

Racializing Crimmigration: Structural Racism, Colorblindness, and the Institutional Production of Immigrant Criminality

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Amada Armenta¹

Abstract

Deporting “criminal aliens” has become the highest priority in American immigration enforcement. Today, most deportations are achieved through the “crimmigration” system, a term that describes the convergence of the criminal justice and immigration enforcement systems. Emerging research argues that U.S. immigration enforcement is a “racial project” that subordinates and racializes Latino residents in the United States. This article examines the role of local law enforcement agencies in the racialization process by focusing on the techniques and logics that drive law enforcement practices across two agencies, I argue that local law enforcement agents racialize Latinos by punishing illegality through their daily, and sometimes mundane, practices. Investigatory traffic stops put Latinos at disproportionate risk of arrest and citation, and processing at the local jail subjects unauthorized immigrants to deportation. Although a variety of local actors sustain the deportation system, most do not see themselves as active participants in immigrant removal and they explain their behavior through a colorblind ideology. This colorblind ideology obscures and naturalizes how organizational practices and laws converge to systematically criminalize and punish Latinos in the United States.

Keywords

crimmigration, immigration enforcement, racism, Latinos, police, criminal justice

A defining feature of contemporary immigration enforcement around the world is its complexity, encompassing multiple levels of government, public and private institutions, and individual actors in any given country. Immigration enforcement is no longer limited to apprehending prospective migrants along physical borders; instead, new technologies and penal interventions manage noncitizens *within* national territories (Aas and Bosworth 2013). The most salient new development in immigration enforcement has been the emergence of the so-called crimmigration system, in which the immigration enforcement system is integrated with the day-to-day operations of the criminal justice system (Stumpf 2006). In the

contemporary United States, policies that prioritize deporting “criminal aliens” justify an immigration enforcement system that extends into jails and across local law enforcement agencies.

Latinos overwhelmingly bear the burden of these immigration control efforts.¹ Nearly 80 percent of unauthorized immigrants in the United States are

¹University of Pennsylvania, Philadelphia, PA, USA

Corresponding Author:

Amada Armenta, University of Pennsylvania, 113 McNeil Building, 3718 Locust Walk, Philadelphia, PA 19104, USA.

Email: armenta@sas.upenn.edu

Mexican or Central American, and the majority of Mexican and Central American immigrants residing in the United States are undocumented (Massey and Pren 2012). Recognizing that immigration enforcement has become increasingly punitive, emerging research argues that restrictive immigration policies are the primary mechanism through which Latinos are excluded and racialized in the United States (Aranda and Vaquera 2015; Golash-Boza and Hondagneu-Sotelo 2013; Massey and Pren 2012; Massey 2014a, 2014b; Provine and Doty 2011; Romero 2006).² Much of this research emphasizes the central role of U.S. immigration policy in making Latinos “illegal,” criminalizing “illegality,” and marking Latinos as a racialized group near the bottom of the American stratification system (De Genova 2004; Massey and Pren 2012; Massey 2014a, 2014b; Provine and Doty 2011).

This article extends the literature on the racialization of Latinos by examining the role of local law enforcement agencies in the production and punishment of “illegality.” My goal is to move beyond a description of broad general trends in immigration law to consider the on-the-ground processes that criminalize Latinos and channel them into the immigration enforcement system. I examine immigration control “from the bottom up,” arguing that the power of the state emerges through the daily practices of institutional actors that form part of the crimmigration system (Gravelle, Ellermann, and Dauvergne 2012).

I draw on two years of qualitative fieldwork in Nashville, Tennessee, to argue that local law enforcement agents racialize Latinos and punish illegality through their daily practices. I focus on the techniques and logics that drive law enforcement practices across two agencies and show that, acting according to the priorities of their respective institutions, street-level officers punish Latinos and reinforce their construction as “criminal aliens.” This meso-level institutional approach makes clear that Latinos’ vulnerability to deportation does not stem from federal immigration policy alone; rather, a system of state laws and local law enforcement practices converge to reinforce Latinos’ subordinate status in the racial hierarchy.

RACISM, IMMIGRATION ENFORCEMENT, AND THE CRIMINAL JUSTICE SYSTEM

According to Goldberg (2002), all modern nation-states are “racial states” that use immigration controls, laws, bureaucracy, and government technologies to

promote racial hierarchies around citizenship and belonging. However, despite the racist origins of U.S. immigration policy and the overrepresentation of Latinos in deportation statistics, much research on immigration enforcement fails to incorporate theoretical perspectives on race and racialization (Garner 2015; Sáenz and Douglas 2015; Sanchez and Romero 2010; Treitler 2015). In quantitative research, for example, it is not uncommon for scholars to argue that race effects are actually citizenship effects, driven by punitiveness toward noncitizens (Light 2014; Light, Massoglia, and King 2014). This is also largely true of European scholarship, which tends to tie immigration enforcement and exclusion to a lack of formal citizenship rather than racism (Aas and Bosworth 2013). In these formulations, the burdens of immigration enforcement are linked to immigrants’ *legal* status, with only implicit acknowledgement that “access to citizenship, enjoying full rights, and being considered an unproblematic part of the imagined nation” are highly racialized (Garner 2015:201).

