IMMIGRATION, CRIME AND JUSTICE

WILLIAM F. McDONALD

Editor

IMMIGRATION, CRIME AND JUSTICE

SOCIOLOGY OF CRIME, LAW AND DEVIANCE

Series Editors: Mathieu Deflem (Volumes 6–13)
Jeffrey T. Ulmer (Volumes 1–5)

IMMIGRATION, CRIME AND JUSTICE

EDITED BY

WILLIAM F. McDONALD
Georgetown University, Washington, DC

Reprints and permission service
Contact: booksandseries@emeraldinsight.com

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

For Zoe Sophia and Elise Gabrielle

This page intentionally left blank

CONTENTS

This page intentionally left blank

LIST OF CONTRIBUTORS

Alexis A. Aronowitz	University College Utrecht, University of Utrecht, Utrecht, The Netherlands
Marzio Barbagli	Faculty of Statistical Sciences, University of Bologna, Bologna, Italy
Asher Colombo	Faculty of Education Sciences, University of Bologna, Bologna, Italy
Scott H. Decker	School of Criminology & Criminal Justice, Arizona State University, Glendale, AZ
Alessandro De Giorgi	Department of Justice Studies, San Jose State University, California, San Jose, CA
Roxanne L. Doty	Department of Political Science, Arizona State University, Tempe, AZ
Franck Düvell	University of Oxford, Center on Migration, Policy and Society (COMPAS), Oxford, UK
Edna Erez	Department of Criminology, Law, and Justice, University of Illinois at Chicago, Chicago, IL
Amy Farrell	College of Criminal Justice, Northeastern University, Boston, MA
Julie Globokar	Department of Sociology, Northern Illinois University, DeKalb, IL
Jo Goodey	European Union Agency for Fundamental Rights (FRA), Vienna, Austria

Clifford E. Griffin	Department of Political Science, School of Public and International Affairs, North Carolina State University, Raleigh, NC
Bill Jordan	School of Psychosocial Studies, University of Plymouth, Plymouth, Devon, UK
Sang H. Kil	Justice Studies, San José State University, San José, CA
Martin Killias	University of Zurich, Zurich, Switzerland
Vesela Kovacheva	Hamburg Institute of International Economics, Hamburg, Germany
Charis E. Kubrin	Department of Sociology, George Washington University, Washington, DC
Matthew T. Lee	Department of Sociology, University of Akron, Akron, OH
Paul G. Lewis	Political Science, Arizona State Universiy, Tempe, AZ
Toni Makkai	Australian National University, Canberra, ACT, Australia
Ramiro Martinez Jr.	Department of Criminal Justice, Florida International University, Miami, FL
Ester Massa	Faculty of Law, University of Bologna, Bologna, Italy
William F. McDonald	Department of Sociology & Institute of Criminal Law and Procedure, Georgetown University, Washington, DC
Dario Melossi	Department of Legal Sciences, Faculty of Law, University of Bologna, Italy
Cecilia Menjívar	School of Social and Family Dynamics, Program in Sociology, Arizona State University, Tempe, AZ
Graham C. Ousey	Sociology Department, College of William and Mary, Williamsburg, VA

Salvatore Palidda	Faculty of Education, University of Genoa, Genoa, Italy
Doris M. Provine	School of Justice & Social Inquiry, Arizona State University, Tempe, AZ
Wesley G. Skogan	Northwestern University, Evanston, IL
Natalie Taylor	Australian Institute of Criminology, Kingston, ACT, Australia
Monica W. Varsanyi	John Jay College, City University of New York, New York, NY
Dita Vogel	Hamburg Institute of International Economics, Hamburg, Germany
Bastian Vollmer	Center on Migration, Policy and Society (COMPAS), Oxford University, Oxford, UK

This page intentionally left blank

NEW TAKES ON AN OLD PROBLEMATIC: AN INTRODUCTION TO THE IMMIGRATION, CRIME, AND JUSTICE NEXUS

There is a tendency all over the world to make the foreigner bear blame for others. Their different appearance, their poverty, the life in slums, all render them suspect. Hans von Hentig, Victimologist (1948, p. 414)

There is another very important thing about this crime business. I don't want to say anything indiscreet, but unquestionably the hordes of immigrants that are coming here have a good deal to do with crimes against women and children. General Bingham, Police Commissioner, New York City (1911) (U.S. Immigration Commission, 1911a, p. 104)

Mass migration has brought with it a whole new range and a whole new type of crime, from the Nigerian fraudster, to the eastern European who deals in drugs and prostitution to the Jamaican concentration on drug dealing. Add to that the home grown criminals and we have a whole different family of people who are competing to be in the organised crime world. Chris Fox, President of the [United Kingdom] Association of Chief Police Officers (2003) (Ahmed, 2003)

A number of foreigners who illegally entered [Japan] have repeatedly committed despicable crimes, greatly endangering public safety in Tokyo. Tokyo Governor, Shintaro Ishihara (2001) (Reuters, 2001)

In a recent poll of the ''Eurobarometer'' the Greeks are labeled by the European inventors of racism as ''the most xenophobic people'' in Europe, because they argue by more than 80% that ''the foreigners commit more offences than the average Greek.'' Unfortunately for the Eurobarometer, this judgement of the Greeks is accurate. Makis Voridis, President of the Hellenic Front (2002)

Generalizations about the high level of criminality of foreigners are often a cover for the expression of xenophobia feelings, along the same lines as the more frequent statements about the danger of economic damage to local workers or as other biased expressions of hostility. Criminologist, Franco (Ferracuti, 1968, p. 189)

xv

Such comparable statistics of crime and population as it has been possible to obtain indicate that immigrants are less prone to commit crime than are native Americans. [However, available data do not allow for standardization by age, sex, race/ethnicity and offense. Without such data] conclusions regarding the relative amount of crime committed by immigrants and natives must be largely conjectural. U.S. Immigration Commission (1911b, p. 1)

[I]n proportion to their respective numbers the foreign born [strictly so-called] commit considerably fewer crimes than the native born.... U.S. Commission on Law Observance and Enforcement (1931, p. 4)

Given the intense nationalism of today...anti-alien prejudice is natural if deplorable. It was therefore an achievement for the National Commission on Law Observance and Enforcement to have demonstrated that the popular view of the role of the immigrant in crime is grossly exaggerated if not altogether erroneous. But there is such a thing as pro-alien bias. ...[w]hich may blind [immigrant supporters] to facts even superficially unfavorable to them. Donald R. Taft, Criminologist (1933, p. 70)

[I]mmigrants in general contribute less than their quota to the criminal population of the United States when correction is made for variations in the age composition of the immigrant population.... The native white population had a higher arrest rate in each age group and for all except three types of crime, and in those three types the rates were almost identical [in 1937]. Edwin H. Sutherland, Criminologist (1947, p. 123)

Studies have consistently shown that persons from the general migrant population commit fewer offences and are less likely to be in prison than persons from the Australian-born population. Kathleen M. Hazelhurst, Criminologist (1990, p. ii)

In Canada, the United States, and Australia, the criminality of first-generation immigrants has been less than that for the native-born. Official crime statistics for Europe seem to suggest a different picture, with immigrants showing higher offense and imprisonment rates than the native-born. However, self-report studies contradict this finding, and when controls are introduced for age, sex, and other socio-economic characteristics; these differences largely disappear. Yeager, Matthew G., Criminologist (1996)

The past few decades have seen the confluence of two eras in the United States: an era of mass immigration and an era of mass imprisonment. A great deal has been said and written about each, reinforcing age-old popular stereotypes about immigration and crime (a Google search for "immigration + crime" immediately returns 57.2 million hits). But rarely are carefully researched connections made between the two, based on rigorous evidence. Migration Policy Institute (2006) (Rumbaut, Gonzales, Komaie, & Morgan, 2006)

It would seem then that we have traditional and popular beliefs of the greater criminality of the foreign-born ranged on one side, and the statistically backed assertions of the experts that it is less grouped on the other. In such a situation it is reasonable to mistrust the popular beliefs, but it is imperative to examine very carefully the exact meaning of the assertions of the experts. Cortlandt C. Van Vechten, Criminologist (1941, p. 141)

THE ARCHEOLOGY OF KNOWLEDGE

The immigration, crime, and justice nexus holds a special place in the history of criminology. It is one of the oldest, longest running, and ideologically conflicted focal concerns in the discipline. Its lineage reflects the field's record of scholarly innovation in methodology and theory as well as the development of related subjects of special interest, such as victimology and its subfields, domestic violence, human trafficking, hate crime, victim–offender relationships, and other related topics such as community policing and transnational crime and justice.

The alleged criminality of immigrants has been the primary focus of attention. It has been analyzed with individual and with aggregate data; with police and justice system statistics and with self-reported data; and with huge and small data sets that have had a variety of methodological weak points such as samples that were not controlled for or standardized by relevant variables such as age, sex, race ethnicity, nationality, place of birth, and illegal immigrant status.

A second important focal concern has been on immigrants as victims of crime, although generally this topic cannot be found under this rubric. Notwithstanding the fact that pioneer victimologist Hans von Hentig was an immigrant himself and included the immigrant as one of his 13 types of victims, victimologists have not pursued the subject in these terms (McDonald, 2009). Rather they have preferred to use politically more compelling rubrics such as trafficking of human beings, hate crime, or domestic abuse. In addition, scholars from Europe and Australia who have been interested in immigrant criminality and victimization have found it necessary to disaggregate the concept of "immigrant" and to use the more specific categories of race, ethnicity, and nationality.

Then there are some new topics that in today's world are related to the immigration, crime, and justice nexus. The development of the philosophy of community policing with its emphasis on the importance of the police winning the trust and cooperation of their local communities naturally led to a focus on the relationship between the police and immigrant communities. That same focal area assumed even greater significance with the successful mounting of the major campaign against trafficking in human beings beginning in the 1990s. The police were being expected to locate and protect the victims of trafficking and to bring the traffickers to justice.

Another novelty in today's constellation of immigration and crime issues revolves around the matter of border control. At the most fundamental level is the question of whether any national borders, or at least national borders

of states that call themselves "liberal," should be controlled and, if so, how. Driving this challenge is concern about the vastness of world inequality and the demand that rich countries share more of their wealth. At the intermediate level are practices and policies caught up in the business of defending borders. Two efforts in particular are problematic, namely, the defense of the American side of the U.S.–Mexican border by civilians who have been dubbed "vigilantes" by pro-immigrant people, and programs of massive deportation that are flooding small countries with their citizens, many of whom are criminals and are unable to adjust to life in their homelands because they were raised abroad.

This volume addresses all these dimensions of the immigration, crime, and justice nexus. First, if ever there were an issue that needed to be approached with multiple methods, multiple samples, and multiple researchers in order to see whether the findings tended to agree and reinforce each other despite all the respective limitations, it is the question of the criminality of immigrants; nowhere will you find a longer or more robust record of consistent empirical findings than this. Immigrants are not more criminally inclined than natives. A major part of this record is documented in the chapter by **Matthew Lee** and **Ramiro Martinez Jr.** Indeed, the literature they summarize comes to an even more surprising conclusion. It indicates that immigration reduces crime.

Given the strong, perennial public belief that immigrants increase criminality, the scientific evidence to the contrary would have to be substantial and consistent in order to prevail in public discourse. Yet, despite its remarkable consistency, the fund of research showing that immigrants are less criminally inclined than natives has never managed to offset or reverse the public's belief to the contrary. This disjunction bears some analysis if advocates of "public criminology" are to benefit from it. The explanation is simple. The public and the research community are talking passed each other. For the public, any crime by an immigrant is evidence of the criminality of immigrants. It is no consolation to the public to be told that the immigrant's average annual rate of crime (λ) is lower than that of natives. If the immigrants had not been in the country at all, their λ's would have been zero. If they are in the country illegally, their crimes are seen as doubly outrageous, and any discussion of comparative λ's for illegals and natives is taken as evidence of the researcher's liberal bias or lack of contact with reality.

Despite this disjuncture, there continues to be a need for more and even better research on the connections among immigration, crime, and justice. The audience for this research is not the general public but policy makers,

government officials, opinion leaders, and activists as well as scholars seeking the truth and who worry that the next study may find a result that differs from what we know so far. Also, we must keep in mind the warnings of earlier criminologists such as Taft (1933, p. 70) and Van Vechten (1941, p. 141) (see supra) that the literature on immigration and crime reflects the biases of the authors, biases both for and against immigrants, and that the statements of the experts must be examined carefully. Immigration scholarship is by no means free from ideological influence.

Continuing with the latest research on immigrant criminality, the analysis by **Charis Kubrin** and **Graham Ousey** is exactly the type of further exploration needed. Although the body of evidence supporting the conclusion that immigrants are not more criminally inclined than natives is substantial, there remain specific questions that have not been addressed previously with relevant data. They are the first to address the city-level relationship between immigrant concentration and measures of motive-disaggregated homicide rates. Their analyses with new forms of data once again support the consensus that immigration is associated with a reduction in crime. However, they also find some troubling matters. They find a correlation between immigrant concentration and gang-related homicide. There are alternative possible explanations of this finding, one favorable and the other unfavorable to immigrants. But, Kubrin and Ousey's data do not allow them to choose between the explanations. Obviously, this calls for still more research.

More research is needed because the evidence supporting the conclusion that immigrants are less criminally involved than natives is not unconditional. As Matthew Yeager (above) notes, the evidence is based on research in Canada, Australia, and the United States but is not so well supported by research in Europe. Three chapters on immigration and crime in Europe show how this is the case. The immigration–crime connection exists under some conditions.

Martin Killias shows the immigrant involvement in crime in Switzerland has increased substantially since 1980, but he notes that the data do not allow for controls for age and sex and thus do not allow for conclusions about the relative criminality of immigrants and natives. By using national victimization survey data and police statistics, however, he is able to say with some confidence that the disproportionately high rate of crime among immigrants is not due to police bias – an important contribution to the discourse about discrimination against immigrants. His self-reported crime data, however, support the finding that immigrant youths from certain cultures are more criminally inclined than Swiss youths. But the opposite is

true when comparing Swiss youth with juveniles from Bosnia and Herzegovina.

Dario Melossi, **Alessandro De Giorgi**, and **Ester Massa** also present an analysis of self-reported crime data. They compare the self-reported delinquency of Italian schoolchildren against that of second-generation immigrant schoolchildren in Bologna, Italy. The results are doubly surprising. Contrary to the well-known pattern found in American studies of elevated criminality among second-generation immigrants, the second-generation immigrants in Bologna are no more criminally involved than the Italian counterparts. By extension this means that contrary to other European findings, these immigrants in Bologna are no more criminally involved.

Another study from Italy looks at immigrants both as offenders and victims of crime. **Marzio Barbagli** and **Asher Colombo** demonstrate that as in Switzerland, Italy experienced a rapid and significant increase in immigrant criminality over the past two decades. Their data are remarkable for the level of detail about nationalities and immigrant status of victims and offenders. Lacking controls for age and gender compositions of the various nationalities, they are unable to address the question of whether immigrants are more or less criminally involved than natives. However, the data do allow them to present unique and fascinating analyses of the victimology involved. The data show that immigrants do not victimize natives as often as conflict theory would predict. Rather, in keeping with the predictions of the routine activities theory of victimology, immigrants are far more likely to victimize their own co-ethnics. Particularly unusual and interesting are the differential risk ratios for immigrants versus Italians for various crimes.

Victimization data from Australia presented by **Toni Makkai** and **Natalie Taylor** contain a major surprise, namely, that immigrants are less frequently victimized than natives. But there are worries that this finding may be due to immigrants being less willing to define certain behavior as victimization and less willing to report victimizations. Their data also show that immigrants are more likely to perceive their victimizations as racially motivated. Their review covers several types of crimes, some of which are not well documented in the literature. The crimes covered include child abuse, spouse abuse, fraud, violence, and the victimization of businesses.

One of the longest running concerns about the victimization of immigrants is the series of campaigns against the trafficking of human beings. First begun in the second half of the nineteenth century by Josephine Butler, an evangelical British feminist whose father had worked in the campaign to abolish (black) slavery, Butler (2004) set out to abolish "white slavery,"

the trafficking of women for sexual exploitation. Subsequent campaigns have come and gone. In the 1990s, national and international forces converged to bring about the latest campaign that has been associated with the United Nations Convention against Transnational Organized Crime (December 2000) and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and with the American law targeting the same problem, namely, the Victims of Trafficking and Violence Protection Act of 2000.

Two of our chapters deal with the contemporary campaign against the trafficking of human beings. **Alexis Aronowitz** provides a disturbing updated portrait of what is known about this continuing scourge. She draws from world sources that show the problem is found across the globe, and she reports that as morally bad as the problem is there are even, even worst dimensions, the kidnaping of children for exploitation and use as soldiers and also the trafficking of people for body parts. She includes a careful rendering of the distinction between smuggling and trafficking, a critical distinction for legal purposes but one that she shows is blurry in real time.

Later, in our section on the police and immigrant communities, **Amy Farrell** presents the results of a recent survey of state and local police in the United States to determine the extent to which they have responded to the call of anti-human-trafficking campaigners to rescue trafficked women caught in prostitution operations, to treat them as victims not as prostitutes, and to crack down on traffickers. For the local police, responding to such a demand would require a major redefinition of their mission. Farrell's report suggests that is not happening.

Another special form of victimization of immigrants about which there has been a limited but growing body of research is domestic violence. **Edna Erez** and **Julie Globokar** provide a synthesis of that literature and contribute the findings of their own recent study to it. They do not merely repeat the finding that immigrant spouses are uniquely at the mercy of their partners due to their lack of familiarity with the language and the culture and because immigration law gives or puts power in the hands of their partners. They make policy recommendations designed to help bring justice to this corner of the immigrant world.

Still another special concern about the victimization of immigrants stems from the initiatives in the Western world to combat "hate crime." Those initiatives began in the United States and quickly spread to other countries. We have two chapters that address this topic. **Jo Goodey** reports on the state of official data regarding the victimization of immigrants in the countries of the European Union, with special attention to the data on hate crime.

Her analysis sensitizes you to the powerful influence of national and cultural differences on the social construction of crime and victimization statistics. The substantial difference in the number of hate crimes reported in the United Kingdom compared to that of France illustrates the subjective and political nature of these statistics. **William McDonald's** analysis of hate crime legislation comes to the surprising and unpopular conclusion that for immigrants, this well-intentioned initiative is probably doing as much harm as good and needs to be reconsidered.

Illegal immigration is a sizeable problem and a major public concern in many countries. The police role in controlling illegal immigration has become problematic, given the philosophy of community policing. In the United States, the use of local police to enforce immigration is a hotly contested political issue. Four of our chapters are about the police. We have already mentioned Amy Farrell's contribution. **Wesley Skogan** describes the controversy over using the police to enforce immigration law in the United States and shows how immigration enforcement conflicts with community policing. Based on a survey they have just completed, **Scott H. Decker**, **Paul G. Lewis**, **Doris Marie Provine**, and **Monica W. Varsanyi** report there are wide differences among local U.S. police regarding their approaches to handling the illegal immigration problem. **Dita Vogel**, **William McDonald**, **Bill Jordan**, **Franck Düvell**, **Vesela Kovacheva**, and **Bastian Vollmer** address this topic from a comparative perspective. They describe the differences between Germany, the United Kingdom, and the United States regarding the role of local police in the control of illegal immigration. Once again, there are some surprises and notable differences. Despite important differences in legal and administrative structures and ready access to information regarding immigrant status, the authors conclude that none of the three countries has developed a model for police involvement in immigration law enforcement that is both fair to immigrants and adequate for fulfilling the police responsibility for fighting real crime.

Finally, there are three chapters that address border control in very different ways. One of the products of controlling borders is the deportation of individuals who are illegally in a country. As illegal immigration increased, the size and nature of the population of people being deported increased. But, in the United States, deportation policy blends together criminal and immigrant matters. Many deportees are hardened criminals. Between 1998 and 2007, the United States deported 2,199,128 people of which 1,383,070 (63%) were criminal aliens (U.S. Department of Homeland Security, 2008, p. t.37). In effect for countries in the Caribbean, this has amounted to a sudden transfer of a major crime problem from the

United States to them (Faul, 1997; Jones, 2000; Rohter, 1997). **Clifford E. Griffin** argues that a paradox is created by massive deportation. In seeking security from criminal aliens, countries engaging in major deportation efforts that return ill-prepared immigrants to developing countries actually create new security threats from the countries that are destabilized by the influx of criminals.

Next there is a chapter that focuses upon the controversial activities of the civilians who have taken the defense of the U.S.–Mexican border into their own hands. Referred to as ''vigilantes'' by the press (CBS News, 2000; Egan, 2005) and the pro-immigrant community, they see themselves as patriotic Americans defending their lives, their property, and their country against marauding armies of invaders. **Sang Hea Kil**, **Cecilia Menjivar**, and **Roxanne Lynn Doty** review the development of the vigilante response to illegal immigration and provide a perspective that leaves no doubt about their own sympathies. Advancing what might be called a ''soft'' version of brutalization theory, they suggest that militarization of the border could possibly be related to the spread of anti-illegal immigrant efforts that have developed in the interior. They also provide a careful analysis of the meaning of patriotism versus nationalism.

For some readers, our last chapter will provide the most jarring perspective on the immigration, crime, and justice nexus of any of our contributions. For others, it will hit like a revelation, placing this entire discussion into a much broader framework that raises questions about fundamental assumptions and about the relevance of the global political economy. **Salvatore Palidda** interprets the phenomenon of the criminalization of immigration from the non-state perspective derived from the works of well-known critical theorists. While long on perspective and short on proof, his presentation raises haunting questions about rich countries defending their borders in an unequal world. It is an ideal chapter to leave you with because it makes clear that when it comes to immigration, crime, and justice, we are not at an ending but a beginning. In this ''age of migration,'' we need to think again about how we deal with immigrants.

REFERENCES

Ahmed, K. (2003, May 18). Immigrants 'behind crime wave' – Police. *The Observer*.

CBS News. (2000, February 17). Quiet war along southern border: Some even wage vigilante campaign. *CBS News*.

Egan, T. (2005, April 1). Wanted: Border hoppers. And some excitement, too. In nytimes.com. *The New York Times*. Retrieved 04/04/2005, from http://www.nytimes.com/2005/04/01/national/01border.html?

Faul, M. (Msk@cis.org). (1997, April 24). Deportations blamed for Caribbean crime [199704241243.IAA08881@us.net]. *The Associated Press*.

Ferracuti, F. (1968). European migration and crime. In: M. E. Wolfgang (Ed.), *Crime and culture: Essays in honor of Thorsten Sellin* (pp. 189–219). New York: Wiley.

Hazelhurst, K. M. (1990). *Crime prevention for migrant communities*. Canberra, Australia: Australian Institute of Criminology.

Jones, L. (2000, February 29). LA's deportees send murder rate soaring in El Salvador: US accused of exporting gang warfare to Central America. *The Guardian (UK)*.

McDonald, W. F. (2004). Traffic counts, symbols and agendas: A critique of the campaign against trafficking of human beings. *International Review of Victimology*, *11*(1), 143–176.

McDonald, W. F. (2009). The criminal and unscrupulous victimizations of immigrants. In: B. S. Fisher & S. P. Lab (Eds), *Encyclopedia of victimology and crime prevention*. Thousand Oaks, CA: SAGE Publications.

Reuters. (2001, April 8). Tokyo governor warns of illegal immigrants' crimes. *Reuters (Tokyo)*.

Rohter, L. (1997, August 10). Deportees from the U.S. unwelcome in El Salvador. *The New York Times*.

Rumbaut, R. G., Gonzales, R. G., Komaie, G., & Morgan, C. V. (2006, June 1). *Debunking the myth of immigrant criminality: Imprisonment among first- and second-generation young men* (Feature Story: Migration Information Source). Retrieved 02/06/2006, from Migration Policy Institute: http://www.migrationinformation.org/Feature/display.cfm?id = 403

Sutherland, E. H. (1947). *Principles of criminology* (4th ed.). Chicago, IL: J. B. Lippincott.

Taft, D. R. (1933). Does immigration increase crime? *Social Forces*, *12*(1), 69–77.

U.S. Commission on Law Observance and Enforcement. (1931). *Report on crime and the foreign born*. Washington, D.C.: Government Printing Office.

U.S. Department of Homeland Security. (2008, October 7). *Yearbook of immigration statistics*. Retrieved 10/12/2008, from http://www.dhs.gov/ximgtn/statistics/publications/YrBk07En.shtm

U.S. Immigration Commission. (1911a). *Statements and recommendations by societies and organizations interested in the subject of immigration*. Vol. 41. S. Doc. No. 764. 61st Cong., 3d sess. Cong. Washington, D.C.: Government Printing Office.

U.S. Immigration Commission. (1911b). *Immigration and crime*. Vol. 36. S. Doc. No. 750. 61st Cong., 3d sess. Cong. Washington, D.C.: Government Printing Office.

Van Vechten, C. C. (1941). The criminality of the foreign born. *Journal of Criminal Law and Criminology*, *32*(July–August), 139–147.

Von Hentig, H. (1948). *The criminal and his victim: Studies in the sociobiology of crime*. New Haven, CT: Yale University Press.

Voridis, M. (President of the Hellenic Front) (2002). *Illegal immigration and the racism of ''anti-racism''* (Originally published in Ellopia magazine, January 2002). Retrieved 05/05/2002, from http://www.e-grammes.gr/2002/02/voridis_en.htm

Yeager, M. G. (1996). *Immigrants and criminality: A meta survey* (Electronic version). http://www.cyberus.ca/~myeager/art1.htm

William F. McDonald
Editor

PART I
THE CRIMINALITY OF IMMIGRANTS

This page intentionally left blank

IMMIGRATION REDUCES CRIME: AN EMERGING SCHOLARLY CONSENSUS

Matthew T. Lee and Ramiro Martinez Jr.

ABSTRACT

Purpose – *Previously we (Martinez & Lee, 2000) reviewed the empirical literature of the 20th century on the topic of immigration and crime. This chapter discusses developments in this body of scholarship that have occurred in subsequent years.*

Methodology – *This literature review covers recent empirical research associated with the emerging "immigration revitalization perspective."*

Findings – *Recent research has become substantially more sophisticated in terms of analytical methods, including multivariate modeling and statistically grounded mapping techniques. But the conclusion remains largely the same. Contrary to the predictions of classic criminological theories and popular stereotypes, immigration generally does not increase crime and often suppresses it.*

Practical implications – *Our review of the literature challenges stereotypical views about immigrants and immigration as major causes of crime in the United States. Unfortunately, these erroneous views continue to inform public policies and should be reconsidered in light of empirical data.*

> *Value – This chapter represents the first attempt to synthesize recent
> empirical work associated with the immigration revitalization perspective.
> It will be of value to immigration scholars and criminologists as well as
> general readers interested in the relationship between immigration and
> crime.*

In July 2000, the National Institute of Justice (NIJ) released the first volume
of its *Criminal Justice 2000* series. According to Samuels (2000, p. iii), then
acting director of NIJ, the purpose of the series was to provide ''one
compilation comprising a comprehensive, scholarly examination and analy-
sis of the current state of criminal justice in the United States.'' We
contributed a chapter to this first volume that provided a look back at the
scholarship of the 20th century on the relationship between immigration and
crime in the United States. Although the major criminological theories
would generally predict that immigration should increase crime, we conclu-
ded that ''the bulk of empirical studies conducted over the past century have
found that immigrants are typically underrepresented in criminal statistics''
and that ''native groups would profit from a better understanding of how
immigrant groups faced with adverse social conditions maintain relatively
low levels of crime'' (Martinez & Lee, 2000, pp. 486, 516). A decade has
passed since we wrote these words, so it is an appropriate time to assess the
extent to which the conclusions we drew from our review of the 20th century
literature continue to hold in the early part of the 21st century. In the
current chapter, we argue that most of the research on the United States
conducted since 2000 has found that immigration does not increase crime
and may actually suppress it. There are some caveats to this general rule,
which we also explore.

In our *Criminal Justice 2000* book chapter, we grouped the major theories
of crime into three broad perspectives: opportunity structure, cultural
approaches, and social disorganization (see Bankston, 1998). Opportunity
structure theories suggest that groups of people who lack legitimate oppor-
tunities for wealth and social status will ''innovate'' by turning to crime
(Merton, 1938). Immigrants, particularly those who entered the United
States illegally, would seem to have abundant motivation to innovate in this
fashion because many are in the most crime-prone social categories, which
includes young, unskilled, and unattached males, residing in high-poverty
neighborhoods with few opportunities for educational and economic
advancement (Rumbaut, Gonzales, Komaie, Morgan, & Tafoya-Estrada,

2006). Similarly, the cultural background of immigrants may lead to "culture conflict" with the values of the "dominant interest groups" in society, thereby increasing their involvement in crime (see Sellin, 1938, p. 21). In addition, the social disorganization perspective argues that the immigration process itself – regardless of the criminal propensities of individual immigrants – weakens community social controls, which in turn increases crime. This is because the population turnover and language difficulties associated with immigration weaken the social ties among neighbors and disrupt the cohesive social networks that may have existed among a previously homogeneous group of residents (Shaw & McKay, 1969 [1942]). For all of these reasons, immigration has been assumed to be an important cause of crime among scholars and laypersons alike (see also Peterson & Krivo, 2005, p. 345).

Yet the fact that immigrants were generally underrepresented in crime statistics for 100 years suggested to us that the theories might have it wrong. We later developed the thesis that immigration might actually improve neighborhood social control mechanisms and suppress crime, particularly in the impoverished urban neighborhoods in which immigrants tend to settle. We advanced what we called the "immigration revitalization perspective" to explain why (Lee & Martinez, 2002, p. 365). We pointed out that social control would be enhanced by the strong familial and neighborhood institutions that immigrants brought with them, as well as the enhanced job opportunities associated with enclave economies. This perspective has been supported by a host of post-2000 research studies on immigration and crime. Although we would not claim that the research conducted to date is definitive, or that no new studies are needed, we are encouraged that the preponderance of evidence seems to support our perspective, rather than confirming the predictions of opportunity structure, cultural, and social disorganization theories.

That "immigration reduces crime" has become the new conventional wisdom in less than a decade is astonishing given the long-standing agreement (in theory at least) among scholars that the opposite was true. As evidence of the emerging consensus, it is worth noting that McDonald's (2006, pp. 1–2) testimony before the US Senate highlighted the "remarkable degree of agreement" among scholars that "public fears about immigrant criminality have usually not been born out by research." Consider also that by August 2007 more than 130 leading scholars had signed an open letter supporting this consensus addressed to federal and state political leaders, including President George W. Bush – who had recently claimed that

"illegal immigration ... brings crime to our communities" (Rumbaut & Ewing, 2007, p. 3). According to the open letter:

> One of the most pervasive misperceptions about immigrants is that they are more likely to commit predatory crimes than are the native-born .... But this widespread belief is simply wrong (American Immigration Law Foundation, 2007, p. 1).

This letter argued that immigrants are less likely to be involved in crime than are natives and that since the 1990s "crime rates have fallen in the United States, at the same time immigration has increased" (American Immigration Law Foundation, 2007, p. 1). Sampson's (2006) arguments in the *New York Times* go beyond this correlational association to actually suggest a causal relationship: increased immigration deserves an important share of the credit for the dramatic crime drop in the United States. Elsewhere, he argues that immigration reduces crime for non-immigrant groups as well (Sampson, 2008).

Fortunately, the signatories to the open letter could draw on a strong foundation of empirical evidence to dispute the misguided notion that immigration causes crime. But as noted by Rumbaut and Ewing (2007, p. 3), authors of a comprehensive and authoritative report on the topic released by the Immigration Policy Center, the "misperception that the foreign-born, especially illegal, immigrants are responsible for higher crime rates is deeply rooted in American public opinion and is sustained by media anecdote and popular myth." So these scholars have faced an uphill battle in reshaping the public discourse away from inflammatory stereotypes and towards a more constructive dialogue grounded in the available facts. The next section of this chapter reviews the post-2000 research on which the scholarly consensus that immigration reduces crime has been built. Then we conclude by identifying several challenges to this consensus.

THE IMMIGRATION REVITALIZATION PERSPECTIVE: A REVIEW OF THE 21ST CENTURY RESEARCH

When we began writing our *Criminal Justice 2000* book chapter in the final years of the 20th century, there were virtually no book-length treatments of the contemporary immigration/crime relationship – at least in the post-1965 era when immigration rates began to increase dramatically in the wake of federal legal changes – and relatively few scholarly articles. This is no longer the case. A book on crime and immigrant youths (Waters, 1999) appeared shortly after our chapter went to press, and several other books with

a broader focus than just the young have now appeared (Martinez, 2002; Lee, 2003; Martinez & Valenzuela, 2006; Freilich & Newman, 2007; Stowell, 2007). The number of articles and book chapters has grown to the point that they are simply too numerous to review (see also Kubrin and Ousey, this volume). In the discussion that follows, we have attempted to cover some of the major types of research studies produced in recent years, while directing attention to specific books and articles that illustrate what we consider to be especially important points.

Some of the most persuasive evidence that immigration generally does not increase crime and often inhibits it has been provided by multivariate analyses of neighborhoods within large cities that serve as the major destination points for many immigrant groups. Census tracts are often used as proxies for neighborhoods, a practice which is not beyond criticism, and researchers frequently rely on police data for information about crime [but see Sampson, Morenoff, & Raudenbush (2005) for an example of self-reported offending]. Perhaps the earliest example of this kind of research is provided by Lee, Martinez, and Rosenfeld (2001) in their examination of the relationship between immigration and levels of homicide at the tract level in three heavily immigrant cities: El Paso, Miami, and San Diego. Contrary to popular stereotypes and the predictions of sociological theories, the arrival of immigrants to these cities between 1980 and 1990 generally did not increase race-specific homicide levels for the years 1985–1995 when other structural covariates of homicide were controlled, such as poverty, residential instability, and male joblessness. In fact, in two out of six regression models (Latinos in El Paso and blacks in Miami) this "recent immigration" variable was a *negative* and statistically significant predictor of homicide; it was non-significant in three other models. Only in the case of blacks in San Diego immigration was a positive and significant influence on homicide. This paper was one of the first to offer a "counterclaim" that immigration might reduce crime rather than increase it, although the data could not directly determine why. It is important to note that "immigration" can be measured in a variety of ways and that the authors of the study chose to focus on recent immigration rather than constructing a measure of all the foreign-born residents in the city. In the case of Miami, the latter strategy would be problematic because so many of the residents are foreign-born. But there are good theoretical reasons for focusing on recent immigrants, as this is the group that social disorganization predicts will have the "strongest" effect on raising levels of crime (Stowell, 2007, p. 37).

A follow-up study has focused on Miami and San Diego and disaggregated homicides that occurred between 1985 and 1995 into the following

motives: arguments that escalated into lethal violence, intimate partner killings, robbery-murders, and drug-related homicides (Nielsen, Lee, & Martinez, 2005). Results revealed important differences in the effects of social disorganization variables and other predictors by motive-specific outcomes, as well as for outcomes across ethnic groups within cities and within ethnic groups across cities. Importantly, recent immigration (again measured by arrival between 1980 and 1990) is negative or not associated with most outcomes. Specifically, immigration suppressed all four types of black homicide in Miami, was not statistically significant in 10 models, and was positively associated with two types of homicide: drug-related homicide for blacks in San Diego and intimate partner homicide for Latinos in Miami. In other words, contrary to theoretical expectations that immigration increases crime, this result occurred only in 2 out of 16 multivariate models.

A more recent study that employed dozens of multivariate models using several types of violence data for the 1999–2001 period replicated the crime-suppressing effects of immigration in Miami and found no direct effects in Houston and Alexandria, Virginia, net of controls (Stowell, 2007). The author concludes that "with few exceptions, immigration is found to have a negative direct effect on both (expressive and instrumental) forms of violent crime" (Stowell, 2007, p. 137). Interestingly, this study also found that immigration from both Ethiopia and Ghana was associated with reduced violence in Alexandria, which highlights the value of disaggregating by nationality (contrary to the uniform effects of immigration predicted by social disorganization theory).

Sampson and colleagues (2005) extended this line of work by collecting self-reports of violent offending (rather than homicide) between 1995 and 2003 at the neighborhood level in Chicago. They found that Mexican Americans were involved in violence at a significantly lower rate compared to both blacks and whites. This finding was especially pronounced for first-generation immigrants (i.e., those born abroad). Moving beyond the individual data, they found that concentrated immigration at the neighborhood level was also associated with lower levels of violence after controlling for a host of other structural covariates (e.g., poverty). Their analysis also compared neighborhoods according to their level of risk for crime and discovered that the "average" male living in a "high risk" neighborhood without immigrants was 25 percent more likely to engage in violence than one in a "high risk" immigrant neighborhood. Regardless of how one looked at the data, the conclusion was clear: immigration was a protective factor against crime. Unfortunately, this study also paradoxically found that the neighborhood concentration of Latinos "strongly predicted perceptions of

disorder no matter the actual amount of disorder or rate of reported crimes'' (Sampson, 2008, p. 30). It seems that old stereotypes die hard, especially in an era of increased public rhetoric that claims immigration causes crime.

Beyond these neighborhood level studies, an examination of crime trends at the city level have led Sampson (2008, p. 30) to argue that ''cities of concentrated immigration are some of the safest places around.'' For example, border cities with large immigrant populations such as El Paso and San Diego have consistently ranked among the lowest crime cities, while places like New York City and Los Angeles have experienced dramatic crime drops as their immigrant populations boomed. Conversely, cities with small immigrant populations tend to have some of the highest crime rates. In fact, in the words of one reporter, Sampson attributes the recent homicide surge in cities like Baltimore, Philadelphia, Newark, and Boston to a problem that many criminologists would not expect: these places are characterized by ''not enough new immigrants'' (Dale, 2007, p. 1). One recent study conducted a multivariate test of the idea that cities have benefited from lower crime rates associated with immigration. Reid, Weiss, Adelman, and Jaret (2005, p. 775) examined violent and property crime in roughly 140 metropolitan areas and conclude that:

> For neither the case of violent crime nor property crime, in our analyses, does recent immigration inflate crime across metropolitan areas. In fact, recent immigration and Asian immigration actually exhibit a crime-reducing effect on homicides and thefts, respectively.

This is consistent with Sampson's (2008, p. 32) explanation that there is a ''growing consensus'' that immigration has revitalized American cities by adding to their previously stagnating populations and fostering economic growth. The proliferation of such arguments is one reason why we originally coined the phrase ''immigration revitalization perspective'' (Lee & Martinez, 2002, p. 365) to highlight the distinction between this line of reasoning and other competing theories such as social disorganization.

Although multivariate statistical modeling techniques used in the studies that we have reviewed so far have made important contributions to our understanding of the relationship between immigration and crime, even when these models control statistically for ''spatial dependencies'' (geographically situated associations between variables), there are important shortcomings with this method. Specifically, it tends to obscure the geographic location of the impact of immigration in specific neighborhoods. So, although it is clearly important to establish the fact that immigration generally does not increase levels of crime in urban neighborhoods, it is also

vital to move beyond this initial question to precisely identify the specific neighborhoods in which immigration affects crime rates either positively or negatively. As Lee, Martinez, and Stowell (2008) argue, most people are more interested in the relationship between immigration and crime in their own local neighborhood than citywide trends. As a result, scholars have used a variety of mapping techniques in order to provide more detailed information on individual neighborhoods. The work of the early social disorganization theorists such as Shaw and McKay (1969 [1942]) used such maps to great effect.

Building on the extensive crime mapping tradition, Lee and Martinez (2002) used crime maps to examine the relationship between Haitian immigration and homicide (for the 1985–1995 period) in two predominantly "black" Miami neighborhoods. In contrast to the quantitative analyses reviewed so far, their "critical case study" qualitatively tested social disorganization theory with visual data. Consistent with the quantitative research, they found that recent immigration has not "disorganized" the communities in northern Miami. The visual evidence they present demonstrates quite clearly that homicide levels decrease as one moves west to east from the predominantly native-born African American neighborhood of Liberty City to the heavily immigrant Little Haiti community. The relationship of these two variables with poverty is less clear, as there are areas of both Liberty City and Little Haiti that exhibit high poverty and areas of both neighborhoods that are less impoverished. Although previous research had established the relationship between immigration and crime in this predominantly Latino city, the extent to which this relationship held in specific black neighborhoods was unknown.

Another map-based study extended this work by using more recent homicide data (1998–2002) for all census tracts in Miami-Dade County (Lee et al., 2008). Noting that recent scholarship in the social disorganization tradition tends to neglect the spatial arguments made by the theory, the authors moved beyond statistical models and rudimentary maps to uncover the multivariate statistical effects of immigration and other social structural covariates (residential instability and household income) on crime in a map-based context. Using exploratory spatial data analysis (ESDA) to examine the spatial association of these variables, they found that (once again) contrary to the expectations of social disorganization theory immigration is not increasing homicide in neighborhoods in which immigrants settle. This research represents an improvement over the simple spot maps or shaded maps of Shaw and McKay and others working within the ecological tradition (e.g., Lee & Martinez, 2002) because maps not grounded in

statistics are often "noisy" and display trends that can fool the eye (see also Murray, McGuffog, Western, & Mullins, 2001). But statistically based ESDA maps display reliable patterns based on precise analytical techniques, rather than the guesswork of visual identification. In other words, this study removed potential noise from the visual presentation and retained only the statistically important relationships. Importantly, this study identified specific high immigration and low homicide census tracts that are described as "revitalized" (Lee et al., 2008). These areas of the county are strategic locations for follow-up studies that might help us begin to understand how the revitalization process unfolds over time, a key element in the story about immigration and crime that is missing from the mostly cross-sectional work that has been done.

As we have seen, for some purposes it is helpful to talk about the involvement of "immigrants" in criminal activities, or "immigration" as a social process. But this approach can obscure important group differences across racial/ethnic categories, country of origin, or generational status, just to name a few (Sampson, 2008). Another fruitful research strategy involves the disaggregation of crime data into specific, theoretically meaningful subgroups. Examining the crime patterns of a focal category of immigrants is especially appropriate when this group has been the target of stereotyping in public discourse. Such was the case for Cubans who arrived in South Florida via the Mariel boatlift in the early 1980s. Marielitos were maligned as heavily involved in crime by a variety of public commentators and horror stories about the crimes of individual Mariel Cubans (or attributed to them) were used to perpetuate the myth of the criminal immigrant. In fact, the popular movie *Scarface* recasts depression-era Chicago gangster Al Capone as a machine gun-toting Marielito drug lord in Miami. But several studies dispute the mythology of the crime-prone, violent Mariel. For example, Martinez, Lee, and Nielsen (2001) offer a revisionist account based on systematically collected data from Miami, showing that Mariels were not disproportionately involved in homicides involving strangers or particularly violent homicides. These are the types most feared by the public and most often associated with stereotypes about immigrant criminality. A follow-up study provided evidence that the Mariel Cubans were not over-involved in drug-related or robbery homicides, as stereotypes had asserted (Martinez, Nielsen, & Lee, 2003). Using multivariate methods, this article revealed few significant relationships between Mariel offenders and homicide motives, suggesting that this immigrant group has more in common with native groups' experiences of criminal violence than is commonly assumed.

Another demonstration of the way in which thoughtful data disaggregation is essential to understanding the relationship between immigration and crime is provided by an examination of data on incarceration comparing natives to various foreign-born groups (e.g., Mexicans, Koreans). One recent study to do this using national and local-level data found that immigrants had lower rates of incarceration for every ethnic group comparison and that as the amount of time in the United States increased, so did incarceration rates (Rumbaut et al., 2006). In fact, nativity was a stronger predictor of incarceration than education, which is contrary to the conventional wisdom. The authors conclude that a process of "Americanization" (Rumbaut et al., 2006, p. 73) accounts for the rise in incarceration rates among immigrants as the duration of their residence in the United States increases. So, although first-generation immigrants have comparatively low rates of incarceration, with a handful of exceptions the incarceration rates of all US-born Latin American and Asian groups are greater than that of the comparison group of non-Hispanic whites. The authors conclude that disaggregation is required to overcome the "national bad habit of lumping individuals into a handful of one-size-fits-all racialized categories (black, white, Latino, Asian) that obliterate different migration and generational histories, cultures, frames of reference, and contexts of reception and incorporation ... " (Rumbaut et al., 2006, p. 85).

CAVEATS TO THE EMERGING CONSENSUS

The story that we have told so far has been relatively uniform: contrary to stereotypes and the expectations of classic criminological theories, immigration does not seem to increase crime and often seems to reduce it. However, there are complexities within this general narrative that researchers are just beginning to address. As with any research endeavor, the studies that we have reviewed can be questioned on a variety of methodological grounds [see Mears (2001) for some examples]. In this section we identify several issues that we see as especially important for future researchers to consider. It is too soon to know whether these concerns will ultimately undercut our central argument that immigration often revitalizes cities and reduces crime, and rarely increases it. Given the weight of the evidence, we doubt that the immigration revitalization perspective will be abandoned in the near future, although the exceptions to the general trend must be identified and understood. For example, Martinez et al. (2003) found that Afro-Caribbeans were over-involved in drug-related homicides in Miami compared to other ethnic

groups. There are reasons for these kinds of exceptions and they do not reside in essentialist qualities of "immigrants" or even particular immigrant groups. Rather, they often reflect the context of reception/assimilation that shapes the life chances of specific groups of immigrants. We must also point out that our discussion has been limited to the United States. Studies of immigration and crime in other countries have uncovered both positive and negative relationships (e.g., see Freilich & Newman, 2007).

Stowell (2007) offers what is perhaps the most significant challenge to the "immigration reduces crime" narrative in his thoughtful examination of violence (a composite of homicide, robbery, and aggravated assault) in Miami, Houston, and Alexandria (Virginia). Although one must be cautious about generalizing from a study of three cities at one point in time, his important work has revealed a flaw in much of the research conducted to date: it has "focused exclusively on the direct effects" of immigration on crime and ignored "the possibility that immigration may be linked to crime through its impact on social structure" (Stowell, 2007, p. 105). Briefly, he finds evidence that immigration often (but not always) increases poverty and other structural covariates of crime and that it inflates crime rates through this indirect pathway. This is especially the case for Houston, but much less so for Miami (where the negative direct effects were quite robust). If nothing else, this research reminds us that the relationship between immigration and crime is both context specific and quite complex.

The indirect effects of immigration on crime are not entirely clear in this study because a direct test (as with structural equation models) was not possible. In addition, immigration seems to promote residential stability in some multivariate models even though it increases poverty in others. But more to the point, a question could be raised about the precise impact of immigration on crime through the indirect pathway of poverty because immigrants generally have strong "attachments to the world of work" (Martinez, 2002, p. 133) even in impoverished circumstances. In other words, the effects of poverty on the propensity of immigrants to commit crime may be attenuated by the fact that they are poor but working rather than poor and jobless. Stowell's methods cannot address this question, but we suggest that even though immigration contributes to the poverty rate in the cities that he studied, we cannot know for certain that it is immigrant poverty in a particular city that is raising levels of crime, rather than the poverty of other groups. The bulk of the evidence that we have reviewed in this chapter suggests to us that the latter is more central to explaining high rates of crime. But future research is needed to answer this question definitively, and we are indebted to Stowell for moving the field in a useful direction.

One possible solution to the issue of indirect effects might be found by comparing the relative contribution of different generations of immigrants to a particular community's crime problem. As we have stated, we must be cautious about treating all immigrant groups as equivalent, especially in light of data that suggests important variations by nationality/ethnicity (Stowell, 2007). But because of the scholarly consensus that first-generation immigrants are under-involved in crime, while second- and third-generation immigrants may be overrepresented, it stands to reason that the indirect effect of immigration on crime through variables such as poverty might be found outside of the first generation. Attention to assimilation patterns of immigrants reveals that first-generation immigrants tend to be optimistic about their circumstances despite the ''objective'' fact that they are relatively poor (Stowell, 2007). They cope with this situation in pro-social ways because no matter how bad their situation may be in the United States, it is still often much better than the conditions they left in their country of origin. The second- and third-generation immigrants do not have this reference point and may be much more pessimistic about their future. The relevant reference group for them is more likely to be the American middle and upper classes, rather than impoverished groups in their countries of origin.

Perhaps we should be less interested in the question, ''what is the effect of immigration on crime?'' and focus instead on, ''what is the net effect of immigration on crime across all generations?'' By only focusing on the first generation, we miss the impact of the subsequent generations (Waters, 1999; Rumbaut et al., 2006; Morenoff & Astor, 2007; Stowell, 2007). Does the crime-suppressing effect of the first generation outweigh the crime-facilitating effects of subsequent generations? And if not, should the blame for increased crime be placed on immigrants and immigration, or on features of the American cultural and structural landscape? After all, many scholars suggest that it is the ''Americanization'' of immigrants that shapes the involvement of the second and third generations in crime, not the essential qualities of the immigrants themselves.

These are complicated issues and must await further research for resolution. As Stowell (2007) and many others have pointed out, the relationship between immigration and crime is best understood longitudinally. Unfortunately, virtually all of the analyses that we have to date have utilized cross-sectional data. The over-time studies that do exist often do not incorporate appropriate statistical controls and frequently take the form of trend graphs which provide associational rather than causal information. The results from one longitudinal study are encouraging, as a two-decade study of San Diego found that ''over time more immigrants in general means fewer overall

homicides" (Martinez, Stowell, & Lee, in progress, p. 21). Interestingly, as immigration increased, the non-Latino white homicide level declined as well, a finding that is consistent with results from other cities (Sampson, 2008).

Nevertheless, the myth of the criminal immigrant persists. As we have seen, this belief is increasingly under attack, but it remains quite common among some academics, policy makers, pundits, and segments of the general population. We hope that the review we have provided in this chapter will join with the voices of others who wish to move beyond harmful stereotypes and understand the complex relationship between immigration and crime. We believe that an honest examination of the data will lead us to the conclusion that immigration is not a major cause of crime in the United States and that we can learn a great deal by understanding the many ways in which immigration prevents crime.

REFERENCES

American Immigration Law Foundation. (2007). Open letter on immigrants and crime, July 2. Retrieved July 20, 2007 (www.ailf.org/ipc/ipc_openletter0507.shtml).

Bankston, C. L., III. (1998). Youth gangs and the new second generation: A review essay. *Aggression and Violent Behavior*, *3*, 35–45.

Dale, M. (2007). Homicides soar in some east coast cities. Associated Press, June 29. Retrieved June 30, 2007 (http://news.yahoo.com/s/ap/20070629/ap_on_re_us/homicide_corridor).

Freilich, J. D., & Newman, G. R. (Eds). (2007). *Crime and immigration*. Aldershot, England: Ashgate.

Lee, M. T. (2003). *Crime on the border: Immigration and homicide in urban communities*. New York: LFB Scholarly Publishing.

Lee, M. T., & Martinez, R., Jr. (2002). Social disorganization revisited: Mapping the recent immigration and black homicide relationship in northern Miami. *Sociological Focus*, *35*, 365–382.

Lee, M. T., Martinez, R., Jr., & Rosenfeld, R. (2001). Does immigration increase homicide? Negative evidence from three border cities. *The Sociological Quarterly*, *42*, 559–580.

Lee, M. T., Martinez, R., Jr., & Stowell, J. I. (2008). Immigration and homicide: A spatial analytic test of the social disorganization theory. *Journal of Social and Ecological Boundaries*, *3*(2), 9–31.

Martinez, R., Jr. (2002). *Latino homicide: Immigration, violence, and community*. New York: Routledge.

Martinez, R., Jr., & Lee, M. T. (2000). On immigration and crime. In: G. LaFree (Ed.), *Criminal justice 2000: The changing nature of crime* (Vol. 1, pp. 485–524). Washington, DC: National Institute of Justice.

Martinez, R., Jr., Lee, M. T., & Nielsen, A. L. (2001). Revisiting the Scarface legacy: The victim/offender relationship and Mariel homicides in Miami. *Hispanic Journal of Behavioral Sciences*, *23*, 37–56.

Martinez, R., Jr., Nielsen, A. L., & Lee, M. T. (2003). Reconsidering the Marielito legacy: Race/ethnicity, nativity, and homicide motives. *Social Science Quarterly*, *84*, 397–411.

Martinez, R., Jr., Stowell, J. I., & Lee, M. T. (In Progress). Immigration and crime in an era of transformation: A longitudinal analysis of homicides in San Diego Neighborhoods, 1980–2000.

Martinez, R., Jr., & Valenzuela, A., Jr. (Eds). (2006). *Immigration and crime: Race, ethnicity and violence*. New York: New York University Press.

McDonald, W. F. (2006). Testimony: United States Senate Committee on the Judiciary examining the need for comprehensive immigration reform, Part II (July 12).

Mears, D. P. (2001). The immigration-crime nexus: Toward an analytic framework for assessing and guiding theory, research, and policy. *Sociological Perspectives*, *44*, 1–19.

Merton, R. K. (1938). Social structure and anomie. *American Sociological Review*, *3*, 672–682.

Morenoff, J. D., & Astor, A. (2007). Immigrant assimilation and crime: Generational differences in youth violence in Chicago. In: R. Martinez, Jr. & A. Valenzuela, Jr. (Eds), *Immigration and crime: Race, ethnicity and violence* (pp. 36–63). New York: New York University Press.

Murray, A. T., McGuffog, I., Western, J. S., & Mullins, P. (2001). Exploratory spatial data analysis techniques for examining urban crime. *The British Journal of Criminology*, *41*, 309–329.

Nielsen, A. L., Lee, M. T., & Martinez, R., Jr. (2005). Integrating race, place and motive in social disorganization theory: Lessons from a comparison of black and Latino homicide types in two immigrant destination cities. *Criminology*, *43*, 837–872.

Peterson, R. D., & Krivo, L. J. (2005). Macrostructural analyses of race, ethnicity, and violent crime: Recent lessons and new directions for research. *Annual Review of Sociology*, *31*, 331–356.

Reid, L. W., Weiss, H. E., Adelman, R. M., & Jaret, C. (2005). The immigration–crime relationship: Evidence across US metropolitan areas. *Social Science Research*, *34*, 757–780.

Rumbaut, R. G., & Ewing, W. A. (2007). *The myth of immigrant criminality and the paradox of assimilation: Incarceration rates among native and foreign-born men*. Special report of the Immigration Policy Center. American Immigration Law Foundation, Washington, DC.

Rumbaut, R. G., Gonzales, R. G., Komaie, G., Morgan, C. V., & Tafoya-Estrada, R. (2006). Immigration and incarceration: Patterns and predictors of imprisonment among first- and second-generation young adults. In: R. Martinez, Jr. & A. Valenzuela, Jr. (Eds), *Immigration and crime: Race, ethnicity and violence* (pp. 64–89). New York: New York University Press.

Sampson, R. J. (2006). Open doors don't invite criminals: Is increased immigration behind the drop in crime? *New York Times*, March 11, p. A27.

Sampson, R. J. (2008). Rethinking crime and immigration. *Contexts*, *7*, 28–33.

Sampson, R. J., Morenoff, J. D., & Raudenbush, S. (2005). Social anatomy of racial and ethnic disparities in violence. *American Journal of Public Health*, *95*, 224–232.

Samuels, J. E. (2000). From the director. In: G. LaFree (Ed), *Criminal justice 2000: The changing nature of crime* (Vol. 1, p. iii). Washington, DC: National Institute of Justice.

Sellin, T. (1938). *Culture conflict and crime*. New York: Social Science Research Council.

Shaw, C. R., & McKay, H. D. (1969 [1942]). *Juvenile delinquency and urban areas* (rev. ed.). Chicago: University of Chicago Press.

Stowell, J. I. (2007). *Immigration and crime: The effects of immigration on criminal behavior*. New York: LFB Scholarly Publishing.

Waters, T. (1999). *Crime and immigrant youth*. Thousand Oaks, CA: Sage.

IMMIGRATION AND HOMICIDE IN URBAN AMERICA: WHAT'S THE CONNECTION?

Charis E. Kubrin and Graham C. Ousey

ABSTRACT

Purpose – *Despite the commonly held stereotype that immigration and crime go hand in hand, there are but a few studies that examine the relationship between immigration and crime across macro-social units, including neighborhoods, cities, and metropolitan statistical areas (MSAs). Even fewer focus on homicide, particularly homicide disaggregated by motive and circumstance. The current study addresses this shortcoming by examining the relationship between immigration and homicide across large cities in the United States.*

Methodology – *We extend prior work by disaggregating homicide into different ''types'' based upon motive and circumstance to determine whether immigration is linked not only to overall homicide rates but also to specific types of lethal violence that some suggest may be higher in places where immigrants are more prevalent.*

Findings – Cities with greater immigrant concentration have lower homicide rates. There is a significant and fairly strong positive relationship between immigration and gang-related homicides.

Value – This analysis with disaggregated homicide adds to the findings that immigration is not associated with increased crime. Its finding of a correlation between immigration and gang-related homicides points to the next question that needs to be addressed with appropriate data.

INTRODUCTION

Regardless of time period, public opinion has always been that immigration and crime are causally linked (Simon, 1985, 1987). Even today, in an era that ostensibly is friendly to the notion of multiculturalism, this belief remains firmly rooted. As a case in point, in 2000, the General Social Survey asked the following question: "Do more immigrants cause higher crime rates?" Twenty-five percent of respondents said this was "very likely," and another 48% said this was "somewhat likely," resulting in nearly three-fourths believing that immigration and crime go hand in hand.

The perception of a causal link between immigration and crime is frequently reinforced by the juxtaposition of the words "immigration" and "crime" in news stories (Butcher & Piehl, 1998, p. 457). High-profile "news" shows such as Bill O'Reilly's *The O'Reilly Factor* shine a spotlight on negative stories that portray immigrants as major contributors to crime in America.

In contrast to the ubiquity of news stories on the immigration–crime connection, relatively little attention has been given to the topic by academics, particularly criminologists. Martinez (2006, p. 2) claims, "While studies of immigrants in many social science disciplines have proliferated, less attention has been paid to . . . the consequences of immigration on crime, despite an intensified public debate about this topic." The area receiving the least amount of attention in the research literature is that which focuses on possible linkages between immigration and crime at the aggregate level (Reid, Weiss, Adelman, & Jaret, 2005, p. 758).

The current study addresses this shortcoming by examining the relationship between immigration and one form of violent crime – homicide – across large cities in the United States. We disaggregate homicide into different "types" based upon motive and circumstance to assess whether immigration is linked not only to overall homicide rates but also to rates of specific types of lethal violence.

WHY STUDY HOMICIDE?

In the current study, we have chosen to focus on homicide for both substantive and methodological reasons. Substantively, public opinion on immigration and crime overwhelmingly centers on the idea that immigrants are violent and that immigration to an area increases its rates of violence. Immigrants' involvement in crime, as portrayed in popular media, is often linked to street gang activity. Martinez (2002) notes that immigrants, especially Latinos, have been depicted in publications by Washington think tanks and in popular films as a group that tends to be heavily involved in criminal gangs that frequently perpetrate assault and homicide. Immigrants are also commonly believed to be regular participants in the drug trade and sponsors of the violent interactions thought to be concomitant of illegal drug markets.

Methodologically, focusing on homicide lessens the potential for bias that may occur when criminal behavior is measured using "official" (i.e., police) data, as we do in the current study (and, incidentally, as is done in most studies). There are multiple reasons why official data may be biased in this respect. First, it is well noted that crime committed by immigrants, often against other immigrants of the same nationality, goes unreported (Horowitz, 2001). Horowitz (2001, p. 5) cites several reasons for underreporting: (1) Certain immigrant cultures view family crime as a "family matter," and hence not something that should concern the police; (2) many victims fear that contacting local police could result in deportation; (3) foreign-born criminals in the United States are well connected to crime rings abroad and can rely on the help of their compatriots to escape detection; and (4) criminals from Mexico, the country of origin for the largest number of immigrants to the United States, regularly "commute" across the border.

A second reason for bias is related to the behavior of law enforcement officials rather than the behavior of immigrants themselves. From a social control perspective, it is often argued that immigrants may be more likely to be apprehended than natives (Butcher & Piehl, 1998, p. 459). Indeed, research has documented that the police are more likely to arrest immigrants than citizens for criminal behavior (Hagan & Palloni, 1999; Zatz, 1985). We argue these problems are less likely to result with official homicide data, given the nature and seriousness of the offense. As Wolfgang (1958, p. 17) claimed, "criminal homicides known to the police, investigated, recorded, and procedurally followed through to conclusion provide the most valid and comprehensive data for description and analysis, as well as the best index of the amount and nature of this offense."

WHAT IS KNOWN ABOUT IMMIGRATION AND HOMICIDE

There are but a handful of studies that examine the relationship between immigration and crime across macro-social units, including neighborhoods, cities, and metropolitan statistical areas (MSAs). Even fewer focus on homicide, particularly homicide disaggregated by motive and circumstance.

Despite their rarity, a common finding from most, if not all, studies is that immigration, in fact, does *not* have a positive association with crime rates as stereotypes suggest. As Lee and Martinez highlight in their chapter in this book, extant research indicates that immigration has no association with crime or violence, and in those cases when a significant association is reported, the direction of the relationship is often negative. That is, areas with increased immigration report lower rates of violence, not higher, as is commonly believed. We will not discuss these studies in depth (see Lee and Martinez's chapter for details), but below we provide a few examples to showcase this literature.

In their study of Miami, El Paso, and San Diego neighborhoods, Lee, Martinez, and Rosenfeld (2001) discover that, controlling for other factors, immigration generally does not increase homicide levels among Latinos and African Americans. Their results challenge stereotypes of both the "criminal immigrant" and the core criminological notion that immigration, as a social process, disorganizes communities and increases crime. In a related study of black homicide in the northern section of Miami (an area that has received numerous recent arrivals from Haiti and contains an established African American community), Lee and Martinez (2002, p. 372) likewise find the presence of immigrants does not appear to have the disorganizing effect predicted by social disorganization theory. Finally, in a third study comparing and contrasting Asian homicide in the three largest Asian communities in San Diego, Lee and Martinez (2006, p. 109) yet again conclude their findings support the 'immigration paradox' – that recent immigration does not have the deleterious consequences expected by sociological theories.

To date, only one neighborhood-level study examines the impact of immigration on disaggregated homicide rates. In that work, Martinez (2000) determined that Latino immigration had varying effects on different "types" of Latino killings. While immigration was linked to higher Latino felony homicide, for all other types of Latino homicide (acquaintance, family intimate, and stranger), the effect of immigration was negative (Martinez, 2000, p. 372). This latter finding is consistent with other research.

Studies at higher levels of geographic aggregation suggest a similar story. In their analysis of immigration and crime in a sample of MSAs, Reid et al. (2005) conclude,

> ...[T]here is no evident crime-conducive effect of immigration. The effects of a variety of measures of immigration on homicide, robbery, burglary, and theft are consistent. Even controlling for demographic and economic characteristics associated with higher crime rates, immigration either does not affect crime, or exerts a negative effect. They further assert: Our findings support neither the conventional conceptualizations nor the criminological theories that predict increased immigration will lead to increased rates of crime (p. 775).

Collectively, the findings from these studies suggest the impact of immigration on crime is either null or negative across geographic units. Yet, only the work of Martinez (2002) examines the impact of immigration on homicide disaggregated by victim–offender relationship, and while informative, that work is limited to a focus on only a select handful of cities. Thus, a broader analysis of the macro-level link between immigration and types of homicide is warranted, and key questions remain unresolved: Is there a consistent (e.g., negative) effect of immigration on homicide across homicide types (e.g., altercation, felony, drug-related, and gang-related)? And if there are variations in the impact of immigration on homicide types, what may explain this variation? Our study addresses these questions using a sample of more than 200 large U.S. cities. Before presenting the results, we first outline reasons why we believe it is important to disaggregate homicide into specific types and discuss conceptual arguments that predict differing effects of immigration on different homicide types.

DISAGGREGATING HOMICIDE

One of the key shortcomings associated with the aggregate literature on immigration and crime is that, as noted earlier, "to date, few studies have systematically explored the links between immigration and types of crime" (Mears, 2002, p. 285). Prior studies that focus on homicide treat it as a unitary phenomenon. This assumes that predictors of homicide, including immigration, are the same, regardless of the motives and circumstances that surround homicide incidents. Yet Martinez (2000, 2002) underscores that examining *types* of homicide is warranted in studies of the effects of immigration.

Beyond Martinez's claim, the notion that homicides should not be treated as a homogenous group has been part of criminological thinking at least since Wolfgang's (1958) classic study, *Patterns in Criminal Homicide*. Wolfgang's work implies that the homogeneity assumption may be misguided because different types of homicide may have different correlates, patterns, and causes. Following on Wolfgang's work, scholars have found evidence consistent with the idea that predictors of homicide types may not be uniform (Flewelling & Williams, 1999; Kovandzic, Vieratis, & Yeisley, 1998; Kubrin, 2003; Macmillan & Gartner, 1999; Miles-Doan, 1998; Parker & Smith, 1979; Williams & Flewelling, 1988).

In addition to the limitations implicit in the homogeneity assumption, there are several conceptual grounds for disaggregating homicide into specific types when studying the impact of immigration. Indeed, both popular stereotypes and social science theories provide rationales that suggest that immigration may contribute more prominently to the explanation of certain homicide types. Moreover, the logic of these arguments also suggests that the predicted effects may be context specific.

One example is *economic theory and labor market competition theory*. Many immigrant groups enter U.S. labor markets with low levels of education. Evidence from labor economists and sociologists suggests this may be particularly true for more recent immigrants from Latin America and the Caribbean (Borjas, 1987). As recent immigrants enter into low-skill labor markets and compete with low-skill natives for existing jobs, the labor market tightens for all workers. The ensuing relative scarcity of low-skill work may drive many workers – immigrants and natives alike – to alternative income-generating activities. One alternative may be illegal markets, including drug markets and the myriad activities of criminal gangs. If so, the macro-level effects of immigration on homicide may play out in homicide types that are linked to other illegal activities. In particular, immigrant concentration is expected to be connected with drug-, gang-, and felony-related homicides.

Another example, drawing from *economic deprivation theory*, focuses on the fact that upon entering the United States, many immigrants settle in disadvantaged areas marked by poverty, joblessness, and other social ills. Portes and Rumbaut (2001, p. 59) describe the "challenges confronting immigrant children in U.S. neighborhoods in a social context promoting dropping out of school, joining youth gangs, or participating in the drug subculture." In these disadvantaged areas, immigrants often assume the tough, aggressive stances common when negotiating the streets, similar to what Anderson (1999) describes in his discussion of the "code of the street"

for native-born blacks living in poor areas. As a result, assimilation into American life for many immigrants, especially those in disadvantaged communities, may not involve a trajectory of upward mobility but instead may be "downward," involving sustained exposure to economic deprivation and a deviant lifestyle (Portes & Rumbaut, 2001; Rumbaut, Gonzales, Komaie, Morgan, & Tafoya-Estrada, 2006). One result of this process may be that immigrants are more likely to engage in street-code-related violence, leading to greater numbers of altercation homicides. If this is the case, we would expect immigrant concentration to be more strongly related to this type of homicide than the others.

In sum, our study addresses the above-mentioned issues by examining whether immigration is related to different types of homicide or whether it has a uniform effect on homicide rates across cities.

DATA AND METHODS

The units of analysis for this study are U.S. cities with a minimum population of 100,000 persons in 2000. There are 257 cities that meet these criteria, but because of missing data on variables described below, our analysis focuses on a total of 206 cities.

Dependent Variables

The dependent variables in our study include a measure of overall city homicide rates as well as homicide rates that are disaggregated by motive. Specifically, we compute measures of altercation, felony, drug-related, and gang-related homicides. These measures are assembled on the basis of data from the 2000–2002 Supplementary Homicide Report (SHR) compiled as part of the FBI's Uniform Crime Reporting Program.

Primary Independent Variable

The key independent variable in our analysis is the prevalence or concentration of immigrants in a city. Following the work of other scholars (e.g., Sampson, Morenoff, & Raudenbush, 2005), we use multiple items to measure this concept. First, we include a measure of the percent of the population that is foreign born. Second, as much recent immigration in the

United States is from Latin America and the Caribbean, we include a measure of the percent of the population that is Latino/Hispanic. Finally, we include a measure of the percent of the population that speaks English "not well" or "not at all." Each item is derived from the 2000 Census. As expected, correlations among the measures are high (average correlation = 0.80), so we combine them into an immigrant concentration index. Cronbach's alpha for this index is 0.92.

Control Variables

In addition to our measure of immigrant concentration, our study controls for several variables that have been established as salient correlates of homicide in prior macro-level research. First, we include an index of structural disadvantage that taps into multiple dimensions of socioeconomic deprivation. Items included in this index are the percent of persons in poverty, the percent of unemployed persons, the percent of high school dropouts, and the percent of families headed by unmarried mothers. The alpha reliability coefficient for this index is 0.89. We also account for two commonly used macro-level indicators of social disintegration and population instability: the percent divorced and the percent not living in the same house as five years ago. The percent of males aged 15–24 is a control that accounts for between-city variation in a segment of the population with particularly high homicide rates. Similarly, we include a dummy variable for the South, to account for the common finding that homicide rates are greater in the southern region of the nation. Since homicide rates also tend to be greater in larger cities, we include a control for the size of the city population (log transformed). Finally, we adjust for the impact that variations in law enforcement capacity may have on homicide with a measure of police officers per capita. Measures of all control variables with the exception of the latter are derived from the 2000 Census. The police per capita measure is obtained from the Law Enforcement Officers Killed or Assaulted (LEOKA) files compiled as part of the Uniform Crime Reporting Program.

Method of Analysis

Statistically, homicides are fairly rare events. Disaggregating homicide totals into specific types based upon motive or circumstance further increases the rarity of these events. As a result, even for relatively large aggregate social

units, disaggregated homicide measures are not distributed normally. Rather, their distribution tends to be decidedly skewed to the right with a pronounced ''floor effect'' created by the fact that many places have zero or very few homicide incidents. As Osgood (2000) demonstrated, the skewed distribution of homicide rates often is poorly suited to the assumptions of ordinary least squares regression analysis, but Poisson estimators are a suitable alternative strategy. The basic Poisson model, however, makes an assumption that residual variance is equivalent to the fitted values of the regression, which is often implausible because the residual variance exceeds the predicted mean (Osgood, 2000). Using the basic Poisson model under this situation of ''overdispersion'' results in underestimates of standard errors for the regression coefficients. To address this problem, Osgood (2000) suggests using negative binomial regression, which essentially generalizes the basic Poisson regression model by including an additional parameter to allow for overdispersion.

Since our disaggregation of homicide by motive leads to outcome variables that have many cases that cluster at or near zero, we follow Osgood and employ the negative binomial regression estimator in this study.[1] Our analyses are presented in two stages. First, we examine the ''baseline'' effect of immigration on homicide outcomes by estimating models that include only the immigrant concentration index as a predictor, with the log of the city population included as an offset with a fixed coefficient of 1.0. Second, we elaborate our analyses by including the full set of homicide correlates along with the measure of immigrant concentration.

RESULTS

The results of our baseline negative binomial regression models predicting total, altercation, felony, drug-related, and gang-related homicide rates are presented in Table 1. In the first model, we investigate whether immigrant concentration predicts the total homicide rate. The estimates from this model suggest that, contrary to popular stereotype, cities with higher scores on the immigrant concentration measure have significantly lower overall rates of homicide. More specifically, the results imply that a unit increase in the immigrant concentration index (about 23% of its range, or slightly less than one standard deviation) is associated with a 20% decrease in the total homicide rate ($\exp[-0.223]-1 = -0.20$). The maximum likelihood R-squared for the first model in Table 1 is 0.055, which accords with

Table 1. Negative Binomial Regression Models Predicting Total and Circumstance-Disaggregated Homicide.

	Homicide				
	Total	Altercation	Felony	Drug related	Gang related
Immigrant concentration	−0.223*	−0.131*,d	−0.286*,d	−0.221*,d	1.18*,a,b,c
Overdispersion parameter	0.722	0.578	1.14	1.48	2.19
Likelihood ratio	11.55*	4.27	9.70*	4.14*	65.70
Maximum likelihood R-squared	0.055	0.021	0.046	0.020	0.267

$N = 206$.
[a]Coefficient significantly different from altercation homicide model.
[b]Coefficient significantly different from felony homicide model.
[c]Coefficient significantly different from drug-related homicide model.
[d]Coefficient significantly different from gang-related homicide model.
*$P < 0.05$.

a conclusion that immigrant concentration has a significant but modest association with the homicide rate.

Next we turn to baseline models predicting the motive-disaggregated homicide measures. Consistent with the results for total homicide, findings from the altercation, felony, and drug-related models all suggest that differences in the immigrant concentration measure have a significant negative association with differences in per capita homicide rates. In other words, increases in immigrant concentration are associated with lower altercation, felony, and drug-related homicide rates. The results for the latter two outcomes are particularly noteworthy since they contradict the common stereotype that immigrants are more involved in the types of felonies and drug activities that may lead to homicide.

Despite the similarity in the direction of the effects of immigrant concentration, there appear to be differences in the magnitude of the effect of immigrant concentration on altercation, felony, and drug-related homicide rates. Specifically, for each unit change in the immigrant concentration index, the estimated proportional change in the felony homicide rate is larger than the proportional change in altercation or drug-related homicide rates. However, using the test statistic recommended by Paternoster, Brame, Mazzerolle, and Piquero (1998), we find that the differences in the immigrant concentration coefficients across the homicide models are not significant. Thus, the weight of evidence from the first three disaggregated homicide measures suggests that contrary to common belief, as immigrant

concentration increases across cities, there is a corresponding proportional decrease in the mean of alteration, felony, and drug-related homicide rates.

A prominent exception to this pattern of results is observed when we turn to the model predicting gang-related homicide. Here we find that, consistent with popular imagery, there is a strong and statistically significant positive association between immigrant concentration and gang-related homicide rates. The results suggest that for each unit increase in the immigrant concentration index, the gang-related homicide rate multiplies by a factor of 3.25 (or increases 225%). Relative to the other results presented, this effect appears quite large (note also the substantially larger maximum likelihood *R*-squared for this model). Moreover, the differences between this coefficient and immigration coefficients in the prior models are all statistically significant. Given its contradiction to the findings in the other homicide models, the link between immigration and gang-related homicides deserves additional consideration, which we provide in the concluding section of the chapter.

In Table 2, we again consider the relationship between immigrant concentration and various types of homicide, but we do so net of the

Table 2. Negative Binomial Regression Models Predicting Total and Circumstance-Disaggregated Homicide.

	Homicide				
	Total	Alteration	Felony	Drug related	Gang related
Immigrant concentration	−0.170*	−0.152*,b,d	−0.342*,a,d	−0.095[d]	0.587*,a,b,c
Percent divorced	0.071*	0.048	0.042	0.157*	0.032
Percent males aged 15–24	−0.037	−0.068	−0.026	0.015	−0.196*
Police per capita	0.041	−0.036	0.038	0.131	−0.600*
Structural disadvantage	0.829*	0.688*	0.878*	0.847*	0.806*
Residential instability	0.015	0.019*	0.033	0.031	0.017
South	0.208*	0.100	0.080	−0.052	−0.910*
City population (log)	0.265*	0.256*	0.369*	0.299*	0.609*
Overdispersion parameter	0.187	0.227	0.420	0.785	1.54
Likelihood ratio χ^2	284.3*	158.0*	156.0*	98.4*	97.0*
Maximum likelihood *R*-squared	0.749	0.536	0.532	0.382	0.382

$N = 206$.
[a]Immigration coefficient significantly different from alteration homicide model.
[b]Immigration coefficient significantly different from felony homicide model.
[c]Immigration coefficient significantly different from drug-related homicide model.
[d]Immigration coefficient significantly different from gang-related homicide model.
*$P < 0.05$.

influence of the control variables listed above. In essence, this analysis assesses whether immigrant concentration has a direct association with homicide or if the socioeconomic and demographic controls can explain away the relationships observed in Table 1. Examining the model for total homicide, the results effectively reiterate our earlier findings. Although controlling for other structural correlates attenuates the association between immigrant concentration and total homicide, it remains negative and statistically significant in the multivariate analysis. In this case, the results suggest that a unit increase in immigrant concentration is associated with a 16% decline in the total homicide rate. Other predictors that are significantly associated with homicide include structural disadvantage, the percent divorced, the log of the city population, and location in the South. The strongest effect is observed for structural disadvantage; a standard deviation increase in that predictor is associated with a 106% increase in the total homicide rate. Total homicide is not significantly associated with the percent of males aged 15–24, police officers per capita, or residential instability.

Similar to earlier results, we find that immigrant concentration has a significant negative association with altercation and felony homicide. Interestingly, the immigrant concentration coefficient is stronger in these multivariate models than in the corresponding baseline models presented earlier. A unit increase in immigrant concentration is associated with a 14% decrease in altercation homicide and a 29% decrease in felony homicide. However, unlike in Table 1, the results presented here indicate that the difference in the magnitude of the immigration coefficient between the altercation and felony homicide models is statistically significant at the 0.05 level.

With regard to drug-related homicides, the results in Table 2 differ from those presented earlier. The significant negative association between immigrant concentration and drug-related homicides is no longer evident after incorporating the control variables. Although the point estimate of the immigrant concentration measure remains negative, the p-value associated with this coefficient is well above the 0.05 criterion. On the other hand, drug-related homicide rates have a significant positive association with structural disadvantage, divorce rates, and city population.

Finally, as we observed in our baseline analysis, the results in Table 2 suggest that the immigrant concentration–gang homicide association deviates from the broader pattern of findings. That is, we again find evidence that cities with higher scores on the immigrant concentration index have higher (rather than lower) gang-related homicide rates. Indeed, although the magnitude of the immigrant concentration coefficient is

smaller than that observed in Table 1, it remains quite substantial and significantly different from the corresponding coefficient in the models predicting altercation, felony, and drug-related homicide rates. A unit increase in the immigrant concentration index is associated with an 80% increase in the gang-related homicide rate. According to standardized results (not presented here), the magnitude of the immigrant concentration effect on gang-related homicide is bested only by the effect of structural disadvantage.

CONCLUSION

Although the perception that more immigration leads to more crime is pervasive, empirical research on this issue typically has not supported that perception. Yet evidence from extant research is not definitive, and many important areas of the immigration–crime nexus have not been sufficiently investigated. For example, there remains a significant shortage of macro-level studies on the relationship between immigration and violence, including a dearth of research on the effects of immigration on motive-disaggregated homicide rates. This lack of empirical research is critical because stereotypes often suggest that certain types of homicide – such as felony, drug-trafficking, and gang-related offenses – are particularly likely to occur in places where immigrant concentration is greater.

To evaluate the veracity of these popular beliefs, the current study is one of the first to address the city-level relationship between immigrant concentration and measures of motive-disaggregated homicide rates. Using data on immigration and socioeconomic characteristics drawn from the U.S. Census and homicide data from the SHR, our analysis investigated whether between-city differences in immigrant concentration were associated with total as well as altercation, felony, drug-related, and gang-related homicide rates.

Generally speaking, the weight of evidence from our negative binomial regression models indicates that, contrary to conventional belief, cities with greater immigrant concentration have, on average, lower homicide rates. In baseline models, immigrant concentration had a significant negative association with total, altercation, felony, and drug-related homicide rates. Moreover, this pattern of results generally held when controls for several well-established predictors of homicide were subsequently included in the models. One exception is that the negative association between immigrant

concentration and drug-related homicide rates was no longer statistically significant after accounting for the influence of the control variables.

In contrast to the negative associations between immigrant concentration and most of the homicide measures, we also observed a significant and fairly strong positive relationship between immigration and gang-related homicide. Consistent with common perception, one interpretation of this relationship is that in places where immigrants are concentrated, there is more gang activity and gang-related violence. Yet a second plausible interpretation of this relationship is evident to us. Specifically, we believe it possible that the classification of homicides as having ''gang-related'' motives may be heavily influenced by the presence of immigrants and by pervasive stereotypes that link immigrants to gangs and gang-related violence. If this is the case, then if faced with the same evidentiary profile, the police in high-immigrant cities will be more likely to impute gang violence than the police in low-immigrant cities. Our analysis depends upon an accurate classification of the SHR homicide-motive data by the police. If there is systematic bias in that classification with respect to gang-related homicide, that bias would bear out in our analysis and findings. Unfortunately, the data used in the current study do not allow us to untangle and adjudicate between these interpretations of the positive immigrant concentration–gang homicide relationship, but clearly this is an issue that deserves additional consideration as criminologists continue to evaluate whether the notion that immigration leads to more crime is reality or myth.

