Critiquing Operation Streamline's Role in the Mass Criminalization of Immigration

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Honors Thesis in Cultural Anthropology

Duke University
Spring 2019

Acknowledgements

A project of this size could not be completed without endless support from peers, mentors, and loved ones. First, I have to thank Anna Dowell for being the spark that kept this thesis alive. Every time I was at my lowest, your guidance caused me to leave the classroom with a new spring in my step. Your questions forced introspection, your writing critiques led to new understandings of how to construct an argument, and your engagement with my work was appreciated more than I could possibly state. I also want to thank my main advisor, Dr. Charlie Thompson, for meeting with me throughout the past year with countless edits, literature recommendations, and metaphors. I hope this project walked you through every room of the house! Finally, I want to thank my last committee member, Professor Robin Kirk, for guiding me throughout four years of college. From meeting you during orientation week for first-year advising, working at the human rights center, and taking two courses with you, I know I'll be leaving Duke with a deep appreciation and commitment to human rights.

To my classmates: Erick Aguilar, Margaret Darko, Ellie Majure, and Michelle Staggers, I thank all of you for the grit and passion you dedicated to everyone's projects and the incredible camaraderie we created this past year. I'll miss you all very much. For my friends: there are many to name, but you know who you are. Thank you for being my cheerleaders from the literal first day of this process to the very end. It meant the world to me. For my family: I love you all dearly and cannot wait to celebrate the end of this journey in a few weeks. Para mi mami: como siempre, gracias por ser mi héroe.

I dedicate this thesis to the immigrants searching for new horizons. Godspeed in making your dreams come true. I also dedicate this thesis to the lawyers and activists working tirelessly on the border every day. To Isabel García, Yendi Castillo, Leslie Carlson, Jordan Malka, and Ana Rodriguez: thank you for taking time out of your days to talk to me, for pointing me towards law cases and books I had never considered, and for responding to my endless barrage of texts and emails. Your work inspires me, and this work would not have been completed without the narratives you imparted with me.

Introduction

In the summer of 2016, I arrived in Tucson, Arizona with five other students from Duke University. Our two-month stay included history lessons of the U.S.-Mexico border, site visits, and volunteer non-profit work. Before we could personally engage with the real-world issues occurring on the border, we had to study them and understand how they came to be, what existed before them, and how our nation perpetuates their existence to this day.

None of the topics from that week were easy pills to swallow. It becomes significantly harder to read about lives lost in the desert or Immigration and Customs Enforcement officers murdering a child from throwing rocks over the border fence[1] when these incidents occurred an hour from where you were sitting. These incidents of blatant human tragedy seemed far easier to denounce. They invoked a sheer moral wrong inside of me, a glaring example of how problematic our border security system had become. And then we learned about Operation Streamline. We were handed an informational brochure from a local human rights organization, the Coalición de Derechos Humanos [Coalition of Human Rights]. The first page described the process as follows:

> Operation Streamline is a federal government program of en masse fast-track prosecution of migrants. In Tucson, groups of up to 70 people are shackled at the hands, waist, and feet before being brought into court for a single en masse

[1] In 2012, a sixteen-year-old boy was shot approximately ten times and killed by an ICE officer from the U.S. side of the border fence for throwing rocks. He was four blocks away from his home (Cheng 2017).

hearing lasting two hours or less. All are advised of their charges, waive their constitutional rights, plead guilty to entering at a place other than a port of entry, and are sentenced to up to 180 days in federal prison.

At first, I was unsure if Coalición had mistaken the word "court" for "prison." My mind began thinking back to court cases on television shows and popular literature. From the film *My Cousin Vinny*, literature such as *To Kill a Mockingbird*, monumental civil rights cases and the OJ Simpson trial, every court case appeared to follow a series of rules. They contained a single defendant and prosecution, and a jury would decide the outcome. Everyone in the court room would be dressed in their sharpest suits and dresses. The court procedure would last several days. In these stories, the lawyer always fought tirelessly for their client, constructing a story filled with evidence and testimonies to prove their client's innocence. Operation Streamline was none of these things. I failed to understand why defendants arrived at their cases shackled when the law presumes innocence until proven guilty.

At the end of the week, our group walked from our home at a local non-profit to the Evo A. DeConcini court house in downtown Tucson where courts hear Operation Streamline cases. The outside was desert brown in color, matching the landscape around us. An enormous assortment of glass windows spanned the five stories of the building. The front entry was marked with an enormous archway framing two sliding glass doors. On the other side were long, marbled corridors and walls, holding paintings and metal plaques in commemoration of historical figures. Upon entrance, we provided our names and identification to the attendant behind a marbled counter and proceeded to a security

checkpoint, where guards in crisp uniforms asked for our phones as we stepped through the metal detector.

Our visit and observation of Streamline's procedure came with a purpose. Activists in Tucson often bring a list of all of the undocumented immigrants being sentenced and convicted that day, in order to jot down "anything out of the ordinary" that we saw. If a defendant appeared particularly distressed, displayed difficulty understanding English and Spanish, or appeared too young to legally be in trial,[2] I was told to write it down as part of a report to denounce the Streamline process.

List in hand, I walked towards two doors spanning from floor to ceiling. After taking a single step into the courtroom, I immediately wanted to leave. Forty-five heads snapped back in unison to meet our gaze. Perhaps their gazes were unassuming, but to me they spoke volumes. Their stares asked why I had come to watch their trial, to see the process by which my nation treated them like criminals for travelling across a border. I could not return their stares. My eyes darted to the floor as I assumed my position at the back of the room on a polished, rounded wooden bench reminiscent of Catholic church pews. The benches were arranged in rows of four with a central passageway. Most benchers were occupied, a flurry of hushed voices commenting on the scene in front of us.

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[2] Certain clients are ineligible to be processed to be Streamline. For example, court cases are held in English with an English to Spanish interpreter. Some defendants come from indigenous communities that do not speak Spanish and cannot be prosecuted because they are unable to understand their rights. Ineligibility may also include clients with mental illnesses and minors. Individuals within these categories are whisked away before the criminal proceedings begin, assumingly deported without criminal charges on their record (Interview with Eréndira Castillo).

The forty-five migrants slowly turned back around to await the judge's words. I finally looked up at them. The first thing I saw were the shackles. Their hands were stuck together from metal chains around their wrists. Around their ankles were more chains, wound tightly enough to keep their legs together, but just slack enough to allow them to walk. Many looked tired, some more relaxed than others. Most wore black headsets, with a long cord running down to a black box secured on their pants. Many of their jeans and sneakers were rugged and caked with dirt.[3]

On the left side of the court room stood a handful lawyers, all of them male, dressed in clean suits of varying shades of navy and gray. Their dress shoes clicked on the white floor as they walked and talked amongst themselves. They held no documents in their hand. We sat for a few minutes until the judge assumed her seat behind the grand podium. We stood and sat back down. An English to Spanish interpreter sat at her right, speaking into a microphone connected to defendant's headsets. The defendants were told to speak up should their headsets fail at any point during the case. I assumed it was illegal for them to sit through a legal procedure they didn't even understand. A series of questions came from the judge. She asked if each migrant had the ability to meet with a

[3] Many of Tucson's Streamline defendants come from apprehensions during border crossings across the Sonora desert, though this is not the case for all Streamline courts present in different border states. Additionally, individuals apprehended within the U.S. can also end up in Streamline proceedings. Regardless of where they were apprehended, they are held in detention overnight and most often attend the Streamline procedure the following day. Those that did not cross with a change in clothes simply wear the same outfit form their crossing.

lawyer[4] and understood the rights as they had been read to them. A collective murmur of *sí* came from the group, translated to "yes" for the judge. Soon after, the first row was called up. The immigrants shuffled awkwardly up to their microphones. Their lawyers finally moved from the side of the building to stand behind them, ushering pairs of two people towards each microphone. The judges' next questions were asked one by one down a row.

