I told him, “No, why? I’m not doing anything.” He said, “Stand up!” Then I stood up. . . . “Do you have any identification?” and I said no. It had expired, and I left it to my wife so she could take my son to the hospital. When he saw my ITIN [Individual Taxpayer Identification Number] card he told me, “This is a false social security card that you’re using.” I told him, “No, this number is so that I can pay taxes.” And he said, “Well, for me it’s a social security number, you’re using someone else’s name, using a social security number and name of another person, and I have to arrest you.” I told him, “But I’m telling you the truth!” He put me into the patrol car and told me I was under arrest. . . . “You’re arrested for using false documents. That’s criminal. You’re under arrest and they’ll take care of you over there. They’ll take care of you. They’ll take care of it in the jail. You don’t have to tell me anything.”

José's boss arrived to find José detained in the officer's patrol car. While José's boss and coworkers tried to intervene on José's behalf, the officer rebuffed their attempts and threatened them with arrest. The police officer arrested José for "criminal impersonation," claiming that José's ITIN was a stolen social security number.

In reality, the ITIN is a tax-processing number issued by the Internal Revenue Service to noncitizens without social security numbers so that they may pay and file their taxes. The ITIN program has been in place since 1996. In 2010, over three million ITIN holders paid \$870 million in income taxes and \$9 billion in payroll taxes.¹⁴ While the ITIN card is common in Latino immigrant communities, the officer was not familiar with it. Thus, when the officer entered the ITIN number into his dashboard computer as a social security number, the number came back as invalid. In his arrest report the officer described the ITIN card as a "fake social security card" and indicated that he had made a physical arrest because of uncertainty about Estrada's identity.

To be clear, there was no reason for this officer to arrest José. ITIN cards and social security cards look nothing alike. The most charitable explanation is that the officer made an honest mistake in his zeal to be proactive. Of course, another reasonable explanation is that the officer assumed that José was guilty of document fraud because of stereotypes regarding Latino immigrants' use of "fake papers." However, even if José had been using a fake social security card, the officer did not need to arrest him. As outlined in chapter 3, the inability to provide "satisfactory" identification can be grounds for an arrest, and the officer indicated on his charging documents that he was unsure about who Estrada was. This was a dubious claim in light of the circumstances. A number of people on the scene attempt to verify Estrada's identity and were threatened with arrest. Moreover, during the stop, the police officer used his patrol car computer to determine that Estrada had been issued a Tennessee state identification that had since expired. This record, which included José's picture, could have easily been used as proof of his identity, but it was not. Thus the issue was not that the officer *could not* verify Estrada's identity but that he did not want to. He was unwilling to accept any of the information at his disposal as "satisfactory."

When I discussed José's arrest with Officer Iglesias, of the El Protector program, Iglesias jumped to his colleague's defense. According to Iglesias, it was not the police officer's fault for not knowing about this particular document. Rather, it was the federal government's fault for issuing a document with which local police were unfamiliar:

We're not trained to look at that stuff. Is it our fault that we don't get training on that? If the government is gonna be doing that, then we need to know about it so we know to expect it, but just showing a social security card is not proof of who you are, whether it's a tax ID number or not. What we try to look for is a valid ID, a state-issued ID, because we know that the state has training in proper documentation, so they know you are who you are because you've presented them a passport, a birth

certificate, and they have training to look at that and say, “Yeah, this is good, this is good.” We don’t have that training. We’re not experts in documents.

This assertion was also ludicrous. José was not arrested because the ITIN was insufficient proof of identification, he was arrested because the officer decided (with no evidence) that the ITIN was a fake social security card. Moreover, if, as Iglesias suggests, it is unreasonable to expect officers to authenticate documents, then perhaps they should not arrest people for allegedly having false ones. Finally, even Officer Iglesias, an officer who was designated to “build a bridge” with the Latino immigrant community, had never heard of the ITIN before our interview. When I told him the federal government had been issuing them since 1996, he looked surprised and momentarily speechless. Then he continued to refer to ITINs and social security numbers interchangeably.

In the jail, José went through immigration processing via the 287(g) program and deputies discovered he was undocumented. José explains his immigration interview:

They asked how long had I been here, about my family, and I told them that they couldn’t deport me because I’m the head of my family and who would pay everything for my kids? They said, “Well, you’re already practically deported because whatever you say they’re going to send you to Mexico.” And I said, “You can’t send me. I have my family. I have my kids. My son has autism, and the other one is also sick, he has asthma.” And they said they’d see what they could do but that I would probably get deported. I was scared that they’d deport me, and it made me sad because I hadn’t done anything. I said, “Why are they doing this to me if I wasn’t drunk. I wasn’t knocking on doors. I wasn’t causing a scene. I wasn’t doing anything. My God, I was sitting there just as I am here.”

José went to court and pled guilty after a public defender told him (erroneously) that doing so would result in his release from custody. This would have been true if José were a citizen, but as an unauthorized immigrant José remained in the Davidson County Jail on an immigration hold. He stayed in a pod with other Latino detainees awaiting to be transferred to ICE. He described his week in jail:

There it’s all about discipline. You go to sleep at a certain time, you eat at a certain time. At night you must not yell. It’s just discipline—to maintain order. They treated us okay, but people are suffering. Many are there because they didn’t pay for something—their tickets or their fines or their accidents. And some for domestic violence, many for drug addiction or alcoholism. Everyone is together and everything is the same for everyone. People don’t have money to pay the immigration bond. Most people can’t pay a \$3,500 bond or a \$5,000 bond. And maybe . . . maybe it’s better that people leave because either way . . . either way they throw you out. Paying or not paying. At the end, everyone gets deported.

Several days later, José’s wife hired a new lawyer who was able to work with the district attorney to get José’s guilty plea thrown out. At a new trial, the officer

admitted that he had been wrong about José's use of false documents. The judge dismissed the charges, and his lawyer was able to secure José's release from custody. By this time, José had been in custody for over a week on false charges; his deportation case proceeded even though his case was thrown out. When I interviewed José in 2010, he was waiting for his green card after an immigration judge had granted him a discretionary form of relief called cancellation of removal.

I asked José if his opinion of the police had changed after his arrest, incarceration, and close brush with deportation. He explained:

It's just that I think, well, they're not all the same. It's good that they maintain the peace and everything, and also that they arrest [someone] who is really guilty for drugs or something, for something that's true, but they should be real criminals. They get innocent people sometimes. . . . people who don't merit any punishment. The police get confused. That's what happened to me. They stop people. They stop just to check the plates, or they stop just to see what your record is. Or they tell you, "Stand up, let's see who you are, give us your ID." It wasn't like that before. When I got here it wasn't like that.

José's response was more nuanced than I expected, given that he had been arrested and incarcerated on false charges. José accepted the official explanation that the officer had made an honest mistake. He continued to support the police in their pursuit of "real" criminals but objected to their practices of stopping people to check license plates, criminal records, and identification. He believed these practices led officers to arrest innocent people who weren't "real" criminals and who did not merit punishment.

PUNISHING "ILLEGALITY" WITHIN POLICY

When Juana Villegas was arrested for driving without a license, the arresting officer repeatedly asked her about her immigration status, declaring that her consular identification card was insufficient *because* of the county's 287(g) immigration enforcement program. When I interviewed Juana in 2010, she had been interviewed dozens of times by national and international media because of her arrest and incarceration in Davidson County. Unlike the stories in chapters 3 and 4, which draw on ride-alongs and interviews with police officers, this section's story draws on in-depth interviews with Juana and her lawyer, police dash-cam footage of her traffic stop and arrest, and interviews of sheriff's office officials about her incarceration. I include Juana's story because what happened to her exemplifies how a punitive web of laws, policies, and practices work together to punish "illegality" and how the experience of punishment is exacerbated by the callous disregard of law enforcement officials who are technically acting within the law.

Berry Hill is a tiny "city within a city," nestled between two Nashville neighborhoods in Davidson County. Its small police department has two officers on duty at all times; these officers serve the city's five hundred residents and patrol its 0.9 square miles. On July 3, 2008, Officer Tim Coleman, of the Berry Hill Police

Department, pulled Juana over. To Juana, the stop felt unprovoked. The officer claimed that Juana had been driving carelessly.

Juana, who had three US-born children in the car with her, was eight and a half months pregnant. She was ineligible for a Tennessee driver's license, so when Officer Coleman asked for her license and registration, Juana gave him her registration and a Mexican consular identification card, which she had obtained because she knew it was important to have an ID. Officer Coleman went to his patrol car and returned to Juana's truck a few minutes later, instructing her to call a licensed driver. Juana called her brother-in-law, believing that he would arrive to drive her and her children home. However, unbeknownst to Juana, Officer Coleman intended to arrest her and send her children home with her brother-in-law.

The other Berry Hill police officer on duty arrived at the scene and greeted Officer Coleman and Juana cordially. Coleman got back in his patrol car and tested the dashboard camera, making the following statement:

I've got my camera working, I'm on a 93 stop. There were two vehicles. I released the other vehicle for careless driving and stopped this one for careless driving and financial responsibility. Was presented with a Mexican ID only. She could not produce any type of driver's license or anything to show me who they were other than that Mexican license. By talking with her, with the broken language barriers of her being Spanish speaking and myself English, from what I gather she's here illegally. I don't do immigration enforcement, but I will take her downtown so as to not jeopardize my driver's license—required prosecution. We're waiting for a family member to come pick up the children.

It was a brutally hot day, and Juana, her children, and Coleman waited for her brother-in-law to arrive. He arrived and apologized for taking so long; he had been at work. Coleman took his license and quickly explained what was going to happen:

Look, she's got all those kids in the car, but she's going to jail with me. I don't want those kids to be upset, that's why I called you to pick the kids up. I can take the kids to the Department of Children's Services if I want. She doesn't have a license, she doesn't have anything to show me who she is other than a Mexico ID. That doesn't count. She has to have a driver's license, so to verify that I'm going to take her down and book her on a driver's license required. If she's here legally, she's okay. She can show them proof of that and Immigration won't hold her, and if not Immigration will deport her to Mexico.