This article answers recent calls by scholars to racialize studies of immigration and immigration enforcement by prioritizing race and racism as core concerns (Douglas, Sáenz, and Murga 2015; Garner 2015; Sáenz and Douglas 2015). To do this, I situate my study in the theoretical formulations of a variety of critical race scholars who emphasize structural and systemic theories of racism (Bonilla-Silva 1997, 2015; Feagin 2013; Goldberg 2002; Omi and Winant 2014). This work rejects lay conceptions of racism as a problem rooted only in individual racial prejudice, instead arguing that racism is embedded in the political, economic, social, and legal structures of society (Bonilla-Silva 1997; Omi and Winant 2014). Racial inequalities are institutionalized and systemic, a result of laws and organizational practices that often appear to be race-neutral (Bonilla-Silva 1997, 2015; Feagin 2014; Goldberg 2002). Ultimately, these laws, policies, and institutional practices generate and reify ideas about racial difference, contributing to processes of racialization (Bonilla-Silva 1997, 2015; Feagin 2013; Omi and Winant 2014).

A key feature of this “new” racism is that it often appears to be nonracial and is passively sustained by individuals who may lack conscious discriminatory intent (Bonilla-Silva 2010). Thus, individuals deploy colorblind arguments to produce, maintain, and rationalize racial inequality (Bonilla-Silva 2010). According to Bonilla-Silva (2010), people use four frames of colorblind ideology to explain racial inequality: abstract liberalism, naturalization, cultural racism, and minimization. In this paper, I

focus on the colorblind frame of naturalization, in which people explain racial inequality as the “natural” result of the way things are.

My study is not the first to link immigration enforcement to structural and systemic racism. For example, both Provine and Doty (2011) and Aranda and Vaquera (2015) describe immigration enforcement as a “racial project,” a set of state practices and structures that create ideas about racial difference, thereby sustaining racialized practices (see Omi and Winant 2014). Golash-Boza and Hondagneu-Sotelo (2013) 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. Massey and Pren (2012) link the immigration enforcement regime to the creation of a new Latino underclass.

Although each of these studies identifies local law enforcement agencies as important actors in the immigration enforcement system, their analyses do not center around understanding law enforcement practices. For that reason, the mechanisms through which local agencies encounter and punish Latinos is not clear. For example, Aranda and Vaquera (2015) rely on reports from immigrant young adults who describe how family members’ contact with the police resulted in their family members’ deportations to argue that the police racially profile Latinos. Although this assertion suggests that immigration enforcement is sustained through deliberately racist officers who choose to stop and arrest Latinos to trigger their deportation, I argue instead that these practices are a result of institutionalized policies (see Epp, Maynard-Moody, and Haider-Markel 2014). This perspective is critical, because uncovering the “behaviors, styles, cultural affectations, traditions, and organizational procedures” that reproduce racial domination is key to understanding racism (Bonilla-Silva 2015:75).

METHODS

This study goes “inside the state” by documenting how local law enforcement agencies contribute to the practice of immigration enforcement. Anthropologist Laura Nader (1972) argued that ethnographers should “study up” to understand how bureaucracies and organizations function. One method of studying up is institutional ethnography, which provides insight into the processes and rationales by which institutional actors exercise power (Smith 1987). I draw from these approaches to examine the Metropolitan Nashville Police Department (MNPD)

and the Davidson County Sheriff’s Office (DCSO), because both institutions play crucial roles in Nashville’s crimmigration system. Nashville is an appropriate site for this study given the dramatic growth of its Latino immigrant population and its early adoption of the 287(g) program, a federal initiative to devolve immigration enforcement authority to nonfederal police. Although Davidson County’s 287(g) program has since been replaced by new federal initiatives, federal immigration enforcement strategies continue to prioritize local jails as sites of immigration control.

Between January 2009 and September 2010, I lived in Nashville to conduct fieldwork. I conducted ethnographic observations at Latino community events sponsored by or attended by law enforcement. This included events hosted by the Mexican consulate, community health fairs, community policing fairs, cultural festivals, and community policing meetings. I also conducted more than 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 a lieutenant (whoever was on duty) would assign me to a police officer and instruct officers about how to direct their enforcement priorities. 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 through participation in roll call, answering calls for service, and taking meal breaks. I used these opportunities to conduct field interviews with officers about their experiences. After each ride-along, which spanned between 6 and 11 hours, I recorded my observations as field notes.

It would be naïve to suggest that I ever achieved insider status or that my presence did not affect officer behavior. The overwhelming majority of patrol officers in the South Precinct are white men in their twenties, and I am a Mexican-American woman, also in my twenties at the time that this research was conducted. Rather than consider officer reactivity an obstacle, however, I draw from Herbert (2010), who argues that officers’ responses to fieldworkers should be treated as data. Most patrol officers assumed I was studying to work in the 911 call center. Twice I was confused for a Hispanic detective who works in another precinct. Occasionally officers thought I was married to one of the three Latino officers who worked in the South Precinct. I told officers that I was a graduate student interested in understanding how they did their jobs in a diverse area like the South Precinct. This garnered

sympathy, and some officers volunteered to answer questions and promised to “get into things” so that I would have more to write about. When officers realized I spoke Spanish, they responded enthusiastically about the possibility of using me to translate. Although a few officers were guarded in my presence, others felt comfortable enough to voice their political beliefs, insult their superiors, use derogatory and scatological humor, and insult civilians who called them for help. Thus, while I cannot identify exactly how my presence might have affected officers’ behaviors, like Monahan and Fisher (2010) I believe that informants’ performances, however affected, offer crucial insights into how they see themselves and how they want to be seen. Therefore, I consider these observations alongside other data to make sense of urban policing in Nashville.