NOTE

1. Because this model requires that dependent variables are nonnegative integers, our dependent variable measures are the raw count of each homicide outcome. However, we are interested in the effects of immigrant concentration and control variables on the per capita homicide rate. To convert the models to the desired form, we include the log of the city population as an offset term with a fixed coefficient of 1.0 on the right-hand side of the model.

REFERENCES

Anderson, E. (1999). *Code of the street*. New York: W.W. Norton & Company.
Borjas, G. J. (1987). Self-selection and the earnings of immigrants. *American Economic Review*, *77*, 531–553.

Butcher, K. F., & Piehl, A. M. (1998). Cross-city evidence on the relationship between immigration and crime. *Journal of Policy Analysis and Management*, *17*, 457–493.

Flewelling, R. L., & Williams, K. R. (1999). Categorizing homicides: The use of disaggregated data in homicide research. In: M. D. Smith & M. A. Zahn (Eds), *Homicide: A sourcebook of social research* (pp. 96–106). Thousand Oaks, CA: Sage.

Hagan, J., & Palloni, A. (1999). Sociological criminology and the mythology of Hispanic immigration and crime. *Social Problems*, *46*, 617–632.

Horowitz, C. F. (2001). *An examination of U.S. immigration policy and serious crime*. Washington, DC: Center for Immigration Studies.

Kovandzic, T., Vieratis, L. M., & Yeisley, M. R. (1998). The structural covariates of urban homicide: Reassessing the impact of income inequality and poverty in the post-Reagan era. *Criminology*, *36*, 569–597.

Kubrin, C. E. (2003). Structural covariates of homicide rates: Does type of homicide matter? *Journal of Research in Crime and Delinquency*, *40*, 139–170.

Lee, M. T., & Martinez, R. (2002). Social disorganization revisited: Mapping the recent immigration and black homicide relationship in northern Miami. *Sociological Focus*, *35*, 363–380.

Lee, M. T., & Martinez, R. (2006). Immigration and Asian homicide patterns in urban and suburban San Diego. In: R. Martinez & A. Valenzuela (Eds), *Immigration and crime: Race, ethnicity, and violence* (pp. 90–116). New York: New York University Press.

Lee, M. T., Martinez, R., & Rosenfeld, R. (2001). Does immigration increase homicide? Negative evidence from three border cities. *Sociological Quarterly*, *42*, 559–580.

Macmillan, R., & Gartner, R. (1999). She brings home the bacon: Labor-force participation and the risk of spousal violence against women. *Journal of Marriage and the Family*, *61*, 947–958.

Martinez, R. (2000). Immigration and urban violence: The link between immigrant Latinos and types of violence. *Social Science Quarterly*, *81*, 363–374.

Martinez, R. (2002). *Latino homicide: Immigration, violence and community*. New York: Routledge.

Martinez, R. (2006). Coming to America: The impact of the new immigration on crime. In: R. Martinez & A. Valenzuela (Eds), *Immigration and crime: Race, ethnicity, and violence* (pp. 1–19). New York: New York University Press.

Mears, D. P. (2002). Immigration and crime: What's the connection? *Federal Sentencing Reporter*, *14*, 284–288.

Miles-Doan, R. (1998). Violence between spouses and intimates: Does neighborhood context matter? *Social Forces*, *77*, 623–645.

Osgood, D. W. (2000). Poisson-based regression analysis of aggregate crime rates. *Journal of Quantitative Criminology*, *16*, 21–43.

Parker, R. N., & Smith, M. D. (1979). Deterrence, poverty and type of homicide. *American Journal of Sociology*, *85*, 614–624.

Paternoster, R., Brame, R., Mazzerolle, P., & Piquero, A. (1998). Using the correct statistical test for the equality of regression coefficients. *Criminology*, *36*, 859–866.

Portes, A., & Rumbaut, R. G. (2001). *Legacies: The story of the immigrant second generation*. Berkeley, CA: University of California Press.

Reid, L. W., Weiss, H. E., Adelman, R. M., & Jaret, C. (2005). The immigration-crime relationship: Evidence across US metropolitan areas. *Social Science Research*, *34*, 757–780.

Rumbaut, R. G., Gonzales, R. G., Komaie, G., Morgan, C. V., & Tafoya-Estrada, R. (2006). Immigration and incarceration: Patterns and predictors of imprisonment among

first- and second-generation young adults. In: R. Martinez & A. Valenzuela (Eds), *Immigration and crime: Race, ethnicity, and violence* (pp. 64–89). New York: New York University Press.

Sampson, R. J., Morenoff, J. D., & Raudenbush, S. (2005). Social anatomy of racial and ethnic disparities in violence. *American Journal of Public Health*, *95*, 224–232.

Simon, R. J. (1985). *Public opinion and the immigrant: Print media coverage, 1880–1980*. Lexington, MA: Lexington Books.

Simon, R. J. (1987). Immigration and American attitudes. *Public Opinion*, *10*, 47–50.

Williams, K. R., & Flewelling, R. L. (1988). The social production of criminal homicide: A comparative study of disaggregated rates in American cities. *American Sociological Review*, *54*, 421–431.

Wolfgang, M. E. (1958). *Patterns in criminal homicide*. Philadelphia, PA: University of Pennsylvania Press.

Zatz, M. (1985). Los Cholos: Legal processing of Chicano gang members. *Social Problems*, *33*, 13–30.

PARADISE LOST? NEW TRENDS IN CRIME AND MIGRATION IN SWITZERLAND

Martin Killias

ABSTRACT

Purpose – *This paper updates a review of research on crime among migrants in Switzerland, published in 1997.*

Methodology – *Review of national survey data and statistics published since 1997.*

Findings – *Recent statistics as well as surveys (of victimization and self-reported delinquency) show disproportionate levels of offending among migrants. Data from victimization surveys further show that victims do not report offences more often to the police whenever they suspect the offender being a foreign national. Self-report surveys show that delinquent involvement is, particularly for violent offences, higher among migrant youths than among Swiss-born juveniles. According to comparative international survey data, offending among migrant youths from Balkan countries is far more common in Switzerland than among adolescents living in Bosnia-Herzegovina.*

Implications – *The conditions of socialization within the immigration context may be more important than cultural factors.*

Value – *Combining statistics, victimization surveys and self-report studies at the national level, with survey data from areas where migrants come from.*

SWITZERLAND AS A SIGNIFICANT CASE STUDY

Located amidst the European continent, Switzerland is one of Europe's relatively small nations, slightly larger than Belgium and the Netherlands in surface but, with approximately 7.5 million, about half the Dutch population. Migration to Switzerland started earlier than anywhere else in Europe, with an early peak during the years preceding World War I, and with substantial migration resuming immediately after World War II. Today, nearly one in four residents is having a foreign passport, and about two in five residents have been foreign-born. Among juveniles attending school, the proportion of students whose both parents are Swiss-born is, according to the area where the school is located, no more than 50–60 per cent on average, but often below 10 per cent.

Switzerland is therefore an interesting case to study the impact of migration on crime and criminal justice because (1) the size of the migrant population is larger than anywhere else in Europe (with the exception of tiny countries such as Luxembourg), (2) the migrant population is relatively varied and shows somewhat different patterns of adaptation and (3) the long tradition of migration allows us to see changes in relation to crime and criminal justice over time.

Over many decades, immigrants were not overrepresented in official crime data. Several studies summarized in Killias (1997) found migrants to be not disproportionately involved in statistics of police-recorded crime or of convictions. Before 1980, it even seemed that migrants' share in statistics was lower than their proportion in the general population, particularly if sex and age were taken into account. Gradually, that peaceful picture changed, and in 1988 the conviction rate of foreigners reached approximately twice the level of Swiss residents among the younger age brackets (Killias, 1997). Although the increasing share of foreign nationals who came to the country primarily to commit crimes (and who disappeared immediately afterwards) was, to some extent, responsible for this change (Bauhofer, 1993), there remains no doubt that a change occurred after 1980.

These empirical facts are challenging because (1) they do not confirm that, under all circumstances, migrants have higher official offending rates; and (2) they contradict the view that higher crime rates among immigrants are

'obviously' due to discrimination (i.e. differential reporting by victims, unequal police reactions and discrimination within the criminal justice system) – except if one wants to assume that the Swiss of 1970 were more tolerant towards migrants than those in recent years. All data on attitudes towards migrants point, however, to the opposite hypothesis. In order to see what happened, we shall first look at recent police data and then turn to survey trends.

RECENT TRENDS IN OFFENCES KNOWN TO THE POLICE

Switzerland has statistics on major offences known to the police since 1982. Fig. 1 presents the trends of proportion of foreigners among offenders (suspects) known to the police for all major violent crimes.

As Fig. 1 reveals, the proportion of offenders of foreign nationality has continuously increased over the years, although the increase has levelled off after 1999 and remained stable over the last decade. This is true for intentional homicide, robbery, rape and assault. The proportion of foreign
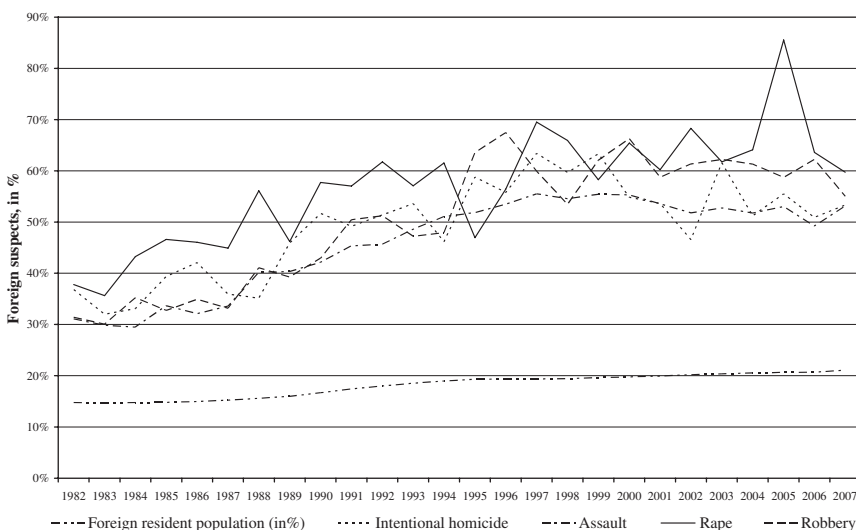

Fig. 1. Foreign Nationals as Suspects of Offences Known to the Police, in Percentage of All Suspects, 1982–2007. *Source:* Federal Office of Police, www.fedpol.ch.

suspects oscillates now at around 50–60 per cent, compared to 20–40 per cent 20 years ago. At all times, the proportion of foreign subjects was higher than their share in the general population, but, as Fig. 1 illustrates, that disproportion tended to grow over the last 25 years. Obviously, this comparison does not take into account the unequal sex and age distribution of Swiss and foreign residents, but even after such adjustments the problem in official statistics remains large and, over the entire period, growing.

In recent years, an increasing flow of asylum seekers, particularly from countries of Western Africa, attracted considerable attention in the media. A study on the extent of the problem conducted on behalf of the Swiss Parliament by Schenker, Herrmann, and Killias (2004) showed that in the cantons of Zurich and Geneva where the study was conducted among all male asylum seekers arrived in 2001 and 2002, as well as on all known illegal residents, around 30 per cent are known to the police for common offences (i.e. without offences related to their status as immigrants) after the first year of residence. This proportion is far higher than even among a young male population. Particularly disproportionate was the involvement of this group in drug-dealing offences. Interestingly, most offenders came into contact with the police within the first months of their presence in the country, and not, as popular ideas suggest, after some time, that is once their limited chances and resources within the country may produce frustration and 'bring' them into crime.

As Eisner, Niggli, and Manzoni (1998) already suggested in a similar study, a substantial number of asylum seekers may come to the country in the search for criminal opportunities, particularly in the trade with illegal substances. The size of the problem seems to have substantially increased since that earlier study. It is also considerably more important than in the Netherlands (van der Leun, 2003). This suggests that different cohorts of asylum seekers may differ in their motivation to migrate, and, concomitantly, that more recent cohorts may include far lower proportions of offenders. Although no systematic study has been conducted on this issue since 2004, the far lower attention this problem receives in the media recently suggests that changes have occurred in this area, perhaps also in response to a new asylum law that narrowed the scope for entry into the country for persons with less evident political motivations.

An interesting feature of the study by Schenker et al. (2004) was the (qualitative) interviews conducted with asylum seekers living in shelters in Geneva and Zurich. They illustrated that the dimensions of the crime problem among asylum seekers was fairly well seen by (in their majority) non-criminal residents of these shelters. They also experienced unusually

high rates of victimization (probably by fellow residents), and many expressed frustration about 'soft' police responses in this particular area. This illustrates how 'soft' approaches may, ultimately and unintentionally, weaken the position of those who live in proximity with offenders, particularly if this proximity is, as in the case of asylum seekers living in shelters, imposed rather than deliberately chosen.

RECENT TRENDS IN VICTIMIZATION SURVEYS

Switzerland is among the few European countries that have regularly conducted national crime victimization surveys over more than two decades (Killias, Haymoz, & Lamon, 2007). Along with the American National Crime Victimization Survey and the British Crime Survey, these surveys have always collected data on offender's characteristics as perceived by the victims of personal crime. Always among these characteristics has been the offender's presumptive origin (Swiss vs. 'foreign'), an additional question asking the victim what made him/her reach that conclusion.

In more than 53 per cent of all cases, the victim made his/her judgement on the grounds of the offender's accent – a highly distinctive personal characteristic on the European continent. In less than 10 per cent did the victim not feel in a situation to describe the offender's origin, the proportion of 'missing' identification of the offender's origin decreasing over time. Thus, the proportion of offenders with 'unknown' origin is considerably lower than in American research where minority status (i.e. racial identity) is assessed on the basis of physical characteristics. Table 1 gives the details regarding the proportion the victims of personal crime described as being of foreign origin. Of course, these data and those in the following tables refer to a sociological concept of 'foreign' rather than to a legal characteristic (i.e. the actual passport).

These data show that the proportion of foreign nationals is, according to victims' accounts, fairly well in line with offender characteristics according to police statistics (Fig. 1). It also seems that the proportion of foreign-born offenders increased according to surveys over time, as it did according to police data. This is even more evident if comparable data of the 1987 survey are considered when foreign offenders made up, according to police statistics and survey data, between one-third and one-half of all offenders (Killias, 1997).

In sum, there is no indication that statistics of police-recorded crime are to any significant extent 'exaggerating' the problem, even if one has to take into

Table 1. National Origin of Suspects, as Described by Victims of Personal Crime during Interviews.

Offender	Robbery/Mugging (%)			Sexual Assault (%)			Assault/Threat (%)		
	1993–1997 (N = 63)	1995–1999 (N = 98)	2000–2004 (N = 108)	1993–1997 (N = 82)	1995–1999 (N = 148)	2000–2004 (N = 245)	1993–1997 (N = 102)	1995–1999 (N = 413)	2000–2004 (N = 404)
Swiss	14.3	15.3	13.9	40.2	39.9	38.5	64.7***	32.9	35.1***
Foreign-born	68.2	63.3	62	40.2*	52.0	53.7*	18.6***	54.5	51.2***
Both (mixed groups)	0.0***	9.2	9.3***	1.2	0.7	2.4	3.9**	3.9	9.4**
Does not know	17.5	11.2	14.8	18.3**	7.4	5.4	12.7**	8.7	4.2**

*Difference between 1993–97 and 2000–04 ($p<0.05$).
**Difference between 1993–97 and 2000–04 ($p<0.01$).
***Difference between 1993–97 and 2000–04 ($p<0.001$).
Note: The table shows percentages based on offences experienced over the last five years and reported in the national crime victimization surveys of 1998, 2000, 2005.
Source: Killias et al. (2007, p. 45).

account that the match of survey and statistical categories of offences is far from being perfect. Survey measures of sexual assault include, for example, behaviours that may be 'offending' rather than 'criminal', such as different forms of harassment, and the survey measure of assault includes threats, whereas statistics include only cases of 'bodily injury'. It is also true that mixed groups ('gangs'?) with offenders of different ethnic origin are becoming increasingly common in Switzerland, according to both police and survey data.

A further check on whether police statistics give an 'exaggerated' picture is to see whether victims report offences more regularly to the police whenever they suspect the offender to be of foreign background. As is turned out in all models of multivariate logistic regression analysis, perceived ethnic (national) origin of an offender has no significant impact on the victim's decision to report an offence to the police (Killias et al., 2007, pp. 67–69). The odds ratios are, for robbery as well as for other violent offences, close to 1.0 – or even negative, suggesting that Swiss offenders tend to be reported to the police slightly more often (perhaps because victims can more easily hope to 'gain' something from a Swiss offender).

Interestingly, foreign residents were not particularly exposed to risks of victimization when compared to Swiss nationals. Again, this matches what has been observed in 1997, since the crime victimization surveys of the 1980s did not show any disproportionate victimization rates among foreign respondents. Given the frequent problems in insufficient coverage of minorities in survey research, it is noteworthy that, in the survey sweeps of 1998, 2000 and 2005, a perfect match of foreign and Swiss respondents has been achieved (Killias et al., 2007, p. 159).

As Table 2 shows, Swiss residents are more often victimized than foreigners living in Switzerland, with the exception of sexual assault where the differences are negligible, however. As already observed, this finding is challenging given the frequently observed disproportionate victimization rates among minorities in many countries. Although immigrants tend to be increasingly concentrated in some less favourite neighbourhoods, the idea expressed in 1997 that victimization rates will continue to increase disproportionately has not really materialized. One reason may be that concentration in bad neighbourhoods is still less pronounced and that such neighbourhoods may continue being less 'bad' in relative terms than in other countries. As already observed in 1997, racist verbal or physical assault is exceptional, according to older and recent victimization surveys. Arson and other attacks on shelters of asylum seekers that regularly made the press during the early 1990s have almost disappeared. This may be an indirect

Table 2. National Origins of Victims of Personal Crime.

National Origin of Victim	Swiss		Foreign	
	1995–1999	2000–2004	1995–1999	2000–2004
Robbery/mugging	15	23	12	11
Sexual assault (female victims)	53	60	47	60
Sexual assault (male victims)	–	11	–	14
Assault/threats	76	79	59	38

Note: The table shows five-year prevalence rates for offences, per one thousand respondents. The data is from national crime victimization surveys of 2000 and 2005.
Source: Killias et al. (2007, p. 38).

result of increased efforts on the side of the police to control racist attacks, but also of policies developed over the years to curb illegal immigration.

Finally, safety in the streets is very comparable for foreign and Swiss nationals, a situation that obviously did not change since 1997. Interestingly, foreign residents in Switzerland continue, as already observed in 1997, to express more positive views about the Swiss police than Swiss residents. Probably an important cause may be 'downgrading', many immigrants coming from areas where abusive, corrupt or otherwise incorrect police behaviour may be frequent. Dissatisfaction with the way the police deal with crime seems to be more frequent among long-standing immigrants, although the reason may be that these often older immigrants are dissatisfied with what they see as a 'too soft' approach in dealing with street crime in their areas. Our interviews conducted in 2004 with residents of asylum shelters showed, among those not involved in criminal activities, rather similar feelings of frustration (Schenker et al., 2004). Interesting is also what Swiss and foreign respondents in the most recent crime victimization survey had to say about police attitudes towards immigrants. Whenever respondents felt that the police do not treat everybody the same way, they most often said that the police treat foreign citizens less fairly. Interestingly, however, the Swiss more often felt this to be the case than foreign respondents (44 vs. 37 per cent).

DATA ON SELF-REPORTED DELINQUENCY

When the former paper was prepared on this subject (Killias, 1997), self-report studies were not particularly well developed. They were local in

Table 3. Self-Reported Offending among Swiss and Migrant Juveniles from Balkan and Other Countries, Grades 7–9, 2006.

Offence	Swiss Juveniles ($N = 2067$)	Juveniles from Balkan Countries ($N = 357$)	Juveniles from Other Countries ($N = 415$)
Assault	0.7	3.2*	1.5
Mugging	0.8	2.3	1.0
Robbery	0.6	1.8	1.0
Theft of bicycles and motorcycles	3.1	5.8*	3.9
Shoplifting	8.3	6.1	9.2[¶]
Selling of drugs	2.4	1.6	3.3
Group fights	6.1	16.0**	11.5[§]

Rates based on weighted data. Significance tests based on unweighted data.
Difference between juveniles of Swiss and Balkan background: *$p \leq 0.05$, **$p \leq 0.001$.
Difference between juveniles of Swiss and other foreign background: [§]$p \leq 0.001$.
Difference between juveniles of Balkan and other backgrounds: [¶]$p \leq 0.05$.
Source: Unpublished data from the Swiss ISRD-2 study: Killias, Aebi, Lucia, Herrmann, & Dilitz (forthcoming).

scope, or had limited samples of no more than 1,000 respondents (as Killias, Villettaz, & Rabasa, 1994), that is too few to draw valid conclusion on offending among juveniles with a history of migration. In the meantime, a national survey has been conducted on some 3,600 students attending grades 7–9 (i.e. aged between 13 and 16). This study allows, for the first time at the national level, to draw valid conclusions about the extent of self-reported offending among youths of Swiss and foreign background. In this context, 'foreign' means having been born abroad, or having parents who both were born abroad. Given the size of the immigrant population from former Yugoslavia, we have grouped the migrant youths into two groups, namely those coming from Balkan countries (including a few Turks) and those coming from any other country (mostly Italy and Germany, but also from Latin American, African and Asian countries). Table 3 gives the rates of self-reported offending for these three categories.

As Table 3 shows, juveniles of Swiss background usually have lower rates of self-reported offending, except in connection with shoplifting and drug selling where their rates are higher than among migrants from any of the Balkan countries, but still lower than those among migrants from any other country. This finding is backed by several surveys conducted over recent years in local areas, such as Zurich (Eisner, Manzoni, & Ribeaud, 2000;

Table 4.   Self-Reported Delinquency among Juveniles in Switzerland
(All Backgrounds Combined) and in Bosnia-Herzegovina, Grades 7–8,
2006.

Offence	Juveniles in Switzerland (Weighted) ($N = 2477$)	Juveniles in Bosnia-Herzegovina (Unweighted) ($N = 1756$)
Assault	1.0	0.9
Mugging	1.1	0.4**
Robbery	0.9	0.9
Theft of bicycles and motorcycles	3.2	0.4***
Shoplifting	8.9	1.8***
Selling of drugs	1.9	0.2***
Group fights	8.0	11.1**

Note: The Swiss data are weighted, but significance tests were performed using unweighted data.
Difference between juveniles in Switzerland and in Bosnia-Herzegovina: *$p \leq 0.05$, **$p \leq 0.01$, ***$p \leq 0.001$.
Source: Unpublished data of the Swiss and the Bosnian ISRD-2 studies: Killias et al. (forthcoming) and Budimlić, Maljević, & Muratbegović (forthcoming).

Ribeaud & Eisner, 2007) that all found higher rates among young migrants compared to juveniles of Swiss background.

This finding is more or less in line with results of similar studies in many Western countries. More challenging is, however, what has been found in connection with a parallel study in Bosnia-Herzegovina that used the same questionnaire and methodology. Table 4 gives the results of that study for Bosnian juveniles and all students interviewed in Switzerland in comparison. Given that grade 9 is not compulsory in Bosnia-Herzegovina, only grades 7 and 8 are included in this analysis.

As Table 4 shows, self-reported offending is, generally speaking, far more common in Switzerland than in Bosnia-Herzegovina. This is particularly true for property and drug offences. Even rates of violence are somewhat comparable, only group fights being more common among Bosnian juveniles. It is particularly interesting to compare the rates of theft, selling of drugs and violence in Bosnia-Herzegovina (Table 4) with those among juveniles from Balkan countries in Switzerland (Table 3). The far higher rates among juveniles from the Balkan in Switzerland are, in view of the low rates in Bosnia-Herzegovina, hard to explain in terms of cultural patterns, as many observers continue to think. Indeed, there is not much room for the

idea that higher rates of violence observed among migrant youths in Switzerland (as in probably most other continental countries) is due to the importation of a 'culture of violence'. Rather, it is the way how juveniles are being socialized in the host country that may play an important role in the genesis of the problem.

Several criticisms could be raised against these conclusions:

1. In Table 3, the category of juveniles from 'Balkan countries' does not include only juveniles from Bosnia-Herzegovina. It could be that, for example, the high offending rates in this group is produced by juveniles from, say, Albania or Kosovo – a possibility that cannot be explored any further given the limited size of the samples involved. However, the fact that, in Table 3, juveniles from Balkan and other foreign countries do not differ much in terms of self-reported delinquency does not suggest that there might be important differences between the several Balkan nationalities that we missed by collapsing them into a larger category.

2. It could be that juveniles in Bosnia-Herzegovina are not as honest as juveniles in Switzerland in admitting to their offences. Such differential reporting styles have indeed been identified in the Netherlands by Junger (1990). The question, however, is why, if such a cultural response bias exists, Balkan juveniles living in Switzerland report more offences than Swiss respondents.

In sum, it seems plausible that the observed differences point to real differences in behaviour among students of similar cultural backgrounds, but growing up respectively as migrants abroad or in their home country. Preliminary results point to the possibility that structured leisure-time activities ('hobbies') are far more common among Swiss compared to migrant youths, and that 'hanging around in the streets' and other 'risky' lifestyles are more common among young people from Balkan and other countries of emigration (Markwalder, Lucia, Haymoz, & Killias, 2007).

The comparatively low rates of self-reported offending in Bosnia-Herzegovina do not come as a real surprise in the light of earlier victimization surveys (Keller, Villettaz, & Killias, 2002). Indeed, robbery, burglary and theft were found to be far less common in Bosnia-Herzegovina than in Switzerland during that survey conducted in 2001. The explanation suggested at that time, namely that cities in Bosnian-Herzegovina do not offer much night-time leisure activities, may indeed also explain lower offending rates among juveniles, particularly at a relatively young age (as in the present study). In addition to this, Bosnian families and neighbourhoods

may control juveniles far more tightly than what young people may experience nowadays in Western Europe. Even Bosnian parents may feel helpless when confronted with the unlimited opportunities (including those to offend) their offspring find in any Western country.

DISCUSSION

Switzerland's history with 'crime and migration' started with lower official offending (i.e. conviction) rates in the 1950s and 1960s. Then came a period when offending was relatively similar, followed by substantially higher rates of police-recorded crime committed by non-Swiss offenders. National crime victimization surveys conducted since 1984 showed, based on victims' survey accounts of offender characteristics, rates of migrants that matched police statistics. Foreign suspects are not more likely to be reported to the police than Swiss suspects. Victimization rates, fear of crime and attitudes towards the police are very similar among Swiss and foreign survey respondents, with the exception that Swiss respondents are more critical towards the way the police deal with the crime problem. On the other hand, foreign respondents see the Swiss police as more fair, unbiased and unprejudiced towards migrants than Swiss respondents.

In sum, the picture of cohabitation of Swiss and minorities seems rather peaceful, perhaps with the exception of some peaks of offending (especially drug dealing) among some groups of asylum seekers early in the current decade, and often expressed worries about violence among immigrant youths more recently. The results presented here suggest that patterns of migration may change over time and over space – people who migrate are not always the same, and they do so for very different reasons, sometimes including looking for criminal opportunities. In this case, good policy would be to address criminal opportunity structures that operate as a 'pull factor'; for example, by reducing criminal drug markets. As for juveniles, the conditions of socialization may differ not only between native and immigrant youth, but also between migrants from a certain area and those who remained in the respective home countries. Migrants and their parents may be less prepared to deal with criminal opportunities that they were not familiar with, and they may be less familiar with 'constructive' ways of structuring leisure time of their offspring.

In conclusion, crime among migrants should, first of all, be addressed within the context of routine activities and criminal opportunity structures.

REFERENCES

Bauhofer, S. (1993). Kriminalität von Ausländern in der Schweiz: Ein kriminalstatistischer Überblick. In: S. Bauhofer & N. Queloz (Eds), *Etrangers, criminalité et système pénal*. Chur: Rüegger.

Budimlić, M., Maljević, A., & Muratbegović, E. (forthcoming). International self-report delinquency study 2. National report, Bosnia and Herzegovina. In: J. Junger-Tas, I. H. Marshall & M. Killias et al. (Eds), *Juvenile delinquency in Europe and beyond: An international perspective on key issues and causes*. New York: Springer.

Eisner, M., Manzoni, P., & Ribeaud, D. (2000). *Opfererfahrungen und selbst berichtete Gewalt bei Schülerinnen und Schüler im Kanton Zürich*. Aarau: Sauerländer.

Eisner, M., Niggli, M., & Manzoni, P. (1998). *Kriminalität unter Asylsuchenden*. Zürich: Schweiz. Flüchtlingshilfe.

Junger, M. (1990). *Delinquency and ethnicity*. Deventer, the Netherlands: Kluwer.

Keller, J., Villettaz, P., & Killias, M. (2002). *Enquête de victimisation en Bosnie-Herzégovine 2001*. Ecole des sciences criminelles, University of Lausanne, Lausanne (unpublished).

Killias, M. (1997). Immigrants, crime, and criminal justice in Switzerland. *Crime and Justice*, *21*, 375–405.

Killias, M., Aebi, M. F., Lucia, S., Herrmann, L., & Dilitz, C. (forthcoming). Self-reported juvenile delinquency in Switzerland in 2006: Overview and explanations. In: J. Junger-Tas, I. H. Marshall & M. Killias et al. (Eds), *Juvenile delinquency in Europe and beyond: An international perspective on key issues and causes*. New York: Springer.

Killias, M., Haymoz, S., & Lamon, P. (2007). *Swiss crime survey: Die Kriminalität in der Schweiz im Lichte der Opferbefragungen von 1984 bis 2005*. Bern: Stämpfli.

Killias, M., Villettaz, P., & Rabasa, J. (1994). Self-reported juvenile delinquency in Switzerland. In: J. Junger-Tas, G. J. Terlouw & M. Klein (Eds), *Delinquent behavior among young people in the western world* (pp. 186–211). Amsterdam: Kugler.

Markwalder, N., Lucia, S., Haymoz, S., & Killias, M. (2007). Bericht zum Projekt ''Jugenddelinquenz im Kanton Zürich''. Auswertung der im second international self-reported delinquency survey gesammelten Zürcher Daten. Zürich: Bildungsdirektion Zürich (unpublished).

Ribeaud, D., & Eisner, M. (2007). Kernbefunde der Studie Entwicklung von Gewalterfahrungen Jugendlicher im Kanton Zürich (Zwischenbericht). Zürich: Bildungsdirektion Zürich (unpublished).

Schenker, S., Herrmann, L., & Killias, M. (2004). Delinquenz unter Asylsuchenden und die Wirkung von Zwangsmassnahmen. Bern: Parlamentarische Verwaltungskontrolle (unpublished).

Van der Leun, J. P. (2003). *Looking for loopholes: Processes of incorporation of illegal immigrations in the Netherlands*. Amsterdam: Amsterdam University Press.

This page intentionally left blank

THE "NORMALITY" OF "SECOND GENERATIONS" IN ITALY AND THE IMPORTANCE OF LEGAL STATUS: A SELF-REPORT DELINQUENCY STUDY[☆]

Dario Melossi, Alessandro De Giorgi and Ester Massa

ABSTRACT

Purpose – This paper is a critical analysis of the relation between immigration and crime/criminalization in Italy, with particular reference to "second generation" immigrants enrolled in the eighth grade of

a sample of junior high schools in Bologna, Italy. The paper investigates whether – after allowing for differences in sex, social class, and other relevant variables – significant differences in self-reported deviance would emerge between second-generation immigrants and Italians. The research draws on three major criminological theories about deviant behavior: social control theory, labeling approach, and culture conflict theory.

Methodology – *The study has been conducted as a self-report survey of a sample of 335 students enrolled in the eighth grade of 4 junior high schools in the metropolitan area of Bologna, Italy. Respondents were administered a questionnaire in the classroom, and asked to answer questions focusing on socio-biographical factors, socio-economic conditions, value-orientation, and self-reported deviant behaviors. Regression analysis was conducted on the data, and an interpretative model was developed based on the findings.*

Findings – *The research offers no evidence of a higher frequency or seriousness of self-reported deviance among young ''second-generation'' immigrants compared to Italians. The findings suggest that – both for Italian and immigrant respondents – self-reported deviant behaviors appear to be strongly correlated with cultural/generational conflict, the perception of stigma, and weak family bonds.*

Value – *The paper offers an original contribution to scholarly research about migration and crime/criminalization. More specifically, it supports those criminological studies that deny any role of migration or national origin in the etiology of criminal behaviors.*

INTRODUCTION: FIRST AND SECOND GENERATIONS IN EUROPE AND THE UNITED STATES

In the last 15 or 20 years, there has been a true renaissance of interest and research into the issue of ''migration and crime'' (Tonry, 1997; Marshall, 1997; Martinez & Valenzuela, 2006; Stowell, 2007). This renaissance accompanied a deep transformation in the reality of migrations worldwide. The transformation is related to ''globalization'' and the particular way in which the world-wide capitalist system reacted to the crisis of the 1970s and

1980s – what has been called by some "post-Fordism" (De Giorgi, 2006), by others "McDonaldization" (Ritzer, 1993). This time, such interest concerned not only traditional immigration countries – for instance the United States – but also countries that, until the 1970s, had been sending countries, like Southern European countries. Starting in the 1980s, they too have become receiving countries, in some cases high-receiving countries like Italy and Spain recently (Calavita, 2005).

The emergence of Europe, and particularly Southern Europe, as a pole of attraction, contributed to a rather unusual occurrence, as far as the linkage between migration and criminalization is concerned. A striking difference has emerged between what has been going on in the United States and what has instead been going on in Europe. Something which is quite apparent indeed if one looks at the number of foreigners imprisoned – if this has to be taken as a measure of the criminalization process if not of the criminal process! – in the United States and in Europe. Whereas, as it is well known, the total number of people imprisoned in the United States is staggering – due to the post-1970s phenomenon which has been called "mass imprisonment" (Garland, 2001) – and the number of inmates in Europe is instead rather limited, as far as instead the *percentages* of foreigners that are part of those larger numbers, the situation is completely the opposite. Their number is quite contained in the United States, and is extremely high in Europe, so high in fact to overcome the American imprisonment "disproportionality" due to ethnicity. Whereas the percentage of "noncitizens" in prison in the United States – at least the ones counted – is generally less than the number of noncitizens in the general population, in Europe the overrepresentation of non-EU citizens in prison is between 4 and 15 times their share of the general population (Melossi, 2003, 2005). How can such an extraordinary difference be explained?

Furthermore, this already quite amazing particularity is accompanied by another one, concerning the difference between so-called "first" generations and so-called "second" and successive "generations" of "immigrants." Whereas traditionally the second generations in the United States seem to be the ones to bear the brunt of the criminalization process, in Europe today the first generations are pointed at as the culprits, whereas the second generations seem to be less at risk, especially where the reality of immigration is a recent phenomenon. The complex of these questions seems to portray a situation that calls forth the necessity of deep sociological investigation, and involves many aspects in the study of migrations and social order. The usual explanation that has been given for such phenomena in the United States, even recently, is that immigrants are at first protected

by the resilience of their cultures of origin which are often crime-adverse, and this especially when they migrate to the United States and establish themselves within so-called ''ethnic enclaves'' (Sampson, 2006). However, when their offspring integrate within American society one of the unfortunate consequences of the integration process is their participation within cultures that are characterized by a high level of crime and violence. On the one hand, this is the product of racism and discrimination because they are asked to integrate within a society that offers an image of their selves, which is marked by exclusion and inferiorization. On the other hand, once they exit the ethnic enclaves, social controls decrease because of anonymity and heterogeneity.

Why, however, all of this should not happen in Europe? One element which is not often considered in American literature[1] is the issue of the possession by recent immigrants of legal documentation that enables them to work. Work is an essential element of integration, and in many European countries, the possession of legal documents is a prerequisite for work. In Italy today, criminalization is usually related not so much to the status of immigrant as to the status of ''undocumented'' immigrant. This is true at the adult level but is also true for minors, in the sense that is crucial for the distinction between what is called an ''unaccompanied'' minor and a ''second-generation'' minor. Whereas the former is essentially an undocumented migrant who made it to Italy by himself or herself, the latter migrated to Italy within the larger unit of a family (entering the country at such an early age that the primary process of socialization took place in Italy) or, increasingly more often, was born in Italy of a family of first-generation migrants. Growing up in a family in Europe (and especially in Italy) seems to mean a situation that protects one from criminal involvement, which is exactly the opposite of what has been hypothesized for the United States.

A very important aspect of all this is, however, how legal status is proved. Do we really know how many foreigners are in US prisons, for instance, given that this information is largely derived from self-reporting (Hickman & Suttorp, 2008)? Beyond that, it may be easier for a foreign citizen to integrate him- or herself in the United States because of a lack of a national identity document which may facilitate hiring based on the false assumption of citizenship and therefore increase the likelihood of employment and honest living. Laws of immigration are nowadays quite restrictive in Europe and Italy more specifically, because they are aimed at ''contrasting'' ''unlawful'' immigration rather than regulating immigration. Therefore, in a situation in which great parts of Europe (in Italy, for instance, all of

Northern and Central Italy) are way below an offer of labor such to match demand, what this translates into is a situation in which migrants come to Italy undocumented and wait for the unavoidable amnesty provision in order to be "regularized."[2] In between, a dangerous period of lack of documentation ensues, fraught with the necessity of all sorts of illegalities.

In the last few years, sociological research on the relation between juvenile migration and deviance has concentrated mostly on the issue of those we have called "unaccompanied minors" (Melossi & Giovannetti, 2002) and this is also because immigration is a very recent phenomenon. However, with the establishment of immigrant communities, it can be easily foreseen that issues concerning social integration, cultural conflict and "deviance," with reference to young immigrants, will have increasingly to do with so-called "second generations." As already mentioned, sociologists and criminologists based in the United States have emphasized that "second generations" are the immigrant population characterized by the highest exposure to deviance and crime, since the sociological variables usually associated with the emergence of these problems tend to be amplified by the peculiar disadvantages attached to the status of "second-generation" immigrant. And in fact, it would be difficult to underestimate the multiple forms of disadvantage and discrimination to which immigrants in general, and young immigrants in particular, are exposed in the host society: an archipelago of *social vulnerabilities* which – particularly in the transition from the first to the second generation – tend to shift from the legal and cultural realm toward the economic and social universe.

ITALIAN PECULIARITIES OF "LAW" AND "ORDER"

Italy's brief history as an *immigration* country has been significantly shaped by an overall European tendency toward the consolidation of a "prohibitionist" immigration regime. The European "Schengen Agreement" (1985–1990) has significantly effected the orientation of the legislation on the subject of immigration. The 1998 legislation – created by a center-left government – established that in order to obtain legal access to the country, immigrants should satisfy several requirements – such as giving proof of possessing adequate financial resources and of not having been identified by any European police force as a danger for public order, and for national or international security. In what retrospectively appears to be the first step

toward an almost complete subordination of the legal status of immigrants to their working condition, basic individual rights were in fact subordinated to the availability of a sufficient and legitimate source of income (see also Barbagli and Colombo, this volume).

In 2002, the center-right "Bossi-Fini" law introduced an even more restrictive reform of the legal status of immigrants.[3] To some extent, the 2002 legislation has "institutionalized" the widespread social perception of foreigners as potential criminals, taking some significant steps toward what might be defined as a "preventive neutralization" of this "dangerousness." The consolidation of an alarmed and hostile perception of immigration as a threat to law and order is undeniable. Several sociological analyses have shown in recent years that important sectors of the Italian public opinion tend to perceive immigrants as the main contributors to criminal activities as well as to a generalized sentiment of public insecurity. In turn, these perceptions have been cyclically amplified by the mass media, and exploited by politicians from across the political spectrum (Dal Lago, 1999; Angel-Ajani, 2005).

Unsurprisingly, the issue of the relations between immigration and crime has become a central point of contention in contemporary Italian social sciences. In the field of sociology of deviance, this debate has concentrated around two main perspectives. According to the first perspective, the migratory experience is seen as a factor which might give a substantial contribution to the etiology of some criminal or deviant behaviors (Barbagli, 2002). The second perspective argues instead for a shift of attention away from crime and toward the social construction and institutional management of immigrants as potential criminals – as well as to the punitive reactions prompted by these punitive representations (Palidda, 2001; Melossi, 2003; De Giorgi, 2006; Palidda, this volume).

SELF-REPORT STUDIES AND CRIMINOLOGICAL RESEARCH

The sources of information about criminal activity available to researchers have expanded dramatically in the last few decades. Besides official statistics, today criminologists and sociologists can rely on at least two alternative sources of knowledge about crime and deviance: victimization surveys and self-report studies. As it is well known, the former provide us with information about potential victims of crime. The latter inform us

about potential authors of criminal or deviant acts. Both these research tools witnessed a growing diffusion in the last four decades – also as a consequence of an increasing awareness of the limitations and biases of official crime statistics (Kitsuse & Cicourel, 1963). This epistemological shift has allowed scholars to draw more realistic maps of the incidence and diffusion of deviance in contemporary societies.

This seems particularly true for self-report studies. According to Sellin (1931), the reliability of our information about crime decreases as the temporal distance from the "facts" increases, and a growing number of formal agencies (police, courts, etc.) "record," "filter," and "process" information about those facts. In this respect, it could be said that the aim of self-report studies is to cover that distance by investigating directly the experience of (potential) deviants.

The significance of self-report studies for a critique of commonsensical assumptions about crime and deviance cannot be underestimated: besides the understandable methodological divergences among researchers, in general self-report studies have been able to question several etiological "truths" about deviance. Data from self-report studies provide us with maps of the frequency, diffusion, and intensity of deviant behavior that do not match those we get from official statistics – particularly when it comes to the relationships between social class, race, ethnicity, and crime.[4] As Edwin Schur famously stated (1973, pp. 154–155): "So called delinquents [. . .] are not significantly different from non-delinquents – *except* that they have been processed by the juvenile justice system [. . .]. Delinquency is widespread among all segments of the society."

It would, therefore, be particularly interesting to apply the self-report method to the issue of migration and crime, at least as far as juveniles are concerned. If, in fact, the extreme overrepresentation of foreigners in the Italian criminal justice system were the outcome of authorities' attention and/or of the exclusion of undocumented youth, the self-reporting of "documented" foreign minors should not be sensibly different from the self-reporting of Italians, once we have allowed for possible differences in sex, social class, etc.

Criminological Insights

Several theoretical and methodological insights forged by different (and sometimes even conflicting) criminological traditions may impinge on the issue. Accordingly, in the process of defining our research questions, design,

and methodology, we adopted several criminological approaches – among these, Sellin's theory of "culture conflict" (Sellin, 1938), Hirschi's "social control theory" (Hirschi, 1969), and the "labeling approach" (Becker, 1963; Matza, 1969).

As is well known, Thorsten Sellin was one of the earliest criminologists to investigate the relation between culture conflict and deviance in a systematic way (Sellin, 1938). He saw the potential conflict between the cultural models hegemonic in the host society and those professed by immigrant groups. According to Sellin, this conflict would emerge with particular strength in the experience of "second-generation" immigrants. In fact, young immigrants tend to experience a tension between the cultural codes they learn inside their families from their older relatives, and the cultural messages they interiorize through the processes of socialization that take place outside the family – at school, in leisure places, etc. Moreover, young immigrants witness the difficulties and the disadvantages faced by their own parents in the process of integrating themselves in the host society (sometimes also as a consequence of some kind of cultural "difference") and this might lead them to reject the cultural models embodied by their families. On the other hand, young second-generation immigrants might cultivate higher expectations than their own parents toward the society in which they live, something which could result in stronger sentiments of frustration generated by the multiple obstacles they face against their social mobility. Thus, according to Sellin, second-generation immigrants would exhibit higher rates of crime and deviance than their parents, and would be more exposed to deviant models of socialization.

The insights social control theory has to offer to our research are intuitive. Young second-generation immigrants experience forms of conflict and cultural displacement which might result in weaker social bonds with their families, schools and "significant others." In turn, these processes might reduce their "stake in conformity," thus promoting deviance.

The third sociological approach which defines the theoretical background of this research is given by labeling theory (Becker, 1963). The importance of the paradigm of "social reaction" for a critical analysis of the exposure of second-generation immigrants to deviance and criminalization cannot be underestimated. The reality of migration itself – so often targeted by sentiments of hostility and prejudice in the society of destination – invites a critical awareness of the processes of interaction through which human difference is turned into a stigma, and of the impact of that stigma on the young identities of second-generation immigrants.

THE STUDY: SECOND GENERATIONS IN BOLOGNA, ITALY, AND THEIR SELF-REPORTED DEVIANCE

This research is based on a survey of students enrolled in the eighth grade of four junior high schools in the metropolitan area of Bologna. The choice to conduct our research inside schools is consistent with a significant tradition of self-report studies (Short & Nye, 1957; Hirschi, 1969; Johnston, O'Malley, & Bachman, 1996), and it appears particularly suitable for our purpose of sampling a representative number of second-generation immigrant students. In fact, on the one hand eighth grade junior high school classes in Bologna include a considerable number of foreign children, and on the other hand the age of this population (usually 13–14 years old) begins to be compatible with the emergence of deviant behaviors.

After some exploratory stages (including several contacts with school officials), which allowed us to draw a "map" of the distribution of foreign students across Bologna school districts, we were able to select four schools to be included in our survey. In this process, we decided to select two schools from downtown and two from the suburbs of Bologna: this allowed us to have a sample which included both Italian students of middle-class backgrounds whose families live in the rich areas of the town's historic center or in the surrounding hills, and immigrant students whose families live either downtown – in most cases managing small businesses such as groceries, small "ethnic" shops, public phone centers, etc. – or in the surroundings of the train station, an area that might be described as a "zone in transition" following the Chicago school (Park, Burgess, & McKenzie, 1925). In particular, the area around the train station is a working class neighborhood, which in the last two decades has witnessed a large inflow of immigrants of African and Asian origins. This process has significantly reshaped the area, with an increasing number of ethnically oriented services and businesses flourishing in the neighborhood (e.g., grocery stores specialized in Asian products, African restaurants, hair-braiding shops, etc.).

In total, our sample was composed of 19 eighth grade classes from four junior high schools, for a total of 335 students (177 males and 158 females). Each class was given 45/50 min time to fill the questionnaire, at the presence of at least one researcher – whose only responsibility was to give explanations or clarifications about the meaning of specific questions, if needed.

The questionnaire comprised 108 questions, covering several areas of investigation. The core themes of the questionnaire were socio-biographical

factors (respondent's place of birth; place of residence of respondent and of his/her relatives; size of the family, etc.), socio-economic conditions (overall housing conditions; availability of certain "lifestyle" commodities; access to "cultural capital," etc.), and value-orientation (respondent's attitude towards his/her family, the school, urban life, and society in general). Moreover, of course, the questionnaire included questions aimed at investigating the quantitative and qualitative incidence of deviant behaviors.

One of the main objectives of our study was to investigate whether – and to what extent – the status of "foreigner" (more specifically, the condition of "second-generation" immigrant) might affect the self-reporting of deviant behaviors. In this respect, the inevitable operation of deciding who should be considered as a "foreigner" (and under what conditions) was especially problematic, given the multiplicity of life trajectories and family backgrounds observable in our sample. The issue of defining which variables should be given the role of establishing a clear distinction between Italians and "foreigners" – not to mention the definition of "second-generation" immigrants – is of primary importance here, since there are no univocal definitions for these two conditions (Andall, 2002; Child, 1943; Portes & Zhou, 1993; Wilpert, 1988; Modood, 1997). In the attempt to overcome the inadequacy of any binary definition (i.e., foreigners vs. Italians) to account for the multiple conditions pertaining to the broad status of "foreigner" – and yet still having to construct a variable that would permit a statistical "translation" of those conditions – we decided to construct a complex variable called FOREIGNNESS. This is a "continuous" variable describing the condition of "being a foreigner" – indeed, as the result of a combination of elements, rather than as a discrete condition itself. In other words, it measures the hypothetical "distance" between Italians and foreigners, without however polarizing the sample around two rigid categories. In the construction of the variable, we considered the scores obtained by the students in the answers to the biographical questions we employed in order to define a respondent as Italian or immigrant: place of birth, number of years spent in Italy, nationality, nationality of the parents, place of residence of the parents, having (or not) one or more grandparents abroad.

The value of the complex variable resulting from these operations is therefore continuous, and it increases with the increase of any indicator of the mentioned biographical "distance" from Italian nationality, from a minimum of 0 (describing the condition of subjects defined as "Italians" according to our indicators), to a maximum of 4.45 (representing the condition of a subject entirely self-identified as foreigner).

Following these criteria, the sample consisted of 240 Italians (whose FOREIGNNESS score was = 0) and 59 subjects exhibiting some degree of "foreignness" (with FOREIGNNESS > 0). It must also be pointed out that 38 respondents could not be categorized according to such index, since they did not answer to one or more questions we used to calculate our variable.

A further variable of great importance is of course the one referring to deviance: also in this case, we constructed a complex variable – SELF-REPORTED DEVIANCE – resulting from the sum of the scores obtained in answers to questions concerning the subject's engagement in deviant behavior. More specifically, the questions whose scores we used to elaborate this variable were:

- Do you ever take something from a shop without paying?
- Do you ever disobey your teachers only for fun?
- Do you ever disobey your parents only for fun?
- Do you ever smoke cigarettes?
- Do you ever take something from your friends without asking them?
- Do you drink alcoholic beverages?
- Do you ever cut school?
- Do you ever break something just for fun?
- Do you ever drive a motorcycle (for the less than the 14 year old)?
- Do you ever have violent fights with other kids?
- Do you ever ride the bus without ticket?
- Do you ever hurt a dog or a cat just to observe their reactions?

The orienting criminological theories (labeling, culture conflict, social control) were inserted into the model through the construction of complex variables aimed at measuring the relationship between self-reported deviance and those theories. This was done by introducing questions whose answers would point to the existence (and extent) of elements identified as etiologically relevant by each of the criminological theories included. We, therefore, created a series of "criminological variables," having to do with "stigma" and "techniques of neutralization" (Sykes & Matza, 1957), what we called cultural/generational conflict, after Sellin's theory, aimed at measuring levels of conflict between our respondents and their own families, and finally social control and family bonds, measuring the solidity and reach of the ties connecting our young respondents to several formal and informal settings, seen as relevant for the etiology of crime according to Hirschi's "social control" theory.

THE MODEL

We obtained a preliminary overview of the results through multiple correlation analysis. These early results falsified the hypothesis of a greater exposure to deviance by young second-generation immigrants. Our analysis of frequencies in the variable SELF-REPORTED DEVIANCE revealed that among the high percentage of respondents who reported some kind of deviant behavior, Italians slightly exceeded immigrants. More specifically, almost 93% of immigrant respondents (i.e., with FOREIGNNESS > 0) reported at least one deviant behavior, while among Italians (i.e., with FOREIGNNESS = 0) the percentage was 97%. Further confirmation of these data emerged from a comparison between the mean obtained for the variable SELF-REPORTED DEVIANCE by the Italian and the immigrant cohort. Although foreigners exhibit slightly higher values than the mean – the difference between the two values is just one point, 19.3 for Italians and 20.4 for immigrants.

As far as the various criminological theories were concerned, two significant correlations involving SELF-REPORTED DEVIANCE emerged, one relating to CULTURAL/GENERATIONAL CONFLICT, and the other to STIGMA/ TECHNIQUES OF NEUTRALIZATION. In the former case, we found higher levels of self-reported deviance among respondents who showed significant indicators of conflict with their families of origin. In the latter, we discovered a tendency – by those who in fact reported some type of deviant behavior – to show agreement with some "typified" justifications for deviant behavior (i.e., techniques of neutralization). Based on these data, we defined some explanatory frameworks to be tested through multiple regression analysis that are summarized in the following model:

$$y_{\text{stigma}} = x_{\text{age}} + x_{\text{gender}} + x_{\text{foreignness}} + x_{\text{ses}} + x_{\text{family\_bonds}} + u \qquad (1)$$

$$y_{\text{confl\_cult}} = x_{\text{age}} + x_{\text{gender}} + x_{\text{foreignness}} + x_{\text{ses}} + x_{\text{family\_bonds}} + x_{\text{stigma}} + u \quad (2)$$

$$y_{\text{self\_rep\_dev}} = x_{\text{age}} + x_{\text{gender}} + x_{\text{foreignness}} + x_{\text{ses}} + x_{\text{family\_bonds}}$$
$$+ x_{\text{stigma}} + x_{\text{confl\_cult}} + u \qquad (3)$$

where x_{age}, x_{gender}, $x_{\text{foreignness}}$, x_{ses}, and $x_{\text{family\_bonds}}$ are exogenous variables; x_{stigma} and $x_{\text{confl\_cult}}$ are intermediate variables; and u is a residual term which expresses other factors influencing the system beyond the stochastic part of it.

FINDINGS

Fig. 1 and Table 1 below illustrate our findings.

As we can see, the impact of GENDER on SELF-REPORTED DEVIANCE is significant. This suggests a stronger tendency to report deviant behaviors among our male respondents. Two other variables whose effect on SELF-REPORTED DEVIANCE is not negligible are, respectively, the variable CULTURAL/GENERATIONAL CONFLICT – whose correlation with self-reported deviance is particularly strong – and the variable STIGMA (although to a smaller degree).

What factors might influence levels of cultural conflict and perceived stigma? The most significant variables concerning cultural conflict are GENDER (with female respondents appearing to be more exposed to cultural conflict than males), the weakness of FAMILY BONDS, and the perceived STIGMA. This last variable, on the other hand, is strongly correlated with such circumstances as being male, of middle to high socioeconomic backgrounds, and – most importantly – exhibiting weak family bonds.

In the end, the strength of FAMILY BONDS emerged as the most significant variable in our model, since it seems to have an impact both on levels of self-stigmatization (which, once associated to indicators of cultural conflict exert a powerful influence on self-reported deviance), as well as on CULTURAL
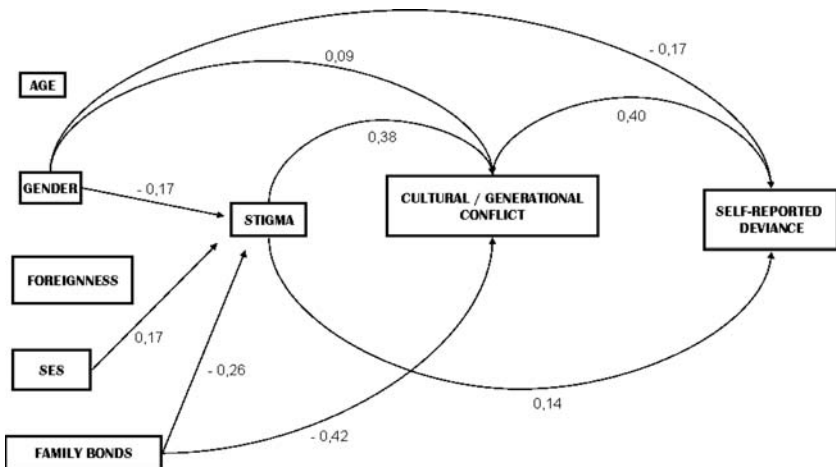

Fig. 1.   Model of Influences on Self-Reported Deviance.

Table 1. Results of the Multiple Regressions.[a]

Predetermined Variables	
Eq. (1) Stigma ($R^2 = 0.12$)	
AGE	–
GENDER	−1.05 (−0.17)
FOREIGNNESS	–
SOCIO-ECONOMIC SITUATION	0.23 (0.17)
FAMILY BONDS	−0.39 (−0.26)
Eq. (2) Cultural/generational conflict ($R^2 = 0.41$)	
AGE	–
GENDER	1,05 (0.09)
FOREIGNNESS	–
SOCIO-ECONOMIC SITUATION	–
FAMILY BONDS	−1.06 (−0.42)
STIGMA	0.66 (0.38)
Eq. (3) Self-reported deviance ($R^2 = 0.32$)	
AGE	–
GENDER	−1.88 (−0.17)
FOREIGNNESS	–
SOCIO-ECONOMIC SITUATION	–
FAMILY BONDS	–
STIGMA	0.25 (0.14)
CULTURE CONFLICT	0.40 (0.40)

[a]Coefficients and standardized coefficients (in brackets) of the linear regressions with significance higher than 0.05. The empty cells indicate that the coefficient is not significant.

CONFLICT itself (which is also significantly correlated with self-reported deviance).

In other words, according to our model, higher levels of self-reported deviance are found among those respondents who perceive themselves as stigmatized (particularly if they are males, from middle- or upper-class families, with weaker bonds to their families), as well as among those who seem to experience high levels of cultural/generational conflict with their families.

These considerations refer to the whole sample. Although, as was said earlier, we could not find any significant correlation between the variable FOREIGNNESS and the other variables we considered, we run separate regressions for the sample of Italians (i.e., with FOREIGNNESS = 0) and foreigners (i.e., with FOREIGNNESS > 0). We were not able to detect any interesting difference in the results.

DISCUSSION AND CONCLUSIONS

The results illustrated so far suggest no evidence of a higher frequency or seriousness of deviant behaviors among our foreign respondents. In particular, the hypothesis of a positive and significant correlation between an increase in "foreignness" and levels of self-reported deviance is clearly disconfirmed. Of course, this does not say much about levels of deviant behavior, which instead appear to be connected to other circumstances concerning *both* Italians *and* foreigners – such as being male, having a lower perception of one's well-being, and exhibiting weak family bonds. The status of "foreigner" or "Italian" does not seem to have much explanatory power in itself, when it comes to levels of self-reported deviance: in fact, within both these subpopulations, almost all our respondents reported at least one deviant behavior – a result consistent with most previous self-report studies.

In conclusion, we would argue that a key element in the election of deviant behaviors by our young respondents is represented by their relations with their families. Of course, this involves the level of control and supervision exercised by families over their younger members, but also the degree of confidence and trust our respondents place on their parents and/or elders as role models.

Our findings seem to confirm the main results of earlier criminological research based on self-report studies, according to which such categories as "social class" and "ethnicity" play an overall secondary role. Whereas mainstream criminological research relying on official statistics tends to consider class and ethnicity as crucial factors in the etiology of crime and deviance, investigations based on self-reports have since long significantly reduced the causal significance of those elements (Hirschi, 1969; Short & Nye, 1957; Vaz, 1966; Voss, 1966). Indeed, according to our research this significance disappears entirely.

Instead, what our findings seem to confirm is on the one hand the significance of gender – possibly also because the forms of deviance investigated here are often framed in "masculine" terms – and on the other hand, the relevance of "authority" and "affect," whether these refer to parents or schoolteachers.

Certainly, when it comes to 14-year-old children, it is difficult to make clear distinctions between stated "intentions" (or opinions) about deviance, and deviant "behaviors" – from the point of view of the truthfulness of their statements, and of the epistemological value of those statements. The well-known conundrum about interview-based research – that is, whether interviews do actually inform us about circumstances other than the

interviewing process itself (as they are supposed to do), or only concerning the interview itself (as some believe) – emerges quite clearly here. It would be difficult for us to establish any causal relation between the expression of beliefs about particular norms of conduct, and confessing their violation. It might well be that both statements basically describe the same process. However, it would be more difficult to deny that both point to some kind of malaise, and that this malaise is stronger among males and in particular among those respondents who experience uneasiness in their relationships with "others" who are supposed to supply them with affection and authority.

Here it seems to us that we touched on a source of malaise almost universally shared by our sample. Problematic relationships with one's parents – somehow correlated, as we have seen, with less conventional value-orientations and behaviors – might be experienced both by the children of "immigrants" who work long hours in menial and repetitive jobs, and by the children of "Italian" professionals whose prestigious occupations keep them outside their homes most of the time. And if it might be argued that in the first case a child's loneliness is compounded by the frustrations experienced by his/her parents – in addition to the well-known issues pertaining to cultural conflict – it should also be recognized that in the second (i.e., in more privileged families), the uneasiness of the child might be intensified by the higher expectations often reserved to middle- or upper-class children – as if the latter were somehow born to be successful!

In other words, it would seem that the emergence of behaviors diverging from the widespread social expectations toward these children finds its roots in a problematic experience of what psychologists call "self-esteem." If, in some circumstances, troubles with self-esteem might have their origin in processes of discrimination – which however, we could not directly identify – in other cases they might also have to do with unbearably strong social expectations and aspirations.

We might also hypothesize the existence of diverging opinions about the importance of abidance by the laws, among children coming from different social backgrounds. One is reminded here of the study realized almost four decades ago by Chambliss (1973), through a direct observation of the *saints* (middle-class juveniles) and the *roughnecks* (working-class juveniles). Although the *saints* were involved in actions as dangerous for public safety as the ones committed by the *roughnecks*, the frequency and intensity of their encounters with law enforcement agencies (both inside and outside school) were so limited, if compared to those involving the *roughnecks*, that the personal biographies of members of each of the two groups developed in

radically different directions. If it is true that the social experience of the *roughnecks* could suggest the existence of a sense of frustration which might prompt the emergence of deviant conducts, it must also be said that not only the *saints* too are exposed to potential sources of frustration – as was suggested earlier – but in addition, this frustration overlaps with two further conditions which might lead to deviance. On the one hand, a greater availability of resources: mobility, money to buy alcohol and drugs, etc.; on the other hand – and crucially, in a country like Italy – a feeling of impunity which is widespread among the higher strata of the population and which tends to be easily passed on to the youngsters.

It may also certainly be that, among those who experience "foreignness," hyper-conformist tendencies are balanced by more deviant behaviors. We are currently engaged in an analysis carried out on a much broader sample encompassing the whole region of Emilia-Romagna and in this new study we will be able to look into the "pool" of foreigners and maybe distinguish in their midst. However, it is unlikely that the wisdom of Travis Hirschi's words in his 1969 classic will be greatly disconfirmed, when he stated that "... in the case of Negroes, the official reaction hypothesis as an explanation of differential official rates is particularly persuasive ..." (1969, p. 78) and further, "It is of the essence of social class that it can create differences in reward where none exists in talent, that it can impose differences in punishment where none exists in obedience to rules" (1969, p. 82). Today in the case of Europe, and in particular of Italy, the distinction is made, rather than by social class and disadvantage, by the very functioning of the law that, by making some entitled and others *non-persone*, other-than-people, sets the ground for a *de facto* transformation of European criminal justice systems into true programs of concentration and confinement of populations selected on an ethnic and national basis.

NOTES

1. See for instance, the recent issue of *Criminology and Public Policy* (Vol. 7, February 2008) partially devoted to this topic.

2. For the details of this process in Italy and Spain, see Kitty Calavita's brilliant reconstruction (Calavita, 2005).

3. The same political forces are nowadays busy trying to make it even more difficult for "undocumented" migrants to cross into Italy and stay. It is easy to predict higher dangers to the migrants and more illegality for everybody.

4. Specifically on the relation between social class and self-reported deviance, see Akers (1964), Clark and Wenninger (1962), Dentler and Monroe (1961),

La Mar and Erickson (1963), Gold (1966), Williams and Gold (1972). On the relation between ethnicity and self-reported deviance, see Junger (1989). The pioneering study by Hirschi (1969) deserves special consideration here, in particular regarding the relation between race and self-reported deviance. In his *Causes of Delinquency*, Hirschi found comparable rates of deviant behavior among white and black respondents in his sample, but also a significant overrepresentation of African Americans in regard to contacts with the police. While 55% of white respondents – who had confessed some involvement in at least one deviant behavior – reported a previous contact with the police, this percentage was 76% for black respondents: a clear indication of differential exposure to the activities of law enforcement agencies.

REFERENCES

Akers, R. L. (1964). Socio-economic status and delinquent behavior: A retest. *Journal of Research in Crime and Delinquency*, *1*, 38–46.

Andall, J. (2002). Second generation attitude? African-Italians in Milan. *Journal of Ethnic and Migration Studies*, *28*(3), 389–407.

Angel-Ajani, A. (2005). The racial economies of criminalization, immigration, and policing in Italy. *Social Justice*, *30*, 48–63.

Barbagli, M. (2002). *Immigrazione e reati in Italia*. Bologna: Il Mulino.

Becker, H. S. (1963). *Outsiders. Studies in the sociology of deviance*. New York: The Free Press.

Calavita, K. (2005). *Immigrants at the margins: Law, race, and exclusion in Southern Europe*. New York: Cambridge University Press.

Chambliss, W. J. (1973, November/December). The roughnecks and the saints. *Society*, 24–31.

Child, I. (1943). *Italian or American? The second generation in conflict*. New Haven, CT: Yale University Press.

Clark, J. P., & Wenninger, E. P. (1962). Socioeconomic class and area as correlates of illegal behavior among Juveniles. *American Sociological Review*, *28*, 826–834.

Dal Lago, A. (1999). *Non persone*. Milano: Feltrinelli.

De Giorgi, A. (2006). *Re-thinking the political economy of punishment: Perspectives on post-fordism and penal politics*. Aldershot: Ashgate.

Dentler, R. A., & Monroe, L. J. (1961). Social correlates of early adolescent theft. *American Sociological Review*, *26*, 733–743.

Garland, D. (Ed.) (2001). *Mass imprisonment*. London: Sage.

Gold, M. (1966). Undetected delinquent behavior. *Journal of Research in Crime and Delinquency*, *3*, 27–46.

Hickman, L. J., & Suttorp, M. J. (2008). Are deportable aliens a unique threat to public safety? Comparing the recidivism of deportable and nondeportable aliens. *Criminology and Public Policy*, *7*, 59–82.

Hirschi, T. (1969). *Causes of delinquency*. Berkeley, CA: University of California Press.

Johnston, L. D., O'Malley, P. M., & Bachman, J. G. (1996). *National survey results on drug use from the monitoring the future study, 1975–1995*. Rockville, IN: US Department of Health and Human Services.

Junger, M. (1989). Discrepancies between police and self-report data for Dutch racial minorities. *British Journal of Criminology*, *29*, 273–284.

Kitsuse, J., & Cicourel, A. (1963). On the use of official statistics. *Social Problems*, *11*(2), 131–139.

La Mar, T., & Erickson, M. (1963). Court records, undetected delinquency, and decision-making. *Journal of Criminal Law, Criminology and Police Science*, *54*, 456–469.

Marshall, I. H. (Ed.) (1997). *Minorities, migrants, and crime*. London: Sage.

Martinez, R., & Valenzuela, A. (Eds). (2006). *Immigration and crime: Race, ethnicity and violence*. New York: New York University Press.

Matza, D. (1969). *Becoming deviant*. Englewood Cliffs, NJ: Prentice Hall.

Melossi, D. (2003). 'In a peaceful life'. Migration and the crime of modernity in Europe/Italy. *Punishment & Society*, *5*(4), 371–397.

Melossi, D. (2005). Security, social control, democracy and migration within the 'Constitution' of the EU. *European Law Journal*, *11*, 5–21.

Melossi, D., & Giovannetti, M. (2002). *I nuovi sciuscià. Minori stranieri in Italia*. Roma: Donzelli.

Modood, T. (1997). *Ethnic minorities in Britain*. London: Policy Studies Institute.

Palidda, S. (2001). *Devianza e vittimizzazione tra i migranti*. Milano: Fondazione ISMU.

Park, R., Burgess, E. W., & McKenzie, R. D. (1925). *The city*. Chicago: University of Chicago Press.

Portes, A., & Zhou, M. (1993). The new second generation: Segmented assimilation and its variants. *Annals of the American Academy of Political and Social Science*, *530*, 74–98.

Ritzer, G. (1993). *The McDonaldization of society: An investigation into the changing character of contemporary social life*. Newbury Park, CA: Pine Forge Press.

Sampson, R. (2006, March 11). Open doors don't invite criminals. *New York Times*.

Schur, E. (1973). *Radical non-intervention*. Englewood Cliffs, NJ: Prentice-Hall.

Sellin, T. (1931). The basis of a crime index. *Journal of Criminal Law and Criminology*, *22*, 335–356.

Sellin, T. (1938). *Culture, conflict and crime*. New York: Social Science Research Council.

Short, J. F., & Nye, F. (1957). Reported behavior as a criterion for deviant behavior. *Social Problems*, *5*, 207–213.

Stowell, J. I. (2007). *Immigration and crime: The effects of immigration on criminal behavior*. New York: LFB Scholarly.

Sykes, G., & Matza, D. (1957). Techniques of neutralization: A theory of delinquency. *American Sociological Review*, *22*, 664–670.

Tonry, M. (Ed.) (1997). *Ethnicity, crime, and immigration: Comparative and cross-national perspectives*. Chicago: University of Chicago Press.

Vaz, E. V. (1966). Self-reported Juvenile delinquency and social status. *Canadian Journal of Corrections*, *8*, 20–27.

Voss, H. L. (1966). Socio-economic status and reported delinquent behavior. *Social Problems*, *13*, 314–324.

Williams, J. R., & Gold, M. (1972). From delinquent behavior to official delinquency. *Social Problems*, *20*, 209–229.

Wilpert, C. (1988). From one generation to another: Occupational position and social reproduction – immigrant and ethnic minorities in Europe. In: C. Wilpert (Ed.), *Entering the working world* (pp. 1–23). Aldershot: Gower.

This page intentionally left blank

PART II
IMMIGRANTS AS VICTIMS
OF CRIME

This page intentionally left blank

IMMIGRANTS AS AUTHORS AND VICTIMS OF CRIMES: THE ITALIAN EXPERIENCE

Marzio Barbagli and Asher Colombo[1]

ABSTRACT

Purpose – *Based upon data from the Italian Ministry of the Interior, this analysis describes trends in immigrant crime, the characteristics of offenders and victims of crime as well as their relationships, and the impact of the Italian policies for controlling illegal immigration.*

Methodology – *Tabular analysis of government data.*

Findings – *For many crimes in Italy, the percentage of all persons arrested who were immigrants increased substantially in the past two decades. The increases vary by nationality and probably reflect differences in demographic characteristics of the populations. Patterns of victimization are not what would be expected from the point of view of conflict theory but do strongly support the expectations of routine activities theory. Immigrants are at substantially higher risks of victimization than native Italians for several serious crimes, but their victimization is mostly likely to be done by co-nationals rather than by native Italians. Italian policies to locate and expel illegal immigrants within the country have been less efficient than expected.*

Value – *This analysis demonstrates that immigration has had a substantial impact on crime in Italy. Although it does not address the question of*

whether immigrants are more inclined to commit crime than native Italians, it does show that when immigrants are victimized for certain crimes, it is usually done by co-nationals. It shows that the policies for the internal control of illegal immigration are less efficient than expected.

CHARACTERISTICS OF THE OFFENDERS

In this section, we analyze trends and recent changes in crime in relation to the presence of foreigners in Italy. We discuss the contribution of immigrants to crime as a whole and their characteristics, particularly in relation to nationality and legal status. Later, we discuss the changes in the number and characteristics of foreigners as victims of crime and the relations between criminals and victims.

In Italy as in other Western countries, there was an increase in violent and property crime since the end of the 1960s. In the case of murder, this expansive cycle was interrupted twice. In 1983 murders fell for a few years and then increased. In 1991 they reached a level that Italy had not seen since the Second World War. Since then murders have decreased steadily. In 2006 Italy saw its lowest homicide rate of the last 30 years.

With regard to thefts and robberies, the expansive cycle was interrupted only in 1991. By then the rate of theft was 6 times higher than in 1968, and that of robbery more than 14 times higher. Thefts declined subsequently but since 2002 have increased. Robberies decreased until 1995 but then increased without stopping. They have reached levels never known before. Today, the rate is 18 times that of 1970.

During the second expansive cycle of crimes of property, drugs, and prostitution,[2] there was a second phenomenon, namely, an increase in the proportion of foreigners among the total number of persons accused and convicted of certain offenses. It is to that increase that we now turn. In the last 20 years in Italy, the proportion of all foreigners charged with crime increased by factors of three to six times for six offenses (see Table 1). The same trend is evident for the proportion of foreigners among those charged with drug crimes. Between 1988 and 2007, it went from 3 to 30%.

Two characteristics must be taken into account in describing foreign offenders: their legal status and their nationality. In Italy the possession of a residence permit distinguishes regular/authorized/legal from irregular/unauthorized/illegal immigrants. No one knows for sure how many of each type of immigrant are present in the country. Two estimates have been made

Table 1. Percent of All Offenders Who Were Foreigners by Type of Crime: Italy, 1988–2007.

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Homicide	6	2	3	6	6	14	17	15	17	14	22	18	19	22	18	28	22	16	24	24
Attempted homicide	5	7	9	11	10	11	15	16	16	18	21	21	n.d.	n.d.	n.d.	n.d.	29	29	27	32
Aggravated assault	5	7	10	13	13	15	16	17	18	19	20	21	n.d.	n.d.	n.d.	n.d.	27	27	28	29
Theft	14	17	23	23	25	27	29	32	31	35	38	39	n.d.	n.d.	n.d.	n.d.	44	45	46	49
Auto theft	6	9	11	10	12	14	16	20	22	24	26	24	n.d.	n.d.	n.d.	n.d.	34	36	37	35
Robbery	6	7	12	13	14	15	17	19	19	21	23	25	n.d.	n.d.	n.d.	n.d.	33	32	32	33
Sexual assault	9	8	15	19	20	22	22	24	21	24	22	23	n.d.	n.d.	n.d.	n.d.	34	38	38	40
Drug related	3	14	17	16	14	19	22	23	22	28	32	29	29	31	30	28	28	29	29	30

(Blangiardo, 2005, 2006). In 2005 the irregular population was estimated at around 541,000. As of July 2007, it was 760,000.[3] These estimates should be considered with caution.[4] There are continuous exchanges between the layers of irregular and regular foreigners. Legal immigrants can become irregular when their residence permit expires, and many irregulars have become regularized, thanks to measures adopted by the Italian Parliament in 1986, 1990, 1996, 1998, 2002, 2006, and 2007.

With regard to criminality, irregular foreigners are consistently more involved than the regulars. For all 10 serious crimes examined, the irregulars are in the majority (see Table 2). This differs substantially by crime. For some crimes, the irregulars account for almost all foreigners charged. Those crimes are predominantly instrumental: pickpocketing, car theft, burglary, purse snatching, and robbery. For the crimes of violence (homicide, attempted homicide, assault, sexual assault), the irregular foreigners are also consistently in the majority, although at levels that are lower and decline over time. Indeed, even the levels for the property offenses decline over time. This could be due to the effect of the amnesties that increase the proportion of regulars in the foreigner population. But it might also reflect a change in the differences between regulars and irregulars.

So far we have regarded foreign offenders as a univocal category. But in Italy there is a variety of migratory flows distinct from each other depending upon push factors and when the migration process began. The resulting mosaic of national groups that compose the pattern of foreigners charged with crime can be seen in Table 3. See Table 4 for foreigners involved in homicide.

With some exceptions, the figures show a very small degree of variability with regard to nationality. Romania, Albania, and Morocco appear more frequently among the top three nationalities for these crimes. There are some exceptions. In 2004 the Chinese led the share of people charged and arrested for murder. Croatia and Serbia and Montenegro were at the top for burglaries. Croatia alone provided nearly a tenth of all the accused and arrested people for this crime. For Romania, Serbia and Montenegro, and Albania, each shares a little lower percentage in crime, whereas Italians are now less than half of all the charged and arrested. In the case of pickpocketing, Romania exceeds more than a quarter of all offenders. For pickpocketing, the proportion of Italians is limited to one-third of those arrested and charged.

The high percentage of certain nationalities among those accused of crimes is due in part to differences in demographics. Albanians, Moroccans, and Romanians are the most numerous foreigners in Italy today. Combined

Table 2. Percent of All Foreigners Charged with a Crime Who Were Irregular/Illegal by Crime and by Year: Italy, 1988–2006.

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2004	2005	2006
Homicide	69	91	88	70	81	74	75	82	69	83	79	83	80	72	69	74
Attempted homicide	90	84	79	76	70	76	79	82	79	76	79	71	69	67	67	72
Assault	81	88	73	66	71	74	78	80	74	69	72	68	66	62	61	62
Sexual assault	79	77	70	62	61	65	70	78	74	70	65	n.d.	n.d.	60	63	62
Theft	95	96	90	87	88	89	90	92	89	88	90	85	88	78	79	80
Auto theft	92	96	93	87	87	89	90	92	91	88	88	85	86	80	83	84
Pickpocketing	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	88	87	88
Theft by snatching	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	79	68	80
Burglary	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	n.d.	80	82	82
Robbery	88	95	81	80	80	82	86	87	85	81	83	81	80	74	75	79

Table 3. Percent of All Persons Arrested by Nationality, Type of Crime, and Year: Italy, 2004–2007 (Top 10 Categories Only).