Her brother-in-law responded to Officer Coleman, telling him he was certain that Juana had an identification card from Mexico. Coleman shook his head, indicating that this ID was insufficient:

She gave me that. She gave me that. That doesn't count for me because Nashville has an ICE office, an Immigration and Customs Enforcement office. She's got to show me something like what you've got. Something that says she's here legally. If she can't

show me that, then she goes to jail. They'll interview her down there. If she's here illegally, I can promise you, she's going back to Mexico.

As this statement makes clear, Officer Coleman did not arrest Juana because he could not verify her identity, he arrested her "because Nashville has an ICE office." Officer Coleman clearly considered a driver's license proof of legal presence, stating that she would need to show him "something that says she's here legally" to avoid arrest.¹⁵

Juana's brother-in-law began to ask a question and Coleman interrupted him. "Is she here legal or illegal?" Coleman asked. Juana's brother-in-law evaded Coleman's question, suggesting that Juana had more identification at her house.

Coleman held up his hand and called to the other officer, "Run his DL. I'm done with him."

Coleman returned to Juana's car and instructed her to get out of the passenger seat. "Give your baby a kiss. Kiss your baby. You've got to go with me to jail. You don't have a driver's license. Do you want to give your baby a kiss?" Coleman told her.

Juana started to cry and whimper, which upset Coleman. "No ma'am," he told her, "You can do this the easy way. I don't have a choice, come on."

"No, please," Juana whispered at him.

He looked at her unsympathetically and gestured to the truck, again suggesting that she say good-bye to her children. Juana approached the back door and looked at them through the window. Her daughter screamed from her child safety seat, and her son, who was in the front seat, moved.

Officer Coleman wagged his finger at him and barked, "Stay in the vehicle."

Coleman looked at Juana and said slowly, as if explaining to a child, "You have to go to jail, you don't have a driver's license. You have no insurance. No license." Coleman opened the door of her truck and directed her inside. "Get in there and give your baby a hug."

Her daughter screamed from the back seat.

Coleman turned to Juana's brother-in-law and shook his head, saying, "I was trying to avoid this. This is what I was trying to avoid. I realize she's a mother and I realize she's a person, but she has to follow the rules. She's a nice person, I like her. . . . I don't do immigration, that's the federal government. All I'm doing is my DL required. It's jeopardized because I don't know anything about her."

Juana's son, who looked to be about ten, asked Officer Coleman when Juana was going to get out of jail.

Coleman's voice changed as he addressed her son. He spoke to him kindly, saying, "I'll find out. I don't know, it's a driver's license charge. I don't want to lie to you, but I'll treat her right, okay? I just have to take her. I don't have a choice."

Juana's daughter continued to wail and scream.

“You ready? We gotta go,” Coleman told Juana. Looking pointedly at Juana’s brother-in-law, Coleman asked him, “Can you go comfort the children, please?”

The other officer on the scene smiled at Juana and pointed to her pregnant belly. “How many days?” he asked.

“Three,” answered Juana in Spanish, after her brother-in-law translated.

The officer, still smiling, continued talking to Juana conversationally. “Three days? They’re not getting you home in three days. It’ll be born here.”

Juana stared at him vacantly, and her brother-in-law looked at the officer with disgust.

Coleman turned to Juana’s brother-in-law and said, “I want to give her that choice if she wants to hug her baby, but we’ve got to go. I’m going to put her in handcuffs. Tell her to do it if she wants to. Tell her to hug her baby if she wants to hug her baby, if not she’s going to jail. Can you tell her that?”

Juana’s brother-in-law translated and then asked Coleman if he could just take her home.

Coleman angrily retorted, “THAT’S NOT GOING TO HAPPEN, SIR! She’s going to come to the car with me. I’m done. I’m fixing to put her in the car. I would rather have her walk like a person, but she’s going to jail, and it’s going to happen in two seconds. Tell her to say goodbye to her children and we’re going.”

He looked to the other officer and shrugged, saying to him, “I’ve been as nice as I can be.”

“Where are you taking her?” Juana’s brother-in-law asked.

“Downtown. Metro Jail. What you need to do is go down there and try to bail her out. It’s a misdemeanor charge, it’s driver’s license required. The sooner I get her in there, the sooner you’ve got a chance to try to get her out before INS [Immigration and Naturalization Service] looks for her. Okay? That’s all I can do.” Coleman held his hands up in exasperation. Then he tapped Juana on the shoulder, saying, “Let’s go.”

Juana’s daughter was still screaming and wailing in the back seat. Juana got into the car, and Coleman drove her to jail. The probable cause for arrest that the officer provided at the time of booking reads as follows:

Defendant was operating a 2001 Ford F-150 on a public roadway. Defendant was stopped for careless driving and issued a citation. Defendant could not produce a license. Defendant said she could not get a license. Defendant was charged for a d/l required and taken to CJC [the Criminal Justice Center] for processing.

If Juana had not been eight and a half months pregnant, this arrest would not have made the news. Juana would have been one of thousands of Nashville’s Latino residents who were detained at the county jail after driver’s license arrests and

transferred to ICE custody. However, Juana went into labor. Although she was not charged with a serious offense, the jail classified her a security risk because of her immigration status. At the time, the county designated all inmates on ICE holds as medium-security risks. As a result, when Juana went into labor, Davidson County officials treated her as a medium-security inmate, transporting her to the hospital in handcuffs and with her ankles in shackles. At the hospital, she was placed on a gurney and moved into a hospital room with her hands and legs still restrained. After placing her on the hospital bed, an official handcuffed her left ankle and right wrist to the hospital bed. Despite repeated requests from hospital staff to remove the restraints, sheriff's officials denied their requests. Later, a new guard on duty removed the shackles, and Juana gave birth to a baby boy. After she gave birth, DCSO guards cuffed her to the bed once again. Any time Juana left the bed to walk, shower, or use the restroom, her mobility was constrained by these punitive restraints. A guard remained close by to monitor her movements.

Several days later Juana was discharged from the hospital and transferred back to the Davidson County Jail without her newborn son. She pled guilty to the state charge of driving without a license, and immigration agents released her while her deportation case proceeded. Within days, her case began generating a media firestorm as people began questioning her arrest, the 287(g) program, and the jail's practice of shackling pregnant women during labor.

Several months later, I asked Timothy, a supervisor at the DCSO, to explain what had happened with Juana's case. I was surprised he responded to my question, given the pending litigation, but he gazed to the right and shook his head, saying:

That was a perfect storm right there. What doesn't get written or said is that when she came in on that Thursday, July 3, she came on Thursday, we called ICE, we said, "This girl, she's pregnant, she's eight months pregnant," I think she said she was. "What do we do?" Here's what the ICE guys said, he said, "After she goes to court, release her on her own recognizance." Now she was previously deported, and those people don't get released on their own recognizance. They don't even get to see a judge, they get deported, so he was trying to be fair. He said, "She's pregnant, we'll release her." Well, the next day was July 4, so she didn't get to go to court to get released. Well, Saturday they usually have a small court too, one of our officers called the ICE guys and said, "What do you want to do with her? She's not going to be able to go to court," he said, "Let's ROR her," and he said okay. By the time we got to her she was on her way to the hospital. We were about to release her. We were trying to do the right thing, ICE was trying to do the right thing by releasing her, but by then she had already gone to the hospital and I think Sunday she had the child and it was just, everything happened. You're right, the [ICE] hold did elevate her to medium security, which any medium-security person would be—restrained in the vehicle, and it wasn't any different from a medium-security person—female, I'd say. Now, some of the details in there that

were written about what happened were not correct. They used the word *shackled* a lot—but she was restrained. You know? *Shackles* sounds meaner. That’s some of the stuff we fight against. We changed our policy because of that, but it wasn’t an immigration issue, it was how we handle pregnant female issue, but it was made into an immigration issue.

Timothy characterizes Juana’s incarceration as a perfect storm, a bad situation caused by a rare combination of unpredictable circumstances. He objects to the idea that the jail was “mean” to Juana, preferring the euphemism of “restraints” over shackles and pointing out that they treated Juana the way they would have treated any medium-security inmate. Indeed, no one in the sheriff’s office questioned Juana’s classification as a medium-security inmate or their decision to shackle her. They believed they had treated her fairly because they had treated her according to their policies. Within weeks, the sheriff’s office announced new policies for handling pregnant inmates.

In August 2008, a group of about forty people piled into the Berry Hill Courthouse’s traffic court, to accompany Juana on her traffic citation charge. It was the largest crowd the small courthouse had seen for traffic court: the group included reporters, television news crews, immigration advocates, and Mexican consular officials who had driven in from Atlanta. That afternoon, Officer Coleman testified that Juana had told him during the stop that she was undocumented and pregnant, pointing to her belly and saying “bambino” (the Italian word for baby). Coleman also said that there was no footage of the traffic stop because the video in his patrol car was not working. Later that month, the *Tennessean* published the dash-cam video of Juana’s stop and arrest on its website after an anonymous source e-mailed the video to a local reporter. On the tape, Juana neither spoke Italian nor indicated that she was in the country without permission. Indeed, the only person preoccupied with Juana’s legal status was Officer Coleman.

Juana’s case demonstrates how the intersection of laws, policies, and practices punish unauthorized immigrants. Federal and state law made Juana “illegal” and arrestable. Officer Coleman arrested Juana *because* he hoped that doing so would result in her deportation. While officers are trained to be cool and collected, Coleman was clearly agitated during this encounter. He repeatedly demanded to know Juana’s immigration status, and he suggested that he could take Juana’s children to social services. He was imperious and controlling, repeatedly ordering Juana to say goodbye and hug her children, and then yelling at her when she did not do so fast enough or stoically enough. According to the Berry Hill Police Department, the officer’s arrest was within policy. A department spokesperson described Juana’s arrest and transfer to county custody as safe and humane. The sheriff’s office shackled her because, in their view, Juana’s immigration status made her a security risk. As a result of this arrest, the federal government put Juana in deportation

proceedings. Through it all, law enforcement officials normalized her treatment as routine. The federal ICE office said that they did not know Juana was detained and pointed out that she had not been in federal custody when she went into labor. The sheriff's office defended itself, saying they had treated Juana just as they would have treated any other woman under similar circumstances. In other words, everyone was just doing their jobs.