Mr. Mendoza, were you found crossing the border at an illegal point of entry on June fifteenth, 2018 near Nogales?

Sí, Mendoza replied.

How do you plead?

The responses from the row were unanimous. *Culpable*. Guilty. A security guard guided the group out of the court room through a passageway and exit door on the far-right side of the room.

The next row went up. And then the next one. Each time, the result was the same. Lawyers waived their hands to guide their clients toward the microphone and then pointing towards the immigrant's exit door. I had never seen a procedure where the client speaks more than their legal representative. The first two rows processed that day were made up of immigrants that had already gone through the Streamline process before. For being charged with illegal *re-entry,* they were sentenced with longer imprisonment times

[4] In Streamline cases, lawyers meet multiple clients the morning of their trial. Most give a group presentation on the rights migrants have in court and then spend a few minutes meeting with each person individually.

before deportation. The judge made note of this purposeful decision for the remaining immigrants, charged only with illegal entry during this trial. “Should you try and cross again,” she warned, “the consequences will be much higher.” Within an hour, the forty-five immigrants had their cases “heard” and were led off toward their detention center. Before I knew it, I was walking out the court room. No amount of readings could have prepared me for that scene.

I looked down at my packet and pencil. I had written nothing. How was I to note anything out of the ordinary when every single part of that process fit that description? I had read about this procedure and knew it happened every single weekday for years. To the people working in the courtroom, this process is a commonplace occurrence. From an objective standpoint, their work is to charge immigrants that have committed an illegal act. Therefore, Streamline follows a seemingly logical path from crime to conviction to sentencing to incarceration (with the final addition of deportation), just like any other illegal act. Yet there was something about the migrant’s expressions as they exited the court room that superseded these thoughts of logical procedure and deservedness.

I then thought about the exhaustion on the faces I saw, likely from multiple days of walking through a desert searching for the nearest American city, and the families these immigrants had left behind not knowing whether or not they would survive their journey. I realized that the entire immigrant experience is embedded within hope. Hope that they can find a better life or secure enough money to return home better off than they had left. Hope that they won’t be caught on their journey or caught while applying to a job or walking down the street. Should apprehension occur, a whole new set of hopes

arise: hope that you receive a short prison sentence or even the possibility of winning your case. I wondered what hope exists in proceedings where the majority of defendants plead guilty.[5]

If there is no legal defense for this crime, what is the point of this proceeding? Do lawyers seek to work in a court system in which they "lose" their case every day? I realized that I did not understand the lawyer's intentions in these cases. They either agreed with Streamline's mission of border deterrence or had deemed the Streamline process too futile to navigate. Moreover, Streamline fits in with national immigration policies meant to scale up the apprehension, detention, and deportation of illegal entries to achieve a secure border through deterrence. Through this thesis, I explore how this legal procedure facilitates and expands this goal and the additional consequences it poses towards noncitizens, legal processes, and the fueling of the private prison industry.[6]

Methodology

Following my summer work in Tucson from May to July of 2016, I continued doing research from afar. Due to the geographic distance between my university and my

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[5] Streamline lawyers estimate that 99% of defendants plead guilty (Lydgate 2010, 484). There is a 97.3% guilty plea rate for immigration cases nationally. This is more than any other type of federal crime (Federal Justice Statistics 2019, 9).

[6] The private prison industry, also known as the prison industrial complex, describes the way corporations seek profit-making opportunities from imprisoned populations. As the U.S. prison population quadrupled to 1.9 million people from the 1980's to 2000, corporations set up multi-million-dollar contracts with the government to construct and operate private prisons. Proponents of the system state that privatization saves taxpayer dollars, but critics state that these savings come at the expense of quality in both correctional staff and prison infrastructure and services (Chang & Thompkins 2002, 45-52).

field site, I collected ethnographic data through skype and telephone interviews of lawyers and activists within Tucson. Other data came from news articles, documentaries, and C-Span videos documenting discussions on the state of Streamline and immigration at the time of its implementation. The ethnographic data on Streamline came from personal attendance to a court case in the summer of 2016. Any other ethnographic data surrounding the court case comes from lawyer's descriptions of the procedure through their own lens.

My interviews address a gap in literature in these legal processes. Most ethnographies on Streamline solely discuss the injustices immigrants face, discussing how the government pressures them into accepting plea deals and removing their agency as a defendant, or what the border crosser intends to do after they have been sentenced to detention and deportation. Many of these narratives highlight how Streamline's legal procedure and consequences sit outside the immigrant's control. In some capacities, the fate of these immigrants sits outside the control of their lawyers as well. In the court room, however, lawyers are educated and trained to win their cases or even challenge components of the Streamline system as a whole.

When I attended Streamline, I did not witness any legal challenges. This made me question the lawyer's use of the power they hold throughout this process. I wanted to know why lawyers counseled their clients to attend their Streamline procedure and plead guilty instead of fighting their client's illegal entry or reentry charge.

I sought to understand these cases and a lawyer's role within them. Here I will show what that looks like, and in the context of Streamline, I will provide an analysis as

to how the system is created, why is has persisted for the past decade, and whether or not it should remain in place.

Interviews were mainly held as free-flowing conversations but were centered around the lawyer's role and how it plays out within a Streamline case. Some of the questions I had them consider were as follows:

Why did you end up working Streamline cases?
What does it mean to represent clients in Streamline?
Are there any legal issues you see within the Streamline system?
Do your clients have hope they can remain in the country?
Do you have hopes in winning a case?

Determining Success

The responses to these questions allowed me to critically examine the contemporary, real-life implications of the policies the U.S. government created over a decade ago. The criminal defense and immigration lawyers I interviewed explained that using the criminal justice system to charge noncitizens with crimes practically guarantees their sentencing and incarceration. The use of Streamline in this process makes the process prolific in its scope and its results, thereby successfully criminalizing the act of migration. To properly analyze Streamline, I ask another question: *does this make the policy successful?* Political Scientist Allan McConnel notes that with policy, "success is in the eye of the beholder." Policy that achieves its goal can be considered successful, but only for those that considered the original goal of the policy desirable (McConnell 2010, 351). The creators of Streamline have applauded the program for its success in deterrence

and border security, however, this thesis includes countless legal, political, and activist scholarship that suggests otherwise.

All nations have the right to enforce their sovereignty and protect their borders from threats. In today's day and age, all migration is encumbered with qualifications, limitations, and restrictions, but some restrictions are unnecessary or outright antithetical to enforcing national sovereignty (De Genova 2010, 33). I argue that Streamline is not concerned with individuals that truly threaten our nation; it creates criminal sentences for people that should not be criminally punished. Though Streamline defendants are guilty of violating the laws of illegal entry or reentry, I believe that these laws should not exist in the first place. They act as self-serving methods by which the government and private prison corporations can profit off the control of the undocumented body. Furthermore, we already had the civil immigration system in place that apprehended, detained, and deported immigrants. Why allocate millions of dollars to achieve the same outcome with yet another federal system?