	2004 (%)	2005 (%)	2006 (%)	2007 (%)
Willful homicide				
Italian	77.7	83.6	76.0	76.2
Unknown	4.2	3.7	3.9	3.3
Moroccan	3.0	1.5	1.9	1.7
Chinese	2.8	0.9	1.2	1.3
Albanian	2.8	2.2	3.0	4.4
Romanian	2.1	1.5	4.8	3.9
Tunisian	0.9	0.9	1.2	0.9
Algerian	0.9	0.0	0.6	0.4
Moldavian	0.6	0.3	0.5	0.5
Ukranian	0.6	0.2	0.6	0.7
Other	4.4	5.0	6.4	6.6
Total	100.0	100.0	100.0	100.0
N	1,054	1,293	1,087	1,358
Attempted homicide				
Italian	70.5	70.6	73.4	68.4
Moroccan	6.7	4.2	4.3	5.0
Albanian	4.7	5.0	4.9	6.7
Unknown	3.7	3.4	2.7	3.0
Romanian	2.9	3.3	3.4	4.8
Tunisian	1.6	1.4	1.7	2.2
Polish	1.0	1.0	0.4	0.4
Ecuadorian	1.0	0.4	0.3	0.7
Nigerian	0.8	1.2	1.1	0.4
Algerian	0.8	0.3	0.5	0.7
Other	6.4	9.3	7.2	7.8
Total	100.0	100.0	100.0	100.0
N	1,879	2,174	2,370	2,564
Assault				
Italian	73.2	72.9	72.1	70.6
Unknown	7.2	5.9	5.8	5.5
Moroccan	4.5	4.6	4.9	5.0
Albanian	2.2	2.4	2.5	2.4
Romanian	1.9	2.2	2.5	4.1
Tunisian	1.5	1.4	1.7	1.6
Nigerian	0.9	0.9	0.8	0.8
Algerian	0.6	0.5	0.5	0.6
Senegalese	0.5	0.6	0.6	0.6
Serbian and Montenegrin	0.5	0.5	0.5	0.4
Other	7.2	8.1	8.1	8.5
Total	100.0	100.0	100.0	100.0
N	39,256	41,882	44,179	48,084

Table 3. (*Continued*)

	2004 (%)	2005 (%)	2006 (%)	2007 (%)
Sexual violence				
Italian	65.8	62.0	62.1	60.5
Moroccan	6.6	5.6	6.1	5.8
Unknown	6.3	6.0	5.5	5.7
Romanian	4.6	6.6	6.7	8.8
Albanian	3.4	3.4	3.8	3.0
Tunisian	2.2	1.8	1.8	2.4
Peruvian	0.9	0.6	0.6	0.8
Ecuadorian	0.8	0.8	1.0	0.7
Indian	0.7	0.7	0.6	0.8
Algerian	0.6	0.6	0.6	0.4
Other	8.0	11.9	11.2	11.2
Total	100.0	100.0	100.0	100.0
N	3,690	3,826	4,495	5,104
Theft (total)				
Italian	55.8	55.0	54.2	51.5
Romanian	12.9	13.6	15.3	19.1
Unknown	7.5	6.7	7.1	6.8
Moroccan	3.9	3.6	3.8	3.8
Albanian	3.7	3.0	2.6	2.8
Moldavian	2.2	2.4	1.9	1.2
Serbian and Montenegrin	2.0	2.4	2.1	2.1
Croatian	1.3	1.3	1.0	1.3
Algerian	1.2	1.0	1.2	1.1
Bosnian and Herzegovinian	1.1	1.0	0.9	0.9
Other	8.5	10.1	10.0	9.4
Total	100.0	100.0	100.0	100.0
N	74,525	74,396	77,834	90,674
Burglary				
Italian	47.4	49.3	48.7	47.1
Albanian	15.1	8.3	7.8	9.6
Croatian	8.0	7.9	6.3	7.9
Unknown	7.7	7.7	8.2	7.3
Serbian and Montenegrin	7.5	8.9	8.4	7.7
Romanian	4.3	6.1	7.3	7.9
Bosnian and Herzegovinian	1.9	1.7	0.8	0.8
Moroccan	1.9	1.8	2.4	2.0
Apolidian	0.6	0.9	0.9	1.1
Moldavian	0.6	1.0	0.8	0.5
Other countries	5.0	6.4	8.4	8.0
Total	100.0	100.0	100.0	100.0
N	6,365	6,888	7,404	9,347

Table 3. (*Continued*)

	2004 (%)	2005 (%)	2006 (%)	2007 (%)
Pickpocketing				
Italian	35.7	34.9	30.4	32.1
Romanian	23.8	21.7	27.5	30.7
Unknown	6.8	6.2	6.7	6.1
Algerian	5.1	4.1	4.5	4.6
Bosnian and Herzegovinian	4.4	4.6	3.6	3.6
Moroccan	4.0	5.7	5.4	5.2
Serbian and Montenegrin	2.4	1.9	2.4	2.2
Peruvian	2.0	2.9	1.6	1.8
Moldavian	1.8	2.4	2.0	0.8
Bulgarian	1.4	0.8	1.1	0.9
Other	12.8	14.8	14.8	12.0
Total	100.0	100.0	100.0	100.0
N	3,365	4,590	5,397	5,850
Purse snatching				
Italian	78.4	74.4	72.8	67.6
Unknown	5.7	3.5	4.0	4.6
Moroccan	4.4	5.5	5.1	9.0
Romanian	3.6	4.1	6.1	5.1
Tunisian	1.0	1.1	1.1	1.4
Algerian	0.8	1.2	1.2	1.8
Albanian	0.7	3.2	1.1	1.8
Serbian and Montenegrin	0.6	0.3	0.5	0.5
Ecuadorian	0.5	0.6	0.5	0.5
Egyptian	0.3	0.9	1.7	0.7
Other	4.2	5.3	6.0	7.0
Total	100.0	100.0	100.0	100.0
N	1,263	1,299	1,331	1,305
Auto theft				
Italian	65.6	63.8	63.3	64.9
Romanian	9.3	10.9	11.6	12.4
Unknown	5.7	5.2	4.9	4.9
Moroccan	4.9	4.6	4.8	3.7
Albanian	3.0	3.4	2.7	3.6
Moldavian	1.9	2.5	2.0	1.5
Polish	0.9	1.2	1.1	0.8
Tunisian	0.8	0.8	0.9	0.8
Algerian	0.8	0.6	1.0	0.6
Serbian and Montenegrin	0.8	1.6	1.3	1.2
Other	6.3	5.5	6.4	5.6
Total	100.0	100.0	100.0	100.0
N	3,822	4,666	4,763	5,671

Table 3. (*Continued*)

	2004 (%)	2005 (%)	2006 (%)	2007 (%)
Robbery (total)				
Italian	67.5	67.9	68.3	66.7
Moroccan	6.4	5.6	5.9	6.0
Romanian	6.0	6.4	6.3	8.2
Unknown	4.1	4.2	4.1	3.7
Albanian	2.5	2.6	2.1	1.9
Tunisian	1.4	1.4	1.4	1.6
Serbian and Montenegrin	1.2	1.1	0.9	1.1
Algerian	1.1	1.1	1.2	1.0
Moldavian	0.9	0.9	0.8	0.6
Polish	0.7	0.7	0.7	0.6
Other	8.3	8.3	8.3	8.7
Total	100.0	100.0	100.0	100.0
N	17,146	18,722	20,606	23,341
Burglary				
Italian	52.4	49.2	48.8	50.0
Albanian	7.9	9.6	6.8	5.1
Romanian	7.8	9.9	10.8	13.1
Unknown	5.2	6.2	5.4	3.8
Croatian	4.1	2.6	2.2	2.1
Serbian and Montenegrin	3.8	5.5	2.2	2.0
Moroccan	3.3	4.5	5.4	5.8
Nigerian	1.7	1.1	1.0	0.6
Bangladesh	1.5	0.2	0.7	0.6
Moldavian	1.4	1.1	1.3	0.4
Other	11.0	10.2	15.6	16.4
Total	100.0	100.0	100.0	100.0
N	657	1,189	1,432	1,803

they constituted over one-third of the stable foreign presence and about 1.8% of total resident population as of early 2007. These three nationalities together, however, also contribute 10% of the murders; 16.5% of the attempted murders; 25.7% of those arrested for theft; and 16.1% of those arrested for robbery.

We have said that many of the foreigners arrested and charged with the crimes under discussion are irregular foreigners. Strictly speaking, therefore, the comparison that we have suggested would seem to require a lot of caution, as the resident population does not, by definition, include irregular foreigners, and the size of the illegal population varies according to

Table 4. Foreigners Arrested for Homicide by Nationality, by Year, and by Crime: Italy, 1992–2007.

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total
Frequency of all foreigners arrested																
Albania	3	20	16	50	42	24	46	68	48	26	25	24	18	15	23	448
Algeria	0	0	2	6	5	4	4	1	2	2	2	4	3	1	4	40
Ex-Yugoslavia	5	8	7	5	8	12	7	3	1	6	7	7	7	19	6	108
Marocco	7	20	21	16	14	12	16	11	12	9	26	17	22	9	13	225
Romania	0	1	0	5	3	1	2	1	9	4	6	16	21	23	41	133
Not available	5	4	5	2	2	1	1	0	1	29	0	0	0	1	0	51
Total foreigners	39	114	133	120	130	88	148	139	107	123	99	149	141	140	142	1,812
Percentage of all foreigners arrested																
Albania	8	18	12	42	32	27	31	49	45	21	25	16	13	11	16	25
Algeria	0	0	2	5	4	5	3	1	2	2	2	3	2	1	3	2
Ex-Yugoslavia	13	7	5	4	6	14	5	2	1	5	7	5	5	14	4	6
Marocco	18	18	16	13	11	14	11	8	11	7	26	11	16	6	9	12
Romania	0	1	0	4	2	1	1	1	8	3	6	11	15	16	29	7
Not available	13	4	4	2	2	1	1	0	1	24	0	0	0	1	0	3
Total foreigners	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

nationality. Moreover, there are no data that show what proportion of foreigners are irregular, let alone their various nationalities. However, the existing disproportion suggests the share of nonresidents is between 5 and 14 times that of residents.

IRREGULAR IMMIGRATION AND ITS CONTROL

The large and disproportionate share of irregular foreigners reported for crimes requires us to discuss the policies intended to reduce the number of irregular foreigners in the country and the outcomes of these policies.

Scholars distinguish between policies that affect the selection of foreigners who intend to enter a country and policies aimed at foreigners already in a country. We consider first only the process of selection. Following a trend common to many Schengen countries, Italy has strengthened controls in order to reject foreigners without valid permits at the border. The various forms of refoulement at the border have reduced illegal entry.

There is a good reason to believe that illegal entry is only one component, and not the main one, which accounts for the number of irregular foreigners in Italy. Much of the irregular population is due to overstaying the time limits of valid documents, especially tourist visas. Checks made within the country with the aim of locating and expelling irregular foreigners have been a growing part of the Italian immigration policy.

Some indicators of the impacts of these internal control efforts are shown in Table 5. The first indicator is the number of foreigners apprehended by the police (net of rejections made immediately at borders or within a few kilometers or within a few hours after entry). As shown, the number of irregulars apprehended via internal controls has grown substantially over 20 years. In the 1980s, the number was ten to twenty thousand, in the 1990s, sixty thousand; and since 2000, in the one hundred thousands. This growth was not continuous. The years immediately following amnesties saw contractions. But how many of these illegal foreigners were actually expelled? Fig. 1(a) and (b) give the answer. They indicate that the performance of instruments to combat illegal immigration has undergone radical changes since their debut.

The figures show the percentage of the total number of illegal aliens apprehended via the internal controls who were actually repatriated. The trend lines tell of a steady growth of the illegal immigration control system that lasted from 1990 to 2003, coinciding with jumps of the reforms of 1990 and 1998. However, this growth stops in 2003, in the year following the

Table 5. Overview of the Italian System for Controlling Irregular/Illegal Migration and Internal Controls from 1984 to 2007.

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Persons caught, net of rejections at border	13,645	16,186	18,076	10,237	18,005	26,496	12,473	26,902	34,556	54,561	63,162
Repatriated to countries with agreements											
Expelled and accompanied to border[b]							n.d.	n.d.	n.d.	n.d.	n.d.
Given notice of expulsion[c]							13,012	28,733	35,12	52,918	61,627
Of those, the number who complied							n.d.	n.d.	n.d.	n.d.	n.d.
Detained in CPT facilities[d]											
Of those, the number expelled											
Received orders from the questore (police)[e]											
Of those, number who complied											
Of those, the number who did not comply											
Of the noncompliant, those arrested [A]											
Of the noncompliant, those arrested [B]											

Note: Gray cells indicate data are not available.

[A] Total number of subjects arrested or accused by the questore (police) still active (for some crime).

[B] Total number of subjects arrested or accused by the questore (police) still active for violating a rule regarding the immigration law.

Sources: Table compiled with data from the Ministero dell'interno, Dipartimento della pubblica sicurezza, Direzione centrale dell'immigrazione e della polizia delle frontiere; and data from Ced, interforze (SDI).

[a]I trim.

[b]L. 39/90; poi 40/98; poi 198/02.

[c]L. 39/90; poi 40/98.

[d]L. 40/98, poi L. 198/02.

[e]L. 189/02.

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007[a]
63,791	39,752	57,509	61,72	64,444	88,57	92,561	105,988	77,583	77,517	96,045	101,704	66,335
				11,399	8,438	12,751	17,019	9,901	7,996	10,295	8,293	
n.d.	n.d.	n.d.	n.d.	12,556	15,398	21,639	25,226	19,729	17,2	16,69	13,397	
58,894	37,362	52,111	44,121	40,489	64,734	58,171	53,125	9,378	9,524	5,514	4,065	
n.d.	n.d.	n.d.	2,846	2,571	3,206	2,251	2,273	7,535	6,945	2,585	214	
			5,007	8,847	9,768	14,993	17,469	13,863	16,465	16,055	12,842	1,799
			2,858	3,902	3,134	4,437	6,372	7,021	8,939	11,081	735	724
							13,094	36,810	40,399	59,059	73,497	
							667	2,009	2,147	2,741	2,182	
							12,427	34,801	38,252	56,318	71,315	
							605	3,330	4,778	7,117	10,453	
							169	1,216	1,532	2,762	3,736	
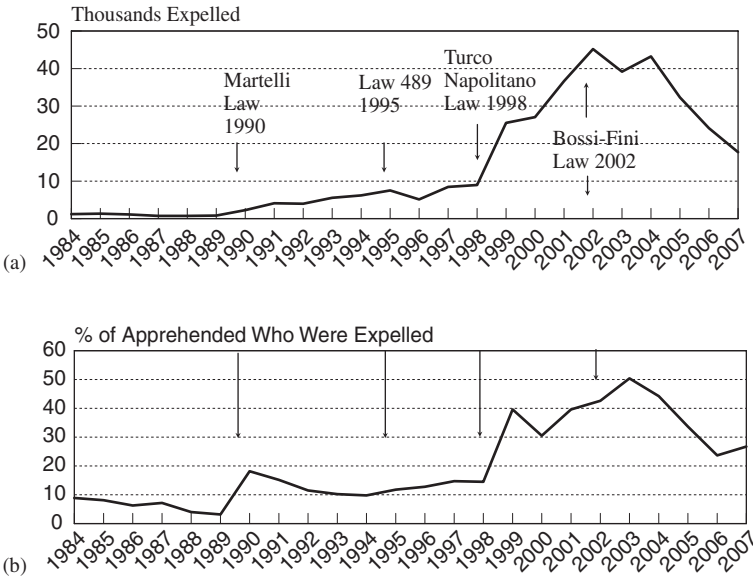
Source: Data from Ced del Ministero dell'Interno

Fig. 1. Immigration Control Laws and Expulsions: Italy, 1984–2007. Irregular Immigrants Expelled (a) and Percent of Apprehended Irregular Immigrants Expelled (b).

promulgation of the new reform of the immigration law approved by the newly formed center-right government. Whereas in 2003 the system was able to expel almost half of those located, in 2007 the system seemed no longer able to function as well as under previous regimes. Since 2003 the rate of expulsion was down to one in four of those caught. The system of immigration enforcement returned to levels slightly higher than before the promulgation of the first immigration law in 1998. Yet this has happened in a country where the percent of irregular foreigners is much higher than in the past.

How should we interpret this collapse of the ability to prevent illegal immigration? We can think of three main factors. The first is the amnesty of 2002. As in previous cases, this amnesty significantly reduced the percent of irregular foreigners. In the case of the Bossi–Fini amnesty, however, the reduction of expulsions began only a year after the conclusion of regularization, and once begun, the reduction was significant and long term. The decline in the percentage of the total number of expulsions began

as early as 2004 and continued uninterrupted until the end of 2006. The second factor is the significant reduction of the repatriations (see Table 5). Again, the period from 2002 until today is characterized by a sharp decline. In 2002, 17,019 were repatriated, and in 2006, 8,293.

IMMIGRANTS AS VICTIMS OF CRIMES

We now turn from the offenders to the victims of crime. We will consider the victim and the offender together. Who robs and who is robbed? Who inflicts violence and who is injured by the violence? Who kills and who is killed? This way we can better understand the various roles that immigrants play in crime.

The Conflict Model

In the analysis of crime, the media (and some scholars) tend to interpret the behavior and motivations of autochthons and immigrants, and relations between them, according to the conflict model of crime. Below we address four types of crime from this theoretical perspective. First, there are some forms of theft by immigrants accomplished without the use of force but by using deception: pickpocketing, burglary, auto theft, or the theft of other movable property. They are seen as acts of a kind of class struggle between the poor and the rich. The idea is very simple. Immigrants are people in need from developing countries, and some of them are forced to rob wealthy Italians to survive.

Second, the conflict perspective, particularly the concept of a class conflict, is used to interpret the responses of victims. Many victims take precautions to reduce their risk. They avoid going into certain areas of the city or put locks on their doors. But some resort to force and may commit crimes against immigrants. If natives discover foreigners burglarizing their home, they may chase them, try to stop them, and eventually might beat and injure them. In some cases, natives arm themselves and, when they feel threatened, might shoot the intruders.

Third, the conflict model is used to explain violent crimes committed by immigrants against natives, such as robbery, aggravated assault, sexual assault, and murder. Many feel that many of these crimes are expressions of intolerance and hostility of immigrants toward the indigenous population. Especially, the rape of an indigenous woman by a stranger is often regarded

as an instrument produced by the resentment and desire for vengeance against the rulers and oppressors (LaFree, 1982; Block, 1985; O'Brien, 1987; South & Felson, 1990; Sampson & Lauritsen, 1994; Wilbanks, 1985).

Fourth, hate crimes are seen as a clear example of conflict. These are crimes "motivated by prejudice or by hostility toward the racial, ethnic, and religious background, or the sex of the victim," sometimes committed by natives against immigrants, as well as against the gypsies, the homeless, the Jews, and lesbians and gays. This category of crime includes very different acts, such as insults or attacks, damaging others' property, malicious injury, and murder. However, all these crimes share the same origin: the disdain toward those who belong to minorities.

Following the conflict perspective often leads one to believe that crime among people of different nationalities is much more frequent than crime among people of the same nationality. Often, this approach leads to believing two other propositions: (1) that cases in which the author of a crime is a stranger and the victim is a native (an Italian) are much more frequent than those where Italians are the authors and foreigners the victims and (2) that indigenous people are affected by crime far more than immigrant people are.

The Analysis of Nine Crimes

The following analysis contains three surprises. It shows that the conflict model can make sense of only a small part of the criminal acts committed in Italy. The first surprise is that it is not the natives but the immigrants who are more often victimized by many of the crimes analyzed. Table 6 presents estimates of the risks of criminal victimization in Italy by type of country of origin, using Italy as the standard of comparison. For six crimes (pickpocketing, purse snatching, robbery, aggravated assault, sexual assault, and homicide), immigrants from countries with strong migratory pressures are more frequently victimized than native Italians. In some cases, their disadvantage is very strong. Their risk of victimization is more than five times that of Italians for robberies and pickpocketing, and more than three times for aggravated assault, sexual assault, and homicide. On the other hand, foreigners from highly developed countries are the victims of pickpocketing nine times more often than Italians and almost twice as often as immigrants from the poorest countries. Finally, Italians suffer more often than any other from auto thefts, burglaries, and shoplifting.

Table 6. The Risk of Criminal Victimization by Nationality: Italy, 1999 (Italian = 1).

Type of Crime	Nationality of the Victim		
	Italian	Foreigner from developed country	Foreigner from country with strong migration pressures
Auto theft	1.000	0.261	0.577
Burglary	1.000	0.255	1.004
Shoplifting	1.000	0.244	0.186
Pickpocketing	1.000	9.566	5.395
Purse snatching	1.000	1.001	2.309
Robbery	1.000	0.824	5.663
Aggravated assault	1.000	0.165	3.788
Sexual assualt	1.000	0.932	3.600
Homicide	1.000	0.322	3.320

Some of the differences in the rates of criminal victimization can be explained by routine activity theory. According to it, the chance of victimization depends upon three characteristics of potential victims and their property in relation to the offender: proximity, profitability, and accessibility. If some people are robbed or robbed more frequently than others, it is because of the following: first, they are more exposed to perpetrators of crime (e.g., who may live in the same neighborhood) (proximity); second, they possess goods with greater economic or symbolic value (profitability); and third, they are less well protected (accessibility). If, for example, the French, the German, and the British who spend time in Italy (for tourism, work, or study) are pickpocketed more than Moroccans, Tunisians, or Albanians, it is first because they have more assets and assets of higher value and, second, because, by their lifestyle, they are more easily accessible. They are very mobile and spend many hours of the day in public, often in crowded places that facilitate this type of crime. If, on the other hand, Italians suffer more frequently of auto theft, burglary, or shoplifting than immigrants from developing countries, it is because they more often live in well-furnished homes, have luxurious shops, and travel in expensive cars.

Various scholars have argued that the increased frequency with which foreigners are criminally victimized depends upon their particular vulnerability: the fact that they ignore the laws of the country of arrival, have little familiarity with its institutions, and cannot get a valid residence permit. It is worth noting that this argument has a long history, having been supported by Aristotle. "One commits an injustice" – the Greek philosopher

wrote in the *Rhetoric* – "against those who do not have the advantage of being able to lose time waiting for a ruling or compensation – foreigners, for example, or those who must work – if a matter could easily come to a compromise and put an end to a contention." Although plausible and useful, this hypothesis does not by itself account for changes that we found. Why, for example, are the differences between immigrants and natives regarding the risk of criminal victimization much greater for robbery and for mugging?

To answer to these questions, we analyze the nationality of both the victim and the offender. Table 7 shows these relationships by type of crime. It focuses upon Italians and immigrants from developing countries. At first glance, one might think that, generally, criminal acts committed between persons belonging to different national groups are more frequent than those that occur within the same group, and also that the more frequent patterns are those in which the author is an immigrant and the victim is a native. Consider, for example, sexual assault. If the perpetrators are immigrants, Italians are 56% of the victims. If instead, the offenders are Italians, then immigrants are only 3% of women sexually assaulted.

This conclusion, however, would be unjustified. It comes from an error in analysis, namely, not taking into account that the sizes of the two groups are completely different. If we consider the population from 18 to 59 years (that is where the victims of crimes in which we are interested are concentrated) and if we limit ourselves to two groups (in the late 1990s), Italians were about 97% and immigrants from developing countries were 3%. This means that if the perpetrators of crimes in Italy and abroad have committed their criminal acts in a completely random way, that is, if they had chosen their victims irrespective of the nationality to which the victims belonged, the distribution of these acts would have been very different from what was observed. Under these circumstances, it would mean that it was the immigrants who had sexually assaulted women in 97% of the cases, and Italians had done so in only 3% of the cases. To give an answer to our questions, we must therefore compare the values observed (the first) with those expected (the second). By following this path, we reach two other surprises.

Considering sexual assault (Table 7), we see that if the author of the crime is Italian, the observed and expected values match. This means that in reality, Italians choose their victims regardless of their nationality. If instead, the offender is an immigrant, the observed values differ substantially from those expected. This means that immigrants choose as victims less than a proportional share of Italians (56% instead of 97%) and more than a proportional share of immigrants (44% instead of 3%).

Table 7. Immigrant Status of Victim and Offender by Type of Crime: Italy, 1999.[a]

Victim	Offender															
	Auto theft		Burglary		Shoplifting		Pickpocketing		Purse snatching		Robbery		Aggravated assault		Sexual assault	
	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant	Italian	Immigrant
Italian	99	97	98	97	100	99	95	82	95	70	92	67	96	44	97	56
Immigrant	1	3	2	3	0	1	5	18	5	30	8	33	4	56	3	44
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
N	1,511	491	1,747	1,742	4,052	2,931	274	704	345	30	2,075	782	6,405	871	628	118

[a]Barbagli (2002, T. 5.2). Only immigrants from developing countries are included.

The logical consequence of this tendency of immigrants to affect more than the proportionate measure within their own group, together with the tendency of Italians to hit "accidentally" (i.e., whatever the nationality of the victims), is the fact with which we started, namely, the greater risk of immigrants to be the victims of crime.

Similar conclusions are reached analyzing the data on other offenses: purse snatching, robberies, aggravated assault, and pickpocketing. Consider also homicides (see Table 8). By analyzing the relationship between authors and victims, we can see that the observed values differ from those expected. If those who kill are Italians, then the victims are foreigners in 3% of cases, just what we would expect based upon the size of the two groups. If the offender is a foreigner, the share of co-nationals of the total murdered is not 3%, but reaches 69%. So, for all these crimes, the data – if analyzed properly – contain a second surprise: that crime within the same national group is more frequent than that between different groups. This can be seen in Table 8 by noting that the highest percentage lies along the diagonal row of cells (top left to bottom right) that represent the same nationality for both the victim and the offender.

Our records also hold a third surprise: that the crimes in which the offender is a foreigner and the victim an Italian are less frequent (than expected on the basis of the size of groups) as opposed to when the author is an Italian and the victim is a foreigner. So we can understand why foreigners are the victims of these crimes more often than Italians. If immigrants suffer homicide, purse snatching, pickpocketing, robbery, aggravated assault, and sexual assault more often than natives, it is because, for one thing, there is a strong tendency to commit within one's own group and, second, because a significant proportion of these crimes is committed by foreigners.

The increased tendency of immigrants to choose victims of their own national group explains why they have higher risks of victimization for six offenses. But it does not explain the magnitude of this risk. Why, for example, are immigrants 5.6 times more likely than Italians to be robbed instead of two or three times? The answer is that the share of immigrants among all offenders is very high (27%), much higher than the weight of this population group (3%).

Homicide

We can go further in explaining the relationship between offenders and victims in murder cases because more information is available on them.

Table 8. The Nationality of the Victim of Homicide by the Nationality of the Offender: Italy, 1992–2006.

Nationality of Victim	Nationality of the Murderer																Total
	Italian	EU-15 countries	Other developed countries	Ex-Yugoslavian	Romanian	Albanian	Other European countries	Moroccan	Tunisian	Other African	Chinese	Other Asian	Peruvian	Other South American	Other	Nationality unknown	
Italian	94.7	76	86.4	41.6	27	17.4	32.4	22.5	26.1	35.5	6.1	16.7	40.9	54.3	77.8	59.2	84.2
EU-15 countries	0.7	11.6	0	0.7	0.9	0.4	1.4	0	0	1.2	0	0.8	4.5	1	5.6	2	0.8
Other developed countries	0.1	0.8	4.5	0	0	0	0	0	0	0	0	0	0	1	0	0	0.2
Ex-Yugoslavian	0.5	0.8	3	38.7	0.9	1.1	2.9	0.7	0.4	0	0	0	0	1	0	8.2	1
Romanian	0.5	0	0	0.7	57.7	1.5	0	0.4	0.9	2.4	0	0	0	2.9	0	0	1
Albanian	0.9	3.3	0	12.4	4.5	75.7	4.8	4.9	0.9	1.2	2	0	4.5	7.6	0	12.2	4
Other European countries	0.4	0.8	4.5	2.2	6.3	0.4	50.5	2.5	0.9	0	0	2.5	0	0	0	6.1	1.3
Moroccan	0.5	0	0	0	0	0.2	1.9	53.7	12	6	0	0	4.5	1.9	0	0	1.9
Tunisian	0.3	0.8	0	0	0	0.2	1	8.8	51.3	3.6	0	0.8	0	0	0	0	1.4
Other African	0.4	0	0	0	0.9	0	1	2.5	5.6	48.2	0	0.8	0	3.8	0	10.2	1.2
Chinese	0	0	0	0	0	0.6	0	0	0	0	91.8	0	0	0	0	0	0.7
Other Asian	0.2	3.3	0	0.7	0	0	3.3	1.4	1.3	0.6	0	78.3	0	0	0	2	1.1
Peruvian	0.1	0	0	0	0.9	0	0	0	0	0	0	0	36.4	3.8	5.6	0	0.2
Other South American	0.3	0	0	0.7	0	0.9	0	0	0	0	0	0	4.5	21	5.6	0	0.5
Other	0.1	0	0	0	0	0	0	0	0	0	0	0	0	0	5.6	0	0.1
Nationality unknown	0.3	2.5	1.5	2.2	0.9	1.5	1	2.8	0.9	1.2	0	0	4.5	1.9	0	0	0.5
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
N	11,087	121	66	137	111	465	210	285	234	166	98	120	22	105	18	49	13,294

As noted earlier, the number of murders in Italy fell between 1992 and 2007. However, the proportion of foreigners who were murder victims increased substantially. In the following decade, this number has increased phenomenally. Today, a fifth of male victims and a quarter of female victims are born abroad.

A detailed look at the relationship between victims and offenders in homicide cases is presented in Table 8. It shows the country of birth of both the victim and the offender. The data indicate that the frequency of in-group homicide varies significantly depending on the country of origin. Those who kill a co-national most frequently are the Chinese. Out of 100 persons born in China charged with murder, 92 have killed other Chinese. Next in the frequency of co-national killings are immigrants from other Asian countries, then Albanians, Romanians, Moroccans, and Tunisians.

Also noteworthy in this pattern of selecting victims for murder is the fact that when immigrants from developing countries do not kill co-nationals, they are likely to kill immigrants from countries that are geographically and culturally close to their own home countries. Thus, Tunisians kill Moroccans, and vice versa, but Tunisians do not kill people from the Balkan Peninsula. Romanians and ex-Yugoslavs kill Albanians and others from Eastern Europe while never victimizing a North African.

Over the last decade in Italy, natives and immigrants were killed for various reasons and in different ways (see Tables 9 and 10). Italians have been killed more often with firearms and aliens with knives. But among the immigrants, there are differences. Moroccans, Tunisians, Peruvians, and the Chinese often kill with knives; ex-Yugoslavs and Albanians more frequently use firearms.

Between 1992 and 2006, Italians have been killed much more frequently than any of the immigrant groups for reasons linked to the mafia, the Camorra or the Ndrangheta (Table 10). The victims of these killings are usually people belonging to the same criminal groups who came into conflict with one another or with external thieves and robbers, or people who have not complied with the standards imposed by the organization, its "territorial lordship." This category also includes family members or relatives of opponents who are caught in the cross fire; or they are magistrates, policemen, journalists, politicians, or others who are involved in the fight against organized crime; or they are entrepreneurs who are in this competition.

Only the Chinese kill and are sometimes killed for reasons of organized crime, although this happens much less frequently than with Italians.

Table 9. Homicides by Type of Weapon and by Nationality of the Victim: Italy, 1992–2006.

% by This Type of Weapon	Nationality of the Victim																
	Italian	EU-15 countries	Other developed countries	Ex-Yugoslavian	Romanian	Albanian	Other European countries	Moroccan	Tunisian	Other African countries	Chinese	Other Asian countries	Peruvian	Other South American	Other	Nationality unknown	Total
Firearm	65.5	54.2	33.3	45.8	17.5	42.9	26.1	17.2	21.7	22.2	7.8	15.9	13.0	18.6	0.0	16.7	60.6
Knife	13.7	20.0	33.3	23.3	33.0	37.3	27.3	54.4	54.3	47.4	56.9	56.8	52.2	44.2	40.0	66.7	17.3
Strangulation	5.3	6.7	0.0	6.7	9.3	5.0	8.5	3.9	3.9	7.7	15.7	6.8	13.0	11.6	13.3	0.0	5.5
Injuries	6.5	5.8	4.2	10.8	14.4	5.6	16.5	12.3	10.1	6.2	3.9	6.8	8.7	7.0	26.7	0.0	6.9
Unknown	1.4	2.5	4.2	2.5	9.3	1.9	6.3	1.0	1.6	2.1	7.8	3.4	0.0	3.5	0.0	0.0	1.6
Other	7.7	10.8	25.0	10.8	16.5	7.5	15.3	11.3	8.5	14.4	7.8	10.2	13.0	15.1	20.0	16.7	8.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
N cases	10,771	120	24	120	97	322	176	204	129	194	51	88	23	86	15	6	12,426

Table 10. Homicides by Motives and by Nationality of the Offender: Italy, 1992–2006.

% for This Motive	Nationality of the Offender															
	Italian	EU-15 countries	Other developed countries	Ex-Yugoslavian	Romanian	Albanian	Other European countries	Moroccan	Tunisian	Other African countries	Chinese	Other Asian countries	Peruvian	Other South American	Other	Nationality unknown	Total
Organized crime	27.9	8.1	6.7	0.0	0.0	1.5	0.9	0.5	0.7	1.5	15.0	2.8	0.0	0.0	0.0	10.9	23.7
Quarrel	20.8	36.5	33.3	28.7	29.7	42.1	43.9	54.9	36.0	34.8	60.0	63.9	66.7	20.4	44.4	30.4	24.3
Robbery/theft	9.7	20.3	20.0	21.8	38.6	7.4	15.8	7.4	4.7	6.1	16.7	5.6	0.0	22.4	11.1	10.9	10.1
Family/passion	25.9	24.3	20.0	17.8	18.8	7.7	13.2	12.3	10.0	25.0	6.7	13.0	33.3	26.5	22.2	21.7	24.0
Prostitution	0.4	1.4	6.7	5.0	5.0	32.8	3.5	1.0	2.0	10.6	0.0	0.0	0.0	10.2	0.0	10.9	2.1
Other	15.3	9.5	13.3	26.7	7.9	8.5	22.8	11.3	46.7	22.0	1.7	14.8	0.0	20.4	22.2	15.2	15.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
N cases	7,944	74	15	101	101	390	114	204	150	132	60	108	18	49	9	46	9,515

This hardly ever happens to immigrants from other countries. Very often, the latter kill and die in quarrels and fights. Some national immigrant flows have other peculiarities. The murders of which Albanians are victims and perpetrators have often to do with prostitution. Those committed by ex-Yugoslavs and, even more, by Romanians take place during robberies or thefts.

CONCLUSION

Compared to other Western European countries over the past 20 years, the increase in Italy of the percent of all immigrants charged with certain crimes was probably greater. That is due in part to some unique characteristics present in Italy, particularly the illegal immigrant population. For one thing, in Italy, as in other Mediterranean countries, the informal economy contributes more than anywhere else to the production of the gross domestic product, and more than anywhere else, it is widely known there is the so-called ''black labor,'' hidden work that is undeclared to the authorities and thus omitted from any regulation. This economy has attracted a large number of undocumented migrants. Second, unlike in other European countries over the past two decades, the Italian authorities in the labor market have not increased internal controls, and sanctions against employers who hire illegal immigrants were not made more severe. Third, during this period, Italy has had a smaller capacity to control its territory than other countries; as a result, it has been less able than many other European countries to expel illegal immigrants that the judiciary and the police decide to repatriate. However, two laws approved by the Italian Parliament in 1998 and 2002 increased this capacity for internal control, although less than what was expected.

NOTES

1. The final translation from Italian and rendering into English was done by William F. McDonald.
2. See Lehti and Aromaa (2006).
3. ISMU (2007).
4. For literature on estimating the irregular population, see Natale and Strozza (1997, pp. 175–212), especially T. 5.1; Strozza (2004); and Bonifazi (2007, pp. 106–123, T. 3.1).

REFERENCES

Barbagli M. (2002). *Immigrazione e reati in Italia*. Bologna: Il Mulino.

Blangiardo, G. C. (2005). I processi di immigrazione: Dall'illegalità alla regolarizzazione. In: M. Livi Bacci (Ed.), *L'incidenza economica dell'immigrazione* (pp. 41–56). Torino, Italy: Giappichelli.

Blangiardo, G. C. (2006). La presenza straniera in Italia. In: *Fondazione ISMU, XI. Rapporto sulle migrazioni 2005* (pp. 33–47). Milano, Italy: Franco Angeli.

Block, C. R. (1985). Race/ethnicity and patterns of Chicago homicide 1965 to 1981. *Crime & Delinquency*, *31*(1), 104–116.

Bonifazi, C. (2007). *L'immigrazione straniera in Italia*. Bologna, Italy: Il Mulino.

ISMU. (10 Dicembre 2007). *Tabelle XII rapporto ISMU sulle migrazioni*. Available at www.ismu.org/files/tabelleXII.pdf

LaFree, G. D. (1982). Male power and female victimization: Toward a theory of interracial rape. *American Journal of Sociology*, *88*(2), 311–328.

Lehti, M., & Aromaa, K. (2006). Trafficking for sexual exploitation. *Crime and Justice. A Review of Research*, *34*, 133–227.

Natale, M., & Strozza, S. (1997). *Gli immigrati stranieri in Italia. Quanti sono, chi sono, dove vivono?* Bari, Italy: Cacucci Editore.

O'Brien, R. M. (1987). The interracial nature of violent crimes: A reexamination. *American Journal of Sociology*, *92*(4), 817–835.

Sampson, R. J., & Lauritsen, J. L. (1994). Violent victimization and offending: Individual-, situational-, and community-level risk factors. In: *Understanding and preventing violence* (Vol. 3, pp. 1–114). Washington, DC: National Academy Press.

South, S. J., & Felson, R. B. (1990). The racial patterning of rape. *Social Forces*, *69*, 71–93.

Strozza, S. (2004). Estimates of the illegal foreigners in Italy. A review of the literature. *International Migration Review*, *38*(1), 309–331.

Wilbanks, W. (1985). Is violent crime intra-racial? *Crime & Delinquency*, *31*(1), 117–128.

IMMIGRANTS AS VICTIMS OF CRIME: THE AUSTRALIAN EXPERIENCE

Toni Makkai and Natalie Taylor

ABSTRACT

Purpose – *This paper summarises what is known about the victimisation of immigrants in Australia.*

Methodology – *A review of the literature.*

Findings – *Immigrants in Australia appear to be less victimised than natives. However, this may be an unwillingness of report victimisations and/or not defining certain events as victimisations. Immigrants are more likely than natives to perceive their victimisations as racially motivated and they experience higher levels of fear of crime.*

Value – *This paper provides a succinct look at the experiences of immigrants based upon the findings of victimisation surveys in Australia.*

When discussing migration and crime in Australia, the most common perception is that migrants are disproportionately involved in crime as offenders and as a result the non-migrant, dominant community is often fearful that immigrants bring crime with them. This perception is reinforced

by media reporting and is most commonly found when reporting about organised crime groups and youth gangs (Collins, Noble, Poynting, & Tabar, 2000; Perrone & White, 2000). Baur (2006, p. 2) hypotheses that 'negative stereotyping of migrants may lead them to be disproportionately targeted as victims of crime'. This paper summarises the most recent data on levels of victimisation amongst migrant groups and concludes that although the available evidence does not show consistently higher levels of victimisation, it does show that migrants report higher levels of fear of crime.

Australia is an immigrant society, and the first part of the paper provides a brief overview of migration patterns and the broad changes that have occurred over the past century. This is followed by a discussion of the limitations of the empirical data on immigrants and their experience of crime. The paper then draws on a number of different studies to examine the extent to which immigrants have been victims of physical abuse, personal crime and fraud, and their perceptions of crime. The paper concludes by summarising the experiences of crime by three specific groups – female immigrants, Middle Eastern and Vietnamese migrants and ethnic small businesses.

MIGRATION PATTERNS TO AUSTRALIA SINCE 1900[1]

Australia is an immigrant society of around 21 million people occupying the largest island in the world. Migration has played an important role in increasing Australia's population since the Second World War. In 1901, just under a quarter of Australia's population was born overseas (23 per cent). This declined by more than half to 10 per cent by the end of the Second World War. At this time the federal government's policy was to substantially increase Australia's post-war population through migration. By 1990 the proportion of overseas born had returned to the same level as it had been in 1901. At 30 June 2007, the number of overseas-born Australians had reached over five million, representing a quarter of the total population (Table 1). In 2006–2007, migration was the primary contributor to population growth as it exceeded the domestic birth rate.

The patterns of migration have changed over time. More broadly the largest numbers of migrants have been from the United Kingdom, New Zealand and Europe, and Table 1 indicates this is still the case. However, as a proportion of the overall yearly migrant intake, these groups have declined over the past decade. This is most obvious when we examine when those born overseas first arrived in Australia. Of the 2.1 million

Table 1. Main Countries of Birth at 30 June 2007.

Country	Number ('000)	Percentage of Population
United Kingdom	1,149.1	5.5
New Zealand	463.3	2.2
China[a]	281.0	1.3
Italy	225.1	1.1
India	199.7	1.0
Vietnam	188.0	0.8
Philippines	144.3	0.7
Greece	133.3	0.6
South Africa	126.3	0.6
Germany	125.4	0.6
Malaysia	113.4	0.5
Netherlands	90.9	0.4
Lebanon	90.7	0.4
Hong Kong (SAR of China)	86.3	0.4
(Total overseas born)	(5,253.8)	(25.0)
Australian born	15,763.4	75.0
Total population[b]	21,017.2	100

Source: ABS (2008a).
[a]Excludes Special Administrative Regions (SARs) and Taiwan Province.
[b]Includes country of birth 'Not stated' and 'At sea'.

Australians born overseas in Europe, only around 8 per cent arrived from 2001 or later as compared to 27 per cent of Australians born in Asia who are recent arrivals. This diversity is reflected by the different languages spoken at home and how people view their ancestry. In 2007, almost 400 different languages were spoken in the family home and more than 250 different ancestries were reported. The most common ancestry was Australian and the next most popular ancestries were from the United Kingdom followed by Italy, Germany and China.

The fastest growing languages are Mandarin and Hindi and this is reflected in the increasing proportion of migrants from Asia. Between 1997 and 2007 a greater proportion of migrants have come from Asia and Africa, with people born in Sudan recording the greatest rate of increase in Australia's population. During this period, the Sudanese averaged an annual growth rate of 22 per cent (although this was from a low base rate) followed by Bangladesh (12 per cent), Afghanistan (11 per cent), Brazil (10 per cent) and Zimbabwe (9 per cent). More recently, the highest rates of growth between 2006 and 2007 were for people from Japan, followed by South Korea.

In 2005–2006, 131,600 people arrived in Australia intending to settle, the majority of whom (72 per cent) arrived as part of the Migration Program. Of Migration Program arrivals, most arrived under the skilled migration category (45 per cent of all permanent arrivals), while 26 per cent arrived under the family migration category. A further 9 per cent arrived as part of the Humanitarian Program. Australia has for some time had a large family reunion and refugee program. This is reflected in the birthplace of recent arrivals, with many from countries affected by war and political unrest. Over 73 per cent (or around 14,000) of Australian residents born in Sudan had arrived in 2001 or later. During the same period there have been high proportions of migrants born in Zimbabwe (48 per cent or 10,000 people), Afghanistan (45 per cent or 7000) and Iraq (34 per cent or 11,000).

The diversity of Australia's community is also shown by the large proportion of Australians who have had one or both parents who were born overseas. In 2006, 26 per cent of those born in Australia reported that they had at least one parent who had been born overseas. Just under half (44 per cent) of these had both parents born overseas, another third (34 per cent) had their father born overseas and just under a quarter (23 per cent) had their mother born overseas.

METHODOLOGICAL LIMITATIONS OF IMMIGRATION AND CRIME DATA

Overall the availability of public data on the trends, patterns and characteristics of migration is much greater than the collation of data on immigrants' experiences of crime. This stems primarily from three reasons. The first is the theoretical debate over defining ethnicity. Although traditionally birthplace has been used, many have argued that this measure fails to capture 'ethnicity', which can encompass factors such as ancestry, language, religion and self-perception of ethnicity. There has also been sensitivity over asking individuals about their ethnic origins, and as a result, many of the administrative collections by police, courts and corrections contain limited information usually related only to birthplace. A further problem has occurred when the question was neither asked nor recorded in a consistent manner. On occasion it has relied on the perception of the person asking the question. This has meant researchers have not had robust data upon which to undertake analysis.

Australia is a federal country, with six separate states and two separate territories. Most criminal law and the associated criminal justice agencies are state and territory based, and the collation of national administrative crime and justice data from police and court records has only been occurring since the early 1990s. Prison statistics have been collated since the early 1980s but there have been problems in the recording of birthplace data. Prior to these national collections there were state-based collections but they varied across jurisdictions in terms of definitions and availability not just of ethnicity but also of the crime categories themselves. The most obvious source of data on victims is the recorded crime data from the administrative systems, which is based on victims' characteristics recorded by state police services. However, ethnicity or birthplace has not been one of the key variables so that breakdowns of victims of crime are not available, although it has been identified in the National Information Development Plan as a priority area for enhancement of national crime and justice statistics.

This means that national crime victimisation data are largely drawn from crime victim surveys. As described earlier, although Australia has proportionately a large immigrant community, it is dispersed across many groups. As a result, surveys require very large sample sizes if they are to obtain a sufficient number of responses within different migrant communities. As this is extremely costly, many surveys are not of sufficient size to enable detailed analyses. It has also meant that Australia's national statistical office has aggregated the statistics across different communities when presenting results in order to preserve confidentiality. However, many argue that different groups have different experiences of crime depending on their physical characteristics, when they arrived, their ability to integrate into the wider community, and their levels of human and social capital. Thus, aggregation of data may mask important differences in victimisation between different groups.

This paper draws on aggregated data and published results provided from various surveys undertaken by the Australian Bureau of Statistics (ABS). The ABS asks about perceptions of safety and crime victimisation in two of its survey collections – its General Social Science (GSS) survey, which is undertaken every year, and Crime and Safety Survey (CSS), which is undertaken approximately every 3 years. The ABS also undertook a major survey of personal safety in 2005 and a survey of fraud victimisation in 2007. In addition to these surveys, the Australian Institute of Criminology (AIC) undertakes the International Crime Victimisation Survey (ICVS), with the most recent occurring in 2005. In this survey, two groups of recent immigrant groups – Middle Eastern and Vietnamese – were over-sampled.

In 2004, the AIC published findings from the Australian component of the International Violence Against Women Survey (IVAWS). This survey randomly sampled 6,677 women across Australia aged between 18 and 69 years – 1,122 of these women identified as being from a non-English-speaking background (NESB). The final survey to be drawn upon is a study of experiences of crime by small businesses in two ethnically concentrated communities conducted in 2003–2004 by the AIC.

All of the surveys use different modes of collection and different sampling frames, and ask different questions and are framed in different contexts. These differences will undoubtedly affect responses and as a result victimisation rates will differ (see ABS, 2004). However, limited analyses suggest that these differences are more likely to occur when the proportion of people who experience the event are relatively small, resulting in large standard errors.

PATTERNS OF VICTIMISATION OF IMMIGRANTS

Child Physical Abuse

Based on the national personal safety survey in 2005 of 22,000 people, migrants were no more or less likely to report having been the victim of physical abuse before age 15 (ABS, 2007). Ten per cent of migrants and non-migrants reported having being a victim of such abuse. However, migrants who had reported arriving prior to 2001 reported slightly higher rates of child physical abuse (10 per cent as compared to 7 per cent for those arriving since 2001). This difference is also reflected in the changing patterns of migration to Australia. Those who came from English-speaking countries (and are more likely to have migrated at an earlier time) reported higher rates (12 per cent) compared with non-English-speaking countries (8 per cent). The pattern of abuse did vary by sex and whether they were born in Australia or overseas. Of those migrants who reported childhood physical abuse, 55 per cent were male and 45 per cent were female. Of the Australian born who reported childhood physical abuse, 46 per cent were male and 55 per cent female.

Personal Crime and Feelings of Safety

In 2005, Australians aged 15 years or older and born overseas were less likely to report being victims of either robbery or assault during the 12 months prior to the survey. In 2006, they were also less likely to report

being the victim of an actual or attempted break-in during the last 12 months (7.5 per cent) compared to those born in Australia. The overseas born also reported being less likely to being the victim of physical or threatened violence (6.9 per cent) than the Australian born (12.3 per cent). Despite reporting lower rates of victimisation, those born overseas (8.9 per cent) feel more unsafe at home alone after dark compared to those born in Australia (5.9 per cent).

Due to small sample sizes the data cannot be broken down by country of birth. However, the data are provided by region of birth. Rates of reported violence were found to be highest amongst the Australian born and lowest amongst those from Southern and Eastern Europe. However, those from South East Asia had the second highest rates of break-in and the third highest rates of violence (see Fig. 1).

In terms of age and sex, the rates of victimisation for males and females were highest for the Australian born, followed by those born in Asia and Europe. The only exception to this pattern was for rates of victimisation for violence for males: European males reported slightly higher rates of victimisation than Asian males. The pattern of victimisation by age followed a similar pattern for both migrants and Australian born, with younger people reporting higher rates of victimisation for both violence and break-ins regardless of migrant status.

(a) Per 100,000

Source: ABS General Social Survey 2006 unpublished data
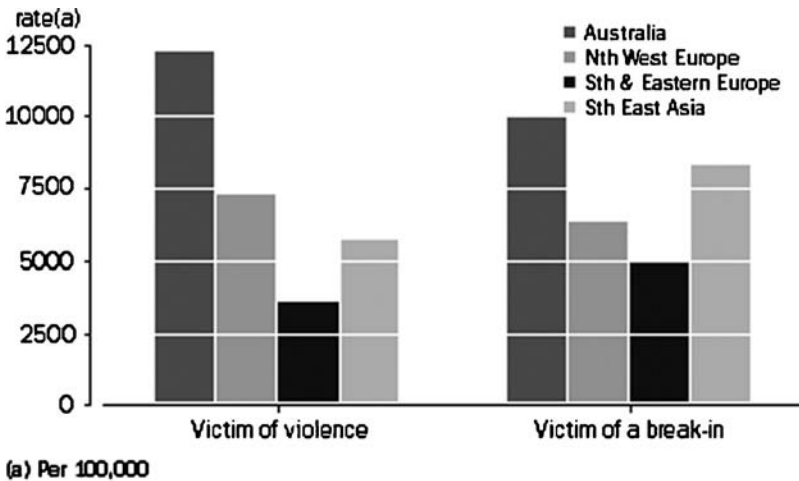
Fig. 1. Rate of Victimisation for Violence and Break-Ins. *Source:* ABS (2008b).

Experience of Fraud Victimisation

It is difficult to determine the overall level of fraud in the community as it is one of the most under-reported crimes in Australia (AIC, 2008). In 2005, fraud was estimated to account for 24 per cent of the cost of crime to the Australian community and to be increasing (Rollings, 2008). There are no national statistics on fraud victims. In 2007, the ABS conducted a major survey of personal fraud resulting in 14,320 persons who responded (representing 89 per cent of private dwellings who were approached to participate in the study) (ABS, 2008c). In total, 3 per cent of the respondents reported having been the victim of personal fraud in the 12 months prior to the survey. There was no significant difference in the level of fraud victimisation between those born overseas (3.2 per cent) and those born in Australia (3.0 per cent).

The survey also asked about experience of scams. 'Scams aim to elicit personal information and/or obtain a financial benefit by deceptive means such as through an invitation, request, notification or offer' (ABS, 2008c, p. 16). The ABS defined a victim 'as a person who responded to the scam by providing personal details and/or money or sought further information from the scammer' (ABS, 2008c, p. 16). In total, 2 per cent of respondents were classified as victims of scams. Persons born overseas had a higher rate of victimisation (2.4 per cent) than the Australian-born population (1.9 per cent).

Experiences of Victimisation amongst Three Specific Groups

Immigrant Women
The International Violence Against Women Survey (Mouzos & Makkai, 2004) found that women from NESB reported lower levels of physical violence in both the past 12 months and over the lifetime than women from English-speaking backgrounds. No significant differences were found between the two groups of women for sexual violence victimisation in the previous 12 months. Over the lifetime, however, NESB women reported significantly lower levels of sexual violence than English-speaking women. While these findings suggest that violence against NESB women is less prevalent than for women from English-speaking backgrounds, previous research has found that other factors exist which not only influence NESB women's perceptions of what is considered to be violent behaviour but also their willingness to report. Some women from NESB may have been unwilling to discuss such sensitive information openly with an interviewer.

RECENT VIETNAMESE AND MIDDLE EASTERN ARRIVALS

In 2004, the International Crime Victimisation Survey (ICVS) in Australia oversampled people with Vietnamese and Middle Eastern backgrounds (Johnson, 2005). Response rates varied with the main survey achieving a 53 per cent response rate, the Vietnamese sample was 75 per cent and the Middle Eastern sample was 35 per cent. The two oversampled migrant groups have had a relatively large proportion of people who have arrived recently – 18 per cent in these two groups had arrived in the past 10 years compared to 5 per cent in the main sample. Johnson combined the two groups in her analysis due to the small sample sizes that were ultimately obtained.

She found that overall victimisation rates in the past year were higher amongst the main sample than the Middle Eastern/Vietnamese sample, and more specifically for personal crimes (assault/threat, robbery and personal theft). There were no differences in household crime. She went on to examine risk factors for personal crime and found that being born overseas significantly reduced the likelihood of experiencing personal crime amongst the Middle Eastern/Vietnamese sample but had no effect in the main sample. She found that in both the samples being unmarried and living in an area where local drug use was common significantly increased the risk of personal victimisation.

This survey provided data on perceptions of racially motivated crime. Amongst the Middle Eastern/Vietnamese sample, 53 per cent perceived the assault to be racially motivated compared to 10 per cent in the main sample. As the main sample contained other migrants, analysis between these migrants and non-migrants found that the former reported much higher levels of perceived racially motivated attacks and threats. Racially motivated attacks were much more likely to be committed by strangers. The Middle Eastern/Vietnamese reported higher levels of fear and they were more likely to be concerned about being assaulted or threatened because of their skin colour, ethnicity, race or religion.

Ethnic Small Businesses

There has been little focus on the experience of crime by ethnic businesses. Migrants often establish small businesses as a way of overcoming deficits in language proficiency and education in the traditional labour market. Often these small businesses are established in the same neighbourhoods, creating an environment in which language and cultural norms different

from the host society are established. Taylor (2006) examined two major suburbs in Sydney which had high rates of residents born outside of Australia; 60 per cent in one suburb and 66 per cent in the other. In the 2006 census, around 29 per cent of people in Sydney reported speaking non-English languages at home. Taylor used the main language spoken at home as an indicator of 'active ethnicity'.

Utilising Hopkins and Ingram (2001) problem analysis triangle to identify three sets of risk factors that might affect levels of victimisation for shoplifting, other property crimes and personal crimes, and likelihood of reporting crimes to police, she found that Chinese-speaking businesses experienced a greater risk of shoplifting while Vietnamese-speaking businesses had a greater risk of other property crimes. However, both groups had a lower risk of experiencing personal crimes (robbery, verbal abuse and physical assault) compared with English-speaking businesses. In terms of likelihood of reporting crime, proficiency in English was a significant predictor of reporting shoplifting, burglary and extortion.

CONCLUSION

Although the media and broader community perception is that migrants are more likely to be associated with crime, particularly as offenders, this review has shown that overall migrants don't consistently report higher levels of victimisation, and in some cases it may be lower. Whether this reflects actual differences in victimisation, or differences in the willingness of migrants to report that they have been victimised, is unknown. However, the available evidence does suggest that migrants are more likely to perceive that their experience of assault or threats is racially motivated and they have higher levels of fear of such crime. They are also slightly more likely to feel unsafe at home at night.

Small sample sizes have hampered detailed analyses between migrant groups as well as analyses of different socio-demographic characteristics. More detailed crime victim surveys as well as improvements in the collation of data on the migrant and ethnic status of victims in the administrative collections are required (see Baur, 2006).

NOTE

1. This section draws heavily on the Australian Bureau of Statistics reporting on patterns and trends in migration to Australia (ABS, 2008a, 2008b).

REFERENCES

Australian Bureau of Statistics (ABS). (2004). *Information paper: Measuring crime victimisation, Australia: The impact of different collection methodologies, 2002*. Catalogue no. 4522.0. ABS, Canberra.

Australian Bureau of Statistics (ABS). (2007). *Migrants' personal safety survey, Australia, 2005*. Catalogue no. 4906.0. ABS, Canberra.

Australian Bureau of Statistics (ABS). (2008a). *Migration Australia 2006–07*. Catalogue no. 3412.0. ABS, Canberra.

Australian Bureau of Statistics (ABS). (2008b). *Migrants' experiences of crime victimisation*. Catalogue no. 3416.0. ABS, Canberra.

Australian Bureau of Statistics (ABS). (2008c). *Personal fraud, 2007*. Catalogue no. 4528.0. ABS, Canberra.

Australian Institute of Criminology (AIC). (2008). *Australian crime: Facts and figures 2007*. Canberra: AIC.

Baur, J. (2006). *Future migration and policing: Examining assumptions*. Adelaide: Australian Centre for Policing Research.

Collins, J., Noble, G., Poynting, S., & Tabar, P. (2000). *Kebabs, kids, cops and crime: Youth ethnicity and crime*. Sydney: Pluto Press.

Hopkins, M., & Ingram, M. (2001). Crimes against business: The first Scottish business crime survey. *Security Journal*, *14*(3), 43–59.

Johnson, H. (2005). Experiences of crime in two selected migrant communities. *Trends & Issues in Crime and Criminal Justice*, No. 302. AIC, Canberra.

Mouzos, J., & Makkai, T. (2004). Women's experiences of male violence: Findings from the Australian component of the International Violence Against Women Survey. *Research and Public Policy*, No. 56. Australian Institute of Criminology, Canberra.

Perrone, S., & White, R. (2000). Young people and gangs. *Trends & Issues in Crime and Criminal Justice*, No. 167. AIC, Canberra.

Rollings, K. (2008). Counting the costs of crime in Australia: A 2005 update. *Research in Public Policy Series*, No. 91. AIC, Canberra.

Taylor, N. (2006). Crime against businesses in two ethnically diverse communities. *Trends & Issues in Crime and Criminal Justice*, No. 321. AIC, Canberra.

This page intentionally left blank

THE SMUGGLING – TRAFFICKING NEXUS AND THE MYTHS SURROUNDING HUMAN TRAFFICKING

Alexis A. Aronowitz

ABSTRACT

Purpose – *To define, compare, and contrast human smuggling and trafficking, trace the route from recruitment and transportation to arrival at the destination and exploitation; examine some incorrect assumptions about human trafficking.*

Methodology – *Literature review of academic studies, conference presentations, and reports issued by governmental, non-governmental, and international organizations.*

Findings – *Instead of being an international phenomenon in which women and children are recruited with false promises of employment and then exploited by male members of highly organized international trafficking networks, research shows that victims – including men – are exploited in their own countries outside of the commercial sexual industry by women and by others operating as individuals or often in loosely organized networks.*

Value – *This article summarizes what is known about human trafficking including trafficking for human organs and for children used as child soldiers.*

INTRODUCTION

After a decades-long struggle led by William Wilberforce, the British Parliament outlawed the trans-Atlantic slave trade in 1807. Two hundred years later, Britain and the world are witnessing modern-day slavery in the form of labor exploitation, forced commercial sexual exploitation, and the illicit trade in organs affecting children, men, and women in 170 countries around the globe.[1] This is the reality of human trafficking.

In 2004, the U.S. State Department called human trafficking, "…the third most profitable criminal activity, following only drug and arms trafficking. An estimated U.S.\$ 9.5 billion is generated in annual revenue from all trafficking activities, with at least \$4 billion attributed to the worldwide brothel industry." (U.S. Department of Justice, 2005). The International Labor Organization (ILO) estimates that there are 12.3 million people in forced or bonded labor, exploitative child labor, and sexual slavery worldwide, of which, 9.8 million are exploited by individuals or enterprises. The ILO estimates further, that there are about 8.1 million victims of economic exploitation and 1.8 million victims of commercial sexual exploitation. Of these, the organization found that approximately a quarter or 2.5 million people are in forced labor as a result of trafficking, including both trans-border and internal trafficking. Calculations point to 1.1 million people subjected to commercial sexual exploitation, 800,000 to other forms of labor exploitation and 600,000 "undetermined" (Belser, 2005). According to other estimates, there are between 4 and 27 million people in slavery-like conditions at any given time (U.S. Department of State, 2007).[2]

Despite legislation defining the distinct crimes of smuggling and human trafficking, trafficked victims are often mistaken for illegal migrants. This chapter examines the nexus between smuggling and trafficking and explores the difficulty in identifying trafficked victims. Parallels and differences will be drawn between smuggling and trafficking from the recruitment process through the journey to the destination country. Even after arrival in the destination country, it is sometimes difficult to draw a distinction between smuggled migrants and trafficked victims.

DEFINITIONS

Smuggling of migrants and trafficking of persons are two different crimes which share a number of elements which often result in the mistaken identifying of trafficked victims for illegal migrants. According to the most widely used definition of human smuggling and trafficking, smuggling of migrants is defined by the United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime (hereafter referred to as the Smuggling Protocol) to mean

> . . . the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

Implicit in this definition is the illegal movement of persons across borders (for financial gain) with the purpose of facilitating entry into a state to which the illegal migrant is not entitled. This can be done with or without the use of fraudulent travel or identity documents.[3]

The United Nations Protocol to Suppress and Punish Trafficking in Persons Especially Women and Children (hereafter referred to as the Trafficking Protocol) defines trafficking in persons as

> . . . the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.[4]

Three separate elements are identified in this definition: the *criminal acts* (recruitment, transportation, transfer, harboring, or reception of persons), the *means used to commit these acts* (threat or use of force, coercion, abduction, fraud, deception, abuse of power, or vulnerability, or giving payments or benefits to a person in control of the victim), and the *goals* (exploitation or for the purpose of exploitation, including exploiting the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or similar practices, and the removal of organs). At least one element from each of these three groups is required before the definition applies.

The United Nations Trafficking Protocol goes further in stating that consent of a victim of trafficking in persons to the intended exploitation

shall be irrelevant where any of the means set forth (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim) have been used. This is the key element around which the issue of consent revolves. It is also one of the most complex issues in the discussion of human trafficking and the argument so often used by governments to refuse to recognize that victims have been trafficked thereby resulting often in their incarceration or immediate repatriation to their home countries. Regardless of whether coercion or deception is used with children, it is assumed that persons under the age of 18 are incapable of giving informed consent and thus they are considered trafficked victims.

An important and immediate distinction is that smuggling always implies the crossing of international borders, whereas trafficking does not. Trafficking occurs for the purpose of exploitation of the victim – not for gaining entry for the victim into another country. A number of countries experience internal trafficking to a greater extent than cross-border trafficking. Table 1 shows the differences between human trafficking and smuggling.

PUSH AND PULL FACTORS

Push and pull factors that affect legal and illegal migration are the same. Besides poverty, other factors which affect migration are war and civil unrest, religious and political persecution and temporary labor opportunities available in other countries, discrimination, gender-specific cultural practices and boredom (Aronowitz, 2001; ILO, 2005). Bales (1999a, 1999b) rank orders the following factors for trafficking: the greatest push factors are government corruption, the country's infant mortality rate (an indication of population pressure), the proportion of the population below the age of 14, the country's food production index (an indication of poverty), population density and conflict and social unrest. Pull factors included variables indicating the economic well-being of a country – rates of infant mortality, energy consumption, and food production.

SMUGGLING AND TRAFFICKING AS FORMS
OF IRREGULAR MIGRATION

The following sections discuss the similarities and differences between international trafficking and smuggling within the context of both legal and

Table 1. Differences Between Human Trafficking and Smuggling.[a]

Trafficking	Smuggling
Force is used or consent is obtained through fraud, deception, or coercion (actual, perceived, or implied), unless under 18 years of age; the person being trafficked may or may not cooperate	The person being smuggled generally cooperates and consents to the smuggling
Forced labor and/or exploitation	There is generally no actual or implied coercion[b]
Persons trafficked are victims	Persons smuggled are violating the law; by law they are not victims
Enslaved, subjected to limited movement or isolation, documents may have been confiscated	Persons are free to leave, change jobs, etc.
Need not involve the actual or physical movement of the victim	Facilitates the illegal entry of person(s) from one country into another
No requirement to cross an international border; trafficking can occur within a country	Smuggling always crosses an international border
Persons are exploited in labor/services or commercial sex acts, i.e., must be "working"	Person must be attempting illegal entry or only be in country illegally

Source: Modified from U.S. Department of State, Human Smuggling and Trafficking Center, with permission.
[a]Aronowitz (2009).
[b]Smuggled persons may be subject to coercion or force during the transportation phase but not upon entry into the destination country and not by the persons who facilitated their journey.

illegal migration and as well as crimes against the victims. Both trafficking and smuggling are forms of irregular migration, and both trafficked and smuggled persons can depart their country of origin and enter the host country through either legal or illegal means. The illegality of the entrance into and residence in the host country puts the individual at risk of exploitation. Beare (1999) distinguishes the possible combinations of legal–illegal entry into a host country.

Legal–legal: The migrant applies to immigrate to another country, departs with legitimate documents, gains legal entry, and remains in the destination country as a legal migrant.
Legal–legal (*indentured*): Entry into a country and the stay in the country is legal – legal status may improve job prospects. However, if the migrant owes a large amount of money for the trip, the individual may still fall prey to exploiters.

Legal–illegal: This group enters the country with time-specific legal (tourist or study) visas, remains beyond the expiration date of the visa and then fails to return to their countries of origin.[5]

Illegal–legal: This may include migrants who enter a country illegally, using false documents or circumventing immigration controls; after arrival they attempt to change their status. Included in this group are smuggled individuals who illegally enter a country and then seek asylum.

Illegal–illegal (*independent*): This group enters the country illegally and remains illegal. Their entry is gained without the assistance of organized criminal groups. If criminal groups are involved in the smuggling process, the full amount for the journey has been paid prior to departure or during the trip and the smuggled person is free to leave upon arrival in the destination country.

Illegal–illegal (*indentured*): This category is perhaps the most vulnerable, in that they are undocumented, and also at the mercy of the criminals who assisted their passage and employment. These migrants have incurred large debts for their passage and these may take long periods of time to repay.

Illegal departure may be indicative of the involvement of criminal groups or corruption among government officials. Illicit residence in the destination country may expose the migrant to exploitative practices or criminal activities in that country, in which case smuggling may transform into trafficking.[6] Licit departure and residence in the destination country may but does not necessarily guarantee migrants protection and safety from exploitative practices or criminal networks (Aronowitz, 2003a) (Table 2).

RECRUITMENT AND TRAVEL

Both smuggled persons and trafficked victims often seek the services of smugglers. Most smuggled persons and trafficked victims leave their destination willingly – although with trafficked victims agreement is generally obtained through deceit. Abduction,[7] never occurs during the recruitment phase of the smuggling process. Usually, smuggled persons pay upfront and once in the destination country are free to leave. However, upfront payment does not guarantee one will not become a trafficking victim (Aronowitz, 2003a).

Whether or not fraudulent documents are used may depend upon how a person is entering a country and who is doing so. According to Schloenhardt (2003), the use of fraudulent documents is integral to migrant smuggling.

Table 2. Status of Departure from Source and Residence in Destination Country.[a]

		Entry into Destination Country	
		Legal	Illegal
Departure from Source Country	Legal	If legal status expires, immigration violation: risk of exploitation	Risk of exploitation: may seek asylum or work in the underground economy
	Illegal	Risk of facing criminal charges upon departure of home country; legal status in destination country increases likelihood of security; if legal status expires, risk of exploitation	Risk of trafficking or exploitation; may seek asylum in host country or work in the underground economy

[a]Aronowitz (2003).

The Australian Department of Immigration estimated that approximately 55% of illegal migrants entering Australia by air, used fraudulent travel documents.

The travel from source to destination country can be dangerous for both smuggled persons and trafficked victims. Mexican and South American migrants attempting to illegally enter the United States face a treacherous journey across the Arizona desert. At least 4,500 Mexicans have died trying to cross the border since 1994 (Jones, 2007). Europe, too, has seen its share of migrant tragedies. Up to 10,000 Africans are believed to have drowned seeking their fortune in Europe. The passage from West Africa to the Canary Islands is believed to have claimed the lives of as many as 7,000 migrants (Popham, 2007).

Experiences of trafficked victims vary. During the recruitment and transportation phase, victims of trafficking may be treated well. One study of trafficked victims from the Philippines showed a number of Filipinas traveling by air and housed in five-star hotels before being delivered to their destination and exploited (Aronowitz, 2003a). Another study, however, describes Nigerian women subjected to rape and exploitation before ever leaving the country. Trafficked victims told researchers of being raped by their traffickers to prepare them for later work as prostitutes in Italy. Victims traveled by both air and overland across the Sahara desert. Along the way, victims were subjected to rape or forced prostitution.

Sea crossings between Morocco and Spain were done at night to avoid Spanish patrol boats. Victims reportedly drowned as their boats capsized (Okojie, 2003).

ARRIVAL IN THE DESTINATION COUNTRY: TRAFFICKED VICTIMS OR ILLEGAL MIGRANTS?

This is where, in theory, the two groups diverge. Smuggled persons apply for asylum or stay with family, friends or find their own accommodation and begin working in the shadow economy. In theory, they are free to walk away, if they are dissatisfied with their current employment situation. Trafficked victims, on the other hand, fall under the control of their exploiters and are not free. It is not always easy to distinguish trafficked victims from exploited illegal migrants. The reasons for this are numerous.

Illegal migrants are often forced to accept work under exploitative and dangerous conditions. They are subject to reduction or non-payment of wages, lack of insurance and other protections afforded legal workers. They may agree to live in crowded, substandard housing to save money and may be subject to inhumane treatment or abuse by employers who threaten to turn them over to immigration officials if they do not comply with the employer's demands.[8] In Farmingville, NY, numerous illegal day laborers from Mexico worked for weeks without getting paid and lived in crowded conditions with as many as 25 persons in a house (Sandoval & Tambini, 2004). Although financially exploited, they were free to walk away.

Fig. 1 describes human trafficking as a process which begins with recruitment and continues through exploitation in the same or the destination country. Those who recruit for exploitation and those who exploit are linked – via single individuals or complex networks and organizations. For smuggled migrants, there is a break in this process. The smugglers deliver the migrants to their destination. The employers who may exploit them are not directly or indirectly related to those who recruit and transport them.

Identifying trafficked victims can be difficult. Many victims either refuse to admit that they are victims of trafficking or are simply unaware of the fact. For example, trafficked women exploited in the Canadian sex industry refused to recognize themselves as trafficked victims (McDonald & Timoshkina, 2007). Some victims fear violence against themselves or their families if they cooperate with authorities. In a Dutch trafficking case, the police identified foreign women who were forced into prostitution and subjected to beatings with baseball bats, forced to undergo breast implants

Smuggling Trafficking	Smuggling Trafficking	Trafficking
Recruitment	**Transportation/Entry**	**Exploitation**

$$\longrightarrow$$

Document forgery Corruption of government officials	Document forgery Corruption of government officials Abuse of immigration laws	Corruption of government officials Abuse of immigration laws
* *Fraudulent promises* * *Kidnapping*	* *Threat* * *Assault* * *False imprisonment* * *Theft of documents* * *Sexual Assault* * *Aggravated Assault* * *Rape* * *Death*	* *Threat* * *Assault* * *False imprisonment* * *Theft of documents* * *Sexual Assault* * *Aggravated Assault* * *Rape* * *Death*

Offences in violation of the Criminal Code in many countries. The victim is the Government. *Offences in italics preceded by an asterisk indicate that the offences are perpetrated against the individual victim.*

Fig. 1. Smuggling and International Human Trafficking as a Process and Crimes Perpetrated against the Individual and the State (Aronowitz, 2003a).

and abortions and were tattooed with the name or initial of one of the two Turkish brothers running the trafficking ring (Van Dongen, 2007a, 2007b). The national police identified 120 women working as prostitutes; 87 of these were suspected victims of trafficking. Only 15 were willing to provide evidence against the accused and testify in court (Openbaar Ministerie, 2008).

Some trafficking victims refuse to cooperate because they fall in love with their traffickers. Others risk deportation in the hope of "going abroad again," a euphemism for returning to sex work (Brunovskis & Surtees, 2007). Individuals who may in fact be victims of trafficking but who fail to identify themselves as such are often viewed by officials as illegal migrants and are deported.

A number of criminal justice, non-governmental, and international organizations have developed "trafficking indicators" to aid law enforcement, service organizations, and the public in identifying trafficked victims.[9] Many of these indicators may also apply to illegal migrants. The best

indicator is "multiple dependencies," that is, the individual is dependent upon the "employer" for work, room and board, protection, medical services, freedom to leave the premises, purchase of food, clothing, and other necessities.

MYTHS SURROUNDING HUMAN TRAFFICKING

There are common but incorrect beliefs regarding human trafficking.

1. Human trafficking occurs only for commercial sexual exploitation.

Much attention has focused on the exploitation of women and children as victims of human trafficking, in particular, in the commercial sex industry. A number of destination countries in the European Union, did not begin defining trafficking for exploitation in sectors outside of the commercial sex industry until 2005. Until that time, individuals were still referred to as smuggled persons or illegal migrants and were subject to deportation.

Trafficking for labor exploitation has received less attention than sex trafficking for several reasons. The latter is seen as a more egregious violation of human rights and dignity than trafficking into the agricultural, domestic, or industrial sectors. Victims of sex trafficking suffer numerous physical and mental injuries and women are exposed to sexually transmitted diseases and unwanted pregnancies (UNDP, *Trafficking and HIV/AIDS*, no publication date; IOM, *Human Trafficking in Persons: Moldova*, no publication date). It is more difficult to gain their cooperation with police and aid organizations and to reintegrate them back into their communities (Ateneo Human Rights Center, 1999; Ould, 1999).

Women and children exploited in prostitution are more visible. They have contact with customers and may work in areas which are monitored by police and health officials. This increases the likelihood that they will be detected. Those working as domestic servants or on isolated farms may have no contact with the "outside world" reducing the likelihood that their enslavement will be noticed. Thus, forced labor operations are able to survive longer. One study found that "Labour trafficking operations generally lasted from 4½ to 6½ years whereas trafficking operations for prostitution lasted from a little over a year to approximately 2½ years before being discovered" (Richard, 1999, p. 3).

Trafficking cases that come to the attention of the authorities are only the tip of the iceberg, but do provide some indication of the markets into which victims are trafficked. In reviewing 131 reported cases of trafficking between 1998 and 2003, researchers found 46% of involved forced sexual exploitation – which remained the largest single category, while the remaining 54% involved exploitation for forced labor in the domestic service sector (27%), agriculture (10%), sweatshop-factory (5%), service-food-care (4%), entertainment (3%), and mail-order bride (1%) (Webber & Shirk, 2005). The cases prosecuted in the United States also provide limited information on whether the trafficking occurred for sexual exploitation or labor. While the number of cases is small (see Table 3), it says nothing about the number of victims involved in these cases. Due to the small number of cases, it is questionable whether or not these cases are representative of human trafficking cases in the United States.

There are two forms of severe trafficking in persons which receive less attention than trafficking for sexual or labor exploitation, namely child trafficking for armed conflicts and trafficking of adults for organ transplants.

Studies (Scheper-Hughes, 1999, 2001, 2003, 2004, 2005, 2005a; GTZ, 2004; Goyal, Ravindra, Schneiderman, & Sehgal, 2002) have documented cases of humans trafficked for the purpose of organ removal through either force or deception. There are indications of the existence of common countries of origin for kidney sellers (Bolivia, Brazil, China, Columbia, Egypt, India, Iran, Iraq, Israel, Moldova, Nigeria, Pakistan, Peru, Philippines, Romania, and Turkey), and kidney purchasers (Australia, Canada, Hong Kong, Israel, Italy, Japan, Malaysia, Oman, Saudi Arabia, South Korea, Taiwan, the United States) (Aronowitz, 2009). Victims are

Table 3. Prosecutions of Labor and Sex Trafficking Cases in the United States 2001–2007.

All Trafficking Prosecutions	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Cases filed							
Labor	6	3	3	3	9	10	12
Sex	4	7	8	23	26	22	20
Total	10	10	11	31	35	32	32

Source: U.S. Department of Justice (2008, pp. 27–28).

either lured with promises of jobs, locked in safe-houses, and threatened with force to give up an organ (India) or in some cases are paid amounts ranging from a few hundred dollars to $3,000 to voluntarily give up a kidney. Victims often suffer dire economic, social, psychological, and physical consequences after the kidney removal (Goyal et al., 2002; Scheper-Hughes, 2003, 2004; Kumar, 2003; Paddock, 2008).

A study of the fate of child soldiers worldwide indicates that tens of thousands of children under the age of 18 years have been recruited and used in armed conflicts within the last 5 years. This has occurred in at least 86 countries and territories (Coalition to Stop the Use of Child Soldiers, 2008). Some children are taken across borders to fight abroad (Waging Peace, 2008).

Children often "voluntarily" join militias – for security and protection, due to lack of employment opportunities, for revenge, or for ideological reasons (War Child, 2007). Forced and voluntary recruitment of children into militias is most extreme in Africa but also affects countries in Asia, Latin America, and the Middle East (Coalition to Stop the Use of Child Soldiers, 2008; UNICEF, *Factsheet Child Soldiers*). Children as young as 7 or 8 years are kidnapped and forced to serve as messengers, porters, cooks, spies, sexual slaves or wives, and human land mine detectors (Wessells, 2007).

2. Human trafficking affects only women and children.

The markets where men have traditionally been exploited have often been overlooked. In places which have a long history of debt bondage and slavery (South Asia, Latin America, and West Africa), the exploitation of men has been better documented. The ILO reports that debt bondage[10] has been documented in agriculture and in other labor-intensive sectors often involving men, such as construction, food processing and packaging, and the garment industry (ILO, 2005).

In the United States, Florida's citrus industry has been fueled by trafficked men from predominantly Mexico and Guatemala (Free the Slaves, 2004). Adult male victims have been trafficked into restaurants and sweatshops in Western Europe. International fashion houses in Italy have made use of underpaid labor which exploits both male and female victims in the manufacturing industry (Savona, Belli, Curtol, Decarli, & Di Nicola, 2003). Thailand's fishing industry has made use of trafficked victims while in Brazil, Brazilian men are exploited for forced agricultural labor and foreign male victims are trafficked to Brazil for labor exploitation in factories (U.S. Department of State, 2006).

According to the U.S. Department of State's Trafficking in Persons Reports (2008), a growing involvement of boys and young men in the commercial prostitution business has been documented in numerous countries ranging from Costa Rica, to Sri Lanka, India, Mexico, the Dominican Republic, Thailand, Ghana, The Gambia, and in European cities in, among others, Great Britain and the Czech Republic.

Looking beyond the traditional forms of trafficking for sexual or domestic exploitation, one finds that in particular countries or states within a country, a large number of male victims are trafficked for their organs. This is particularly true in Moldova (Council of Europe, 2003) and the Indian State of Punjab (GTZ, 2004).

3. Human trafficking is a trans-border phenomenon.

While international trafficking has been placed high on the agenda of many countries, internal trafficking is believed to be a much greater problem. The United States reports that approximately 800,000 people are trafficked across national borders annually and millions are trafficked within their own countries (U.S. Department of State, 2008).

Internal trafficking is particularly serious in Africa. Human trafficking is recognized as a problem in almost 90% of the African countries (The Protection Project (*Human Rights Report: Nigeria*)). Almost half the countries in West and Central Africa experience internal trafficking (UNICEF– Innocenti Research Centre, 2003). In East Africa,[11] internal trafficking has been described as "endemic" (UNODC, Uganda, 2008b). The kidnapping or luring children into serving in armies as child soldiers almost always involves internal trafficking.

Internal trafficking is also a problem in India. According to a 2005 report, trafficking from neighboring countries such as Nepal and Bangladesh comprise about 10% of India's trafficking into brothels, whereas 89% of that trafficking "takes place internally."[12] Internal trafficking for forced marriage and organ transplant has also been reported in India (UNODC, India, 2008a; Shimazono, 2007).

In Brazil, it is estimated that 25,000, mostly male Brazilian victims, are trafficked within the country for forced labor (U.S. Department of State, 2008). Within the mahogany and gold-mining industries in the Peruvian Amazonian region, 33,000 workers are exploited (ILO, 2005). In New Zealand, internal trafficking of women for commercial sexual exploitation has been reported (U.S. Department of State, 2007). Most trafficking in China was internal for the purposes of sexual exploitation, forced labor, and forced marriage.[13]

Germany and the Netherlands have witnessed internal trafficking of women forced into prostitution. German and Dutch citizens in their respective countries represent the largest number of women trafficked for commercial sexual prostitution. (Bundeskriminalamt, 2007; Bureau Nationaal Rapporteur Mensenhandel, 2008).

Not all trafficked victims in the United States are foreigners. Runaway children are at risk of becoming trafficked into prostitution. One organization estimates the number of U.S. citizens trafficked *within* the United States – American children at risk of becoming victims of commercial sexual exploitation – at between 100,000 and 300,000 and reports that this group now constitutes the largest group of trafficked victims in the United States (Shared Hope International, 2007).

4. Trafficking organizations are highly sophisticated.

Traffickers and their organizations are as different as the victims they traffic and the markets they supply. The complexity of the organization depends upon the number of victims involved, whether the operation is domestic or international, the number of borders crossed and the mode of travel. Operations requiring fraudulent documents, multiple modes of travel, safe-houses, assistance from corrupt border guards, living quarters and guards in the destination country for numerous victims require a higher degree of organization and sophistication.

There is little evidence that trafficking operations are highly structured, hierarchically organized crime enterprises. Trafficking operations tend to be loosely organized entrepreneurial networks that work together to increase profits by interacting with numerous partners who provide a wide range of services (Iselin, 2003). There are three levels of traffickers and their organizations. Trafficking can be done by an individual or amateur trafficker who controls the entire operation from recruitment and transportation to exploitation. The individual may lure a woman with promises of marriage and force her into prostitution. Many of the young women in an Albanian shelter were recruited by young men who promised marriage and a new life in Italy but were later forced into prostitution by their "fiancées" (Aronowitz, 2003b).

Small groups of organized criminals comprise the second organizational level. These loosely organized criminal enterprises show some degree of specialization but lack the sophistication exhibited by the highly organized international trafficking networks. They may rely upon contact with other illegitimate or legitimate businesses to provide certain services.