The experience was extremely traumatic for Juana and her children. Years later, she cried as she recounted the pain and humiliation of being hauled away in front of her children, then shackled like a dangerous criminal. Ironically, Juana's suffering paved the way for her to regularize her status. After a federal judge found that the sheriff's office had violated Juana's civil rights, she qualified for a U-visa, a special visa for immigrant victims of crime. In addition, after a protracted legal battle, Davidson County paid Juana and her lawyers a six-figure settlement. Juana continues to live in Davidson County with her family.

FROM 287(G) TO SECURE COMMUNITIES

On October 8, 2012, the DCSO ended its participation in the 287(g) program by declining to renew the memorandum of understanding authorizing the agency to run the 287(g) program. By that time, the program was highly controversial, generating years of negative press coverage, critical evaluations, and costly litigation. Nationally, reports issued by the Government Accountability Office and the DHS Office of Inspector General concluded that the federal government did not provide sufficient oversight, essentially allowing local law enforcement agencies to dictate immigration enforcement priorities.¹⁶ Critics argued that 287(g) programs encouraged widespread racial profiling. As a result of these allegations, the DOJ launched separate investigations into the Maricopa County Sheriff's Office (Arizona) and the Alamance County Sheriff's Office (North Carolina). Investigative findings revealed that both agencies engaged in discriminatory policing, fostering a culture of bias and encouraging officers to disproportionately target Latino drivers for traffic stops and arrests.¹⁷ The 287(g) program in Davidson County was also criticized for the severe punishments the program levied on Latino immigrants with minor violations. For example, newsman Chris Echegaray reported that twenty-five Latino immigrants had been processed for removal after arrests for fishing without a license.¹⁸ Lawsuits over the DCSO's treatment of Juana Villegas, its detention of US citizens for immigration violations, and challenges to its authority to conduct immigration enforcement dragged on for years. Ultimately, the DCSO's termination of 287(g) corresponded with the national phaseout of this formal federal-local partnership for the federal government's Secure Communities program.

TABLE 1 Immigration detainees per year in Davidson County

	Year		Detainers
LESC	2004		140
	2005		170
	2006		181
	2007	Jan-Mar	62
287(g)	2007	Apr-Dec	2333
	2008		2707
	2009		2303
	2010		1636
	2011		1289
	2012	Jan-Sep	909
S-COMM	2012	Oct-Dec	290
	2013		638
	2014		574
PEP	2015		603
	2016		723

LESC = protocol of Law Enforcement Support Center; S-Comm = Secure Communities Program; PEP = Priority Enforcement Program. Source: Data supplied by the Davidson County Sheriff’s Office.

During the 287(g) program tenure in Davidson County, the sheriff’s office processed 11,177 foreign-born residents for removal. As shown in table 1, this represented a dramatic escalation of immigration enforcement in the county. Before the county implemented the 287(g) program, local officials sent information about foreign-born arrestees to the federal Law Enforcement Support Center (LESC). ICE responded by issuing an average of ten to twenty detainees per month, requesting that the DCSO hold immigrant inmates for the federal government to assume custody. With delegated immigration enforcement authority, the DCSO no longer had to wait for ICE to *request* to assume custody. Instead, DCSO immigration officers conducted immigration interviews with foreign-born arrestees themselves, preparing the charging documents that ICE would use to pursue their removal. Under this new model, immigration detainees increased significantly, averaging over two hundred detainees per month in the program’s first two years.

In the program's first year, half of arrests came from routine traffic stops.¹⁹ Over 80 percent of those arrested were charged with misdemeanors; only 3 percent were charged with the most serious violent felonies of homicide, rape, aggravated assault, or robbery.²⁰ The majority of arrestees were in jail for the first time, and only 6 percent had previous arrests for violent crimes. Thus, although the program was initially sold to the public as a way to protect the residents of Davidson County by identifying serious criminals, as it continued, the logic of Davidson County officials changed. That is, the boundaries of criminality expanded to include any non-citizen who had been arrested, because that person was a "criminal" who *might* commit a more serious violation someday. For example, during a heated debate at a Sheriff's Advisory Council (SAC) meeting between the sheriff and a SAC member who worked in the public defender's office, the sheriff shared his view that anyone arrested by the police was a "criminal" who should be subjected to an immigration interview:

Sheriff: What is a criminal?

Public defender: A criminal is someone who has been convicted of a criminal offense.

Sheriff: Well, that's your view. Thanks for that. You'd be surprised at how many people answer that question that if they're in jail they're criminals. I would say that if you boil it down to that, if you say okay, if someone is pulled over for no driver's license then they've committed a crime. They're a criminal.

Asked to account for the program's implementation in the local paper, the sheriff said it would be "irresponsible" to wait until someone committed a serious crime to deport them, saying, "The person didn't follow immigration laws, driving laws and criminal laws, and that's reason enough to believe they will continue to not follow our laws."²¹

A study by the Migration Policy Institute in 2011 revealed that Davidson County was home to one of the most active 287(g) programs in the country. In its first two years, over 5,000 immigrants were identified for removal. In 2010, the DCSO issued 1,636 immigration detainers, down significantly from previous years. To put this number in perspective, the Las Vegas Metropolitan Police Department logged a similar number of detainers during the same period, with a Latino population almost ten times larger than Davidson County's.²² Although both agencies ran jail enforcement models, the programs ran very differently. For example, in 2010, only 13 percent of detained immigrants in Davidson County were arrested for major drug and/or violent offenses; in contrast, more than half of detainers in Las Vegas were issued for noncitizens with serious violations.²³ Similarly, 57 percent of noncitizens arrested for traffic violations were detained in Davidson County, compared to less

than 20 percent in Las Vegas. Thus, while Davidson County detained every unauthorized immigrant eligible for removal, the Las Vegas agency *chose* not to refer thousands of unauthorized inmates to ICE because they had no criminal history or had been arrested for minor charges.²⁴ Throughout 287(g)'s tenure, misdemeanor arrests for driving without a license topped the list of charges for immigrants processed for removal. The other top charges included driving under the influence and failing to appear for traffic and citation court.²⁵ The overwhelming majority of people processed through 287(g) were Latino, with most removable immigrants hailing from Mexico, Guatemala, Honduras, and El Salvador.²⁶

After the 287(g) program concluded in Davidson County, officials continued to cooperate with the federal government through Secure Communities (S-Comm). S-Comm ensures that fingerprints for every person booked into jail are compared against federal immigration databases so that ICE officials can choose whether they wish to issue immigration detainers. While S-Comm resulted in significantly fewer people being identified for removal compared to the 287(g) program, it still represented a dramatic escalation compared to ten years prior. Like the 287(g) program, S-Comm targeted immigrants with minor offenses or no criminal convictions. For example, an analysis of ICE deportation records revealed that nationally, half of deportees identified through S-Comm in 2013 were convicted of traffic or immigration violations.²⁷ In 2014, after years of criticisms that S-Comm did not focus on high-priority immigrants for removal, the federal government replaced it with the Priority Enforcement Program (PEP), promising enforcement that would be more narrowly targeted. While PEP operated much like S-Comm, enforcement priorities dictated that ICE should seek to take custody only of individuals *convicted* of high-priority offenses. In 2017, a presidential executive order restored S-Comm nationwide.

THE POSSIBILITY IS THE (RACIALIZED) PUNISHMENT

Chapters 3 and 4 explained the logics and techniques that officers employed to implement the MNPd's brand of "proactive" policing, which relied on making large numbers of investigative traffic stops and community contacts. Chapter 5 examined how DCSO immigration officers made sense of their work as they processed removable immigrants for deportation. This chapter highlights how Latino residents interpreted shifting local developments in policing and immigration enforcement and demonstrates how Davidson County's 287(g) program intensified the effects of police contacts.

In her seminal article on "cimmigration," Juliet Stumpf argues that the convergence of immigration and criminal law is a new mode of social control designed to exclude and punish noncitizens, casting them as outsiders in the nation's imagined community.²⁸ The point of this exclusionary system is not to banish all

noncitizens but to include some as subordinate insiders whose presence is formally unsanctioned by law, even as it is tacitly accepted.²⁹ This subordinate inclusion, or “inclusion through exclusion,” ensures that the United States has a reserve of cheap and vulnerable laborers.³⁰ The immigration enforcement regime, which is unprecedented in size and scope, ensures that living in the United States with the ever-present *possibility* of deportation becomes its own form of punishment.³¹ This is a punishment that disproportionately falls on Latinos, since three-fourths of undocumented immigrants in the country are of Latino origin. Moreover, the presumption of “illegality” or “deportability” spills over to legal residents and US citizens of Latino descent.³²

Legal and justice systems *teach* people about their relationship with the state and their social standing in American society. As Charles Epp, Steven Maynard-Moody, and Donald Haider-Markel powerfully show in their book *Pulled Over*, there are two worlds of police stops. In one world are people for whom police stops are a minor inconvenience; these residents tend to be white. In the other world are people for whom police stops are intrusive examples of their repeated surveillance and legalized racial subordination; these residents tend to be black and Latino.³³ For those in the first group, encounters with the police teach residents that the police are respectful and fair. Since these stops are infrequent and they end quickly, (white) residents learn that they are full and equal members of American society. In contrast, for residents in the latter group, police stops reaffirm residents’ subordinate and second-class status. These ongoing and pervasive inquiries send a clear message that minority residents are second-class citizens, treated like potential criminals even when they have done nothing wrong.³⁴