Policies that improperly allocate resources and unfairly target vulnerable populations are unsuccessful, regardless of how touted they are by governmental leadership. Yet years later, Streamline remains in place despite countless outcry from activist groups.[7] Its persistence can be attributed to lingering misconceptions about the undocumented immigrant and harmful rhetoric that vilifies migration. This allows

[7] In 2015, 171 activist groups signed a letter to Attorney General Loretta Lynch to express their concerns with the criminal prosecution of asylum seekers and that illegal entry and reentry are now the most prosecuted crimes in the U.S. (ACLU Coalition Letter).

lawmakers and politicians to continuously enforce programs and run campaigns that promise to continuously "protect our borders" from "foreign harm." To understand Streamline's implementation, I briefly discuss the politics of immigration and the U.S. economy to show how border security and the crackdown on illegal immigration has always been intertwined with economic policy. I then discuss the history and political moment surrounding Streamline and the political actors that created it.

A History of Immigration and Economic Policy

Understanding the U.S.'s immigration policy requires understanding the very economic policies that create incentives for migration. The contradictory desires of the U.S. to increase capital flow and economic opportunities between border nations while increasing militarization and lockdown of the border region are often what cause the massive apprehension and detention of immigrants searching for new opportunities. Understanding border policy also requires acknowledging that nearly half of noncitizens in the U.S. today are a result of overstayed visas following legal entry, but policy and rhetoric concerning illegal immigration is solely concerned with the physical border region in the form of increasing personnel, barriers, and technologies (Warren & Kirwen 2017, 125). While this history extends back to the very colonization of the U.S., the following section discusses policies leading into the late 1900's to understand the shift into post-9/11 border securitization.

The act of criminalizing migration has been around for over nearly a century. By 1929, Congress had passed iterations of the laws that Streamline currently processes:

unlawful entry and attempted entry by a previously deported alien[8] (Fan 2013, 106). Approving these laws marked some of the first times that noncitizens could commit crimes on the basis of their actions (entry) and status (alienage). Although the Border Patrol[9] had been established as the legal enforcers of border policies, labor shortages throughout the World War II era created legal, temporary migratory labor programs for the following decade,[10] and policies from the 1960's to the 1980's continued to expand quotas and offer various paths towards citizenship and refugee status (Migration Policy Institute, 2013). The passage of the Immigration Reform and Control Act (IRCA) in 1986, for example, granted legal status to 3 million noncitizens already residing in the U.S. (Ewing 2008, 1).

The IRCA also placed employer sanctions on business known to hire undocumented labor and devoted more resources to the securitization of the border the same exact year that Mexico entered into the General Agreement on Tariffs and Trade (GATT), which privatized its enterprises, lowered barriers to foreign trade, and accelerated integration of the Mexican and U.S. economies (Ewing 2008, 2). A few years later, the U.S. and Mexico were engaged in conversations surrounding the North Atlantic

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[8] I utilize the word alien here to keep consistent with legal and political rhetoric. Later on, I explore the conception of the "alien" and why its use is problematic in describing undocumented individuals.
[9] The Border Patrol now operates under the Department of Homeland Security. The DHS was created in the aftermath of the 9/11 terrorist attacks. According to their website, the Border Patrol's mission is to secure our "international land border and coastal waters, safeguarding the American people from terrorists and their weapons, drug smuggling and illegal entry of undocumented aliens."
[10] From 1942-1964, the Bracero Program brought hundreds of thousands of contract farm laborers from Mexico to harvest crops during the war after border farmers appealed U.S. immigration services to open access to the Mexican labor market (Scruggs 1963, 251-253). This process alone led to a labor influx of 4.5 million workers over the course of the program's existence (Nevins & Dunn 2008, 22).

Free Trade Agreement (NAFTA), which eliminated tariffs on goods between Mexico, the U.S., and Canada. Debates concerning the trade agreement created a contradiction; each party hoped that the treaty would increase trade and the exchange of capital, but the U.S. remained adamant in restricting labor flows through a heightened deployment of border patrol agents and fence construction on the U.S.-Mexico border (Johnson 1994, 483). Countless NAFTA supporters including three past U.S. presidents argued that since illegal immigration is fueled by economic opportunity, fostering economic growth in Mexico would lower the need for illegal immigration into the U.S. (Johnson 1994, 489). However, the dominance of U.S. agriculture led to an influx of cheap crops in Mexico, displacing millions of Mexican farmers. The collapse of the Mexican peso in 1994 and subsequent unemployment and economic stagnation further fueled low-skilled migrant labor arriving to the U.S. through illegal means (Andreas 1998, 610).

Strict border securitization efforts followed suit. The implementation of the IIRIRA[11] in 1997 caused the reclassification of nonviolent immigration offenses as "aggravated felonies" (Pauw 2002, 1095-1099). This reframing is critical. Suddenly, the same cycle of immigrants entering into the United States for temporary labor or for the unification of families had been cut off and transformed into an illegal action, creating the "problem" of clandestine entry and the immigrant as a "national security" threat (Greene, Carson, and Black 2016, 6). Additionally, the IIRIRA expanded the removal of criminal aliens without court hearings and limited forms of relief from deportation (Grant

[11] Illegal Immigration Reform and Immigrant Responsibility Act.

2006, 927). Agencies apprehending these noncitizens, such as Border Patrol, saw their budgets increase from $568 million in 1996 to $1.1 billion in 2000 (Ewing 2008, 7). This constant cycle of economic expansion, subsequent illegal immigration to fill in low-wage labor gaps, and attempted crackdown of illegal immigration on the border has continued into the twenty-first century and provides the basis for Streamline and a new era of border control.

Streamline's History

In the grand scheme of our nation's history of security and enforcement on the border, Operation Streamline is brand new. The process began in 2005 in the small town of Del Rio, Texas, located twenty minutes from the U.S.- Mexico border. As with other cities in border states, the history of Del Rio has always included legal and illegal immigration to and from Mexico, with varying rates of migration and apprehension each year.[12] Del Rio was also subject to the contradictions of U.S. immigration policy, by which the nation promotes the arrests and deportations of millions each year while simultaneously promoting various programs allowing and even encouraging the migration of undocumented immigrant laborers (Heyman 1995, 261).

[12] It is important to note that the history of the U.S.-Mexico border is endlessly expansive in source material. For more information on the annexation of land and disposition of Mexican and indigenous land we now call the U.S., see "Border Odyssey: Travels Along the US/Mexico Divide" by Charles Thompson. For a targeted history on the Border Patrol and the U.S.'s history of law enforcement and securitization, see "Migra!" by Kelly Lytle-Hernandez.

Post-9/11 immigration reform, fueled by anti-immigrant terrorist rhetoric, allowed the U.S. to increase funds and personnel towards border security and personnel, restrict visa issuance, and monitor and secretly detain hundreds of foreign nationals (Adana & Lazos Vargas 2005, 1686). Despite this, the Border Patrol was facing logistical issues in upholding the U.S.'s desire to remove any "security threat" trying to enter. This is because upon apprehension, noncitizens would face one of two outcomes depending on their nationality. Mexican immigrants were allowed to waive their rights to a deportation hearing, saving them from long detention sentences and trial in a process known as Voluntary Departure (Heyman 1995, 266). This process resulted in quick outcomes for the Border Patrol, where individuals would be kept at the station until they boarded vehicles returning to a port of entry. However, the Border Patrol could only use this method with Mexicans (Office of Inspector General 2015, 3). Non-Mexican nationals could not submit to voluntary return[13] and were placed in civil immigration court proceedings instead. Here, an immigration judge ultimately decided whether an immigrant could stay in the country or be deported.