This paper also draws from 21 in-depth interviews with law enforcement personnel, including those with police administrators ($n = 6$) and employees of the DCSO ($n = 15$). 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 participating in the program. All interviews, which ranged in length between 45 minutes and 2½ hours, were audio-recorded and subsequently transcribed. In what follows, quotation marks indicate when subjects’ words are quoted verbatim; otherwise, data are paraphrased. All names in this paper are pseudonyms.

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 conceptual categories I identified (Glaser and Strauss 1999). Recurrent themes in the policing data included proactive policing, investigative vehicle stops, “good stats,” driver’s licenses and identification documents, misdemeanor state citations, and an insistence that police do not participate in immigration enforcement. Themes in the sheriff’s data included the 287(g) program, the police, the classification of risk, and deputies’ views of themselves as objective and compassionate implementers of immigration law.

I supplemented qualitative data with public records such as 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.

FORMAL LAW AND POLICY: ORGANIZING IMMIGRANT ILLEGALITIES IN NASHVILLE

In the late 1990s, Latino immigration to the southern United States exploded, as immigrants arrived to cities and towns across the region (Marrow 2011; Massey 2008; Winders 2013; Zúñiga and Hernández-Leon 2005). At first, this migration was largely domestic, consisting of Mexican men already residing in the United States who were pulled to the South by promises of employment in growing construction, manufacturing, and service industries (Johnson-Webb 2003; Smith and Winders 2008; Zúñiga and Hernández-Leon 2005). These domestic arrivals were quickly joined by an international flow consisting of men, women, and children from Mexico and, later, Central America (Winders 2006).

Between 1990 and 2000, Nashville’s Latino population grew by 446 percent, with Mexicans comprising the majority of the growth (U.S. Census Bureau 2011). In 2000, about 27,000 (5 percent) of Nashville’s 570,000 residents were Latino (U.S. Census Bureau 2001). White residents comprised 67 percent of the population, and black residents made up about 26 percent of the population (U.S. Census Bureau 2001). By 2010, the city had grown to 601,000 residents, of whom 10 percent were Latino, 62 percent were white, and 28 percent were black (U.S. Census Bureau 2011). Mexicans and Central Americans comprise almost 80 percent of the city’s Latino population, while Puerto Ricans and Cubans comprise 5 percent and 3 percent, respectively. More specifically, 60 percent of Nashville’s Latino population is Mexican and 18 percent is Central American (among Central Americans, 28 percent are Guatemalan, 27 percent are Honduran, and 37 percent are Salvadoran) (U.S. Census Bureau 2011). Thus, in Nashville, the term *Hispanic* or *Latino* conjures images of Mexican and Central American immigrants. As in the rest of the United States, local preoccupation with immigration focuses predominantly on these groups.

As numerous scholars have pointed out, a patchwork of federal, state, and county laws combine to produce locally contingent forms of immigrant enforcement (Coleman 2012; Varsanyi et al. 2012). Rather than review the many changes in federal immigration law and administration that

created the current system of mass deportation, I focus instead on the state laws and institutional policies that produce everyday illegalities in Nashville.³ By “everyday illegalities,” I refer specifically to the routine ways that laws and institutional policies make it impossible for unauthorized immigrants to act within the law. In the paragraphs that follow, I review the formal changes to law and policy that comprise the crimmigration system in Nashville. Although none of these laws and policies explicitly mention race, they are an example of a racist crimmigration system because they work together to criminalize unauthorized Latino immigrants and produce their deportation.

State Driver’s License Laws

When Latino immigrants began arriving in Tennessee in the 1990s, all state residents were eligible for state driver’s licenses and identification cards (IDs). This changed between 1997 and 2001, when eligibility for driver’s licenses and IDs became contingent on providing one’s social security number.⁴ As a result, many noncitizens (including unauthorized immigrants, foreign students, and nonimmigrant aliens) became ineligible for state identity documents and driving privileges. In 2001, lawmakers loosened eligibility standards by specifying that only applicants who *had* social security numbers were required to supply them. In the first two months of expanded eligibility, the Tennessee Department of Safety issued nearly 30,000 licenses to noncitizens, the vast majority of whom were unauthorized Latino residents (Pulle 2004). In 2004, the Tennessee state legislature passed Public Chapter 778, which required driver’s license and ID applicants to verify their legal presence. Unauthorized immigrants who had obtained driver’s licenses between 2001 and 2004 could keep them until the documents expired (five years), but they would not be able to renew them. Without driver’s licenses, unauthorized immigrants lost their driving privileges as well as legally sanctioned proof of their identities.

Police Department Policy

The Metropolitan Nashville Police Department is the primary law enforcement agency in Nashville, with jurisdiction throughout the county’s 567 square miles. As state legislators battled over driver’s license eligibility in the mid-2000s, changes were also underfoot in the MNP. In 2004, the newly installed MNP police chief changed the department’s policing priorities by implementing an

order-maintenance policing strategy. This approach to policing, which originated in New York City, stems from the theory that cracking down on minor forms of disorder deters more serious crimes (Wilson and Kelling 1982). This logic propelled the New York City Police Department to increase its contact with civilians through the pervasive use of “stop-and-frisk” tactics, in which officers stop, question, and search pedestrians to check them for warrants, weapons, and drug possession (Gelman, Fagan, and Kiss 2007). In sprawling, car-based areas like Nashville, however, police-citizen contact occurs through the deployment of investigative vehicle stops, where police identify minor violations in order to stop cars on the chance that a motorist may be doing something wrong (Epp et al. 2014).