While intentionally targeting minority drivers for stops is illegal, encouraging officers to make large numbers of stops for minor technical infractions is not. Across the country, this “race-neutral” policy produces racial disparities: for example, researchers consistently find that street stops disproportionately target black and Latino young men, producing racial disparities in arrests.³⁵ Police may claim that stopping people reduces crime, but researchers find little evidence that the mass deployment of police stops actually does so.³⁶ Moreover, they find that officers exaggerate and overstate the amount of contraband they seize during stops.³⁷ Officers may not *intend* to target motorists by race, but they inevitably do so because police often draw on implicit negative stereotypes about whom they regard with suspicion.³⁸ Thus, when officers are instructed to conduct stops en masse, they tend to stop minority residents of modest means.³⁹

These aggressive policing practices rob Latino immigrants of their liberty and mobility. Discussing this phenomena in Atlanta, Angela Stuesse and Mathew Coleman observe that “the risk involved in driving is simultaneously one that undocumented men and women cannot afford to take and one they must endure,” given that driving is a necessary part of daily life.⁴⁰ Indeed, a number of studies

identify a “driving to deportation” pipeline and argue that traffic enforcement plays a central role in depositing unauthorized immigrants into the deportation system. In an analysis of immigration enforcement in Wake County, North Carolina, researchers discovered that about half of immigration detainees originated from traffic stops.⁴¹ In her study of deportees, Tanya Golash-Boza reveals that the majority of respondents were deported after an initial encounter with law enforcement. For example, she finds that many Dominican and Jamaican deportees were arrested through aggressive policing tactics deployed as part of the War on Drugs in New York City.⁴²

In Nashville, Latino residents of various backgrounds described their neighborhoods as oversaturated with traffic enforcement. They believed traffic stops were driver’s license checks, directed at them because of the presumption that they were unauthorized and therefore unlicensed. After the state restricted driver’s license eligibility for unauthorized residents, lack of ID became a mark of suspicion that officers could use to justify making custodial arrests. For example, a police officer arrested José on the basis of his mistaken understanding of the ITIN card. As a result of this arrest, José was incarcerated for over a week and placed in deportation proceedings; since this mistake was “reasonable” it did not affect the officer. In Juana’s case, the emotionally agitated police officer announced that her consular identification card was insufficient because of the immigration screening program at the jail; the officer also berated Juana and her children, aggressively telling her to hug them goodbye since she would probably be deported. Later, this same officer lied in traffic court by claiming that the dashboard camera was not working. The Berry Hill Police Department steadfastly supported his decisions, describing his comportment as “humane” and within policy. Thus personal and vicarious experiences with the police and criminal justice institutions taught Latino residents that the system was unfair and arbitrary. This has important implications for procedural justice, legitimacy, and whether Latino immigrants can place their trust in police authorities. Indeed, it is uncertain if undocumented immigrants can see the American justice system as procedurally just when the cost of police contact is possible deportation, particularly for breaking laws that one cannot obey.

Arrests fueled the sheriff’s office immigration enforcement program, providing deputized officers with a supply of noncitizens whom they could interrogate and process for removal. It did not matter if immigrant residents were *actually* arrested or convicted of serious violations because local officials consistently expanded the boundaries of “criminality” to include them by suggesting that any noncitizen *arrested* by local police was a criminal who should be processed for removal. Of course, not only does this logic ignore the basic tenets of the American criminal justice system (the presumption of innocence until one is proven guilty), but it assumes that people like José, who are arrested because the officer is wrong, are also “criminals.” This suggests that the point of 287(g) was not actually to remove

people who pose a danger to Davidson County but to remove everyone whose removal could be justified. Part of this justification relied on constructing immigrants as “criminals.” The majority of noncitizen arrestees were Latino. In jail, these Latino immigrant arrestees were classified as “medium-security” inmates who were processed and treated according to these risk designations, further punishing “illegal” status.

Conclusion

At the conclusion of my fieldwork, I hopped in my car and embarked on a cross-country drive to California. Five hours into my trip, somewhere in Mississippi, I pulled off the highway to take a break and get some gas. I found myself on the main drag of a small town. As I drove to locate a gas station, I glanced into my rearview mirror and saw a police cruiser directly behind me. The police car followed me for one block, two blocks, three blocks—until I pulled into a gas station six blocks later. When the police car moved on, I figured it was a coincidence, topped off my tank, and headed back to the highway to resume my trip. But, before I turned onto the highway on-ramp, the police car reappeared out of nowhere, flashing its lights and sirens. When I pulled to the side of the road to let the cruiser pass, I realized the lights and sirens were for me.

I watched the officer approach in my rearview mirror. He had an athletic build and short light brown hair. When he arrived at the driver's side window, I rolled it down to look at him.

“You're not from around here,” he drawled.

This was not a particularly astute observation. My gray economy car had California license plates and was covered in Los Angeles Dodgers stickers. He asked me where I was going. Then he asked for my license and registration and studied me as I opened my wallet and reached into the glove compartment to locate the requested documents. He plucked them from my hand and returned to the police cruiser. The minutes ticked by.

When the officer returned a few minutes later, he fired questions at me. Where had I been? What was I doing? Why was I here? Another police car arrived. As the second officer walked toward us, the first officer intercepted him a few feet from

my car. They spoke to one another in murmurs and hushed voices. I heard the words *nervous* and *consent*.

I knew where this was going.

“Will you consent to a search of your vehicle?” the officer asked as he returned to face me. I knew he was asking because without probable cause he needed my permission to search my car. I declined.

“That’s your right,” the officer responded, “But it’s our right to make you wait while we call a K-9 unit.” He told me that we might be waiting for over an hour and that we could all be on our way much more quickly if I would just let them search my car. I knew this was a tactic.

“I’ll wait,” I said, smiling tightly.

The officer instructed me to get out of my car. I grabbed my purse and sat on the curb. It was oppressively hot and muggy. Eventually, another patrol car arrived, with the words “K-9 UNIT” emblazoned on its side in large block letters. Twenty yards away, a crowd of onlookers glanced our way curiously and whispered to one another. It was quite the scene: three police cars with flashing lights, three officers conferring with one another, a German shepherd, my gray economy car, and me, still sitting on the curb.

The dog’s handler led the leashed German shepherd slowly around my car. The dog sniffed and pawed at the passenger side door but quickly lost interest and moved on. After one revolution, the dog and its handler paused for three beats before circling my car a second time. This time the officer walked quickly and pulled on the dog’s leash, speaking to it in an excited tone. The dog jumped up and down and barked enthusiastically, lunging at the passenger side door. The dog handler looked at his colleagues and nodded.

They told me the dog had “indicated,” giving them probable cause to search my car. I watched as the officers opened each car door and rifled through my possessions. One officer looked through the glove compartment, under the seats and mats, and ran his fingers in the creases of the car’s seats. Another officer squatted as he inspected the back seat and poked through a small pile of trash. Another had his head buried in the trunk, where he rummaged through items I had haphazardly thrown in before I left: sociology books, Taco Bell wrappers, clothes, food, and a bottle of coconut rum. Even though I knew there was nothing in my car that could get me in trouble, it was humiliating and intrusive.

After ten minutes, they gave up. They seemed disappointed. I was free to go, but they had wasted almost two hours of my time. As I stood up and headed toward my car, the policeman called out a question.

“Ma’am, if you had nothing in your car,” he said slowly, “Why were you so nervous?” He seemed genuinely puzzled, as if he were trying to work things out in his head.

“I’m by myself. I’m far from home. This is Mississippi, and you’re the police.”

He still seemed befuddled. “But, but I was polite,” he said, “Wasn’t I?” His voice trailed off.

“You were,” I said honestly, “But it’s not *you*. It’s the institution.”

He cocked his head to one side and pondered my response. I walked away.

The irony of this stop was not lost on me. Indeed, the fact that a small Mississippi town was using the same tactics as a major metropolitan department alerted me to how widespread the use of investigative traffic stops had become. The officer’s intrusion marked me as someone who was out of place or “suspicious.” Of course, with the privileges of a formal education, unaccented English, citizenship, and a valid driver’s license, my encounter with the police was a minor, albeit unpleasant, inconvenience. This book argues, however, that a system of laws, institutional policies, and bureaucratic practices *ensures* that these types of police encounters unfold differently for residents who do not have the benefit of legal presence.

This book examines immigration enforcement from the bottom. It demonstrates that immigration control is diffuse and powerful. It involves physically banishing immigrants through deportation as well as subjecting them to social control in the cities and towns where they live and work. The devolution of immigration enforcement, and the convergence of the immigration enforcement system with the criminal justice system, have expanded the number of actors who can impose punishments on residents who live in the United States without permission. Thus an extraordinary number of actors and institutions can be deployed as extensions of the nation-state in the name of regulating immigrants.

For example, legislators inflict punishment by crafting restrictive immigration laws that directly target Latino immigrants. Since few legislators can afford to be “soft” on crime, they give immigration controls their enthusiastic support, with little regard to whether additional enforcement is necessary or effective. These laws draw on racialized fears about “criminal aliens” and construct immigrants as criminals who pose a threat to (white) American citizens.¹ First, federal laws designate some of the nation’s residents as “illegal.” In an effort to control unauthorized migration, the federal government has delegated immigration authority to local law enforcement agencies and has expanded its capacity to identify removable noncitizens in the nation’s interior, often by focusing on correctional facilities. State laws further marginalize undocumented immigrants, adding additional penalties to “illegality” by making lawful immigration status a requirement for obtaining driver’s licenses and identification cards in most US states. Counties and municipalities can also play a role in disciplining undocumented immigrants, either by formally cooperating with immigration enforcement authorities through programs like 287(g) or by detaining immigrants at ICE’s request. All of these layers of restrictive or exclusionary laws are interlaced to form a tangled web of social control—one that makes it virtually impossible for undocumented immigrants *not* to break some laws that local police are required, inclined, or allowed to enforce.