The third group can be characterized as a highly structured criminal enterprise which provides the totality of services from start (recruitment) to finish (exploitation). Larger organizations may be divided into sub-units comprised of persons providing expertise and services that members of the criminal organization might not possess (Adamoli, Di Nicoli, Savona, & Zoffi, 1998; Schloenhardt, 1999).

Systematic analysis of 156 Dutch police case files showed that in 41 cases, soloist traffickers were operating. The "soloist" was described as a single person who exploits one or more girls. In slightly fewer cases (35 or 22%) isolated criminal groups with a minimum of two and a maximum of five members were involved. Slightly more than half of the cases (51%) could be classified as criminal networks. In these, membership was found to be based on family relationships, friendships, geographical proximity, trade relations, and related activities (Bureau Nationaal Rapporteur Mensenhandel, 2004).

5. Traffickers are males luring female victims with false promises of employment.

Contrary to the widely held assumption that women are mostly trafficked by men, research is finding a growing number of women traffickers. Women tend to be involved in the recruitment phase, although this pattern is changing.

A new phenomenon involving women traffickers has been called "happy trafficking" by the United Nations. Pretending to be happy because of their success in their job abroad, women return home and recruit other victims. The practice has been described as a pyramid scheme in which some victims are released and may receive financial incentives possibly even allowing them to buy their freedom, in exchange for recruiting others (Tomiuc, 2003). In Asia, there is also a growing tendency for women to recruit future victims, sometimes under threat of violence, as means of debt reduction (ILO-IPEC, 2002).

Other forms of trafficking involve women who act not only as recruiters, but also as exploiters. In the trafficking of Nigerian girls and women into forced prostitution in Europe, madams, or "mamans" have traditionally played an important role. These women, who were usually themselves prostitutes who paid off their debt and worked their way up the trafficking chain, may recruit girls in Nigeria, but more often supervise and control the victims once they arrive at their destination (Siegel, 2007).

Women are becoming more involved and are playing an increasingly significant role in recruiting, organizing and managing the trafficking operations (IOM, 2004; Europol, 2007). While some of them have themselves been the victims of trafficking and then become involved as "freelance" perpetrators (as is the case with the Nigerian madams), others are "groomed" by the traffickers to move up the trafficking ladder within the organization.[14] Still others, never having been trafficked themselves, establish and manage the entire operation from start to finish.

Limited statistics are available on the number of women involved in the trafficking process. The International Organization for Migration's Counter-Trafficking Database indicates that 42% of the 9,646 sex recruiters were women (Kangaspunta, 2008). Statistics from the Dutch National Rapporteur on Human Trafficking indicates that in 2005, 13% of the suspects arrested were female (19% in 2004). This differs among ethnic groups. There were virtually no female Moroccan or Turkish suspects, yet among the Bulgarian Hungarian, Romanian and Russian traffickers, between 30 and 39% were female (Bureau Nationaal Rapporteur Mensenhandel, 2007). Similarly, the German Federal Criminal Police reported that 644 suspects were arrested in 2006. Almost one quarter of these (23%) were women (BKA, 2008).

Other statistics provided by the United Nations (Kangaspunta, 2008) report that 25% of prosecuted persons in trafficking cases in Slovakia are women, while in Nigeria, 60% of those prosecuted for trafficking are women. The United Nations reports that the percentage of women arrested for trafficking in Italy varies by nationality. Data for 1996–2003 show the percentages of women traffickers: Albania (7%), Former Yugoslav Republic (11%), Italy (12%), Romania (25%), and Ukraine (79%) (Kangaspunta, 2008).

CONCLUDING REMARKS

In spite of clear definitions distinguishing between smuggled migrants – who violate a country's immigration laws – and trafficked persons – who are victims of a crime and deserve special protection, the boundary between these two categories is often blurred. Some of the characteristic signs of trafficked victims – lack of legitimate identity and travel documents, subject to excessive force and violence, no longer apply to all victims. Open borders

in the European Union have led to increased legal movement of persons between countries diminishing the need for falsified documents. Law enforcement and researchers alike report that some women trafficked into prostitution are given increased freedom and mobility. Traffickers, in order to gain their allegiance, are allowing women to stay in their own apartments and are providing them with more money (Surtees, 2007). Psychological manipulation is being used more frequently to keep victims "in-line."

It is essential to understand the complexities and ever-changing nature of human trafficking if we are to design effective prevention programs to stop those at risk from being trafficked in source countries, and if we are to provide protection and rehabilitation programs to trafficked victims in destination countries. Long-term goals must aim to change the push factors in source countries that drive people to take risks that result in them becoming trafficked victims.

NOTES

1. According to the United Nations, trafficking is reported *from* 127 countries with exploitation occurring *in* 137 countries (UNODC, 2006a, 2006b). The United States annual *Trafficking in Persons Report* describes trafficking practices from, to or through 170 countries (U.S. Department of State, 2008).

2. For a criticism of the estimates regarding the numbers of victims involved in trafficking (see McDonald, 2004).

3. Article 3, *United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing The United Nations Convention Against Transnational Organized Crime*. Fraudulent identity documents have been defined as any identity document (i) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; (ii) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (iii) that is being used by a person other than the rightful holder.

4. Article 3, *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*.

5. While Beare (1999) identified this as the largest group of illegal migrants, patterns differ across countries. The largest group of illegal immigrants in the United States today are undocumented migrants with slightly less than half of illegal migrants overstayed visas (Pew Hispanic Center, 2006).

6. The United States Department of State reports that North Koreans fleeing their country enter northeastern China voluntarily, after having entered the P.R.C. in a vulnerable, undocumented status, they are then sold into prostitution, marriage, or forced labor (U.S. Department of State, 2007).

7. International organizations have documented the kidnapping of child victims in Africa (Coalition to Stop the Use of Child Soldiers, 2008), Albania (Ministry of Public Order, 2003), and China (U.S. Department of State, 2007).

8. In Florida, two cases of labor exploitation involved the enslavement and exploitation of more than 1,200 persons, 90% of whom were undocumented migrants from Guatemala, Mexico, and other Central American countries (OSCE, 2008).

9. These include, but are not limited to, the United Nations Office on Drugs and Crime (UNODC), The U.S. Immigration and Customs Enforcement, the Polaris Project (no publication date), the Dutch Prosecution Service in cooperation with the police in the Netherlands. The Dutch Police use a checklist with 78 indicators to help them determine if a person may a trafficked victim.

10. Debt bondage is the practice of placing a person in bonded labor or virtual slavery when the person is unable to repay a loan. The debt may be passed on from one generation to the next so that entire generations may be born into debt bondage.

11. This region comprises the countries of Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Mozambique, Rwanda, Somalia, Uganda, United Republic of Tanzania, Zambia, and Zimbabwe.

12. For more information on the girls and women trafficked from Nepal and Bangladesh, see National Human Rights Commission (2005).

13. U.S. Department of State, Bureau of Democracy, Human Rights, and Labor Country Reports on *Human Rights Practices – 2007*, China, March 11, 2008; http://www.state.gov/g/drl/rls/hrrpt/2007/100518.htm

14. An undercover exposé of women trafficked between the Czech Republic and the United Kingdom unmasked an operation in which the organization "renting" prostitutes to a UK brothel agreed to send one of the women to the UK to work as a prostitute, but at the same time, to verify the legitimacy of the organization for her traffickers back home. The reporter believes the woman was being groomed to move up in the trafficking organization (Undercover film and interview with Chris Rogers on CNN International, aired on January, 31, 2008. accessed at http://edition.cnn.com/video/#/video/world/2008/01/30/rogers.czech.sex.trafficking.part3.itn.itn?iref = 24hours and http://edition.cnn.com/video/#/video/world/2008/01/30/rogers.czech.sex.trafficking.part3.itn.itn?iref = 24hours

REFERENCES

Adamoli, S., Di Nicoli, A., Savona, E., & Zoffi, P. (1998). *Organized crime around the world.* Helsinki: European Institute for Crime Prevention and Control (HEUNI).

Aronowitz, A. A. (2001). Smuggling and trafficking in human beings: The phenomenon, the markets that drive it and the organisations that promote it. *European Journal on Criminal Policy and Research*, *9*, 163–195.

Aronowitz, A. A. (2003a), *Coalitions against trafficking in human beings in the Philippines – phase 1, research activities final report*. Unpublished report submitted to the United Nations Interregional Crime and Justice Research Institute and the United Nations Office on Drugs and Crime; the published report can be accessed at http://www.unodc.org/pdf/crime/human_trafficking/coalitions_trafficking.pdf

Aronowitz, A. A. (2003b). *Assessment of trafficking in human beings in Albania.* Unpublished report submitted to Management Systems International, Washington, DC.

Aronowitz, A. A. (2009). *Human trafficking, human misery.* Westport, CT: Praeger Publishers.

Ateneo Human Rights Center. (1999). *The Philippine-Belgian pilot project against trafficking in women.* Rockwell Center, Makati City, Philippines: Ateneo Professional Schools.

Bales, K. (1999a). What predicts global trafficking? Paper presented at the international conference on new frontiers of crime: Trafficking in human beings and new forms of slavery, Verona, 22–23 October.

Bales, K. (1999b). *Disposable people.* Berkeley, CA: University of California Press.

Beare, M. (1999). Illegal migration. In: C. Hernandez & C. Pattugalan (Eds), *Transnational crime and regional security in the Asia pacific.* The Philippines: Council for Security and Cooperation in the Asia Pacific, Institute for Strategic and Development Studies.

Belser, P. (2005). *Forced labour and human trafficking: Estimating the profits.* Geneva: International Labour Office.

BKA (Bundeskriminalamt). (2008). *Menschenhandel Bundeslagebild 2007* (http://www.bka.de/lageberichte/mh/2007/bundeslagebild_mh_2007.pdf). Wiesbaden, Germany: Bundeskriminalamt.

Brunovskis, A., & Surtees, R. (2007). *Leaving the past behind? When victims of trafficking decline assistance.* Oslo, Norway: Fafo.

Bundeskriminalamt, *Bundeslagebild Menschenhandel 2006.* (August, 2007); http://www.bka.de/lageberichte/mh/2006/mh2006.pdf

Bureau Nationaal Rapporteur Mensenhandel. (2004). *Mensenhandel, Derde Rapportage van de Nationaal Rapporteur.* Den Haag: Bureau NRM.

Bureau Nationaal Rapporteur Mensenhandel. (2007). *Mensenhandel, Aanvullende Kwantitatieve Gegevens, Vijfde Rapportage van de Nationaal Rapporteur.* Den Haag: Bureau NRM.

Bureau Nationaal Rapporteur Mensenhandel. (2008). *Mensenhandel, Aanvullende Kwantitatieve Gegevens, Zesde Rapportage van de Nationaal Rapporteur.* Den Haag: Bureau NRM.

Coalition to Stop the Use of Child Soldiers. (2008). *Child soldiers global report*, London; http://www.childsoldiersglobalreport.org/files/country_pdfs/FINAL_2008_Global_Report.pdf

Council of Europe. (2003). *Trafficking in organs in Europe.* Document 9822, June 3; http://assembly.coe.int/documents/workingdocs/doc03/edoc9822.htm

Europol. (2007). *Trafficking human beings in the European union: A Europol perspective.* May; http://www.europol.europa.eu/publications/Serious_Crime_Overviews/THB_FactSheet2007.pdf

Free the Slaves and Human Rights Center, University of California, Berkeley. (2004), *Hidden slaves: Forced labor in the United States.* Washington, DC, September; http://www.hrcberkeley.org/download/hiddenslaves_report.pdf

Goyal, M., Ravindra, L. M., Schneiderman, L. J., & Sehgal, A. R. (2002). Economic and health consequences of selling a kidney in India. *Journal of the American Medical Association*, *288*(13), 1589–1593.

GTZ, Deutsche Gesellschaft für Technische Zusammenarbeit GmbH. (2004). *Coercion in the kidney trade?* Eschborn; http://www.gtz.de/de/dokumente/en-svbf-organ-trafficking-e.pdf

International Labour Organization (ILO). (2005). *Global alliance against forced labour*, Geneva.

International Labour Organization–International Programme on the Elimination of Child Labour (ILO–IPEC). (2002). *Yunnan province, China: Situation of trafficking in children and women.* Bangkok: ILO.

International Organization for Migration (IOM). (2004). *Changing patterns and trends of trafficking in persons in the Balkan region.* Geneva, Switzerland; http://www.iom.md/materials/balkans_trafficking.pdf

IOM, *Human trafficking in persons: Moldova*, no publication date; http://www.iom.md/faq_ht.html

Iselin, B. (2003). *Trafficking in human beings: New patterns of an old phenomenon.* Paper presented to Trafficking in persons: Theory and practice in Regional and International Cooperation, Bogotá, Columbia, 19–21 November; http://www.iselinconsulting.com/Downloads/New_Patterns_Colombia.pdf

Jones, S. (2007). US: More immigrant deaths in desert border crossings. *World Socialist Website*, 18 July; http://www.wsws.org/articles/2007/jul2007/immi-j18.shtml

Kangaspunta, K. (2008). Women traffickers. *United Nations Office on drugs and crime*, UNGIFT Forum, Vienna, 13–15 February; http://www.ungift.org/docs/ungift/pdf/vf/traffickerworkshop/women%20traffickers.pdf

Kumar, S. (2003). Police uncover large scale organ trafficking in Punjab. *British Medical Journal*, *326*, 180; http://bmj.bmjjournals.com/cgi/content/full/326/7382/180/b

McDonald, L., & Timoshkina, N. (2007). The working life of women trafficked from the Eastern bloc. *International Journal of Comparative and Applied Criminal Justice*, *31*(2), 234–244.

McDonald, W. F. (2004). Traffick counts, symbols and agendas: A critique of the campaign against trafficking of human beings. *International Review of Victimology*, *11*(1), 143–176.

Ministry of Public Order. (2003). *Study on trafficking in human beings in Albania (1992–2002).* Tirana, Albania.

National Human Rights Commission. (2005). *A report on human trafficking in women and children in India.* http://nhrc.nic.in/Publications/ReportOnTrafficking.pdf

Okojie, C. (2003). *Programme of action against trafficking in minors and young women from Nigeria to Italy for the purpose of sexual exploitation.* Report of Field Survey in Edo State, Nigeria, UNICRI; http://www.unicri.it/wwd/trafficking/nigeria/docs/rr_okojie_eng.pdf

Openbaar Ministerie. (2008). Start behandeling strafzaak internationale vrouwenhandel 'Sneep' in rechtbank Almelo, May 27; http://www.om.nl/nieuws/actueel/33454/

OSCE/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. (2008). Human trafficking for labour exploitation/forced and bonded labor: Identification – prevention – prosecution and human trafficking for labour exploitation/forced and bonded labor: Prosecution of offenders, justice for victims, Vienna; http://www.osce.org/publications/cthb/2008/05/31148_1143_en.pdf

Ould, D. (1999). Cross border trafficking and new forms of slavery. Paper presented at the international conference on new frontiers of crime: Trafficking in human beings and new forms of slavery, Verona, 22–23 October.

Paddock, C. (2008, May 1). Philippine government bans organ transplants for foreigners. *Medical News Today*; http://www.medicalnewstoday.com/articles/105980.php

Pew Hispanic Center. (2006, May 22), *Modes of entry for the unauthorized migrant population*; http://pewhispanic.org/files/factsheets/19.pdf

Polaris Project, *Potential Trafficking Indicators*, no publication date; http://ccatcoalition.web.aplus.net/wp-content/uploads/2007/05/indicators-and-red-flags.pdf

Popham, P. (2007, May 28). Europe's shame. *The Independent*; http://www.independent.co.uk/news/europe/europes-shame-450754.html

Richard, A. O. (1999). *International trafficking in women to the United States: A contemporary manifestation of slavery and organized crime*. Center for the Study of Intelligence, Bureau of Intelligence, U.S. State Department.

Sandoval, C., & Tambini, C. (2004). *Farmingville*. Documentary Film.

Savona, E., Belli, R., Curtol, F., Decarli, S., & Di Nicola, A. (2003, November). Trafficking in persons and smuggling of migrants into Italy. *Transcrime*.

Scheper-Hughes, N. (1999). *Bodies of apartheid: The ethics and economics of organ transplantation in South Africa*. Center for African Studies, September 28; http://sunsite.berkeley.edu/biotech/organswatch/pages/bodiesapart.html

Scheper-Hughes, N. (2001). Commodity fetishisms in organ trafficking. *Body and Science*, *7*(2–3), 31–62.

Scheper-Hughes, N. (2003). Keeping an eye on the global traffic in human organs. *The Lancet*, *361*, 1645–1648.

Scheper-Hughes, N. (2004). Parts unknown undercover ethnography of the organs-trafficking underworld. *Ethnography*, *5*(1), 29–73.

Scheper-Hughes, N. (2005, June 3). Black market organs. *Lip Magazine*; http://www.lipmagazine.org/articles/featscheperhughes.htm

Scheper-Hughes, N. (2005a). Organs without borders. *Foreign Policy*, *146*(Jan/Feb), 26–27; http://www.foreignpolicy.com/Ning/archive/archive/146/PN146.pdf

Schloenhardt, A. (1999). Organized crime and the business of migrant trafficking. *Crime, Law and Social Change*, *32*, 203–233.

Schloenhardt, A. (2003). *Migrant smuggling: Illegal migration and organized crime in Australia and the Asia pacific region*. Boston, MA: Martin Nijhoff Publishers.

Shared Hope International. (2007). *Demand: A comparative examination of sex tourism and trafficking in Jamaica, Japan, the Netherlands and the United States*; https://www.sharedhope.org/files/demand.pdf

Shimazono, Y. (2007). The state of the international organ trade: A provisional picture based on integration of available information. *World Health Organization*, *85*(12), 955–962; http://www.who.int/bulletin/volumes/85/12/06-039370.pdf

Siegel, D. (2007). Nigeriaanse madams in de mensenhandel in Nederland. *Justitiële Verkenning*, *33*(7), 39–49.

Surtees, R. (2007). *Trafficking victims in SEE – What we know, what we need to know*. Mensenhandel: Achtergrond en aanpak, Conference, Vrije Universiteit Amsterdam. (Oct. 31).

The Protection Project, *Human Rights Report: Nigeria;* no publication date; http://www.protectionproject.org/human_rights_reports/report_documents/nigeria.doc

Tomiuc, E. (2003). The problem of organ trafficking. *Radio Free Europe Radio Liberty*, *7*, 133; http://www.rferl.org/newsline/2003/07/5-not/not-160703.asp

UNICEF, *Factsheet: Child Soldiers*; http://www.unicef.org/emerg/files/childsoldiers.pdf

UNICEF – Innocenti Research Centre. (2003). *Trafficking in human beings, especially women and children, in Africa*. Florence, Italy: UNICEF.

United Nations Development Program (UNDP). *Trafficking and HIV/AIDS: The link*; http://www.youandaids.org/Themes/Trafficking.asp

United Nations Office on Drugs and Crime. (2006a). *Trafficking in persons, global patterns, 2006*. Vienna; http://www.unodc.org/pdf/traffickinginpersons_report_2006-04.pdf

United Nations Office on Drugs and Crime. (2006b). *Trafficking in persons, global patterns, appendices*. Vienna; http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en-appendices.pdf

United Nations Office on Drugs and Crime. (2008a). *Responding to trafficking for sexual exploitation in South Asia: India*. Vienna.

United Nations Office on Drugs and Crime. (2008b). *First regional anti-trafficking conference in Eastern Africa: Vulnerabilities of conflict and post-conflict countries, Uganda*. Vienna.

U.S. Department of Justice. (2005). *National crime victims' rights week: Human trafficking*; http://www.ojp.usdoj.gov/ovc/ncvrw/2005/pg5l.html

U.S. Department of Justice. (2008). *Attorney general's annual report to congress and assessment of the U.S. government activities to Combat trafficking in persons fiscal year 2007*, Washington, DC; http://www.usdoj.gov/ag/annualreports/tr2007/agreporthumantraffi-cing2007.pdf

U.S. Department of State. (2006). *Trafficking in persons report 2006*. Washington, DC; http://www.state.gov/documents/organization/66086.pdf

U.S. Department of State. (2007). *Trafficking in persons report 2007*, Washington, DC; http://www.state.gov/g/tip/rls/tiprpt/2007/

U.S. Department of State. (2008). *Trafficking in persons report 2008*, Washington, DC; http://www.state.gov/g/tip/rls/tiprpt/2008/

Van Dongen, M. (2007a, May 12). Een geraffineerd spel. *De Volkskrant*, 26.

Van Dongen, M. (2007b, February 13). Pooierbroeders konden jaren hun gang gaan. *De Volkskrant*, 3.

Waging Peace. (2008). *Trafficking and forced recruitment of child soldiers on the Chad/Sudan border*. June 6; http://www.wagingpeace.info/files/20080606_WagingPeaceReport_ChildrenSoldiers.pdf

War Child. (2007). *Child Soldiers: The shadow of their existence*. March; http://www.warchild.org/news/projects/ChildSoldierReport_/childsoldierreport_.html

Webber, A., & Shirk, D. (2005). Hidden victims: Evaluating protections for undocumented victims of human trafficking. *Immigration Policy in Focus*, *4*(8); http://safestate.org/documents/HT_Hidden_Victims.pdf

Wessells, M. (2007). *Child soldiers: From violence to protection*. Boston, MA: Harvard University Press.

COMPOUNDING VULNERABILITIES: THE IMPACT OF IMMIGRATION STATUS AND CIRCUMSTANCES ON BATTERED IMMIGRANT WOMEN[☆]

Edna Erez and Julie Globokar

ABSTRACT

Purpose – *This chapter outlines the challenges faced by immigrant women who are victimized by domestic violence.*

Methodology – *Based on interviews conducted with female immigrants to the United States (*N = 137*) who have sought help for domestic violence, and legal advocates and service providers who work with them (*N = 20*).*

Findings – *This chapter identifies a number of compounding vulnerabilities in the women's practical circumstances as well as the cultural, linguistic, and legal contexts within which they survive.*

Value – *This chapter offers a recommendation for a coordinated effort among the legislature, immigrant communities, law enforcement, and social service agencies to address the multifaceted barriers standing in the way of battered immigrant women's access to much-needed services and legal protections.*

International migration has been increasing in recent years, with the number of migrants worldwide having more than doubled since 1970 (United Nations, 2002, p. 2). Gender can have a significant impact on the experiences of immigrants (Erez, 2001). For women experiencing domestic violence, immigration laws, cultural norms, and the practical realities of the immigrant experience all work to shape their ability to access justice and escape violence.

The United States can serve as a relevant location for examining the circumstances of battered immigrant women. According to the Census Bureau (2000), the United States has reached the highest proportion of foreign-born residents among its population since 1930, with 11.1% of the population born outside of the country (Malone, Baluja, Costanzo, & Davis, 2003). In the United States, where women make up a slight majority of the immigrant population, they are far more likely to hold dependent immigrant status. Women compose 94% of those entering the country as the spouse of a citizen and 86% of those entering the country as the spouse of a legal permanent resident (Gordon, 2005). Holding a dependent visa can serve to increase women's vulnerability to abuse by their partners, particularly as nations adopt more stringent laws regulating immigration (United Nations, 2002). Fear of deportation or of losing their dependent immigration status may inhibit women's decisions to call the police or to leave their abuser (Erez & Globokar, 2007). While provisions have been adopted in the United States to provide protections for immigrants who have fallen victim to crime, a number of situational and legal factors serve as barriers to the enactment of these rights.

Drawing from the available literature as well as a recent study we conducted of immigrant women in the United States who have been abused by intimate partners, and the service providers and legal representatives who serve these women, this chapter examines the experiences of battered immigrant women. While the specific circumstances of immigrant women in different nations vary, this study sheds light on challenges that are likely to be encountered when responding to domestic violence in immigrant communities, as well as some practices that may be useful in addressing these challenges.

PREVALENCE OF DOMESTIC VIOLENCE AMONG IMMIGRANTS IN THE UNITED STATES

It is extremely difficult to estimate the prevalence of domestic violence among the immigrant population. For example, in the United States, neither the National Crime Victimization Survey (Menjívar & Salcido, 2002) nor the Uniform Crime Reports nor the National Incident-Based Reporting System collects information on the citizenship or immigration status of victims or offenders. Still, studies have provided some indication that immigrant women suffer from a higher rate of intimate partner victimization than nonimmigrants (Davis & Erez, 1998; see reviews of literature in Narayan, 1995; Raj & Silverman, 2002). Some factors that contribute to women's victimization may not have to do with immigrant status per se but rather with its correlates such as socioeconomic status (Menjívar & Salcido, 2002). The foreign-born population has a higher rate of poverty and lower median household income than those who are native born; they are also more likely to work in the service industry or as manual labor (Census Bureau, 2000), all factors that may work to increase household stress and, as a consequence, the possibility of violence.

Many immigrants come from countries or cultures where violence against women is accepted as "part of marriage" and not treated as a criminal matter. The specific marital circumstances of many immigrants may also increase their risk of victimization. Men residing in Westernized nations such as the United States may specifically seek foreign-born women as partners due to stereotypes of women from certain cultures as more submissive and traditional than Western women. Men born and raised in the United States may seek out "mail-order brides," whereas naturalized citizens or legal permanent residents may look to their home country for a spouse in an effort to obtain a partner "uncorrupted" by Western influences. Scenarios characterized by such inflated expectations that the woman will strictly adhere to traditional gender roles may increase the prevalence of violent and controlling behavior within the marriage (Anderson, 1993; Haile-Marium & Smith, 1999; Narayan, 1995). "Mail-order brides" and those subject to arranged marriages may be at a particular disadvantage due to their lack of knowledge about their partners' past prior to marriage (Crandall, Senturia, Sullivan, & Shiu-Thornton, 2005). Immigrant women who meet and marry deployed U.S. military personnel may also be at an increased risk for violence, consistent with what is known about the prevalence of domestic violence among military families (e.g., Anderson, 1993; Erez & Bach, 2003).

THE STUDY

This exploratory study was conducted to gain a better understanding of the context surrounding battered immigrant women in the United States. Social service agencies and providers were approached to report their own experiences in serving immigrant women and assist in interviewing a national sample of this population. The service providers recruited and interviewed a convenience sample of 137 abused immigrant women who had disclosed their plight to advocates or providers. Most interviews were conducted in the women's native languages.

The sample of battered women was varied in many ways, spanning 9 states of residence, both urban and rural communities, and 35 countries of origin. Because the women already sought help for their abusive situations, their responses may not be reflective of the entire spectrum of experiences of battered immigrant women.

Information was also gathered from the social service providers themselves, as well as legal representatives who work with battered immigrant women. Social service providers were recruited through the meetings and e-mail list of a network for domestic violence advocates; a total of 40 service providers filled out a questionnaire regarding their work with immigrant victims. The respondents were from 12 different states, spanning all regions of the nation. The 26 legal representatives in the sample – attorneys and legal rights advocates – were recruited to fill out written questionnaires regarding their work. This sample was drawn from two populations: attendees at a national conference for advocates of battered women, and those identified by an organization that specializes in the challenges faced by immigrant victims.

PRACTICAL CIRCUMSTANCES OF BATTERED IMMIGRANTS

About one-third of the women in the sample had moved to the United States to follow their spouse; others moved in order to avoid economic or political realities in their home country, or to partake in the economic opportunities available in the United States. For those who immigrated with their spouses, half of the women reported that the transition to the United States coincided with increase in violence, and another 22% reported that violence began after the move; only in rare cases was the move

associated with reduction (6%) or cessation (2%) of the abuse. Steps in the immigration process, such as the filing of paperwork, were reported to coincide with violent episodes. The practical circumstances surrounding immigrants' move to the United States served to increase their vulnerability in a number of ways, as detailed below.

Immigration Status

Three-quarters of the sample of battered women reported that their abusers had used their immigration status against them. This most often took the form of threats to call the INS (Immigration and Naturalization Services, currently renamed as Immigration and Customs Enforcement (ICE)), a particularly poignant threat for the 15% of the sample that was undocumented, or to withdraw petitions for their citizenship. This is consistent with other studies that have found immigration status to be wielded as a form of power by abusers of immigrant spouses (e.g., Crandall et al., 2005; Morash, Bui, Zhang, & Holtfreter, 2007; see also Anderson, 1993). Since women can "feel at a disadvantage because their abusers tend to speak more English and are more knowledgeable about how things work in this country" (Bhuyan, Mell, Senturia, Sullivan, & Shiu-Thornton, 2005), they may believe that their husbands have even more control over their status than is the case, or may not be aware of legal protections available to them as victims of domestic violence. Social service providers corroborated that they often saw women whose abusers exploited the women's fear of deportation as a tool of control:

> . . . the women are terrified. Sometimes they prefer to capitulate and return to their husbands to get their INS papers.

Women reported a reluctance to contact authorities for fear that doing so would jeopardize their ability to remain in the United States, a concern that was echoed by social service providers and legal representatives who criticized the police for inquiring about immigration status. One social service provider suggested that:

> Local police [are] acting as a border control – more interested in immigration status than crime scene.

While only 10% of the battered women interviewed reported being asked about immigration status during a police encounter, the chance of such an inquiry may be enough to deter women from seeking official intervention, particularly for those who may have experienced prior negative encounters

with authorities in the United States or their home country. Specific social contexts surrounding immigrant communities may also play a role; for example, Abu-Ras (2007) discusses findings that Arab immigrant women have become more reluctant to call the police since 9/11, fearing that doing so may increase the harassment or unfair treatment experienced by themselves and their communities. Women in the study expressed other concerns about how they would be treated based on their status as well; one battered woman felt that the police were more sympathetic to her husband ''because he is a citizen and speaks much better English.''

Children

Women's fear of deportation was strongly commingled with concern for the fate of their children. Most of the women in the sample had children (82%), and service providers surveyed stated that most of their clientele have between two and five children, typically under the age of 10 years. Children served a focal point to women's decision making in a number of ways, with women taking into consideration the countering risks of raising children in an abusive environment versus raising them without a father figure; the most salient fear appeared to be that official intervention that would result in separation from their children, a matter that was exploited by abusers. As battered women described:

> He said that he was going to take my kids away, because I didn't have any papers and that I didn't have any rights.

> He said that I was going to be deported, that INS would send me to Mexico and they would take my children.

In abusive relationships, it is not unusual to identify the welfare of the children as a primary motivation in deciding to leave (Fischer & Rose, 1995). Yet, fears of deportation place immigrant women in a particularly difficult quandary in determining whether to seek official intervention so that their children are protected; the desire to protect the children from abuse is often conflicted with the fear of losing them, if action is taken.

Isolation

The realities of the immigration experience served to exacerbate the isolation of victimized women. Inherent to immigration is a move across borders,

often placing a great barrier of distance between women and the support systems in their homeland (Abraham, 2000; Haile-Marium & Smith, 1999; Menjívar & Salcido, 2002). This was reflected in the responses of many of the battered women who described having good relationships with their own families back home, but weaker or no support systems in the United States. As one woman described:

> Because I don't have family here . . . he tells me that I don't have another choice but to stay with him.

Not only did the women suffer from lack of family of origin support, but in some cases, women described in-laws or husband's friends present in the United States as partaking in the abuse.

Consistent with the controlling nature of many abusive relationships (e.g., Morash et al., 2007), battered women in this study reported that their spouses intentionally limited their ability to contact friends and family, or prevented them from enrolling in school or seeking employment. There were also reports that being in a new community with few social ties seemed to simultaneously increase the women's sense of isolation and decrease the husband's sense of accountability as the men discovered, in the words of one woman, "newfound interests, such as the abuse of alcohol, drugs, gambling, and women . . . ." This is consistent with other studies in which immigrant abusers have been described as having gambling problems and relationships with other women (Bhuyan et al., 2005; Morash et al., 2007).

Language barriers were seen as having a significant isolating impact on immigrant women throughout their abusive experience. Some abusive spouses prevented women from enrolling in English classes; this made it more difficult for women to seek help. Language barriers continued to isolate women once they had left their abusers as, for example, in a shelter where the inability to communicate prevented them from forming support networks.

Finances

Financial matters were mentioned as being relevant to abuse through a number of mechanisms. Sending money home to either spouse's family was reported to precipitate fights (see also Morash et al., 2007, in regard to abuse among Vietnamese immigrants). Many women reported having little communication with their husbands at all. Conversations that did take place often revolved around financial issues.

While some women reported that their abusers would not allow them to obtain employment, often due to traditional beliefs regarding gender roles, in cases in which women were employed, the spouse often controlled the income. Previous research has indicated the potential for the employment of battered immigrant women to have a detrimental effect on the abusive situation if the employment is perceived as threatening to the man's authority (Ayyub, 2000; see discussion in Menjívar & Salcido, 2002).

CULTURAL AND LINGUISTIC FACTORS

Cultural and linguistic factors were consistently stressed as relevant to the experiences of battered immigrant women by social service providers, legal representatives, and the women themselves. These two factors were highlighted as drawing significant distinctions between the experiences of immigrant and nonimmigrant women. As indicated by Dasgupta (2000), while "economic control, coercion and threat, intimidation, public derogation, isolation, minimizing and denial, asserting male privilege . . . '' (p. 176) may be common elements of abuse in all communities, culture will play a significant role in shaping the manifestations of these elements. Cultural and religious proscriptions were seen as shaping the abuse, women's responses to it, and their subsequent service needs, whereas language was a potential hurdle to women's ability to effectively navigate available resources.

Culture and Religion

Fifty-four percent of the battered women in the sample cited cultural and religious considerations as reinforcing their initial silence about the abuse. In many societies, there is an expectation that women place the needs of their family ahead of their own. This was true of women from a number of cultural backgrounds in this study; battered women from Mexico, Nicaragua, Armenia, Haiti, and other countries told similar stories. In the words of one battered woman:

> We women are pressured by our own families, culture to stay with our husbands. We cannot make our own decisions. We are family-oriented. We don't think about ourselves. We think about everybody else.

This is consistent with the findings of other studies in which Russian (Crandall et al., 2005), Cambodian (Bhuyan et al., 2005), and South Asian

(Abraham, 2000; Ayyub, 2000; Dasgupta, 2000) immigrants have cited cultural or religious proscriptions as deterrents to reporting abuse.

Sixty-five percent of the women reported that domestic violence was not considered a crime in their home country, a factor that service providers highlighted as contributing to women's reluctance to seek outside help for their abuse. Service providers mentioned that in some cases, women may not be aware of the protections in place in the United States. Even if they do become aware of their rights, they may still fear repercussions within their religious or ethnic communities. As one service provider stated, by leaving home, "a woman can be ostracized by her community." Legal representatives corroborated that women's religious and ethnic communities would sometimes openly discourage the women from calling the police.

The interviewed battered immigrant women generally reported positive views regarding the increased legal protections available to them in the United States. But the relief brought by the ability to invoke the justice system was tempered by the understanding that members of their community would be judgmental of appealing to outside systems for help on what is perceived as a private matter. The influence of cultural and religious contexts extended to women's fear of the adverse impact that reporting abuse to authorities could have on their loved ones. In some cultures, the outcome of a woman's marriage has the potential to affect the reputation and honor of her family. As one woman explained:

> Yes, [I stay because] I have two sisters who are not married yet. If I leave him, then my sisters' image of a good marriage is destroyed. It will affect my sisters' ability to marry. And what about my children? Who will marry them?

While in the minority, there were a few women in the sample who reported that their ethnic communities had come to respect the availability of police intervention in abusive situations, particularly when the abuse had been particularly severe.

Language

Among the battered immigrant women in the study, approximately one-quarter reported being able to speak and read English well; approximately one-half reported some ability to speak and read English; and about one-quarter reported no ability to speak or read English. The ability to write in English was slightly less prevalent, with one-quarter able to write well, but 38% reporting an inability to write in the language at all. Among all study

participants – battered women, service providers, and legal representatives – language was a pervasive theme in the unique challenges faced by immigrant women and those who serve them.

Language was identified as a barrier throughout victims' navigation of support systems. Beyond the isolation and the dependency that were exacerbated during the abuse, for women who were not allowed to take English classes or for other reasons had not learned the language, seeking outside assistance became a series of hurdles. First, at the point of initial police contact, victims may be rendered unable to effectively communicate with officers. Of the 61% of women who reported the police becoming involved in their cases, they reported professional interpreters were only present in one-quarter of the incidents. While in some cases bilingual officers were available, in others translations were performed by family members or neighbors. Such circumstances risk biased or inaccurate translations, and present problems to an abused immigrant woman who may not want neighbors or friends to know about her abuse, or may be concerned about the implications of family members being perceived as siding with her in the encounter. Translation may become a particularly acute concern because, as the legal representatives indicated, records of such encounters may later be called upon to serve as documentation of the abuse for women who seek protection under the provisions of the Violence Against Women Act (VAWA).

The police were criticized for their failure to consistently meet the needs of non-English speakers; one legal representative stated that a local police department was known to:

> . . . respond poorly to domestic violence incidents involving non-English speakers. Reports may state a witness ''said'' something when there was no verbal communication in the witness' own language.

The use of family or neighbors as interpreters can risk the breach of confidentiality; as one service provider described, "word spreads quickly in smaller minority communities." There may also be a risk posed to children who must translate in these circumstances. Fear of repercussions from the abuser may lead the child to exclude information when translating to the police; conversely, a desire to help the mother may place the child in danger of retribution by the father (see Erez, 2000; Erez & Hartley, 2003).

Beyond the initial police encounter, in regard to victims' exercise of rights under immigration laws and VAWA, language barriers may inhibit victims' understanding of their legal rights, availability of services, or risks related to their legal situation. Legal representatives recommended the adoption of

interpreters for immigrant women, and a greater advertisement of women's rights. Service providers also highlighted the need to provide documents in languages other than English. The battered immigrant women who had been to court were generally satisfied with their experiences, but observed the need for a greater understanding of both culture and language among courtroom actors.

Other concerns were voiced about what was perceived as unfair treatment of non-English speakers. One service provider suggested:

> Dual arrests are more common where battered women are non-English speaking. DAs/police/judges may find immigrant women less credible due to language/cultural differences.

Another service provider noted the disadvantage of immigrant women during a jury trial:

> Jurors respond more favorably to words/emotions directly from victims' mouths, not through interpreters.

As not all service organizations are able to support translators, battered immigrant women who do not speak English are likely to encounter difficulty finding counseling and other support services. Service providers acknowledged that victims' inability to engage in such programs may make it more difficult for women to build the documentation that would be required for a VAWA self-petition, and voiced their wish that they could better maintain both multicultural and multilingual staff, citing budgetary restraints as the primary impediment to doing so. They also reported a lack of resources in supporting English literacy courses for their clientele, which they believed could help women establish independence by improving their long-term job prospects.

LEGAL PROTECTIONS AND BURDENS FOR IMMIGRANT WOMEN

The legal landscape of abuse in the immigrant community in the United States is complex. Just as laws regarding domestic violence have begun to offer new protections to immigrant victims, there has been a shift toward more stringent laws regarding immigration more generally (Byrne, 2007). Even for those women aware of their right to petition for residency under new laws, the ability to effectively enact their rights may be impeded by a number of factors.

Legal Protections for Battered Immigrant Women

With the passage of VAWA in 1994, battered immigrant women have been provided for the first time with special avenues to pursue citizenship based on their victimization (see Byrne, 2007; Pendleton, 2003). Still, as the legal representatives in this study indicated, not all women are able to reap the practical benefits of such efforts. For instance, the legal representatives listed the ''H-4 problem,'' in which the wives of temporary workers are not eligible for protection, compelling some of their clients to stay in the abusive relationship until the spouse was able to gain legal permanent residency. Women who are not married to their abusers would also be unable to file for status under VAWA.

For those women who are technically eligible to seek protection, respondents highlighted the hurdles posed by a number of evidentiary requirements for a successful petition. As the legal representatives indicated, women who were initially reluctant to seek official intervention may face difficulty in providing sufficient documentation of abuse to meet the threshold set by VAWA. Victims may also find that gathering of documentation necessitates contact with the abuser, potentially placing them at risk.

The complexity of immigration law resulted in problems for all three categories of respondents in this study; obtaining accessible and accurate legal information was a concern. The battered women largely expressed their belief that they were dependent upon their husbands for immigrant status, unaware of their other options for pursuing citizenship. Service providers recounted incidents in which they had provided women with inaccurate information due to their own misunderstandings of legal and policy matters; they voiced a strong desire to be able to provide women with accessibility to legal representatives who specialize in immigration issues, but many agencies were unable to financially support such resources. Even legal representatives commonly reported initiating collaboration with other agencies in order to be able to respond to the complex legal needs of battered immigrant women. Service providers expressed concern that victims may be more willing to plead guilty if brought up on charges after a dual arrest because it would seem like the path of least resistance, failing to understand that doing so may make them vulnerable to deportation.

Deportability of Immigrant Abusers

Consistent with a global trend toward increased regulation of immigrant populations (United Nations, 2002), immigration laws in the United States

have recently become more stringent. In 1995, crimes in the United States needed to carry a penalty of five years or more in order to place immigrant offenders at risk for deportation; with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996, the category has expanded to include crimes with a sentence of one year, including suspended sentences and cases in which offenders have entered pleas of "no contest" (Welch, 2004). The IIRIRA also named domestic violence as a deportable offense (Byrne, 2007).

While such measures might theoretically be predicted to deter criminal behavior, and as such reduce victimization, this change in immigration law may instead serve to aggravate immigrant women's fear of calling the police. As one woman in this sample stated, "I did not want to do anything bad to my children's father." Legal representatives also reported knowing of women who had been deterred from calling the police out of fear that it would lead to their abuser's deportation. Women who are in the country on dependent status may fear for their own fate if their abuser is deported.

Double-Edged Sword of Law

In some cases, the very laws that can in some ways work to protect battered women from their abusers may also increase the women's vulnerability to deportation. Service providers and legal representatives voiced concern regarding the impact of dual-arrest policies, in which battered women may be arrested alongside their abusers; service providers shared their suspicion that such arrests may be more commonly executed among non-English speakers. In addition to such dual arrests, legal providers suggested that victims who have been involved in criminal activity in other ways may be at a particular legal disadvantage:

> One frequent problem is battered immigrant women have vulnerability to law enforcement because of criminal problems – drugs, alien smuggling, possible child abuse – sometimes because of affiliation with spouse, sometimes independently . . .

Research has supported that abused women may be at risk for criminal involvement, either in the form of self-defense or due to their abusers getting them involved in drug-dealing or other crimes (Richie, 1996). Such a blurring of the lines between "victim" and "offender" in abusive situations creates a particularly complex legal scenario, as battered immigrant women increasingly find their potential fates bifurcated as they fall into both targeted and protected populations in the eyes of the law.

The particular barriers that immigrant women face in accessing community resources may increase their vulnerability to both prolonged abuse and, ultimately, their own potential for criminal behavior. One legal representative shared:

> One Jamaican client was turned away from shelter days before she stabbed her abuser in self-defense. If she had gotten into shelter, she never would have had to defend herself.

The more precarious a woman's immigration status is, the more her disadvantage is likely to compound, as she encounters barriers to accessing community resources, and ultimately, the more legal complications she is likely to face upon involving the criminal justice or immigration systems.

CONCLUSION

As global mobility increases and as more nations adopt active agendas for their immigration and domestic violence policies, it will be vital to understand the unique experiences of battered immigrant women, their specialized needs, and the ground-level impact of policies intended to protect them. This study of battered immigrant women in the United States and the women who serve them demonstrated the practical barriers and complex dilemmas that are endemic in cases of domestic violence within immigrant communities. Immigrant women are often caught in a quagmire in which staying jeopardizes their own safety and that of their children, and exposes them to the controlling and isolating behaviors of their abusive partner, but taking steps to seek help may risk the loss of their children, becoming outcast from their community, and their own deportation.

The increased isolation that is almost inevitable in the immigration experience, coupled with the intentionally controlling behavior of abusive spouses, compound to form a formidable barrier between immigrant battered women and the community resources that aim to serve them. To break down the obstacles to serving these women, practical issues such as language barriers need to be addressed. The ability to communicate with victims to allay their fears, apprise them of their situation, and direct them to resources is critical. This would require an investment to provide necessary social and legal services, including translators within the criminal justice, or English classes for women seeking to establish independence from their abusive spouses. Ability to communicate with victims can also help allay their fears of authorities.

Community agencies also need to have an awareness of the cultural and religious reasons that women may be hesitant to seek help regarding abuse, and work with immigrant communities to provide services that are culturally appropriate. The police, courts, and policymakers need to take into consideration the many deterrents that prevent women from reporting abuse, and seek to find ways to ameliorate barriers to justice for immigrant battered women.

In some cases, increased accessibility to community resources will have compound positive effects on women's ability to invoke their rights under domestic violence and immigration laws, providing them with greater levels of support and more accessible means of documenting the abuse and pursuing legal options. At the same time, policymakers need to consider how to address circumstances in which immigrant women may become involved in criminal behavior as a direct result of abuse, be it through coercion, force, or out of self-defense. Improvements are also needed in the accessibility of legal information and counsel for abused immigrant women.

With ongoing growth in global mobility, receiving nations face the challenging task of regulating large immigrant populations within their borders. As this chapter suggests, battered women in immigrant communities face significant compounding vulnerabilities that limit their ability to successfully invoke the legal and social resources put into place to assist them. The complex realities of battered immigrant women necessitate an understanding of their circumstances on the part of policymakers, legal professionals, and social service providers. It also requires a significant investment of resources to address the multifaceted linguistic, social, legal, and cultural barriers in order to place intended rights within the reach of immigrant victims. Without both, the plight of battered immigrant women will remain one of the darker corollaries of globalization.

REFERENCES

Abraham, M. (2000). Isolation as a form of marital violence: The South Asian immigrant experience. *Journal of Social Distress and the Homeless*, *9*(3), 221–236.

Abu-Ras, W. (2007). Cultural beliefs and service utilization by battered Arab immigrant women. *Violence Against Women*, *13*(10), 1002–1028.

Anderson, M. J. (1993). A license to abuse: The impact of conditional status on female immigrants. *The Yale Law Journal*, *102*(6), 1401–1430.

Ayyub, R. (2000). Domestic violence in the South Asian Muslim immigrant population in the United States. *Journal of Social Distress and the Homeless*, *9*(3), 237–248.

Bhuyan, R., Mell, M., Senturia, K., Sullivan, M., & Shiu-Thornton, S. (2005). Women must endure according to their karma: Cambodian immigrant women talk about domestic violence. *Cambodian Immigrant Woman Talk about Domestic Violence*, *20*(8), 902–921.

Byrne, A. (2007). What is extreme cruelty? Judicial review of deportation cancellation decisions for victims of domestic abuse. *Vanderbilt Law Review*, *60*(6), 1815–1846.

Census Bureau. (2000). *Coming to America: A profile of the nation's foreign born*. Census Brief, CCENBR/00-2. U.S. Census Bureau.

Crandall, M., Senturia, K., Sullivan, M., & Shiu-Thornton, S. (2005). ''No way out'': Russian-speaking women's experiences with domestic violence. *Journal of Interpersonal Violence*, *20*(8), 941–958.

Dasgupta, S. D. (2000). Charting the course: An overview of domestic violence in the South Asian community in the United States. *Journal of Distress and Homelessness*, *9*(3), 173–185.

Davis, R. C., & Erez, E. (1998). *Immigrant population as victims: Toward a multicultural criminal justice system: Research in brief* (NCJ Publication No. 167571). Washington, DC: National Institute of Justice.

Erez, E. (2000). Immigration, culture conflict and domestic violence/woman battering. *Crime Prevention and Community Safety: An International Journal*, *2*(1), 27–36.

Erez, E. (2001). The victimization of women in the context of transnational crime. In: N. Ollus & S. Nevalas (Eds), *Women in the criminal justices system: International examples and national responses* (pp. 136–146). Helsinki, Finland: European Institute for Crime Prevention and Control.

Erez, E., & Bach, S. (2003). Immigration, domestic violence and the military: The case of 'military brides'. *Violence Against Women*, *9*(9), 1093–1117.

Erez, E., & Globokar, J. L. (2007). Immigrant women, domestic violence, and community policing. *Law Enforcement Executive Forum Journal*, *7*(7), 1–14.

Erez, E., & Hartley, C. C. (2003). Battered immigrant women and the legal system: A therapeutic jurisprudence perspective. *Western Criminology Review*, *4*(2), 65–79.

Fischer, K., & Rose, M. (1995). When 'enough is enough': Battered women's decision making around court orders of protection. *Crime & Delinquency*, *41*, 414–429.

Gordon, L. W. (2005). Trends in the gender ratio of immigrants to the United States. *International Migration Review*, *39*(4), 796–818.

Haile-Marium, T., & Smith, J. (1999). Domestic violence against women in the international community. *Emergency Medicine Clinics of North America*, *17*(3), 617–630.

Malone, N., Baluja, K. F., Costanzo, J. M., & Davis, C. J. (2003). *The foreign-born population: 2000: Census 2000 Brief* (C2KBR-34). Retrieved September 21, 2007 from the U.S. Census Bureau Web site: http://www.census.gov/prod/2003pubs/c2kbr-34.pdf

Menjívar, C., & Salcido, O. (2002). Immigrant women and domestic violence: Common experiences in different countries. *Gender and Society*, *16*(6), 898–920.

Morash, M., Bui, H., Zhang, Y., & Holtfreter, K. (2007). Risk factors for abusive relationships: A study of Vietnamese American immigrant women. *Violence Against Women*, *13*(7), 653–675.

Narayan, U. (1995). ''Male-order'' brides: Immigrant women, domestic violence and immigra-tion law. *Hypatia*, *10*(1), 104–119.

Pendleton, G. (2003). Ensuring fairness and justice for noncitizen survivors of domestic violence. *Juvenile and Family Court Journal*, *54*, 69–85.

Raj, A., & Silverman, J. (2002). Violence against immigrant women: The roles of culture, context, and legal immigrant status on intimate partner violence. *Violence Against Women*, 8(3), 367–398.

Richie, B. E. (1996). *Compelled to crime: The gender entrapment of battered black women*. New York: Routledge.

United Nations. (2002). *International Migration Report*. New York: Author.

Welch, J. (2004). Defending against deportation: Equipping public defenders to represent noncitizens effectively. *California Law Review*, 92(2), 541–584.

This page intentionally left blank

IMMIGRANTS AS CRIME VICTIMS IN THE EUROPEAN UNION: WITH SPECIAL ATTENTION TO HATE CRIME

Jo Goodey[1]

ABSTRACT

Purpose – To describe and critique the extent and nature of data collection in European Union (EU) Member States on immigrants as victims of crime, and to contextualise this situation with regard to wider debates concerning the EU's 'migration–crime–security' nexus that focuses on immigrants as a crime problem. To explain differences in data collection practices between Member States, and to introduce innovative research by the European Union Agency for Fundamental Rights (FRA) that sets out to collect comparative EU-wide data on immigrants' experiences as victims of crime.

Methodology – A range of material from academic and policy sources, together with the author's own work for an EU Agency, is drawn on to inform about the evidence and debates forwarded in this paper.

Findings – There is a serious lack of comprehensive and timely data on immigrants as victims of crime throughout much of the EU. Hence, there is a need for enhanced data collection at Member State and EU levels that

can be used to inform policymakers and other stakeholders about the 'true' extent of crime against immigrants and how to address it.

Value – This paper addresses the under-researched theme of immigrants as victims of crime in the EU. It also introduces the reader to 'EU-MIDIS' – the first comparative EU-wide survey on selected immigrant groups' experiences as victims of crime, which is undertaken by the EU's FRA.

INTRODUCTION

Much attention is devoted by the media, criminologists and policymakers to immigrants as a social problem and a crime problem (Ruggiero, South, & Taylor, 1998; Edwards & Gill, 2003). Less attention is paid to immigrants as victims of crime. To this end, this chapter outlines what we currently know and do not know about the extent and nature of crime against immigrants, and ethnic minorities who have an immigrant background, in the context of the European Union (EU). The chapter explores this theme with reference to the existing research and data collection on the specific theme of 'racist' violence and related crimes in Europe, which are critiqued with respect to the limitations of criminal justice data collection mechanisms in this area. From here, the chapter introduces a new EU-wide victim survey initiative that specifically looks at immigrants and ethnic minorities' experiences of criminal victimisation, including racially motivated crime. The role of data collection is addressed in the chapter in the light of wider concerns to develop evidence-based policy responses to crime, particularly in relation to its impact on some of the most vulnerable groups in society – including immigrants.

THE EU MIGRATION–CRIME–SECURITY NEXUS

Immigrants have long been characterised as the social 'other', the scapegoats who are held responsible for a society's social ills – be this disease, a failing economy, or crime (Young, 1999; Goodey, 2000, 2002). Since the early 1990s, Europe has been in the throes of new and growing population movements as a result of the collapse of communism in Central and Eastern Europe and the accession of 12 new Member States into the EU, war in the 'old' Yugoslavia, and the continued influx of people from former colonies, including Africa. These migration flows encompass both

EU and non-EU citizens, and legal and illegal migrants. At the same time, Europe, together with other parts of the world, is having to respond to new global security challenges from organised crime and terrorism. Herein, we see the meshing of concerns in relation to migration, crime and security issues into a 'migration–crime–security' nexus.

The EU promotes the internal freedom of movement of citizens within the Union. At the same time, its external borders are closely policed to restrict entry of non-EU citizens. The EU's border control agency, FRONTEX,[2] was established in 2005 to coordinate this task; notably, two years before the EU's FRA[3] was established with a limited mandate to provide assistance and expertise relating to fundamental rights in relation to European Community Law (i.e. law concerning 'economic and social rights' under the 'first pillar' structure of the Union). To this end, non-EU citizens are left firmly outside the walls of the EU unless required at specific times and in specific locations to undertake the jobs for which the Union has a labour shortfall, or if there are humanitarian grounds to admit refugees.

At the same time as uncontrolled immigration is construed as a social and economic problem in need of regulation, it is also construed as a security threat. Herein, the opportunist economic migrant and the asylum seeker are referred to in EU policy papers and action programmes alongside the criminal and the terrorist. The Hague Programme, which was agreed at the 1999 Tampere EU Summit, is the cornerstone of this combined response to migration, crime and security. Responses to human smuggling and human trafficking are illustrative of the current overlap between concerns to manage immigration and crime, whereby the victims of exploitative trafficking and smuggling practices too often fall somewhere between the status of 'criminal' and 'illegal immigrant' [although efforts have been made in recent years to improve policy and law enforcement responses to trafficking victims as *victims*, first, and as illegal immigrants, second (Goodey, 2003, 2008)].

Bosworth (2007), writing about immigration detention in the UK, characterises 'foreigners' as non-citizens. Yet, in the UK many foreigners are EU citizens with formal rights to freedom of movement and other privileges within the Union. Herein, a distinction needs to be made between different types of 'foreigners' or 'migrants'. A combination of relative affluence, ethnicity, EU citizenship status, and stereotypes about an individual's country of origin all serve to influence the positive or negative labelling of different groups. If we exclude detention for immigration offences, then the 'foreigners' in Europe's prisons are often other EU nationals/citizens, and frequently those from the more affluent Member

States. As an illustration: Ministry of Justice data on prison statistics in England and Wales shows that, as of March 2008, European citizens, of which EU citizens make up the vast majority, constituted the second largest group by geopolitical area in the prison statistics.[4]

Although prison statistics only reveal a partial picture of known offending patterns by nationality, and should be weighted to take into account the available population who could be detained, they serve to remind us that the most demonised 'foreigners' – typically the poor from unstable countries – are not the only ones responsible for crime. At the same time, we need to be reminded that indigenous 'home grown' offenders are typically responsible for the bulk of a society's social and criminal problems. In other words, crime, both conventional and organised, has very localised manifestations and localised markets (Hobbs, 1998). With this in mind, the next section sets out to explore the other side of the crime problem that is most often neglected with respect to immigrants – victimisation.

IMMIGRANTS AS VICTIMS IN THE EU

'Immigrants' – including here EU citizens who are migrants moving within EU borders as well as ethnic minorities with an immigrant background – are vulnerable to the same crimes as the non-immigrant/non-migrant population; that is, they can be victims of crimes ranging from theft and burglary to fraud and assault. In addition, immigrants are particularly vulnerable to specific types of criminal victimisation as a reflection of their 'outsider' status. As already referred to, they can be the victims of human trafficking and human smuggling, with significant numbers of sex trafficking victims in the EU made up of women and girls from the Member States of Bulgaria and Romania, as well as a wide range of them from countries outside the EU (Bundeskriminalamt, Germany, 2005;[5] Dutch National Rapporteur, 2007[6]). Immigrants, alongside established ethnic and national minorities, are also acutely vulnerable to racially, ethnically and religiously motivated crime – or hate crimes.

With the heightened focus on terrorism originating from North Africa, the Middle East, Pakistan and Afghanistan (to name just a few regions and countries), immigrants from Muslim countries and established minority groups with a Muslim background are also particularly vulnerable to religiously motivated victimisation. Reports from the European Monitoring Centre on Racism and Xenophobia (EUMC), the predecessor of the European Union Agency for Fundamental Rights (FRA), on the impact of

the 7 July London bombings on Muslim communities (EUMC, 2005b) and Islamophobia in Europe (EUMC, 2006), have highlighted the existence of victimisation, which remains under-documented.

However, given the particular vulnerability of immigrants to certain types of crime, a preliminary overview of criminal justice data, policy interventions and criminological research on immigrants shows that interest rests with questions of their illegality and criminality. This situation partly reflects the general lack of emphasis that is given in much of the EU to criminal victimisation and victims, whether against majority or minority populations, in comparison with the central and traditional focus on offending and offenders (Brienen & Hoegen, 2000; Crawford & Goodey, 2000; Goodey, 2005). The lack of a victim-centred criminal justice focus is exacerbated in the case of immigrants and minorities who are vulnerable to particular crimes that do not impact on the majority population at all or to the same degree. To appreciate the lack of focus on 'hate crime' in the EU, as an area where we can assume immigrants are particularly vulnerable, the next section introduces some stark figures, and a number of 'gaps', to illustrate the current low priority afforded to these crimes.

Existing Evidence of Racism and Xenophobia in the EU

Drawing on reports by the EU's FRA, and its predecessor the EUMC, a picture emerges of the limited nature of data collection on 'racist' crime through much of Europe (which is used here as shorthand for racist, xenophobic and religiously motivated crime). The FRA bases its assessment of racist crime and related activities on information supplied annually and in regular updates by the Agency's RAXEN (racism and xenophobia) network of national focal points (NFPs), which were established in 2000 and consist of various consortia of non-governmental organisations (NGOs) and academic institutions in each Member State.

The FRA, as an EU Agency, has a mandate to collect 'comparable' data on the situation concerning fundamental rights in the EU, which includes data collection on racial discrimination and the area of racist violence and related crime.[7] Acknowledging that it is problematic to try and compare criminal justice data from different jurisdictions in the EU, as each Member State has its own criminal laws and ways of counting crime, the FRA sets out to compare Member States' criminal justice data collection mechanisms on racist crimes with respect to their comprehensiveness and quality.

Looking at the FRA's 2008 Annual Report, which includes a chapter on racist violence and crime, Member States are classified into one of four 'Tiers' according to the quality of their criminal justice data collection mechanisms on racist crime based on 2006 data.[8] According to the 2008 Report, which refers to 2006 criminal justice data, only 3 of the EU's 27 Member States are classified in Tier 1 as 'Comprehensive'; namely Finland, Sweden and the UK. They are in the top Tier as a reflection of the range and detail available in their reporting on racist crime, which is readily available in the public domain. In comparison, eight Member States are in Tier 2, 'Good', which indicates that they have a good system in place for registering crime, but one which is not as comprehensive as Tier 1. Countries such as Austria and Germany are in Tier 2 because of their narrower focus on crimes and offenders connected with extremist right-wing activities. In turn, 12 Member States are in Tier 3, 'Limited', which indicates they have limited reporting on racist crime with respect to investigations and court cases. Member States in Tier 3 often only make data available on request, and in the case of Luxembourg and Netherlands make it difficult to extract criminal offence data from civil cases related to discrimination. Finally, four Member States are classified under Tier 4, 'No official data available', as no data is collected regularly and made available in the public domain; these countries being Cyprus, Greece, Romania and Spain.[9]

The FRA report does not simply count and compare the volume of data collected on racist and related crimes in all 27 Member States as an indicator of the quality of their data collection mechanisms; to do so would be to the advantage of Member States with significant immigrant and ethnic minority populations. However, comparisons can be made between Member States with similar majority and minority population sizes and similar histories of immigration. To this end, the figures for the UK and France are notable for their differences. Whereas in England and Wales alone, during the 12-month period from April 2005 to March 2006, police data recorded 41,382 racially or religiously aggravated offences and 6,123 prosecutions for racist incidents, France reported 923 racist, xenophobic and anti-Semitic acts in 2006. The reasons for these stark differences in numbers are explored in the next section; suffice to state here that the UK, including the jurisdictions of England and Wales, Scotland and Northern Ireland, collects more reports of racist incidents from the public and records more racist offences than the other 26 Member States combined. This does not mean that the UK has more racist crime than the rest of the EU, but tells us a great deal about the public's willingness to report crime as 'racist' and the police's willingness to record crime as 'racist', and to make this information available in the public

domain. In the same way, it is notable that Finland, with one of the smallest immigrant populations in the EU, recorded 748 incidents of racist crime reported to the police in 2006.[10]

   The absence and/or limited quality of data collection in many EU Member States is reflected in reports by other intergovernmental organisations working in Europe – such as the Office for Democratic Institutions and Human Rights (ODIHR, 2006), which is part of the Organisation for Security and Cooperation in Europe (OSCE), and the Council of Europe (Coomber, 2003). Alongside the FRA and other international reporting mechanisms, NGOs play a significant role in Europe in monitoring and bringing to public attention incidents of racist and related crimes, which are often not reported to the authorities. At the European level, the 'European Network Against Racism' (ENAR) represents around 600 anti-racism organisations, and regularly documents incidents of racism and related intolerance in the form of 'shadow reports' on each EU Member State,[11] and the US-based NGO 'Human Rights First' has also produced a number of comprehensive reports on hate crime in EU Member States and other countries (Human Rights First, 2007). NGO reports show that asylum seekers and refugees, illegal immigrants, the Roma, and black Africans, are amongst the most vulnerable victims of racist crime in Europe, including abuses at the hands of the police, immigration and asylum personnel. However, NGOs are often under-resourced and cannot be expected to fill the gap where the authorities are not collecting data or are collecting inadequate data on racist and related intolerances.

Understanding Different Responses to Monitoring Racist Crime

A number of factors must be taken into account when trying to understand why some Member States have comprehensive responses to counting racist crime while others trail far behind (Dummett, 1997). A key factor in understanding if and how Member States record racially and religiously motivated crime is history; namely, each Member State's history of immigration and their more recent acknowledgement of their status as an immigration country in the second half of the twentieth century, together with their historical recognition of and relationship to national minorities (such as the Roma), and their history of dictatorship and persecution of populations on the basis of their religious or ethnic differences. In combination, these complex histories reflect how each Member State addresses the problem of racist and religiously motivated crimes against immigrants and established ethnic or national minorities.

The focus of data collection in Austria and Germany is on crimes committed by right-wing extremists, and on the classification of crimes according to legislation that bans political parties, acts and hate speech that is associated with the Nazi past and the atrocities of the Third Reich. Also in France, the persecution of the Jews in the Second World War and the country's significant Jewish population has resulted in a special focus on recording anti-Semitic 'acts and threats' (Bleich, 2007).

Another key factor in determining the extent and nature of data collection on racist crime in different EU Member States is whether a culture of data collection exists as a tool of criminal justice management. Coupled with this is the degree to which the criminal justice system in a Member State, and in particular the police, has evolved into a public service. With this evolution comes encouragement for the public to report crime in the belief that something can be done about it (EUMC, 2005a).

The racist murder of the black British teenager Stephen Lawrence, and the subsequent inquiry into the police's mishandling of the investigation into this crime (Macpherson, 1999; Bowling & Phillips, 2002), was a wake-up call to the British police to change its approach to investigating and recording crime as racially and religiously motivated. However, when one looks at the number of successful prosecutions relative to the number of racist offences recorded by the police, let alone the number of racist incidents reported by the public, it is apparent that the attrition rate between reporting and prosecution still needs to be improved.

One critique that has been levelled at the system for recording racist crime in England and Wales is that it is too generous and has produced an overburdened system. Hall (2005) levels this critique in his comparison of policing hate crime in New York City and London; two large metropolitan areas with similar immigrant and ethnic minority populations. Reporting on figures for 2001, Hall notes that London recorded 20,628 'hate crimes' (which includes offences besides racially and religiously motivated crime) and New York 484. Notably, he records that in 2001 New York had 300 police officers dedicated to investigating reports of hate crime, while London had only 20. The important thing to note in consideration of the London and now the UK-wide approach to recording racist crime is that emphasis is placed on the victim's or witness's initial reporting of any incident as a potential racist or hate crime, which is duly recorded and made public in line with the requirements of Section 95 of the 1991 Criminal Justice Act. In comparison, the New York approach, and that of the majority of EU Member States, is to use the police as filters to decide whether an initial report or police investigation may warrant classification

as a potential racist or hate crime. In England and Wales, the police are obliged to investigate any crime where any person feels that the incident is racially motivated; hence, the significant number of recorded incidents.

Also, when attempting to understand differences in recorded racist crime in Europe, the Anglo-Saxon reader should be aware that data collection on 'ethnicity', which is normalised in the UK, the USA, Canada and other jurisdictions, is not the norm in many EU Member States (Krizsán, 2001). The absence of data collection on ethnicity does not assist the police in their recording of common crimes, such as burglary and assault, as potentially racially or religiously motivated. Only where there are specific offences in the criminal law – such as anti-Semitic crimes or the activities of banned political parties – can 'racist' crimes that particularly impact on vulnerable immigrant and ethnic minority populations be recorded (Nickel, 2003). As a result, many crimes are not recorded as having a racist or religiously motivated character, and are simply 'lost'.

The legacy of Europe's Nazi past helps us understand why the classification of people by their religion or ethnicity is prohibited. Yet, as Simon (2005) notes, a French advocate of data collection on ethnicity, the approach of the USA to actively record ethnicity is done in part to rectify past wrongs against the African-American population. Yet in France, the principles of French Republicanism mean that to categorise citizens differently – as belonging to a particular ethnicity or religion – is considered as discriminatory treatment in itself that goes against the principle that all French citizens are equal under the law. However, as the riots in the Parisian suburbs and other cities in France at the end of 2005 made all too clear, it is evident that some French citizens, particularly those from immigrant backgrounds originating from Muslim North Africa, are frustrated at their lack of opportunities and discriminatory treatment in French society.

Finally, in comparison with crimes related to right-wing extremism and recognition of anti-Semitism, which were incorporated in many Member States' criminal laws in the aftermath of the Second World War, 'everyday' racist crimes have not received the same level of legal and policy recognition in many Member States. To some extent this reflects Member States' relatively recent histories of immigration, but it also reflects a lack of political recognition of and responses to racism. Given that many Member States have established national minorities – notably the Roma – who have been the victims of persecution throughout the centuries, it is apparent that discrimination and racist victimisation are not 'new' in Europe. However, with political agreement reached in 2007 concerning the Council of the European Union's Framework Decision on Combating Racism and

Xenophobia (COM(2001) 664 final), EU Member States are finally moving towards the approximation of criminal law offence definitions and penalties concerning key aspects of racism and xenophobia.

DEVELOPING COMPARATIVE RESEARCH ON IMMIGRANT VICTIMISATION IN THE EU

Efforts are underway at the level of the European Commission, as part of the Hague Programme, to address how data in the area of crime and criminal justice is collected differently throughout the EU; with the long-term goal to harmonise data collection for ease of comparability.[12] The Commission's Directorate General for Freedom, Security and Justice has established a group of experts on the policy needs for data on crime and criminal justice, which is currently looking at data collection in fields such as human trafficking and money laundering. This group is also exploring alternatives to traditional criminal justice data collection, and to this end has addressed the role of victimisation surveys as established data collection tools that can collect data for comparative analysis using the same questionnaire. In parallel, Eurostat, another Directorate General of the Commission, is also developing a European survey module on victimisation, which is being tested in a number of Member States.

The focus on victim surveys by the European Commission carries on a tradition of alternative data collection methods that has been established in Europe since the 1970s. Finland, the Netherlands and the UK, to name just three countries, have been at the forefront of victim survey development, with the British Crime Survey (BCS) being the largest nation-based survey of its kind in the EU – currently 25 years old and running to 51,000 respondents aged 16 and older. Importantly, the BCS first included a booster sample of black and minority ethnic (BME) respondents in its 1988 sweep, and since 2004–2005 has asked victims whether they consider their victimisation to be racially motivated, and since 2005–2006 whether they consider it to be religiously motivated.

At the level of comparative survey research, the International Crime Victims Survey (ICVS) has been in existence since 1989, and has conducted various sweeps in some EU Member States and throughout the world. However, the survey is focused on majority population respondents and, with a sample size of around 1,000 respondents in each country, does not pick up sufficient number of immigrant and minority groups to be able to undertake a statistically meaningful analysis of results on the basis of

ethnicity or immigrant status. The ICVS was adapted in 2004–2005 for the European Crime and Safety Survey, which looked at the majority population's experiences of crime and fear of crime in the 'old' 15 EU Member States, and what were at the time of the survey the non-EU Member States of Poland, Hungary and Estonia. But, as with the ICVS, the survey's sample size does not allow for a meaningful breakdown of results by ethnicity or immigrant status (Van Dijk, Van Kesteren, & Smit, 2007).

Given this situation, the EU's FRA, with its mandate to collect comparable data in the EU to inform policy developments in the field of fundamental rights, including a focus on vulnerable social groups, took the initiative to develop a survey instrument to look at immigrants and ethnic minorities' experiences of discrimination and criminal victimisation in the EU. A pilot exercise took place in 2006, and a full-scale survey was launched in April–May 2008 in all 27 EU Member States.

The FRA survey, which has the acronym 'EU-MIDIS' (European Union Minorities and Discrimination Survey), randomly samples up to three selected immigrant and ethnic minority groups in each Member State, with a sample size of 500 respondents per group. Potential respondents are screened to see if they belong to one of the groups for surveying in a Member State, and must fulfil the criteria of being 16 years old or older, and of having lived in the Member State for at least 12 months.

The survey is based on face-to-face questionnaire interviews lasting anywhere between 20 and 60 min (depending on the range of discrimination and victimisation experienced by respondents). Alongside questions on discrimination, the survey covers the following 'crime' topics: criminal victimisation in relation to property crime, violent crime, harassment, and corruption; experiences of police treatment and stops, and a couple of questions on experiences with customs and border control. Respondents are asked to indicate if they consider their experiences of discrimination and criminal victimisation to be motivated by their immigrant or ethnic minority background.

Where possible the survey has 'matched' its own questions with those from existing international comparative surveys on the majority population in Member States, such as the European Crime and Safety Survey and the Commission's Eurobarometer surveys, in order to compare findings between majority and minority respondents in Member States. Also, in an effort to enhance the comparability of results between Member States, the findings can be clustered to look at the responses of particular groups; for example, Turkish respondents in X countries, North African respondents in X countries and Roma respondents in X countries. Although the critique

can be levelled at the survey that it is impossible to compare groups between Member States, given their different histories and circumstances, it should be borne in mind that existing international survey research readily compares diverse majority populations between Member States without major criticisms being levelled at the validity of this exercise. In this regard, the results of EU-MIDIS, which will be published as a series of reports from 2009, should be viewed as the first step towards providing large-scale and comprehensive data on the discrimination and victimisation experiences of selected immigrant and ethnic minority groups that would otherwise go undocumented in a large swathe of EU Member States.

CONCLUDING COMMENTS

This chapter has attempted to introduce the situation in the EU with respect to recognition of and data collection responses to crime against immigrants, and related groups such as ethnic minorities. What we currently know in Europe about the extent and nature of victimisation against immigrants is necessarily limited by the absence or inadequacy of existing criminal justice data collection mechanisms that are able to capture crimes against immigrants and other vulnerable groups. This situation varies from country to country, and is determined by a combination of factors including restrictions on data collection on ethnicity, and the role afforded to the police as gatekeepers in determining which crimes should be registered, and subsequently investigated, as potentially racially or religiously motivated.

Reports by NGOs cannot fill the data gap that exists in many Member States, and will always be open to criticism as partial and bias reporting. Pressure on Member States to improve their data collection concerning crimes against immigrants and vulnerable minorities will necessarily compete with other interests for improved data collection and, importantly, resource allocation to do this. In this regard, the FRA's initiative to launch the first EU-wide survey on selected immigrants and minority groups' experiences of discrimination and criminal victimisation will provide an invaluable data set that can be used to highlight the problem and to produce informed policy responses to tackle it. Ultimately though, significant improvements need to be made to criminal justice data collection mechanisms that allow for more comprehensive recording of

crime against vulnerable groups. This can only be achieved if vulnerable groups feel they are able to report victimisation to the police in the belief that their experiences will be taken seriously and will be addressed. For many people in the EU this requires a leap of faith with respect to trust in the police and the wider criminal justice system as *public institutions* – ones that serve 'the public' regardless of their immigrant or non-immigrant background.

NOTES

1. The opinions of the author expressed in this chapter do not represent those of the European Union Agency for Fundamental Rights (FRA).
2. http://www.frontex.europa.eu/
3. http://fra.europa.eu/
4. http://www.justice.gov.uk/docs/population-in-custody-mar08.pdf – Africans make up the single largest group by geopolitical area in the prison population (3,421), followed by Europeans (3,237, of which 2,566 are EU citizens).
5. http://www.bka.de/lageberichte/mh/2004/lagebildmh_en.pdf
6. http://english.bnrm.nl/reports/fifth/
7. Council Regulation (EC) No. 168/2007.
8. More detail about the extent and nature of each Member State's data collection mechanisms in the area of racist violence and related crimes is supplied in the RAXEN NFPs' annual national data collection reports and through the Agency's online InfoBase.
9. As the 2008 FRA report indicates, Member States can be re-classified from one year to the next by the Agency, in recognition of improvements or fallbacks in the quality of their data collection.
10. For a full picture of available figures on racist and related crimes in each of the EU's Member States refer to the FRA's 2008 Annual Report.
11. http://www.enar-eu.org/
12. Communication from the Commission to the European Parliament, the Council of the European Union and the European Economic and Social Committee on developing a comprehensive and coherent EU strategy to measure crime and criminal justice, an EU Action Plan 2006–2010 (COM(2006) 437).

REFERENCES

Bleich, E. (2007). Hate crime policy in Western Europe: Responding to racist violence in Britain, Germany and France. *American Behavioral Scientist*, *51*(2), 149–165.
Bosworth, M. (2007). Immigration detention in Britain. In: M. Lee (Ed.), *Human trafficking* (pp. 159–177). Cullompton: Willan.

Bowling, B., & Phillips, C. (2002). *Racism, crime and justice*. London: Longman.

Brienen, M. E. I., & Hoegen, E. (2000). *Victims of crime in 22 European criminal justice systems*. Nijmegen: Wolf Legal Productions.

Coomber, A. (2003). The Council of Europe: Combating racism and xenophobia. In: *European Strategies to Combat Racism and Xenophobia as a Crime* (pp. 17–26). Brussels: European Network against Racism (ENAR).

Crawford, A., & Goodey, J. (Eds). (2000). *Integrating a victim perspective within criminal justice: International debates*. Dartmouth: Ashgate.

Dummett, A. (1997). *Racially motivated crime: Responses in three European Cities*. London: CRE.

Edwards, A., & Gill, P. (Eds). (2003). *Transnational organised crime: Perspectives on global security*. London: Routledge.

EUMC. (2005a). *Policing racist violence and crime*. Vienna: EUMC.

EUMC. (2005b). *The impact of 7 July 2005 London bomb attacks on Muslim communities in the EU*. Vienna: EUMC.

EUMC. (2006). *Muslims in the European Union: Discrimination and Islamophobia*. Vienna: EUMC.

FRA. (2008). *Annual report 2008: Situation regarding racism and xenophobia in the Member States of the EU*. Vienna: FRA.

Goodey, J. (2000). Non-EU Citizens' experiences of offending and victimisation: The case for comparative European research. *European Journal of Crime, Criminal Law and Criminal Justice*, *8*(1), 13–34.

Goodey, J. (2002). Whose insecurity? Organised crime, its victims and the EU. In: A. Crawford (Ed.), *Crime, insecurity and safety in the new governance* (pp. 135–158). Cullompton: Willan.

Goodey, J. (2003). Migration, crime and victimhood: Responses to sex trafficking in the EU. *Journal of Punishment and Society*, *5*(4), 415–431.

Goodey, J. (2005). *Victims and victimology: Research, policy and practice*. London: Longman.

Goodey, J. (2008). Human trafficking: Sketchy data and policy responses. In: M. Levi (Ed.), *The organisation of serious crimes for gain in the UK and policy responses to them: Developments in research and theory*, special issue of *Criminology and Criminal Justice*, *8*(4), 411–432.

Hall, N. (2005). *Hate crime*. Cullompton: Willan.

Hobbs, D. (1998). Going down the Glocal: The local context of organised crime. *The Howard Journal*, *37*(4), 407–422.

Human Rights First. (2007). *Hate crimes: 2007 survey*. New York: Human Rights First.

Krizsán, A. (Ed.) (2001). *Ethnic monitoring and data protection: The European context*. Budapest: Central European University.

Macpherson, W. (1999). *The Stephen Lawrence inquiry: Report of an inquiry by Sir William Macpherson of Cluny (Cm 4262-I)*. London: The Stationary Office.

Nickel, R. (2003). The current standards of protection through criminal legislation in the EU member states: A general overview. In: *European strategies to combat racism and xenophobia as a crime* (pp. 5–16). Brussels: European Network Against Racism (ENAR).

ODIHR. (2006). *Hate crime in the OSCE region: Incidents and responses*. Annual Report. ODIHR/OSCE, Warsaw.

Ruggiero, V., South, N., & Taylor, I. (Eds). (1998). *The new European criminology: Crime and social order in Europe*. London: Routledge.

Simon, P. (2005). Measurement of racial discrimination: The policy use of statistics. *International Journal of Social Science*, *183*, 9–25.

Van Dijk, J., Van Kesteren, J., & Smit, P. (2007). *Criminal victimisation in international perspective: Key findings from the 2004–2005 ICVS and EU ICS*. The Hague: Ministry of Justice, WODC.

Young, J. (1999). *The exclusive society: Social exclusion, crime and difference in late modernity*. London: Sage.

This page intentionally left blank

ADDING INSULT TO INJURY: THE UNINTENDED CONSEQUENCES FOR IMMIGRANTS OF HATE CRIME LEGISLATION

William F. McDonald

ABSTRACT

Purpose – *To assess the role of hate crime legislation in protecting immigrants and winning their hearts; and to determine whether hate crime is increasing with immigration and, if not, why.*

Methodology – *Based on a survey of the literature, a search of news reports in a special interest news clipping service related to immigrants, and the analysis of US National and California hate crime data.*

Findings – *Immigration does not appear to be associated with increasing hate crime against immigrants in general or Hispanic immigrants in particular in the United States. This may be because immigrants, particularly Hispanic immigrants, tend to live in residentially segregated conditions. However, for people who are probably Middle Eastern–appearing immigrants, the data show a spike in attacks in the years after the September 11 atrocity. The police and prosecutors often decline to arrest and/or to prosecute as hate crimes matters that appear to be hate crimes. This alienates immigrants and makes them believe the opposite of*

what the proponents of hate legislation would hope. Hate crime legislation
does not seem to be to the advantage of immigrants.

Value – *This is an empirically based assessment of the value of hate crime*
legislation for the protection, winning, and integration of immigrants.

The Jets are in gear,
Our cylinders are clickin'!
The Sharks'll steer clear
'Cause ev'ry Puerto Rican's a lousy chicken!

Here come the Jets
Like a bat out of hell.
Someone gets in our way,
Someone don't feel so well! (Sondheim, 1961)

Police are still interviewing suspects and witnesses. Preliminarily, though, they have
determined that Ramirez, who worked in a factory and picked strawberries and cherries,
got into an argument with a group of youths that escalated into a fight in which he was
badly outnumbered.