As a result of these new bureaucratic priorities, the number of traffic stops in Nashville dramatically increased beginning in 2004, rising steadily through the mid-2000s. Table 1 illustrates the number of MNP traffic stops between 2003 and 2009.

The data show that traffic stops doubled between 2003 and 2005, from 126,083 stops in 2003 to 269,813 in 2005. To put this rapid escalation in perspective, in 2007, police averaged about 5,000 traffic stops a week, more than twice the average number of stops in similar-size cities (Howard 2008). As I show in the next section, Latinos are particularly vulnerable to traffic enforcement. In 2007, about 8 percent of all traffic stops resulted in arrests; however, stops made on Latino drivers led to arrests 29 percent of the time (Howard 2008).

Adopting the 287(g) Program in the County Jail

Unlike the MNP, the DCSO does not patrol, answer calls, conduct traffic stops, or make arrests. The agency’s primary responsibility is the security and administration of the county jail. In 2007, after a notorious drunk driving case involving an unauthorized Latino immigrant assailant, the sheriff announced that the DCSO would seek authorization to participate in an immigration enforcement program called 287(g). The program allows jail employees to screen immigrant arrestees for immigration violations and process them for deportation. Between 2007 and 2011, the DCSO identified 8,400 immigrants for removal. Almost 80 percent of those identified for removal were arrested for misdemeanors, and 60 percent were arrested for traffic violations (Capps et al. 2011). Although the Sheriff’s Office emphasized that deportable immigrants hailed from 61 different countries of origin,

Table 1. Metropolitan Nashville Police Department (MNPd) Traffic Stops per Year.

Year	Traffic Stops
2003	126,083
2004	218,029
2005	269,813
2006	273,560
2007	260,989
2008	298,989
2009	283,581

Note: Data provided by the MNPd.

more than 98 percent were from Mexico and Central American countries (DCSO 2009). More specifically, 71 percent were Mexican, 11.6 percent were Guatemalan, 10 percent were Honduran, and 5 percent were Salvadoran (DCSO 2009).

IMMIGRATION CONTROL FROM THE BOTTOM

In the previous section, I highlighted the local laws and policies that are crucial for understanding how Latino immigrants are identified for deportation in Nashville. In this section, I move from a description of the law “on the books” to consider the law “in action” (Pound 1910). I focus specifically on how local law enforcement agents—both on the street and in the jail—participate in the local crimmigration system. On the street, Latinos risk getting stopped by local police who have been instructed to aggressively enforce minor violations. Once in jail, Latinos are “criminal aliens” who are punished particularly harshly. In both examples, local law enforcement agents contribute to immigrants’ precarious status, enhancing the state’s power to detain and punish Latinos. The actors who engage in these racializing practices, however, insist that they are colorblind. They describe their behavior as the natural result of laws and policies that they must implement.

Criminalizing Latinos on the Street: The Metropolitan Nashville Police Department

To understand what motivates police activity in Nashville, one must understand the pressures that patrol officers experience. Officers must do more than answer calls, take reports, clear accidents, testify in court, and fill out paperwork. They must also

be “proactive,” a buzzword synonymous with a variety of order-maintenance policing tactics through which they are expected to produce contact with civilians. This is what Lieutenant Lewis reminds officers as he strides into the precinct roll call room, speaking from the podium. In a stern voice, the lieutenant announces that the group needs to “get their stats up” because their vehicle stop numbers are down. “Stats matter,” he tells them. These kinds of admonitions are constant. According to Officer Williams, a white patrol officer in his early twenties, “To the lieutenants there’s no such thing as too many stops. The stats make them look good because they can say, ‘Look at all the work my guys are doing.’”

Under pressure to meet the department’s expectations, officers are always on the lookout to make vehicle stops. Some violations, such as speeding or erratically changing lanes, clearly represent safety issues. For example, when Officer Jones, a white officer in his early twenties, pulled over a sedan after the car swerved unexpectedly into an adjacent lane, he did so because he thought the driver might be impaired, not because he was looking to make a stop. In contrast, when Officer Phillips pulled over a car for cutting through a parking lot to make a right turn, we had been idling nearby, waiting to stop the first motorist who did something wrong. These stops are investigative, and officers make them because the tactic is supposed to help the officers identify guns, weapons, and “criminals.”

In practice, however, officers report that the most common violations they encounter are driver’s license violations. For example, after pulling over a car for cutting through a parking lot instead of waiting at the intersection to make a right turn, Officer Phillips, a white officer in his early twenties, asked the driver for his license. The driver, a young Latino in his early twenties, handed Phillips a Mexican driver’s license. “Passport?” Phillips asked. The man shook his head, saying in accented

English that he did not have one. Phillips asked the driver how long he had lived in Nashville (two years) and returned to the squad car. In the car, Phillips inspected the Mexican driver's license, twirling it between his fingers and holding it up in the sunlight. "It's real, isn't it? It has holograms," said Phillips, handing me the card. He wondered if he should give the young man a warning, but technically, his Mexican driver's license was not sufficient. Foreign driver's licenses are supposed to be accompanied by a valid passport, which the driver could not produce. Moreover, since the motorist was a state resident and not a tourist, he needed a license from Tennessee. Phillips pulled out a thick pad of unissued state citations and began to fill one out for the young man. As we drove away, Phillips wondered again whether he should have issued a warning. He shrugged off the idea quickly. The citation was good for his stats.