Unlike legislators, who respond to racialized fears to adopt policies that specifically *target* Latino immigrants, the way that local police control immigrants in Nashville is more subtle. Police department policies play a powerful role in structuring officers' contact with residents and determining their possible courses of action. In Nashville, the MNPd's choice to incentivize investigative police stops and its failure to establish mandatory identification policies contribute to undocumented immigrants' insecurity. This policy of no policy gives officers the freedom to act according to their preferences. This is a deliberate choice. The police department could easily do what police departments in long-standing immigrant-receiving destinations have been doing for decades: accept alternate forms of identification like passports, foreign driver's licenses, and consular identification cards. Indeed, Tennessee state law allows international visitors to drive legally with foreign driver's licenses, a right it does not extend to its international residents. By choosing *not* to require officers to accept alternate IDs, the department contributes to immigrants' insecurity. Department officials convey that it is perfectly acceptable for officers to regard Nashville's undocumented immigrant residents with suspicion. Moreover, the department ensures that immigrant residents who cannot secure state-issued identity documents are at the mercy of individual officers.

Immigration enforcement relies on overpolicing. In Nashville, and in many departments across the country, investigatory police stops have been institutionalized as a professional expectation.² Officers stop, cite, and arrest people because they *can*. They are empowered with the coercive regulatory authority of the state to intrude on people's lives. Thus officers make investigatory police stops because they have been socialized to do so and because their departments incentivize it. In a time when policing norms dictate making as many stops as possible, officers find a reserve of citable and arrestable people in Latino communities. On the stop, officers may be inclined to disregard *some* minor offenses, but they cannot abandon enforcing the law altogether; after all, enforcing the law *is* the job. As a result, officers who are inclined to punish immigrants can do so legally just by enforcing the law. That is, police officers can make physical arrests for driver's licenses violations because they want to; they need only articulate their belief that it is a reasonable course of action. In fact, even the most sympathetic and "proimmigrant" officer will produce punitive outcomes because undocumented immigrants are outside the law, by design. This officer may be more permissive about the type of identification that he or she will accept, choosing to issue state citations rather than take people into physical custody. An officer may even feel magnanimous for levying this punishment, given that the alternative is a physical arrest and the risk of deportation. But such "altruism" is overstated. First, officers do not issue state citations out of kindness; they do so out of practicality. Making physical arrests takes time, and repeatedly arresting people for minor offenses inevitably means that the officer will have less time to make traffic stops and identify more offenses. Second,

citations are not particularly generous. Indeed, for the undocumented motorist who is pulled over for a technical infraction, this show of “altruism” comes with (at best) hundreds of dollars of fines. At worst, citations are a backdoor to future arrest, since many Spanish-speaking Latino residents do not understand how to take care of the citation or are too afraid to do so.

In this tangled web of direct and indirect immigration control, local officials do a great deal of rhetorical work to take credit for punishing immigrants, or treating them charitably, when it suits them. In 2006, when anti-immigrant laws and policies were sweeping towns, cities, and states across the South, state and local politicians, the police chief, and the district attorney enthusiastically supported Davidson County’s adoption of the 287(g) program. The police chief supported the program while *knowing* that it would ensnare thousands of Latino immigrants arrested for minor violations; then, when it did, the police department abdicated responsibility for the program’s distasteful consequences by frequently pointing out that it was the sheriff’s program. The police department also increased its efforts to generate trust in the Latino community through its El Protector program. Ultimately, however, the police department used the El Protector program to show that they cared about treating Latino immigrants as members of the public who deserved police protection, while ignoring complaints that policing practices made Latino residents feel unsafe.

In the sheriff’s office, deputized immigration officers argued that police arrests were not their fault. Sheriff’s office employees also pointed out that they did not *deport* anyone; they only *processed* people for deportation. Separating this mundane bureaucratic procedure from its inevitable outcome allowed some officials to believe that they were helping immigrants. Indeed, DCSO employees suggested that processing immigrants for removal could lead to favorable outcomes because residents might get to see an immigration judge after enduring indefinite detention. Police department officials similarly argued that police officers did not enforce immigration laws and that the agency was policing residents the way it always had. Moreover, both agencies contended that the consequences of arrests were beyond their control, since the federal government was responsible for actually deporting people.

WHICH WAY FORWARD?

Studies on immigration enforcement and its effects on immigrant families typically include a number of policy prescriptions that Congress lacks the political will to execute. The last large-scale legalization program in the United States occurred over thirty years ago as part of the Immigration Reform and Control Act (IRCA). IRCA’s amnesty provision was accompanied by an expansive ramp-up of immigration enforcement rather than a reform to the immigration system.

As a result, while there were three million unauthorized immigrants in the United States in 1986, today the United States is home to over eleven million residents who lack legal status. The growth in the undocumented population occurred amid “a fivefold increase in the number of USBP officers, a fourfold increase in hours spent patrolling the border, and a twentyfold increase in nominal funding.”³ Not only is the United States not able to enforce itself out of its immigration problem, but its “immigration problem” is a political and legal construction of its own making. Immigrants’ “illegality” could easily be undone by legislating a path to legal status. Such a decision would need to be accompanied by a plan to accommodate the legal admission and settlement of future prospective migrants because an enforcement-only approach is destined to create more “illegality.”

A path to permanent legal status would make life better for the nation’s unauthorized residents and the millions of US citizen children, spouses, and family members to whom they are connected. Of course, if American voters cared about these families, than their “illegality” and removability would not be inscribed and enforced by law. Politicians would not feel compelled to capitalize off the racialized fears of US citizen voters, characterizing immigrants as “terrorists” and “criminals” to justify their continued exclusion and punishment. However, since “law and order” policies tend to win the day, let me instead offer a few reasons why abolishing the criminalization of immigrant communities is necessary for justice, equality, and safety.

“Documenting” the undocumented would contribute to public safety. In the absence of federal immigration reform, twelve states and the District of Columbia have adopted laws that allow unauthorized immigrants to obtain state identification cards and/or driving privileges. Recently, researchers determined that making unauthorized immigrants eligible for driver’s licenses in California significantly reduced the number of hit-and-run accidents.⁴ Researchers speculated that since undocumented residents were no longer breaking the law by driving without a license, they remained at the scene of car accidents. Providing identity documents would also facilitate police encounters with undocumented residents. Police officials detest when they encounter individuals whom they cannot identify, and insufficient ID is frequently cited as a justification for punishment. Thus expanding access to driver’s licenses and identification cards might grant undocumented residents a modicum of security, making them more likely to cooperate with police authorities and further enhancing public safety.

In the absence of federal and state policy changes, there are still numerous things that localities and law enforcement agencies can do to promote better relations between police and undocumented immigrant communities. For example, police departments can change their institutionalized practices, replacing indiscriminate investigative police stops with sensible community-based approaches. In addition, departments can change their policies regarding what kinds of IDs

they are willing to accept. Indeed, if police departments care about verifying identity, then they should be willing to accept valid identity documents issued by other governments. If police can accommodate foreign driver's licenses for international visitors, they should be able to do the same for international residents. The fact that they do not suggests that these laws and policies exist to *punish* immigrant residents who are ineligible for documents.

Some people have seized on the fear and insecurity that undocumented residents experience in many American cities to advocate for localities to become so-called sanctuary cities. While the term *sanctuary city* has no legal definition, it is typically used to describe cities that limit cooperation with the federal government with respect to immigration enforcement. For example, some sanctuary cities refuse to hold individuals for federal immigration officials, or limit the conditions under which they will hold them. These cities place the public safety of all residents ahead of federal pressure to participate in immigration enforcement. Indeed, disrupting the links between the criminal justice system and immigration enforcement system is crucial to promoting police legitimacy and establishing stronger relations between immigrant communities and police authorities. However, while these policies are a good first step, they do not dismantle the policing apparatus that funnels unauthorized residents, and other racial and ethnic minorities, into the carceral state. Localities should not just be “sanctuaries” for immigrants—they should be safe for all minority residents who are overpoliced, criminalized, and constructed as outside the law.

APPENDIX

FIELDWORK FAQs

I began this study to understand local immigration enforcement in a new immigrant destination. Specifically, I was interested in how law enforcement agencies without a history of dealing with immigrant communities might respond to an influx of Latino immigrant residents. As state and local law enforcement agencies were being pushed to expand immigration enforcement both in their jails and on patrol, I was convinced we were missing part of the story. How and why were Latino immigrants winding up in jail in the first place? I wrote this book to unpack local immigration enforcement as a process that includes agencies and actors who may or may not see themselves as participants in immigration enforcement. Immigration control takes place on our streets and in jails through the implementation of mundane law enforcement practices that many take for granted. In doing this work, I made an intentional choice to focus my gaze on “the state” rather than on those who are targeted by its practices. I would like to use these pages to address questions that I am most frequently asked when I present this work.

Q: How did you get access to law enforcement institutions?

I moved to Nashville, a city where I knew one person, hoping that I would find a way to conduct interviews and observations with officers in the Davidson County Sheriff’s Office (DCSO) and the Metropolitan Nashville Police Department. I figured that if I hung out long enough, eventually someone might take pity on me, a struggling graduate student. Indeed, I framed my requests by emphasizing

my relative lack of power, asking individuals if they might help me on my school project so that someday I might graduate. Ultimately, I believe I got access because I was not threatening and because southern hospitality dictates that one accommodate polite requests.

I started by showing up at events, so that when I later asked for expanded access I would already be a familiar face. For example, I gained access to the sheriff's office by attending their 287(g) advisory meetings with Katharine Donato, a sociologist who worked at Vanderbilt University. After six months of attending meetings, I approached various members of the sheriff's office for interviews. During interviews, I worked hard to build rapport, I asked questions nonconfrontationally, and I expressed my deep appreciation to each person I spoke with. When I asked if I might interview every DCSO employee involved in 287(g), a DCSO supervisor helped me set up the interviews and even checked in with me after to make sure I had gotten everything I needed.