"From what we understand right now, it wasn't racially motivated," Nestor said.
"This looks like a street fight that went wrong."

Despite the witness statements, Borough Manager, Joseph Palubinsky said he doesn't
believe Ramirez's ethnicity was what prompted the fight: "I have reason to know the
kids who were involved, the families who were involved, and I've never known them to
harbor this type of feeling." (Rubinkam, 2008)

[A]ssaults in which perpetrators are people of color have become more common – and
victims tend to be immigrants from every imaginable origin. The change is a matter of
sheer demographics. Nearly two-thirds of New Yorkers are now black, Latino or Asian.
Among young people under 18, more than 75 percent are. And it's young people who are
particularly likely to get involved in inter-ethnic fights. (City Limits, 2004)

It was billed as a chance for South Asian immigrants to learn from a cop and prosecutor
what hate crimes are and how to report them. But by the end of the meeting in Brooklyn's
heavily Pakistani Midwood section, the lecturers were mired in legalisms, the organizers
were squirming with confusion, and many in the audience seemed like they wanted to be
anywhere but here, the place they thought they'd find help. (City Limits, 2004)

With FAIR (Federation for American Immigration Reform at http://www.fairus.org/site/
PageServer) fanning the flames of xenophobic intolerance, hate groups, hate crimes and
hate speech directed at foreigners and Latinos continue to rise in America. (Potok, 2007)

PROTECTING, WINNING, AND INTEGRATING IMMIGRANTS: HATE CRIME LEGISLATION'S PROMISE

International migration is at an all-time high. All countries of the world are becoming somewhat more diverse in terms of race/ethnicity, nationality, and religion (International Organization for Migration, 2005). The United States, for example, is undergoing a profound demographic transformation. The number of immigrants as a percentage of the US population had more than doubled – from 4.7% in 1970 to 10.4% in 2000 (Camarota, 2002).[1]

The increase in population heterogeneity in the United States and elsewhere is a social structural change with implications for two interrelated areas of public concern about immigrants.[2] One is the matter of protecting them from violent or abusive reactions by xenophobic natives in the countries of destination. The other is the matter of integrating them into their new communities.[3]

This chapter focuses upon the part played in these matters by hate crime laws. The goals of this legislation to suppress bigotry and promote tolerance are directly relevant to immigrants. Certainly this is what the proponents of hate crime legislation believe. They continue to assert that hate crime is rising and they condemn immigration restrictionists for fanning the flames of intolerance against immigrants (Potok, 2007).

Methodology

Based upon cases reported in the news and available government statistics, as well as a review of the literature, this chapter assesses the role of hate crime legislation in the process of protecting immigrants from hate crime, making them feel more secure, and winning their hearts demonstrating the commitment of the government of their new country to suppressing criminal acts directed at them because of their race/ethnicity, nationality, or immigrant status.

Our method's limitations reflect the limitations of the field regarding fundamental conceptualization, measurement, and data. We focus primarily upon the United States because there are some (albeit not ideal) data available. Research on immigrants involved in crime (as victims or offenders) and on hate crime faces serious challenges regarding available data. With few exceptions,[4] government databases do not contain information about the

immigrant status of crime victims or offenders.[5] Our analysis is based upon Federal Bureau of Investigation (FBI) data, which do not directly identify "immigrants."

Hate crime statistical data are of questionable reliability and validity. Advocate organizations have compiled their own statistics (Jacobs & Potter, 1998; Hernández, 1990; Asian Law Caucus, undated [2006]; Klanwatch Project. Southern Poverty Law Center, 1990; Anti-Violence Project. National Gay and Lesbian Task Force, 1990; Cunneen, Fraser & Tomsen, 1997; Cox, 1990). Virtually all of them claim that hate crime is increasing, usually at an alarming rate (Jacobs & Potter, 1998; Cunneen et al., 1997; Morgan, 2002; Morton, 2001, p. 74). Such claims cannot be taken at face value. There is no consensus among academics or professionals in the United States and abroad as to the proper definition of hate crime (Hall, 2005, p. 14).[6] Crime statistics are notoriously problematic. Increases in the official government statistics on hate crimes are as likely to be driven by artificial forces as by real ones.[7] Much crime is never reported to the police. One US study estimated that only 44% of hate crime victimizations are reported.[8] A Canadian study found virtually the same percentage, 45% (Janhevich, 2001, p. T4).

Studies of the social construction of hate crimes by American police departments reveal that hate crime statistics are indeed highly problematic. Determining whether a crime was motivated by hate is a difficult judgment call. Three reports on hate crime decision-making by police reveal that wide differences in judgments happen (Franklin, 2002; Martin, 1995; Boyd, Berk, & Hammer, 1996; Los Angeles County. Commission Human Relations, 2004, p. 9).

Heterogeneity and Inter-Group Criminal Victimization: Blau's Theory

Our analysis is guided by Peter Blau's (1977) classic theory of population heterogeneity. According to the theory, two seemingly inconsistent outcomes are possible. High rates of immigration will increase overall heterogeneity. This in turn may increase the probability of inter-group conflict (such as criminal victimization). However, if immigrants are residentially segregated, their rate of inter-group criminal victimization will not rise.

The logic of Blau's theory is as follows. For some given unit of analysis (such as neighborhood, census tract, area of the city or country), heterogeneity serves as a measure of the exposure to hostile inter-group relations in the form of criminality.[9] That exposure might be mitigated or aggravated by residential segregation among ethnic groups.

If heterogeneity is high – meaning for our purposes that the probability that any two people chosen at random would belong to two different race/ethnic or nationality groups is high – then one would expect the rate of inter-group (between immigrants and autochthons) criminal victimization to be high. According to Blau, increasing heterogeneity results in increases in inter-group crime simply by virtue of the number of encounters between people from the different groups. The larger the proportion of the population that is heterogeneous, the greater the likelihood of inter-group encounters that can become occasions for criminal victimization.

It is important to note that the concept of heterogeneity has two components: the number of different ethnic groups and the proportion of the total population divided among these groups. As Blau explains, "the larger the number of [ethnic] groups and the more evenly the population is divided among them, the greater is the heterogeneity . . . [B]ut, if nine-tenths of the population belong to the same ethnic group and merely one-tenth to others, ethnic heterogeneity is less than if the population is more evenly distributed among ethnic groups" (Blau, 1977, p. 9).

The variable in Blau's theory which allows the theory to explain apparently inconsistent results is residential segregation. It explains why we cannot assume that encounters between members of two different race/ethnic/nationality groups are likely to happen randomly. To the extent that different race/ethnic groups live apart, they will not encounter each other during their daily lives. Thus, residential segregation can mitigate the effect of increased overall heterogeneity. This means that social integration may result in higher rates of inter-group criminal victimization (Messner & South, 1986, p. 980).

HATE CRIME LEGISLATION

Origins, Diffusion, and Alternatives

The policy of attempting to suppress hate by criminalizing it appears to have begun in the United States in the late 1970s and was subsequently imported and enacted by other countries (Valerie, 2005; Newburn, 2002; Gadd, 2004). The legal definitions of hate crime vary among the more than 40 US states and federal government, as well as the United Kingdom, Canada, and Australia.[10] "Hate crime" can be broadly defined as a crime motivated by prejudice/bias against some characteristic of the victim considered integral

to his/her social identity, such as race, ethnicity, religion, sexual orientation, nationality, and physical or mental disability (Hall, 2005).

The few Continental European states that have given hate crime special attention have done so based upon either the prohibitions against racial discrimination provided by the legal instruments drafted by the Council of Europe and the United Nations, or the existing provisions of their own legal codes.[11] The majority of the states do not record crimes as "racially motivated" unless they have been specifically designated as "racist" (Oakley, 2005, p. 5)[12] (see also Goodey, this volume).

Unanswered Skepticism

Among the well-known experiments in using the criminal law to promote virtuous behavior, none is more noble or idealistic than the movement to suppress hatred and intolerance by making hate a crime. Intolerance is hardly new in human history (U.S. Bureau of Justice Assistance, 1997). Curiously, the research community has been silent about the value of hate crime legislation (Jacobs, 1998).[13] Proponents of hate crime legislation claim that the laws will deter acts of hate and will make immigrants and minorities feel safer and more convinced that the government is working to protect them (Moody & Clark, 2004; Note, 1988; Padgett, 1984). In the absence of evidence to the contrary, however, it is as plausible to believe that hate crime legislation will do as much to impede the development of integrated, multi-ethnic societies as to promote them (Gellman, 1991; Jacobs, 1993, 1998; Jacobs & Potter, 1997; Morgan, 2002; Cohn, 2005).[14]

The Case Against Hate Crime Legislation

There are good reasons for doubting the value of hate crime laws: the unlikely and slim marginal deterrent value of enhancing penalties for acts that are already punished by law;[15] the public attention to hate crime, which may make minorities feel less safe; the likely political divisiveness stemming from the inevitable conflicts over cases not treated as hate crimes by the government; and the always-present risk of unintended consequences.

For local law enforcement officials, hate crime laws create a dilemma. The police have to make politically hot judgment calls as to whether crimes qualify as "hate crimes." At the same time they are expected to reach out to their local immigrant communities, win their trust, and respond to their needs.[16] Every crime they refuse as a hate crime challenges their community relations.

A systematic inquiry into these possibilities has yet to be done. Meanwhile we have to rely upon available evidence. Examples of how hate crime legislation has raised expectations of immigrants and other minorities are readily available (Cave, 2004; Timms & Suhler, 1998; City Limits, 2004; Tavernise, 2004). Immigrants are ready to interpret inter-group crimes as motivated by hate.[17] Immigrants are encouraged to believe that all inter-group crimes will be treated as hate crimes. Thus, failure to do so now becomes a new demonstration of the state's lack of concern.[18]

If the supporters of hate crime laws are correct about the alienating effect of government actions that are not responsive to immigrants (and minorities), then hate crime legislation must be causing a lot of alienation. The police are deciding that a substantial proportion of cases believed to be hate crime cases are not verifiably so (*infra*). Prosecutors in the United States and Europe are rejecting hate crime charges at high rates.[19] The declined cases are greeted with anger and disbelief.[20] Some immigrant advocates have responded by urging their constituents to get political.[21]

Hate Crime and "Immigrants" to the United States

The FBI Data

The FBI Hate Crime Statistics Report victim categories are race, ethnicity/nationality, religion, sexual orientation, and disability. It uses the minimally accepted designations of race and ethnicity established by the Office of Management and Budget (United States Office of Management and Budget, 1997). There are five categories for race (White, Black, American Indian or Alaskan Native, Asian or Pacific Islander, and multiple races) and two for ethnicity (Hispanic and other ethnicity/national origin). A decision is first made about ethnicity and then about race. There is no category for immigrant or foreign born.

The two categories closest to representing "immigrants" are "ethnicity/national origin" and the subcategory, "race/Asian." "Ethnicity/national origin" consists of two groups: Hispanics and "other ethnicity/ national origin." The subcategory, "race/Asian and Pacific Islander," does not include persons from Arab and Middle Eastern countries. Those people would be classified as "other ethnicity/national origin."[22]

Hispanics represent the largest and fastest growing category of immigrants in the United States. Between 1980 and 2005, the number of Hispanics increased from 14.6 to 41.9 million, 40% of whom were foreign born (Pew Hispanic Center, 2005, p. 4, p. T2). Of the total foreign-born

population in the United States in 2000, 51.7% were from Latin America, 26.4% from Asia, 15.8% from Europe, and 2.8% from Africa (Grieco, 2002).

When counting hate crime, the FBI uses four distinct units of analysis: incidents, offenses, victims (individuals, organizations, or society), and "known" offenders (i.e., some information about the offender is known). Although similar, the number of units varies by type of unit (Table 1). Thus, comparisons between trends based upon victims may not agree with those based upon offenses listed according to motivations of "known" offenders (i.e., Fig. 2 vs. Table 2).

Table 1. Hate Crime: Incidents, Offenses, Victims, and "Known Offenders" by Offense Type, USA, 2007.

Offensive Type	Incidents[a]	Offenses	Victims[b]	Known Offenders[c]
Total	7,624	9,035	9,535	6,965
Crimes against persons	4,347	5,642	5,408	5,542
Murder and non-negligent manslaughter	9	5	9	14
Forcible rape	2	4	2	4
Aggravated assault	853	1,040	1,116	1,409
Simple assault	1,410	1,750	1,684	2,052
Intimidation	2,045	2,827	2,565	2,026
Other	28	16	32	37
Crimes against property	3,579	3,579	4,108	1,826
Robbery	178	178	236	392
Burglary	159	159	193	130
Larceny – theft	221	221	230	126
Motor vehicle theft	22	22	27	4
Arson	40	40	47	33
Destruction/damage/vandalism	2,915	2,915	3,328	1,108
Other	44	44	47	33
Crimes against society	19	19	19	25

Source: FBI Hate Crime (2007, p. T2).

[a]The actual number of incidents is 7,649. However, the column figures will not add to the total because incidents may include more than one offense type, and these are counted in each appropriate offense type category.

[b]The term "victim" may refer to a person, business, institution, or society as a whole.

[c]"Known offender" does not mean the identity of the offender is known, only that information about some attribute of the offenders is known. The actual number of known offenders is 7,145. The column does not total to this because some offenders are responsible for more than one offense.

In 2007, American law enforcement agencies reported 5,408 hate crime "offenses" against persons and 3,579 hate crime offenses against property (Table 1). An overwhelming majority (79.5%) of hate crime offenses are "minor" crimes of intimidation, simple assault, or vandalism. The US hate crime is primarily about White–Black conflicts. Anti-immigrant bias seems to be substantial, but cannot be determined precisely (Table 2).[23] Assuming that the categories "anti-Hispanic," "anti-other ethnicity/national origin," and "anti-Asian" can be added together as rough proxies for anti-immigrant, anti-immigrant is a close second place.[24]

Before analyzing the data it is worth noting that trends must be interpreted cautiously (Campbell & Ross, 1968). A trend can change if set within a different time frame. Fluctuations may be due to random processes. With those warnings in mind we nonetheless tentatively conclude that the trend data for hate crime contain some surprises.

The reported "rising tide" of hate-motivated acts apparently crested before 1995 and is slowly receding except for a spike in 2001, the year of the September 11 atrocity (see Fig. 1) for each of two groups.[25] The flatness[26] of the line for Hispanics is also surprising given the remarkable rate of their immigration to the United States during the period covered. It is not consistent with the hypothesis that increased immigration would be accompanied by increased inter-group criminal victimization.

The spike in 2001 in the trend line for "other ethnics/national origins" probably represents the backlash against Middle Eastern people (see Table 2). For both White and Black offenders,[27] the number of hate crimes directed at this category of people tripled between 2000 and 2001, and the numbers did not return to pre-2001 levels.[28]

The other trend line that peaked in 2001, the anti-religion category, represents attacks against Islamic victims, many of whom are likely to be immigrants.[29] The average number of anti-Islamic victims between 1995 and 2000 was 33.2. In 2001, that number soared to 554. Thereafter the number remained elevated at an average of 182 per year.[30]

Looking solely at California data, the pattern of stable or slightly declining trends in hate crimes against Hispanics, Asians, and other ethnics was virtually the same as the national trends (see Fig. 2). This is remarkable because California has the largest foreign-born population in the United States.[31] It increased by 52% between 1990 and 2005. The majority of these (57.2%) are from Latin America. In California, the Hispanic population increased by 778% between 1980 and 2005.[32] As with the FBI data, the California data appear to show what might have been a backlash against Middle Eastern people after the 9/11 attacks as represented by the sharp

Table 2. Number of Hate Crimes by Bias Motivation and Suspected Offender's Race, USA, 1996–2007.

Offender's Race/Bias Motivation	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
White												
Anti-White	219	214	123	171	186	219	130	205	190	204	210	161
Anti-Black	2,647	2,336	2,084	2,030	1,981	2,062	1,689	1,642	1,802	1,803	1,680	1,771
Anti-native Am	46	30	36	29	33	56	31	39	55	40	26	44
Anti-Asian	291	200	136	160	136	175	104	132	99	88	101	91
Anti-multiple race group	131	141	114	107	113	104	86	81	88	70	93	104
Anti-Hispanic	425	359	358	325	403	437	323	283	305	340	404	405
Anti-Ethn/Ntl origin	200	185	137	220	213	773	324	281	269	208	203	233
Black												
Anti-White	818	718	567	524	527	517	497	431	499	368	403	394
Anti-Black	103	62	64	87	72	101	84	88	63	87	93	79
Anti-native Am	8	5	4	3	2	9	1	7	3	6	12	3
Anti-Asian	44	41	25	17	30	26	38	32	16	11	30	18
Anti-multiple race group	22	32	17	22	13	10	19	19	13	12	13	6
Anti-Hispanic	71	73	51	68	122	100	111	98	108	115	6	157
Anti-Ethn/Ntl origin	29	24	31	24	37	118	67	67	62	64	14	55
Asian/Pacific Island												
Anti-White	25	15	10	9	24	7	11	8	9	4	8	6
Anti-Black	32	25	28	24	24	24	26	15	19	6	15	10
Anti-native Am	1	1	0	0	1	1	0	1	0	0	1	0
Anti-Asian	13	5	5	9	6	2	1	10	5	8	7	3
Anti-multiple race group	0	0	5	1	3	4	0	0	0	4	3	0
Anti-Hispanic	12	24	11	2	5	8	0	12	10	1	18	2
Anti-Ethn/Ntl origin	5	3	2	7	4	13	9	11	2	4	3	4

Note: "Native Am" includes American Indians and Alaska Natives; "Asian" includes Asians and Pacific Islanders; "Ethn/Ntl Origin" includes people of other than Hispanic ethnicities/national origins. Offenses involving religion, sexual orientation, multiple racial groups, and multiple bias incidents and cases where no information is known about the offender were omitted.
Source: Adapted from FBI, Hate Crime Statistics (1996–2007).

Thousands
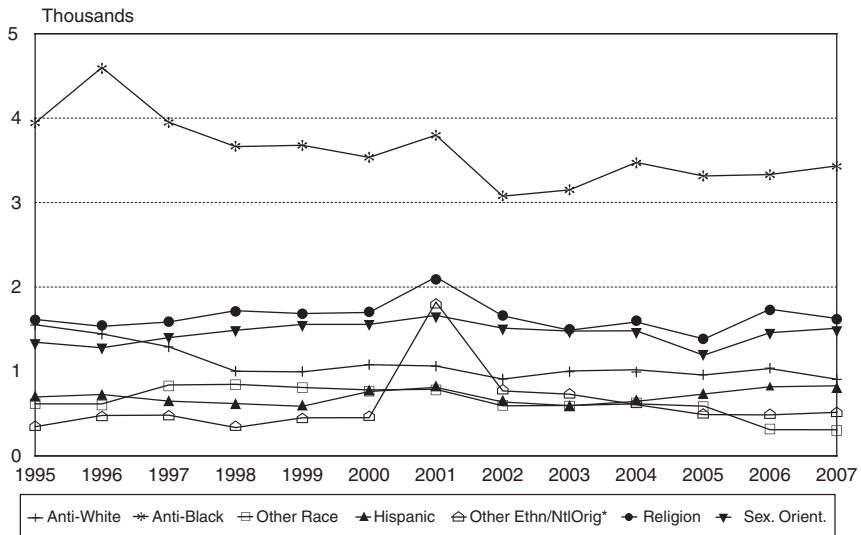
Fig. 1. Number of Hate Crime Victims by Bias Motivation: USA, 1996–2004: Single-Bias Incidents Only. *Note:* Virtually all events are single-bias motivation. There were only between three and eight multiple-bias incidents per year. The term "victim" may refer to a person, business, institution, or society as a whole. Most commonly the victims are individuals (84%) as opposed to businesses or religious organizations (Strom, 2001, p. 4). "Other Ethn/NtlOrig" refers to non-Hispanics and foreign borns. "Other Race" includes Asians, Pacific Islanders, American Indians, Alaskan Natives, and multiple races. *Source:* Adapted from FBI HCS, 1996–2008.

spike in attacks against people classified as "other ethnic/national origin" and as "anti-Islamic."

A useful perspective on national trends in hate crime is to compare them to the trends in general crime. Focusing just on violent crime one finds some similarities. The trends for general violent victimizations for all races and ethnic categories in the United States since 1993 have been declining (Fig. 3). Similarly the trends in violent hate crime against blacks and whites have declined since 1996 (Fig. 4), albeit not as steeply. In contrast, the trend lines for anti-Asian and anti-Hispanic violence were stable except for a small increase of anti-Hispanic violence in 2000 and 2001. The trend against "other ethnic" (which includes Middle Eastern people) remained stable up until the spike in 2001 and then declined, although not to pre-2001 levels.[33]
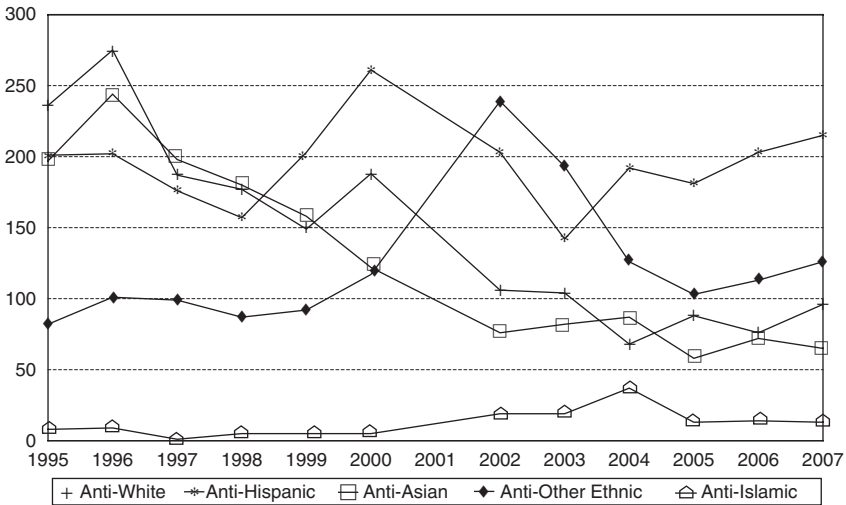
Fig. 2. Hate Crime Victims in California, 1995–2007. Number of Victims by Selected Bias Motivations of Offenders. *Note:* Anti-Black crimes are consistently the highest by a factor of 2–3 times that of anti-White crimes. They were omitted because they are not immigrants and their high numbers stretched the scale giving less clarity to the remaining categories. Anti-Jewish and other victims were omitted for similar reasons. Other ethnic includes National Origins where Middle Eastern people would be categorized. Data for 2001 are not available. *Source:* Adapted from California Attorney General, Hate Crime in California, 1995–2007.

The declining trends in violent hate crime are in line with the general decline in violent victimization that has been happening in the United States since 1993. Perhaps the two trends are linked to a common cause. What that might be is unknown. Criminologists do not agree as to why violent crime is declining (Levitt, 2004; Smith, 2006). Most relevant to our interests is Sampson's intriguing speculation that immigration is causing the decline (Sampson & Bartusch, 2006) (see also Lee and Martinez, this volume).

DISCUSSION

These data tend to support the conclusion that increasing immigration to the United States has not been related to an increase in anti-immigrant hate crime. This seems to contradict expectations based on Blau's theory of
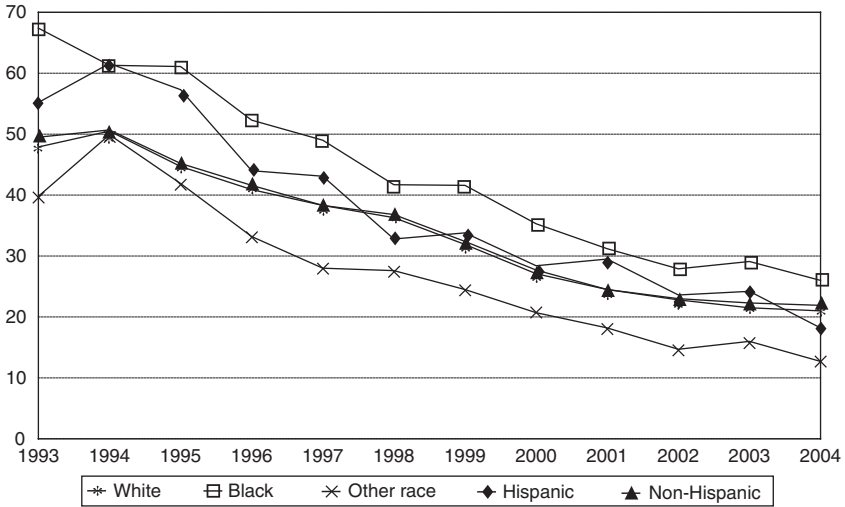
Fig. 3. Violent Victimization Rates by Race and Ethnicity: USA, 1993–2004. Violent Crimes Per 1,000 Persons, Age 12 or Older (Catalano 2005, p. T4). *Note:* Racial categories consist of the following: White only, Black only, and other race only (American Indian/Alaskan Native, Asian, or Native Hawaiian/other Pacific Islander). Cases of two or more races are not presented here. Individuals are asked if they are of Hispanic ethnicity before being asked about their race. Violent crimes include rape/sexual assault, robbery, and assault (aggravated and simple).

heterogeneity, but this is not necessarily inconsistent. Rather it forces us to explore the significance of the second condition in Blau's theory, namely, the possibility that residential segregation may be protecting immigrants.

Some studies report that immigrants reside in ethnic enclaves rather than assimilate (Logan, Zhang, & Alba, 2002). A few studies have suggested that residential segregation reduces the criminal victimization of immigrants. None of these studies address inter-group victimization. Most have focused upon the criminality of immigrants and found that some immigrant communities have lower rates of crime than expected and even lower than those of natives (Sampson, 1984; Sampson & Bean, 2006; Butcher & Piehl, 1998; Hagan & Palloni, 1998; Martinez, Lee, & Nielsen, 2000; Martinez, 2002; Lee & Martinez, this volume).

In a 1935 study, Benyon concluded that "crime rates tend to be lower among migrant communities which maintain themselves in "colonies" or "enclaves" which are comparatively isolated from the surrounding
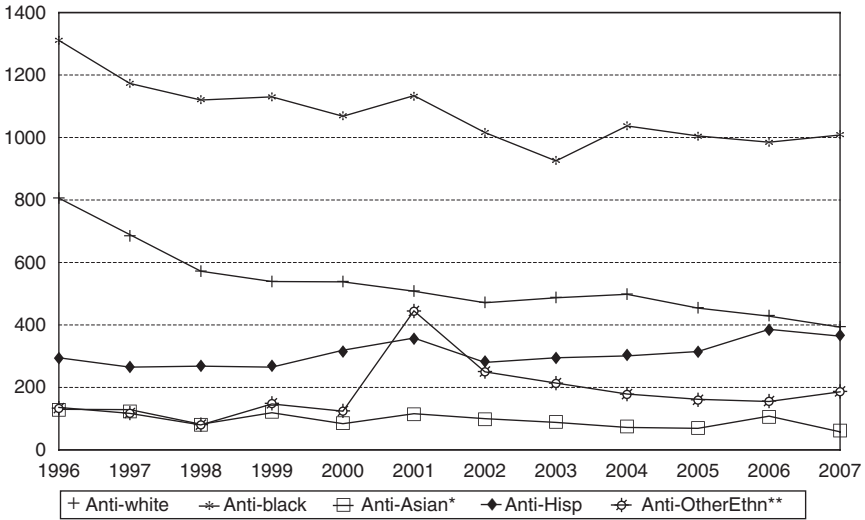
Fig. 4. Violent Hate Crimes by Bias Motivation: USA, 1996–2007. *Note*: Violent crimes include forcible rape, aggravated and simple assault, and robbery. *Asian also includes Pacific Islanders. **Other ethnic includes victims with different ''National Origins.'' Violent crimes motivated by multiple biases or anti-American Indian/ Alaskan Native were omitted due to the small numbers. *Source:* Adapted from FBI Hate Crime Statistics, 1996–2008.

culture ... [and] tend to be higher in communities which do not keep themselves together in tight knit groups'' (Benyon, 1935). More recently Lauritsen (2001) found that the effect of community characteristics on the risk of crime victimization varies with urban–suburban location and the number of immigrants. But, these studies also were not about hate crime.

Several studies provide evidence consistent with the conclusion that the rate of inter-group hate crime against Hispanics has remained constant despite the high rate of Hispanic immigration, because Hispanics have settled in residentially segregated communities. Evidently the remarkable upsurge in Hispanic immigrants to the United States since the 1980s did not make it more likely that Hispanics would have encounters with non-Hispanics. Rather it resulted in an increased concentration of Hispanics (Logan, Stults, & Farley, 2004; Massey, 2001, p. 406).[34] One study has directly attributed the lower rates of violent victimization of immigrant youths compared to natives in Miami to the protective power of living in their Hispanic enclave (Biafora & Warheit, 2007).

CONCLUSIONS

Proponents of hate crime legislation have claimed that hate crimes are increasing and that hate crime laws are necessary to deter intolerance and assure immigrants and minorities of the government's concern for their well-being. News accounts of inter-group crime against immigrants have suggested that today's high rate of immigration is being accompanied by a rise in hate crime against immigrants. Nevertheless, contrary to these expectations we have found that hate crime against immigrants does not appear to be increasing monotonically with increases in immigration.

Also, there is evidence that police and prosecutors decline to arrest and prosecute crimes as hate crimes for good reasons having to do with the ambiguity of the circumstances surrounding offenses and the difficulty of proving hate cases. These declinations were easily anticipated and are not unlike the handling of other crimes where law enforcement officials tend to go with the most easily provable charges. However, hate crime charges that are not filed or are reduced to non-hate crime matters are experienced by immigrants (and others) as betrayals or a lack of concern for their safety. Their hopes and expectations that were raised by the existence and positive claims for these hate crime laws are dashed by the practical realities of enforcing them. Rather than making immigrants feel safer and more secure, these laws have alienated them and even led to political backlash against the government.

Also, it appears that the lack of a correlation between increased immigration and hate crime against immigrants may be due to the tendency of immigrants to live in enclaves. This suggests that policies designed to promote the integration of immigrants into the larger community may expose them to a higher risk of hate crime victimization.

In sum, it appears hate crime legislation has not been in the interests of immigrants and should be reconsidered. We are living in an age of immigration. Immigrants need protection and confidence in their new governments. Hate crime legislation seems to be interfering with those goals.

NOTES

1. As of March 2002, Mexico and the rest of Latin American together accounted for 53% of the 32.5 million foreign-born population. Asian (including Philippine)

immigrants made up 30%. In addition, 80% of the estimated 9.2 million illegal immigrants were from Latin America (including Mexico) (Passel, 2004).

2. In this article the term, ''immigrants,'' is used in its non-technical/non-legal sense. It includes refugees, asylees, and unauthorized/illegal immigrants. It excludes tourists and persons in transit.

3. An estimated 200,000 Hmong refugees were resettled in the United States after the Vietnam War, about 70,000 of them in California, mostly in Fresno. By 1996, however, an estimated 6,000 of them had moved out of Fresno and California seeking to escape the crime, the gangs, the ethnic vilification, and the anti-immigrant climate (Knight-Ridder, 1996).

4. For Italian data see Barbagli (1998, 2002) and Barbagli (this volume); Swedish data Martens (1997); German data Albrecht (1987, 1997); Swiss data Killias (1997) and Killias (this volume). For Australia's lack of immigration data see Mukherjee (1999), also see Makkai and Taylor (this volume).

5. For victimization data needs, particularly related to hate crime, in the European Union (see Goodey, this volume).

6. For Scotland see Moody and Clark (2004, p. 268).

7. See Goodey's discussion of the dramatic difference between the hate crime rates for France and the United Kingdom (this volume).

8. A national criminal victimization survey by the Bureau of Justice Statistics estimated that from July 2000 to December 2003 an annual average of 210,000 hate crime victimizations occurred. The victims indicated that 92,000 (approximately 44%) of those were reported to the police (Harlow, 2005, p. 1). However, FBI statistics on hate crimes for those years indicate that only about 10,000 to 11,000 hate crimes were reported (see data *infra*).

9. American researchers commonly measure it as ethnic heterogeneity, for example, the percent Black and non-Black in a census tract.

10. For the United Kingdom and Scotland see Macpherson (1999), Moody and Clark (2004), United Kingdom Association of Chief Police Officers (2005) and for Canada see Janhevich (2001).

11. As of 1991, the Federal Republic of Germany had no specific anti-racism legislation. It maintained that the protection against racial discrimination provided by its Constitution was adequate to combat racism (Ford, 1992, p. 57).

12. In 1997, the European Union established the European Monitoring Centre on Racism and Xenophobia (EUMC) with the charge providing the community and its member states with information and data on racism, xenophobia, Islamophobia, and anti-Semitism at the European level in order to help the EU and its member states to develop policies and practices against racism and xenophobia.

It was not until July 6, 2005, that the European Court of Human Rights affirmed its first ever finding of racial discrimination in breach of Article 14 of the European Convention of Human Rights. The Court's ruling means that European states have an clear obligation to investigate possible racist motives behind acts of violence (Open Society. Justice Initiative, 2005).

13. Criticisms of the strategy have been limited primarily to the threat to the constitutionally protected right to free speech (in the United States) and to the threat to the equal protection of the law. Some commentators argue that hate crime laws

are likely to have a divisive effect on the community (Jacobs & Potter, 1997; Jacobs, 1998; Gellman, 1991; Morgan, 2002).

14. Even leaders of immigrant communities that have suffered victimization see hate crime laws as an ill-advised strategy. When a group of five Russian men were brutally attacked and one killed by seven Puerto Ricans shouting ethnic slurs, the Russian community declined to take political action.

The police charged the case as a hate crime. Prominent members of the Russian community, however, were unwilling to see it as motivated by hate. Anatoly Eyzenberg, a member of a Russian-American political organization, refused to call it hate crime because he said, "I don't want to inflame ethnic hatred. ... I'm categorically against that" (Tavernise, 2004; City Limits, 2004).

15. Many hate crime laws have increased the maximum possible sentence that may or must be imposed. The deterrent logic of this approach assumes that potential offenders will know about the increased risk and thereby be deterred. However, research on the public's knowledge of existing criminal sanctions has consistently shown that the public seriously underestimates the severity of existing sentencing regimes (Williams, Gibbs & Erickson, 1980; California Assembly Committee on Criminal Procedure, 1968; Hough & Roberts, 1999).

16. For example, at a conference organized by the Council of Pakistan Organization, an immigrants' rights group, New York Police Officers, and Kings County assistant prosecutors explained to the consternation and perplexity of attendees that in the United States the use of bigoted language is not a crime. It is free speech protected by the First Amendment. People can call Pakistani immigrants "towelheads," "terrorists," and "Osama" all they like as long as they do not also engage in a traditional criminal act against them (City Limits, 2004).

17. The 2004 Australian Crime Victimization Survey found that while immigrants reported rates of overall victimization comparable to the general community, they were more likely to believe that assaults and threats made against them were racially motivated (Johnson, 2005).

18. In Scotland when the high rate of hate case attrition from the justice system was published, Muslim leaders and the Scottish National Party denounced the report as evidence of favoritism for racists. The Muslim leaders "said the figures would reinforce the existing perception that racial abuse or harassment was not worth reporting because such crimes were not taken seriously" (McDougall, 2005).

19. The San Francisco District Attorney's Office (CA) was dropping over 50% of the hate crime charges brought by the police and getting only a 10% conviction rate for the hate crime cases that went forward (Asian Law Caucus, undated [2006]).

In 2004 in the entire state of California, 1,409 hate crimes were reported to the police who referred 407 of them to local district attorneys who filed hate crime charges in 277 cases. In that year California prosecutors disposed of 278 hate crime cases: 139 convictions as hate crime; 100 convictions as other crimes; and 36 not convicted (California. Attorney General, 2005, p. 12).

For Europe see European Monitoring Centre on Racism and Xenophobia (2005a).

20. For example, Sunil Sharma, a leading member of Northern Ireland's Asian community, criticized the courts for being reluctant to pursue racially motivated crimes. He was outraged by the sentence of Stephen McGlone, who punched Brij

Brushan Sharma (no relation), causing him to fall, fracture his skull, and die. McGlone received a sentence of 17 months, which Sunil called "a disgrace". He said,

> The family are devastated by this and they have a number of concerns about this issue.

> First of all, how the judge or the prosecution didn't regard the incident as racially motivated as at times during this act the perpetrator had called the victim a 'Paki bastard.'

> It is the first time in my life I can understand the term 'Paki bastard' being used as a term of endearment. (BBC News, 2005)

21. The Asian Law Caucus found that the San Francisco District Attorney's Office was reluctant to include hate crime charges in criminal cases because such charges are "very hard to prove ... require significantly more work to prosecute than 'normal' crimes ... [and] may 'jeopardize' the underlying crime by complicating it with a hate element." Nevertheless, the Caucus wants full enforcement of the hate crime laws. It recommended, "If a DA refuses to keep a hate crime charge, public advocacy is usually the next step" (Asian Law Caucus, undated [2006]).

22. The OMB standards are "minimum" standards. Accordingly OMB decided not to create a special ethnic category for people from Arab and other Middle Eastern countries (United States. Office of Management and Budget, 1997).

23. Table 2 deals only with offender's race. It does not include hate crimes committed by persons classified as Hispanics and other ethnicity/national origin. That analysis is not provided by the FBI.

24. As of 2004, 45% of Hispanics were foreign born (Pew Hispanic Center, 2005).

25. The FBI publishes separate counts for incidents, offenses, victims, and known offenders. However, the trend lines for each of these alternative methods of measurement are virtually the same (not shown). For simplicity, only the trends for victims are presented.

26. The mean number of Hispanic victims per year is 673.8, standard deviation = 70.5.

27. The number of Asian/Pacific Islander offenders is too small to be considered.

28. For some tables Hispanics are combined with all other ethnics/national origins (Fig. 1).

29. A majority of cases in the category are crimes against Jews. If anti-Islamic victims are separated out, the spike is dramatic (not shown).

30. Calculated from FBI Hate Crime Statistics Reports.

31. According to estimates from the 2005 American Community Survey, the foreign born represented 12.1% of the total population of the United States but 27% of the population of California (Migration Policy Institute, 2006a, 2006b).

32. From 4,544,331 to 35,340,566, which includes the estimated 16,718,400 unauthorized Hispanic immigrants (for 2002–2004) in California – most (86%) of whom arrived between 1990 and March 2004 (Passel, 2004; Pew Hispanic Center, 2006).

33. Declines in hate crime and racist violence have also been reported in other jurisdictions including Los Angeles County, CA, and in Europe, although the European report cautions that the decline may be an artifact of the lack of adequate data collection methods (European Monitoring Centre on Racism and Xenophobia,

2005b). In Los Angeles County, there were 502 hate crimes reported in 2004, a decline of 27% from 2003 and the lowest number since 1989.

34. See also Suro and Tafoya (2004).

REFERENCES

Albrecht, H.-J. (1987). Foreign minorities and the criminal justice system in the federal Republic of Germany. *The Howard Journal*, *26*(4), 272–286.

Albrecht, H.-J. (1997). Ethnic minorities, crime and criminal justice in Germany. In: M. Tonry (Ed.), *Ethnicity, crime, and immigration: Comparative and cross-national perspectives* (pp. 31–99). Chicago, IL: University of Chicago Press.

Anti-Violence Project. National Gay and Lesbian Task Force. (1990). *Anti-gay violence, victimization and defamation 1989*. Washington, DC: National Gay and Lesbian Task Force.

Asian Law Caucus. (undated [2006]). *Quick facts about enforcing hate crimes*. Retrieved 12/05/2006, from San Francisco, CA: http://www.altrue.net/site/alc/content.php?type = 1&id = 10835

Barbagli, M. (1998). *Immigrazione e Criminalità in Italia*. Bologna: Il Mulino.

Barbagli, M. (2002). *Immigrazione e Reati in Italia*. Bologna: Il Mulino.

BBC News. (2005, December 16). *Courts 'failing to pursue racism.'* Retrieved 10/01/2006, from bbc.co.uk: http://news.bbc.co.uk/1/hi/northern_ireland/4534130.stm

Benyon, E. D. (1935). Crime and custom of the Hungarians of Detroit. *American Institute of Criminal Law and Criminology*, *25*, 755–774.

Biafora, F., & Warheit, G. (2007). Self-reported violent victimization among young adults in Miami, Florida: Immigration, race/ethnic and gender contrasts. *International Review of Victimology*, *14*(10th), 29–55.

Blau, P. (1977). *Inequality and heterogeneity: A primitive theory of social structure*. New York: Free Press.

Boyd, E. A., Berk, R. A., & Hammer, K. M. (1996). 'Motivated by hatred or prejudice': Categorization of hate-motivated crimes. *Law and Society Review*, *30*(4), 819–850.

Butcher, K. F., & Piehl, A. M. (1998). Cross-city evidence on the relationship between immigration and crime. *Journal of Policy Analysis*, *3*, 457–493.

California Assembly Committee on Criminal Procedure. (1968). *Deterrent effect of criminal sanctions*. Sacramento, CA: Assembly of the State of California.

California Attorney General. (1996–2008). *Hate crime in California, 1995–2008*. Annual Statistical Reports. Retrieved 12/16/2008, from California Attorney General: http://ag.ca.gov/cjsc/pubs.php#hate

California Attorney General. (2005). *Hate crime in California: 2004*. Retrieved 15/05/2006, from http://ag.ca.gov/cjsc/publications/hatecrimes/hc04/preface.pdf

Camarota, S. A. (2002). *Immigrants in the United States—2000: A snapshot of America's foreign-born*. Report by the Center for Immigration Studies. Retrieved February 8, from http://www.cis.org/articles/2001/back101release.html

Campbell, D. T., & Ross, H. L. (1968). The Connecticut crackdown on speeding: Time-series data in quasi-experimental analysis. *Law and Society Review*, *3*(1), 33–54.

Catalano, S. M. (2005, September). *Criminal victimization, 2004* (NCJ 210674). Retrieved 01/06/2006, from Bureau of Justice Statistics, U.S. Department of Justice: http://www.ojp.usdoj.gov/bjs/pub/pdf/cv04.pdf

Cave, D. (2004, October 24). In a divided town, a question of hate, or cash? *The New York Times* (Late Edition (East Coast)), p. 1.1.

City Limits. (2004). Race wars: Since 9/11, New York has been shocked by hate crimes against immigrants. But what happens when the perps are people of color too? *City Limits*, *29*(5), 17.

Cohn, R. (2005, August 18). Criminalizing speech. *The Washington Post,* p. A21.

Cox, G. (1990). *The streetwatch report: A study into violence against lesbians and gay men*. Sydney: Gay and Lesbian Rights Lobby.

Cunneen, C., Fraser, D., & Tomsen, S. (Eds). (1997). *Faces of hate: Hate crime in Australia*. Leichardt: Federation Press.

European Monitoring Centre on Racism and Xenophobia. (2005a, April). *Racist violence in 15 EU member states: A comparative overview of*. Retrieved 18/05/2006, from Author: http://eumc.eu.int/eumc/material/pub/comparativestudy/CS-RV-main.pdf

European Monitoring Centre on Racism and Xenophobia. (2005b, April 13). *Racist violence in the European Union* (EUMC Media Release. Issue: 194-03-05-03). Retrieved 20/06/2006, from http://eumc.europa.eu/eumc/material/pub/MR/MR-194-03-05-03-EN.pdf

Ford, G. (1992). *Fascist Europe: The rise of racism and Xenophobia*. London: Pluto Press.

Franklin, K. (2002). Good intentions: The enforcement of hate crime penalty-enhancement statutes. *American Behavioral Scientist*, *46*(1), 154–172.

Gadd, D. (2004). Hate and bias crime: Criminologically congruent law? A review of Barbara Perry's hate and bias crime: A reader. *The Australian and New Zealand Journal of Criminology*, *37*(1), 144–154.

Gellman, S. (1991). Sticks and stones can put you in jail, but can words increase your sentence? Constitutional and policy dilemmas of ethnic intimidation laws. *UCLA Law Review*, *39*, 333–396.

Grieco, E. (2002, December 1). Characteristics of the foreign born in the United States: Results from Census 2000. In: *US in Focus*. Migration Information Source. Retrieved 13/10/2006, from Migration Policy Institute: http://www.migrationinformation.org/USFocus/display.cfm?ID = 71

Hagan, J., & Palloni, A. (1998). Immigration and crime in the United States. In: J. P. Smith & B. Edmonston (Eds), *The immigration debate: Studies on the economic, demographic, and fiscal effects of immigration* (pp. 367–387). Washington, DC: National Academy Press.

Hall, N. (2005). *Hate crime*. Portland, OR: Willian Publishing.

Harlow, C. W. (2005, Nov.). *Hate crime reported by victims and police*. Bureau of Justice Statistics Special Report, NCJ 209911. Bureau of Justice Statistics, Washington, DC.

Hernández, T. K. (1990). Bias crimes: Unconscious racism in the prosecution of "racially motivated violence". *The Yale Law Journal*, *99*(4), 845–864.

Hough, M., & Roberts, J. V. (1999). Sentencing trends in Britain: Public knowledge and public opinion. *Punishment and Society*, *1*(1), 11–26.

International Organization for Migration. (2005). *World migration 2005: Costs and benefits of international migration*. Geneva: Author (ISBN 92-9068-209-4). Retrieved 23/09/05, from Author: http://www.iom.int/iomwebsite/Publication/ServletSearchPublication?event = detail&id = 4171

Jacobs, J. B. (1993, Fall). Should hate be a crime? *The Public Interest*, p. 113.

Jacobs, J. B. (1998). The emergence and implications of American hate crime jurisprudence. In: R. J. Kelly & J. Maghan (Eds), *Hate crime: The global politics of polarization* (pp. 150–176). Carbondale, IL: Southern Illinois University Press.

Jacobs, J. B., & Potter, K. (1997). Hate crimes: A critical perspective. *Crime and Justice*, *22*, 1–50.

Jacobs, J. B., & Potter, K. (1998). *Hate crimes: Criminal law and identity politics*. New York, NY: Oxford University Press.

Janhevich, D. E. (2001, January). *Hate crime in Canada: An overview of issues and data sources*. Statistics Canada No. 85-551-XIE. (Canadian Centre for Justice Statistic, Ed.). Ottawa: Statistics Canada.

Johnson, H. (2005, August). *Experiences of crime in two selected migrant communities*. Trends & Issues in Crime and Criminal Justice No. 302. Retrieved 16/09/05, from Australian Institute of Criminology: http://www.aic.gov.au/publications/tandi2/tandi302.html

Killias, M. (1997). Immigrants, crime, and criminal justice in Switzerland. In: M. Tonry (Ed.), *Ethnicity, crime and immigration: Comparative and cross-national perspectives*. Crime and Justice: A Review of Research (Vol. 21, pp. 375–405). Chicago, IL: University of Chicago Press.

Klanwatch Project. Southern Poverty Law Center. (1990). *Hate violence and white supremacy: A decade of review 1980–1990*. Montgomery, AL: Southern Poverty Law Center.

Knight-Ridder (Info@us.net). (1996, December 4). *Hmong refugees in California flee crime and intolerance*. Article no. [20:28:12.23]. *CISNEWSadfasdf*.

Lauritsen, J. (2001). The social ecology of violent victimization: Individual and contextual effects in the NCVS. *Journal of Quantitative Criminology*, *17*(1), 3–33.

Levitt, S. D. (2004). Understanding why crime 1990s: Four factors that explain the decline and six that do. *Journal of Economic Perspectives*, *18*(1), 163–190.

Logan, J. R., Stults, B. J., & Farley, R. (2004). Segregation of minorities in the metropolis: Two decades of change. *Demography*, *41*(1), 1–22.

Logan, J. R., Zhang, W., & Alba, R. D. (2002). Immigrant enclaves and ethnic communities in New York and Los Angeles. *American Sociological Review*, *67*(2), 299–322.

Los Angeles County. Commission Human Relations. (2004). *Hate Crime Report 2004*. Retrieved 01/06/2006, from Author: http://lahumanrelations.org/publications/docs/2004HCR.pdf

Macpherson, S. W. (1999, February 24). *The Stephen Lawrence inquiry*. Retrieved 10/10/2005, from The Stationery Office, U.K.: http://www.archive.official-documents.co.uk/document/cm42/4262/4262.htm

Martens, P. L. (1997). Immigrants, crime, and criminal justice in Sweden. In: M. Tonry (Ed.), *Ethnicity, crime, and immigration: Comparative and cross-national perspectives* (pp. 183–255). Chicago, IL: University of Chicago Press.

Martin, S. (1995). 'A cross-burning is not just an arson': Police social construction of hate crimes in Baltimore County. *Criminology*, *33*(3), 303–326.

Martinez, R., Jr. (2002). *Latino homicide: Immigration, violence, and community*. New York, NY: Routledge.

Martinez, R. Jr., Lee, M. T., & Nielsen, A. L. (2000). On immigration and crime. In: G. D. LaFree, J. F. Short, R. J. Bursik, Sr. & R. B. Taylor (Eds), *Criminal justice 2000: The nature of crime: Continuity and change* (Vol. 1, pp. 485–524). Washington, DC: National Institute of Justice.

Massey, D. S. (2001). Residential segregation and neighborhood conditions in U.S. Metropolitan areas. In: *America Becoming: Racial Trends and Their Consequences* (Vol. 1, pp. 391–434). Washington, DC: National Academies Press.

McDougall, L. (2005, July 17). *Racist crime suspects walk free*. Retrieved 24/07/05, from http://www.sundayherald.com/50882

Messner, S. F., & South, S. J. (1986). Economic deprivation, opportunity structure, and robbery victimization: Intra- and interracial patterns. *Social Forces*, *64*(4), 975–991.

Migration Policy Institute. (2006a). *Migration Information: Data Tools: US Census Data on the Foreign Born*. Retrieved 20/10/2006, from Migration Policy Institute: http://www.migrationinformation.org/GlobalData/charts2.cfm

Migration Policy Institute. (2006b). *Migration Information: Data Tools: US Census Data on the Foreign Born*. Retrieved 20/10/2006, from Migration Policy Institute: http://www.migrationinformation.org/USFocus/whoswhere.cfm

Moody, S. R., & Clark, I. (2004). Dealing with racist victimisation: Racially aggravated offences in Scotland. *International Review of Victimology*, *10*(3), 261–280.

Morgan, J. (2002). US hate crime legislation: A legal model to avoid in Australia. *Journal of Sociology*, *38*(1), 25–48.

Morton, M. L. (2001). Hitler's ghosts: The interplay between international organizations and their member states in response to the rise of neo-Nazism in society and government. *The Georgia Journal of International and Comparative Law*, *30*, 71–100.

Mukherjee, S. (1999, May). *Ethnicity and Crime*. Trends and Issues in Crime and Criminal Justice no. 117. Retrieved 09/08/2004, from Australian Institute of Criminology: http://www.aic.gov.au/publications/tandi/ti117.pdf

Newburn, T. (2002). Atlantic crossings: 'Policy transfer' and crime control in the USA and Britain. *Punishment and Society: The International Journal of Penology*, *4*(2), 165–194.

Note. (1988). Combating racial violence: A legislative proposal. *Harvard Law Review*, *101*, 1270–1286.

Oakley, R. (2005, September). *Policing racial crime and violence: A comparative analysis*. Retrieved 18/05/2006, from European Monitoring Centre on Racism and Xenophobia: http://eumc.eu.int/eumc/material/pub/PRCV/PRCV-Final.pdf

Open Society. Justice Initiative. (2005, July 7). *European court of human rights confirms racial discrimination in landmark Bulgarian case: European court affirms state's obligation to investigate racially motivated violence: Compensation ordered for victims of racist killing*. Retrieved 16/5/2006, from Justice Initiative: http://www.justiceinitiative.org/db/resource2?res_id = 102789&preprint = 1

Padgett, G. (1984). Racially motivated violence and intimidation: Inadequate state enforcement and federal civil rights remedies. *Journal of Criminal Law and Criminology*, *75*, 103–138.

Passel, J. S. (2004, March 1). Mexican immigration to the US. In: *Feature Story*. Migration Information Source. Retrieved 02/06/2006, from Migration Policy Institute: http://www.migrationinformation.org/Feature/display.cfm?ID = 208

Pew Hispanic Center. (2005, January). *Hispanics: A people in motion: Trends 2005*. Retrieved 13/10/2006, from Pew Hispanic Center: http://pewhispanic.org/files/reports/40.pdf

Pew Hispanic Center. (2006, August 29). *A statistical portrait of Hispanics at mid-decade*. Retrieved 13/10/2006, from http://pewhispanic.org/docs/print.php?DocID = %2010

Potok, M. (2007, December 11). *FAIR: Crossing the Rubicon of hate*. Retrieved 12/12/2007, from Hatewatch: http://www.splcenter.org/blog/2007/12/11/fair-crossing-the-rubicon-of-hate/#comments

Rubinkam, M. (2008, July 19). Chief: 'Things have changed here radically.' *Republican Herald.com*. Associated Press. Retrieved from http://www.republicanherald.com/articles/2008/07/19/news/local_news/pr_republican.20080119a.pg1.pr19homicide_1.1822619_top4.txt

Sampson, R. J. (1984). Group size, heterogeneity, and intergroup conflict: A test of Blau's inequality and heterogeneity. *Social Forces*, *62*(3), 618–639.

Sampson, R. J., & Bartusch, D. J. (2006, March 11). Open doors don't invite criminals. *The New York Times* (International) (Op-Ed Contributor). Retrieved 14/03/2006, from http://www.nytimes.com/2006/03/11/opinion/11sampson.html?_r = 2&oref = slogi&oref = slogin

Sampson, R. J., & Bean, L. (2006). Cultural mechanisms and killing fields: A revised theory of community-level racial inequality. In: R. Peterson, L. Krivo & J. Hagan (Eds), *The many colors of crime: Inequalities of race, ethnicity and crime in America*. New York: New York University Press.

Smith, W. R. (2006, Winter). Why have the U.S. Crime rates been dropping? *Newsletter of Crime, Law, and Deviance Section of the American Sociological Association*, pp. 1–3.

Sondheim, S. (Lyricist, 1961). West Side Story.

Strom, K. J. (2001, September). *Hate crimes reported in NIBRS, 1997–1999*. Bureau of Justice Statistics Special Report no. NCJ 186765. U.S. Department of Justice, Office of Justice Programs, Washington, DC.

Suro, R., & Tafoya, S. (2004, December 27). *Dispersal and concentration: Patterns of Latino residential settlement*. Pew Hispanic Center: Reports and Factsheets. Retrieved 13/10/2006, from http://pewhispanic.org/reports/report.php?ReportID = 36

Tavernise, S. (2004, January 26). A death in Bushwick is answered by silence. *The New York Times* (Late Edition (East Coast)), p. B01.

Timms, E., & Suhler, J. N. (1998, January 4). Americans at odds: Struggles in Dallas between minority groups mirror national trend. *Dallas Morning News*.

United Kingdom. Association of Chief Police Officers. (2005, March). *Hate crime: Delivering a quality service: Good practice and tactical guidance* (Home Office. Police Standards Unit, Ed.). Retrieved 13/01/2006, from Association of Chief Police Officers: http://www.acpo.police.uk/asp/policies/Data/Hate%20Crime.pdf

United States Office of Management and Budget. (1997, October 30). *Revisions to the standards for the classification of federal data on race and ethnicity*. Federal Register Notice: Notice of Decision. Retrieved 21/10/2006, from Office of Management and Budget: http://www.whitehouse.gov/omb/fedreg/1997standards.html

U.S. Bureau of Justice Assistance. (1997, March). *A policymaker's guide to hate crimes* (Electronic version). Retrieved 23/11/2005, from http://www.ojp.usdoj.gov/BJA/txt/pgthc.txt

U.S. Federal Bureau of Investigation. (2008, October). *Hate crime statistics: 1995–2007*. Federal Bureau of Investigation. Retrieved 12/16/2008, from Federal Bureau of Investigation: http://www.fbi.gov/ucr/hc2007/index.htm

Valerie, J. (2005). Guide to Black history: Hate crime. In: *Encyclopedia Britannica*. Retrieved 23/11/2005, from Encyclopedia Britannica, Inc.: http://www.britannica.com/Blackhistory/article.do?nKeyValue = 389902

Williams, K. R., Gibbs, J. P., & Erickson, M. L. (1980). Public knowledge of statutory penalties: The extent and basis for accurate perception. *Pacific Sociological Review*, *23*(1), 105–128.

This page intentionally left blank

PART III
IMMIGRANTS AND THE POLICE

This page intentionally left blank

POLICING IMMIGRANT COMMUNITIES IN THE UNITED STATES

Wesley G. Skogan

ABSTRACT

Purpose – *This chapter examines some of the dilemmas involved in policing immigrant communities.*

Methodology – *The chapter is based upon the relatively limited research literature on policing immigrant communities, an ongoing review of the contemporary dynamics of this issue in cities and states using the Internet, and original research in Chicago where a large and rapidly growing immigrant Latino community offers examples of most of the observations made by others.*

Findings – *The chapter first examines some of the barriers limiting the ability of local police to work effectively in heavily immigrant areas. It then describes how these barriers are exacerbated by the presumed presence of significant concentrations of unauthorized migrants as well as legal residents. Demands that local police in the United States become more involved in enforcing immigration laws have become a point of great contention because this involvement runs at cross-purposes with community policing and other strategies to engage more closely with the community.*

> Research implications – *The magnitude of this conflict is illustrated by current debate over "sanctuary cities." These are communities where local officials have resisted the enforcement priorities of the federal government, and have continued to emphasize the role of the police in serving all residents.*

This chapter examines some of the dilemmas involved in policing immigrant communities. Immigration is certainly one of the biggest stories of the early 21st Century. Currently there are about 37 million foreign-born residents of the United States. Only about 11.5 million of them are citizens; another 40 percent are permanent resident aliens, officially admitted refugees, and students and temporary workers, while the remainder are unauthorized. Overall, more than half of all immigrants came originally from Latin America, and more than 50 percent arrived in the United States since 1990 (Larsen, 2004). Traditionally, immigrants to the United States have concentrated in big cities, and in 2000 almost 40 percent of the population of New York City was foreign born. However, in the 2000s the largest percentage increases in the immigrant community were in places like Iowa, North Carolina, Nevada, and Arkansas (Passel, 2006). As a result of this immigration, places that once were quite homogeneous now find they are not. Even in cold and windy Chicago, there has been a huge, recent surge of immigrants from Mexico. My estimate is that they now equal the city's white population in size, and the latter is shrinking while the number of Latinos continues to expand (Skogan, 2006b).

The chapter first describes some of the barriers limiting the ability of local police to work effectively in heavily immigrant areas. Another section notes that these barriers to effective policing are exacerbated when immigrant communities are thought to harbor significant concentrations of unauthorized migrants as well as legal residents. The numbers involved are very large. It is *estimated* – these figures are perhaps the most unreliable issued by any reliable source – that in 2006 there were 12 million unauthorized migrants living in the United States. They thus totaled almost one-third of the total foreign-born population. During the 2000s, the unauthorized population has been showing a net increase of about 500,000–800,000 persons per year (Passel, 2006).

Demands that local police in the United States become more involved in enforcing immigration laws in order to counter this trend have become a point of great contention because this involvement runs at cross-purposes with community policing and other strategies to engage more closely with

the community. The depth of this conflict is illustrated with a discussion of the "sanctuary city" movement. These are cities and towns where local officials have pushed back against the enforcement priorities of the federal government, and even the demands of their state legislatures, and have continued to emphasize the role of the police in serving all residents.

The chapter is based upon my reading of the relatively limited research literature on policing immigrant communities, plus an ongoing review of the dynamics of this issue in cities and states using the Internet. However, my firmest ground is my research in Chicago, where a large and rapidly growing immigrant Latino community offers examples of most of the observations made by others. As Latinos make up the bulk of America's recent immigrants, and as a group they have now passed African Americans to become our second-largest distinctive racial grouping, their fate is of particular interest.

BARRIERS TO POLICING IMMIGRANT COMMUNITIES

There are distinctive barriers to police–community collaboration in immigrant areas. Among these barriers is certainly language, and the powerlessness that goes with it among people who cannot communicate with police. But so are the views of the police that many immigrants bring with them, and their lack of knowledge of how to address police and the criminal justice system. For awhile, at least, their earlier experiences can continue to affect their views of the police. Refugees from many countries come in part because of endemic corruption, violence, abuse, and incompetence among the police. In Chicago, Spanish-speaking residents report very troubled relations with the police. Compared even to African Americans, they believe them to be brutal and corrupt. When it comes to fear of police brutality, a Latino community leader put it this way:

> Latinos that arrive from their own country are petrified of the police because of the treatment they used to receive in their homeland. Both the Latinos and the Polish are afraid of the police, and this inhibits any relationship-building that could take place. (Skogan & Steiner, 2004, p. 119)

There is also an expectation that police are corrupt. A community outreach worker for a health care institution in a port-of-entry beat observed:

> Culturally we [Mexicans] don't ask anything from the police. They [the police] are corrupt in Mexico, as bad as thieves. We bring this assumption over and believe the police are part of the problem, not the solution. (Skogan & Steiner, 2004, p. 119)

A priest serving the area noted, "In Mexico people pay bribes or 'mordidas' to the police. Here [in the United States] personal relationships [with the police] and bribes do not matter." (The Spanish word "mordida" literally translates as "bite," but in Mexico it also means "payoff.") Another priest thought that most people do not trust the police:

> Residents think that the police are in the same league with drug dealers and gangs. Residents cannot speak due to fear of retaliation. Whenever there's a police scandal people say, 'See!' (Skogan & Steiner 2004, p. 119)

A third priest noted, "In Mexico the police abuse people, and they are thieves. Mexicans who come here think the police here are the same. The police suffer because of this ignorance" (Skogan & Steiner, 2004, p. 119).

In our surveys, Spanish-speaking Latinos were twice as likely as African Americans or even English-speaking Latinos to think that excessive force was a big problem in their neighborhood, and twice as likely to suspect corruption problems among the police. My view is that this largely represents a cultural remnant of their experience in Mexico, for similar Hispanics who are Chicago born have very different and more positive views. I have no reason to think that Chicago's recent immigrants have had experiences with local police that are distinctively worse than, for example, the city's African Americans (Skogan, 2006a). But sometimes there are problems. A band of Polish-speaking Chicago police officers was caught by the FBI extorting money from unauthorized migrants who were living and working in the city's large Polish-speaking community. During the 1980s and 1990s, unauthorized Polish migrants came to the city in significant numbers, entering illegally through Canada after arriving there with tourist visas. They settled in one or the other of two large Polish-speaking enclaves, places where they could find housing, work, and social life while staying largely invisible. Corrupt officers taking advantage of their vulnerability made pretextual traffic stops and then collected cash on the spot for not issuing them a traffic summons or making an arrest.

The problem is that police need the trust and cooperation of the community in order to do their job effectively. Police rely on the willingness of victims and bystanders to cooperate with their investigations. To gain this cooperation, police need to remain in close and trusted contact with residents. As one California police chief put it, with regard to immigration enforcement, "It's crucial that the police department draws the line very clearly. We need the help of those people that are victims or witnesses so that we can solve crimes. We don't want them to be afraid of us" (Rodriguez, 2008, p. 1). Beginning especially in the 1990s, police in the

United States and the UK began to invest heavily in community policing, and they knew that doing this effectively was particularly important – if particularly difficult – in immigrant areas. There they have the problem of gaining the trust and legitimacy they need to be effective, for the first time.

Around the United States, police departments have tried a number of tactics to engage with immigrant communities. Community policing promised to make police more responsive to the particular issues facing local communities, through the regular channels that they opened for civic engagement and via special arrangements for reaching out to immigrant groups. For example, police could come to know community leaders and engage in a dialogue with key individuals with influence in the community, who in turn could mediate between them and ordinary residents. Immediately following 9/11, Chicago's chief of police began holding "multicultural forums" bringing together representatives of organizations representing a diverse group of ethnic and religious leaders. The participants ranged from Hindus and Muslims to Sikhs and Arabs (mainly Palestinians, in Chicago). Conservative and Hasidic Jews were also represented, along with our homegrown Nation of Islam. The sessions involved top department executives and commanders of units serving neighborhoods where their constituents are concentrated. The FBI's field office director attended, as did representatives of the (then) Immigration and Naturalization Service and airport security personnel. [I participated in these forums, which are also described briefly in Ramirez, O'Connell, & Zafar (2005).]

One of the first recommendations of this forum was that Chicago police develop training videos for line officers that describe the distinctive features of groups that could affect their relations with the police. Within a year, 10 high-quality DVDs had been produced, each focusing on a particular religious or ethnic group, and they are now being distributed nationally. Several DVDs featured proud members of the forum. This is but one example of approaches to providing officers with cultural awareness training, ideally using materials incorporating the local community.

Using their community policing strategies, police hope to involve residents in programs, and further educate them regarding their rights and obligations. In Chicago's plan, beat meetings are the most important mechanism for building and sustaining close relationships between police and the public. Police beats are the department's smallest administrative unit: there are 280 beats, and on average about 250 meetings are held each month involving about 6,700 residents. An informational campaign and a community organizing staff work in the background to boost attendance. However, program recognition has always been lowest among Latinos,

and it is very low among Spanish-speakers. Given their crime and disorder problems, Latinos do not turn out in expected numbers, and they are particularly under-represented at meetings in racially diverse areas. The Hispanic community lacks loyal participants who keep coming back and get involved in neighborhood projects. In terms of their views of the police, while they stood between whites and African Americans on some attitudinal measures, Latinos are noticeably more critical than the city's white residents (Skogan, 2006b).

Recruitment and language training are also commonly discussed approaches to engaging immigrant communities. For many of Chicago's Latinos, a police career would constitute upward social mobility, and since 1990, almost 20 percent of the police officers hired in Chicago have been of Hispanic heritage. However, for many Asians, joining the police force would generally be seen as a downward status move, and hiring them has proven much more difficult. Their representatives estimate that 30–40 Arab Americans serve on the Chicago Police Department (Ramirez et al., 2005). Language is of course a significant problem, for many poor recent immigrants know little English and most police officers know little else. An exception again may be Spanish because of the large number of second-generation or more Hispanic residents of America's big cities. In Chicago, the city's emergency communication system is staffed to handle foreign-language calls in many languages, and the Chicago Police Department itself has more than 800 certified Spanish-speaking officers.

POLICING IMMIGRATION

However, such efforts to build trust and cooperation face contrary demands on the police, demands imposed by a responsibility for enforcing immigration laws in the same communities. In our field work in Chicago, many people mentioned the divide that immigration enforcement creates between the police and community residents. Their most elemental concern was fear that contact with the police would somehow threaten their status in the United States. As a local priest put it:

> In Pilsen [a predominately Mexican community], people confuse police with "la migra," or Immigration [officials]. Residents of Pilsen are afraid that the police will ask for their papers like they do in Mexico when drivers get pulled over. Hence, another obstacle is the fear of police. The biggest obstacle to participation [in community policing] is not a language barrier, but where the person was born. Long-time residents of Chicago learn the system. They're not too afraid of culture and not afraid of the police. Undocumented

children may know English but are still afraid. It doesn't mean police are bad. People are afraid of the uniform. For effective community and police relationships residents must know that the police are not seeking to deport them. We tell people in church that you don't have to answer questions about immigration [when you get pulled over]. (Skogan & Steiner, 2004, p. 121)

The growth of the Latino community in Chicago, with all of its attendant problems, is driven by conditions in Mexico, and this fact in turn determines the fears and concerns of those who come there. Undocumented immigrants in particular flock to the huge new Spanish-speaking barrios that have emerged because there they can find work and keep a low profile. Their numbers are unknown, but everyone we talked to knew they are there.

Unauthorized migration presents some tricky legal issues that turn out to be politically and organizationally important to the police. The act of entering the United States illegally is a federal crime (a minor crime, a misdemeanor, for the first offense), but one has to be "caught in the act" (broadly speaking) for it to apply. Being in the country without legal status is a civil rather than a criminal violation, and is not a violation of federal criminal law. Visa overstayers, who constitute perhaps 40 percent of unauthorized immigrants, came into the country legally, so this particularly applies to them. However, those illegally present can be ordered to appear before a deportation officer, who can expel them following a civil hearing.

Of course, the realities of life as an undocumented migrant lead to additional legal vulnerabilities. Following a large-scale raid on a food processing facility in May 2008, many unauthorized workers were found to be in possession of counterfeit or fraudulently obtained documentation, including false social security numbers, that they might need to get work. Plant managers had arranged for them to purchase automobiles without any paperwork (Preston, 2008). Across most of the United States it is necessary to have an automobile to get to work, so driving without a proper license – and therefore almost certainly without insurance – is another reality of life. These violations provide local police a legal opportunity to investigate the background of persons they have arrested – if they choose to use it – and only later get involved with federal authorities.

Until April 2002, a long-standing policy of the federal Department of Justice prohibited local enforcement of civil immigration violations, except in very limited circumstances. State and local police were not empowered to arrest and detain violators; this was seen as the special responsibility of the (then) Immigration and Naturalization Service. Then, the Bush administration's Office of Legal Counsel reconsidered the matter, and issued a memorandum arguing that local law enforcement officials have "inherent"

authority to make arrests for civil immigration violations. In turn, they adopted a series of strategies aimed at expanding the role of local police in immigration law enforcement.

Strategies for getting local police actually involved in doing so have followed two tracks. The first is a series of measures giving local law enforcement officials the authority to identify and begin the process of deporting unauthorized migrants. Currently, the principal vehicle for this is the 287(g) clause of the federal Illegal Immigration Reform and Immigrant Responsibility Act. Under this legislation, state and municipal law enforcement agencies can sign agreements with the US Department of Homeland Security that allow local officers to perform immigration law enforcement functions, including using federal databases to check the immigration status of individuals, and to begin processing them for a deportation hearing. The 287(g) program was created by an immigration reform act in 1996, but was not implemented until a change in administration in 2002.

The program has not been sweeping the nation. In Spring 2008, there were only 47 active partnerships between US Immigration and Customs Enforcement (ICE) and local police agencies, many of them in smaller and mid-sized cities. Only two large departments were involved, Phoenix, Arizona, and suburban Los Angeles County (but not the City of Los Angeles) (US Immigration and Customs Enforcement, 2008). Other city councils had *approved* the participation of their police departments, but the program was underfunded and cumbersome, and not many new cities were actually being enrolled. An April 2008 report by the National Conference of State Legislatures warned that the program was running out of money. In May 2008, the disappointed mayor of a suburb near Chicago that had applied to the program lamented, ''It's dead. My own personal opinion is the federal authorities are not going to implement it all'' (Horan, 2008, p. 1). The federal database housing its terrorist watch list has seen much less use than anticipated, leading a prominent police leader to speculate that officers and departments have not brought into the program (Johnson, 2008).

The federal government's second strategic initiative is a list of incentives and inducements offered to local police agencies and even individual police officers, in order to encourage them to become more proactive in enforcing immigration statutes. In a federal system, local compliance with the national agenda is not automatic. In fact, it was reaffirmed in a noted legal case, *City of New York vs. The United States of America* (179 F. 3rd 29, 2nd Cir. N.Y. 1999), that Congress lacks the power to directly compel the states to require or prohibit acts that are federal crimes, and Congress may not

directly force states to assume enforcement responsibilities that are vested in the federal government.

One incentive to participate is threatening to withhold federal funds from jurisdictions that do not comply. For example, American states receive a very large amount of federal funding to help pay for prisons, and Congress has threatened to withhold this money unless state legislatures take action to force their cities into line.

To influence the decision-making of individual officers, ICE has loaded the names and identifying information of more than a million suspected unauthorized migrants, including visa overstayers and other civil law violators, into the national database routinely searched by local police when they make traffic stops. When police make a traffic stop, regardless of the seriousness of the incident the computer search they make now signals them to place an "immigration hold" on individuals who are included in the database. This bypasses their supervisors directly, placing responsibility on individual officers whether or not to hold on to someone the federal government is looking for. The immigration hold can be difficult to overlook (McDonald, 2004). Within the police, they see immigration statutes as a tool giving them additional leverage over wrongdoers, and an individual officer is unlikely to be punished for going along with a federal law enforcement request.

But this kind of proactive immigration enforcement runs against other policy agendas. For example, in the past decade, American police have paid a very significant political price for the revelation that what is known as "racial profiling" was routine practice in many communities. Concern about racial profiling emerged first out of concern among middle-class African Americans that "driving while black" in their nice new cars had become a de facto reason for suspicion among police, and that they were getting stopped too frequently (Gates, 1995).

The price the American police paid for the revelation that they were routinely engaging in racial profiling included payouts resulting from law suits. Of more concern to them was the imposition of new data collection requirements by many state legislatures, which put their practices under new public scrutiny. Demands that they get involved in more aggressive immigration enforcement threatens to reopen the same wound in a new context, except now there is heightened public and media awareness of racial profiling, redoubling the risks involved in getting behind the federal agenda.

And, of course, if local police visibly join the ranks of immigration enforcement officials, residents of immigrant communities may just stop talking to them. As one police chief under fire for not being more proactively

involved in immigration enforcement put it, "Community policing efforts will end." Noting that it was "...based on the trust between the public and the police," he predicted "...a sharp rise in unsolved crime and the under-reporting of crime by minority populations" (Deane, 2007, p. 6). Rumors of new enforcement efforts can terrify residents of concentrated immigrant neighborhoods, especially in linguistically isolated communities cut off from mass media. Shifting responsibility for enforcing immigration laws to cities and the states puts at risk the two-decade investment that they have made in community policing and trust building.

SANCTUARY CITIES

As a result of these conflicting agendas, there was discord between Bush administration officials and the mayors and police chiefs in many cities over immigration enforcement. The debate over immigration enforcement has surfaced a list of places that have become known as "sanctuary cities," because – it is claimed – local policies and practices run against the demands of the federal government.

What makes a "sanctuary city"? Cities get the label based on their stances on broad range of policy issues, only some of which involve the police. Critics (and supporters) point to city policies regarding access to housing, health care, and social services. They look for attempts to impose "English-only" requirements on city agencies. When it comes to policing, what supposed sanctuary cities have in common is that their police have been instructed to make enforcement of immigration laws a very low priority. They do not participate in the 287(g) program. They may not ask apparent immigrants about their status or even place of birth, perhaps even when they arrest them. They frequently prohibit officers from inquiring about citizenship when they apprehend them for minor traffic offenses or misdemeanors. They do not immediately turn people with suspect documentation over to federal immigration authorities. They do not make arrests based on immigration holds placed in the national wanted persons database. They certainly do not make inquiries about the status of crime victims or people they interview during investigations. When the FBI set out to interview thousands of immigrant Muslim men in 2001 and 2002, to quiz them about possible connections with terrorist groups, police in some of the sanctuary cities refused to cooperate with the program (US General Accounting Office, 2003). They do work hard at protecting immigrant communities from hate crime, and other forms of backlash.

In order to identify a list of sanctuary cities, I inspected formal written policies, resolutions, ordinances, and administrative actions available on the Internet. Sometimes this is not hard. The city of San Francisco's official Web site posts Mayor Gavin Newsom's ''City of Refuge'' ordinance prohibiting all city employees from assisting federal authorities with immigration investigations or arrests (San Francisco City Government, 2008). In an April 2008 speech, Mayor Newsom reiterated what the policy means, announcing that ''City employees will not report individuals or their immigration status to federal immigration agents'' (Newsom, 2008). In 2007, he told a Hispanic church audience, ''We are a sanctuary city, make no mistake about it'' (Anon, 2007). Other cities are more circumspect, and rely on informal practices rather than officially enunciated policies to achieve the same ends, and I have relied on seemingly reliable quotations of local officials to identify them.

The list of cities that are sanctuaries by some confirmable definition currently includes such well-known cities as San Francisco, Los Angeles, Oakland, San Diego, Detroit, Chicago, Houston, Austin, Minneapolis, St. Paul, Baltimore, Portland (Oregon), Seattle, Newark, New Haven, and Washington, DC. The list is a moving target because of the immense political pressure that is being brought to bear on sanctuaries by state and federal politicians demanding that they get tougher on immigration enforcement. Phoenix's mayor, along with the state's governor, stoutly resisted the aggressive saturation patrols and traffic stops in heavily Hispanic neighborhoods that have been adopted by other cities in the area and by the county's sheriff. However, during 2008 the mayor and governor were forced into steady retreat by the state's conservative legislature and efforts to recall them both from office in the next election (Anon, 2008).

Chicago qualifies as a sanctuary city on many dimensions, ranging from its extensive use of Spanish-language signs and printed materials to its ''don't ask, don't tell'' approach to qualifying people for health, educational and social services. When it comes to policing, a mayoral executive order protects persons who have not committed a felony from much investigation. The current set of rules is described in the Chicago Police Department's ''Procedures for Responding to Incidents Involving Illegal Aliens.'' It points out that '' . . . enforcement of immigration law rests with the Immigration and Naturalization Service and not with state and local police'' (Chicago Police Department, 2002, p. 1). Under the City of Chicago's general rules, all employees, including police, are instructed not to routinely inquire about the citizenship status of persons they deal with. The order for the police observes that ''Department member will provide police service to all

persons in the City of Chicago, regardless of their citizenship status.''
It declares that:

> Department members *will not* [emphasis in the original] stop-and-question, detain,
> arrest, or place an immigration hold on any person that is not suspected of committing a
> crime or based solely on the grounds that the person may be an alien subject to
> deportation. (Chicago Police Department, 2002, p. 3)

Officers are further instructed to not request information about, or
otherwise investigate or assist in the investigation of the citizenship or
residency status of any person, without explicit statutory or court
authorization. Further, their supervisors are not to contact the immigration
agency unless an arrestee exhibits some positive signs of being an illegal
alien, such as holding a foreign passport but no entry visa (Chicago Police
Department, 2002).

These restrictions on police investigations and contact with immigration
authorities are widely known among activists and service providers in the
Latino community, but they are perhaps not so widely recognized in less
sophisticated circles. As a sergeant we interviewed about this issue noted:

> The CAPS [community policing] program and Police Department have to do a better job
> of addressing the fears that many Latino residents have around the issue of immigration.
> They need to be reminded that they shouldn't fear immigration when dealing with the
> police. (Skogan and Steiner, 2004, p. 124)

However, in an environment with FBI, Drug Enforcement Administra-
tion, federal firearms, and immigration enforcement agents on the streets all
the time, the line between them and often plain-clothed city police can be
difficult for the public to discern.

Why do cities choose to stick to their own path with regard to
immigration enforcement? Mayors and police chiefs mostly talk in public
about defending their investment in community policing, and their
commitment to engaging with the immigrant community. They voice
concern about hidden victimization and crime reporting. As the mayor of
Minneapolis put it, ''Vulnerable people have always needed to see the police
as being there to protect and serve, and that can't happen when the first
words out of a cop's mouth are, 'I need to see your papers''' (Keen, 2006).
Minneapolis is in a metropolitan area with almost 30,000 Muslim Somali
residents, who are concentrated in this unexpected place as a consequence of
national refugee resettlement programs. St. Paul, located across the river,
received a large contingent of Hmong from Cambodia.

Another reason is politics. Many visible sanctuary cities are home to
large legal immigrant populations with significant power on election day.

This is clearly the case in Chicago, where the city's white mayor must maintain the overwhelming support of Latino voters in order to stay in office. If that support should falter, his more numerous African American opponents could – and would – drive him from office. The city's growing Latino population holds the key to political control of the city (Skogan & Hartnett, 1997).

Police leaders also plead that they lack the resources to take on new enforcement priorities. They continue to see their primary responsibility as dealing with local crime and safety issues. Their taxpayers worry mostly about local crime and traffic accidents, incidents that affect their personal safety and quality of life. Their officers are best at enforcing state criminal law. They have no training or experience in dealing with complex immigration matters, and if they make a mistake and mishandle US citizens or legal immigrants, police chiefs fear facing very expensive law suits and political backlash from the media.