After three hours of answering calls, Officer Williams, a white officer in his mid-twenties, lamented the fact that he had not made any stops. Noticing that the navy truck in front of us had an inoperable left brake light, Williams decided this was a perfect opportunity for a quick stop. "License, registration, proof of insurance," said Williams, after approaching the driver. "Good afternoon, sir," responded the driver, as he leafed through his wallet. The man, who had dark brown hair, dark brown eyes, and an olive complexion, handed Officer Williams the car's registration and an ID card, issued in Indiana. His ID card indicated his last name was Sanchez. He spoke English with the ease of a native speaker, although I detected an almost imperceptible accent that suggested to me he had learned Spanish before he learned English. He did not have a license or insurance, and he explained he had just moved to Nashville and bought the truck. "Ok, but you need to be insured since day one," Officer Williams told him. "Yes, sir," responded Mr. Sanchez, explaining that he could not get insurance without a driver's license, but that he could not get a driver's license until his wife mailed him his birth certificate.

Officer Williams told him to "sit tight" and we returned to the patrol car, where Williams quickly began filling out a misdemeanor state citation. He left two items on the citation blank, returning to the truck to ask Mr. Sanchez his address and his place of birth. "In what country were you born?" Williams asked, absentmindedly starting to write down the answer before Mr. Sanchez responded. I watched as he scrawled: M-E-X. I had noticed immediately that Officer Williams asked Mr. Sanchez in what *country* he was born, rather than

where he was born. In fact, Officer Williams was so convinced he knew the answer (Mexico) that he began to write it down automatically.

"I was born in Orange County, sir," said Mr. Sanchez, having understood the question as a request for his county of birth, rather than his country of birth. Williams quickly scratched out what he had written and asked for the name of the city. "Santa Ana, California," said Mr. Sanchez. Officer Williams wrote this down and handed Mr. Sanchez the state citation, saying, "Make sure you go to court. If you get your license and insurance before the court date, it'll probably get dismissed." "Oh yes, sir," responded Mr. Sanchez, "I don't want no problems. I just want to work and provide for my family."

Officially, police officers do not consider race or immigration when they do their jobs. In practice, however, it is impossible for officers not to see that the majority of unlicensed drivers they encounter have brown bodies and Latino surnames and speak Spanish. As this example demonstrates, Officer Williams assumed that Mr. Sanchez was foreign-born because he did not have a driver's license. Indeed, any diversity within the Latino population is largely invisible to police officers, who come to associate not having a license with being Latino and foreign-born (Donato and Rodriguez 2014).

As Latino motorists await their fate, they sit idly on the side of the road, on display for all passing motorists to see. These stops are a spectacle, a visual representation of Latinos' social marginality in the city. At community meetings in South Nashville, attendees mentioned the overzealous enforcement of traffic laws as a problem in their neighborhoods. For example, one evening, at a meeting for Hispanic business owners, the precinct commander invited attendees to speak. A petite Asian woman raised her hand and stood:

The reason why I'm here is because I have a store, a Latino grocery store on Murfreesboro Road and everyday there's police on the streets 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 (police) 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 out. And it's not just one. It's more than one. It's like a party.

Later, at the same meeting, a business owner named Ricardo announced that he was going to tell us about Adela's run-in with the police, because she

was too shy to speak about it herself. According to Ricardo, a police officer began following Adela's car when she left work late one night and eventually pulled her over, claiming that she had not used her turn signal. "But how could that be? If the police were following her, how could she make that mistake?" Ricardo asked incredulously. Adela, who was standing next to Ricardo gazing at the floor, nodded. Ricardo continued. Within minutes of pulling her over, multiple police cars arrived. Officers searched Adela's car and her purse, commenting 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 at this very moment and asking, rhetorically, whether that made him a criminal. Ricardo wanted answers: Why did the police officer tail Adela? Why would they ask to search her car, and why did so many officers appear on the scene of a simple traffic stop?

The commander responded, saying that he could not comment about the traffic stop without more specific details but promising that the department would vigorously investigate allegations of wrongdoing. I knew from my time with patrol officers, however, that this would be considered a "good stop." Having identified an alleged violation, the officer was free to pull Adela over and ask to search her car. The commander explained that he instructed officers to patrol crime-ridden areas. For example, just that weekend, one street had seen four personal robberies, and officers would direct additional enforcement to that area. Ricardo shook his head. "I understand, but there's a difference between what you're saying, Commander, and what the officer was doing following this woman . . . make them understand that they've got to stop profiling."

At this, Officer Moreno, a Dominican officer who jokingly referred to himself as "el negro," defended the department's tactics. He started by describing a number of minor violations that warranted traffic stops, explaining that any punishment Latinos received as a result of these stops was not the officer's fault:

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 seatbelt 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 these people; I'll stop anyone! 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?" And I said, "No! Look, you didn't

have your seatbelt on." Then I asked, "Where's your driver's license? Your ID? Your passport?" Nothing. [He holds up his hands in exasperation.] 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 matrícula. Show your passport. Show whatever documents. Show this one and that 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. What happened to you? [He looked at Adela pointedly.] They gave you a fine and you left, right? Did immigration take you? No? Ok. What happened? You paid a fine! You paid a fine and immigration wasn't there!