I utilized the same approach to gain access to the police department. I started by enrolling in the department's Citizen's Police Academy (CPA). The CPA is a public outreach program designed to educate civilians about policing. Its curriculum was twelve weeks long and included lessons from various police officers about property crime, terrorism, drug investigations, and community policing. It was also an opportunity to learn about the police department's culture and to hear the language that officers use when describing their work. The CPA cohort took field trips, visiting the 911 call center, the police academy, and the shooting range.

I decided that instead of gaining access to the police department from the top (through the chief) I would gain access from the side, through a precinct commander. I knew that I wanted to ride with police in the South Precinct, because this was the area with the largest concentration of Latino immigrant residents. Consequently, I believed that officers in the South Precinct were more likely to come into contact with Latino residents or have opinions about their presence. By this time, my networks in the city were more extensive. I met the precinct commander through a mutual acquaintance, and the commander graciously agreed to let me conduct ride-alongs with patrol officers. Ultimately, I conducted fifteen ride-alongs with officers in the South Precinct and one each in the East, North, and Hermitage Precincts. The data I present come from observations and interviews in the South Precinct.

Q: How did officers respond to your presence?

I assume that this question is fundamentally about race and gender. The patrol officers I rode with were (mostly) white men from the South, and I am a Mexican American woman from California. Unlike some ethnographers who come to embody their subjects, I knew I could never be an insider with Nashville law

enforcement. Rather than consider this an obstacle, I followed the lead of other ethnographers who argue that officers' responses to fieldworkers should be considered data.¹ Officers' performances provide insights into how they see themselves and how they want to be seen by others.²

Not surprisingly, officers were curious about why I was riding with them. For example, some patrol officers assumed I was studying to work as a dispatcher in the 911 call center. Twice, I was confused for a Latina police department employee who worked at another precinct on domestic violence investigations. Sometimes, officers thought I was married to one of the three Latino officers who worked in the South Precinct. Thus, while officers' assumptions obviously placed me outside their community of officers, they placed me inside a larger community of people who were on their side: dispatchers, detectives, and partners. Their assumptions suggest they did not see me as a "spy" trying to catch them doing something wrong but as someone positively oriented to the department and sympathetic to their predicaments. I actively cultivated an image of being naive, harmless, and grateful for their assistance.

I explained to officers that I was a student who was writing about policing for a school project and that I was interested in how they did their jobs amid the precinct's increasing diversity. This seemed to satisfy their curiosity, and officers volunteered to answer my questions or "get into things" so that I would have more to write about. When I kept showing up to ride, I would get nods of recognition and occasional jokes. "You again?" someone might say, as I walked into the roll call room. "Haven't you had enough of us?" "Maybe you should just sign up for academy."

When officers admonished me about my safety, I knew it was because officers were socialized to be concerned about their own safety. Indeed, some officers took my safety a little too seriously. For example, one officer made me ride with a bulletproof vest on, which was hot, heavy, and uncomfortable. For the rest of the shift, officers who saw me with the vest on seemed highly amused. One officer showed me how to use the patrol car radio in an emergency, showing me where to push the button and where to speak into the mic. Much to my horror, one officer even pointed out an extra rifle in the patrol car, which he affectionately referred to as Big Bertha, and indicated that I should use it if I needed to protect myself. I assured him that I had already signed a release form, so he should not concern himself with my safety. He laughed.

Ride-alongs provided numerous opportunities to conduct field interviews with officers in a place where officers felt comfortable. An officer's patrol car is his office, or his domain. While a few officers were initially guarded in my presence, many felt comfortable enough to voice their political beliefs, insult their superiors, use derogatory and scatological humor, and complain about civilians who called them for help. I laughed at jokes and nodded sympathetically at complaints. However,

since this project is ultimately about the role of police in immigration control, rather than police occupational culture more generally, many of these details have fallen out of the text.

Officers reacted favorably when they learned that I was bilingual. For example, one afternoon when we were getting ready to leave the police station parking lot in a patrol car, the officer I was with drove up to another patrol car with the window rolled down and told his coworker, “She speaks Spanish!” His tone of voice suggested that this was something the other officer should be jealous of. Indeed, the fact that I speak Spanish made me a commodity, because I could help officers communicate with the Spanish speakers they would inevitably encounter: officers used me as a translator, rather than fumbling through interactions by themselves. As a result, my presence likely shaped officers’ interactions with Spanish-speaking Latino residents. By translating, I facilitated the flow of information between officers and residents. With me by their side, officers were never frustrated by an inability to communicate with Spanish-speaking residents. Instead, officers told me what to say and what to ask, and I relayed the information that officers requested. This made all their interactions with Spanish-speaking residents smoother than they might have been in my absence. Given that I spoke Spanish and am obviously of Latino descent, I believe officers responded to Latino residents more politely and less punitively than they might have in my absence. Similarly, I suspect that officers were particularly well behaved because I am a woman. Male ethnographers, for example, describe a cop “canteen culture” where police officers use masculine and sexual humor.³ While officers made fun of one another and occasionally said things that were offensive about others, they did not, for example, make overtly sexual remarks about women in my presence. Concerned that officers might mistake my curiosity about their profession and opinions as romantic interest, I wore a fake engagement ring during my fieldwork. I am not certain it was necessary, but it made me feel better.

Ultimately, since my argument is that police behavior is driven by *institutional practices*, rather than individual biases, I am confident that my analysis holds up, even though officers may have been on their best behavior when I was with them. I drew my conclusions about the importance of investigative stops in the police department from observations in the roll call room, interviews with police officials, conversations with and between patrol officers, local news reports documenting the police department’s shift in priorities, and a broader police literature that documents the rise of investigative police stops across the country.⁴

Q: Are the police racist?

Because police have a duty to protect and serve diverse populations, it is not surprising that many people want to know whether police are prejudiced, are racist,

or have negative racial attitudes. Indeed, some who read this book may believe it argues that the police are racist, and others may believe the book shows that police are well-meaning and demonstrably *not* racist. Indeed, although police tend to be socially conservative and although some have racial prejudices, researchers are often unsuccessful at linking officers' individual-level biases to their aggregate policing practices.⁵ Moreover, because of the way that courts have defined racial discrimination, for policing to "count" as racially biased, the officer must *intend* to discriminate.⁶

My work points out that all officers face pressure to make investigative traffic stops and that during stops officers feel compelled to cite or arrest Latino immigrant motorists who are legally ineligible for identification. Officers do not do this because of racial animosity (although some officers may be prejudiced); they do this because investigative traffic stops are institutionalized practices and because state laws make unauthorized immigrants arrestable (and therefore deportable).⁷ Stated differently, an entire police force of antiracist cops would produce similar outcomes because police practices are driven by *structural* factors.

Race is undeniably a part of this story. Indeed, institutionalized police practices and state and federal laws produce racial disparities in who is stopped, cited, and arrested.⁸ Moreover, even though federal law makes unauthorized immigrants deportable, Davidson County's deportation program ensured that deportable immigrants would be identified for removal. This book argues that the convergence of law, institutional policies, and police practices sends a powerful message to Latino residents about their place in American society.

NOTES

INTRODUCTION

1. This was not an isolated incident. To date, law enforcement agencies in Washington, California, Florida, Pennsylvania, Oregon, and Missouri have also detained people beyond the forty-eight hours that an ICE hold permits. Courts have repeatedly ruled that local law enforcement agencies are liable for these illegal detentions. As a result, some state and local law enforcement agencies no longer honor immigration detainers.

2. US ICE (2016).

3. Motomura (2011).

4. During the 1920s, unauthorized immigrants were referred to only as “aliens”; in the 1950s the preferred parlance was “wetbacks” (Nevins 2002). Some of the terms frequently used by social scientists to describe the legal circumstances of immigrant residents are *undocumented*, *irregular*, *extralegal*, *clandestine*, *liminal*, and *unauthorized*. Acknowledging that all of these terms are legal constructions that describe individuals’ legal positions vis-à-vis the United States, in this book I will use the terms *undocumented* and *unauthorized* to describe immigrant residents in the United States outside the law.

5. De Genova (2002, 2004).

6. Nevins (2002).

7. Massey, Durand, and Malone (2003); Massey, Pren, and Durand (2016); Massey and Pren (2012).

8. Massey, Durand, and Malone (2003); Massey, Pren, and Durand (2016); Massey and Pren (2012).

9. Passel and Cohn (2016).

10. Donato and Armenta (2011).

11. The term *Latino* is a panethnic label used to homogenize culturally and geographic heterogeneous groups from diverse countries or origin in the United States.

12. Massey and Pren (2012).
13. Massey and Pren (2012).
14. Massey and Pren (2012).
15. L. Chavez (2008).
16. Welch (2002).
17. Hagan and Palloni (1999); Martínez (2006); Rumbaut and Ewing (2007); Yeager (1997).
18. Ewing, Martinez, and Rumbaut (2015).
19. Ousey and Kubrin (2009).
20. L. Chavez (2008).
21. Miller (2003); Stumpf (2006).
22. Miller (2003); Stumpf (2006).
23. Macias-Rojas (2016).
24. Hollifield, Martin, and Orrenius (2014).
25. De Genova (2002).
26. De Genova (2002, 2004).
27. Calavita (2003).
28. De Genova (2002, 2004).
29. Menjívar and Abrego (2012, 1380).
30. Stumpf (2006).
31. Garner (2015, 201).
32. Provine and Doty (2011). See also Sanchez and Romero (2010).
33. Van Cleve and Mayes (2015); Gómez (2010, 2012).
34. Massey and Pren (2012).
35. Golash-Boza and Hondagneu-Sotelo (2013).
36. Longazel (2013).
37. Valdez (2016).
38. De Genova (2002); Romero (2006).
39. Coleman (2012).
40. Gravelle, Ellermann, and Dauvergne (2013); Inda (2008); Valdez (2016).
41. Calavita (1992); Mountz (2010).
42. Calavita (1992); Mountz (2010).
43. Wells (2004); Provine et al. (2016).
44. Provine et al. (2016).
45. Pound (1910).
46. Ellermann (2009).
47. Ellermann (2009).
48. Ridgeley (2008); Wells (2004).
49. Armenta (2016); Varsanyi (2008).
50. Aranda and Vaquera (2015); Armenta (2016, 2017); Stuesse and Coleman (2014).
51. Aranda and Vaquera (2015); Armenta (2016, 2017); Stuesse and Coleman (2014).
52. Martínez (2010); Weitzer (2013).
53. Menjívar and Bejarano (2004).
54. Nguyen and Gill (2015); Theodore and Habans (2016).