From 2004 to 2005 in Del Rio, there was a large rise in apprehensions of non-Mexican nationals on the border, from 9,896 apprehensions in 2004 to 15,642 apprehensions in 2005 (Lydgate 2010, 492). "This influx quickly exhausted the local detention capacity of both Border Patrol and Immigration and Customs Enforcement (ICE), the agency within DHS charged with detaining immigrants in the civil

[13] "Voluntary Return is not an option for aliens from countries that do not have a contiguous border with the United States," (Office of Inspector General 2015, 3).

immigration system" (Corradini, Kringen, Simich, Berberich, and Emigh 2018, 2). There were simply too many individuals apprehended for the civil immigration system in Del Rio, forcing agents to release them with a "Notice to Appear" in court at a later date- few would return (Lydgate 2010, 492).[14] Critics of the system labeled it "catch and release" for its inefficiency of detaining migrants.[15] The constant apprehension of individuals without legal or punitive penalties produced low-hanging fruit for criticism of the border security system meant to deter and punish individuals for their newly criminalized actions.

As one would imagine, the Department of Homeland Security was left with a predicament. Rising immigration numbers in a post-9/11 society with few perceived consequences (with both voluntary return or notices to appear) showcased inefficiency for a department whose mission includes enhancing security, managing our borders, and administering immigration laws (Homeland Security Mission). Though Del Rio presented a localized problem, it would soon be alleviated through policies addressing national issues in 2005 after DHS Secretary Michael Chertoff introduced the Secure Border Initiative, "a comprehensive multi-year plan to secure America's borders and reduce

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[14] "In FY 2004, roughly two-thirds [of noncitizens given "notice to appear"] failed to appear before an immigration judge" (Ewing 2008, 9).

[15] According to Border Patrol within a 2015 DHS report (see footnote 9), "The volume of OTM illegal alien entries continued to increase in the Del Rio sector, which Border Patrol attributed to the spread of information in some Central and South American countries about the practice of releasing OTMs into U.S. communities." It appears that word was getting around that one could remain in the country even if they were caught by Border Patrol.

illegal migration" (Nevins & Dunn 2008, 22).[16] This plan added more immigration enforcement agents, expanded detention capacities, ended the "catch and release" process, introduced thermal imaging and ground radars to detect border crossers, and committed to increase physical walls and fencing (Ewing 2008, 9).

For Del Rio, the Initiative's goals of increasing detention facilities and ending "catch and release" resulted in a process where instead of voluntary return for Mexicans or a Notice to Appear for non-Mexican nationals, Border Patrol would refer all immigrants apprehended making unauthorized crossings in the Del Rio Sector for federal criminal prosecuting. Then, instead of having to release non-Mexican migrants due to a lack of bed space, Border Patrol agents could funnel them into the federal criminal justice system (Corradini et al. 2018, 2). Doing so allowed the Border Patrol to adopt a policy that 1) treated all apprehended migrants, regardless of nationality or crime, the same and 2) shift legal procedure from flooded civil immigration courts to federal criminal courts and prisons, which had more bed spaces detain criminalized migrants. The point of all this was to create tougher sentences as a warning, a form of deterrence against the illegal act of undocumented migration (Greene et al. 2016, 30-31). However, in order to place noncitizens within federal criminal prisons, they would require a judicial process

[16] This was one of many proposed plans to revamp border security. The Bush administration passed the Secure Fence Act of 2006 and the Consolidated Appropriations Act of 2008 which required DHS to build over 1,000 miles of fencing and an additional miles of vehicle barriers along the border (Nevins & Dunn 2008, 22).

involving the criminal justice system.[17] This process became Operation Streamline: a localized policy solution to attain the Secure Border Initiative's goals.

What is Streamline?

It is important to note here that Streamline is not a trial. It is the precursor to a trial, a procedure by which immigrants mainly accept the plea deals they have been offered in exchange for their right to a formal trial. Rejecting the deal would result in a criminal defense trial. Undocumented immigrants are placed within these proceedings for violating one of two federal criminal laws: "illegal entry" (8 U.S.C. §1325, a misdemeanor) or "illegal reentry" (8 U.S.C. §1326, a felony). Within this time, defendants will meet their lawyers the morning of their trial and discuss any defense they may have towards the charge of illegal entry or re-entry, such as citizenship or authorization to enter. If they do not have anything that is deemed grounds for legal defense, their lawyer will likely encourage them to accept their plea deal during Streamline before making it to criminal trial (Chacón 2009, 143).

First-time offenders serve between a few days to three months in prison, whereas repeat offenders can remain for up to two years. Streamline's trial process is born directly out of the DHS's initiatives of detaining and deporting as many migrants as it possibly

[17] It is important to note that federal prosecutions for immigration-related offenses already existed, including illegal entry and re-entry. Streamline is a process that allows far more people to be processed through the criminal justice system all at once.

can.[18] The proceeding occurs in a single day, typically in a matter of hours. Depending on the state and border sector, cases will process between 20 and 80 defendants at the same time.

The process itself was deemed a success by law enforcement, and within a few years, Streamline was unveiled in various border cities throughout Texas, Arizona, and California. Although different states may carry out the process with small, nuanced differences, the general process is the same. In the case of Tucson, Streamline began in 2008. The latest iteration of the procedure was introduced in San Diego in the summer of 2018.

Theorizing Streamline's Components

As an anthropology thesis, I analyze the Streamline procedure and its subjects and actors utilizing anthropological literature. Doing so places each component of Streamline within a greater body of literature to properly describe and connect it to other processes occurring all around us. As a thesis concerned with law and political processes, it also transforms everyday occurrences on the border governed by national policy as something that must be analyzed and critiqued.

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[18] In 2003, the DHS released a proposition titled "Endgame," using the Office of Detention and Removal to "focus on fugitive apprehension and developing full capacity to remove all removable aliens" within ten years (USDHS-ICE 2003, ii).

The Immigrant

Although Operation Streamline affects court actors, politicians, and millions of citizen taxpayers, it affects the lived realities of undocumented immigrants the most. The ramifications of receiving a criminal sentence on a record cannot be overstated. It bars future access to entry and U.S. immigration services and complicates legal paths to citizenship. Criminalizing migration allows the nation to criminalize the immigrant, subjecting them to the violence imbedded within its punitive, criminal law, and immigration systems. I argue that this criminal sentence places the immigrant in a state of exception and reduces them to bare life, two concepts coined by Italian philosopher Georgio Agamben. I place these terms together but will discuss them separately. Anthropologist Nicholas De Genova nods to Agamben when describing bare life, which is "*what remains* when human existence, while yet alive, is nonetheless stripped of all the encumbrances of social location, and thus bereft of all the qualifications for properly political inclusion and belonging" (Nicholas De Genova 2010, 37).

Put plainly, bare life is what remains when a person has lost all of the identity factors that let them claim inclusion within society. Streamline strips the migrant of their historical, political, and social contexts during its procedure. None of these factors are considered by the judiciary. It merely presents the noncitizen with a single decision: guilt, or further proceedings? When they chose guilt, the immigrant is consequently placed in a state of bare life, by which every aspect of their identity is removed and replaced with the single label of "criminal," thereby removing their connection from the country they

attempted to enter. Current political and societal rhetoric already associates the border-crossing immigrant as a criminal.[19] Streamline transforms this rhetoric into reality.

Bare life does not occur without implicating the nation-state and its use of the state of exception. Here, the state of exception is the mechanism by which bare life is created. The nation-state capitalizes on exceptional or emergency situations to creates conditions that claim to be regulated by law but actually remove individual rights (Bhartia 2010, 331) William Walters argues that the enforcement of sovereignty allows the nation-state to "define situations as 'exceptional,' therefore requiring and justifying actions that are outside the normal juridical order (Walters 2010, 93). In a Streamline-specific context, the "emergency" of heightened non-Mexican national apprehensions mixed with the need to display a strong, secure border led to a legal procedure that now forces noncitizens to forfeit their access to legitimate claims to remain in the U.S., which I will explore within the first and second chapter. What is unique in this state of exception is that it created a legal procedure that bars access to other legal procedures and services that are much more utile to noncitizens. In other words, the state of exception justifies systems that regulate subjects with impunity.

