

## 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.<sup>1</sup> 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.<sup>2</sup> Emotional labor involves managing one’s face, body, and comportment to project the “right” kind of emotion for one’s job.<sup>3</sup> 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.<sup>4</sup> For example, we expect service workers and caregivers to be upbeat and positive, expressing happy or caring emotions.<sup>5</sup> In contrast, we expect law enforcement professionals to keep their cool and remain calm during catastrophic events.<sup>6</sup>

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.<sup>7</sup> 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.”<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

#### 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.<sup>12</sup> 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.<sup>13</sup> This allowed them to see themselves as decent and compassionate workers rather than participants in "legal violence."<sup>14</sup>

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.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> "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.<sup>18</sup> 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.<sup>19</sup> 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.”<sup>20</sup> 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 detainers are not supposed to affect local criminal justice processing. In practice, immigrants on detainers 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 detainers 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.<sup>21</sup> 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.<sup>22</sup> A number of criminologists have used the term *precrime* when referencing a trend in criminal justice frameworks toward anticipating and managing risks.<sup>23</sup> 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.