55. Varsanyi (2008, 30).
56. Rosales (2013).
57. Varsanyi (2008).
58. Stuesse and Coleman (2014).
59. Lewis et al. (2012); Provine et al. (2016); Varsanyi et al. (2012).
60. Lewis and Ramakrishnan (2007); Provine et al. (2016).
61. Lewis and Ramakrishnan (2007).
62. Lewis and Ramakrishnan (2007).
63. Provine et al. (2016).
64. Armenta (2016).
65. Culver (2004).
66. Armenta (2016); Lewis and Ramakrishnan (2007); Provine et al. (2016).
67. Eagly (2013).
68. Haas and Echegaray (2011).
69. Haas and Echegaray (2011).
70. Durand, Massey, and Capoferro (2005); Zúñiga and Hernández-Leon (2005).
71. Passel (2005).
72. Marrow (2011); Winders (2013).
73. Massey (2008); Winders (2013); Zúñiga and Hernández-Leon (2005).
74. Winders (2007, 2013).
75. Light (2006); Ramakrishnan and Wong (2010); Varsanyi (2007).
76. Coleman (2012); Winders (2005).
77. Coleman (2012).
78. Glaser and Strauss (1999).
79. Andreas (2009); Dunn (1996); Nevins (2002).
80. Capps et al. (2011); Eagly (2013); Nguyen and Gill (2015); Pedroza (2013); Stuesse and Coleman (2014).

CHAPTER 1. WHO POLICES IMMIGRATION?

1. Neuman (1993).
2. Legal scholars distinguish between these two spheres of law as immigration law and alienage law, or immigration policy and immigrant policy. Immigration law and policy determine who is permitted to enter and live in a country, whereas immigrant policy (and alienage law) determine how immigrants are treated once they reside within the nation's boundaries. In reality, the difference between laws that regulate immigration and laws that regulate immigrants is not always clear.
3. Kanstroom (2007).
4. Neuman (1993).
5. *Journal of Congress* 13 (September 16, 1788).
6. Neuman (1993).
7. Art. 1, sec. 9 of the US Constitution stated that Congress could not pass laws that would restrict the importation of slaves before 1808.
8. Gulasekaram and Ramakrishnan (2015).

9. 1790 Naturalization Act, Sess. II, Chap. 3, 1 Stat. 103.
10. 1795 Naturalization Act, Sess. II, Chaps. 19–20, 1 Stat. 414.
11. Naturalization Law of 1802, Sess. I, Chap. 26, 2 Stat. 153. Black Americans became eligible for citizenship through the Fourteenth Amendment in 1868, which established birthright citizenship, and the Nationalization Act of 1870, which extended naturalization processes for residents of African descent. Asians and Native Americans, however, would continue to be ineligible for membership for several more decades.
12. Act of February 10, 1787, 1787 Ga. Acts 40 [1787].
13. Neuman (1993).
14. Ettinger (2011).
15. Hirota (2013).
16. Passenger Cases, 48 U.S. (7 How.) 283.
17. Hirota (2013).
18. *Chy Lung v. Freeman* (1875).
19. Hirota (2013).
20. Lee (2003).
21. Lee (2003).
22. Page Law of 1875 (Sect. 141, 18 Stat. 477).
23. Chinese Exclusion Act of 1882, Pub. L. No. 71, 47th Cong., 1st Sess., 22 Stat. 58.
24. Lee (2003).
25. 1892 Geary Act, An Act to Prohibit the Coming of Chinese Persons into the United States, Sess. I, Chap. 60, 52nd Cong., May 5, 1892; McCreary Act (Chinese Exclusion) November 3, 1893, Chap. 14, 28 Stat. 7.
26. Immigration Act of 1882, Sess. I, Chap. 376, 22 Stat. 214.
27. Hirota (2013).
28. Hirota (2013); Tichenor (2002).
29. Hirota (2013).
30. *Yick Wo v. Hopkins* (1886).
31. *Chae Chan Ping v. United States* (1889).
32. *Fong Yue Ting v. United States* (1893).
33. Lee (2003).
34. Hirota (2013).
35. Immigration Act of 1891, Sess. II, Chap. 441, 26 Stat 1084.
36. Ettinger (2011).
37. Hirota (2013).
38. Ettinger (2011).
39. Calavita (2000).
40. Calavita (2000).
41. Gordon (2006).
42. Gordon (2006).
43. Gordon (2006); Lee (2003).
44. Ettinger (2011).
45. Ettinger (2011).
46. Immigration Act of 1924, Pub. L. No. 68–139, 43 Stat. 153, May 25, 1924.
47. Ngai (2004).

48. Ngai (2004).
49. Ngai (2004, 57).
50. Act of February 27, 1925 (43 Stat. 1049–1050; 8 U.S.C. 110).
51. Immigration and Nationality Act of 1952 (66 Stat. 163, 152).
52. Andreas (2009); Nevins (2002).
53. Immigration Reform and Control Act of 1986, Pub. L. No. 99–603, 100 Stat. 3359, §701.
54. Immigration Reform and Control Act of 1986, §701.
55. Fix (1991); Inda (2008).
56. Anti-Drug Abuse Act of 1988, Pub. L. No. 100–690.
57. Golash-Boza and Hondagneu-Sotelo (2013).
58. In others, officers took the initiative to make immigration arrests without official authority, relying on racial markers of citizenship (Romero 2006).
59. Murray (1955).
60. Murray (1955).
61. Fox (2012).
62. Fox (2012).
63. Balderrama and Rodriguez (2006).
64. Hernandez (2010).
65. Immigration and Nationality Act of 1952 (66 Stat. 163, 152).
66. US Department of Justice, press release, June 23, 1978.
67. US Department of Justice, press release, June 23, 1978.
68. California Advisory Committee (1980); US Commission on Civil Rights (1980).
69. US Commission on Civil Rights (1980, 91).
70. Office of the Police Chief, Los Angeles Police Department, Special Order 40, November 27, 1979, Los Angeles Almanac, www.laalmanac.com/crime/cr73xa.htm.
71. California Advisory Committee (1980).
72. US Commission on Civil Rights (1980, 92).
73. California Advisory Committee (1980, 33).
74. Because of how case law defines racial discrimination, courts require explicit evidence of racial animus to find that stops are unconstitutional or racially motivated.
75. Motomura (2011).
76. US Department of Justice (1996).
77. McDonald (1999).
78. Romero (2006).
79. Tobar (1998).
80. Dowling and Inda (2013); Miller (2003); Stumpf (2006).
81. Miller (2003); Stumpf (2006).
82. “Immigration in the National Interest Act of 1995,” *Congressional Record*, March 20, 1996, statement of Rep. Tom Latham, H2476, <https://www.congress.gov/crec/1996/03/20/CREC-1996-03-20-pt1-PgH2475.pdf>.
83. “Immigration in the National Interest Act of 1995,” statement of Rep. Sheila Jackson Lee, H2478.
84. “Immigration in the National Interest Act of 1995,” statement of Rep. Nancy Pelosi, H2481.
85. Forster (1998).

86. Forster (1998).
87. Forster (1998).
88. Ashcroft (2002).
89. Rodriguez et al. (2010).
90. Testimony of Kris Kobach before House Committee on Homeland Security, Subcommittee on Management, Integration and Oversight, “The 287(g) Program: Ensuring the Integrity of America’s Border Security System through Federal-State Partnerships,” 109th Cong., 1st Sess., July 27, 2005, 52.
91. Rodriguez et al. (2010).
92. Capps et al. (2011).
93. Capps et al. (2011).
94. Anderson (2006).
95. Major Cities Chiefs Association (2006); Police Executive Research Forum (2008).
96. ACLU (2009a, 2009b); ACLU of North Carolina Legal Foundation and Immigration and Human Rights Policy Clinic (2009); ACLU of Tennessee (2012).
97. US Government Accountability Office (2009).
98. DHS OIG (2010).
99. Assistant Attorney General Thomas E. Perez to County Attorney Bill Montgomery, December 15, 2011, 2, <https://assets.documentcloud.org/documents/274910/justice-department-findings-in-its-investigation.pdf>.
100. Executive Order No. 13767, 82 *Federal Register* 8793 (January 25, 2017), <https://www.gpo.gov/fdsys/pkg/FR-2017-01-30/pdf/2017-02095.pdf>.
101. US ICE (2017).
102. National Council of State Legislatures (2016).
103. Rubinkam (2008).
104. Longazel (2013).
105. Oklahoma Taxpayer and Citizen Protection Act, HB 1804, 51st Leg., §2 (2007).
106. Archibold (2010).
107. Chandler (2011).
108. *Arizona v. United States*, 567 U.S. ____ (2012).
109. *Arizona v. United States*, 567 U.S. ____ (2012, 4).
110. Zolberg (2008).
111. Coleman (2012); Provine et al. (2016); Wells (2004).
112. Passel, Cohn, and Gonzalez-Barrera (2013).
113. Andreas (2009); Massey, Pren, and Durand (2016).
114. Huntington (2004).
115. Massey, Pren, and Durand (2016).

CHAPTER 2. SETTING UP THE LOCAL DEPORTATION REGIME

1. Durand, Massey, and Capoferro (2005).
2. Grieco (2003).
3. Haas and Echegaray (2011).
4. Durand, Massey, and Capoferro (2005, 16).