Officer's Moreno account makes clear that while Latino residents interpret police behavior as racial profiling, police interpret their practices through colorblind lenses. A Latino officer himself, Officer Moreno insists he is not "looking" to punish Latinos but that he stops them because they happen to commit violations. He goes on to explain that sometimes he "has to" arrest Latinos (take them downtown) because they do not have sufficient identification.

Officer Moreno also pointed out forcefully that immigration agents had not been part of Adela's traffic stop. He suggested that the stop had amounted to no more than a minor inconvenience because Adela had not been arrested and had been able to pay a fine and leave. I always found it odd when police officers talked about state citations and paying fines positively, as if the officers should be recognized for their compassion (see Armenta 2016). True, arrests are more punitive (particularly because arrests lead more directly to deportation), but a citation is no favor. A citation requires misdemeanants to miss a day of work, travel to the downtown county courthouse, wait to be processed (in English), and pay steep fines. Citations can result in misdemeanor convictions, which can have adverse effects on immigrants' ability to regularize their immigration status in the future and can make immigrants priorities for deportation because the conviction makes them "criminals." If misdemeanants do not go to court, a judge will issue a warrant for their arrest. At that point, the fact that the first violation was a minor infraction becomes irrelevant; once the criminal justice system has decreed that the misdemeanant belongs in criminal custody, the misdemeanant turns into someone who is "wanted."

The precarity that Latinos experience as a result of local policing is institutionally created. Institutional policies empower officers to aggressively address trivial infractions through traffic enforcement. Faced with this mandate, officers make large numbers of stops for minor technical infractions and regard unlicensed drivers with suspicion because establishing a person's identity is integral to order-maintenance policing. In fact, the "inability to establish identity" is officers' principal justification for choosing to arrest unlicensed motorists rather than cite them. Ultimately, however, officers' inability to establish identity is also institutionally created. State laws dictate that unauthorized immigrants cannot get Tennessee driver's licenses and IDs. Department policy dictates that satisfactory identification is required to avoid a physical arrest. For Latino immigrants, the identification cards they cannot get are the only ones that will protect them from arrest. Officers may choose to accept passports, consular identification cards, or foreign driver's licenses as "satisfactory" identification, but department policy does not require them to do so. Unlicensed Latino drivers have no protection from punishment. Aggressive enforcement of driving offenses creates a pipeline to deportation (Stuesse and Coleman 2014). Still, because local police explain their behavior as "just" doing their jobs, the systemic racism embedded in these institutional policies appears to be the natural result of colorblind policies.

Criminalizing Latinos in the Jail: The Davidson County Sheriff's Office

In the previous section, I highlighted how institutional policing practices contribute to immigrants' precarity and criminalization. In this section, I examine a similar phenomenon in the Davidson County Jail. I show that the jail's institutional policies and practices produce disproportionately harsh punishment for Latino arrestees, and I argue that inserting immigration enforcement into criminal justice procedures enhances the state's power to detain and punish Latinos. Between 2007 and 2012, the DCSO implemented an immigration enforcement program called 287(g). As part of the program, sheriff's deputies, who are trained to enforce immigration laws, interview foreign-born arrestees to determine their immigration status (see Armenta 2012). The overwhelming majority of immigrants interviewed and identified for removal are Latino.

Thus, Latino immigrants enter the jail as Nashville residents whose presence is formally unauthorized by law but tacitly accepted as necessary to

the low-wage workforce. Many exit, however, as immigrant detainees or "criminal aliens," identified for removal even before they have been convicted of any criminal offense. Implementing immigration screenings upon arrest rather than conviction is a policy decision and political choice. It means that even those who are arrested without cause are subject to deportation. Thus, when a young Latino man presented himself at the jail after an arrest warrant was erroneously served at his house, he was processed for removal through 287(g) even though the charges were dismissed.

Astoundingly, just like the police officers who believe they are doing immigrants a favor by citing them, some DCSO deputies allow themselves to believe that immigrants enjoy getting processed for removal. They imagine that the immigration interview, which lasts between 30 and 45 minutes and occurs in a small room, is a respite from the rest of the booking process. Chad, a deputy with 12 years in the Sheriff's Office, explains:

Most of the time they're in the office with me they're laughing. . . . 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. . . . 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.

Indeed, most sheriff's deputies emphasized that they strove to implement a deportation process that was "humane" or "compassionate." They wanted to "change the face" of deportation processing. They insisted that they were not the bad guys, pointing out that they had no control over who police arrested and delivered to their custody.

In their analysis of criminal justice processing in Seattle, Beckett and Evans (2015) point out that the criminal justice system processes unauthorized immigrants differently than other arrestees. This is also the case in Nashville, where the 287(g) program transformed criminal justice processing, with citizens and noncitizens experiencing differential access to justice. For example, arrestees on immigration detainers were categorically denied the opportunity to bond out or secure pretrial release. If they were given a local bond and decided to pay, it triggered an immediate transfer

from local to federal custody, rather than release. As a result, bail bond agents refused to post bail for arrestees on immigration detainees. Ineligible for pretrial release, most Latino arrestees were incarcerated until their criminal court date.

In addition to not being able to bond out of local custody, inmates on immigration detainees were often denied access to alternative and diversionary sentencing programs. Since a release from jail triggered a transfer to federal custody, unauthorized immigrants could not comply with any sentence that did not involve physical custody. Immigrants could not comply with the terms of alternatives to incarceration, for instance, probation. A DCSO employee explained:

A lot of them are being assigned probation but they can't complete it because they're inside. . . . For example, this guy here, Mr. Ramos. He's on probation. He's got no more charges, but he's in ICE custody, so nobody knows how to handle it. You can't do community service! You can't go to the DUI school!