However, in the American system, cities are a legal creation of the states, and states also have a role to play in how the politics of sanctuary cities plays out. Some state legislatures have intervened in order to forestall local efforts to mute the impact of immigration enforcement. They have prohibited local governments from issuing identity cards, and strengthened the ability of cities to use zoning and land use regulations to make it difficult for immigrants to find housing. Several states have adopted "English-only" laws to limit the use of multilingual signs and documents. They also try to use their control over city finances, by threatening to cut off state funds when the governor and legislature disagree with city's policies. Enhancing the vulnerability of unauthorized migrants to arrest has been a particular target of these efforts. The number of states that allow unauthorized migrants to hold drivers' licenses has dropped, and the remainder are home to intense political debate over the issue. Everywhere there is pressure on police officers to check driver's identity in all traffic stops, and to make arrests of "suspected" persons under the most minor circumstances, to enable them to make documentation checks.

CONCLUSION

What will happen, out of all of this? The politics of the situation is very fluid. State legislatures hold a great deal of power over their cities, and they can choose to make life difficult for sanctuaries. The federal government has commingled anti-immigrant with terror-centric politics, raising the political

stakes for police chiefs who do not toe the line. On the other hand, organized business groups with an economic stake in cheap immigrant labor have been pushing back against efforts to make them responsible for providing undocumented workers with jobs, and making it hard for immigrants to locate near their facilities. This is a reminder that here are economic advantages in porous borders and local inattention to immigration matters. But advocates of strict local enforcement see the immense number of illegal aliens in the United States as a crisis, and argue that adding local police to the enforcement network would certainly contribute to managing the problem. They also believe that stricter local immigration enforcement would help reinforce respect for the rule of law. The dilemmas in policing immigrant communities are unlikely to be resolved clearly, or soon.

REFERENCES

Anon. (2007, April 24). National briefing west: California: City won't aid immigration officials. *New York Times*.

Anon. (2008, May 18). Top officials hinge careers on immigration. *The Arizona Republic*.

Chicago Police Department. (2002, April 10). *D.S.O. 02-05-03 procedures for responding to incidents involving illegal aliens*.

Deane, C. (2007, July). *Subject to debate* (p. 1, 6). Police Executive Research Forum, Washington, DC.

Gates, H. (1995, October 23). Thirteen ways of looking at a black man. *New Yorker*, pp. 56–59.

Horan, D. (2008, May 26). Waukegan, carpentersville still awaiting training for immigration enforcement. *Chicago Tribune*.

Johnson, K. (2008, June 4). Police fail to tell feds about run-ins with suspected terrorists. *USA Today*.

Keen, J. (2006, June 19). Big cities reluctant to target illegals. *USA Today*.

Larsen, L. (2004). The foreign born population in the United States: 2003. Current Population Reports, P20-551. US Census Bureau, Washington, DC.

McDonald, W. (2004). Police and immigrants: Community and security in post-9/11 America. In: M. King (Ed.), *Justice and safety in America's immigrant communities* (pp. 65–84). Princeton University, Princeton: Policy Research Institute for the Region.

Newsom, G. (2008, April 2). Mayor Newsom launches sanctuary city outreach campaign. Office of San Francisco Mayor Gavin Newsom (Press Release). Retrieved July 17, 2008, from Office of the Mayor, San Francisco, from: http://www.sfgov.org/site/mayor_index. asp?id = 78378

Passel, J. (2006). *The size and characteristics of the unauthorized migrant population in the United States*. Washington, DC: Pew Hispanic Center.

Preston, J. (2008, May 24). 270 illegal immigrants sent to prison in federal push. *New York Times*.

Ramirez, D., O'Connell, S., & Zafar, R. (2005). *Developing partnerships between law enforcement and American Muslim, Arab and Sikh Communities: The greater Chicago experience*. New York: Open Society Institute.

Rodriguez, M. (2008, May 22). Maher addresses immigration issue. *San Diego Union-Tribune*.

San Francisco City Government. (2008). Sanctuary Ordinance (Web site). Retrieved July 16, 2008 from: http://www.sfgov.org/site/sanctuary_index.asp?id = 81002

Skogan, W. (2006a). Community policing and the new immigrants: Latinos in Chicago. In: M. King (Ed.), *Justice and safety in America's immigrant communities* (pp. 43–64). Princeton University, Princeton: Policy Research Institute for the Region.

Skogan, W. (2006b). *Police and community in Chicago: A tale of three cities*. New York: Oxford University Press.

Skogan, W., & Hartnett, S. (1997). *Community policing, Chicago style*. New York: Oxford University Press.

Skogan, W., & Steiner, L. (2004). *Community policing in Chicago, year ten*. Chicago: Illinois Criminal Justice Information Authority.

US General Accounting Office. (2003). Justice department's project to interview aliens after September 11, 2001. Washington, DC.

US Immigration and Customs Enforcement (US Department of Homeland Security). (2008, April 28). Partners: A law enforcement partnership (Web site). Retrieved July 17, 2008 from: http://www.ice.gov/partners/287g/Section287_g.htm

This page intentionally left blank

POLICE COOPERATION IN INTERNAL ENFORCEMENT OF IMMIGRATION CONTROL: LEARNING FROM INTERNATIONAL COMPARISON

Dita Vogel, William F. McDonald[1], Bill Jordan, Franck Düvell, Vesela Kovacheva and Bastian Vollmer

ABSTRACT

Purpose – *This is a comparison of the role of the police in the enforcement of immigration law in the interiors of three nations: Germany, the United Kingdom, and the United States.*

Methodology – *The study builds upon research the authors have already done as well as desk research on recent developments. It uses three dimensions of the problem to focus the report: the hardware, software, and culture of police involvement in this issue.*

Findings – *In Germany, the local police are responsible for the enforcement of immigration control and have relatively fast and reliable means to identify undocumented immigrants. This is not the case in the*

*United Kingdom and the United States, but there are trends toward more
local police involvement, both by institutional cooperation and by the
development of better databases and documents for faster identification.
These trends are highly controversial in an environment that values
community relations and is highly sensitive to racial profiling. However,
there are also indications that the differences in typical police work such
as traffic controls and crime investigation may not be as pronounced as
the differences between the countries would suggest.*

*Research implications – This study highlights the need for ethnographic
work with the police and with unauthorized immigrants to empirically
describe and assess the role that the police are playing and its impact on
police–community relations.*

*Practical implications – The German experience supports the value of a
comprehensive information system for rapidly determining the immigra-
tion status of suspects, but it may not work as expected in the United
States and the United Kingdom, where registration and identification
obligations apply to foreign citizens only. With the US and UK
experiences, one could predict that discriminating identification practices
may become more sensitive issues in a Germany with increasing numbers
of immigrated citizens.*

1. INTRODUCTION

The last decades have been characterized by a tendency toward more
restrictive enforcement of immigration laws (Organization for Economic
Co-operation and Development, 2006). The terrorist attacks in the United
States, Spain, and England gave support to these demands, and the fight
against illegal immigration features high on the agenda of the European
Union (European Commission, 2006a, 2006b). However, internal enforce-
ment is still mainly a member state concern, differing widely between member
states such as Germany or the United Kingdom, and within such states
between regions and cities. Particularly in cities with a high percentage of
migrants, the police are confronted with undocumented immigrants in their
daily work. What happens if they come across an undocumented immigrant
in the course of their crime-fighting mission, in traffic stops, or as witnesses of
a crime? While there have been a number of efforts to compare migration
control regimes between countries (e.g., Hailbronner, Martin, & Motomura,
1998; Vogel, 2000; Düvell, 2006; European Migration Network, 2007),

comparative research is still little developed as far as the police are concerned (Jones & Newburn, 2006).

This contribution focuses on the role of police in immigration enforcement, particularly in the detection of undocumented immigrants. We examine the implications of different patterns of cooperation between immigration authorities and the police in the United States, the United Kingdom, and Germany. For present purposes, we define police narrowly as those state organizations with the main task of maintaining order and enforcing law, endowed with the right to exercise the state's monopoly of power. We concentrate on police forces active at the local level in high-immigration cities.[2] Behind our analysis lies the claim that issues of implementation are important; and that the outcomes of policies are strongly influenced by the practices of public service agencies and their interactions with each other. The three countries provide interesting cases for gaining a better understanding of the impact of police cooperation patterns, as they are all confronted with high-immigration and -migration control tasks, but attribute a different role to the police in immigration enforcement. Our analysis in this chapter is a spin-off of empirical analysis in several research projects, coupled with desk research on recent developments.

We start with a short conceptual and theoretical discussion, developing expectations how specific police features could impact on their role in migration control. In the main part, we describe patterns of police involvement in the enforcement of immigration law systematically along these dimensions and explore empirical evidence how they impact on three typical situations in which the police interact with undocumented immigrants: traffic control, workplace raid, and crime reporting of a victim or witness. Finally, we ask what could be learned from this exercise and present some of our answers.

2. THEORETICAL CONSIDERATIONS ON POLICE COOPERATION IN INTERNAL IMMIGRATION CONTROL

In organizational analysis, structural and cultural aspects are usually differentiated. In studies dealing with control of persons by the state, the capacities of states to identify and observe individuals are increasingly recognized as fundamental to the multiple operations of the state (Caplan & Torpey, 2001; Broeders, 2007). Therefore, we differentiate between three dimensions that are important for the cooperation of police and immigration authorities: the hardware, the software, and the culture of control.

2.1. Hardware of Control

Structural aspects form the "hardware" of control. This includes the existence of organizations, their internal structure, and the tasks. The organizational landscape may be differentiated along federal and functional dimensions. A fully federalized and multifunctional organization would consist of one national police force. It could have state and local branches and departments with different tasks, but as they all belonged to one organization, subunits would be required to cooperate in the enforcement of all laws.[3] On the other hand, if different authorities are responsible for different tasks, then there needs to be a mode of cooperation between authorities. The more fragmented the "hardware" of control, the more crucial is the "software" of control that organizes cooperation and data exchange.

Internal immigration law enforcement is *one* very specific enforcement task in thousands of others. Internal enforcement involves finding, identifying, and removing foreign nationals without the required documents, potentially by arresting and deporting them. If these tasks are designated to a specialized police force, this force must be *small* in comparison to police forces with more general tasks. If this task is allocated to the general police, along with all their other tasks, it raises the question how police priorities will be set. As all organizations necessarily face limited resources, the police have to decide to what extent they will concentrate forces on the reduction of irregular migration as opposed to, for example, the reduction of armed robberies, drinking while driving, terrorist attacks, and accounting fraud. There is no such conflict of interest in the case of undocumented immigrants who are suspected of such conventional crimes. The police may simultaneously promote different goals when they cooperate with immigration authorities to expel these persons, but in cases of migrants who observe all but immigration laws, there is a conflict of priorities between different enforcement tasks (Vogel, 2000).

2.2. Software of Control

Informational aspects of the enforcement process are the "software" of control. How do agencies gain and exchange *information* about immigrants? The developments of information technology have revolutionized the theoretical capacities for safe and fast identification of persons. Most importantly, large amounts of data including biometric information such as fingerprints can be stored and accessed quickly from remote terminals. A fully functioning database with biometric information of all legal

residents would make it easy to identify irregular immigrants: Those who are not in the register would be unauthorized immigrants. While such a fully comprehensive database is yet not created, there are efforts to introduce the available identification technologies in more and more fields, starting with immigrants and traveling citizens (Broeders, 2007).

Personal identity documents are loaded with information that matches the information in the databases. For states, documents have the function of enabling fast primary identity checks without having to access central databases, but they also function more and more as a ''receipt'' for the individuals that may protect them from erroneous entries in databases.

The capacities of states to identify their own citizens constitute an important context for immigration control. The faster and easier it is to identify *citizens and regular immigrants*, the less costly is the identification of irregular migrants. Therefore, the existence and accepted use of national identity cards is a condition that facilitates migration control. If there are databases that allow fast verification of the authenticity of documents, this also facilitates migration control. It makes a great difference whether a control agent is able to verify the authenticity of a document in seconds by accessing a database, or in a half hour by making phone calls to a local register, or in weeks applying to another organization for a check of a register that is kept on paper. The longer it takes, the more likely it is that falsely suspected citizens and regular (legal) migrants are burdened by the document verification process.

However, the software of control is only partly a question of technical capacities. It is also a question of *work routines* under the influence of legal regulations and implementation practicalities. Information flows between different organizations may be routinely required, authorized, or obliged under specific conditions, or forbidden in order to protect the privacy of the clients and to promote the mission of the organization.

- If general police forces are obliged to check the residence status and to cooperate with immigration authorities, this routine gives automatic priority to immigration enforcement, and discretion can only be exercised on a low, informal level.
- If they are authorized but not obliged, they are likely to seek cooperation if persons are suspected of serious nonimmigration offenses, for example, when cases are hard to prove or involve an undesirable workload.
- If there is formal noncooperation (or noncooperation for a number of specified cases), this gives priority to issues other than migration control.

2.3. Culture of Control

Apart from the organizational landscape and organizational linkages through information channels, the organizational culture of the police influences their immigration control capacities. Police culture is neither monolithic nor unchanging. But the predicament of the police in maintaining order and enforcing the law in liberal democracies generates some typical patterns (Reiner, 2000). Police officers are exposed to dangers and risks and have the right to exercise power and authority to meet with these dangers. As they exercise considerable power over individuals, all police in democratic states get special training to assure that they exercise this power with reason, in the limits of the law, and in prosecution of the common good. The organizational culture of individual police units is likely to be influenced by the inherent features of their task and the influence of their training and socialization in the force – between the temptations of power abuse and the loyalties to the laws. Situations involving irregular (illegal) immigrants enhance the likelihood of *power abuse* when these immigrants are deported quickly because this reduces the likelihood that the abuse is detected. They are likely to be viewed as ''police property'' (Reiner, 2000): low-status, powerless groups whom the dominant majority see as problematic and are prepared to let the police deal with and turn a blind eye to the manner in which this is done.

Another relevant element of ''cop culture'' is an attitude of constant suspicion (Reiner, 2000). It is part of their work to *stereotype situations* and persons that involve danger or the likelihood of an offense. If stereotyping is successful, they prevent and clear up more crimes. If crime rates or police experiences differ between groups with different appearance, the police are likely to develop practices that are discriminating from the point of view of persons with these features. Police forces may be more or less aware of the dangers of stereotyping practices in their work, particularly with regard to racial stereotyping. This awareness is influenced by public discourses, police training, and antidiscrimination legislation and implementation. Enforcing migration laws can be enhanced by racial stereotyping because irregular migrants are more likely to be among persons of specific outward appearance (old white ladies probably are the most unlikely in all three countries). Therefore, it is a question of the organizational culture that determines the degree to which police forces are sensitized to the side effects of stereotyping behavior for law-abiding citizens.

A third general element of police culture is a positive value of victim protection in their public perception and self-construction of their role.

Many police enforcement tasks start after there is an immediate victim (e.g., of a robbery) and aim at prosecution of the offender. Helping victims (e.g., by jailing offenders) is part of the accepted role of police. Law offenses without a direct victim, such as irregular migration, are more problematic for police officers, as their enforcement relies on the mentally constructed victimization of the society or the common good, particularly if irregular migrants are at the same time offenders of immigration law and victims of other offenses such as sexual exploitation or forced labor. This constellation may lead to a tendency to prioritize enforcement against traffickers, brothel leaders, and gangmasters rather than against ordinary immigrants if possible, or to portray the exclusion of ordinary undocumented immigrants as an unavoidable collateral damage of the prosecution of those exploiting them.

3. THE STATE AND DEVELOPMENT OF POLICE COOPERATION IN INTERNAL ENFORCEMENT OF IMMIGRATION LAWS IN GERMANY, THE UNITED KINGDOM, AND THE UNITED STATES

First, we portray the hardware, software, and culture of control. Then, we explore how the police cooperate in standard situations that characterize police work: What happens if the police are approached by undocumented victims or witnesses? Do the police discover illegal residence in situations when a large number of persons are checked for other reasons, for example, in drug raids or traffic stops? How could they discover undocumented residence when being called to investigate a crime? Do they cooperate in the active search for undocumented residents?

3.1. Germany

3.1.1. Important Cooperation Developments in the Control Regime Against Illegal Entrants and Residents
3.1.1.1. Hardware. Germany is subdivided into 16 states (Länder). While migration legislation is a federal competence, the implementation and enforcement of the law rests mainly with the states. The local foreigners' authorities (Ausländerbehörden) are administrative units that rely on the police for enforcement. The total state police forces amount to 225,668

officers in 2006 in a total population of about 82 million inhabitants (Statistisches Bundesamt, 2007, p. 56).

The German police must investigate all crimes that come to their knowledge. The principle of legality regulates that the police are not allowed to dismiss a case – only the public prosecutor has such authority (Feltes, 2005). This includes investigations into illegal residence because it is a crime that can be penalized with fines and imprisonment up to one year (Section 95 Residence Law). As a consequence of these legal constructions, the prosecution of illegal residence is a task for every police person on patrol in Germany. Therefore, in this setting, it is of high relevance how residence without the required papers could come to the knowledge of the police, as ordinary policemen could come across illegal residence in the pursuit of other duties.

Apart from the state police, federal police units gained importance in recent years (Lange & Schenck, 2004). The staff and competences of the Federal Border Guard were continuously expanded. Its tasks of border guarding and protection of the federal government and of large events were expanded to more regular tasks in the interior of the country, particularly since 1992, when the railway police and airport security were integrated and the responsibility to control within a border zone of 30 km (50 km in the seaward border zone) was introduced. In 2006, the Federal Border Guard was renamed the Federal Police, employing nearly 40,000 in 2006 (Statistisches Bundesamt, 2007).

The Federal Police have a core responsibility for the detection and apprehension of irregular entrants at the border and in international traffic at railway stations, airports, and major roads going to other countries. While the states are responsible for the detention of illegal residents, the Federal Police are responsible for deportations.

With respect to the detection of illegal residence, it is also important to note that there is a large force of labor inspection units with police-equivalent training, rights, and functions under the authority of the customs administration. The Labour Market Control ("Finanzkontrolle Schwarzarbeit," FKS, directly translated as Financial Control Black Labour) was founded in 2004 when civil labor inspection units of the employment agency were integrated in the police-like inspection units of the customs services. While these units are not called "police" in Germany, they have a police function in a changing plural security regime.[4] Under political pressure of the unions, labor inspections have been expanded considerably during the last 20 years. There is also political pressure for strict border controls, being particularly apparent when loose practices in the German

embassy in the Ukraine created a scandal. There is no public discourse pressuring the general police forces to go after irregular migrants.

Clearly, all German police forces have substantial authority for identity checks and are also competent and obliged to take care of the prosecution of illegal residence if they become aware of this. Whether a vague suspicion turns into a founded one depends upon access to information – the software of migration control.

3.1.1.2. Software. In Germany, all residents (Germans and foreign nationals) have to register in local registers. All nationals have to possess identity cards and be able to present them in a reasonable amount of time. Foreign nationals are required to carry passports or equivalents as identification papers.

A first suspicion of illegality is therefore easily formed if someone cannot present any valid identification papers. A primary validation of this suspicion is quickly possible for the police. They can tap into the computerized Central Aliens Register (Ausländerzentralregister) in which the aliens authorities register resident aliens and other aliens about whom they have made a decision (Vogel, 2001).

Since 1972, the Federal Criminal Agency administrates the INPOL information system with the aim of supporting investigation and prosecution. It contains information on persons who are wanted for criminal offenses, including persons who have received expulsion or deportation orders. The Federal Criminal Agency also feeds data into the Schengen Information System (SIS), a data bank on illegal entrants and asylum seekers.

The system is part of a European electronic database system with the aim of working against the "big bottleneck" in expulsion policy – lack of information on the identity and the country of origin (Broeders, 2007). The SIS, storing data on unwanted aliens and giving information on a hit/no-hit basis, can be accessed from a rising number of terminals in the cooperating states. In addition, a database called Eurodac stores the fingerprints of asylum seekers and illegal entrants caught at the border. Internally apprehended foreigners can be checked against this database to find out whether they have been caught at the border or applied for asylum in another member state. In this case, Germany could start procedures to transfer the apprehended foreigners to this member state. Eurodac has been operational since 2003. However, if member states handle registration obligations loosely and transfer data late into the system, they can avoid having to assume responsibility for an unauthorized immigrant or asylum seeker.

Lastly, a Visa Information System (VIS) is being built to take account of all who enter with a legal visa. It is supposed to deal with about 20 million yearly visa requests (Broeders, 2007, p. 86). In Germany, a similar system is already operational. In the framework of the Central Aliens Register, there is a file that contains all visa applications that were dealt with by German embassies.

3.1.1.3. Culture. A large number of officers have the task and the informational means to verify a suspicion of illegal residence. However, patrol work and many other police tasks involve a considerable amount of discretion. Thus we must ask whether they are likely to form such a suspicion and to follow up on it.

Most Germans carry their identity cards with them and are ready to show them.[5] This attitude reduces the risk that police officers bother Germans or regular foreign residents when checking documents. The risk that the police are charged with discrimination does not seem to be perceived as high. While the principle of nondiscrimination is in the German Constitution, there is no tradition of supporting antidiscrimination charges. Only in 2006, Germany introduced some antidiscrimination legislation with regard to nationality and ethnicity, under pressure of the European Commission. Immigrant organizations are not as strong as in the United States or the United Kingdom, and they do not focus on discrimination issues.

Although Feltes (2005, p. 1077) states that the "link between abuse of power and xenophobia is a frequent discussion topic for the German police," we would claim that this is certainly not the case for identity checks but rather for such issues as arrests on inadequate grounds or maltreatment in police custody. Police codes of conduct do not include specific references to identity controls, and the police are reluctant to participate in inter-cultural training (Büttner, 2004). In Behr's (2006, p. 88) reflection on police culture, we find no indication that identity checks as such could be considered an issue of discrimination.

In the following part, we will assess how the hardware, software, and culture of controls interact in some concrete situations that are important for migration control in the interior.

3.1.2. Impact of Police Cooperation in Standard Situations
For this section, we cannot rely on any major studies. We relied on legal regulations, press releases and similar material from authorities and documentation of incidents in studies on irregular residence or on police

abuse to reconstruct typical procedures and indicate the scope of discretion for other procedures.

With regard to identity checks, police competences vary between the different state police agencies and the Federal Police. All police may ask for identification of suspects, but there is a wide discretion to ask other persons for their papers. Only six states require the police to have special authorization to conduct identity checks among the general public. The Federal Police and the state police in the 10 other states may stop persons and check their identity, if they can justify it by characteristics of the situation. The narrowest scope concerns entering private homes: All police officers need a special search warrant. The widest scope of discretion is with the Labour Market Control, who may enter any workplace without suspicion and check the identity of all persons present in the workplace. They checked a total of 423,175 identity documents in 2006 (Bundesrechnungshof, 2008).

What this may mean can be illustrated with an example from the media. Twelve Kurds from Iraq and Iran were arrested on the highway, squeezed into a van. The police had noticed a rented van with French number plate, accompanied by a car, driving in the direction of Hamburg. "What the police found strange: In the cars there were southern-looking men and no French," as a newspaper article indicates (*Hamburger Morgenpost*, 2008).

The police – who used a particularly narrow stereotype of how French persons are supposed to look, combined with situational characteristics (rented van, accompanied by car) and found undocumented immigrants – proudly presented their success to the media. This exemplifies well what seems to be a general tendency among the German police. Stereotypes are used with little awareness, and identity checks can be done on this basis without causing a scandal. If racial features are not the sole ground for a stop, such practices are considered justifiable to the police, as they seem to increase the effectiveness of police work and thus increase the chance to help victims, for example, victims of trafficking in danger of suffocating in a closed van.

This is consistent with the fact that undocumented immigrants have the impression that the police may check their identity at any time and any place. From qualitative studies and NGO documentations, we can confirm that all fear to be checked by the police and deported. There is a multitude of immigrant stories in which identity papers were checked, although in some cases police officers abstained from any action when there were no papers and the person seemed credible (Alt, 2003).

If undocumented residents become victims or witnesses of a crime, they run the risk that their illegal residence will be discovered during

investigations if they call the police. The police always try to establish the identity and address of victims and witnesses so that they can be reached in case of legal proceedings, although not necessarily by checking documents. Qualitative studies indicate that undocumented immigrants are aware of this danger and avoid all police contact, even in the case of being the victim of a serious crime (Alt, 2003). Pater (2005) reports a case of a woman being raped by the restaurant owner for whom she cleaned who told her afterward: "Call the police and they will arrest and deport you."

Cases are rare in which undocumented immigrants go to court as victims, for example, to claim back wages or to complain about wage betrayal. To our knowledge, this only happens if there is support by an organization, for example, a union. Recently, there was a case of a young woman from Latin America who stayed as an illegal nanny and housekeeper after a legal au pair period for very little money. She came in contact with a Latin American women's organization that referred her to a union that helped her to claim a regular wage for her two years of work. The judge informed the foreigners' authorities about her case so that investigations because of illegal residence were opened against her. They could not get hold of her as she had only given the address of the union and did not have to be present in person during the trial. The court proceedings were closed after mediation and the payment of a substantial sum to the woman. However, she had risked her detection and deportation and is still illegally in the country.

In a study of illegal residence in the multicultural metropolis of Frankfurt, a police officer reports about the following incident: The police were called to a neighborhood conflict. A man was interviewed as a witness. They checked his identity, and it turned out that he had lived illegally in the city for 20 years (Krieger, Ludwig, Schupp, & Will, 2006). There are very limited possibilities for witness protection in the course of legal proceedings, for example, in the case of victims of trafficking. Victims of trafficking may receive a grace period for considering to become witnesses in court proceedings, and only if they decide in favor of this, may they be temporarily exempted from deportation – a quasi-immigration status called "toleration," which gives access to some social rights immigration status to assist with the prosecution (Ziegler, 2006). As a rule, however, they have to leave the country if they have no residence permit.

After detection, the foreigners' authorities decide whether the person is to be set free for independent voluntary return within a specified period (with or without guarding to the airport or border), or detained and deported. In principle, this decision should only be influenced by the individual likelihood to return without enforcement. But, in practice, it can

be assumed that the availability of detention places also plays a role. Detention is possible for up to 18 months.

In Frankfurt, the police estimate that about only 8% of detected illegal residents have also committed other offenses, and that a small number of offenders are responsible for a large number of crimes, particularly related to drug abuse (Krieger et al., 2006). Undocumented immigrants who are involved in other crimes are prosecuted and sentenced in Germany and deported immediately from the jail. Many of them are released after serving two-thirds of their sentence on condition of leaving the country.

3.2. The United Kingdom

3.2.1. Structural Changes and Developments in the Control Regime Combating Irregular Migrants

3.2.1.1. Hardware.　All police and immigration control affairs are dealt with by the UK Home Office. The Home Office has been completely restructured in 2007. The process of restructuring immigration-related tasks within the Home Office is still not finished.

General law enforcement in the United Kingdom is organized separately in Scotland, Northern Ireland, England, and Wales. These are again arranged in geographical areas of one or more local government areas in the United Kingdom. Most law enforcement is carried out by police constables (PCs). They are usually members of territorial police forces or special police forces with a specific, non-regional jurisdiction, such as the British Transport Police. Territorial police forces cover a particular geographical region and have an independent police authority (for instance London Metropolitan Police). In principle, territorial police forces cover the whole range of criminal laws and misdemeanors, including traffic and immigration offenses.

However, government agencies in the United Kingdom have a long-standing and generalized autonomy, with considerable discretion over priority setting and collaboration with each other, which tends to take place on an issue-by-issue basis. Since 1997, the New Labour government has launched a great number of initiatives to ''join up'' agencies over specific tasks, to establish ''partnerships,'' and to improve communication. Taken together with the reorganization and reform of most of the major ministries, accelerated new legislation, new targets, and inspection teams, affecting the work of local authorities and the police, this has required the redeployment

of staff and reorientation of work across the whole spectrum of the public sector.

Therefore, local police forces have been confronted with increasing cooperation demands with changing agencies. Since April 2008, the UK Border Agency (BA) has been responsible for external and internal management and enforcement issues, including visa and identification issues.[6] Unlike Germany, the United Kingdom did not become part of the Schengen area of unrestricted travel within the European Union in order to keep its traditional focus on strict entry controls at external borders. The UK BA's mandate is to ''better meet the public's expectations in maintaining secure borders, finding and removing illegal immigrants, and tackling those who facilitate them coming here'' (UK Border Agency, 2008). The UK BA employs 25,000 staff, including more than 9,000 warranted officers, operating in local communities, at UK borders and across countries worldwide. The traditional external control, that is, controlling the port of entry, was reinforced by the empowerment of enforcement agencies for the purpose of internal control. This was achieved by primary and secondary legislations, and notably by the latest UK Borders Act 2007. Immigration officers obtained competences equivalent with policemen, particularly empowering immigration officers to fingerprint asylum applicants and their dependents, enabling enforcement agencies to search and arrest cases of ''illegal entry,'' allowing passports or other documents to be retained ''for any purpose.''

Structural and operational changes are currently in discussion, and further reforms are still possible to come, notably a merger of police forces and the UK BA (interview with senior UK BA officer, June 5, 2008). Recently, 3,000 police officers were moved to the UK BA's border control section to patrol borders and airports. Vice versa, 7,500 immigration officers will be moved to work with the local police on new crime partnership schemes. They will be deployed in 70–80 permanent ''local immigration teams'' that cooperate with the local police. These teams got the ''clear mission to focus on local immigration crime.'' One may also notice the change of ''illegal immigration'' to ''local immigration crime,'' which indicates that certain aspects of illegal immigration[7] are considered as criminal. This new deal likewise increased the UK BA's resources by employing 1,000 additional immigration staff on enforcement duties, and by 2009/2010 enforcement resources are planned to be doubled in total. Finally, some high-ranking police officers were moved to the UK BA to facilitate these reforms and shifts in organizational culture.

3.2.1.2. Software. So far, there are no effective registers of UK citizens. Data on regular foreign residents are stored in the databases of the Home Office. The police had so far no fast and secure way to verify the UK citizenship or the immigration status of a person.

In the early 1990s, the rapid expansion of asylum claims left the Home Office severely overstretched in all its tasks of immigration control. When Düvell and Jordan (2002) conducted their research in 1997–2001, backlogs in the determination of asylum claims of three to four years were commonplace. Initially, paper work and files were in a mess, and incoming queries from the police or other internal control agencies (e.g., dealing with benefits fraud) could sometimes not be answered because files were mislaid. Subsequent computerization too was a failure, and it took a while until problems were solved. This continued well into the second millennium. In cases of jail sentences of undocumented immigrants, there was sufficient time for status checks, and they were routinely suggested in order to deport undocumented immigrants after serving their sentence. However, in 2007, Home Secretary Charles Clarke was forced to resign when it was revealed that over 1,000 foreign criminals who should have been considered for deportation following their prison sentences had in fact been released into the community. Later the same year, the next home secretary, John Reid, was pilloried in the press because information about crimes committed by UK citizens overseas, sent by the police to his immigration staff, had simply been filed away without further action. Thus, the 1990s and the early 2000s were characterized by chaos and inefficiency.

However, processing of identity information is changing radically and rapidly in the United Kingdom. A widely discussed and decade-long dispute between political ideologies in the United Kingdom is the introduction of identity (ID) cards for certain foreign nationals and, in the long run, even for UK citizens (although this is highly contested and rejected by the parliamentary opposition; as things stood by November 2008, ID cards will be voluntary for UK citizens). From November 2008, compulsory identity cards for foreign nationals who apply for an extension of their stay in the United Kingdom as students or as the husbands, wives, or partners of permanent residents were introduced. It could stand for a shift in the policy domain since it diverts from the traditionally liberal approach of internal control of civilians.

The then minister of state for borders and immigration, Mr Byrne, set out the interplay of implementing the Identity Cards Bill and the UK Borders Act 2007 (Home Office, 2008b). He referred to "The Strategic Action Plan

for the National Identity Scheme: Safeguarding Your Identity'' (Home Office, 2006), which explains the plans of covering everyone who is legally resident in the United Kingdom and additionally establishing a National Identity Register. Apart from becoming compulsory, identity cards for foreign nationals in the United Kingdom were linked to a biometric registration, and the noncompliance with such regulations, for example, not reporting change of address, can be accordingly sanctioned.

In addition, obligatory data exchange between different authorities is increasingly used to make immigration control more effective. By the Immigration Asylum and Nationality Act 2006, checks on foreign workers' documentation were shifted to be the responsibilities of employers. According to a newly developed points-based system, employers need to register before employing foreigners and will have to report their employee(s) to the Home Office in case these people disappear and do not "show up" for a certain period of time.

Stronger cooperation is envisaged which includes the Immigration Service, Customs, the police, and UK Visas "to record electronically the passport details of all persons entering and leaving the United Kingdom" (ONS, 2006, p. 23). In addition, these data sets may be linked to administrative sources with information about international migrants "or that have this potential" (ONS, 2006, p. 29). These are (i) landing cards and other proposed systems for monitoring entry (e.g., points-based system), (ii) national insurance numbers (NINo), (iii) linked tax and benefit records (WPLS), (iv) NHS register information (NHSCR/PDS), (v) higher and further education records (e.g., HESA, LSC), (vi) school census (formerly pupil registers – PLASC), and (vii) migrant workers registration (WRS).

Along these lines, a watch list of immigration offenders will be shared with the Department for Work and Pensions, HMRC, and private sector fraud prevention agency called Credit Industry Fraud Avoidance System.

3.2.1.3. Culture. Since 1984, formal and informal structures are in place for community liaison in each police division, and through these local interests – including ethnic minority groups – can influence local policy and practice. Migrant and ethnic minority organizations are well organized; provide services for ethnic communities; lobby on community relations, immigration, and antidiscrimination issues; have acquired certain political power; and are generally accepted as relevant stakeholders. Particularly since the inner city riots in 1981 and 1985, the police aim to avoid alienating ethnic minority communities.

These forces constrain otherwise statutory police powers at the local level to some extent, and reflect the importance of developments in race relations legislation and culture. Discriminatory police practices have come under considerable public scrutiny in connection with the case of Stephen Lawrence, a black teenager whose racist murder was incompetently investigated by the Metropolitan Police in London (Met) in 1993. In reaction to the public inquiry into this murder, several actions were taken to sensitize the police to racist attitudes and behaviors, from training measures over codes of conduct to increasing employment of officers from ethnic minorities.

Thus, recent trends to increase cooperation between police and immigration enforcement have to be seen on the background of a strong tradition of defending civil liberties and fighting discriminatory practices by active civil society actors of minority or majority background (Vollmer, 2008).

3.2.2. Impact of Police Cooperation in Standard Situations

As the hardware and software of the immigration control regime changed recently, it is not yet possible to observe empirically how these changes impacted on police behavior. Therefore, we outline some general features of the legal situation and past practices and reflect on changes.

Generally, all police officers have the power to stop and search in cases of reasonable suspicion, while stop and search without reasonable suspicion may be authorized by senior officers to prevent serious violence. In reaction to sensibility toward stereotyping stop-and-search practices, stops and searches have to be documented according to ethnic appearance (Home Office, 2005).

In 2001, an alarming report published by the Police Complaints Authority (PCA) stated that so-called stop-and-search powers were at the top of police complaints. Notably, one in five of all complainants allege that the officers' actions amounted to racial discrimination. It was found that black people lodge 4 out of 10 complaints about police stop-and-search powers but only comprise one in 50 of the population (Havis & Best, 2004). The latest report "Police Complaints: Statistics for England and Wales 2007/08'" showed the second highest percentage increase in England and Wales for the number of public complaints that were received against them. The police service saw a 53% rise in complaints from 2006–2007 to 2007–2008 (Gleeson & Grace, 2008).

Past enforcement practices were comparatively liberal (Düvell, 2008). However, this was never officially spelled out. Instead, practice was inspired by liberal traditions while enforcements actions were hampered

by well-organized lobby groups (notably employers and ethnic minorities). While until 2004 immigration officers lacked powers, and once these were granted, they sometimes remained uncomfortable to exercise these powers, the police were often reluctant to get involved in migration matters, as this is seen as potentially undermining their community relations.

For some time, police forces were usually only involved in immigration raids if there was a likelihood of violence or violent resistance.[8] Past research found that immigration offenses detected in course of enforcement actions were sometimes ignored by the enforcement agencies. Notably Düvell and Jordan (2002) interviewed one Polish man who had been arrested and released without charge after the police failed to get a prompt response from the Home Office, and one Albanian man (posing as a Turkish asylum seeker) who had been arrested three times and escaped charges by various ruses, including charging the police with racism. In other cases, the offenders, immigrants, and employers only received a ''warning.'' Such practices were justified with limited resources, notably a lack of detention facilities, or with lack of staff who could verify a suspect's immigration status. At that time, enforcement agencies worked according to fixed priorities. Notably the police were occupied with more serious crime.

The current and future enforcement strategy by the Home Office and the UK BA may be summarized as ''identify, arrest, and remove.'' This strategy is presented as satisfyingly effective by the Home Office, which likewise gave the impetus to arrange higher capacities of arresting people as it was announced by the UK BA in May 2008. Plans for increasing up to 60% more places in immigration removal centers were announced, which amount to an additional 1,300 and 1,500 ''places.'' As stated by the UK BA, this ''will help the new agency lift the number of removals of illegal immigrants up from its current performance of one removal every eight minutes'' (Home Office, 2008a).

The police are increasingly drawn into migration matters and are increasingly cooperating. Anecdotal evidence suggests that drawing the local police into major immigration raids – as in April 2008 in Neasden, London (sealing off roads or checking passports of people queuing for busses) – generates considerable unease amongst some police forces, as it creates tensions with a police culture of community liaison and is even considered unlawful by some.

Police cooperation in migration matters is easier to motivate when linked to other crimes. The expansion of internal enforcement measures is likewise linked to (irregular) immigrants who are simultaneously involved in criminal activities as depicted by the Met (The Job, 2007). A so-called London-based

Operation Maxim was launched, which is a partnership among the Immigration Service, the Identity and Passport Service, and the Crown Prosecution Service that aims at combating human smuggling, people trafficking, and illegal passport factories.

"Immigration crimes" are tackled by another initiative called Project Swale. As commissioned by the government, Project Swale is another ongoing partnership between the UK BA and the Met. Sixty-six Met officers set up three new regional teams to target immigration-related crime in several London districts. Focus will be tuned toward "foreign nationals living in the United Kingdom who, by their actions, are causing harm in the community" as stated by Detective Sergeant David Arthurs from the London Hounslow team. This practice, however, has already produced some negative side effects and related negative press. In 2008, the Independent Police Complaints Commission (IPCC) was involved in three investigations that concern raids operated by the UK BA that lead to serious injuries or even death of panicking immigrants (Athwal, 2008). One case involves the death of a 36-year-old man in September 2008; another case concerns a man who suffered two broken legs after a UK BA operation in March 2008; and the third is about a 51-year-old Ghanaian man who suffered unspecified injuries after falling from the third floor of a block of flats in Peckham (London), in May 2008.

Controlling of businesses suspected of employing migrants without permission is also becoming increasingly important. Fines were increased up to £10,000 per "illegal" worker, and the convicted businesses hit with fines will be named. The UK BA's strategy is "to name and shame" these employers.[9] In May 2008, 33 businesses were searched of which almost two-thirds were ethnic businesses (notably in London and the midlands, almost all businesses were ethnic businesses). The small number of searches – compared to Germany – of mostly ethnic businesses may reflect some hesitation to take on mainstream nonethnic businesses.

The change toward more migration enforcement, via more police cooperation, is frequently politically justified by references to the threat of domestic and global terrorism. This is based on the bombing of the London transport system in 2005, further plots in 2006 and 2007, and some comparatively minor incidents in Glasgow in 2007 and Exeter in 2008. Territorial police forces are faced with the partly contradictory demands of cooperation in tracking down irregular migrants, and at the same time promoting "community cohesion" and "diversity." This may add another caveat to such a new regime that demands intense cooperation or an entire fusion of competences in the very end, which may overstrain police forces.

We do not know how such a crackdown will change the behavior of undocumented immigrants if they become victims or witnesses of crime. Undocumented immigrants have indicated reluctance to contact the police. However, several interviewees in 1997–2002, including some who claimed to fear the police, had reported crimes or acted as witnesses. A Polish man with no legal status reported that his passport was stolen or lost. A Turkish man reported that his car was stolen, and was questioned about his immigration status, but did not mention his documents being checked. Another reported that his colleagues at work, many of whom were working without proper status, called the police to a provocation by his employer during a strike.

3.3. The United States

3.3.1. Controversial Cooperation Developments in the Control Regime Against Illegal Entrants and Inhabitants

3.3.1.1. Hardware.   In contrast to the German or British system, the US policing system is characterized by a higher number of vertically and horizontally independent police forces with different tasks. Immigration control in the United States has been deemed a federal responsibility since the end of the 19th century. However, to varying degrees, some state and local law enforcement agencies have engaged in immigrant control activities for decades.[10]

For the local police, the situation was blurred by the confusion surrounding the question as to whether they had the legal authority to enforce immigration law.[11] The Immigration and Nationality Act (INA) is a complex set of provisions that includes both criminal and civil penalties. Illegal presence in the United States is not a crime but rather a violation of immigration law for which there is a civil penalty (Reyna Yanez & Soto, 1994).[12]

State and local governments had an inconsistent collection of rules and opinions as to whether their police could enforce criminal and/or civil violations of immigration law. The confusion was not helped by the US Department of Justice, which in 1978 began to provide some guidance on the matter by issuing press releases – which were ignored presumably because they were only guidelines (Reyna Yanez & Soto, 1994).

The 1978 release advised *against* police involvement in immigration enforcement unless it was incidental to an arrest upon independent grounds, that is, a violation of state criminal law. It specifically advised that the police should not detain anyone based solely on the suspicion of

deportability – a civil violation (Reyna Yanez & Soto, 1994, p. 37). This interpretation of the law was reaffirmed in 1996, but in 2002 – after the terrorist attacks on September 11, 2001 – it was reversed.[13]

The reversal was crucial to a key part of the federal government's all-out response to the threat of international terrorism. The 650,000 state and local law enforcement officers nationwide were seen as a massive force multiplier that could greatly expand the federal government's ability to keep tabs on immigrants and, hence, foreign terrorists. But in order to do so, they would have to have the authority to enforce not only the criminal provisions of immigration law but also some civil provisions. Accordingly, the new interpretation argued that they had had this authority all along. It was claimed to be based upon the ''inherent authority'' of a state (Kobach, 2004).

In 1996 Congress had passed two pieces of legislation by which state and local law enforcement agencies could arrest immigrants under certain conditions. The Antiterrorism and Effective Death Penalty Act authorized the state and local police to arrest and detain persons who are unlawfully present in the United States after being deported *and* who have been convicted of a felony in the country. The Illegal Immigration Reform and Immigrant Responsibility Act gave the Justice Department the authority to grant arrest powers to the state and local police in emergency situations (e.g., a mass invasion of refugees from Cuba) and to enter into agreements with them to enforce immigration law on a routine basis. The terms of the agreements (see Section 287(g) of the INA) specify what laws the police can enforce and require training for the police.

By May 2002 no state had signed a Section 287(g) agreement. The INS had not even written the rules for cooperation yet. Salt Lake City (UT) had considered signing, but the proposal was scrubbed after opposition from the local immigrant communities. Florida was about to become the first state to enter such agreement (Malone, 2002). According to the US Bureau of Immigration and Customs Enforcement (ICE) – successor agency to the INS[14] – only 55 memoranda of understanding in 18 states, certifying 765 officers, had been signed as of June 25, 2008. An additional 80 requests were pending (US Immigration and Customs Enforcement. US Department of Homeland Security, 2008). A bill in Congress in 2004 to compel state and local jurisdictions to enforce immigration law died in committee after arousing opposition from the International Association of Chiefs of Police (IACP) and others.

Beyond this, there are reports about states, local communities, and local police agencies acting on their own. By July 2007 more than 1,400 pieces of

legislation had been introduced in the 50 state legislatures and many more at the local level.[15]

While it is clear that the primary task of immigration law implementation and enforcement is allocated to the federal level, the legal cooperation requirements for local police forces differ between states and individual cities, with a tendency to require and enable more cooperation after the terrorist attacks of 2001.

3.3.1.2. Software.   If the police are going to cooperate in the enforcement of immigration violations, they must be able to become aware of them. This is not an easy task in the US situation with no national identity card. Neither citizens nor foreign nationals have to register with their local communities. Citizens do not have to identify themselves or produce valid identification if asked to do so by the police. Only aliens are required to carry their alien registration documentation and to register under certain conditions. Failure to do so is a misdemeanor. It is also a ground for removal, a civil violation.[16] Certain nonimmigrant visitors to the United States must register with immigration authorities and must notify them of changes of address, employment, or school. Failure to do so results in their records being put into the National Security Entry-Exit Registration System (NSEERS) and subsequently into the National Crime Information Center (NCIC).

NSEERS involved fingerprinting and photographing at the border, periodic registration, and exit controls. It was directed only at people from certain countries (almost all either Arab or Muslim). When immigrants violated the terms of their immigration, their photographs, fingerprints, and immigration violation would be filed with the NCIC – the database that the state and local police regularly consult in the course of traffic stops and routine encounters. Hence, the police would be in the business of enforcing certain civil violations of immigration law.[17]

NSEERS has been found to be highly inaccurate. Between 2002 and 2004 when police checked names in the NCIC, they got erroneous immigration hits in almost 9,000 cases. The overall rate of "false positives" (i.e., the government could not confirm that the individual was an actual immigrant violator) was 42%. No NSEERS violators were found by the police through the use of the NCIC. But, the number of "absconders" identified annually through the NCIC increased by nearly 25-fold from 2002 to 2004 (Gladstein, Lai, Wagner, & Wishnie, 2005).

Responding to the ballooning prison costs in the 1980s and 1990s and the increasing number of immigrants incarcerated for violations of state

criminal laws (D'Amato, 1983; Interstate Criminal Alien Working Group, 1996), state, local, and federal officials sought ways to reduce costs by shifting the process of identifying and removing criminal aliens to the front end of the criminal justice process – ideally to the point of arrest.[18] In 1994 the Clinton administration responded by establishing the Law Enforcement Support Center (LESC) to assist other federal, state, and local law enforcement agencies in determining whether an individual arrested for a state criminal violation was in the United States illegally.

LESC operates 24-7-365. Its primary users are state and local law enforcement agencies seeking immigration information about individuals encountered during routine daily activities. The number of requests for information sent to LESC increased from 4,000 in FY1996 to 728,243 in FY2007 (US Immigration and Customs Enforcement, 2008). Some of those requests are made by police officers during an encounter in the field – possibly a traffic stop. Others are made during the booking process at the jail.

Therefore, it can be said that the US police have several ways to make an initial determination that a person has no valid immigration status. The person may voluntarily admit it to the police, or the police may check with LESC or may discover it while checking the NCIC. The unreliability of the primary software checks raises the probability that the police will erroneously bother US citizens.

3.3.1.3. Culture. The United States has a strong tradition of anti-discrimination provisions that also apply to the police and other public services. By the 1980s the philosophy of community policing emerged with its emphasis on the development of trusting and cooperative relationship between the police and their communities. Also by then the success of the civil rights movement had given new weight to complaints by minorities about racial/ethnic discrimination. The targeting of individuals by the police for investigation based upon their race/ethnicity, known as "racial profiling," is discussed as a major problem in the United States. "Racial profiling" was frequently done in connection with traffic stops so that minorities have renamed the "driving while intoxicated" (DWI) offense to "driving while black" (DWB) and "driving while Latino" (DWL). In the late 1990s, the practice came to the forefront of public concern in the wake of it being systematically documented and of a politically incendiary justification of it by a top police official (Abramovsky & Edelstein, 2000; Dickerson, 2000).

Today police officials are as likely as minority spokespeople to oppose any policy that might lead to racial profiling. Indeed, the possibility of racial

profiling has been one of the major objections to granting the police the authority to enforce immigration law (e.g., (Aradillas, 2002). In response, ICE argues that racial profiling will be prevented by the police training required by the Section 287(g) agreements.

In sum, it can be said that while the US police may form an initial suspicion that a person is an unauthorized immigrant, they may be prevented from acting on those suspicions either because their agency has a policy of not asking about immigration status or because the police have no legal grounds for stopping and demanding that the person identify his/her immigration status. However, the police may inadvertently discover a person's illegal immigration status in the course of normal police work of checking the NCIC. What is more, barring an agency policy, prohibiting them from doing so, the police can check their suspicion with LESC. The police may not use racial appearance as a ground for suspicion. In the end, however, the unreliability of the primary software checks raises the probability that the police will erroneously bother US citizens.

3.3.2. Impact of Police Cooperation in Standard Situations
For this section, we rely on the legal regulations, the limited available literature and media reports. In the United States, the police may ask any individual for identification and more. But the person is "free to disregard the (officer's) questions and walk away."[19] As long as the police do not suggest that their request must be obeyed, they may select people without any basis for suspicion, interrogate them, ask for identification, and ask to search their luggage. The police are free to conduct dragnet-like searches in certain settings such as on buses and trains. Acting within their discretion, the police board buses stopped for brief layovers, approach whomever they suspect of carrying drugs or other contraband, ask for identification and permission to search the luggage, and make arrests when unlawful materials are found. People may refuse to cooperate, but they do not (Cole, 1999).

The Fourth Amendment prohibits the police from entering houses or places of business without a search warrant. In contrast, federal immigration officials may enter houses and places of business without a search warrant but with "reasonable suspicion" that an immigration violation is happening. Once inside, their search must be restricted to matters related to possible immigration violations. Sometimes, local police and federal immigration officials work as a team. In those cases, lawful entry may be gained under the authority of the immigration officials, and subsequent discoveries of crimes (e.g., unlawful possession of drugs) would involve lawfully obtained evidence if found "in plain view" by the accompanying police.[20]

How many of the almost 18,000 state and local law enforcement agencies are currently ''enforcing immigration law'' in the sense of routinely asking suspects about their immigration status and arresting and detaining unauthorized immigrants is unknown. The best available data suggest there is considerable variation in the responses among local police agencies to this matter.

In the same year (1994) when Californians voted overwhelmingly in favor of the incendiary anti-illegal immigrant Proposition 187 – which denied all government benefits to illegal immigrants and required all public officials including the police, school, and hospital workers to report suspected illegal immigrants to federal authorities – a survey found that in 26 cities nationwide the police did not inform the INS of illegal immigrants who turned up in the course of routine law enforcement activities – including several California cities (McDonald, 2006). In some cases, noncooperation was part of the ''sanctuary movement'' – whereby cities implemented policies to protect illegal immigrants from deportation.[21]

A recent survey of law enforcement executives in localities with populations of 60,000 or more documents this lack of consensus (Decker et al., this volume). Only small percentages of the localities have taken one or the other of the polar positions – taking no action against unauthorized immigrants (unless they are involved in a serious crime) (19%) or checking immigrant status of suspects (12%). The rest of the agencies have policies and practices somewhere in between. Decker and associates (this volume, Fig. 2) demonstrate that the variation among police agencies regarding immigration law enforcement lies in the differences among them in the range of field situations in which their officers inquire about immigration status.

Even police agencies that claim to not enforce immigration will ask about a suspect's immigrant status in serious cases.[22] They will do this certainly in those cases in which they belong to federal task forces against gangs or human trafficking. This means they work together on teams with federal immigration police and other federal officials to crack down on local crime problems. This arrangement has the advantage of combining the knowledge of the local area known to the police with the jurisdictional authority of federal immigration and other officials. Transnational gangs, for example, can be proceeded against using the provisions of immigration law when those of the criminal law may not be as easy and successful to apply.

Among the most common situations where the police encounter unauthorized immigrants is the traffic stop. An example from the news illustrates this and its poignant consequences. Hugo Hernandez illegally entered the United States in September 2000. He found work, met a woman,

and had two sons born in Maryland – thereby making them US citizens. In 2001 he was ordered to leave the country but ignored the deportation order. On January 30, 2007, while driving to work about 5:30 a.m., he was pulled over by an officer after he abruptly changed lanes. Officer Collins ran his name through the NCIC, found the immigration warrant, and arrested him. When Hernandez's wife arrived at the station, she fumed at Collins: "I hope this never happens to you. Today, my kids lost their father."

On the way to the police station, Collins told Hernandez he took no pleasure in arresting him.[23] According to Hernandez, Collins said, "If you had told me from the start about your kids, I would have let you go." A police spokesman said Collins recalled saying, "He did indicate that he regretted this, but he had to do his job." Hernandez was deported, as were a growing number of immigrant "absconders" whose warrants have been entered into the NCIC. Local police chiefs felt torn by the policy. On the one hand, they believed it was jeopardizing the trust they were building with their local immigrant communities. On the other hand, they felt duty bound to enforce all NCIC warrants (Londoño, 2007).

In short, the differences in public opinion regarding the illegal immigration issue nationally and locally are reflected in the differences in responses of police agencies. While some police and community leaders have vehemently opposed having the police enforce immigration law, others see it as a necessary tool.[24] In the end, the policy position taken by the IACP in opposition to a proposed federal law that would have coerced the state and local police to enforce immigration law fits well with the conditions on the ground (HardBeatNews, 2004). The IACP endorsed the principle of local option. Local communities should have the freedom to decide (International Association of Chiefs of Police, 2004).

Unauthorized immigrants are afraid to come forward as victims or witnesses not just because of the fear of being deported. Many expect the criminal justice system is corrupt as in their homelands. Many fear for the safety of their families. In this regard, the most striking phenomenon is the remarkably small number (1,362) of victims of human trafficking that have been identified since 2000 (Markon, 2007; Farrell, this volume); the small number (148) of cases brought against traffickers, and the extraordinarily small number of T-visas granted by which unauthorized immigrants can remain in the country if they help the prosecution of some criminal case.[25]

As in Germany, it is rare to find cases in which unauthorized immigrants go to court as victims seeking to recover wages not paid by an employer or to prosecute them for violence and abuse. Although more than half (58%)

of the day laborers (many unauthorized immigrants) in the Washington, D.C. region reported that they had experienced at least one instance of nonpayment or a bad check from an employer, 33% had been abandoned at worksites, and 23% had experienced violence at the hands of employers (Valenzuela Jr., Gonzalez, Theodore, & Melendez, 2005), we could find only two news items in 13 years regarding immigrants going to court over these wrongs. In both cases, Casa de Maryland, an NGO immigrant service provider, assisted the immigrants. The first item describes an unusual law enforcement response to the problem. Because of the high frequency of day laborers having their wages stolen by employers, in 1994 the local public prosecutor's office established a "theft of services" program to resolve such cases. The program sends warning letters; offers to mediate; and as a last resort, threatens to file criminal charges (which carry a 15-year maximum penalty). These cases involve both criminal and civil wrongs. About 25% of the cases get prosecuted as crimes. This example shows that public prosecution can prioritize the other laws over immigration laws. The fact that the public prosecutor was also pursuing these cases strengthened their hand (Constable, 1995; Castaneda, 2005).

4. CONCLUSION

This comparison of the immigration control regimes among countries focuses upon the police role in immigration enforcement in Germany, the United Kingdom, and the United States, particularly with respect to illegal/unauthorized immigration in the internal areas of the countries as opposed to at the borders or the ports of entry. The three dimensions of the relationship between the police and their respective immigration authorities that are compared reveal some striking similarities and notable differences. It is evident that two major phenomena over the past two decades have brought about important and politically controversial changes with respect to the role the police play in immigration control in the United States and the United Kingdom. High rates of illegal immigration since the 1990s and the terrorist attacks have placed a premium for these countries upon developing more effective means of immigration control.

With respect to the hardware of control, Germany and the United Kingdom are more similar than the United States. Germany and the United Kingdom have general police forces that have the right and duty to enforce immigration regulations, while this task allocation is contested in the United States, and applied in widely diverging ways in different regions. The police

can only enforce immigration law if they are able to determine someone is illegally in the country or otherwise violating the law. Whether they can do this depends on their access to information – the software of control. The comparison shows that the United States and the United Kingdom are similar and the two are different from Germany. Of the three, Germany is closest to having the comprehensive information system for rapidly and accurately identifying whether a person is legally present in the country. It has a computerized register of legal aliens; a database on persons who have received expulsion orders and on illegal entrants and asylum seekers; and a system to check people who entered Germany with a legal visa. What is more, all residents have to be listed in the local registers and all nationals must possess identity cards. Thus, the German police usually can determine easily and quickly whether a person is legally present in the country.

Both the United States and the United Kingdom have made considerable efforts to make the identification of undocumented residents speedier and more reliable, so far with limited success. Efforts are hampered by the fact that in both countries, citizens are neither registered nor required to carry identification cards, which increases the likelihood that ordinary citizens are mistakenly suspected of illegal residence. In the United States, the police have access to a database managed by the federal immigration authorities (LESC) to determine the immigration status of a person. They also might learn about a person's immigration status while checking the NCIC database managed by the Federal Bureau of Investigation. However, that database has immigration information only for a select subset of immigrants and has produced a high rate of false positives (42%).

In the United Kingdom, the information system for checking a person's immigrant status is even less well developed than that of the United States. Data on foreigners who are legally in the country are stored in databases of the Home Office, but the information is not organized and readily accessible, making it difficult for the police to quickly determine a person's immigrant status. This situation is about to change with the introduction of identity cards for foreign residents. The plan to introduce them for citizens is highly contested.

With regard to the culture of control, again the United States and the United Kingdom are similar while Germany is strikingly different. In all three countries, there are legal prohibitions against discrimination based upon race or ethnicity, and in all three countries, the police strive for good relations with immigrant communities. However, there is a long tradition and strong support for this by advocacy groups and the media in the United Kingdom and the United States. Indeed, one of the primary objections to

having the local police be involved in the enforcement of immigration law is that they might come under suspicion of discrimination based upon physical appearance, known as racial profiling. In addition, the police find it difficult to pursue the widely heralded philosophy of community policing while simultaneously enforcing immigration law. Enforcing immigration is seen as a policy that will antagonize racial and ethnic communities rather than winning their trust and support.

In contrast, discrimination by police identification practices is not a topic of public discourse in Germany. German people carry their identity cards and readily show them if asked to do so. Although cases in the press where the German police even publicly bragged about using physical characteristics of suspects (among other circumstances) as a basis for stopping a van full of immigrants, immigrant advocates have not focused on discrimination issues.

In all three countries, there is a trend toward more involvement of the local police in immigration law. While the German police are fully integrated in this task, the United States and United Kingdom are moving in this direction: Institutional integration (UK) and formal institutional cooperation (US) are promoted, although they are only partially and regionally established. More comprehensive databases have been developed and made accessible to the police, but these databases have not yet reached a high degree of reliability and acceptance.

While we can make out a clear trend toward more police involvement, it is much more difficult to assess how this will impact on the situation of regular and irregular migrants. More research would be needed to fully understand this. With our comparative effort based on the secondary use of materials from projects and on desk research, we can at least formulate the hypothesis that the impact on the local situations is not as pronounced as differences in the hardware, software, and culture of control would suggest, even leaving trends for convergence out of consideration.

While police involvement in the enforcement of immigration law is a task in Germany and the United Kingdom, this is contested in the United States. But, there are no indications that this task is given a high priority in these countries, unless the enforcement of immigration law can be combined with the detection of other crimes.

While racial profiling is clearly not acceptable in the United Kingdom and the United States, it seems to be widely accepted in Germany, as long as features of the outward appearance of a person are not the sole reason for stopping a person but are interpreted in the context of the wider situation. However, there are indications that it also happens in the United Kingdom and the United States, where this issue is highly sensitive, because the

selection on a racial criterion can be disguised as selection on a legitimate ground for suspicion, for example, a feature of a car.

In Germany, unauthorized migrants will avoid all contact with the police, even if they are victims and witnesses of crimes, as they worry that the police will discover they lack residence rights when asking for identification. In the United Kingdom and the United States, this is not likely to be the case, and unauthorized immigrants have sought their rights with the help of the police, but these cases seem to be exceptions, not the rule.

In all three countries, police officers have to deal with dilemmas that we have identified in the theoretical part: Cooperation may increase the effectiveness of immigration control, but risks preventing immigrant communities from developing trust of the police. Therefore, the enforcement of immigration regulations may endanger the fight against non-immigration-related conventional crimes. The police have a high incentive to cooperate in cases in which they can reconcile their crime-fighting mission with the enforcement of immigration control, but this is not the case with otherwise law-abiding irregular migrants who may even be victims or witnesses of other crimes.

From the comparative analysis, we can suggest some practical implications. The impact of US and UK efforts to promote more police involvement in immigration enforcement by institutional reform and institutional cooperation crucially depends on development in the information sector. The German experience supports the value of a comprehensive information system for rapidly determining the immigration status of suspects, but it may not work as expected in the United States and the United Kingdom, where registration and identification obligations apply to foreign citizens only. With the US and UK experiences, one could predict that police discrimination based upon physical appearance may become more sensitive issues in a Germany with more and more naturalized citizens.

In sum, it may be that none of the three countries under study has so far developed ways of police involvement in immigration control that are fair to immigrants while at the same time adequate for the police crime-fighting mission. Instead, police officers in all three countries have been placed in dilemmas that they cannot solve.

NOTES

2. Thus, the issue of border policing is not analysed here, as it involves additional and different decision-making situations. Other organizations with policing tasks are not labelled as police but considered as collaborators of police, but we are aware that broader definitions of policing make sense for other questions (Jones & Newburn, 2006).

3. Police research so far gives little indications of how organizational features impact on police work (Engel, 2002, p. 1099).

4. See (Jones & Newburn, 2006) for global trends toward plural policing, both in the government and the private sector.

5. To the best of our knowledge, there are no studies about this. One of the authors made the experiment regularly when speaking to larger audiences, asking whether they would be able to officially identify themselves. Usually, only a few people would not be able to produce an identity card.

6. In 2007, the organizational structure of the UK immigration controls regime was completely restructured too. A new organization called Border and Immigration Agency (BIA) was set up and took over all responsibilities from the Immigration and Nationality Directorate (IND). The BIA was furnished with extended autonomy from the Home Office in the view of developing politics, operations, and management. However, the BIA only functioned as a ''bridging'' institutional arrangement, since in April 2008, the BIA was again transformed into the UK BA. This now also incorporates the competences of the former UK Visas agency (the umbrella institution of 162 UK embassies, high commissions, and consulates) and the work of those HM Revenue and Customs staff deployed at the border. In addition, the General Register Office joined the Identity and Passport Service (IPS). Accessed October 30, 2008, at http://www.bia.homeoffice.gov.uk/

7. Aspects considered criminal are, for instance, entering or staying on false (falsified or borrowed) documents, failing to comply with certain conditions, for example, those put on temporary admission (weekly/monthly reporting to the immigration authorities, changing address without reporting, not attending interviews at embassies or any other immigration authority).

8. According to informal written conversations with a former police official in October 2008.

9. Lists are available on: http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/listemployerspenalties/

10. In 1973, the INS reported that 10% of all immigration law violators were apprehended by local officials (Chapman & Kane, 1975, p. 151).

11. See *Gonzales v. City of Peoria*, 722 F.2d at 474 (''substantial confusion as to . . . what state and federal law required'').

12. In 2006 a Senate bill to make illegal presence a felony was revised after nationwide protests by outraged immigrant advocates. The committee chairperson promised to change it to a misdemeanor but even that proposal was unlikely to settle the matter since some members of Congress argued that illegal presence – such as a visa overstay – should not trigger any criminal penalties – even a misdemeanor (Heil, 2006).

13. See US Department of Justice (DOJ), 1996. In 2002, the Office of Legal Counsel withdrew the advice given in Part II.B. of the 1996 DOJ opinion discussing civil enforcement and deportable aliens.

14. Section 287(g) of the Immigration and Nationality Act.

15. Of the 170 laws that had been enacted in the states, 11 concerned local law enforcement. Some provided for the police to enforce immigration law (Migration Policy Center, 2007).

16. 8 U.S.C. Section 1304(e) (2000).

17. In a letter to the Migration Policy Institute regarding the new policy, Attorney General Gonzalez (Gonzales, 2002) wrote:

> Only high-risk aliens who fit a terrorist profile will be placed in NCIC.
>
> I am very much aware of the concerns that you and others have expressed, including the concern expressed by state and local authorities that the use of this authority would undermine relationships that they have worked to build in immigrant communities to assist in fighting crime.
>
> It is our hope and belief that this narrow authority of state and local police – to arrest and turn over to the Immigration and Naturalization Service possible terrorists who are violating immigration laws and who are in NCIC – will not undermine in any way the relationship between state and local police and immigrant communities, engender fear in immigrant communities or otherwise encroach on civil liberties.

18. Attorney General Janet Reno stated in 1995,

> My dream is to develop a link with [INS], state and local authorities at jails and police departments across the country so that we recognize, as the people are coming into the system, what their status is, and that we take appropriate steps [to process them]. (Interstate Criminal Alien Working Group, 1996, p. 1)

19. *United States v. Mendenhall*, 446 U.S. 544, 554 (1980).

20. For a while, the federal Border Patrol was conducting raids with the local police in Simi Valley (CA) looking for gang members. The pretext for lawfully entering the homes was that the raids were "probation searches." The homes were selected by the police. After protests by Mexican American leading citizens, the Border Patrol announced that it was narrowing the basis for its future searches. It would join in raids only when they could find a "probable cause" that lets them search for criminal illegal immigrants under the 4th Amendment and they would select the houses. They said they had discovered a 17-year-old policy that forbids Border Patrol agents from entering people's residences solely to search for "status offenders" such as undocumented immigrants (Reed, 1997).

21. The sanctuary movement began in the 1980s as a challenge by several religious groups to the US policy in Central America. A "second" sanctuary movement developed in the early 2000s (Barron, 2007). (See also Skogan in this volume.) The sanctuary movement has been ridiculed in some places and challenged in others (Abraham, 2006).

22. Even for cases considered "serious" by some people, certain "sanctuary" cities have gone a long way in order to protect illegal immigrants from deportation by federal immigration law enforcement officials. San Francisco was using city funds to pay for illegal juvenile immigrants known to be crack cocaine dealers to fly home to Honduras with permission to return to San Francisco without fear of arrest. The practice only stopped when a federal investigation of it began (Van Derbeken, 2008).

23. Police officials are loath to apologize for doing their job. In reporting upon the benefits of his agency's partnership with the ICE via the Section 287(g) program, Sheriff Hunter invoked a Latin axiom in defense of his agency's participation in the enforcement of immigration law: "Dura Lex Sed Lex (The law is harsh, but it is the law)" (Hunter, 2008).

24. Compare, for example, (Hegstrom, 2002) and (Jordan, 2006).

25. The INS can issue up to 5,000 "T-visas" – a year. In FY2002, it only granted 18 (Agencia EFE, 2003).

REFERENCES

Abraham, Y. (2006, July 5). City's sanctuary status mocked. *The Boston Globe*. Retrieved 06/06/2006, from http://www.boston.com/news/local/articles/2006/07/05/citys_sanctuary_status_mocked/

Abramovsky, A., & Edelstein, J. I. (2000). Pretext stops and racial profiling after Whren vs United States: New York and New Jersey responses compared. *Albany Law Review*, *63*, 725.

Agencia EFE. (2003, January 21). *Few visas issued for help in immigrant-smuggling cases*. Agencia EFE.

Alt, J. (2003). *Leben in der Schattenwelt. Problemkomplex illegale Migration*. Karlsruhe, Germany: von Loeper.

Aradillas, E. (2002, April 5). Sheriff, top cop blast INS proposal. *San Antonio Express-News*.

Athwal, H. (2008). *Man dies following raid by police and immigration*. London: Institute of Race Relations.

Barron, J. (2007, May 9). Congregations to give haven to immigrants. *The New York Times*. Retrieved 12/05/2007, from http://www.nytimes.com/2007/05/09/nyregion/09sanctuary.html

Behr, R. (2006). *Polizeikultur: Routinen-Rituale-Reflexionen. Bausteine zu einer Theorie der Praxis der Polizei*. Wiesbaden, Germany: VS Verlag für Sozialwissenschaften.

Broeders, D. (2007). The new digital borders in Europe: EU databases and the surveillance of irregular migrants. *International Sociology*, *22*(1), 71–92.

Bundesrechnungshof. (2008). Bericht nach Section 99 BHO über die Organisation und Arbeitsweise der Finanzkontrolle Schwarzarbeit (FKS). Bonn, Germany: Bundesrechnungshof.

Büttner, C. (2004). Fehlverhalten und der 'code of conduct' in der polizeilichen Begegnung mit 'ausländischen Mitbürgern'. In: K. Liebl (Ed.), *Fehler und Lernkultur in der Polizei. Empirische Polizeiforschung V* (pp. 97–110). Frankfurt a.M.: Verlag für Polizeiwissenschaft.

Caplan, J., & Torpey, J. (2001). Introduction. In: J. Caplan & J. Torpey (Eds), *Documenting individual identity: The development of state practices in the modern world* (pp. 1–12). Princeton, NJ: Princeton University Press.

Castaneda, R. (2005, August 12). Subcontractor ordered to pay laborers' wages. *The Washington Post,* p. B02.

Chapman, R. S., & Kane, R. F. (1975). Illegal alien and enforcement: Present practices and proposed legislation. *University of California, Davis, Law Review*, *8*, 127–161.

Cole, D. (1999). *No equal justice: Race and class in the American criminal justice system*. New York: The New Press.

Constable, P. (1995, November 25). Laborers get clout from force of law: Program helps gain pay from employers. *The Washington Post*, pp. F1–F5.

D'Amato, A. M. (1983). Aliens in prison – The federal response to a new criminal justice emergency. *Detroit College of Law Review*, *4*, 1163–1169.

Dickerson, D. (2000, July 16). Racial profiling: Are we all really equal in the eyes of the law? *The Los Angeles Times,* p. M1.

Düvell, F. (2006). *Illegal immigration in Europe beyond control?* Houndsmill, NY: Palgrave Macmillan.

Düvell, F. (2008). Report from the United Kingdom. In: J. Doomernik & M. Jandl (Eds), *Modes of migration regulation and control in Europe* (pp. 187–202). Amsterdam, The Netherlands: Amsterdam University Press.

Düvell, F., & Jordan, B. (2002). *Irregular migration – The dilemmas of transnational mobility*. Cheltenham, UK: Edward Elgar.

Engel, R. S. (2002). Police: Police officer behavior. In: J. Dressler (Ed.), *Encyclopedia of crime and justice* (pp. 1092–1103). New York: Macmillan.

European Commission. (2006a). Communication from the Commission to the Council and the European Parliament – The global approach to migration one year on: Towards a comprehensive European migration policy. COM/2006/0735 final. Available at http://eur-lex.europa.eu/

European Commission. (2006b). Communication from the Commission on Policy priorities in the fight against illegal immigration of third-country nationals. COM/2006/0402 final. Available at http://eur-lex.europa.eu/

European Migration Network. (2007). *Illegally resident third country nationals in EU member states: State approaches towards them, their profile and social situation*. Retrieved 07/24/2008, from European Migration Network: http://ec.europa.eu/justice_home/doc_centre/immigration/studies/docs/emn_synthesis_report_illegal_immigration_final_january_2007.pdf

Feltes, T. (2005). Germany. In: Sullivan (Ed.), *Encyclopedia of law enforcement* (pp. 1073–1077). Thousand Oaks, CA: Sage.

Gladstein, H., Lai, A., Wagner, J., & Wishnie, M. J. (2005, December). *Blurring the lines: A profile of state and local police enforcement of immigration law using the National Crime Information Center database, 2002–2004*. Retrieved 13/08/2008, from Migration Policy Institute: http://www.migrationpolicy.org/news/2005_12_08.php

Gleeson, E., & Grace, K. (2008). *Police complaints: Statistics for England and Wales 2007/08*. Independent Police Complaints Commission Research and Statistics Series: Paper 12.

Gonzales, R. A. (2002, June 24). *State and local police enforcement of immigration laws* (Letter from the counsel to the US President to Demetioius G. Papademetriou, Migration Policy Institute's letter to the President regarding the authority of state and local police to enforce immigration law). Retrieved 11/08/2004, from Migration Policy Institute: http://www.migrationpolicy.org/files/whitehouse.pdf

Hailbronner, K., Martin, D., & Motomura, H. (Eds). (1998). *Immigration controls: The search for workable policies in Germany and the United States*. Oxford: Berghahn Books.

HardBeatNews. (2004, December 2). *Police chiefs denounce CLEAR immigration plan*. Retrieved 03/12/2004, from HardBeatNews.com: http://www.hardbeatnews.com/details2675.htm

Havis, S., & Best, D. (2004). *'Stop and search complaints 2000–2001'*. London: Police Complaints Authority.

Hegstrom, E. (2002, May 15). HPD shuns taking role in tracking immigrants. *Houston Chronicle, 3 STAR ed*., Sec. A, p. 1.

Heil, E. (2006, April 10). Controversial language likely to be cut from immigration bill. *The Congress Daily*. Retrieved 07/08/2008, from http://www.govexec.com/story_page.cfm?articleid = 33815&dcn = e_gvet

Home Office. (2005). *Statistics on race and the criminal justice system – 2004. A Home Office publication under Section 95 of the Criminal Justice Act of 1991*. Accessed 6/5/2006, from www.homeoffice.gov.uk/rds/pdfs05/s95race04.pdf

Home Office. (2006). *The strategic action plan for the national identity scheme: Safeguarding your identity*. London: Home Office.

Home Office. (2008a). *Large scale expansion of Britain's detention estate*. Press release, 18 May 2008.

Home Office. (2008b). *Compulsory identity cards for foreign nationals. UK Borders Act 2007: Consultation on the 'code of practice about the sanctions for non-compliance with the biometric registration regulations*. London: Home Office.

Hunter, D. (Sheriff, Collier County, FL). (2008, August 21–22). Enforcing federal immigration law at the local level: Why and why not? In: *The Role of Local Police: Striking the Balance between Immigration Enforcement and Civil Liberties* [Panel 1]. Washington, D.C.: The Police Foundation.

International Association of Chiefs of Police. (2004, December 1). *Enforcing immigration law: The role of state, tribal and local law enforcement* (Policy Statement). Retrieved 11/03/2005, from http://www.theiacp.org/documents/pdfs/Publications/Immigration Enforcementconf.pdf

Interstate Criminal Alien Working Group. (1996). *Addressing the criminal alien problem*. Report to US Department of Justice. Bureau of Justice Assistance No. Aug. Institute for Intergovernmental Research, Tallahassee, FL.

Jones, T., & Newburn, T. (2006). Understanding plural policing. In: T. Jones & T. Newburn (Eds), *Plural policing: A comparative perspective* (pp. 3–11). London: Routledge.

Jordan, M. (2006, February 20). The new immigration cops; Cities and states take on difficult duty of handling undocumented workers. *The Wall Street Journal (New York)*, Eastern ed., Sec. B, p. 10.

Kobach, K. W. (2004, June). *State and local authority to enforce immigration law: A unified approach for stopping terrorists*. Washington, D.C.: Center for Immigration Studies.

Krieger, W., Ludwig, M., Schupp, P., & Will, A. (2006). *Lebenslage ''illegal''. Menschen ohne Aufenthaltsstatus in Frankfurt am Main*. Karlsruhe, Germany: von Loeper.

Lange, H.-J., & Schenck, J.-C. (2004). *Polizei im kooperativen Staat. Verwaltungsreform und neue Steuerung in der Sicherheitsverwaltung*. Wiesbaden: VS Verlag für Sozialwissenschaften.

Londoño, E. (2007, June 13). Database is tool in deporting fugitives: Police officers find illegal immigrants in warrant searches. *The Washington Post*, p. A01.

Malone, J. (2002, April 5). INS-police alliance stirs concern. *The Atlanta Journal-Constitution*. Retrieved 09/04/2002, from http://www.accessatlanta.com/ajc/epaper/editions/friday/news_c3daa565d17d629200c4.html

Markon, J. (2007, September 23). Human trafficking evokes outrage, little evidence: US estimates thousands of victims, but efforts to find them fall short. *The Washington Post*, Virginia ed., Sec. A, pp. 1, 8–9.

McDonald, W. F. (2006). Police and immigrants: Community & security in post-9/11 America. In: M. King (Ed.), *Justice and safety in America's immigrant communities: A conference report* (pp. 65–84). Princeton, NJ: Policy Research Institute for the Region at Princeton University.

Migration Policy Center. (2007, August). *Immigration law enforcement by state and local police* (National Immigration Forum: Backgrounder). Retrieved 07/08/2008, from Immigration Policy Center: http://www.immigrationpolicy.org/images/File/onpoint/EnforcementbyStateandLocalPolice-08-07.pdf

Office of National Statistics (ONS). (2006). *Report of the Inter-departmental Task Force on Migration Statistics.* London: ONS.

Organization for Economic Co-operation and Development. (2006). *International migration outlook.* Retrieved 24/07/2008, from http://www.oecd.org/document/6/0,3343,en_2649_33931_36770438_1_1_1_1,00.html

Pater, S. (2005). *Menschen ohne Papiere.* Bonn, Germany: RETAP.

Reed, M. (1997, April 3). INS arrests in Simi gang sweeps assailed. *Los Angeles Times.*

Reiner, R. (2000). *The politics of police.* Oxford: Oxford University Press.

Reyna Yanez, L., & Soto, A. (1994). Local police involvement in the enforcement of immigration law. *Texas Hispanic Journal of Law & Policy*, *1*(9), 11–50. Retrieved from http://0-web.lexis-nexis.com.library.lausys.georgetown.edu/universe/document?_m=9fb78a97037f5db64d17d71588689f0d&_docnum=1&wchp=dGLbVzz-zSkVb&_md5=8dc1dfc4b5bd70b28ebd8b25754621ca

Statistisches Bundesamt. (2007). Finanzen und Steuern, Personal des Öffentlichen Dienstes. Fachserie 14 Reihe 6, Wiesbaden. Available at https://www-ec.destatis.de/csp/shop/sfg/bpm.html.cms.cBroker.cls?CSPCHD=002000010003vp7jxzOYuv0945413162&cmspath=struktur,vollanzeige.csp&ID=1021349

The Job. (2007, October). *Nowhere to hide.* Metropolitan Police, London, pp. 8–10. Retrieved 12/12/2008, from http://www.met.police.uk/job/job987/the_job_17.pdf

UK Border Agency. (2008). *Our organisation.* London: Home office. Retrieved from http://www.bia.homeoffice.gov.uk/aboutus/organisation/

US Department of Justice. (1996). Assistance by state and local police in apprehending illegal aliens. Opinion of Office of Legal Counsel, II.B, February 5. Available at http://www.justice.gov/olc/immstopola.htm

US Immigration and Customs Enforcement. (2008, July 9). *Law Enforcement Support Center has record-breaking year* (Fact Sheets). Retrieved 18/08/2008, from http://www.ice.gov/pi/news/factsheets/lesc.htm

US Immigration and Customs Enforcement. US Department of Homeland Security. (2008, July 2). *Partners: A law enforcement partnership* (Web site). Retrieved 16/07/2008, from US Immigration and Customs Enforcement: http://www.ice.gov/partners/287g/Section287_g.htm

Valenzuela Jr., A., Gonzalez, A. L., Theodore, N., & Melendez, E. (2005, June 23). *In pursuit of the American dream: Day labor in the Greater Washington, D.C. region.* Retrieved 08/09/2005, from Center for the Study of Urban Poverty, University of California, Los Angeles: http://www.sscnet.ucla.edu/issr/csup/uploaded_files/DC_Day_Labor_Study.pdf

Van Derbeken, J. (2008, June 29). Feds probe S.F.'s migrant-offender shield. *San Francisco Chronicle.* Retrieved from http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/06/28/MNCU111QM7.DTL&tsp=1

Vogel, D. (2000, Summer). Migration control in Germany and the United States. *International Migration Review, 34*(2), 390–422.

Vogel, D. (2001). Identifying unauthorized foreign workers in the German labour market. In: Jane Caplan & John Torpey (Eds), *Documenting individual identity: The development of state practices in the modern world* (pp. 328–344). Princeton, NJ: Princeton University Press.