5. Haas and Echegaray (2011).
6. Smith and Winders (2008).
7. Winders (2007).
8. Martinez (2011).
9. Moser (2006).
10. Portes and Rumbaut (2006).
11. Marrow (2011); Winders (2013).
12. Hopkins (2010).
13. J. Chavez and Provine (2009); Ramakrishnan and Wong (2010).
14. Bosniak (2008).
15. Bloemraad (2000).
16. Chauvin and Garcés-Masareñas (2012), Varsanyi (2006).
17. de Graauw (2014); Varsanyi (2006).
18. Lamont and Molnár (2002).
19. Lamont and Molnár (2002).
20. Alba (2005).
21. Cheek (1998).
22. Winders (2012, 2013).
23. David Gray Ross, Commissioner, Office of Child Support Enforcement, US Department of Health and Human Services, to State IV-D Directors and Regional Program Managers, Re: Inclusion of Social Security Numbers on License Applications and Other Documents, July 14, 1999, <https://www.acf.hhs.gov/css/resource/social-security-numbers-on-license-applications-and-other-documents>.
24. Whitaker (2001a).
25. Whitaker (2001a).
26. Tennessee Public Acts, Chap. 158.
27. Whitaker (2001b).
28. Pulle (2004).
29. Whitaker (2011).
30. Data provided by Tennessee Department of Safety, Response to Open Records Request, July 2010.
31. Alba (2005).
32. Dewan (2005).
33. Pulle (2004).
34. Echegaray (2010).
35. Associated Press (2006).
36. Gamson et al. (1992).
37. Rucker (2006).
38. O'Reilly (2006).
39. O'Reilly (2006).
40. Don Aaron, e-mail to police and media contacts, "Plan Announced to Deal with Criminal Illegal Immigrants," September 5, 2006, Topica, <http://lists.topica.com/lists/east-nashvillecrime/read/message.html?sort=d&mid=1720485273>.
41. Aaron, e-mail to police.

42. L. Chavez (2008).
43. Sohoni and Sohoni (2014).
44. Sohoni and Sohoni (2014).
45. Longazel (2013, 2014).
46. Longazel (2013, 2014).
47. Provine et al. (2016).
48. Lewis and Ramakrishnan (2007); Provine et al. (2016).
49. Provine et. al (2016).
50. Allen (2007).
51. Allen (2007).
52. Longazel (2013); Varsanyi (2010).
53. Associated Press (2007).
54. Cass (2008).
55. L. Chavez (2008).
56. Bretell and Nibbs (2011).
57. Winders (2013).
58. Nashville English First website, accessed in 2008.
59. Newton (2008).
60. Allen (2006a, 2006b).
61. Capps et al. (2011); US Government Accountability Office (2009); Rodriguez et al. (2010).
62. Coleman (2012).
63. Cacho (2000).
64. Stuesse and Coleman (2014, 58).
65. Menjivar and Abrego (2012).
66. De Genova (2002).

CHAPTER 3. BEING PROACTIVE

1. Epp, Maynard-Moody, and Haider-Markel (2014, 14).
2. Epp, Maynard-Moody, and Haider-Markel (2014, 14).
3. Epp, Maynard-Moody, and Haider-Markel (2014, 14).
4. Police can conduct a warrantless search of a car when the motorist consents to the search, or if the officer has some reason to believe that there is evidence of a crime in the vehicle. The courts have generally given police wide latitude to conduct searches.
5. Serpas (2004).
6. Wilson and Boland (1978).
7. Wilson and Boland (1978, 370).
8. Wilson and Boland (1978, 371).
9. Wilson and Kelling (1982).
10. See Sherman (1990); Sherman and Rogan (1995); Sherman and Weisburd (1995).
11. The New York City Police Department (NYPD) argued that its stop-and-frisk policies were successful and led to falling crime. In 2013, a federal court ruled that NYPD's deployment of stop-and-frisk was unconstitutional because officers disproportionately

targeted black and Latino young men with no evidence of criminal wrongdoing. In car-centric Nashville, these types of police-citizen contacts occur via traffic enforcement.

12. Whren et al. v. United States, 517 US 806 (1996).
13. Heien v. North Carolina, 574 US__ (2014).
14. Epp, Maynard-Moody, and Haider-Markel (2014).
15. Epp, Maynard-Moody, and Haider-Markel (2014).
16. Epp, Maynard-Moody, and Haider-Markel (2014).
17. Howard (2008).
18. The 2010 Tennessee Code § 55-9-406 (b)(1) states that headlights must be in use “any time when rain, mist, or other precipitation, including snow, necessitates the constant use of windshield wipers by motorists.”
19. The 2010 Tennessee Code § 55-4-110 (b) states that no tinted materials may be placed over a license plate even if the information upon the license plate is not concealed.
20. Epp, Maynard-Moody, and Haider-Markel (2014).
21. Roberts (2011).
22. Rose (1999).
23. Torpey (2000).
24. Basaran (2008).
25. Torpey (2000, 158).
26. 2010 Ann. Code § 40-7-118(m)(3).
27. De Genova (2002, 426).
28. Tenn. Code Ann. § 55-50-304.
29. Deinerstein (2003).
30. McCraw (2003).
31. Bruno and Storrs (2005).
32. Varsanyi (2007).
33. Howard (2008).
34. Donato and Rodriguez (2014).
35. Epp, Maynard-Moody, and Haider-Markel (2014).

CHAPTER 4. SEEING AND NOT SEEING IMMIGRATION

1. Winders (2012); Marrow (2009); Jones-Correa (2008); Lewis and Ramakrishnan (2007).
2. Jones-Correa (2005).
3. Jones-Correa (2008); Lewis and Ramakrishnan (2007); Marrow (2009).
4. Michael Jones-Correa (2004) coined the term *bureaucratic incorporation* to describe de facto policies that advance the interests of immigrant groups that are otherwise marginalized in electoral politics. Since then, a number of scholars have confirmed that police departments engage in bureaucratic incorporation or welcoming practices. See Lewis and Ramakrishnan (2007); Marrow (2009); Williams (2015).
5. For example, when police officers attend immigrant community events to send a message that immigrants are valued members of the community, the department engages in symbolic outreach. In contrast, when the department uses information from the immigrant

community to change or formulate policies, these efforts are substantive. Both substantive and symbolic outreach represent conscious and deliberate attempts to respond to immigrants' needs and incorporate immigrants into the community. See Williams (2015).

6. Winders (2012).
7. Stern (1999a).
8. Stern (1999b).
9. Stern (1999c).
10. Stern (2001).
11. Hefner (1998).
12. Stern (2000).
13. MNPD (2004).
14. Hinton (2006).
15. His name was Aureliano Ceja, and his family owned one of the first Mexican restaurants in Nashville, called La Hacienda. Aureliano, his wife, his adult children, and his grandchildren had come to Nashville from Southern California in search of better opportunities. They found it by opening a restaurant and *tortillería* that was popular with both Mexican and American residents alike. After returning home from La Hacienda late one Saturday night, Aureliano opened the door to an intruder who severely beat him and his wife. Aureliano, who was seventy-two years old, died from his injuries.
16. Lamb (2006).
17. Wadhvani (2004).
18. Torres (2006).
19. Tobia (2006a).
20. Lodoño (2006).
21. Lodoño (2006).
22. Lodoño (2006).
23. Tobia (2006b).
24. Howard (2008).
25. Herbert (2006).
26. Herbert (2006).
27. Dreby (2012).
28. Crank (2004); Herbert (2001b).
29. Herbert (2006).
30. Herbert (2001b); Willis, Mastrofski, and Kochel (2010); Skogan (2006).

CHAPTER 5. INSIDE THE JAIL

1. Lynch (2017).
2. Hochschild (2003).
3. Hochschild (2003).
4. Hochschild (2003).
5. Kunda and van Maanen (1999).
6. Pogrebin and Poole (1991).
7. Heyman (1998).

8. DCSO (2009).
9. Chauvin and Garcés-Mascreñas (2012).
10. Armenta (2012).
11. Gonzales (2013).
12. Scott (1998).
13. Bandura (1999).
14. Menjívar and Abrego (2012).
15. Fassin (2005).
16. Armenta (2012); Fassin (2005); Gómez Cervantes, Menjívar, and Staples (2017); Vega (2017).
17. Vega (2017).
18. De Genova (2004).
19. Stevens (2011).
20. Stevens (2011, 616).
21. Beckett and Evans (2015).
22. Dick (2002).
23. Zedner (2007); McCulloch and Pickering (2009).

CHAPTER 6. PUNISHING ILLEGALITY

1. Tobia (2008).
2. Tobia (2008).
3. Brunson and Miller (2006); Harcourt (2009); Solis, Portillos, and Brunson (2009).
4. Gould and Mastrofski (2004); Zimring (2011).
5. Brunson (2007); Gau and Brunson (2010); Rios (2011).
6. Aranda and Vaquera (2015); Romero (2006); Stuesse and Coleman (2014).
7. Lewis and Ramakrishnan (2007).
8. Sunshine and Tyler (2003); Tyler (1990), Tyler and Wakslak (2004).
9. Kirk and Papachristos (2011).
10. Brunson (2007); Gau and Brunson (2010).
11. Brunson (2007).
12. Kirk et. al (2012).
13. Theodore and Habans (2016); Vidales, Day, and Powe (2009).
14. Neuman (1993).
15. In 2008, a driver's license was not *necessarily* proof of legal presence. Tennessee issued driver's licenses to residents, regardless of immigration status, through 2004. These licenses were valid for five years.
16. US Government Accountability Office (2009); DHS OIG (2010).
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CONCLUSION

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Protect, Serve, and Deport exposes the on-the-ground workings of local immigration enforcement in Nashville, Tennessee. Between 2007 and 2012, Nashville's local jail participated in an immigration enforcement program called 287(g), which turned jail employees into immigration officers who identified over ten thousand removable immigrants for deportation. The vast majority of those identified for removal were not serious criminals but Latino residents arrested by local police for minor violations. *Protect, Serve, and Deport* explains how local politics, state laws, institutional policies, and police practices work together to deliver immigrants into an expanding federal deportation system, conveying powerful messages about race, citizenship, and belonging.

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