In addition to having longer overall stays in jail, inmates on immigration detainees experienced harsher procedures once in custody. For example, DCSO officials classified all noncitizen arrestees on immigration detainees as medium-security inmates, even when their arrest offenses corresponded with the lowest-risk classifications. This bureaucratic decision restricted Latino arrestees' access to spaces, activities, and programs to which other inmates had access. One DCSO employee recognized this practice as an injustice, comparing Latinos' experiences to those of other racial and ethnic groups: "Ok. 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 15 steps but Latinos, because they're not legal, are more of a safety risk? Where are they going to go?"

The following well-publicized and controversial case demonstrates how the jail's decision to transform low-level misdemeanor arrestees into medium-risk offenders creates extraordinary punitive procedures for Latino arrestees. In July 2008, a Mexican woman who was nine months pregnant was arrested for driving without a license. When she went into labor while in custody, jail employees treated her as if she were a serious offender. For the majority of her labor and recovery, she was shackled to the hospital bed, a deputy guarding her door. She returned to jail two days later, at which point her infant was released to her family. Had this woman been U.S.-born, she would have been eligible for pretrial release and could have bonded out

of jail. At the very least, she would have been treated as a low-risk offender and not shackled during childbirth.

As this section shows, institutional policies and practices converge to produce particularly punitive treatment for Latinos from the moment they arrive in custody. After booking, officials interview and screen foreign-born arrestees for legal status, subjecting many Latinos, even those with legal status, to additional scrutiny. Once marked with an immigration detainer, immigrants move through the criminal justice system differently than the native-born, with differential access to bail, longer durations in jail, elevated risk classifications, and the looming threat of deportation. These processes are also happening in Norway, where penal policies distinguish between Norwegians, EU nationals, and non-EU nationals (Ugelvick 2013).

Although Latinos comprised the majority of immigrant removals from Davidson County, officials insisted that immigrant removals were "color-blind." Indeed, officials touted the "diversity" of immigrant removals, pointing out that they screened everyone who was foreign-born and that deportees were from many countries of origin. For example, one official said, "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." Another official made a similar statement:

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 is telling about both of these statements is that even as officials are making assertions about the diversity of immigrant removals, they are doing so by referencing Mexicans. To both officials, Mexicans have emerged as the "master category" for "illegality," a term synonymous with removability. This is consistent with earlier work which argues that illegality is a racialized social condition that has become a defining feature of "Mexican"-ness (De Genova 2004).

The 287(g) program empowered DCSO officials to detain arrestees on suspected immigration violations, allowing officials to use accent, phenotype, or last name as markers for illegality. For example, in

2010, Davidson County officials placed an immigration detainer on a U.S. citizen of Mexican descent. Born in Portland, Oregon, the man should never have been subjected to a 287(g) interview, but he was after the arresting officer wrongly listed Mexico as the man's place of birth. Although the man could name 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, sheriff's deputies were unconvinced that the man, who spoke limited English, was in fact a citizen. Ineligible for pretrial release because of the immigration detainer, the man remained in custody until the local charges against him were dismissed for lack of probable cause. Rather than release him, however, DCSO officials held him for nine additional hours until his relatives arrived with his birth certificate and passport. He had been in jail for more than 10 days. Officials insisted that they were just doing their jobs.

During its tenure, Davidson County's 287(g) program was one of the most active immigration enforcement programs in the country. Between 2007 and 2011, Sheriff's Office employees identified approximately 8,400 removable immigrants in the Davidson County jail. The overwhelming majority of those identified for removal by sheriff's deputies were Latinos arrested by local police for minor offenses. Although officials would argue that these removals are solely about immigration status, I submit that they are fundamentally about race.

DISCUSSION: RACIALIZING CRIMMIGRATION

This article extends the literature on the racialization of Latinos via the immigration enforcement system by examining the role of local law enforcement agencies in the production and punishment of illegality. Examining immigration enforcement from the bottom up makes clear that Latino criminalization is institutionally created through penal policies that criminal justice institutions take for granted. The criminal justice system is not colorblind but rather is a system of structural racism that creates racial inequality and reinforces ideas about racial difference (Murakawa and Beckett 2010; Van Cleve and Mayes 2015). From what behaviors are "legal" and "illegal," to how laws are enforced by local police, to how individuals are processed after arrest, Latinos experience particularly harsh punishment and increased scrutiny from legal authorities, both on the street and in jail. This occurs through subtle, institutional, and ostensibly race-neutral laws and policies that produce racial

inequality, even as those who perform them believe they are colorblind.

For example, I argue that the MNPD's order-maintenance approach to policing, with its emphasis on investigatory vehicle stops, drives the contact between Latinos and the police. Although not a response to immigration, and technically a race-neutral policy, investigatory police stops are a powerful race-making practice, both reflecting American racial stratification and actively maintaining it (Epp et al. 2014). Patrol officers make stops for technical violations because it is a bureaucratic priority. Although their tactics may put officers into contact with all residents, these practices subject only some residents to increased levels of scrutiny. Through their implementation of the MNPD's policing priorities, officers subject Latino residents to lengthier inspections, sanctions, and sometimes arrest. These interactions signal Latinos' place in the racial hierarchy, marking Latinos as less than full citizens in the polity.