Vollmer, B. (2008, December). *Undocumented migration. Counting the uncountable. Data and trends across Europe.* Country Report UK. Retrieved from http://irregular-migration. hwwi.net/Country_reports.5974.0.html

Ziegler, K. S. (2006). The legal framework of trafficking and smuggling in Germany: Victim protection emerging from witness protection? In: E. Guild & P. Minderhoud (Eds), *Immigration and criminal law in the European Union. The legal measures and social consequences of criminal law in member states on trafficking and smuggling in human beings* (pp. 69–111). Boston, MA: Martinus Nijhoff Publishers.

This page intentionally left blank

STATE AND LOCAL LAW ENFORCEMENT RESPONSES TO HUMAN TRAFFICKING: EXPLAINING WHY SO FEW TRAFFICKING CASES ARE IDENTIFIED IN THE UNITED STATES ☆

Amy Farrell

ABSTRACT

Purpose – The present study provides information about the pervasiveness of human trafficking in local communities and the challenges law enforcement face identifying and responding to such problems.

This chapter describes how often law enforcement agencies find cases of human trafficking and it examines the contextual and organizational factors affecting their ability to identify and respond to such cases.

Methodology – *This analysis is based upon data from a national survey of local, state and county law enforcement agencies in the United States regarding human trafficking.*

Findings – *Law enforcement identification of trafficking cases is relatively rare, though agencies encounter victims more often than federal prosecution statistics suggest. Law enforcement is generally under-prepared to identify and respond to human trafficking, but when agencies train officers develop protocols and designate specialized personnel they are more likely to identify trafficking cases.*

Implications – *With the proper tools and support, local law enforcement can learn to more successfully identify and respond to human trafficking victimization.*

Originality – *This is the first national survey of American state and local police regarding their experiences in responding to the problems of human trafficking.*

RESPONDING TO THE PROBLEM OF HUMAN TRAFFICKING

In the past decade, international and domestic policy makers have become increasingly concerned about the existence and proliferation of human trafficking – a form of modern slavery where people are forced, defrauded, or coerced into labor against their will. Anti-trafficking advocates have pushed for legislation criminalizing human trafficking and providing resources for its identification and eradication. In response, local law enforcement has been called upon to identify victims and prosecute traffickers. Little is known about how well suited local agencies are to this task. This chapter uses data from the first national survey of local, county, and state law enforcement agencies about human trafficking to identify contextual and organizational factors affecting the discovery and response to trafficking in the United States by local law enforcement.

Since the 19th century significant efforts have been undertaken to rid the Western world of slavery. Traditional forms of slavery were established by law and could be abolished through legal change. Modern forms of slavery

that operate outside of the law have proven more difficult to suppress. Various efforts have been undertaken to abolish modern forms of slavery, most notably reforms in the early 1990s to control prostitution in Europe and the United States, popularly known as the "white slave trade" (Doezema, 1999). By the end of the 20th century new concerns emerged about human trafficking, a form of slavery involving exploitation of laborers.

Human trafficking is defined under U.S. law as the recruitment, harboring, transportation, provision, or obtaining of a person for:

> Labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; or commercial sex acts through the use of force, fraud, or coercion; or if the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved. (TVPA, 2000, Section 103, 8a–8b)

This definition distinguishes between human trafficking (coerced migration) and human smuggling (consensual migration) and can encompass a myriad of offenses from commercial sexual exploitation of a minor to the forced labor of domestic servants and agricultural workers.

Anti-trafficking groups, concerned that exploitation was being exacerbated by the increased movement of people across borders for work and rising demand for low-cost labor (Shelley, 2003), joined forces with women's rights groups fighting to end exploitation of women and children in the commercial sex industry, bolstering the campaign's cause, and public exposure (McDonald, 2004; Stolz, 2005; Weitzer, 2007). Together these groups achieved remarkable success, resulting in the criminalization of human trafficking and commitment of significant resources both nationally and internationally to help combat the problem.

Estimates of the human trafficking problem promulgated by anti-trafficking advocates and government officials were astonishing. A report released by the CIA in 1999 estimated that between 700,000 and two million people were trafficked across international borders each year and 45,000–75,000 of them were trafficked into the United States (O'Neil-Richard, 1999). The International Labour Office (2005) estimated that 2.45 million were trafficked internationally. The reported estimated profits from human trafficking were similarly staggering – $9.5 billion a year with profits believed to support other illicit activities (U.S. Department of State, 2005, p. 13).

By 2000 the United Nations in coordination with U.S. and European governments began to aggressively combat trafficking (United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000). The U.S. anti-trafficking movement and

subsequent federal legislation had three main objectives, preventing trafficking, prosecuting offender, and protecting victims. To accomplish these goals, the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) defined a specific crime of human trafficking and enhanced existing penalties for slavery, involuntary servitude, and peonage. The law created a new visa allowing trafficking victims to receive benefits and services in the United States[1] and provided funding for enforcement anti-trafficking laws and victim assistance programs. The law was reauthorized in 2003, 2005 and most recently in 2008 to increase law enforcement power and provide funding to combat trafficking involving U.S. citizens. Thirty-nine states also passed legislation criminalizing human trafficking and directing law enforcement agencies to enhance identification and interdictions efforts (Polaris Project, 2008; Farrell, 2007).

Local law enforcement agencies were believed to be well positioned to identify and respond to human trafficking cases because they know their communities and are involved in routine activities which bring them into contact with local criminal elements where human trafficking may be occurring (Clawson, Dutch, & Cummings, 2006, p. 42). To support this responsibility, the federal government funded 42 locally run law enforcement task forces to identify victims and prosecute offenders.

With new laws and a tidal wave of support from the federal government, anti-human trafficking advocates expected to see results. Eight years after the passage of the TVPA, however, the U.S. government has certified only 1,379 human trafficking victims and brought fewer than 450 federal trafficking cases forward to prosecution (U.S. Department of State, 2008). As more funding was devoted to anti-trafficking programs,[2] critics began questioning the legitimacy of these expenditures. In 2005, the U.S. Congress passed legislation requiring the Department of Justice to provide information on the extent and costs of human trafficking to help justify continued expenditures. The following year, the GAO reported "methodological weaknesses, gaps in data and numerical discrepancies" that cast doubt on the reliability of both the United States and international trafficking estimates (GAO, 2006, p. 2). In the wake of these concerns, a front page article in the *Washington Post* suggested the low number of documented cases of human trafficking victimization did not justify the current U.S. expenditures in anti-trafficking programming (Markon, 2007).

These criticisms illustrate a central challenge to the anti-trafficking movement – despite political will, new legal tools and the commitment of resources, relatively few trafficking arrests or prosecutions have been made by law enforcement. In light of concerns about under-enforcement raised by

human trafficking critics, a nationwide study was conducted to learn about how prepared local law enforcement agencies are to investigate human trafficking cases and how often they investigate them.

The enforcement of criminal law in the United States is predominately carried out by thousands of local, county, and state agencies representing diverse environments and local crime problems and coming from a variety of organizational structures. Information about their response to trafficking is scant. A few studies, limited to information from the largest municipal agencies, indicate that police are generally concerned with transnational crime, but they do not think human trafficking is a problem in their community and are ill prepared to identify such incidents (Wilson, Walsh, & Kleuber, 2006; Clawson et al., 2006, Shively, Hunt, Kuck, & Kellis, 2007). These studies were based on samples that were too small to draw conclusions about the experiences of all types of law enforcement agencies. They do little to illuminate the challenges agencies face identifying victims, investigating cases, and prosecuting trafficking offenders.

CURRENT FOCUS AND METHODOLOGY

Data from a national survey of approximately 3,200 U.S. municipal, county, and state law enforcement agencies is employed to describe the experiences and challenges agencies face identifying and investigating human trafficking (Farrell, McDevitt, & Fahy, 2008).[3] A mail survey sent police agency leaders gathered information about the agency leader's perception of human trafficking and the experiences of the agency with human trafficking investigations. Interviews and observations were also conducted with law enforcement officers participating on federally funded human trafficking task forces to clarify the complexities and challenges agencies face in identifying and investigating trafficking cases.

LAW ENFORCEMENT PERCEPTION, PREPARATION, AND IDENTIFICATION OF HUMAN TRAFFICKING

Few law enforcement leaders perceived human trafficking to be a widespread problem in their community. Agency leaders were asked, "How prevalent are the following types of trafficking in your community: (1) labor trafficking of victims from outside the United States, (2) labor trafficking of

victims from inside the United States, (3) sex trafficking of victims from
outside the United States, and (4) sex trafficking of victims from inside the
United States.'' Answers to the questions were scaled from non-existent (1)
to widespread (4).[4] Only 4 percent thought the problem was widespread
and 16 percent thought it occurred at least occasionally in their community
(Table 1). Leaders in agencies serving small populations were less likely than
their peers serving larger communities to perceive human trafficking to be a
widespread local problem (only 2.8 percent of the smallest communities
compared to 15.2 percent the largest communities). Despite differences in
perceptions of the problem across communities, it is noteworthy that some
agency leaders in even very small communities believe they have a human
trafficking problem.

   Considering the differences in perceptions about the prevalence of human
trafficking problems in local communities, it is not surprising that municipal
agencies serving the largest populations have generally taken more steps to
address the problem of human trafficking. Those agencies serving the largest
populations (cities over 250,000) were much more likely to have specialized
personnel or a written protocol to guide officer responses to trafficking than
any of their peers. Whether or not an agency had human trafficking training

Table 1. Perception (in %) of Problem, Preparation, and Investigation
of Human Trafficking.

Agency Type/ Population Size	Perceptions HT Widespread	Have Specialized Unit/ Personnel**	Have Training**	Have a Protocol**	Investigated a HT Case (2000–2006)**	Total *n*
Municipal						
4,999 and below	2.8	3.1	13.0	8.9	3.0	618
5,000–9,999	3.3	4.8	19.1	7.4	5.7	219
10,000–24,999	1.9	2.8	20.9	9.3	5.3	234
25,000–49,999	2.8	5.4	21.1	5.7	10.1	102
50,000–74,999	1.0	5.3	17.5	7.5	14.6	41
75,000–99,999	6.5	8.6	38.0	7.4	18.6	104
100,000–249,999	3.3	7.1	29.0	8.1	25.2	134
250,000 and above	15.2	50.8	65.6	32.8	52.4	65
County non-MSA	2.7	1.6	16.5	9.6	7.0	221
County MSA	9.2	10.1	16.5	12.5	8.9	128
State police	11.1	17.6	47.1	18.8	34.3	38
Total	4.0	6.4	21.0	9.8	9.8	1,904

**Responses differ by agency size at $p < 0.01$ level.

was more evenly distributed among agencies of different sizes. Thirteen percent of the smallest municipal agencies (serving populations under 5,000) indicated having some form of training on human trafficking issues and the proportion of agencies with training increases steadily as the size of the population served increases. Almost half of all State Police agencies responding to the national survey had some form of human trafficking training, and nearly one in five had specialized personnel and protocols.

Approximately 10 percent of all agencies reported investigating at least one case of trafficking between 2000 and 2006 – a surprisingly high proportion considering the relatively small number of known federal or state human trafficking prosecutions. On average, agencies who identified trafficking cases investigated three separate incidents during the study period. While agencies serving communities of all sizes reported investigating cases, there were stark differences in the likelihood that different types of agencies would encounter and investigate human trafficking. Agencies serving the largest cities (250,000 plus population) were nearly 15 times more likely to identify a case of human trafficking than those agencies in smaller cities (under 10,000 population). County law enforcement agencies were generally less likely to identify cases of human trafficking than municipal agencies and approximately one-third of State Police agencies indicated they investigated a case of human trafficking during the study period.

UNDERSTANDING VARIATION IN HUMAN TRAFFICKING IDENTIFICATION

The national survey confirms law enforcement agencies serving larger communities are more likely to perceive human trafficking as a problem, take steps to identify the crime, and investigate cases of human trafficking. There are a number of likely reasons for such differences, including the possibility that more human trafficking occurs in larger communities. What is less apparent from the national survey is why some law enforcement agencies serving large communities are more likely to identify and investigate cases of human trafficking than others. The following analyses examine how community and organizational factors affect the identification of human trafficking among medium to large agencies (serving populations over 75,000) – the agencies most likely to identify cases of human trafficking according to the national survey.[5]

Local Context

A number of factors about a community may increase the likelihood of law
enforcement encountering cases of human trafficking. Population size is
clearly a factor that distinguishes agencies that identify cases, but there are a
number of other important factors. Table 2 illustrates that agencies that
identified cases of trafficking were more likely to be in the Southwest, had a

Table 2. Distribution of Community and Agency Factors Between
Non-Identifying and Identifying Agencies (Medium to Large
Communities, *n* = 385).

	All Agencies		No HT Cases Investigated		Have Investigated HT Case	
	Mean	SD	Mean	SD	Mean	SD
Dependent variable						
Human trafficking case	27.0%	44.3%				
Independent variables						
Population size**	271,116	547,513	189,879	219,535	494,314	964,296
Northeast*	14.3%	35.0%	16.2%	36.8%	8.1%	27.3%
Midwest	19.2%	39.4%	20.9%	40.7%	16.2%	36.9%
Southeast	17.9%	38.4%	17.6%	38.2%	20.2%	40.3%
South	6.7%	25.1%	6.2%	24.3%	7.1%	25.7%
West	13.5%	34.2%	13.9%	34.7%	14.1%	35.0%
Southwest*	28.3%	45.1%	25.0%	43.3%	34.3%	47.7%
Border state	43.6%	49.6%	41.9%	49.4%	46.5%	50.1%
Foreign born**	13.5%	11.6%	12.2%	11.4%	16.7%	11.8%
Poverty	10.3%	5.6%	10.2%	5.6%	10.6%	5.0%
Crime rate per 100,000*	5,196	6,248	4,881	5,361	6,063	8,183
Municipal agency*	77.9%	41.5%	75.3%	41.3%	83.8%	36.9%
Officers per 100,000*	175	98	168	91	194	85
Enabling HT legislation*	43.4%	49.2%	38.6%	48.7%	51.5%	50.2%
Perception of HT problem**	1.40	0.94	1.18	0.81	1.99	0.96
Specialized unit or personnel**	16.3%	37.0%	6.3%	24.3%	43.8%	0.49
Training**	38.7%	48.8%	26.8%	44.4%	72.0%	0.45
Protocol**	13.4%	34.1%	5.7%	23.3%	33.7%	0.47

*Responses differ by agency size at $p < 0.05$ level.
**Responses differ by agency size at $p < 0.01$ level.

significantly higher proportion of foreign born residents and had higher rates of crime[6] than non-identifying agencies. Being on a northern or southern border state or the level of poverty in a community was unrelated to trafficking identification.

The existence of state legislation criminalizing human trafficking increased the likelihood that law enforcement agencies identified trafficking. Other factors relevant to organizations and their capacity are related to trafficking identification. Agencies that identified cases were more likely to be municipal agencies and had more sworn officers per 100,000 residents in the population than agencies that did not identify cases.

Organizational Commitment to Human Trafficking Identification

Leadership perception about the prevalence of trafficking in the local community may also signify a willingness to devote resources to identification and investigation of human trafficking cases. The national survey results support this notion. Agency leaders perceived the problem of human trafficking to be twice as severe in communities that identified cases trafficking compared to those that did not.

Even when police leaders believe a problem exists, officers often still have difficulty identifying new crimes (McDevitt et al., 2003). Training, assignment of specialized personnel, and protocols to help officers navigate ambiguous situations are often necessary to improve identification and response to new crimes. The findings from the national survey confirm the importance of organizational preparation. Agencies that identified cases of trafficking were twice as likely to have training programs, seven times more likely to have specialized personnel and six times more likely to have protocols than agencies that did not identify any human trafficking cases (see Table 2).

Since a number of different factors are significantly related to agency identification of human trafficking at the bivariate level, a logistic regression model was estimated to test the independent effects of community and organizational factors on identification of human trafficking cases. The dependent variable for the logistic regression models was whether or not a law enforcement agency indicated identifying and investigating a case of human trafficking between 2000 and 2006 (coded 0 for no cases and 1 for identification of human trafficking). Twenty-seven percent of all medium to large agencies indicated investigating at least one human trafficking case during this time period.

Table 3.   Logistic Regression for Having Investigated a Case of Human
Trafficking (Random Sample, $n = 1,661$).

	Contextual and Organizational Factors ($r^2 = 0.48$)	
	B/(SE)	Odds ratio
Population size	0.000 (0.000)	1.00
Northeast[a]	−0.961 (0.810)	0.382
Southeast	−0.467 (0.724)	0.518
Midwest	0.456 (0.790)	1.57
West	−0.068 (0.760)	0.93
Southwest	−0.364 (0.979)	0.69
Border state	0.112 (0.568)	1.12
Foreign born	−0.003 (0.019)	0.99
Poverty	−0.034 (0.037)	0.96
Crime rate	0.000 (0.000)	1.00
Municipal	−0.320 (0.520)	0.73
Officers	0.004 (0.003)	1.00
Legislation	0.662 (0.492)	1.94
Perception	0.950 (0.208)**	2.58
Special unit	1.375 (0.514)**	3.95
Training	0.956 (0.381)*	2.60
Protocol	1.010 (0.464)*	2.74
Constant	−3.651 (0.885)**	0.026

[a]Reference category is South.
*$p < 0.05$.
**$p < 0.01$.

When all of the community context and organizational factors are combined into a single regression model, it becomes clear that for medium to large agencies, leadership perception of the problem and the level of preparation undertaken by the organization are stronger predictors for identifying and investigating trafficking cases than population size, region or local context (Table 3). Those agencies serving the largest populations are still most likely to investigate a case of human trafficking, but the magnitude of the effect of population size is reduced to non-significant levels. The effects of location (region or being on a border state), community risk factors, and organizational capacity are also non-significant when controlling for whether or not an agency is prepared to investigate cases of human trafficking and perceives trafficking to be a problem in the local community. These findings suggest that regardless of the demographic or contextual characteristics of a community, awareness of the potential problem and preparation often determines whether or not agencies will successfully identify human trafficking.

UNDERSTANDING THE CHALLENGES OF LAW ENFORCEMENT RESPONSE TO HUMAN TRAFFICKING

Identification and investigation of human trafficking cases is not an easy task for law enforcement. To help understand the barriers to human trafficking identification and response, interviews were conducted with law enforcement agencies participating in federally funded human trafficking task forces. The challenges these officers face help explain why the numbers of human trafficking arrests and prosecutions remains low.

Not a Local Priority

Belief that suppression of human trafficking is a federal, rather than local, priority decreases the likelihood that local agencies will identify and respond. Local officials are generally most concerned with problems such as violence or property crimes. As one chief noted "local law enforcement agencies have too many other issues to contend with, so these cases are probably ignored or referred federally." Reluctance investigate trafficking is particularly acute in cases of labor trafficking, where police leaders and officers alike tend to believe that labor inspectors should regulate exploitive workplaces, not the police.

Even in federally funded task forces, where agencies have voluntarily undertaken anti-trafficking activities, officers assigned to task forces must become champions of human trafficking in their own agency. These officers commonly encounter difficulty securing vehicles, equipment, space to conduct investigations, and personnel for raids or other special operations. Believing supervisors would be more supportive if human trafficking was a problem with local implications rather than merely an external burden to satisfy a federal initiative, some officers have reported links between human trafficking and other local crime problems, such as street-level violence and gangs. For example, investigators from the Boston human trafficking task force developed a research report entitled *Girls: The New Drug* which described the connections between gang activity and forced prostitution in the city.

The fact that many trafficking victims are not U.S. citizens further decreases the likelihood that local agencies will prioritize human trafficking investigations. Many local agencies do not inquire about immigration status during police contacts out of concern that such question would lead

immigrant community members to fear contacting the police for assistance (Ridgley, 2008). As a result, officers may not ask for information about how the victim got to the United States or information about the location of their documentation, which can be important to identify trafficking situations. As one officer noted ''it is usually best to try to determine if someone is a victim before starting to ask a bunch of questions about their status.'' In other cases, local officials do not support devoting scarce police resources to the protection of victims of trafficking who may be in the county illegally and are perceived by some as complicit in their own victimization.

Routine Responses to Non-Routine Crimes

Even when officials agree that the local police should respond to human trafficking, ambiguities about the nature and elements of trafficking complicate law enforcement responses. Officers on the street tend to solve problems, particularly in legally ambiguous situations, based on routines (Bittner, 1967). Front line officers are familiar with and have established routines for investigating normal crimes like prostitution, assault, or kidnapping. When new priorities arise in agencies officers must learn to redefine old problems with new responses. Making this transition is nearly impossible for patrol officers with little or no training about human trafficking. Even officers assigned to human trafficking task forces struggle to recognize and respond appropriately. In some cases, these officers have previous experience working in a Vice Unit where routine responses to prostitution already exist and may be applied to potential trafficking victims. As one task force officer noted, ''When we encounter young women involved in prostitution we don't know if they are a victim of trafficking or not. They go to lock up with the rest of the women, we try to interview them, but most of the time they are back on the street the same night.'' In such cases potential victims are defined early in an investigation as an offender, decreasing the likelihood that victims will cooperate with law enforcement in the future and potentially undermining ongoing trafficking investigations.

Factual ambiguities about whether an individual was voluntarily in an exploitive situation or was a victim of force, fraud or coercion are common in human trafficking investigations. These ambiguities produce disagreements between law enforcement and victim service providers, which decrease the likelihood that trafficking cases will be brought to prosecution. Such disagreements have serious consequences for potential victims because

they undermine efforts to secure victim benefits to obtain assistance and stay in the country lawfully.

Lack of Victim Cooperation

Trafficking victims have been portrayed by the media and some activists as innocent victims seeking rescue by law enforcement (Sanghera, 2005). The realities of human trafficking investigations have proven more complicated. Human trafficking victims, and in some cases victim service providers serving these victims, are often reluctant to report victimization to authorities (Clawson, Small, Go, & Myles, 2003). Even in cases where victims have been severely abused, they may resist law enforcement interventions. This reluctance is due to a number of factors including fears of threats of retaliation or violence toward them or members of their family by traffickers if they contact the police (Aron, Zweig, & Newmark, 2006), trauma, fear of being jailed or deported and removed from any opportunity to earn wages (Tyldum & Brunovskis, 2005), and self-blame and embarrassment (Hughes, Raymond, & Gomez, 2001). It can take multiple victim interviews to identify potential trafficking indicators. In some cases this never occurs.

Further complicating the situation, some individuals, particularly those who at some point entered the country illegally, do not recognize that they are victims. As one officer noted:

> Victims often take a risk and expect that they will have better opportunities here than at home. Once here, they find themselves in circumstances of exploitation where they are no longer free. But sometimes the victims continue to see themselves as illegal migrants [offenders]. They don't know they are victims.

In these cases victims are unlikely to seek assistance from law enforcement and may even resist intervention efforts by service providers. Law enforcement can also become demoralized in cases where victims return to trafficking situations after being rescued. Following the rescue of a large number of women during a raid on a cantina in Texas, a small group of women returned to work for relatives of the traffickers. When law enforcement and victim service providers tried to convince the women to leave the cantina a second time the victims refused citing a need to earn money and belief the traffickers would harm their family if they did not pay off their debts.

Because prosecuting trafficking cases tends to be a lengthy and complex undertaking agencies are often reluctant to move forward to prosecution

without cooperation from victims. The national survey results confirm this challenge. Seventy percent of agencies that identified at least one human trafficking case indicated that lack of victim cooperation was the most common reason trafficking cases do not progress to arrest or prosecution.

CONCLUSIONS

Between 2000 and 2006 nearly 10 percent of all law enforcement agencies surveyed and 27 percent of large agencies serving medium to large populations identified and investigated at least one case of human trafficking. These statistics suggest that law enforcement identification of trafficking is relatively rare, though local agencies do encounter victims more often than federal prosecution statistics would suggest. The findings presented here do not answer questions about whether the estimated number of people trafficked into the United States is correct or not, but they do help explain why the local police, the front line of government surveillance, struggles to identify trafficking cases. Agencies must overcome a number of hurdles to identify and respond to such cases. They must develop intelligence about illicit criminal behavior for which we have historically paid little attention, navigate ambiguous legal terrain, overcome departmental and ideological obstacles related to immigration, and receive cooperation from traumatized victims, many of whom resist police interventions.

It will be some time before we can rely on law enforcement data to gauge the magnitude of the trafficking problem in the United States. Like other newly defined crimes such as hate crime, stalking, or domestic violence, it is not unusual to find few cases are prosecuted at outset of criminalization (McDevitt et al., 2003; Purcell, Pathé, & Mullen, 2004). As law enforcement leaders learn about the problem and appropriately equip their officers to identify and investigate this complex crime trafficking prosecutions will likely increase.

Ultimately, the development of appropriate law enforcement responses to trafficking is not dependent upon answering questions about the magnitude of the problem. Whether trafficking is widespread or rare, it is a serious crime, resulting in the loss of fundamental liberties for its victims. There are many rare crimes, that we take seriously and invest significant resources in their suppression. With the proper tools and support, local law enforcement can learn to more successfully identify and respond to human trafficking victimization.

NOTES

1. Non-citizen victims of human trafficking who participate in the investigation and prosecution of trafficking cases or who are under 18 years of age can apply for non-immigrant status through a new trafficking victim visa.

2. In 2007, the federal government spent approximately $23 for domestic programs to ''boost anti-trafficking law enforcement efforts, identify and protect victims of trafficking and raise awareness of trafficking as a means of preventing new incidents'' (U.S. Department of State, 2008, p. 51).

3. A random sample of 2,900 was drawn from the 16,004 total law enforcement agencies in the United States. This includes 12,647 municipal law enforcement agencies, 50 state highway patrol or state police agencies, and 3,307 county law enforcement agencies. The sample size provides a margin of error of roughly 2 percent at a 99 percent confidence level. The sample was supplemented with 289 agencies serving cities with populations over 75,000 not captured in the random sample to provide supplemental information about the experiences of larger law enforcement agencies believed most likely to encounter human trafficking. 1,904 agencies responded to the survey for an overall response rate of approximately 60 percent. The response for agencies serving medium to large communities was 76 percent. Tests were conducted to compare response and non-response characteristics, none of which suggested biased survey responses.

4. The questionnaire provided a definition of human trafficking from the Victims of Trafficking and Violence Protection Act of 2000 to help standardize responses across all surveys.

5. The national survey sampled all 534 agencies serving populations over 75,000. Of those agencies, 395 returned the human trafficking survey, providing a 75 percent response rate for this group.

6. Crime rate measured here as an index of crimes per 100,000 residents using data from the Federal Bureau of Investigation's Uniform Crime Report in 2000.

REFERENCES

Aron, L., Zweig, J., & Newmark, L. (2006). *Comprehensive services for survivors of human trafficking: Findings from clients in three communities*. Washington, DC: Urban Institute.

Bittner, E. (1967). The police on skid row: A study of peace keeping. *American Sociological Review*, *32*, 699–715.

Clawson, H., Dutch, N., & Cummings, M. (2006). *Law enforcement response to human trafficking and the implications for victims: Current practices and lessons learned*. Washington, DC: ICF International.

Clawson, H., Small, K., Go, E., & Myles, B. (2003). *Needs assessment for service providers and trafficking victims*. Washington, DC: ICF International.

Doezema, J. (1999). Loose women or lost women? The re-emergence of the myth of white slavery in contemporary discourses of trafficking in women. *Gender Issues*, *18*, 23–50.

Farrell, A. (2007). State human trafficking legislation. In: *Marshalling every resource: State and local responses to human trafficking*. Princeton, NJ: Woodrow Wilson School of Public and International Affairs.

Farrell, A., McDevitt, J., & Fahy, S. (2008). *Understanding and improving law enforcement responses to human trafficking*. Final Report submitted to National Institute of Justice, Washington, DC.

Government Accounting Office. (2006). *Human trafficking: Better data, strategy, and reporting needed to enhance U.S. anti-trafficking efforts abroad*. Washington, DC: Government Accounting Office.

Hughes, D., Raymond, J., & Gomez, C. (2001). *Sex trafficking of women in the United States: International and domestic trends*. Washington, DC: National Institute of Justice.

International Labour Office. (2005). *A global alliance against forced labour*. Geneva, Switzerland: International Labour Office.

Markon, J. (2007, September 23). Human trafficking evokes outrage, little evidence: U.S. estimates thousands of victims but efforts to find them fall short. *Washington Post*, p. A01.

McDevitt, J., Cronin, S., Balboni, J., Farrell, A., Nolan, J., & Weiss, J. (2003). *Bridging the information disconnect in bias crime reporting*. Washington, DC: Bureau of Justice Statistics, United State Department of Justice.

McDonald, W. (2004). Trafficking counts, symbols and agendas: A critique of the campaign against trafficking in human beings. *International Review of Victimology*, 11, 143–176.

O'Neil-Richard, A. (1999). *International trafficking of women to the United States: A contemporary manifestation of slavery and organized crime*. Washington, DC: Center for the Study of Intelligence.

Polaris Project. (2008). *U.S. policy alert on human trafficking: Summary of U.S. policy activity – June 2008*. Washington, DC: Polaris Project. Available at http://www.polarisproject.org/images/docs/alerts/policy%20alert%20final%20june%2008.pdf Retrieved on January 10, 2008.

Purcell, R., Pathé, M., & Mullen, P. (2004). Stalking: Defining and prosecuting a new category of offending. *International Journal of Law and Psychiatry*, 27, 157–169.

Ridgley, J. (2008). Immigration enforcement, police and the insurgent genealogies of citizenship in U.S. sanctuary cities. *Urban Geography*, 29, 53–77.

Sanghera, J. (2005). Unpacking the trafficking discourse. In: K. Kempadoo (Ed.), *Trafficking and prostitution reconsidered: New perspectives on migration, sex work and human rights*. London: Paradigm Publishers.

Shelley, L. (2003). Trafficking in women: The business model approach. *The Brown Journal of World Affairs*, 10(1), 119–131.

Shively, M., Hunt, D., Kuck, S., & Kellis, J. (2007). *Survey of practitioners to assess the local impact of transnational crime*. Task Order Final Report. National Criminal Justice Reference Services, Washington, DC.

Stolz, B. (2005). Educating policymakers and setting the criminal justice policymaking agenda: Interest group politics and the Victims of Trafficking Violence Act of 2000. *Criminal Justice*, 5, 407–430.

Tyldum, G., & Brunovskis, A. (2005). Describing the unobserved: Methodological challenges in empirical studies on human trafficking. *International Migration Review*, 43(1–2), 17–34.

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. (2000). http://www.unodc.org/unodc/en/trafficking_protocol.html

U.S. Department of State. (2005). *Trafficking in persons report*. Washington, DC: U.S. State Department.

U.S. Department of State. (2008). *Trafficking in persons report*. Washington, DC: U.S. Department of State.

Victims of Trafficking and Violence Protection Act of 2000, PL 106–386, Statutes at Large 114 (2000): 1464.

Weitzer, R. (2007). The social construction of sex trafficking: Ideology and institutionalization of a moral crusade. *Politics and Society*, *35*, 447–475.

Wilson, D., Walsh, W., & Kleuber, S. (2006). Trafficking in human beings: Training and services among U.S. law enforcement agencies. *Police Practices and Research*, *7*(2), 149–160.

This page intentionally left blank

ON THE FRONTIER OF LOCAL LAW ENFORCEMENT: LOCAL POLICE AND FEDERAL IMMIGRATION LAW

Scott H. Decker, Paul G. Lewis, Doris M. Provine and Monica W. Varsanyi

ABSTRACT

Purpose – *Some local governments are asking their police departments to enforce federal immigration law more aggressively. However, there is little research or policy guidance available to assist police in balancing local immigration enforcement with the norms of community-oriented policing.*

Methodology – *This paper presents results from a national survey of municipal police chiefs.*

Findings – *The survey responses indicate substantial differences in the way that police departments are approaching unauthorized immigration.*

Implications – *The highly varied nature of policing practice on this issue is a function of the lack of clear policy guidance and models for local enforcement of immigration law.*

INTRODUCTION/STATEMENT OF THE PROBLEM

Unauthorized immigration has become a primary domestic issue in the United States, and a major concern for law enforcement and the criminal justice system. Some estimates place the number of unauthorized immigrants at 12 million (Passel, 2006). Many immigrants are settling in new locations unaccustomed to immigration and bring their families, hoping to integrate more fully into American society (Zuñiga & Hernández-León, 2005; Massey, 2008; Singer, Hadwick, & Brettell, 2008). State and local jurisdictions have responded with a patchwork of ordinances, policies, and proclamations, many of which are designed to discourage settlement (Ramakrishnan & Wong, 2007; Hegen, 2008; Varsanyi, 2008). Some local governments are asking the police to work directly with federal authorities to apprehend unauthorized immigrants, or to check legal status in the course of routine law enforcement.

Throughout the history of the United States, local and state law enforcement has played varying roles in the enforcement of immigration law. During the first century of US history, which legal scholar Gerald Neuman (1996) calls the "lost century of American immigration law," state and local governments held primary responsibility for the formulation and enforcement of immigration law. However, starting in the latter decades of the nineteenth century and throughout the twentieth century, the federal government held plenary authority in this area, reserving to itself decisions about whether to initiate enforcement and what procedures to employ (Aleinikoff, 2002). Immigration was a civil matter under federal law, not a prosecutable crime under local jurisdiction. Local and state police participated in immigration enforcement during this time (see Vogel et al., this volume; Skogan, this volume; McDonald, 1997), but their participation was ad hoc and often marked by conflicting mandates.

In 1996, the authority of local and state law enforcement to engage in civil immigration enforcement became more clearly defined with the adoption of two federal statutes, the Anti-terrorism and Effective Death Penalty Act (AEDPA), which gives local police authority to arrest previously deported non-citizen felons, and the Illegal Reform and Immigrant Responsibility Act (IIRIRA), which authorizes training of local and state police to enforce federal immigration laws. Although local police and sheriff departments did not immediately avail themselves of this training opportunity, they began signing on for training in 2002 and have continued to do so in increasing numbers. As of August 2008, 55 agreements had been signed between local and federal officials, providing local authority either to identify suspects

already in custody or to participate in enforcing immigration laws, with another 80 localities on a waitlist (Sullivan, 2008). Even without this special training, local police departments are developing new links with federal immigration authorities, often at the encouragement of city and state officials.

The emerging picture is one of blurred responsibilities for immigration control, with a constantly evolving recalibration of relationships between local and federal authority (Spiro, 1997; Huntington, 2007). There is little firm policy guidance for police departments coming from local or federal authorities, including the courts. It is unclear how police departments are responding to this situation, a serious gap in knowledge that is relevant to scholars and policymakers alike. To begin to address this issue, we present key results from a national survey of municipal police chiefs. The survey responses indicate substantial differences in the way police departments are approaching unauthorized immigration. We argue that the highly varied nature of policing practice on this issue is a function of the lack of clear policy guidance and models for local enforcement of immigration law.

LITERATURE REVIEW

The devolution of immigration policing authority from the federal to local governments is occurring within a broader context of diffusion of governmental responsibility to more local levels and away from traditional centers of power (see, e.g., Berman, 2003). This movement lacks clear parameters, which poses a dilemma for police departments. Decisions in the realm of immigration are high stakes, not just for immigrants, but also for the communities in which they live, and the police charged with the provision of public safety. The existing practices contain contradictions, with unfortunate results in some instances. Romero and Serag (2005) describe how local police were engaged in racial, cultural, and class profiling in the notorious 1997 "Chandler Roundups" in Arizona, which resulted in the arrest of 432 suspected unauthorized immigrants, many of whom were, in fact, legal residents.

Community policing is another area where law enforcement faces new challenges. The scholarly literature has surprisingly little to say about the relationship between community policing and immigration enforcement (see, e.g., Herbert, 2006; Katz & Webb, 2006; Skogan, 2006; Skogan, this volume), yet the potential for conflict is obvious. Community policing seeks to mobilize the community and the police in public safety partnerships

aimed at reducing fear, crime, disorder, and distrust of one another. These partnerships link resources across many public and private agencies, focusing on "quality of life" issues (Crank, 1994; Greene, 2001).

This partnership approach may not be compatible with aggressive efforts to root out unauthorized immigrants. As the Immigration Committee of the Major Cities Chiefs (2006, p. 3) observed, "Local enforcement of federal immigration laws raises many daunting and complex legal, logistical, and resource issues for local agencies and the diverse communities they serve." While stopping short of endorsing one approach for local law enforcement in the debate over how best to respond to unauthorized immigration, the recommendations highlight the many challenges to local law enforcement in carrying out its primary function, including loss of trust among immigrant groups, lack of resources, complexity of federal laws, lack of local legal authority for intervention, and risks of civil liability. A more recent report on immigration enforcement by the International Association of Chiefs of Police (2007) identifies eight specific areas of conflict between communities, their elected officials, and federal and local law enforcement.

Many of these challenges emerge from the precarious position in which local law enforcement finds itself regarding immigration enforcement. Communities are often divided, or hold views divergent from those of the police regarding the appropriate activities to take with regard to persons without legal status. In this politically volatile situation, departments are inevitably tempted to refrain from entering the fray, and may thus fail to develop their own clear-cut policies. But without internal procedures and policies, and without training, officers must make their own ad hoc decisions in the field. The inevitable result is a lack of overall coherence in the local police response to immigration, and a lack of transparency and democratic accountability in police operations.

These challenges occur within a law-enforcement context that is already rife with uncertainty, a normal condition in police work because of its highly discretionary character (Bittner, 1979). The complexity of the job also increases levels of uncertainty. Kelling (1999) identifies two sources of complexity in police work: the complexity of the situations encountered by police, and the complexity of responses available. His analysis focuses not on the relatively rare instances of major crimes, but on the more common realm of less-serious offenses, such as panhandling or loitering. Bayley's study (1986) is similar. He describes 33 separate categories of intervention for domestic violence and 14 possible responses to motor vehicle stops.

Manning (2003) describes the police role as an "impossible mandate" that arises from unclear or conflicting expectations from the communities that

police serve and from misunderstandings that arise in the course of law enforcement. Information flows between police departments and communities tend to be constricted, and police officers tend to be socially isolated from the larger community they serve, in part because of the nature of their work (Wilson, 1968; Skolnick, 1994). Police engagement in immigration-control efforts creates a higher-than-usual sense of uncertainty because it is controversial, and because it is on the frontier of traditional policing responsibilities.

The volatility of the immigration issue in American society is especially relevant in this context. Jenness and Grattet (2005) describe the impact of environment as "perviousness" to suggest the important role that the external environment plays in producing a pattern of police behavior. Wilson (1968) comes to a similar conclusion in his classic work. He identifies three distinct styles of policing – watchman, legalistic, and service, each reflecting a distinct composition of political structure, population composition, and police leadership style. It is reasonable to expect the environment to condition the response by local police to immigration enforcement.

The challenges that immigration enforcement – particularly civil immigration enforcement – creates for police departments involve more than conflicts between professional standards and political pressure, serious as those are. Expanding authority to engage in immigration enforcement also raises its own issues for policing. It is part of an expanding universe of crimes such as bias or hate crime, terrorism, human trafficking, gangs, and electronic crime that arise out of changed sensibilities, new technology, or revised legal definitions. New crimes generally provoke police to search for appropriate existing models or policies in developing a response. Jenness and Grattet (2005) found, for example, that hate crime legislation in California led to widespread borrowing of an available policy for use in the enforcement of hate crime. Katz and Webb (2006) suggest other problems that arise in these situations with their documentation of the struggles that local police have had in developing dedicated units to respond to gang crimes. These specialized units tend to be isolated from the mainstream department and not fully in step with its community policing principles. Non-enforcement or over-enforcement can also occur because the new crime type is not well defined. Farrell (2009) notes that, despite increasing pressure and publicity, there have been fewer than 200 prosecutions of human trafficking cases since 2000 in the United States. She observes that the police lack a framework for categorizing and responding to such crimes, in many cases seeing victims initially as offenders.

In sum, new crimes and emerging areas of police responsibility such as immigration enforcement are on the frontier of traditional policing responsibilities. These offenses lack many of the usual trappings of criminal-justice practice, such as clear policy guidance, training opportunities, well-established statutory authority, and integration into the mission of the agency. These crimes also lack a firm basis in cultural or normative understanding, both among officers and in the public at large. This is highly problematic for law enforcement because, as research has shown, the effectiveness and perceived fairness of criminal justice processes depend on a shared set of norms and understandings about the characteristics of cases (Skolnick, 1969; Skogan & Hartnett, 1997).

Immigration enforcement, edging as it does into organizational niches held by federal law enforcement, creates unique pressures on law-enforcement agencies as organizations. These agencies, Jenness and Grattet (2005, p. 339) note, create "the 'law-in-between' – organizational structures and policies that provide intermediary linkage between state statutes and officer discretion." This responsibility to translate legislative intent into action has important implications for our understanding of the role of local police in immigration enforcement. The situation is quite different from what have been dubbed by Sudnow (1965) and others as "normal crimes" that everyone involved in the enforcement process understands in normative and substantive terms. These crimes can be processed by prosecutors, judges, and defense attorneys in a consensual, rather than adversarial, manner because there is no controversy over their meaning, scope, and significance. For police, normal crimes offer what Skolnick (1994) called "a perceptual shorthand" – ways of responding that are unlikely to cause controversy within police ranks or in the community at large.

We argue that immigration enforcement lacks such an understanding among law enforcement about what its salient features are, what should trigger a response from the police, and how such cases are to be handled. In response, a number of large city governments (e.g., New York, Los Angeles, San Francisco) follow a strategy of limited cooperation with federal immigration authorities, citing inter alia expense and challenges to public safety as reasons for which they do not want to take on what has historically been defined as a federal responsibility. Other localities have responded in the opposite direction, proactively and aggressively enforcing immigration-status violations – even extending, in Maricopa County, Arizona, to unannounced county sheriff-led immigration raids in incorporated municipalities.

DESCRIPTION OF DATA

This chapter presents results of a recent nationwide survey of police executives about immigration enforcement at the local level. The survey was directed to the chief of police (or equivalent position) in large and medium-sized cities across the United States. Our discussion of the results focuses on three areas of concern raised by immigration policing at the local level. The first is the extent of convergence or divergence between police departments and the local political leadership in the community in which they serve. To what extent are beliefs about immigration policing within departments at odds with those of the community they serve? Are local governmental officials satisfied with the approach their police department is taking to immigration enforcement? Second, we examine the extent to which communities have created specific policies for police, or departments have constructed their own policy and practice standards. Is there any guidance for officers as they interact with and engage undocumented immigrants in their community? Are there training opportunities or requirements? Is there a memorandum of understanding (MoU) in place with federal immigration authorities? More broadly, what are the parameters in which local police operate in this new area of law enforcement? Third, we attempt to determine from the survey responses how police officers in the field are responding to the policy guidance they are receiving.

The survey hit the field in November 2007. We asked 452 law-enforcement executives to participate. Chiefs could respond to the self-administered survey either by mail or on a secure Web site. We began with a list of all US cities and towns that were included in the Census Bureau's American Community Survey (ACS) in 2005; the Census Bureau aimed to include in the ACS all localities of 65,000 or higher population, although a few communities had slightly lower populations. We dropped from this list several communities that do not have their own police departments (generally either townships or municipalities that contract with other local governments for police services). This yielded our 452-department list, and ultimately the 237 responses reported here (a response rate of 52.4%).

The communities surveyed are diverse in many respects, but most have substantial numbers of foreign-born residents. The average among communities surveyed was 16% foreign-born residents as of 2005, according to ACS data. The share of immigrants in particular communities surveyed ranged widely, from 1% to 60% of the population.

FINDINGS

Congruence of Perspectives between Local Community and the Police

Our survey results suggest that there are significant differences between departments and communities in how they look at immigration control. We asked chiefs to compare views within their departments to those prevailing in the communities they serve. We found statistically significant differences in five of the six areas examined, as Table 1 indicates. Differences between police and local community views are particularly large in regard to whether unauthorized immigration is seen as controversial, and whether it is believed that determining legal status is easy. On the question of whether immigration enforcement is a drain on law-enforcement resources there was not a significant difference between the chiefs' perceptions of departmental and community views.

Despite these differences, a majority of police chiefs (59%) report that most elected officials in their community are satisfied with the department's current level of immigration enforcement. Significantly fewer perceive that local officials would prefer their department to become either more engaged (9%) or less engaged (4%) in immigration enforcement.[1]

Table 1. Differences between Perspective of Department and Perspective of Locality, According to Chiefs.

Perspective	Mean Score (On Scale of 1–5)		
	In my department	In this locality	*t*-test probability
Unauthorized immigration is a controversial topic …	2.92	3.60	0.000
Victimization of immigrants is considered a significant problem …	2.82	2.69	0.031
People believe that it is relatively easy to determine who is in this country without authorization …	2.55	3.29	0.000
Gaining the trust of unauthorized immigrants is a priority …	3.54	2.92	0.000
Immigration enforcement is considered the responsibility of the federal government …	4.07	3.68	0.000
Issues surrounding unauthorized immigration are considered a drain on law-enforcement resources …	3.46	3.37	0.209

Notes: Responses were scored from 1 ("strongly disagree") to 5 ("strongly agree"). Probability levels refer to a two-sided *t*-test of the difference in means between "in my department" and "in my locality" ($N = 237$).

Policy Guidance from Outside or Inside the Department

While some local governments have received substantial media attention for adopting immigrant-related laws, our evidence suggests that, at least in the realm of immigration policing, most have not been very active. Forty-six percent of the chiefs responding reported that their local government has no official policy in place relating to policing of unauthorized immigrants, while an additional 5% were unsure about this. Fifteen percent reported that their locality has an *unwritten, informal* policy of ''don't ask, don't tell'' regarding unauthorized residents in the community. Another 18% note that the local government has developed, or is developing, some type of policy designed to encourage local police to participate in controlling certain kinds of crime associated with unauthorized immigration (e.g., human trafficking). Only a small minority of communities have taken a firm, comprehensive stand, with 4% declaring themselves ''sanctuary'' communities that will take no action against unauthorized immigrants unless they engage in criminal activities, and 12% taking a contrary position urging police to take a proactive role in deterring unauthorized immigration in all activities.

The situation within police departments is similar. Only 39% of chiefs report that they have a written departmental policy to guide officers in dealing with persons they encounter who they believe to be undocumented. An additional 9% state they have a policy, but that it is not in written form. A majority (51%) report that their department does not have either a written or unwritten policy, with a few (1%) unsure about this. Nor are departments heavily invested in training for their officers to handle incidents involving unauthorized immigrants. A majority (51%) report that they do not offer any training, while 45% state that they do (and 3% are not sure).

Relationships with federal authorities show a similar pattern: to the extent that there is a relationship, it tends to be informal and ad hoc. The vast majority of respondents (74%) state that they have no formal agreement with federal Immigration and Customs Enforcement (ICE); they contact ICE only when they are holding suspected unauthorized immigrants for criminal violations. Formal memoranda of understanding with ICE are rare. Only 4% report a formal agreement to provide training and cooperation in investigations, and 3% have a formal agreement to manage incarcerated immigrants. ICE agents are embedded in 8% of departments responding to the survey. Thus in the area of immigration enforcement, local police are largely without guidance either inside or outside of their own department. In this new area of responsibility for local law enforcement,

there is little guidance of any kind to help structure discretion and decision making by individual officers.

The Impact of Policy Direction on the Policing of Unauthorized Immigration

We asked chiefs to describe what typically happens when officers encounter persons they think might lack the legal status to remain in the country. Seven commonly encountered law-enforcement scenarios were presented, ranging from traffic stops to arrests for a violent crime. Fig. 1 suggests a pattern of response consistent with a normative evaluation that balances the seriousness of the crime against the likely consequences of reporting the incident to federal authorities. Of course, it is also possible that responses reflect a pragmatic evaluation of how federal immigration agents would respond to reports of various kinds of crime. In either event, there is clearly a weighing of the seriousness of the offense in these responses, with more serious offenses and actions (arrest for violent crime, parole violation or failure to appear in court, or arrest for domestic violence) resulting in formal action to check immigration status or report to ICE.
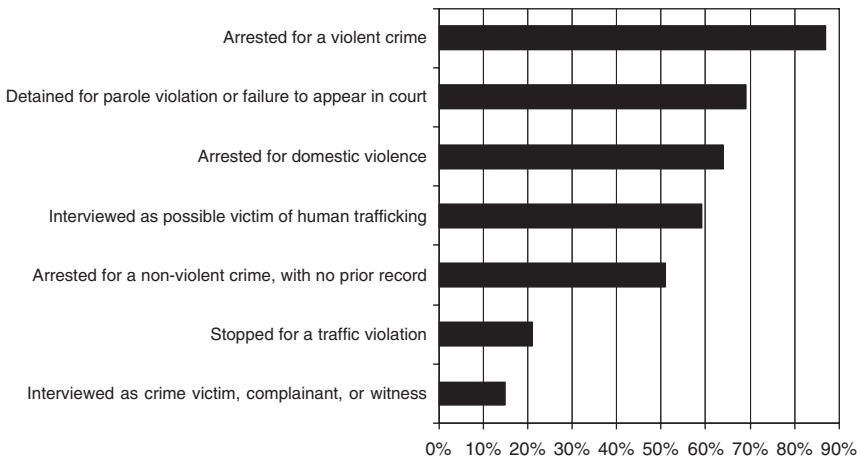
Fig. 1. Percentage of Police Departments That Typically Check Immigration Status, Contact ICE, or Both, When Encountering Possible Unauthorized Immigrants in These Situations.

Do the city and departmental policies, discussed earlier, influence the practices of officers ''on the ground'' in dealing with suspected undocumented immigrants? To investigate this question, we constructed a four-part typology of cities that is based on the type of policy direction offered to officers. Type 1 municipalities have an official city policy that is ''supportive'' of immigrants – that is, the city is either a self-identified sanctuary city or employs a ''don't ask, don't tell'' policy. Nineteen percent of cities fall into this category. Type 2 cities also have an official city policy, but it is enforcement-oriented – that is, it encourages local police to collaborate with federal authorities on immigration, or expects the department to be proactive in deterring unauthorized immigration in all its activities. This city type included 29% of communities in our sample. Type 3 cities are those that lack an official city government policy, but where the police department has its own written or unwritten policy regarding encounters with suspected unauthorized immigrants. This group includes 18% of all cities in our sample. (It is worth noting that Type 3 conflates two different types of approaches – that is, police departments may have developed policies that are supportive or are enforcement-oriented.) Finally, Type 4 cities have no official city government policy, nor do they have a police department policy. This group comprises 32% of the sample. The remaining 2% of cities in our sample could not be classified due to one or more missing responses.

In Fig. 2, we show how this typology relates to the number of situations in which (according to the chief) officers would typically inquire about immigration status or contact ICE, based on the tally of situations from Fig. 1. In Fig. 2, the vertical line for each type of city extends from the top quartile to the bottom quartile, giving a sense of the range of responses, and the square on each vertical line represents the mean for that type of city.

Not surprisingly, the variance across cities in enforcement practices is highest where the officers have less policy guidance. The standard deviation of the number of situations in which officers check status and/or contact ICE is 1.6 for Type 1 cities, 1.8 for Type 2 cities, 1.9 for Type 3 cities, and 2.1 for Type 4 cities. Thus, where there is no policy guidance – either from local government or the departmental leadership – there is more variation in whether officers inquire about immigration status or report it to ICE. These results underscore the conclusion that officers *do* follow policies when they exist. This held true both for city policies that discourage asking about immigration status (Type 1 cities) and those that encourage officers to ask and report to federal authorities (Type 2 cities).
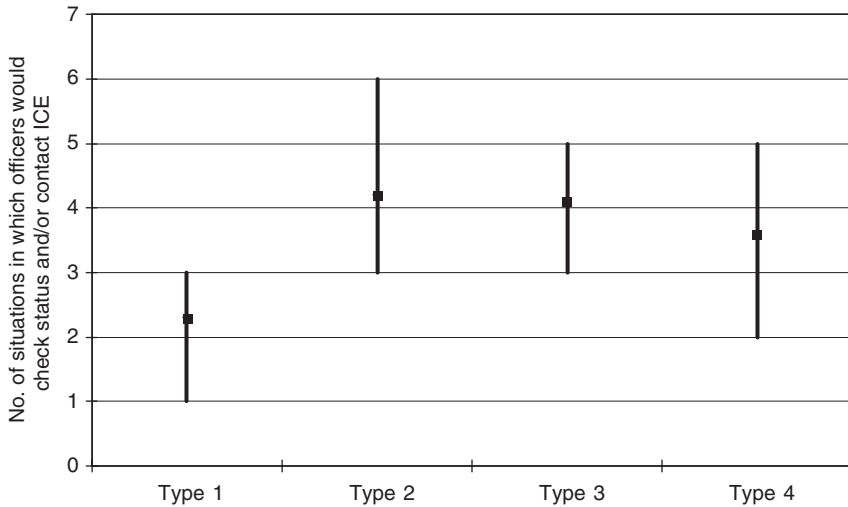
Fig. 2. Differences in Aggressiveness of Immigration Enforcement among Cities with Four Different Types of Policy Approaches.

What city characteristics might help us predict whether a city is a Type 1, 2, 3, or 4? This question requires a detailed analysis that is beyond the scope of this chapter, but we can sketch some possibilities here. Using probit models, we examined the four dichotomous outcomes of whether a city falls into each of these categories. Potential predictor variables that we considered included the city's population size, its percentage of foreign-born residents, the partisan leanings (i.e., percentage Republican or Democratic vote) in the 2004 presidential election, measured at the county level,[2] and an indicator variable for whether the city is located in a Mexican-border state (California, Arizona, New Mexico, or Texas). Mirroring Ramakrishnan and Wong's (2007) recent analysis, the results suggest that local political leanings are of significant importance in distinguishing those communities with municipal policies relating to immigration enforcement, with the "immigrant-supportive" Type 1 cities tending to be in Democratic counties whereas the "enforcement-oriented" Type 2 cities tending to be in Republican counties. None of our predictors helped to distinguish Type 3 cities (those with department-set policies) from the others, perhaps because that category may conflate two different tendencies. Type 4 cities – those with no policy guidance – tend to have smaller populations than the other cities, suggesting that they lack either the critical mass or policy capacity to devise an official response to unauthorized immigration.

CONCLUSION

These results suggest several important initial conclusions about immigration and local policing. Most significantly, as local police face a new responsibility in enforcing immigration laws, they find themselves without much guidance. City governments have not overtly committed themselves to immigration enforcement – nor to lack of enforcement – in large numbers, and there are relatively few police-department policies in place. Furthermore, only limited training for officers is occurring. Most departments have some relationship with ICE, but generally it is informal. The vast majority have no formal agreement, such as a 287(g) MoU.

These circumstances suggest that local police are often operating in something of a public policy vacuum regarding immigration law enforcement (see also Lewis & Ramakrishnan, 2007). Based on the chiefs' description of typical local enforcement practices, local police appear to be resolving this dilemma by drawing distinctions in the seriousness of crimes, with less serious crimes less likely to be reported to federal authorities. Such judgments must often be made on an ad hoc basis. In this process, we suspect that informal norms about when to inquire about immigration status may be developing below the radar of police supervisors and are independent of the wishes of the community or local political authorities. Our results also suggest that departments and communities differ on many issues related to immigration. Of course, it should also be noted that within communities there are often significant differences about what to do about unauthorized immigration, which may be why most local governments have not been active in creating policy directives for their police departments.

Significantly, we find that where policies *are* available, police behavior appears to be responsive to that policy. In cities mandating aggressive police action, a wider range of offense-related activity is reported to federal authorities. In cities where the policy is to focus elsewhere, fewer such instances are reported. Where there is no policy in place, either at the city or departmental level, responses are more varied. These results suggest that police discretion, inevitably great, is nonetheless conditioned by relevant public policy, when it exists.

It should not be surprising that political leaders and law-enforcement executives are at an early stage of the development of policies and training to respond to the presence of unauthorized individuals in their communities. The issues are complex and controversial. We have described immigration enforcement as on the frontier of traditional policing niches, a space

between existing practices, tactics, and culture that calls for a new assessment of appropriate police responsibilities.

For police the issue is particularly complex. There is no easily accessible political consensus to consult. One of the salient features of the debate over immigration enforcement and local policing is the number of groups that seek to have an impact on what police do and how they go about doing it. The police have long found themselves between contending forces on a variety of enforcement issues, of course. What is new in the immigration debate is the active role of the federal government, particularly ICE and the Border Patrol, in offering enforcement partnerships – particularly partnerships that enable civil immigration enforcement – to state and local police departments. The infusion of traditionally federal concerns into the sphere of police and local government responsibility, and the generally contentious climate in which unauthorized immigration is occurring, raise significant questions for policymakers at all levels about federalism, police discretion, community policing, and the environment within which policing occurs.

NOTES

1. Other chiefs indicated that most local elected officials were not interested in the issue (11%) or that there was no solid majority among the officials (8%). The remaining chiefs were not sure or did not answer the question.
2. Unfortunately, this variable is not available at the city level, so we examine the election outcomes for the county in which each city is nested.

REFERENCES

Aleinikoff, T. A. (2002). *Semblances of sovereignty: The constitution, the state, and American citizenship*. Cambridge, MA: Harvard University Press.

Bayley, D. (1986). The tactical choices of police patrol officers. *Journal of Criminal Justice*, *14*(4), 329–348.

Berman, D. R. (2003). *Local government and the states: autonomy, politics and policy*. Armonk, NY: M.E. Sharp.

Bittner, E. (1979). *Functions of police in modern society*. Westport, CT: Greenwood Press.

Crank, J. M. (1994). Watchman and community: Myth and institutionalization in policing. *Law & Society Review*, *28*(2), 325–352.

Farrell, A. (2009). State and local law enforcement responses to human trafficking: Explaining why so few trafficking cases are identified in the United States. In: W. F. McDonald (Ed.), *Immigration, crime and justice* (Vol. 13, pp. 243–259). Bingley, UK: Emerald Group Publishing Limited.

Greene, J. R. (2001). Community policing. In: J. Horney (Ed.), *Criminal justice 2000*. Washington, DC: National Institute of Justice.

Hegen, D. (2008). State laws related to immigrants and immigration. National Council of State Legislatures. Accessed at: http://www.ncsl.org/print/press/immigrationlegislationreport.pdf

Herbert, S. (2006). *Citizens, cops, and power: Recognizing the limits of community*. Chicago: University of Chicago Press.

Huntington, C. (2007). *The constitutional dimension of immigration federalism*. University of Colorado Law Legal Studies Research Paper no. 07-06. Accessed at: http://ssrn.com/abstract = 968716

International Association of Chiefs of Police. (2007). *Police chiefs guide to immigration issues*. Accessed January 3, 2008 at: http://www.theiacp.org/documents/pdfs/Publications/PoliceChiefsGuidetoImmigration.pdf

Jenness, V., & Grattet, R. (2005). The law in between: The effects of organizational imperviousness on the policing of hate crime. *Social Problems*, *52*, 337–359.

Katz, C. M., & Webb, V. (2006). *Policing gangs in America*. New York: Cambridge University Press.

Kelling, G. (1999). *"Broken windows" and police discretion*. Washington, DC: National Institute of Justice.

Lewis, P. G., & Ramakrishnan, S. K. (2007). Police practices in immigrant-destination cities: Political control or bureaucratic professionalism? *Urban Affairs Review*, *42*(6), 874–900.

Major Cities Chiefs. (2006). *M.C.C. Immigration Committee recommendations for enforcement of immigration laws by local police agencies*. Retrieved January 3, 2008, from: http://www.houstontx.gov/police/pdfs/mcc_position.pdf

Manning, P. K. (2003). *Policing contingencies*. Chicago: University of Chicago Press.

Massey, D. (Ed.) (2008). *New faces in new places: The changing geography of American immigration*. New York: Russell Sage Foundation.

McDonald, W. F. (1997). Illegal immigration: Crime, ramifications and control (the American experience). In: W. F. McDonald (Ed.), *Crime and enforcement in the global village*. Cincinnati, OH: Anderson Publishers.

Neuman, G. L. (1996). *Strangers to the constitution: Immigrants, borders, and fundamental law*. Princeton, NJ: Princeton University Press.

Passel, J. S. (2006). T*he size and characteristics of the unauthorized migrant population in the U.S.: Estimates based on the March 2005 current population survey*. Retrieved July 15, 2007, from: http://pewhispanic.org/files/reports/61.pdf

Ramakrishnan, S. K., & Wong, T. (2007). I*mmigration policies go local: The varying responses of local governments to undocumented immigrants*. Unpublished paper. University of California. Retrieved from: http://www.law.berkeley.edu/files/RamakrishnanWongpaperfinal.pdf

Romero, M., & Serag, M. (2005). Violation of Latino civil rights resulting from INS and local police's use of race, culture, and class profiling: The case of the Chandler roundup in Arizona. *Cleveland State Law Review*, *52*, 75–96.

Singer, A., Hadwick, S. W., & Brettell, C. B. (Eds). (2008). *Twenty-first century gateways*. Washington, DC: Brookings Institution.

Skogan, W. (2006). *Police and community in Chicago: A tale of three cities*. New York: Oxford University Press.

Skogan, W. G., & Hartnett, S. M. (1997). *Community policing: Chicago style*. New York: Oxford University Press.

Skolnick, J. (1969). *Justice without trial: Law enforcement in democratic society*. New York: Wiley.

Skolnick, J. (1994). *Justice without trial: Law enforcement in democratic society* (Rev. ed.). New York: McMillan.

Spiro, P. (1997). Learning to live with immigration federalism. *Connecticut Law Review*, *9*, 1627–1636.

Sudnow, D. (1965). Normal crimes: Sociological features of the penal code in a public defender office. *Social Problems*, *12*(3), 255–276.

Sullivan, B. (2008, August 1). Blackburn knocks Homeland immigration enforcement effort. *Memphis Commercial Appeal*.

Varsanyi, M. W. (2008). Immigration policing through the backdoor: City ordinances, the 'right to the city' and exclusion of undocumented day laborers. *Urban Geography*, *29*(1), 29–52.

Wilson, J. Q. (1968). *Varieties of police behavior: The management of order in eight communities*. Boston: Harvard University Press.

Zuñiga, V., & Hernández-León, R. (Eds). (2005). *New destinations: Mexican immigration in the United States*. New York: Russell Sage Foundation.

PART IV
BORDERS – THEIR SOCIAL CONSTRUCTION AND ENFORCEMENT

This page intentionally left blank

DEPORTATION AND REINTEGRATION IN THE CARIBBEAN AND LATIN AMERICA: ADDRESSING THE DEVELOPMENT–SECURITY PARADOX

Clifford E. Griffin

ABSTRACT

Purpose – *To demonstrate that countries must implement policies that produce win-win outcomes for countries engaged in highly contentious issues such as return migration. Specifically, while major metropolitan countries have the right to deport ''undesirable'' nonnationals, their strategies should factor in a concern for the human rights, given that the receiving countries may not have the specialized resources to reintegrate these individuals.*

Methodology – *Debate on return migration is situated within the context of complex interdependence, and framed within the development–security paradox to demonstrate deductively via an imputed cost–benefit analysis that the security that countries seek through deportation policies may be undermined if creative mechanisms are not incorporated into the policies.*

Findings – *Because large influxes of returning migrants challenge the capacity of receiving countries to absorb returnees, maintain socio-economic stability, and engender growth and development, deportation programs should be undertaken against the capacity of receiving countries to seamlessly reintegrate their citizens, many of whom have been culturally, socially, and economically disconnected from the societies in which they were born. Interventions prior to deportation to provide individuals with skills of training, national identification, and orientation to the countries of their birth can produce win-win outcomes for both the sending and receiving countries.*

Practical implications – *Policy relevance for political leaders and policy makers in both sending and receiving countries.*

Value – *Original research holding policy relevance for political leaders and policy makers in sending and receiving countries.*

INTRODUCTION

Policy makers not only view problems in world politics in their own ways but also disagree on how and why their countries might be experiencing such problems. Disagreements, notwithstanding their choices of solutions to such problems, tend to be specific and targeted as they attempt to realize different goals simultaneously. Given the complexity of world politics, outcomes and impacts of such solutions tend to be multilayered and ongoing, often producing undesired impacts or "unintended consequences" (Jokela, 2005, p. 3). Both Organization for Economic Co-operation and Development (OECD) countries and countries in Latin America and the Caribbean have interdependent bundles of issues, including migration, trade, drug trafficking, money laundering and other transnational organized criminal activities, counter terrorism, weapons trafficking, gangs, and crime. Consistently, solutions implemented by OECD policy makers to these and other problems are producing undesired outcomes throughout the region in a global environment where development and global security are interdependent yet paradoxical issues.

The lack of development has caused many inner cities to degenerate into social disarray, resulting in the creation of refuges for organized and disorganized criminals and political militants. National and international concerns with such potential for social disarray make development a necessary precondition for both national and global security. Paradoxically,

security contributes to development because capital skilled labors are unlikely to be attracted to areas that impose a high degree of risk upon personal safety and security. Additionally, where the rule of law does not prevail, crime and corruption tend to abound, thereby creating conditions that make it highly unlikely that investors will risk their investment capital. Low levels of security, therefore, are likely to imperil opportunities for development. It is this development dilemma that confronts developing countries, generally, and Caribbean and Latin American countries, specifically. Leaders and policy makers of OECD countries, especially those on both sides of the Rio Grande and the Canadian–US international borders, acknowledge the existence of this relationship as well as this dilemma.

The complex interdependence (Keohane & Nye, 1977) and the two-level games (Putnam, 1988) that structure relations between states often appear to contradict, if not undermine, the prospects for security and development in the region. To be sure, concerns over crime and terrorism structure much of the ''homeland security'' policies of OECD countries. For example, US responses to these issues are captured within the provisions of the following pieces of legislation: Public Law 103–322 [the Omnibus Crime Control Act (OCCA) of 1994; the Antiterrorism and Effective Death Penalty Act (AEDPA), which was signed in the aftermath of the World Trade Center and Oklahoma City bombings; and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996]. However, it is the second-level factors that result from the implementation of these policies – the undesired outcomes of complex interdependence – that are of immediate interest. Among the most controversial outcomes of these policies is the deportation of large numbers of nonnationals, mainly to the Caribbean and Central America.

Since the mid-1990s, OECD countries, generally, and Canada, the UK and the United States, particularly, have aggressively enforced one of their sovereign prerogatives: determining who should remain within their borders and under what conditions. In the Western Hemisphere, this issue has remained a central area of concern with Caribbean and Latin American countries accusing Canada, the UK and the United States of dumping increasingly large numbers of criminals on their shores. Recognizing that there is no political will in the sending countries to change these policies, regional leaders have begun to acknowledge and accept responsibility for these returning migrants and for reintegrating them into their societies.

While states have the right to exercise a sovereign prerogative of determining the purposes for and conditions under which nonnationals may enter and remain in their respective territories, decisions on return

migration, particularly deportation, must be undertaken against the dynamics of the relationship between development and security, because return migration can pose difficulties not only for returnees but also with regard to the reception and integration capacities of the host countries. These negative impacts also have the potential to create new problems for the sending countries with respect to other important and interdependent interests in the receiving countries.

Deportation programs, therefore, should be undertaken against the capacity of receiving countries to seamlessly reintegrate their citizens, many of whom have been culturally, socially, and economically disconnected from the societies in which they were born. Large influxes of returning migrants challenge the capacity of receiving countries to absorb returnees, maintain socioeconomic stability, and engender growth and development. The integration process is made even more difficult for deportees with chronic illnesses such as HIV/AIDS, diabetes, or heart disease who land in a country lacking advanced medical care (Lonegan, 2004).

The central argument here, therefore, is that more interdependent arrangements that are sensitive to the rights of these individuals can produce win-win outcomes for both the sending and receiving countries. In this regard, reintegration programs should be begun while the individual is incarcerated in detention centers in OECD countries, where the necessary specialized resources abound, rather than after they arrive in their home countries, where such resources are absent or in short supply. Providing these individuals with advanced training in certain skills is likely to enhance the chances of successful reintegration, including overcoming the deportee stigma and minimizing the likelihood that deportees will resort to illicit activities. It will also help receiving countries manage crime and instability and enhance the cooperation that is necessitated because of complex interdependence.

THE POLITICAL ECONOMY OF IMMIGRATION

According to World Bank data, the Caribbean and Latin America accounted for the largest number of migrants of any developing region in 2000–2005, and from whom the region received some $57 billion of workers' remittances, trebling the amount received in 2000 (World Bank, 2008). These remittances partly explain why the region has the highest income per capita and the highest life expectancy at birth among developing regions. At the same time, however, the region bears the distinction of having the world's largest income inequality. That is, the region is marked by wide

disparities in social conditions by income, ethnicity, gender, and geographic location despite respectable regional averages.

Still on track to meet a number of human development index Millennium Development Goals (MDG), it, nevertheless, lags behind in achieving the poverty goal of halving the 1990 poverty level by 2015. Saavedra and Arias (2005) indicate that the region is at risk of falling short (by 1 percentage point) of meeting the MDG. Estimates from the Socio-Economic Database for Latin America and the Caribbean (SEDLAC) indicate a slight increase in the poverty rate: extreme poverty – measured by the proportion of population living under \$1 (PPP, purchasing power parity) a day – declined from 11.3 percent in 1990 to 9.5 percent in 2001, but this proportion is now estimated at 10.8 percent (World Bank, 2008).

Juxtaposed to these conditions and challenges is the so-called brain drain, and loss of economic and social development potential produced by and resulting from the international mobility of highly qualified workers, suggesting a curious relationship between emigration from the Caribbean and Latin America and certain types of return migration. According to OECD data, there are more Latin American immigrants (19 million) in the OECD than Asian immigrants (16 million). In 2000, Mexico, the single most important origination country, accounted for about 8.4 million persons born in that country but lived in other OECD countries (99 percent in the United States). But while the brain drain strongly affects mainly small African and Caribbean countries, the emigration rate of people holding a tertiary degree in islands such as Jamaica, Haiti, and Trinidad and Tobago is exceptionally high, ranging between 40 and 88 percent.

For example, as Table 1 indicates, an average of 61.2 percent of the doctors produced by eight Caribbean countries – Antigua and Barbuda, Barbados, Grenada, Guyana, Haiti, Jamaica, St. Vincent and the Grenadines, and Trinidad and Tobago – live in OECD countries. These percentages range from a high of 90 percent for Antigua and Barbuda to a low of 47 percent for Barbados. On average, more than 50 percent of the foreign-born migrants from 10 Caribbean and Latin American countries aged 15 and above living in OECD countries have had a secondary education, and approximately 17 percent have had a tertiary education (see Table 2).

This "brain drain" challenges the development capacity of Caribbean and Latin American countries, which must adapt to the dynamics of a global political economy, which has been ushering in a more uniformly open international political system and a more uniformly open, market-oriented economic system, and which have created a paradox in the relations between states.

Table 1. Expatriates in OECD Countries by Country of Origin
Circa 2000.

Country	Primary Educated (%)	Tertiary Educated (%)	Emigration Rate (%)	Expatriation Rate of Doctors Toward OECD Area (%)
Antigua and Barbuda	30.4	27.2	31.0	89.3
Bahamas	23.4	29.5	12.4	–
Barbados	31.1	27.3	29.5	46.1
Belize	30.4	20.4	22.5	–
Dominica	42.1	22.6	33.1	–
Dominican Republic	53.3	12.4	11.5	–
El Salvador	63.0	7.7	17.1	–
Grenada	35.0	24.0	42.0	72.7
Guatemala	63.7	8.4	7.2	–
Guyana	31.4	25.3	37.1	72.2
Haiti	39.3	20.0	8.9	53.1
Honduras	57.2	10.6	6.9	–
Jamaica	34.1	24.9	31.3	48.4
St. Kitts and Nevis	34.7	28.8	38.4	–
St. Lucia	39.8	21.4	18.8	–
Suriname	24.4	31.5	2.4	–
St. Vincent and the Grenadines	35.3	25.1	35.9	53.2
Trinidad and Tobago	23.5	29.9	22.2	54.6
Average	38.45	22.1	22.7	61.2

Source: Organization for Economic Co-operation and Development (2008).

In the market area, the same system that allows for the relatively free movement of goods, services, and people also facilitates a similar pattern in illicit activities by organized and unorganized, transnational criminal enterprises and terror groups. In response to these illicit activities, and reflecting concerns over the safety and security, major metropolitan countries, including North America and Europe, have undertaken a systematic policy of deporting increasingly large numbers of nonnationals to their countries of origin. They seek to increase security by deporting criminal aliens. But the more they deport, the more they destabilize the receiving countries and thereby promote conditions for return illegal immigration that is often connected with gangs and transnational crime. In the Western Hemisphere, the Caribbean, Central America, and Mexico have featured prominently on the receiving end of these policies, especially

Table 2. Educational Attainment of the Foreign-Born Population in the OECD Percentage of the 15+ Population.

Country	Primary	Secondary	Tertiary
Brazil	32.1	40.7	27.1
Dominican Republic	53.3	34.3	12.4
El Salvador	63.0	29.2	7.7
Colombia	34.2	40.8	25.0
Cuba	40.8	35.2	23.9
Ecuador	49.0	35.9	15.1
Guatemala	63.7	23.9	8.4
Haiti	39.3	40.7	20.0
Jamaica	34.1	40.9	24.9
Mexico	69.6	24.7	5.7
Average	47.9	34.6	17.0

Source: Organization for Economic Co-operation and Development (2008).

regarding deportations from the United States. It is from these countries that transnational gangs and smugglers of drugs and humans have returned to do even more serious harm.[1]

On the political level, the United States, especially, is counting on these countries to continue to institutionalize their democratic systems, including respect for the rule of law and greater levels of transparency. Predicated on the notion that the rising tide will lift all boats, the present expectation of global capitalism is that open markets will bring prosperity to all of the countries in the region. But while there has been growth, the evidence continues to demonstrate that the level of poverty continues to increase as well. While being called upon to address issues relating to poverty, these countries are simultaneously having to address the various economic, political, and security ramifications of this ongoing influx of nationals, many of whom are hard-core criminals, the result of contemporary international migration policies. The growing concern in many circles in the region is that the region is training and exporting its most productive nationals while being forced to receive its potentially least productive and most dangerous as return migrants.

RETURN MIGRATION

Return migration refers broadly to the act of going back from a country of presence (either transit or destination) to the country of previous transit,

or origin. Some subcategories of return migration describe the process by which it is undertaken, including voluntary, forced, assisted, or spontaneous return; other subcategories describe who is participating in the return, such as repatriation (for ethnic migrants who became refugees). Traditionally, some types of return migration, such as ethnic migrations, have been war related. Among these are ones resulting from the political–military rivalry between the United States and the former Soviet Union, which include the Central American civil wars of the 1970s and 1980s. Others, such as the various ethno-nationalist conflicts in various African and Central and Eastern European countries, resulted in significant ethnic migrations into neighboring countries as well as to the United States and other OECD countries.

The collapse of global communism, together with the cessation of many of these hostilities, and the reestablishment of stable, civilian governments in many of these countries have resulted in international migration policies featuring prominently in nation-state policies once again. Characteristic of the nation-state's role in international migration over the past decade and a half is return ethnic migration (Kulu, 2000, p. 136), generally, and the deportation of nonnationals, specifically.

Understanding return migration entails differentiating between voluntary migration and involuntary or forced migration. While voluntary return is based on an informed decision freely made by the individual, assisted voluntary return includes organizational and financial assistance for the return and, where possible, reintegration measures offered to the individual. Involuntary, or nonvoluntary, or forced return describes a decision and process that the individual does not undertake voluntarily, and deportation typifies this subcategory of migration (IOM, 2004).

The issue and impact of return migration is central to the discussion of the benefits and costs associated with migration. The growing consensus holds that migrants' remittances fill a central role in providing foreign exchange and lowering poverty in sending countries. It also holds that migration can lead to other forms of beneficial transfers back to home countries in the form of technological, managerial, and entrepreneurial know-how. Some return migrants may have acquired the financial as well as work experience abroad to provide an impetus to the local economy and become engines of innovation, employment, and economic growth (Gubert & Nordman, 2008). However, it is the case of the deportees that has generated considerable debate and policy challenges because this complex phenomenon generates profound consequences for countries of origin and destination, and the migrants themselves. Not only might many of these returnees lack the

necessary resources and skills but their return has the potential to produce profound impacts on development, trade, health, security, international relations, and social and family-related issues.

CONTEMPORARY OECD IMMIGRATION POLICY

Caribbean and Latin American countries face a number of challenges, including high rates of crime (especially murder); very high indebtedness; rising oil and food prices; and a reduction in the remittances from nationals living in OECD countries. From gang violence and homicides in Jamaica to gang violence and kidnappings in Trinidad and Tobago to gang violence and youth crimes in Belize and the Dominican Republic to drug trafficking in the Netherlands Antilles to gang violence and gunrunning in El Salvador, Honduras, and Guatemala, crime has risen to the top of the national security concerns for governments across the Caribbean and Central America. However, it is the highly contested policy of mass deportation of criminal offenders to the region that constitutes one of the greatest threats to security in the region.

In one of the clearest signs yet of Europe's hardening stance on immigration, the European Parliament (in June 2008) approved tough new rules for expelling undocumented immigrants, among them a provision allowing member nations to keep migrants in detention centers for up to 18 months. Foreigners who have been forcibly deported also face a five-year ban on reentering the European Union (Blake, 2008). Italian Prime Minister Silvio Berlusconi, who blames immigrants for soaring crime rates, proposed a number of measures in May 2008, including a law to make entering the country without permission a crime punishable by up to four years in prison.

Meanwhile, in June 2008, Spain announced plans to give legal immigrants who have lost their jobs lump-sum payments if they agree to return home. However, a little more than one year ago, the Spanish government was contracting workers in countries such as Ecuador and Morocco to fill jobs. The plan, which went into effect in July 2008, offers documented migrants who have lost their jobs two lump sums – one before they leave Spain, and the other once they have got home. Immigrants are required to relinquish their residence visas and work permits and agree that they will not return to Spain for at least three years.

France, following suit, has vowed to make illegal immigration a key focus of its EU presidency, which began on July 1, 2008. Among the measures it

hopes to see the European Parliament approve are sanctions for companies that employ undocumented immigrants (Blake, 2008). In 2007, Prime Minister Gordon Brown's government began to draw up plans do deport 1,000 "Yardie" gangsters and another 400 drug couriers (most of them women) back to Jamaica in a bid to ease prison overcrowding, given concern that each of the 11,000 overseas inmates costs the government £24,000 to keep each year (Rousewell, 2007).

These policies underscore the reality that thousands of convicted felons are returned from the United States and other OECD countries to Caribbean and Latin American countries each year. The United States, together with Britain and Canada, have deported 33,268 Jamaicans over the past decade and a half, with the numbers rising significantly in recent years as all three countries toughened their immigration laws. Concern over rising crime has been a central argument in the debate over illegal immigration and deportation in the United States. For example, FBI data indicate that the United States experienced 36,000 firearm-related deaths annually, 44 percent of which were homicides, between 1992 and 1997. In 2005, according to the Justice Department, 55 percent of homicides were committed with a handgun and 16 percent with another kind of gun (Liptak, 2008). It is partly a response to these numbers and the fact that a number of these perpetrators are non-US nationals that this issue continues to generate a great deal of public concern and debate.

The mass relocation of criminal offenders from relatively high-security environments to less secure societies has effectively shifted the responsibility for managing those persons to their country of birth. While deportation may solve a few problems in the deporting country, the removal of criminal offenders to another geographical location does not necessarily protect the deporting country from further criminal actions by those individuals. Although the criminal deportees may have been stripped of their material possessions, the propensity of many to criminality remains intact. Recent experience shows that in a global world, problems of insecurity cannot be constrained by borders, particularly in nation-states that are less able to keep pace with globalized threats. Paradoxically, for OECD countries that spend tens of millions of dollars annually to forcibly return Caribbean and Latin American migrants to the region (see Table 4), the receiving countries lack the capacity to effectively reintegrate these returned nationals while maintaining the safety, security, and stability of their societies. At the same time, the deporting countries themselves have not demonstrated that they can prevent deportees from returning.