Finally, I discuss the concept of deportability as a more permanent condition affecting the undocumented immigrant. After being reduced to bare life, marked as criminal, and deported, individuals are permanently affected by their criminal records.

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[19] Even rhetoric by the current U.S. president reinforces this notion. During Trump's presidential race, he stated that "'When Mexico sends its people, they're not sending their best. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people'" (Korte and Gomez, 2018).

This mark increases their deportability, or the very possibility of being deported (De Genova 2010, 6). It allows us to see deportation not just as an "inevitable" conclusion to failed migrant aspirations but as "an instrument of state sovereignty that renders certain populations 'deportable,' regardless of their practical connections or affective ties to the 'host' society" (De Genova 2010, 6). Streamline's criminalizing legacy stretches far past the apprehension and prison sentence. It creates an enduring mark that tarnishes the individual's social reputation and instills a constant fear of being faced with these systems once again. Deportability and its consequence, deportation, are what make the categories of citizen and noncitizen so striated. It is also what allows the state to determine which subjects are recognized as bearing rights, and which are punished once they are recognized.

The System

> "In the absence of a working cosmopolitan model of citizenship or other ways of organizing and distributing rights, belongings, and identities, and with the menacing growth of a politics of xenophobia and racism that encourages publics to see the presence of refugees and aliens as threats to their freedom, culture, and security, we have the camps—we have border zones, detention centers, holding areas, a panoply of partitions, segregations, and striations.*"* (Walters 2010, 94)

As a bureaucratic system, Streamline needs to be contextualized within the more insidious components of the criminal justice system: mass incarceration and the prison industrial complex. The latest statistics on U.S. imprisonment tell us that "approximately 22% of the federal prison population is composed of noncitizens" (Vazquez 2017,

1137).[20] Though noncitizens are also imprisoned for more serious acts, "immigration" is the third-highest category of crime amongst the entire detained population (Ibid). These statistics are the end result of the hyper-surveillance and control of noncitizens by law enforcement. "Forty-five percent of federal arrests in FY 2016 involved an immigration offense as the most serious arrest offense, followed by drug offenses and supervision violations (sixteen percent each) (Motivans 2019). In utilizing these statistics, I am not saying that Streamline is solely responsible for the rates of incarcerated noncitizens we see today. However, its fast-track, mass-plea process coupled with high guilty plea rates are enough to make it a point of analysis in broader discussions of criminalizing immigration (Abrego 2017; Fan 2013; Martinez 2013; Vazquez 2017). And while the effects of Streamline on public safety are questionable (Lydgate 2010), one thing is certain: Streamline is efficient in placing noncitizens in prison.

I end this chapter by discussing the broader reform efforts needed to end the conflation of migration and criminality. To do this, I invoke the term crimmigration as my theoretical framework. The concept, coined by Teresa Miller, describes a trend towards an ever-increasing symbiotic relationship between immigration and criminal law, where each system absorbs and adopts different components of the other's functioning (Vazquez 2017, 1117-1118). Utilizing this term allows us to acknowledge that the synonymous meaning of criminality and unauthorized status is part of an engineered process on behalf of the U.S. to expand its power over the border and border populations.

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[20] For direct numbers on noncitizen detained population, see Motivans Table 1 on page 3 and Table 11 on page 16.

Crimmigration is carried out by "government agencies and private companies that grow and benefit from using criminal sanctions to enforce civil immigration law." This is described as the "crimmigration complex" (Fan 2013, 81). Crimmigration's toolbox includes programs, mission statements, law enforcement protocols, and prosecutorial discretion to detect, arrest and remove millions of noncitizens and "criminal aliens" (Vazquez 2017, 1097-1098).

To demonstrate the crimmigration complex in action, I utilize Arizona's implementation of Senate Bill (SB) 1070 and subsequent expansion of legal and carceral capacity. The bill was drafted at the end of 2009 by Senator Russel Pearce (R-AZ) and other lobbyists, one year after Streamline was implemented in the Tucson sector. It granted state officers the ability to ask about the immigration status of anyone they stopped on the grounds of reasonable suspicion, a murky policy causing immediate critiques of racial profiling under the guise of building safer communities (Jacobson 2010). Through this bill, the state had adopted its own immigration policy and expanded the power of its local enforcement agencies, a domain typically reserved for the federal government (Preston 2012). Thirty of the thirty-six cosponsors of SB 1070 received donations from private prison lobbyists representing groups such as the Corrections Corporation of America (now CoreCivic), which operates private prisons around the country and utilizes the detention of immigrants as a source of revenue (Martinez & Slack 2019, 538). The pieces of crimmigration had all come together: an expansion of law enforcement power at the expense of noncitizen's rights, a judicial system to process

and charge massive amounts of individuals all at once, and new federal prisons[21] to detain and earn profit.

Processes such as these are still in full swing. In 2018 alone, CoreCivic spent over one million dollars lobbying for bills that increased funding for the DHS, ICE, and the DOJ (Opensecrets).[22] In 2018, the company brought in 25% of their $1.8 billion revenue from ICE alone, and the company "believe[s] [they] are the largest private owner of real estate used by U.S. government agencies" (United States Security and Exchange Commission, 54). Multiple members of the government's Federal Bureau of Prisons have left to serve CoreCivic in various leadership roles such as executive vice president (Wessler 2016). This company is not the only one engaging in privatized prisons with substantial government contracts. The relationships between state and federal policy, incarceration, revenue, and the revolving door of politics and private corporations form the current crimmigration complex we see today. This process earns corporations billions of dollars by filling up bed space with millions of people at the expense of proper judicial functioning, noncitizen and citizen wellbeing, and taxpayer money. While the incarceration of certain individuals is justified, the mass-imprisonment of nonviolent immigration offenders has no excuse. The fact that substantial portions of private prison revenue come from government organizations that detain undocumented immigrants, the

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[21] The CCA built a private prison near Tucson in 2006 that is still in operation today. CoreCivic currently operates 51 correctional and detention facilities for a total of 73,000 beds (United States Security and Exchange Commission, 5)

[22] For examples, see H.R.6776 - Department of Homeland Security Appropriations Act, 2019 or H.R.5952 - Commerce, Justice, Science, and Related Agencies Appropriations Act, 2019.

majority of whom are serving sentences for immigration violations, is a telling sign of the shift in priority from issues that truly jeopardize national safety to the quick and easy prosecution of petty crime.

A Roadmap

Chapter one looks at the narratives of two lawyers working in different eras of criminal immigration law to understand the shifts and subsequent legal constraints placed on lawyers with the introduction of Streamline. Chapter two acknowledges the impossibility of winning illegal entry and reentry trials and how a legal path to remain in the country, asylum, is neglected. It ends by discussing the role of crimmigration in the creation of the criminal migrant and how this fuels the private prison industry. Chapter three ends with spaces of resistance against Streamline. I utilize legal challenges, activism, and the need for policy reform to discuss why the practice of Streamline need to end.

Chapter 1 | Beginnings, Transitions, and Constraints

2016

As we emerged from Tucson's courthouse and the Streamline trial, our program leader introduced us to a lawyer who became an important guide to my understanding of Streamline. Her name was Isabel García, and she worked as a criminal defense attorney in Pima County, Arizona. Isabel's wispy grey hair whipped around to match her intensity as she described her frustration with Streamline. She remarked on the difficulty of crafting a legal defense and how the guilty pleas the government offered were an injustice to the noncitizens in that court room. Moreover, she noted that Streamline depended on high rates of guilty pleas to sustain itself. For example, if all forty-five clients had appealed their charges, and another forty-five to seventy clients appealed the following day, the court's logistical operation would collapse, as it would be unable to handle the abundance of single-defendant trials in its docket. Isabel's commentary showed us that these governmental processes are not as immutable as we imagined, and that legal professionals such as herself also wanted Streamline to end.