It is critical to point out that Nashville police do not see what they do as policing immigration. That is, unlike police officers in Netherlands (van der Leun 2003) or London (Parmar 2011), local police are not empowered to stop-and-search in the name of national security, counterterrorism, or immigration enforcement. However, given that criminal laws and immigration laws map onto one another (so that a violation of immigration law guarantees a violation of state criminal law), local police cite and arrest Latinos because Latinos are outside the law by design. By framing their practices as merely doing their jobs, law enforcement bureaucrats can explain away the racial disparities that their practices produce as the natural results of (nonracial) laws and policies. Ultimately, these aggressive police practices undermine the relationship between Latinos and law enforcement, because minorities experience involuntary police encounters as racial profiling (Epp et al. 2014; Solis, Portillos, and Brunson 2009).

Like other researchers examining how immigration status affects criminal justice processing (Beckett and Evans 2015; Light 2014), I argue that both alienage and legal status affect how Latinos move through the criminal justice system. For example, because unauthorized immigrants are issued an immigration detainer, they cannot access pretrial release and diversionary programs. However, unlike extant research on the social control and punishment of noncitizens, I do not imply that this citizenship penalty means that racial inequality is insignificant. Rather, I argue that policies that punish noncitizens are examples of a colorblind institutional racism that is structural and systemic. Thus, even though the overwhelming majority of Latino immigrants

identified for removal are arrested for misdemeanor driving offenses, their contact with criminal justice institutions essentially transforms them into “criminal aliens” who are so “dangerous” they are categorically classified as medium-risk offenders.

In addition to pointing out how many of the disparate outcomes that Latinos experience in criminal justice processing are institutionalized and embedded in law and policy, I also show how frontline workers amplify racialized outcomes through their interactions. For example, I saw an officer wrongly assume that an American motorist of Latino descent was foreign-born when filling out a state citation. Had the officer made the same mistake on an arrest report, the motorist would have been subjected to an immigration screening. This is exactly what happened when the Sheriff’s Office illegally detained the young Latino man born in Oregon. Armed with an arrest report that (erroneously) indicated the man’s place of birth was Mexico, DCSO officials disregarded the man’s assertions that he was born in Portland. In each of these cases, frontline workers, armed with the authority to categorize people as native- or foreign-born, or legally or illegally present, acted on their assumptions and implicit biases, assuming that Latino status, Mexican-ness, and illegality were one and the same. Their decisions clearly illustrate that policies that punish people based on citizenship have spillover effects that harm all Latinos, regardless of legal status or nativity (Aranda, Menjivar, and Donato 2014; Massey 2014a; Massey and Pren 2012).

CONCLUSION

Although this article analyzes the process of Latino punishment and removal in one metropolitan area, the themes that I identify are relevant throughout the United States. The current U.S. system of mass deportation depends on the penal punishment and marginality produced through the criminal justice system. Frontline bureaucratic actors in the crimmigration system play a crucial role in Latino immigrant removal. For example, police, correctional officers, lawyers, and judges perform discrete and specialized tasks that contribute to deportation, but few recognize themselves as forming part of the immigration enforcement machinery. Their work, as well as Latinos’ vulnerability to it, is so taken for granted as the natural order of things that their role in punishing Latinos is largely invisible. So police make arrests that ultimately subject immigrants to immigration screenings, but the police officers themselves do not enforce immigration law. Sheriff’s

deputies, who screen immigrants to verify their status, identify removable immigrants but decide neither who is arrested nor who is ultimately removed. And although the majority of arrestees end up in jail for very minor violations, because they appear in deportation statistics as “criminal aliens,” their removal is seen to serve the interest of national security.

Race is central to understanding the crimmigration system’s devastating effects on Latino communities. This article highlights the mechanisms—the laws, policies, and practices—that undergird systemic and institutionalized racism, reproducing racial domination and reinforcing white supremacy. Policies and practices that punish noncitizens, and more particularly unauthorized residents, are racist. Although their effects may not always be intentional, they stem from a long tradition of preserving the American racial hierarchy. As scholars, it is critically important that we do not erase race from our analyses. Although it is easy to identify policies and practices as racist when they overtly target Latinos or other racial groups, it is even more important that we identify and critique those policies and practices that are not overtly racist but are no less devastating in their consequences.

NOTES

1. The term *Latino* is a pan-ethnic label that describes culturally and geographically heterogeneous groups of Latin American ancestry. Although Latinos can be of any race and nativity, popular representations of Latinos in the United States emphasize an olive or brown skin tone, dark hair, lower-class origins, and the use of the Spanish language. For those who fit this image, physical appearance serves as an embodied marker of exclusion and “illegality” (Romero 2006). Thus, when I use the term *Latino* throughout this paper, I am referring specifically to individuals of Mexican, Central American, or South American origin who conform to popular representations of “Mexicanness” and/or “illegality.”
2. The term *racialization* refers to the process by which ideas about race are constructed, perceived as meaningful, and acted upon. Race is a social construct used to classify people according to ideas about phenotype, culture, ancestry, country of origin, and ethnicity (see Omi and Winant 2014). Although *Hispanic* and *Latino* are officially ethnic labels, they function in the same ways as racial labels.
3. For a thorough review of changes to federal immigration law, see Coleman (2007), Golash-Boza and Hondagneu-Sotelo (2013), and Stumpf (2006).
4. These requirements emerged from a 1996 federal welfare reform law that targeted “deadbeat parents”

by creating new child support enforcement tools, allowing states to track, identify, and potentially deny or revoke licenses to parents who did not fulfill child support obligations.

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