THE PATTERN OF DEPORTATION

The United States, by far, accounts for the largest number of deportees from OECD countries to the Caribbean and Latin America. In executing US deportation policy, Gary Mead, assistant director for management, Office of Detention and Removal Operations (DRO), testified to the 110th Congress that the Justice Prisoner Alien Transport System (JPATS), a joint Immigration and Custom–US Marshals venture through which criminals and illegal aliens are securely transported throughout the United States and abroad, operates regular flights to the following countries: Colombia (monthly, with approximately 70 criminal deportees per flight); the Dominican Republic (every two weeks with approximately 70 deportees per flight, the majority being criminal deportees); El Salvador (one daily flight, Monday through Friday, with one flight per week dedicated to criminal deportees only, and up to 120 deportees per flight); Guatemala (daily, including Saturdays, and sometimes more than one each day depending upon numbers, with removals augmented by utilizing chartered aircraft); Haiti (every two weeks, with approximately 50 deportees per flight, both criminal and noncriminal); Honduras (daily, including Saturdays, if needed, and as with Guatemala, chartered aircraft are used to augment removals where necessary; and Jamaica (monthly, with 45 criminal deportees on each flight) (Mead, 2007).

In FY 2003, a total of 151,941 nonnationals were removed from the United States. That number increased to 169,733 in 2004, and to 173,651 in 2005. FY 2006 was a record year for the DRO, with 196,707 individuals removed from the United States (see Table 3), and a projected 10 percent increase in FY 2007. The DRO has consistently increased the total number of removals during the last four years. Combined, removals to Mexico, El Salvador, Guatemala, and Honduras have accounted for approximately 83 percent of the total removals from the United States in previous years. In FY 2007, through June 18, 2007, removals to these four countries have accounted for 88 percent of total removals (see Table 3).

Mead also testified that during FY 2007, the average operating cost for JPATS contractors to remove 120 nonnationals from the United States was $9,000 per hour. Included in these costs were the use of the B-737 aircraft, aircrews, security and medical crews, maintenance, fuel, and landing fees and services. The four-hour outbound and four-hour return flight to the United States translates into $72,000 per flight or $600 per seat. In FY 2007, the Office of DRO removed, via JPATS and chartered aircraft, 52,563

Table 3. FY 2006 Top 10 Western Hemisphere Removals
from the United States.

	Criminal	Noncriminal	Total
Mexico	64,306	50,334	114,640
Honduras	5,569	20,967	26,526
Guatemala	3,589	14,797	18,386
El Salvador	3,679	6,633	10,312
Brazil	555	2,441	2,996
Dominican Republic	2,241	564	2,805
Colombia	1,306	984	2,290
Nicaragua	585	1,656	2,241
Ecuador	432	1,110	1,542
Jamaica	1,249	177	1,426

Source: Deportees in Latin America and the Caribbean (2007).

Table 4. The FY 2007 Commercial Flight Costs.

Countries	Cost of Removals ($)
Mexico	717,385.51
Belize	165,547.81
Honduras	1,175,762.95
Guatemala	1,017,655.83
Costa Rica	220,113.44
Panama	130,007.52
Nicaragua	1,395,039.69
El Salvador	1,640,367.26
Ecuador	974,719.18
Colombia	4,768,540.21
Total	12,205,139.40

Source: Deportees in Latin America and the Caribbean (2007).

Mexicans, 68,158 Central Americans, and 1,010 South Americans for
121,731 removals at a cost of $73,038,600 of which $12,205,139 was paid to
commercial air carriers (see Table 4).

What is not in question is the sovereign right of the United States and all
other OECD countries to remove ''undesired'' migrants from their soil.
There is also no disputing the responsibility of the receiving countries to
accept and reintegrate their nationals. The issues of concern are whether the
policy takes into account the impact of these large numbers of individuals

on the capacity of these countries to be effective in managing the paradox of development and global security, and whether the net effect of deportation increases or decreases the security of the deporting countries.

REINTEGRATION CHALLENGES AND INITIATIVES

The uprooting and transferring of these individuals – many of whom had long considered the OECD country in which they resided home – to a society and culture with which they may be only vaguely familiar but also one that consistently rejects them not only inflicts deep psychological scars but can also be construed to be in violation of some basic human rights. For example, deportation forces citizens and lawful permanent resident children and spouses in the sending countries to confront life without their fathers, mothers, children, husbands, and wives. When the deportee is the breadwinner, those left behind often face extreme hardship. Meanwhile, at the other end of the deportation continuum, many returnees find that it is not easy to adapt to the society and way of life in their countries of origin. One of the principal reasons for this is that the process of deportation stereotypes all returnees as criminals, a depiction that retards their reintegration into society.

Many of these individuals are removed from their families and relatives and often do not have access to monetary and other assets they once owned. Understandably, these individuals immediately look for ways to reunite with their families, which translate into yet another attempt at irregular migration. Others have special needs, including access to a range of medical services, including HID/AIDS screening, psychiatric care, and drug rehabilitation. At the same time, many have no ID documents (neither US nor that of the country of birth), which remain an obstacle to their ability to access any services that might be available to assist in their reintegration. This situation is further complicated by the fact that receiving countries do not have clear and consistent policies on incarceration and/or liberation of deportees upon arrival. For the most part, the returnees cannot identify programs that can guarantee a successful economic and social reintegration. A number of returnees who worked in high-wage sectors, and find neither comparable employment nor pay, become discouraged from entering the workforce and, instead, engage in renewed attempts at irregular migration.

In an effort to address these concerns, the US Department of State, in conjunction with the International Organization for Migration (IOM),

has undertaken a one-year, $1 million pilot resettlement program in Haiti, which forms part of a wider $2.8 million program that will be extended to Guyana and the Bahamas. Other programs in the region include the seven-year-old Honduran Center for Assistance to Returning Migrants (Centro de Atención al Migrante Retornado, CAMR), created at the request of the Government of Honduras in the framework of the Regional Conference on Migration (also known as the Puebla Process), and the Welcome Home Program (Bienvenido a Casa) in El Salvador, which was initiated in February 1999.

Antigua and Barbuda is seeking rehabilitation assistance for nationals removed involuntarily from the United States. The anticipated program, under the auspices of the Ministry of Social Transformation, will establish/ refurbish a physical space with the intention of creating a rehabilitation center for deportees, especially for those who have no relatives in Antigua and Barbuda. The government will also seek to provide adequate training aimed at endowing these deportees with marketable job skills. Other initiatives exist in the Barbados, the Dominican Republic, Jamaica, St. Kitts and Nevis, and Trinidad and Tobago.

The main goal of these initiatives is to help deportees successfully reintegrate into their countries of origin, and the strategies involved include (1) an awareness-raising campaign; (2) arrival orientation for the returnees; (3) psychosocial support; (4) professional, vocational, and business management training; (5) substance abuse rehabilitation; and (6) capacity building in order to enable the host governments to take responsibility for the programs. However, among the resources needed for these programs to gain traction are the following: living accommodations and meals; employment counseling and training; drug and alcohol abuse counseling; self-esteem and peer development assistance; vocational training; assistance in locating and reestablishing family connections; liaison between the deportees; and family connections in the countries from which they were deported. When contrasted against the volume of resources marshaled to deport these individuals, the resources – both human and economic – allocated to provide these services are insufficient to enable the pilot programs to fulfill their critical function as bridging mechanisms for returnee reintegration.

That said, the complex nature of interstate relations has not been lost on countries in the region. For example, during the 19th Inter-Sessional Meeting of CARICOM Heads of Government in Nassau, the Bahamas, from April 4–5, 2008, leaders concluded a number of agreements that demonstrate their awareness of the complex nature of interstate relations and that they have a central role to play in addressing the paradox of

development and global security. Leaders agreed to the following: signing the Maritime and Airspace Security Cooperation Agreement by July 2008; engaging international partners, particularly the United States, with respect to the implications for the region of their antinarcotics efforts in Central America and the Pacific Coast; retooling, retraining, and realigning national and regional intelligence units to assist law enforcement agencies in the fight against crime; encouraging the utilization of current facilities such as the Regional Intelligence Fusion Centre (RIFC), the Joint Regional Communications Centre (JRCC), and the CARICOM Watch List; formulating a strategy for information sharing in the procurement of assets among military and law enforcement entities in member states; exploring the establishment of a Rapid Deployment Regional Joint Force; increasing the capacity of detection and surveillance methods in relation to the movement of firearms, including the importation, sale, transfer, theft, and use of firearms; introducing measures to improve systems, procedures, intelligence, and training with a view to enhancing border security; maximizing the use of available technology in detection, deterrence, and seizure of illegal drugs entering and transiting the region; developing specially trained, equipped, and dedicated teams of homicide investigators; promoting interagency collaboration for crime prevention at the national level; developing intelligence monitoring and analytical capacity for gang and gang-related activities nationally and regionally; establishing and training of counter-kidnapping units (response teams and hostage negotiators); monitoring and targeting gangs/individuals whose modus operandi includes kidnapping/forcible abduction; pursuing negotiating standardized agreements/MOUs with OECD countries, including the United States, the UK and Canada; settlement of personal affairs prior to deportation of long-term residents; completing dossiers, including criminal antecedents and medical records where applicable; making appropriate arrangements to reduce the financial burden on deported persons, and on receiving countries; supporting programmes designed to aid the rehabilitation and reintegration of deported persons in the region; developing an information-sharing protocol to guide the transfer and dissemination of information related to deported persons between relevant law enforcement authorities throughout the region; and collaboration in the establishment of transition centers in each country to facilitate short-term stays for deported persons without shelter and/or familial support. These initiatives warrant similar cooperative responses from OECD countries that also have a stake in development and global security.

CONCLUSION: A WIN-WIN OUTCOME

There is no doubt that OECD countries, and the United States, in particular, do not benefit from having unstable states just outside its borders. That said, the exporting of criminals could contribute to the building and consolidation of transnational criminal networks that could further destabilize many of these societies. These individuals and entities can then utilize their connections in these countries and abroad to further elicit activities and, in the process, contribute to the undermining of global security. Because development, security, health, trade, and human rights are all part of the international migration complex, deporting countries should exercise their prerogative consistent with human rights standards and assist receiving countries with the reintegration challenges. In this regard, humanitarianism and strategic action are not incompatible and can produce win-win outcomes on this complex interdependence issue.

Development and global security require mechanisms that engender successful economic, cultural, and social reintegration of returnees. The success modalities require that the returnee possess skills that can be put to use both for personal fulfillment and satisfaction as well as for contributing to the country's development. Access to medical support, food, shelter, clothing, psychosocial support, help in obtaining identification documents, assistance to contact family members and rehabilitation centers, and transport to the final destination are critical. Also vital are vocational training and skills in the establishment and management of small and microenterprises, engaging in self-employment, as well as life skills directly relevant to the home society. Given that these and other resources are in short supply in the receiving countries, interventions prior to deportation that address these issues are much more likely to engender greater effectiveness in the reintegration process and help mitigate the adverse effects of the development–security paradox.

NOTE

1. There are no estimates of the rate of return to the United States of deported criminal aliens. However, it is common to read reports in the press of criminal aliens who had been deported but returned to commit more crime. In 1995, the US attorney for the San Diego (CA) region reported that in his jurisdiction – where the government had begun cracking down on deportees who returned to the

United States – a total of 1,315 previously deported immigrants had been prosecuted that year, an increase of 448 percent from the previous year (Branigin, 1995).

REFERENCES

Blake, M. (2008, June 20). EU gets tough on illegal immigrants, standardizes deportation rules. *The Christian Science Monitor*, printed in *The Seattle Times*, available at http://seattletimes. nwsource.com/html/nationworld/2008007937_immig20.html?syndication=rss.

Branigin, W. (1995, December 29). Citing progress, administration vows to restore credibility of immigration system. *The Washington Post,* p. A15.

Deportees in Latin America and the Caribbean. (2007). Hearing and briefing before the Subcommittee on the Western Hemisphere of the Committee on Foreign Affairs, House of Representatives, One Hundred Tenth Congress, First Session, July 24, Serial No. 110–107, available at http://foreignaffairs.house.gov/110/36988.pdf

Gubert, F., & Nordman, C. J. (2008). *Return migration and small enterprise development in the Maghreb*. IRD, DIAL, Paris. Collective Action to Support the Reintegration of Return Migrants in Their Country of Origin, MIREM Analytical Report 2008-02, available at cadmus.eui.eu/dspace/bitstream/1814/8887/1/MIREM_AR_2008_02.pdf

IOM. (2004). *Return migration: Policies and practices in Europe*. International Organization for Migration, Geneva, available at www.ch.iom.int/fileadmin/media/pdf/publikationen/return_migration.pdf

Jokela, M. (2005). *Ethical dimensions of the unintended consequences of foreign policy*. Paper presented at the 46th Annual Convention of the International Studies Association, Honolulu, Hawaii, March 1–5.

Keohane, R. O., & Nye, J. S. (1977). *Power and interdependence: World politics in transition*. Boston, MA: Little Brown.

Kulu, H. (2000). Policy toward the diaspora and Ethnic (return) migration: An Estonian case. *GeoJournal*, *51*(3), 135–143.

Liptak, A. (2008, June 29). Gun laws and crime: a complex relationship. *The New York Times*, available at http://www.nytimes.com/2008/06/29/weekinreview/29liptak.html?_r=1&oref=slogin

Lonegan, B. (2004, February 27). Forced to go home again. *The New York Times*, available at http://query.nytimes.com/gst/fullpage.html?res=9C07EFDE143DF934A15751C0A9639C8B63&sec=&spon=&pagewanted=1

Mead, G. (2007). Prepared Statement of Mr. Gary Mead, Assistant Director for Management, Office of Detention and Removal Operations, Bureau of US Immigration and Customs Management, US Department of Homeland Security in Deportees in Latin America and the Caribbean. Hearing and Briefing Before the Subcommittee on the Western Hemisphere of the Committee on Foreign Affairs, House of Representatives, One Hundred Tenth Congress, First Session, July 24, Serial No. 110–107, available at http://foreignaffairs.house.gov/110/36988.pdf

Organization for Economic Co-operation and Development. (2008). *A profile of immigrant populations in the 21st century: Data from OECD countries*. Available at http://www.oecd.org/document/27/0,3343,en_2649_33931_40110299_1_1_1_1,00.html

Putnam, R. D. (1988). Diplomacy and domestic politics: The logic of two-level games. *International Organization*, *42*(3), 427–460.

Rousewell, D. (2007, October 28). 1,000 yardies get the boot. *Starbroek News*, available at http://www.people.co.uk/news/news/tm_method=full%26objectID=20020093%26site ID= 93463-name_page.html

Saavedra, J., & Arias, O. S. (2005). Stuck in a rut: Avenues for combating persistent poverty and inequality in Latin America. *Finance & Development*, *42*(4), available at http://www.imf.org/external/pubs/ft/fandd/2005/12/saavedra.htm

World Bank. (2008). *Regional fact sheet from the world development indicators (2008): Latin America and the Caribbean*. The World Bank, available at http://siteresources.worldbank.org/DATASTATISTICS/Resources/lac_wdi.pdf

SECURING BORDERS: PATRIOTISM, VIGILANTISM AND THE BRUTALIZATION OF THE US AMERICAN PUBLIC

Sang H. Kil, Cecilia Menjívar and Roxanne L. Doty

ABSTRACT

Purpose – *This is an examination of how border policies become intertwined with patriotic expressions that result in an atmosphere conducive to border vigilantism. We analyze how vigilantes target sources of immigrant employment, demonstrate at public buildings in attempting to put pressure on public officials, and speak and rally at educational institutions in order to disseminate their message.*

Methodology – *We use content analysis, broadly defined.*

Findings – *Brutalization theory helps understand how a militarized border policy shapes an environment in which violence becomes an acceptable and appropriate response to undocumented migration.*

Value – *This chapter provides insights on both recent vigilante activities along the border and also within the interior of the nation.*

INTRODUCTION

On October 30, 2004, on state-leased land northeast of Douglas, Arizona, near the US–Mexico border, local Rancher Roger Barnett and his brother Donald stopped and detained a family hunting party. The hunters consisted of four members of the Morales family, Ronald, Arturo (Ronald's father), Angelique (9 years old), and Venese (11 years old), and their young friend Emma English (11 years old), all residents of Douglas. Roger Barnett, who defended his state-leased property as if it were his personal private property, is reported to have ordered the family to ''Get the (expletive) out of here or I'm going to start shooting'' as well as called Arturo Morales ''a (expletive) ignorant Mexican'' (Clark, 2006). Ronald Morales asked Barnett for his name and Barnett responded by running to his truck, taking out an AR-15 assault rifle, chambering the weapon, and saying, ''My (expletive) name is Roger Barnett. If you don't get off my property, I'm gonna shoot you and shoot you and shoot you'' (Buchanan & Holthouse, 2007).

Local law enforcement officials declined to investigate or prosecute the Barnetts over the incident. Although a deputy sheriff found evidence enough to charge Roger Barnett with 8 felony counts of aggravated assault and 10 misdemeanor counts of disorderly conduct and intimidation, the Cochise County prosecutor refused to file criminal charges. Morales said the county attorney simply told him ''no jury in Cochise County will ever convict Roger Barnett'' (Buchanan, 2006). The Morales and English families filed a civil lawsuit against the Barnett brothers seeking punitive damages for negligence, false imprisonment, and emotional distress (Buchanan & Holthouse, 2007). An Arizona jury, acting in a lawsuit sponsored by the Southern Poverty Law Center, ordered border vigilante Roger Barnett to pay $98,750 in damages (Rivas-Rodriguez, Subervi-Vélez, Bramlett-Solomon, & Heider, 2004; Buchanan, 2006). Despite the lawsuit, Roger Barnett is still boastful. He writes on his Web site that he detained ''over 14,000 illegal border crossers in the last 7 years. In fact, since January 1, 2004, to the time of this writing over 2,000 illegal aliens have been detained.'' Roger comments that his ''latest interest [is] in National Security'' (http://www.barnettstowing.com/towing ABOUTowners.htm).

Roger Barnett represents the intersection of patriotism, vigilantism, and border security issues. His actions illustrate the consequences of mixing patriotic zeal and an extralegal impulse to enforce laws, and how this combination can contribute to a dangerous and chaotic situation along the US–Mexico border. His actions, as well as those of members of similar groups, move beyond the actions of ordinary citizens securing the border

and toward vigilante behavior that threatens and criminalizes immigrants as well as citizens. In this chapter, we examine how border policies become intertwined with patriotic expressions resulting in an atmosphere conducive to border vigilante activity implicated in a process of brutalization whereby certain groups of individuals (both citizens and those without documents) are subjected to unjust and often inhumane treatment. Brutalization theory posits that state violence incites public violence, and we apply it to the border militarization policies that have given rise to vigilante groups along the border, including the Minutemen Project as well as similar border groups. We then describe the present border vigilante situation that has led Arizona to become a vigilante "hot spot." Importantly, we note that border vigilantism is no longer contained at the physical border, but has spread and moved into the interior of the nation. The presence of vigilante groups beyond the physical border – the public demonstrations and patrols in several US cities and the comments of analysts, pundits, and legitimate sources for major news outlets on immigration – represents a relatively understudied phenomenon. We highlight the links between (physical) border vigilantism and its (legal) border counterpart in US cities in order to underscore the spillover effect of militarized border policies, relying empirically on media depictions of vigilante activities. Our analysis differs from recent treatments of this subject (Chavez, 2008) in that we do not focus solely on the pseudo-military operations of the Minutemen Project at the US–Mexico border but illustrate how this phenomenon has spread to different areas beyond the physical border.

BRIEF HISTORY OF THE MILITARIZED BORDER

The US American interest in securing the border between the United States and Mexico began with the formation of the border patrol in 1924 (Nevins, 2001). At the time, these patrols focused on preventing Chinese immigrants from crossing into the United States since the 1882 Chinese Exclusion Act outlawed their immigration. During the 1920s, Mexican immigrants were exempt from any racial immigration quotas due to their agricultural labor value for southwestern growers (Chavez, 1996). During the Great Depression, massive deportation programs forcibly repatriated about a half a million Mexican and Mexican-Americans to Mexico (Chavez, 1996; Dunn, 1996). A decade later, the creation of what during World War II would become the *Bracero* Program between the United States and Mexico would allow almost five million Mexican male laborers to "guest"

or contract farm work in California and Texas under exploitive conditions for over 20 years until it was ended 1964 (Calavita, 1992; Rodrigúez, 1997). However, the *Bracero* Program did not prevent the government from undertaking massive deportation operations such as the highly publicized "Operation Wetback" of 1954 that may have removed nearly one million people, including Mexican-American citizens (García, 1980).

"Operation Wetback" marked a turning point in immigration enforcement strategy by incorporating for the first time a "large scale, systematic implementation of military strategy and tactics" against Mexican immigrants (Dunn, 1996). Since then, a combination of new laws and policies has helped shape the border to its current militarized condition. Most notable is the tension caused by the signing of free trade agreements and other neoliberal reform pacts like GATT and NAFTA that stimulate the free flow of capital but prohibit the free movement of labor. Additionally, the Posse Comitatus statute was altered in 1982 to allow civilian law enforcement agents to deputize members of the military to help control civilian populations (Dunn, 1996). Joint ventures between military and civilian law enforcement agencies began to form under the goal of drug enforcement. In one of these operations called Joint Task Force 6 in Texas, a marine stalked and killed a young boy who was herding his goats. Another significant feature of current border militarization is the use of an offensive border strategy called "prevention through deterrence" (Andreas, 2000). This strategy uses military tactics and "operations" to push migration routes from safer, urban points of crossing, into remote and deadly southwest deserts of the border region. "Operation Gatekeeper" symbolized the coordination between Border Patrol and the military with the erection of high walls made from surplus materials from the Gulf War (Andreas, 2000) and built by the Navy Sea Bees (Dunn, 1996). Finally, after the terrorist attacks of 9/11, the reorganization and shift of immigration matters from Department of Justice into the new Department of Homeland Security (DHS) further emphasized the military's role in immigration concerns by focusing on terrorist infiltration and defending the "Homeland."

BRUTALIZED AND BRUTALIZING PATRIOTS

In the field of criminology, brutalization theory has had a long life in debates over the effectiveness of the death penalty. Generally, brutalization theory posits that a state execution creates a climate of brutal violence that contributes to homicides. "The execution sets an example of killing to

avenge grievances, an example that some private individuals then follow'' (Shepherd, 2005, p. 208). Traditionally, scholars who advanced this theory were interested in how the death penalty encouraged, rather than deterred, people to commit homicides, in how the death penalty actually causes more homicides. So far, there is evidence that a process of brutalization occurs in some US states that practice the death penalty (Bowers & Pierce, 1980; Bailey, 1983; Shepherd, 2005).

While prior applications of brutalization theory attempted to make a causal argument with studies that showed how capital punishment brutalized the public and increased homicide rates, our modified use of brutalization theory in relation to vigilantism seeks to illuminate conditions of possibility rather than to show a direct causal link. Thus, our purpose in drawing from the theory of brutalization is not to argue that what the state does causes an increase in vigilantism. In an earlier study, Kil and Menjívar (2006) described the brutalization process that contributes to the construction of immigrants as the ''enemy'' in the border region. Examining the militarized tactics and war paradigm of border enforcement, they argued that border policies and the ''war on the border'' rhetoric actually brutalize the public, not only the immigrants, which fosters hostility toward immigrants. In the current paper we do not seek to prove that vigilantes react to border policies directly, but to point to how a militarized border policy might shape an environment in which violence becomes an acceptable and appropriate response to undocumented migration. The framing of immigrants as ''legitimate'' targets based on moral imperatives to ''defend the nation'' is not isolated from the state's own practices for dealing with immigration. Thus, our use of brutalization theory helps show a militarized border paradigm as a framework for the possible appearance of vigilantes as well as for public sentiments that treat immigrants as the ''enemy.''

Contrary to popular discourse that paints the minutemen and similar groups as acting *against* the state (in response to inaction to enact viable immigration reform), these groups actually *identify* with the state so much so that they see themselves as an additional arm of enforcement and not as law-breaking vigilantes. Furthermore, they mimic the government's language and posture with hi-tech sensing equipment, weaponry, uniform, and sense of purpose (Kil & Menjívar, 2006). While they may feel angry and criticize the state for failing to enforce immigration laws (Doty, 2007), vigilantes ultimately mimic the state in rhetoric, paradigm, and posture (Doty, 2007). Importantly, public officials often work in conjunction, or publicly identify, with the vigilantes' goals and activities, blurring the lines between state and non-state actors. Indeed, some scholars argue that

"vigilantism is a cheap form of law enforcement" (Sen & Pratten, 2008, p. 3). In our treatment, we do not reduce vigilantism to "expressions of the mob or antidotes to formal law" (Buur & Jensen, 2004, p. 140) but highlight the complex relationship between the two via the use of brutalization theory.

We expand on the concept of brutalization by examining its relationship to patriotism and immigration. Generally, scholars describe patriotism as a love or pride for one's country (Spry & Hornsey, 2007). They distinguish patriotism from nationalism by noting that nationalism relates to a desire for power and dominance internationally (Spry & Hornsey, 2007). Usually, there are two types of patriots: uncritical patriots, what some scholars refer to as "blind" patriots, who are devoted to their country's goals and see their nation as generally infallible (Spry & Hornsey, 2007), and constructive patriots, individuals who are committed to their country and incorporate universal or international values and ideals and are willing to criticize policies (Spry & Hornsey, 2007). Uncritical patriots "feel that their country is highly vulnerable to military threats from foreign countries" (Spry & Hornsey, 2007, p. 152). Uncritical patriotism "has been associated with concern about both national vulnerability and cultural contamination," and has been espoused broadly in recent years (Spry & Hornsey, 2007, p. 152). It is not limited to members of vigilante groups, but characterizes the sentiments of some politicians as well as some intellectuals and highly educated academics, such as one of the best known, Harvard's Samuel Huntington (Spry & Hornsey, 2007, p. 152). In this way, uncritical patriots tend toward "regressive" or "tribal" values (Mendieta, 2003), or more generally, restore an order perceived to have been lost.

A renewed debate over patriotism emerged after September 11, 2001. The *Peace Review* journal devoted a special issue to patriotism (2003, vol. 15, issue 4). Robert (2003, p. 391), a journalism scholar and contributor, saw links between nationalism and patriotism, assessed both as "bad," with a further assessment of patriotism as "intellectually bankrupt." Michael Parenti, a social scientist and journalist, described "superpatriotism, as the tendency to place nationalistic pride and supremacy above every other public and ethical consideration, and the readiness to follow national leaders uncritically in their dealing with other countries" (Parenti, 2003, p. 385). Antony (2003, p. 379), a women studies philosopher, argued that patriotism should be a virtue, one that entails room for critique of one's country. A prevailing theme was apprehension over how post–September 11 patriotism might stifle dissent and justify war (Spry & Hornsey, 2007).

An analysis by Puar and Rai (2002) helps the latter could happen. They argue that heteronormativity, white supremacy, and nationalism make gender and sexuality central tenets of the "war on terror" (Puar & Rai, 2002, p. 117). They make two related arguments that: "(1) the constructs of the terrorist relies on knowledge of sexual perversity and (2) normalization invites an aggressive heterosexual patriotism" (p. 117). For them, the interplay of constructing the "terrorist" as a "monster, terrorist, fag" in popular representations function to quarantine the "other" as well as to discipline the domestic population to "produce patriotic, docile subjects" (p. 130).

In general, Puar and Rai (2002) describe the production of docile patriots that can be used to explain a phenomenon taking place today among the mainstream citizenry. The post–September 11 environment has contributed to the production of docile citizens because individuals do not take action but simply accept uncritically the normalization of certain imaginaries of terrorism. This situation can be captured by using the concept of uncritical patriotism described earlier. However, in contrast to docile citizens and uncritical patriots, some citizens organize and patrol. These are the vigilantes. While they are docile in the sense that they accept national versions of the enemy or "other" uncritically, they dedicate extralegal energies to stopping the enemy-other. We might call them "neovigilantes" because they organize and patrol for protection in the context of disorder to create a social movement that reacts to perceived transgressions to the nation's sovereignty (Doty, 2007).

BRIEF OVERVIEW OF RECENT VIGILANTE ACTIVITY

An important aspect of contemporary vigilante activities is not only how they mimic the state's military actions and become conversant in the practices and languages of the state, but also their multiple connections to similar groups existing today and in the recent past. A quick overview of these links allows us to give some historical depth to the vigilantes' current practices. Although sensationalized the world over, their actions at the border are not new. What might be new is their savvy use of the media and their proliferation to areas beyond the physical border, both of which are linked to current government policies toward immigration and immigrants.

Individuals such as Roger Barnett and the various border vigilante groups are only the most recent manifestation of a phenomenon that has a long

history in the United States. In the 1970s, the Hannigans (father and two brothers) of Arizona received a great deal of attention stemming from their brutalization of three Mexican nationals near Highway 80 in Cochise County (Miller, 1992; Doty, 2009).

In the San Diego area, the Klan Border Watch was organized in 1977 at the San Ysidro port of entry by the now well-known David Duke (Doty, 2009). A paramilitary, anti-communist group called "Civilian Materiel Assistance" patrolled the Lochiel Valley about 30 miles east of Nogales, Arizona, and captured 15 undocumented migrants (Doty, 2009). In 1989 a group of citizens in San Diego began patrolling the Tijuana border area by gathering in cars and beaming their headlights on the border. This action became known as "Light Up the Border" (Sheehy, 2005; Doty, 2009). Subsequent groups that formed in California such as "Save Our State" and Glenn Spencer's "Voices of Citizens Together" can be thought of as forerunners of contemporary vigilante groups. For example, Glenn Spencer now resides in Arizona and heads the group American Border Patrol, which has connections with Jim Gilchrist's Minuteman Project (MMP).

In April 2005 along the Arizona border, a vigilante spectacle organized by James Gilchrist of California called the Minuteman Project converged with the help of the local vigilante group "Civilian Homeland Defense" led by Chris Simcox, a former California resident and current owner of a Tombstone, Arizona, newspaper (Kil & Menjívar, 2006, p. 173; Kil, 2009). Operating under the paradigm of a "neighborhood watch group," the Minuteman Project stationed volunteers, mostly from out of state and country, to police the border (Kil, 2009). The spectacle attracted immense media coverage with endorsements from influential news personalities like Fox's Sean Hannity and CNN's Lou Dobbs, as well as politicians like California's Governor Schwarzenegger (Kil, 2009). The Minutemen Project later splintered into two groups, one led by Chris Simcox, the "Minuteman Civil Defense Corps.," and the other continues to be the Minuteman Project led by James Gilchrist (Doty, 2007).

Numerous other groups, who are not formally connected with either of the minuteman groups, have formed in Arizona, in areas beyond the border. These "splinter" groups share past associations. These include Border Guardians, Mothers Against Illegal Aliens (Doty, 2009), Arizona Freedom Riders, and Border Patriot Alliance, which arose from disagreements between several members of Simcox's MCDC and Simcox himself. Stacy O'Connell, former head of the Phoenix chapter of the MCDC, was instrumental in the founding of this group (Doty, 2009).

Importantly, scholars have noted that the Minutemen Project activities (and those of similar groups) might not have deterred border crossings as the demand for immigrant labor in the United States continues unabated (Chavez, 2008). However, the minutemen actions have represented a ''nation-defining performance'' (Chavez, 2008, p. 45) whose goal has been to reach a wide public audience and, as such, those actions have become a media success. As with the activities of the Minutemen Project at the physical border, vigilante activities that are taking place in non-border cities have become media spectacles that have attracted substantial attention.

BEYOND THE BORDER

Vigilante actions at the border and the ''spectacle'' (Chavez, 2008) they have created have not *caused* the dissemination of similar activities to the interior of the country. But the process of brutalization and the vigilante actions at the border have attracted attention to the ''problem'' of immigration and thus the state and local law enforcement agents have responded with increased militarization in areas beyond the border. In a spiral of violence, for instance, Phoenix, Arizona, has become the ''kidnapping capital'' of the United States. Immigrant smugglers, who are now organized as human trafficking rings, have benefited from the stiffer (federal) policies at the border as well as from local-level initiatives designed to presumably combat the ''immigration problem.'' The more difficult it is to cross the border the higher the price of smuggling. Smugglers now charge exorbitant amounts of money for the same services that cost a fraction a decade earlier, and have resorted to violent tactics to extract even more money from their charges by holding them captive in drop houses until ransom money is paid.

Vigilante groups have formed and are currently active from the east to the west coast. To cite a few examples, Chris Simcox's Minuteman Civil Defense Corps. (MCDC) has chapters Minnesota, New York, and Oregon, and eight chapters in various locations in California (http://www.minutemanhq.com/hq/local.php). Jim Gilchrist's MMP also has numerous chapters throughout the country: six in California, three in Florida, two in New Jersey, and others in states as diverse as Illinois, Maine, Massachusetts, North Carolina, Texas, and Oregon (http://minutemanproject.com/organization/chapters.asp). Among the supporters of both the MCDC and the MMP is a group called ''High School Conservative Clubs of America,'' which promote ''the Bible, patriotism, and conservative beliefs as balance to the mostly 'liberal' viewpoints of teachers'' (http://hscca.org/mission.htm). Some of the

positions they promote on their home page include "close our borders and deport all those who are in this country illegally." In their "events" section they display photos of students with ties to well-known vigilantes and anti-immigrant activists including James Gilchrist, Chris Simcox, politician and Christian conservative Alan Keyes (Doty, 2009), and Congressman Tom Tancredo (R-CO).

METHODS

We used LexisNexis Academic database to gain access to newspaper and TV coverage of the minutemen and similar groups. LexisNexis provides an extensive, searchable database of news reporting. Our use of LexisNexis is a non-probabilistic, empirical pulse check of the current vigilante activity in non-border areas as captured by news media reporting. First, we focused our search on US American newspapers using the search terms "minuteman or minutemen or civilian patrols or vigilantes" and "immigrants or immigration." These terms were then limited to search hits within the headlines and lead paragraphs. We limited our search from April 2005 to April 2008 to provide a three-year time frame of activity to tap vigilante activities in the country's interior. We analyze this time frame because we expect the minuteman border spectacle of April 2005 to have a brutalizing effect on the interior of the country, inspiring citizens away from the border to become vigilantes.

One hundred and twenty-two newspapers produced hits that totaled 964 newspaper articles. The articles were then sorted in order of relevance to the search term and the first one hundred articles were content analyzed. Second, we searched for the frequency of TV news media's use of James Gilchrist as a guest or interviewee. We used James (also known as Jim) Gilchrist as our search term because he is a leader of the anti-immigration politics, the founder of the original Minuteman Project, and ran (but lost) as an independent for a congressional seat in Orange County's 48th congressional district on an anti-immigrant agenda (http://jimgilchristhq.com/). Using LexisNexis we searched all news transcripts produced in the same time period for James Gilchrist's name. Four hundred and fifty-three hits resulted in our target three-year period. Within these results, news stations such as CNN and Fox News showcased Gilchrist 62 and 25 times, respectively. We do not analyze these TV transcripts for content but include their frequency here to show how vigilantes have garnered widespread spokesperson legitimacy from mainstream media outlets.

Notable Cases

Vigilante Targets
We content analyzed our data set of newspaper articles to highlight some notable cases of vigilante activity occurring in the interior of the country. Based on our analysis, the vigilante activity that the media report on falls within three general categories: (1) vigilantes target immigrant employment, (2) vigilantes target public buildings and officials, and (3) vigilantes target educational institutions.

Immigrant Employment
Various vigilante chapters, cells, or spin-offs, though mostly minutemen affiliated, began an organized campaign targeting immigrant resources. In particular the media covered the protests over day-laborer centers. These centers tend to serve day laborers, including undocumented immigrants, with a central and safe location to connect with employers or contractors without having to be on the streets. For example, in the Houston Texas area, minutemen vigilantes videotaped laborers and contractors at one center in Bayou City in an effort to draw negative attention to the city's support of that center (Hegstrom, 2005, p. A01). The *Houston Chronicle*, the area's flagship newspaper, criticized the vigilantes' efforts as unproductive, as it pointed out the widespread and "in broad daylight" practice of hiring day laborers by businesses and others looking for cheap labor (The Wrong Target, 2005, p. B6). The *Chronicle* reported that Bee County Sheriff Carlos Carrizales stated that he had attended minutemen meetings in Texas with other law enforcement officials and local landowners but he stopped going after the second meeting when someone shouted, "Can't we just shoot them [immigrants]!?" (Hegstrom, 2005, p. A01). Similar strategies of targeting and intimating people who hire immigrants also occurred in Alabama, Virginia, and Utah. In Kansas, minutemen have protested construction sites where they believe undocumented immigrants work (Franey, 2007, p. News 25). The case of Sheriff Carrizales underscores the link between minutemen and vigilante activities and public officials' work, which blurs the lines between what are thought as "fringe" groups and formal law enforcement. Sheriff Joe Arpaio in Maricopa County, Arizona, perhaps provides the best and most public example of the connections between the activities of vigilante groups and those of the elected public officials. Like the minutemen and other vigilante groups, Sheriff Arpaio is savvy in his use of the media, stops at nothing in his law enforcement activities (which have spurred civil rights investigations) and in overall strategy and zeal. At the same time, the case

from Arizona also unveils important complexities, as not all public officials agree with such strategies. Mayor Phil Gordon of Phoenix has called for a federal investigation of the Sheriff's activities and the two are engaged in a public feud over the Sheriff's unconventional strategies to apprehend undocumented immigrants.

Public Buildings and Officials

In May 2006, vigilantes also organized at the nation's Capitol in order to protest the Senate over impending immigration debates. Minutemen "caravanned" to Washington, DC as the Senate was preparing to debate a bill that would allow amnesty and guest work concessions for immigrants. While only 100 minutemen are reported to have gathered, the media reported that the media's presence far outnumbered the minutemen (Lochhead, 2006, p. A3). *The Washington Post* quotes Carmen Mercer, the "vice-president, chief fundraiser and national recruiter for minutemen, and director of the Tucson chapter" who planned on participating in the rally as saying, "I can guarantee terrorists have come across the border . . . I don't want 9/11 to happen again. It's a national security thing" (Morello, Londono, & Klein, 2006, p. B1). This is despite the fact that no one involved in the 9/11 attacks crossed the southern US border.

Minutemen also targeted cities that are identified as "sanctuaries." For example, the mayor of National City (near the San Diego area) attempted to make that city a sanctuary in 2006. The minutemen responded with a demonstration where "130 peace officers in riot gear" attempted to keep the peace between the vigilantes and human rights counterprotesters (Fitzsimons, 2006, p. B2). Additionally, the first author attended a minuteman protest of San Francisco's sanctuary policy in July 2008 as a participant observer. In this situation, the minutemen were capitalizing on a recent local tragedy, where an undocumented youth shot and killed a father and his two young adult sons in a traffic dispute, in order to put pressure on San Francisco Mayor Gavin Newsom to repeal the city's sanctuary policy (The Minuteman Project, 2008). Only a handful of minutemen attended the protest with counterprotesters far outnumbering the vigilantes.

Educational Institutions

The vigilantes' focus on educational settings is the most unexpected category of targets we found in the study. While it is not the most frequent (only four articles mentioned in this category), it is still an unusual one. Among the most noteworthy is an event at New York University (NYU), hosted by the College Republicans that featured renowned minuteman Chris Simcox as

a panel speaker. The media reported that many people protested Chris Simcox's speech, including a fellow panelist, Enrique Morones, who works on immigrant rights issues. Morones further criticized the NYU College Republicans for organizing a ''Find the Illegal Immigrant'' game held a few days before the event (Contiguglia, 2007, p. 12). In another example, the minutemen capitalized on racial strain at Castro Valley High School (in the eastern San Francisco Bay Area) following the massive student walkouts on May 1, 2006, that caused student confrontations at and near the school. The Golden Gate minutemen held a rally in the Castro Valley with the goal of launching another Bay Area chapter (Holzmeister & Louie, 2007). Charles Birkman, co-founder of the East Bay Coalition for Border Security, which affiliates with the minutemen, was the spokesperson for the rally and he emphasized that the event was focused on unchecked immigration that ''overburdens schools and hospitals'' (Holzmeister & Louie, 2007, para 8).

CONCLUSION

In this chapter we have highlighted several important points regarding anti-immigrant vigilante activities. First, contrary to popular belief (supported by research that has focused exclusively on the border), vigilante activities are not contained at the southern US border. More and more, these activities are taking place away from the physical, geographical, border in urban areas throughout the country. Related to this ''spillover'' effect, the more their activities expand geographically, the more they become ''normalized'' and are not seen as simply those of ''fringe'' groups. Note-worthy, the media and some public officials have contributed to bring these groups from ''out of the margins'' and into the mainstream. Thus, we now see public officials working in conjunction with or, at least, espousing vigilantes' aims and strategies, with media coverage that contributes to normalize their presence and activities. Connected to these points, our examination also conveys another ''spillover'' image: that of citizens who also becoming violent in their quest to mimic the state. The geographical expansion of vigilante activities is intimately linked to the normalization of their activities and as such to the brutalization of the population at large.

Portraying the minutemen and similar groups as imitating the state in posture, objectives, tactics, etc., brings them out, analytically, from the fringes and into the center because they do not act *against* the state but *with* the state. Examining the practices of these vigilante groups as instances of ''statecraft from below'' shifts the focus from the notion of ''the state''

narrowly conceived as a unitary, rational entity charged with protecting citizens' rights to a broader understanding of how statecraft and the power associated with it works. Practices that may at first glance seem to be fringe and peripheral to the workings of state power are revealed to be central.

REFERENCES

Andreas, P. (2000). *Border games: Policing the US-Mexico divide*. Ithaca, NY: Cornell University Press.

Antony, L. (2003). The puzzle of patriotism. *Peace Review*, *15*(4), 379–384.

Bailey, W. C. (1983). Symposium on current death penalty issues: Disaggregation in deterrence and death penalty research: The case of murder in Chicago. *Journal of Criminal Law and Criminology*, *74*, 827–855.

Bowers, W. J., & Pierce, G. (1980). Deterrence or brutalization? *Crime and Delinquency*, *26*, 453–484.

Buchanan, S. (2006). *Border vigilante ordered to pay damages in SPLC-sponsored suit*. Retrieved February 10, 2008, from: http://www.splcenter.org/intel/news/item.jsp?aid = 93

Buchanan, S., & Holthouse, D. (2007). *House of cards: Chris Simcox's Minuteman group, the country's largest civilian border patrol, may be collapsing*. Retrieved February 10, 2008, from: http://www.splcenter.org/intel/news/item.jsp?site_area = 1&aid = 259

Buur, L., & Jensen, S. (2004). Introduction: Vigilantism and the policing of everyday life in South Africa. *African Studies*, *63*(2), 139–152.

Calavita, K. (1992). *Inside the state: The Bracero Program, immigration, and the I.N.S.* New York: Routledge.

Chavez, L. R. (1996). Borders and bridges: Undocumented immigrants from Mexico and the United States. In: S. Pedraza & R. G. Rumbaut (Eds), *Origins and destinies: Immigration, race, and ethnicity in America* (pp. 250–262). Belmont, CA: Wadsworth.

Chavez, L. R. (2008). Spectacle in the desert: The Minuteman Project on the US-Mexico border. In: D. Pratten & A. Sen (Eds), *Global vigilantes* (pp. 25–46). New York: Columbia University Press.

Clark, J. (2006). *Testimony begins in Roger Barnett's trial*. Retrieved February 10, 2008, from: www.douglasdispatch.com/articles/2006/11/15/news/news4.txt

Contiguglia, C. (2007, April 10). Immigrant debate stirs ire at NYU. *Washington Square News*. Retrieved July 1, 2008, from LexisNexis database.

Doty, R. (2007). States of exception on the Mexico-US border: Security, ''decisions,'' and civilian border patrols. *International Political Sociology*, *1*, 113–137.

Doty, R. L. (2009). *The law into their own hands: Immigration and the politics of exceptionalism*. Tucson: University of Arizona Press.

Dunn, T. J. (1996). *The militarization of the US-Mexico border, 1978–1992: Low-intensity conflict doctrine comes home* (1st ed.). Austin: CMAS Books, University of Texas at Austin.

Fitzsimons, E. (2006, October 1). National City named Sanctuary City; immigration activists get decree from mayor. *San Diego Union Tribune*, p. B2. Retrieved July 1, 2008, from LexisNexis database.

Franey, L. (2007, July 5). Immigration-control group cites patriotism, others see bigotry. *The Star Ledger*, p. News 25. Retrieved July 1, 2008, from LexisNexis database.

García, J. R. (1980). *Operation Wetback: The mass deportation of Mexican undocumented workers in 1954*. Westport: Greenwood Press.

Hegstrom, E. (2005, July 8). Minutemen; Border Watchers coming to city; They'll target HPD's hands-off policy on illegal immigrants and day-labor sites. *Houston Chronicle,* p. A01. Retrieved July 1, 2008, from LexisNexis database.

Holzmeister, K., & Louie, E. (2007, February 23). Minutemen to hold rally, hope to start new chapter. *Inside Bay Area (California)*. Retrieved July 1, 2008, from LexisNexis database.

Houston Chronicle. (2005, July 11). The Wrong Target: Plan by Minutemen to videotape illegal immigrants seeking work in Houston misses the point. *Houston Chronicle*, p. B6. Retrieved July 1, 2008, from LexisNexis database.

Kil, S. H. (2009). Immigration and 'operations': The militarization (and medicalization) of the USA–Mexico Border. In: R. Frenkel, P. P. Frassinelli & D. Watson (Eds), *Traversing transnationalism*. Amsterdam: Rodopi Press.

Kil, S. H., & Menjívar, C. (2006). The "war on the border":' The criminalization of immigrants and the militarization of the US-Mexico border. In: R. J. Martinez & A. J. Valenzuela (Eds), *Immigration and crime: Ethnicity, race and violence* (pp. 164–188). New York: New York University Press.

Lochhead, C. (2006, May 13). Anti-immigrant caravan makes it to Washington: Minuteman Project holds rally as Senate ready to debate bill. *San Francisco Chronicle*, p. A3. Retrieved July 1, 2008, from LexisNexis database.

Mendieta, E. (2003). Patriotism and anti-Americanism. *Peace Review*, 15(4), 435–442.

Miller, T. (1992). *On the border-portraits of America's southwestern frontier*. Tucson: University of Arizona Press.

Morello, C., Londono, E., & Klein, A. (2006, February 8). Guardian of the Green Card: Warrior against illegal immigration sees signs of trouble all around her. *The Washington Post*, p. B1. Retrieved July 1, 2008, from LexisNexis database.

Nevins, J. (2001). *Operation Gatekeeper: The rise of the "illegal alien" and the making of the US-Mexico boundary*. New York: Routledge.

Parenti, M. (2003). What does it mean to love one's country? *Peace Review*, 15(4), 1.

Puar, J. K., & Rai, A. S. (2002). Monster, terrorist, fag: The war on terrorism and the production of docile patriots. *Social Text*, 20(3), 117.

Rivas-Rodriguez, M., Subervi-Vélez, F. A., Bramlett-Solomon, S., & Heider, D. (2004). "Minority journalist" perceptions of the impact of minority executives. *Howard Journal of Communications*, 15, v.39–v.55.

Robert, J. (2003). Patriotism's a bad idea at a dangerous time. *Peace Review*, 15(4), 389–396.

Rodrigúez, N. (1997). In: J. F. Perea (Ed.), *Immigrants out! the new nativism and the anti-immigrant impulse in the United States* (pp. 223–243). New York: New York University Press.

Sen, A., & Pratten, D. (2008). Global vigilantes: Perspectives on justice and violence. In: D. Pratten & A. Sen (Eds), *Global vigilantes* (pp. 1–21). New York: Columbia University Press.

Sheehy, D. (2005). *Fighting immigration anarchy: American patriots battle to save the nation*. Bloomington, IN: AuthorHouse.

Shepherd, J. M. (2005). Deterrence versus brutalization: Capital punishment's differing impacts among states. *Michigan Law Review*, 104(2), 203–255.

Spry, C., & Hornsey, M. (2007). The influence of blind and constructive patriotism on attitudes toward multiculturalism and immigration. *Australian Journal of Psychology*, *59*(3), 151–158.

The Minuteman Project. (2008, July 29). Sanctuary City murders: Protest Newsom's lethal policy [Posting ID:775261303]. Message posted at: http://sfbay.craigslist.org/sfc/pol/775261303.html

THE CRIMINALIZATION AND VICTIMIZATION OF IMMIGRANTS: A CRITICAL PERSPECTIVE

Salvatore Palidda

ABSTRACT

Purpose – *To examine the immigration, crime and justice nexus from the perspective of non-state theorists.*

Method – *Review and synthesis of the literature.*

Findings – *The process of criminalization and victimization of immigrants is part of a wider situation of the neo-liberal development that causes destruction of the former social structure and thus of the practices of negotiated and peaceful management of disorder, discomfort and social problems. Fears and uncertainties connected to destruction of the political organization of society are exploited to support a securitarism that fails to create security but excels in reproducing insecurity.*

Value – *The criminalization and victimization of immigrants is seen from a much broader perspective than normally found, one that links those issues to political economy and global social structures.*

From the early 1990s up to the present day (January 2007), the phenomenon of the criminalization of immigrants (and to a lesser extent, their victimization) has been the subject of research and publications (see References and Further Reading). The following is a summary of the main results of such research, from the point of view of an interpretative perspective and an analysis that tries to rebut the dominant thesis supported by 'state thinking'.

1. The phenomenon of criminalization has always been present and has occurred with more or less intensity depending upon the surrounding conditions (national or foreign migrants – among them the gypsy groups – have always been in a position for the easy role of enemies). Whenever the situation was favourable to legal insertion, integration or assimilation of immigrants in the destination societies, the passage from illegal or semi-illegal to regular status was possible. In addition, those released from prison were able to get back to a normal life. In contrast when there are political or economic crises, the immigrant is always the first easy target, who gets labelled as responsible for all evils, together with or in substitution for all the usual enemies, both internal or external. From the point of view of the destination countries, immigration has always been subject to selection measures in order to include or exclude flexible procedures that fluctuate from paternalism to fierce rejection. For a precise reading of the history of such phenomenon, it is useful not only to review immigration studies and criminologists' conclusions but also studies of the police, on the process of building the political organization of society and some aspects of international relationships, in military and social history (among others see Foucault, 1976, 2004; Noiriel, 1988, 1991).

2. The globalized neo-liberal development produced an important change in the phenomenon, first because destination countries do not need a great deal of regular labour, nor demographic contribution or cannon fodder (three typical features of immigration in France as well as the Americas). On the contrary they require limited labour often inferiorized by racial, ethnic discrimination and increasingly restrictive migration policies.

3. Migration prohibitionism (both in the origin and destination countries) is the cause of irregular migration and the increasing criminalization of it.

4. The globalized neo-liberal development since the 1970s gave rise to a de-structuring of the entire former political order on a local, national and world scale (thereby affecting both origin and destination countries with the consequences originated by the end of bipolarism). According

to Schumpeter (1942 [1955]), this is a destruction process that has started without giving way to a new political organization of society that should integrate and create social cohesion, except for the *zealous* citizen (Becker, 1963), that is inclusion based on violent exclusion of those who do not correspond to the neo-liberal profile.

5. As in all similar situations, the neo-liberal destruction (and consequently the social and political de-structuring) evoked fears, uncertainty and insecurity that, according to the Hobbesian theorem, are exploited in order to support the escalation of securitarism. Such a process feeds on the 'tautology of fear' by setting an easy target as an enemy which leads to new social cohesion. As in other situations, the 'easy enemy', in turn, is the marginalized person, the small criminal, the drug addict or the youngster responsible for the 'urban barbarities' often belonging to groups of young immigrants or of foreign origin (according to Sayad (1991, 1999), 'illegitimate children' among the 'inopportune posterity').

6. The possibilities of regular insertion (economic and social) are very scarce and create instability; precariousness (also due to racial and ethnic discrimination) within a frame that celebrates neo-liberal logic (above all, quick success at all costs and by any means) creates the right grounds for delusions of easy and big money, and the sliding towards illegal activity, self-criminalization and easy criminalization. All this feeds on the consequences of the de-structuring in the country of origin and those belonging to the frame of migrant traffic that increases prohibitionism.

7. As in the past, when prisons of cities with massive urbanization were full with the neo-urbanized, the prisons of destination countries are populated with neo-immigrants (in the USA, prisons are full of black people and Latinos). Part of the old outcasts and criminals are replaced continuously by the neo-urbanized, and this process is favoured by a condition that promotes illegal rather than legal insertion.

8. Since the end of the 1980s, in all the rich countries there has been an increase in arrests and imprisonment of both autochthons and immigrants. The latter are over-represented in such a world (as the black people in the USA) even though the trend shows a definite decrease of serious crimes.

9. According to neo-positivist analysis, statistics unquestionably show that the tendency towards crime is stronger among the immigrants than among the natives. On the other hand, however, according to the perspective scholars such as Cicourel (1964), Garfinkel (1967), Goffman (1970), Foucault (1976, 2004), Becker (1963) and others, the higher crime rate

among immigrants (as well as among black people) is affected by the
social classification of such people as criminals (self-criminalization and
criminalization practiced by police and judicial policies and measures,
together with their interaction with the media, the actors of securitarism
and the local leaders). Of course, such social construction is eased by
migration prohibitionism, perfectly combined with the ethnocentric and
racist character typical of rich countries.

10. Among neo-positivists there are authors who agreed with the thesis of
'zero tolerance' or 'post modern' securitarism, or even what Sayad (1991,
1999) calls the neo-liberal renewal of 'state thinking'. (For a criticism of
these authors see Dal Lago, 1999a, 1999b; Wacquant, 1999; Harcourt,
2001, 2007; Mucchielli, 2002, 2008; Quassoli, 1999.) Among the Italians,
the most influential is Marzio Barbagli (1998/2002), whose main book on
the subject was reprinted in 2002 after the success of the first edition in
1998. (See also Barbagli, this volume.) From the end of the 1990s to
2006, the author's thesis has gained strength: 'the impressive growth in
the number of crimes committed in Italy by immigrants is not only
confirmed by convictions but also by reports'. His interpretation of the
phenomenon is as follows: the 'selection of immigrants favours people
particularly oriented towards crime and deviation' (Barbagli, 1998/2002,
p. 168). This should explain the difference from immigrants in the past,
who were good people, hard workers and with less of an inclination
towards crime than natives.

11. As noted above, it is curious that in the chapter about crime perpe-
trators and victims, Barbagli ignores the numerous cases of Italian
'serial killers' and notes that homicides are mainly *ingroup*. The reliance
of the author on the objectivity of statistics, together with his indigna-
tion for the 'urban barbarities' and his defence of order, decorum and
morality so much invoked by zealous citizens, runs the risk of becoming
a neo-liberal ideological prejudice leading some European democrats to
praise the measures adopted by Tony Blair, the European Union or
other governments that are creating criminalization and self-criminali-
zation of so many young people. Maybe this is the neo-liberal
respectable 'state thinking' that – as with the concept of the 'just war'
– a similar oxymoron as noted by de Tocqueville – is at variance with
the liberal and democratic traditions.

12. Those immigrants who are not able or are less willing to adapt to
the new neo-liberal context are more likely to be criminalized, self-
criminalized or end up directly in the ranks of the 'human excess'
(Dal Lago, 1999, 2006; Bauman, 2005). Special prisons devised for

immigrants, manu militari expulsions or other violent practices perpetrated on them can be considered as experiments in the procedure of disposal of the human excess, or rather as attempts to go beyond prison and the other penalties within the modern state.

13. The frame of permanent war against terrorism and against 'rogue countries' [or rather the war between the two mirror fanaticisms (Occidentalist and Islamist)] has created a new persecution of the immigrants (and their offspring) classified as Islamic. Hundreds of innocent people (and thousands in the USA), sometimes not even observant Muslims, were subjected to stops, arrests and even tortures, all in the name of war operations against terrorism led by police and intelligence agencies, often with the full support of most media and the so-called 'democratic' governments. The merging of the two characters of illegal immigrant and potential terrorist, and the issue of the 'terrorist living next door' (especially after the London terrorist attacks in 2005), created the new character of enemy immigrant, internal or external, or better, 'global and total enemy'. From this point of view, the new dominating rhetoric describes the immigrant traffic as vital to major organized crime and to terrorism.

14. The so-called fight against illegal immigration has become in fact a real war against immigration. Most of the NGOs have turned to 'humanitarian' activities that actively support such war, sometimes even by recruitment of neo-Gurkhas (in a disquieting resemblance to contractors supporting the army on the war scene): projects of re-integration in the countries of origin (often masking forced and mass expulsions), management of special prisons for expelled-to-be (CPTs[1] or transit centres), cultural mediation projects supporting police control activities, etc.

15. Immigrants of today face a real war against them, a 'revolving door' game that allows admission and immediately after expels them, sectorized integration, neo-slavery and in some cases access to neo-liberal roles as masters (ethnic subcontractors who manage the hyper-exploitation of immigrants). In particular, the future of young immigrants appears to be that of 'inopportune posterity' because dominating countries claim no need of them, except as inferior beings, and because the logic of immediate and maximum profit cannot deal with posterity, let alone the costs for a political organization of society (Palidda, 2007).

16. Real problems of immigration concern practices and conception of the current political organization of society, that is management of the disorder, conflicts and precarious order, that discards peaceful mediation

and favours repression and war, because the latter two produce profits (business) and wear away the capacity of subordinates to influence political decisions (or rather, wear away the fundamental rights of those ruled).

17. Delinquency, criminalization and victimization of immigrants are social facts that act as indicators of the different consequences of liberalist development in the origin and destination countries and in the relationships between the two.

18. If the management of immigration has always been a prerogative of the police, today it is in the hands of the military-police forces that, with the collaboration of power contractors and embedded NGOs, create a strong immigrant turnover, clandestinization, rejection and precarious inclusion under conditions of inferiority (practices that recall colonialism).

19. The most unbearable inequity for young immigrants and the offspring of immigrants is the asymmetry of rights, freedoms and privileges among the citizens of rich countries and the subordinates from immigration countries. Influenced by the development and circulation of new technologies, communication, transport, know-how and goods, young people in all countries aspire to travel and have experiences to become independent or escape from degraded conditions and destruction.

20. The refusal of regular and accessible immigration possibilities, accessible by those who have the courage to emigrate or need to escape from their countries, cannot but be perceived as one of the most despicable reactionary acts. It reveals the existence of a state subject to the rule of a law completely opposed to universal rights, an act that causes death, exactly like the other wars. Europe shares responsibility for such genocide of immigrants, in the name of the defence of a Eurocentric citizenship and to the advantage of profits produced by immigrants and the business generated by the war against immigration.

CRIMINALITY AND REPRESSION STATISTICS: ITALY

The report on judicial activity in Italy for 2006 states the following:

> Based on data provided by ISTAT – during the period 1/7/2005–30/6/2006 – the number of reported offences remarkably decreased (from 2,855,372 to 2,526,486, with a reduction of 11.5%), even if the percentage of offences by unknown people is still excessive (1,992,943 or 79%). A comforting figure comes from the general reduction of all type of offences, including premeditated homicide, manslaughter and robbery; [. . .] violations of immigration law had a predictable increase, 62% (from 12,512 to 20,270) . . .

In addition to the well-known national and local criminal organizations (the Italian mafia), the National Department Antimafia affirms there are also some foreign criminal organizations, comprising Albanians, Romanians, Bulgarians, Russians, North Africans, South Americans and Chinese. In fact, data on incarcerated and convicted show that only a few dozen foreigners of criminal organizations have been convicted. It is also known that certain gangs of foreigners are working for the Italian mafia and are often composed of ex-secret service and police agents of the countries of the ex-Yougoslavia and ex-USSR.

Common activity of local mafia is drug trafficking (heroin and cocaine) that involves crime organizations in the rest of Europe (especially Albania and countries of East Europe), Turkey, South America (Colombia and Argentina), and ''logistic'' bases – managed in particular by 'ndrangheta – also in other European countries, such as the Netherlands and Spain ... (Nicastro, 2007).

The increase in repressive measures and penalization in Italy is highlighted by the number of people reported for crime and even more by the ratio between offences reported and people arrested. The trend shows foreigners as the most affected by reports and arrests, not because the immigrant population increased, but rather because they replaced Italians in the role of drug pushers and authors of minor offences, and this resulted in their increased repression and imprisonment. Actually, in most cases foreigners are charged with less serious offences than Italians, or only with those offences connected with their condition of immigration; besides foreigners are a favourite target for control activities and repression by the police.

Between 1990 and 2005, the number of Italians reported for crimes remained virtually the same while the number of foreigners reported for committing crimes increased by more than six times from 32,576 to 177,655 (see Table 1). The same is true for the number of arrests. For imprisonments, the disproportion is somewhat less pronounced but notable nonetheless.

Table 1. Italians and Foreigners Reported, Arrested and Imprisoned from 1990 to the End of 2005 – Before the Pardon in 2006.

Year	Reported				Arrested				Imprisoned		
	Italians	%	Foreigners	%	Italians	%	Foreigners	%	Italians	Foreigners	%
1990	403,175	92.5	32,576	7.5	53,155	82	11,659	18	22,133	4,017	15.4
1995	587,193	91.1	57,190	8.9	88,827	80	22,244	20	38,716	8,628	18.2
1999	606,603	86.6	93,596	13.4	95,185	77	28,067	23	38,000	15,000	28.3
2005	434,301	67.4	210,231	32.6	71,466	49.2	73,765	50.8	40,273	19,836	39.3
1990–2005	+31,126	+7	177,655	+545	18,311	+34.4	62,106	+533	18,140	15,819	+394

Sources: Ministry of the Interior and Ministry of Justice.

The number of foreigners imprisoned increased by a factor of 4.9, while that for Italians by 1.8. This disproportionate impact of the law on immigrants is the result of prohibitionist rules used by those police agents who misuse the discretion of their power, making it a weapon to criminalize, especially when it comes to wayward youth. In fact, the heightened criminalization of immigrants corresponds to an increase of prohibitionism that resulted in an increased number of deaths during immigration attempts and in a general drift that intensified the repressive activity (arrests) and penalization (detention and conviction) also for Italians.

As shown in Table 1, after the increase in crime in the 1990s, during the Berlusconi government, thanks to the Bossi–Fini law and to the accentuated discretion (anti-immigrants) that often characterized the action of police sensitive to government orientation, Italians were less and less restrained and punished while immigration criminalization increased. Obviously, for the worshippers of the sacredness of statistical data, this confirms the greater 'tendency to commit a crime' by immigrants. But on the contrary, it clearly shows how much they have been the object of a repressive and punitive discretion, which also feeds the phenomenon of self-criminalization.

In a statistical study carried out in 2006,[2] it was 'discovered' that in the north of Italy most of the people arrested with the charge of drug pushing were foreigners while in the south they were Italians. According to the author this was the evidence of ineffective repression, especially against the non-identifiable/unwelcome immigrants. In fact, as was already demonstrated (Palidda, 1999, 2001), this was mere replacement of 'local' drug dealers with the young foreigners who, since the 1980s, were well known to the police as well as to all those who deal with these social worlds.[3] It is a phenomenon similar to that of substitution between autochthons and immigrants in the most noxious, difficult, disreputable, ill-paid jobs, that is the classic substitution between the last and the newly arrived in the social scene.

As shown in Table 2, the imprisonment rate of foreign males is six times higher than that of Italian males, although the crimes they are charged with are less serious. Italians always benefit from less harsh incarceration and penalties, and this happens despite the increase of repression towards Italian outcasts.

These data show how the immigrants who are more subjected to imprisonment are always North Africans (Algerians – the 'most criminal', Tunisians and Moroccans) followed by Nigerians, Yugoslavians, Albanians and others, while those considered as 'good immigrants' can reach percentages lower than those of Italians. Contrary to common stereotypes, Albanians, Romanians, Slavs and Chinese are not among those considered as 'the worst' (Palidda, 2001, 2008a, 2008b).

Table 2. Prisoners by Gender, Nationality, and Ratio on Base 1000 from the End of 2005 to Before the Pardon, Italy.

Country of Origin	Women	Men	Total	Ratio (Males)	Ratio (Foreigners/Italians)
Albania	64	2,907	2,971	14.2	7.3
Algeria	8	1,300	1,308	85.0	88.0
Bangladesh	1	34	35	0.9	0.5
Bosnia-Herzegovina	25	109	134	6.4	3.4
China	25	254	279	3.4	1.7
Colombia	43	155	198	10.3	5.4
Croatia	39	181	220	9.5	4.7
Ecuador	17	122	139	4.9	2.5
Egypt	1	197	198	4.5	2.3
Philippines	10	40	50	1.0	0.5
Ghana	11	129	140	6.1	3.2
India	–	68	68	1.7	0.9
Yugoslavia	140	719	859	19.4	10.0
Macedonia	6	125	131	3.2	1.7
Morocco	38	4,170	4,208	21.0	10.8
Moldavia	27	263	290	8.0	4.1
Nigeria	204	568	772	28.0	15
Peru	21	145	166	6.0	3
Poland	20	177	197	10.0	5.2
Romania	185	1,602	1,787	11.0	5.5
Senegal	2	264	266	5.4	2.8
Sri Lanka	1	48	49	1.6	0.8
Tunisia	19	2,057	2,076	36.0	18.7
Ukraine	23	129	152	6.0	3.2
Unknown nationality	3	20	23		
Total foreigners imprisoned	1,302	18,534	19,836	11.6	6.0
Rate (foreigners)	0.86	11.6	6.4		
Italians imprisoned	1,567	38,706	40,273	2	1
Rate (Italians)	0.07	2	1		

Note: For the Italians, the ratio was calculated on an age basis – from 18 to 69. The foreigners' ratio was calculated on the number of residence permits plus an estimated number of illegal immigrants. The total number of Italian males were 20,049,569.
Sources: Ministero di Grazia e Giustizia and Istat.

AFTER THE PARDON (NOVEMBER 2006)

On 20 October 2006, Italian prisons held a total of 38,700 prisoners while before the pardon there were 60,700 prisoners. Prisoners taking advantage of the pardon (November 2006) were 24,135 (62.2% Italians and 37.8%

foreigners). Out of these, 1,245 (5.2% of the total) are already back in prison. Among the 'recidivists' were 746 Italians and 499 foreigners. Prison population, anyway, decreased by 36.3%. According to analyses by Antigone (the Information & Documentation Center on Racism, Ecology, Peace and Non-Violence – see http://www.antigone.gr/biography.html), out of the 25,256 people getting out of prison on 25 October 2006 by means of the pardon, 9,187 were foreigners. Before the pardon came into force, there were 20,088 foreigners in Italian prisons, that is 33% of the total prison population, while in September 2006 they amounted to 12,369, equivalent to 32%.

The truth is, even if the 'foreign prisoners charged with minor offences are always more numerous than the Italians' and in spite of their high percentage under precautionary detention, only a few of them benefited from the pardon. The percentage of foreign prisoners remained almost the same despite the pardon. This can be explained partially because most foreign prisoners cannot count on the defence presented by a trusted lawyer. At the moment of release, the foreigners receive the famous 'expulsion order' with the injunction to leave Italy within five days. Others, a minority (in Rome, 90 out of 458 released; in Milan, 20 out of 460) are taken to a CPT [(Centro Permanenza Temporanea), or Temporary Accommodation Center]. The consequence is that those who do not 'comply' with this injunction can be subjected to immediate detention as soon as they are stopped by the police.

In other words, what Sayad and others have defined as the 'double punishment' keeps on affecting immigrants and their offspring, particularly those arriving from 'post-colonial' or 'neo-colonial' countries. This explains why the majority of French prisoners with foreign origins come from Algeria and also why in Italy those more criminalized (and self-criminalized) are the young people coming from North Africa or the Balkans.

CONCLUSION

The process of criminalization and victimization of immigrants is part of a wider situation of the neo-liberal development that causes destruction of the former social structure and thus of the practices of negotiated and peaceful management of disorder, discomfort and social problems. Contrary to Schumpeter's somewhat deceptive thesis, this destructive process did not result in a stable and peaceful order, nor did it promote new integration.

Rather, the only result is an attempt of authoritative management over a permanent disorder. Fears and uncertainties connected to destruction of the political organization of society are exploited to support a securitarism that fails to create security but excels in reproducing insecurity as well as the power of fear, leading to the erosion of potential political action performed by subordinate people. This phenomenon also affects most of the autochthons living in rich countries, who in the end are subjected to the same criminalization as that applied to immigrants. Considering the political weakness of possible alternatives to neo-liberal development, it is difficult to imagine a recovery from the current situation in the near future.

NOTES

1. CPT centres (Centri di Permanenza Temporanea e Assistenza) are where foreigners who are unable to prove their identity and legal status are detained while deportation proceedings get underway.

2. See *Studio del sociologo Barbagli sul periodo, 1988–2006. Immigrati e droga, nel Nord Est il record di spacciatori*, 'il Corriere della Sera' del 29/10/2006.

3. Information collected in Milan, Florence and other cities among witnesses: privileged immigrants, policemen and social workers.

REFERENCES

Barbagli, M. (1998/2002). *Immigrazione e Criminalità in Italia*. Bologna: Il Mulino.

Bauman, Z. (2005). *Wasted lives: Modernity and its outcasts*. Oxford: Polity Press.

Becker, H. (1963). *Outsiders: Studies in the sociology of deviance* (italian tr. 1997). New York: The Free Press.

Cicourel, A. V. (1964). *Method and measurement in sociology*. New York: Free Press.

Dal Lago, A. (1999a, January–March). La Tautologia della Paura. *Ressegna Italiana Di Sociologia*, *40*(1), 5–42.

Dal Lago, A. (1999b). *Nonpersone. L'esclusione dei migranti nella società globale*. Milan: Feltrinelli.

Dal Lago, A. (2006). Esistono davvero i conflitti tra culture? In: C. Galli (a cura di), *Multiculturalismo* (pp. 45–80). Bologna: Il Mulino.

Foucault, M. (1976). *Sourveiller et punir*. Parigi: PUF.

Foucault, M. (2004). *Sécurité, Territoire, Population*. Paris: Cours au Collège de France 1977–1978, Hautes Etudes-Gallimard-Seuil.

Garfinkel, H. (Ed.) (1967). *Studies in etnometodology*. Englewood Cliff, NJ: Prentice Hall.

Goffman, E. (1970). *Stigma: Notes on the management of spoiled identity*. Harmondsworth: Pelican Books.

Harcourt, B. E. (2001). *Illusion of order: The false promise of broken windows policing*. Cambridge: Harvard University Press.

Harcourt, B. E. (2007). Post-modern meditations on punishment: On the limits of reason and the virtues of randomization (a polemic and manifesto for the twenty-first century). *Social Research*, *74*(2), 307–346.

Mucchielli, L. (2002). *Violences et insécurité. Fantasmes et réalités dans le débat français*. Paris: La Découverte.

Mucchielli, L. (Ed.) (2008). *La frénésie sécuritaire. Retour à l'ordre et nouveau contrôle social*. Paris: La Découverte.

Nicastro, G. (2007). Inaugurazione Anno Giudiziario 2007, available at: http://www.cortedicassazione.it/Documenti/relazione2006.pdf

Noiriel, G. (1988). *Le creuset français*. Paris: Seuil.

Noiriel, G. (1991). *La tyrannie du national. Le droit d'asile en Europe (1793–1993)* (reprint with title Réfugié et sans-papiers. La République française face au droit d'asile. XIXe-XXe siècle. Parigi, Hachette). Parigi: Calmann-Levy.

Palidda, S. (1999). La criminalisation des migrants en Europe. *Actes de la Recherche en Sciences Sociales*, *129*, 39–49.

Palidda, S. (2001). *Devianza e vittimizzazione tra i migranti*. Milano: ISMU-Angeli.

Palidda, S. (2007). Policy of fear and decline of political sphere, in ''Un mondo di controlli''. *Conflitti Globali*, *5*, 13–23.

Palidda, S. (2008a). *Mobilità umane*. Milan: Cortina.

Palidda, S. (2008b). Emigration et immigration dans les changements politiques de la société italienne. In: C. Caruso, J. Pleinel & L. Raphael (Eds), *Postwar Mediterranean migrations to Western Europe/La migrations méditerranéenne en Europw occidentale après 1945* (pp. 103–124). Frankfurt a. M.: Peter Lang.

Quassoli, F. (1999). Immigrazione uguale criminalità: rappresentazioni di senso comune e pratiche degli operatori del diritto. *Rassegna Italiana di Sociologia*, *XL/1*, 43–76.

Sayad, A. (1991). *L'immigration ou les paradoxes de l'alterité*. Bruxelles: Editions Universitaires et De Boeck.

Sayad, A. (1999). *La double absence: Des illusions de l'émigré aux souffrances de l'immigré*. Paris: Seuil.

Schumpeter, A. (1942 [1955]). Capitalism, Socialism and Democracy (1942, 1st ed.; Italian ed.: Comunità, Milano, 1955).

Wacquant, L. (1999). *Les prisons de la misère*. Paris: Raison d'Agir.

FURTHER READING

Altheide, D. L. (2006). *Terrorism and the politics of fear*. Maryland: Alta Mira Press.

Anastasia, S., & Palma, M. (Eds). (2001). *La bilancia e la misura*. Milano: Angeli.

Arab, C. (2007). Le hrague ou comment les Marocains brûlent les frontières. *Hommes & Migrations*, *1266*, 82–95.

Bevilacqua, P., De Clementi, A., & Franzina, E. (Eds). (2002). *Storia dell'emigrazione italiana* (Vol. II). Roma: Donzelli.

Bigo, D. (dir.) (1998). Sécurité et Immigration, Cultures & Conflicts, 31/32 (and also Culture & Conflits, 23, Circuler, enfermer, éloigner. N: 26/27 Contrôles: frontières-identités, 49 La mise à l'écart des étrangers. La logique du visa Schengen, 50 La mise à l'écart des étrangers. Les effets du visa Schengen (ivi contributions de Bigo, Guild, Bonelli, Valluy, Ceyhan.

Bigo, D., & Guild, E. (2005). Le frontiere mobili e i confini di carta dell'Unione europea. *Conflitti Globali* 2.

Bonelli L., La France a peur. (2007). Une histoire sociale de l'insécurité, La Découverte.

Brion, F. (1996). Chiffrer, déchiffrer. Incarcérations des étrangers et construction sociale de la criminalité des immigrés en Belgique. In: S. Palidda (dir.), *Délit d'immigration*. Bruxelles, C.E.: COSTA2 Migrations.

Brion, F. (1997). *Théorisation d'une pratique de recherche Garfinkel: Research note on inter- and intra-racial homicides*. Cahier du Département de criminologie de la Faculté des sciences sociales d'Ottawa (26 pp.).

Brion, F., & Tulkens, F. (1998). Conflit de culture et délinquance. Interroger l'évidence. *Déviance et société*, 22(3), 235–262.

Brion, R., & Schaut, T. (dir.) (2001). *Mon délit? Mon origine*. Bruxelles: De Boeck.

Burgio, A. (a cura di). (1999). Nel nome della razza. Il razzismo nella storia d'Italia 1870–1945. Bologna: Il Mulino.

Cartuyvels, Y., Mary, P. (a cura di). (1999). L'Etat face à l'insécurité. Dérives politiques des années 90. Editions Labor, Bruxelles.

Castel, R. (2007). *La discrimination negative*. Paris: Seuil.

Chevalier, L. (1984). *Classes laborieuses et classes dangereuses*. Paris: Hachette.

Christie, N. (1993). *Crime control as industry: Towards gulags*. London: Routledge.

Dal Lago, A., & Quadrelli, E. (2002). *La città e le ombre. Crimini, criminali, cittadini*. Milan: Feltrinelli.

Davis, J. A. (1988). *Conflict and control. Law and order in 19th century Italy*. London: Macmillan.

Del Negro, P. (1979). *Esercito, Stato, Società*. Bologna: Cappelli.

Delumeau, J. (1999). *La peur en occident. XIVe-XVIIIe siècles une cité assiégée*. Paris: Hachette Pluriel.

European Council. (Ed.) (2005). *Tendances de la cohésion sociale*, 10-11/05.

Garland, D. (2001). *The culture of control: Crime and social order in contemporary society*. Chicago: University of Chicago Press.

Gonnella, P. (2006, Oct. 6). Amnistia e indulto. *Italia Oggi*.

Kitsuse, J. I., & Cicourel, A. V. (1963). A note of the uses of official statistics. *Social Problems*, 11(2), 131–139.

Knorr, C. K., & Cicourel, A. V. (1981). *Advances in social theory and methodology: Toward an integration of micro and macro sociologies*. London: Routledge.

Le Cour Grandmaison, O. (2005). *Coloniser. Exterminer. Sur la guerre et l'Etat colonial*. Paris: Fayard.

Maneri, M. (1996). Les médias dans le processus de construction sociale de la criminalité des immigrés. Le cas italien. In: S. Palidda (Ed.), pp. 51–72.

Maneri, M. (2001). Il panico morale come dispositivo di trasformazione dell'insicurezza. *Rassegna Italiana di Sociologia*, 1, 5–40.

McDonald, W. F. (2006). Police and immigrants: Community and security. In: M. King (Ed.), *Post-9/11 America, justice and safety in America's immigrant communities: A conference report*. Princeton, NJ: Policy Research Institute for the Region, Princeton University.

Mosconi, G., e Sarzotti, C. (a cura di). (2004). Antigone in carcere: terzo rapporto sulle condizioni di detenzione, Carocci, Roma.

Moulier Boutang, Y. (1999). *De l'esclavage au salariat. Economie historique du salariat bridé*. Parigi: PUF.

Palidda, S. (Ed.) (1996). *Délit d'immigration. La construction sociale de la déviance et de la criminalité parmi les immigrés en Europe*. Bruxelles: COST-Communauté Européenne (with contributions of Sayad, Brion, Dal Lago, Agozino, Maneri, Reyneri).

Palidda, S. (2000). *Polizia postmoderna. Etnografia del nuovo controllo sociale*. Milano: Feltrinelli.

Palidda, S. (2005). Migration between prohibitionism and the perpetuation of illegal labour. *History and Anthropology*, *16*(1), 63–73.

Palidda, S. (2009). Insertion, integration and rejection of immigration in Italy. In: E. Guild & S. Carrera (Eds), *Illiberal liberal states: Immigration, citizenship and integration in the EU*. London: Ashgate (in print).

Petraccone, C. (2000). *Le due civiltà Settentrionali e meridionali nella storia d'Italia*. Edizioni Laterza.

Petti, G. (2004). *Il male minore. La tutela dei minori stranieri come esclusione*. Verona: Ombrecorte.

Rahola, F. (2003). *Zone definitivamente temporanee. I luoghi dell'umanità in eccesso*. Verona: Ombrecorte.

Rivera, A. M. (2003). *Estranei e nemici. Discriminazione e violenza razzista in Italia*. Roma: DeriveApprodi.

Robin, C. (2004). *Fear: The history of a political idea* (La peur. Histoire d'une idée politique, A. Colin, 2006; Paura. La politica del dominio, Università Bocconi, 2004). New York: Oxford University Press.

Sacchetto, D. (2004). *Il Nordest e il suo oriente. Migranti, capitali e azioni umanitarie*. Verona: Ombrecorte.

Simon, J. (2007). *Governing through crime. How the war on crime transformed American democracy and created a culture of fear*. New York: Oxford University Press.

Teti, V. (1993). *La razza maledetta Origini del pregiudizio antimeridionale*. Roma: Manifestolibri.

Tonry, M. (a cura di). (1997). Ethnicity, crime and immigration: Comparative and cross-national perspectives. Chicago: University of Chicago Press.

Trasher, F. M. (1927). *The Gangs: A study of 1313 gangs in Chicago* (estratto in italiano: *Gangland*, in R. Rauty, a cura di, *Società e Metropoli. La scuola sociologica di Chicago*, Donzelli, 1995, pp. 149–152). Chicago: University of Chicago Press.

INDEX