My program leader, Ana Rodriguez, placed me in contact with Isabel García once again in 2019. I wanted to continue hearing her thoughts on Streamline from a legal and activist perspective. Though our conversation all these years later was over the phone, I could still close my eyes and picture her intensity as she leaped from topic to topic. Since Isabel worked as a public defender in Tucson in the 1980's, she left the office before

Streamline was formally put into place. As a pre-Streamline informant, she described what the role of a lawyer looked like when she represented clients charged with the illegal entry or reentry but prosecuted through standard criminal procedure. As a witness to contemporary cases, she also explained to me how the role of a lawyer became more constrained once Streamline was introduced, elaborated on how it constrained them, and proposed different ideas as to why Streamline was actually created and continues to exist today.

Isabel's commentary resulted in the central argument to this chapter. My argument is that the nature of the Streamline system constricts the ability of the lawyer to properly represent their clients and subsequently win[23] their cases. Streamline achieves this by collapsing each component of the criminal justice procedure into a single day, intimidating defendants with lengthened imprisonment time, and introducing a guilty plea that is so "desirable," defendants have to accept it. These constrictions are what result in the a near-certain guilty conviction once a noncitizen is apprehended and charged with illegal entry and reentry.

Isabel also introduced me to another criminal defense lawyer in Tucson named Eréndira (Yendi) Castillo. Yendi offers a unique perspective in that she worked criminal immigration cases both before and after the implementation of Streamline in Tucson's courthouse. While she supports Isabel's narrative on the constrictive nature and immorality of Streamline, she complicates Isabel's statements by noting some of the

[23] I define "winning" a case as successfully removing the criminal conviction from a defendant for the act of illegal migration.

benefits Streamline has brought for her clients compared to standard criminal procedure. Examining these opinions from a lawyer's perspective is significant because they are one of the most important actors within these procedures. They are the only ones that can change the course of their client's criminal conviction. Therefore, discussing their inability to win cases is imperative in understanding why the mass-prosecution of noncitizens continues without interruption each weekday.

Beginnings

*"*We did not have Streamline then nor did we have the mass prosecution of illegal entries. There were three of us. We had a handful of illegal entry cases that were treated in a regular criminal process, in a regular criminal fashion*."*- Isabel García

From 1981-1986, Isabel worked as the federal public defender in a team of three lawyers and their boss. Back then, these four individuals made up the entire public defender's office. At the time, her caseload included drug possession, assault and battery, and occasionally, illegal entry. When illegal entry cases would arise, as she notes, they would follow "the regular criminal fashion." This process would last multiple days. Noncitizens apprehended by Border Patrol would be placed in the Eloy detention center and attend an initial hearing[24] and a detention hearing.[25] An attorney would be appointed

[24] "Either the same day or the day after a defendant is arrested and charged, he is brought before a magistrate judge for an initial hearing on the case. At that time, the defendant learns more about his rights and the charges against him, arrangements are made for him to have an attorney, and the judge decides if the defendant will be held in prison or released until the trial" (Office of the United States Attorneys).
[25] "The law allows the defendant to be released from prison before a trial if he meets the requirements for bail. Before the judge makes the decision on whether to grant bail, he must hold a hearing to learn facts about the defendant including how long the defendant has lived in the area, if he has family nearby, his

at their initial hearing, causing lawyers like Isabel to drive to the center to meet with clients. From there, she would have three days to interview her clients, do research, file legal motions and prepare a legal defense by the time of the trial.

It was this extra time, Isabel explained, that allowed to her to win some of her illegal entry cases.[26] This law charges "[a]ny alien who enters or attempts to enter the United States at any time or place other than as designated by immigration officers" (8 U.S. Code § 1325). She would work off a loophole to assure her victory. For the charge of illegal entry to be valid, Border Patrol officers would have to prove the essential elements of the conviction, meaning that they would have had to witness the defendant literally crossing over the border line between the two countries. Otherwise, Isabel would argue that her client was not attempting to enter the country at all, merely walking around the desert. Officers would try to circumvent this issue by forcing noncitizens to incriminate themselves through a confession of illegal entry during the apprehension interview. Isabel realized that some of her clients were confessing because the officers would not read them their rights before questioning them, and noncitizens were unaware of their right to remain silent. Understandably, she would win these cases as well. Thus,

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prior criminal record, and if he has threatened any witnesses in the case. The judge also considers the defendant's potential danger to the community" (Office of the United States Attorneys). Isabel notes that few defendants would be offered bail because "letting them go" would place them out of the court's jurisdiction where they could either a) fail to show up to trial or b) be apprehended and deported as they await their trial, since they are still noncitizens existing within society.

[26] Winning illegal entry cases is entirely different from what winning an illegal *reentry* case would require. The two tactics Isabel mentions here only work for illegal entry cases.

having these three days to speak with clients and conduct interviews would let her obtain critical information from which she could defend her client against their criminal charge.[27]

These days of preparation are nonexistent if the defendant accepts a plea deal (which will be discussed later) and attends Streamline. As the name suggests, Streamline combined each of the steps of "normal" criminal procedure into a single, streamlined day. The morning of the case, lawyers replaced the judge's role and advised their clients of the charge against them and their legal rights (formerly the initial hearing), conduct a brief interview to note down any special circumstances that could provide legal defense (formerly the three-day period), and then represent them during the procedure, all within a matter of hours. Isabel's concern is that the absence of these three days no longer allows the lawyer to properly interview, research, and prepare a defense for their client.

This period of time still exists if the client rejects the plea deal and chooses to fight their conviction in a trial, but the stakes have changed. This extension of time is no longer the norm, since most clients now accept the deal *in exchange for* their right to a trial. Isabel notes that her legal challenges could still hold validity, but they can only be addressed during an actual trial and clients are often unwilling or unable to await further proceedings, opting for the Streamline procedure instead.

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[27] Isabel noted that these defenses remove the criminal charge from the act of illegal entry, but the client still faces a civil order for removal. This means that they would still be deported.

Transitions

Eréndira (Yendi) Castillo has been practicing criminal defense law for the past twenty years. Before starting her own practice, she worked as a federal public defender from 1998-2015, meaning she worked before, during, and after the implementation of Streamline in Tucson. When she first started working, the office had eleven people, and she had just been hired as part of a new four-person unit tasked with representing immigration-related criminal defense cases.

I asked Yendi what she thought of the transition from a multi-day research period and trial to a same-day procedure. Yendi's assessment of using the "normal" criminal procedure to prosecute illegal entry and reentry cases was very different than Isabel's. She explained to me that the days in between the initial appearance and representing the client in court were unnecessary because most of her cases, regardless of plea deal or trial, ended with the same outcome. [28] Though it would give her more time to explain the nuances of the conviction to her client and prepare her case, she believes this period of time just delayed an inevitable result. Yendi also explained that on many occasions, she would wait all day at the prison to meet with her client only to find out they had not been processed by the detention center yet. This meant that she could only meet her client the morning of their trial even though they spent multiple days waiting in detention. As a result, she actually sees Streamline as an improvement towards the well-being of her

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[28] Yendi explained that after you screen someone to see whether or not they had status, whether they entered the country illegally, or whether or not they are U.S. citizens, there are few ways to ensure they will not be found guilty.

clients. By collapsing the procedures into one day, it nearly eliminated the period of time in which clients would be imprisoned awaiting their court date. For her, it is the plea deal that presents the largest constraint in providing effective legal counsel, since it creates a difficult decision for both her and her client.

