

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 MNP'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.