Interlude: What makes the plea deal so appealing?

There are two pathways for criminal defense procedure for nonviolent crimes.[29] The plea deal is a component of one of these two pathways.[30] In this pathway, the individual meets with their lawyer, learns about their charge, pleads "not guilty" during arraignment, receives a plea deal, and accepts it by stating "guilty" during Streamline. From there, they are either immediately deported, or incarcerated for the duration of time designated by the deal and then deported.

In the second pathway, the individual pleads "not guilty" during arraignment but does not accept the deal. This means their charge will be decided through a trial. First, they attend a pretrial detention hearing, where the judge decides whether they can wait for their trial outside of prison or not. If they can, then they can pay a bail price set by the judge.[31] Both Isabel and Yendi noted that few of their clients received the option for bail.

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[29] The two pathways I describe here are specific to illegal entry and reentry.
[30] Yendi noted that plea deals are not always offered, but for illegal entry and reentry clients they are generally offered by the U.S. Attorney. Examples in which a deal would not be offered are because the defendant has a prior criminal history composed of violent actions or was apprehended while smuggling drugs, to name a few.
[31] Bail is the conditional release of a defendant with the promise to appear in court when required. This promise is accompanied by a payment that is returned to the defendant once they return to trial.

ICE can deem noncitizens as "flight risks" to the judges setting bail, thereby denying the defendant's chance to even receive the option during their pretrial hearing (Immigrant Law Center of Minnesota; Hsu 2018).[32] Even if one is offered, border crossers often come from low socio-economic status backgrounds and cannot afford the cost, or they do not have an individual within the country that can bail them out. Therefore, asking for a trial date likely means the client will have to wait for their trial in prison for multiple days.

Then, the client has a bench trial, where the judge listens to arguments by the defense and the prosecution (an ICE-appointed lawyer) and determines the noncitizen's guilt or innocence. If they are found guilty, they could face a punishment that is far harsher than what the plea deal originally offered. A guilty conviction for illegal entry in trial could result in up to six months in prison and a $5,000 fine.[33] Plea deals in Tucson can be as low as one month in prison (Greene, Carson, and Black 2016, 51). Finally, they will be deported after serving time. If they are found innocent in trial, their criminal conviction is lifted but they will still undergo removal proceedings and be deported unless they also have a civil legal defense to remain in the country.

The duration of time for these two pathways is drastically different. In accepting the plea deal, not only do clients save themselves from the drawn-out bureaucracy of

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[32] There has also been a recent legal case concerning a noncitizen that had been released on bond during criminal procedures but was arrested by ICE and placed in a civil detention center to await their criminal court date. A U.S. district judge ruled that U.S. bail statute trumps immigration laws and ordered for the client to be released, stating that "the government cannot have it both ways — asking federal courts to deny bail to defendants awaiting criminal trial and then, if a judge disagrees, holding them anyway in the immigration system" (Hsu 2018).

[33] Interview with public defender Jordan Malka.

criminal justice procedure, but they accept a standardized deal[34] that lets them know exactly how many days they must serve in prison.

The benefits of the plea deal are also significant. These benefits have already been addressed for illegal entry cases, but for illegal reentry cases, which are criminal felonies, the potential benefits are even more "desirable" because the stakes are much higher. Here, the plea deal offers a reduction of the crime to a misdemeanor[35] and a shorter incarceration period. Rejecting the plea means the client would have to fight a felony charge in trial. Winning an illegal entry case is difficult, but reentry cases are next to impossible to win. "All that is necessary to get a conviction on a reentry charge is physical presence in the courtroom and record of a prior deportation. The state doesn't have to produce any evidence at all that the defendant was caught crossing the border. As a federal public defender in the Western District of Texas said, 'It's frustrating because you can't mount a defense when the client's body is the primary evidence'" (Greene, Carson, and Black 2016, 58). Here, accepting the plea deal appears to be the only decision.

It is important to remember here that even if the criminal charge is lifted, the client is still subject to civil penalties for illegal entry (i.e., deportation). The choice for the client thus becomes a) take a gamble in an actual trial with a lawyer they just met

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[34] An example of standardized plea offers in Tucson goes as follows: "if they have no Alien Transfer Exit Program removal in their history and no criminal history, the offer would be a 30-day jail sentence. If either of these factors is present, it increases a 30-day sentence to 60 days. Additional criminal convictions and/or multiple prior entries in their record will increase the sentence offer further, up to the limit of 180 days" (Greene, Carson, and Black 2016, 51).

[35] This is for the first reentry. Subsequent reentries are convicted as felonies.

within a judicial system they don't understand, sit in prison awaiting their trial date, and (most likely) get deported[36] after serving their sentence, or b) attend a one-day procedure, state "guilty," serve far less time, and get deported.

I address this information to show why the majority of defendants simply accept the plea and bear through the Streamline procedure.

The role of a plea deal

"Despite how appalling it is to see, the court process itself is, for the most part, a formality. By the time defendants come to court, they have already spoken with their attorney and made the decision whether to accept the U.S. Attorney's plea offer" (Greene, Carson, and Black 2016, 47). The only reason the Streamline procedure takes place is to ensure the most basic elements of due process were met by having a judge listen to each defendant state "guilty" and accept their deals on record. By the time defendants reach the court room, they have essentially already accepted their deal.

This brings us back to Yendi's point. To her, the plea deal is the most constricting component in representing her clients. Yendi told me she could only think of a handful of instances in which she thought she could win her illegal entry case and subsequently

[36] Should the client win their illegal entry case, there are certain civil defenses under which they can actually remain in the United States and avoid deportation, such as asylum. This will be discussed in Chapter 2.

counsel her clients to reject their plea deal.[37] For everyone else, Yendi felt that the plea deal was the best thing she could secure her clients. In fact, she stated, if they accepted it and attended Streamline, some clients could actually avoid prison altogether. The only period of detainment they would face would be the time in between their initial apprehension by Border Patrol and the court date, which is typically a single night.[38] Then, her client would just face expedited removal and be deported.[39] She sees this as an improvement because she labels imprisonment as a "double dehumanization." Aside from the fear noncitizens face during apprehension and questioning, her imprisoned clients would also be strip-searched and lose all of their belongings before being sent back to their home country.

As a result of how "desirable" this plea deal has become, representing clients has now been reduced to counseling them towards accepting a plea deal and attending Streamline because it offers them the most advantageous outcome with the least amount of variability. Regardless, the decision to terminate a case by accepting a deal instead of pushing for a trial was never an easy one for Yendi to make. Back then, she would have to ask her herself, "how long do I continue my case in order to be satisfied with the

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[37] This would occur because her clients happened to have some form of documentation or the prosecution was barred by the statute of limitations, meaning the government took too long to file a complaint against the client.

[38] Many time-served sentences still result in imprisonment, but with illegal entry cases, the "punishment" for the crime is the time they already served in detention awaiting trial.

[39] This series of events is only offered to Mexican citizens. So many Mexican citizens are apprehended and sentenced each day that there is always transportation to send them back to a port of entry. Non-Mexican nationals will likely have to wait in prison until a mode of transportation is available to bring them back to their own country.

quality of my representation?" If she continued the case, Yendi explains, "the client sits in prison. Personally, it's an awful situation to put an attorney in."

Constraints

Jair's Question: "So, how should we go about processing illegal entry and reentry? Which method is better?"

"I don't know what's better, I don't think either way is better, I think this law is unconstitutional." – Yendi Castillo

I place Isabel and Yendi's narratives together because they reflect different views toward the ways criminal law procedure after Streamline constrain to ability to defend clients and win cases. Where Isabel viewed the three-day period as a necessary step and accredited it to the success of her cases, Yendi views it as an additional harm against her clients. Regarding guilty pleas, while challenging the charge in trial is the only way to win the case, the decision placed a heavy burden on Yendi as she considered whether fighting the case would actually result in a victory and therefore be worth her client's waiting period in prison. Because cases were so difficult to win in a regular trial, she believed the plea deal was the best option.

Meanwhile, Isabel appeared conflicted by the plea deal. As she plainly stated, these immigrants are "not here to create a case law for their brilliant attorney they're here to get on with their life." The deal allows defendants to do just that, and lawyers are not afforded the time or many alternative solutions to counsel them otherwise. At the same

time, she observes that the plea deal is what grants the government a faster method of creating criminal records, and that allowing defendants to accept them is what perpetuates the fast-track, mass-plea system responsible for an unprecedented uptick in criminal immigration convictions.

I utilize these narratives to show that when noncitizens are convicted of illegal entry and reentry, their "decisions" often boil down to pleading guilty and receiving a criminal record. There are few, if any, legal avenues towards winning against this conviction. I conclude that U.S.C. §1325 and §1326 in conjunction with the Streamline system are very efficient at criminalizing the act of migration.

End

"So of course, once you're in the court, that's it. You're stuck, you need to plead guilty. My argument is: what the hell are we doing this for? We've never done this before as a nation." – Isabel García

Streamline can be framed in a benevolent light in how it saves noncitizens from extended periods of time in prison. But ultimately, Streamline and its constraints come from purposeful, engineered policies. The rate at which noncitizens are apprehended, convicted, imprisoned, and deported with criminal records has become prolific through Streamline and the policies surrounding it. In utilizing the criminal justice system in conjunction with the civil immigration system, the nation utilizes vast amounts of personnel, resources, and money to achieve the same outcome of deportation.

In 2008, Homeland Security Secretary Michael Chertoff spoke before the Justice Department about the state of U.S borders and immigration issues. In this talk, Chertoff praised Streamline, stating that the process targets high-traffic, high-risk zones to prosecute, convict and jail apprehended individuals. Chertoff noted that "when people who cross the border illegally are brought to face the reality that they're committing a crime, even if it's just a misdemeanor, that has a huge impact on their willingness to try again, and an unwillingness of others to break the law coming across the border" (C-Span 2008). However, if deterrence stems from the inhumane, fearful experience of spending time in prison, why would the government encourage defendants to take a deal that leads to less imprisonment time?

Streamline cannot be properly discussed without contextualizing it within a series of policies proposing funding initiatives for more Border Patrol agents, hundreds of miles of border fencing, and the construction of new prisons and detention centers in the months and years following Streamline's implementation (Greene, Carson, and Black 2016, pp 13-15). In the following chapter, I will discuss why Streamline fails to serve as a form of deterrence and instead provides profits for governmental agencies and private prison industries from the creation of a new class of criminal noncitizens.

Chapter 2 | Access Denied, Profits Made

In Chapter One, I used two interviewees to demonstrate that once an apprehended noncitizen is convicted of illegal entry or reentry, there are few ways for a lawyer to win their case and lift their client's conviction. At this point, their best option is to simply accept the plea deal, undergo Streamline, and hope they will not get caught should they attempt to cross again.

This chapter begins by addressing the systematic denial of legal pathways to entry and relief within the country by illuminating how criminal law procedure denies access to asylum, and why the rights of potential asylees need to be respected due to their statelessness. I explain how the removal of this legal pathway reduces the defendant to bare life and places them within a state of exception by which the nation can simultaneously deny them legal rights while subjecting them to the full extent of punitive law. I then discuss the implications of creating an entire population of criminal migrants in relation to the private prison industry. I utilize the framework of crimmigration to emphasize the deliberate, intertwined connections between criminal law enforcement, immigration, and profit. My central argument is that the reduction of the noncitizen from a socio-historical-political being to the status of a criminal allows the state to impose various forms of violence against them while profiting off their imprisonment and control.

I see the application for asylum as one of the ways in which the noncitizen's identity can be affirmed in how their claims are validated depending on qualitative, subjective factors, allowing them to tell their story to secure their stay within the nation. Due to criminal proceedings, this is taken away, and their journey is reduced to a single decision between guilty or not guilty. This single decision translates into a conflated status of "criminal" and the creation of an entire population of criminal migrants due to the relationship between immigrant and criminal systems. This allows to state to control and profit off of this population.

The Bifurcation of Two Systems

"I have to tell them that if they want asylum, their fight isn't here." – Jordan Malka

A video phone call comes up on my laptop, and I accept it. A young white man with a blue button collar shirt and brown cardigan answers. His warm smile is framed by a neatly cut beard, and despite being only thirty years old, he has a haircut so short you can barely see his hairline towards the crown of his head. His surroundings are not very distinguishable as he takes up the entirety of his cell phone camera. His voice is calm and collected as he speaks, surprisingly alert despite the 7:00 AM conversation on his end. Three hours of time zone difference separated us. Jordan Malka had three hearings back-to-back and a full felony caseload to review before the following day when we conversed. In all, twenty-eight cases to research and prepare before the week was out. He waved aside my concerns with a smile, noting that his schedule was typical for a public

defender. His work mainly concerns criminal justice defense, but he is required to work one day of Operation Streamline each month.

I asked Jordan to explain how a Streamline defendant could receive asylum. He told me that in the limited time he has to speak with his client, he has to disappoint them very quickly by explaining that a fear of return or intent to apply for asylum are *not* legal defenses in criminal procedure. Since asylum claims are considered within a separate procedure, he must now educate the client on their criminal charge, the pros and cons of accepting a plea deal, and then delve into the complications of asylum rights law and how a criminal conviction could block access to this process. He describes this conversation as "a routine elevator pitch" from how often it occurs with his clients, since so many of them are escaping violent circumstances in their home countries. Unfortunately, once the client is scheduled for criminal proceedings, there is no way to revoke their charge because of a fear of return, no matter how jarring or upsetting their life story. In order to have these claims heard by an asylum officer and an immigration judge, they must fight their illegal entry charge first.

This brings Jordan's clients into the same predicament faced by Yendi's clients. Jordan noted that as their lawyer, he would be willing to represent them throughout both processes, but none of his clients are able to take their chances within two separate procedures. They always choose the plea deal to spend less time in incarceration. As a result of their conviction, they lose access to the mechanisms by which they can have their asylum claims heard.

According to the Department of Homeland Security, "after serving sentences and before removal, aliens may again express a fear of persecution or torture, or fear of return. ERO[40] arranges interviews with U.S. Citizenship and Immigration Services asylum officers at which the officers determine whether an alien has a credible or reasonable fear" (Office of Inspector General, 2015). However, Jordan explained that noncitizens do not have legal representation at this time. Due to this, they do not know at which point and to whom they are supposed to express their fear of return considering they have waited for days or months in prison and are now being placed in removal proceedings. Even if they figure this out, having a criminal record can be grounds for losing the right to asylum (U.S. Citizenship and Immigration Services), meaning that even if they receive an interview, their claim may be denied for breaking the law of illegal entry or reentry.

What is Asylum?

"Asylum is a protection granted to foreign nationals already in the United States or at the border who meet the international law definition of a refugee," which is a person "who is unable or unwilling to return to his or her home country, and cannot obtain protection in that country due to past persecution or a well-founded fear of being persecuted in the future 'on account of race, religion, nationality, membership in a

[40] Enforcement and Removal Operations. These officers are responsible for the transportation and detention of immigrants in ICE custody.

particular social group, or political opinion" (American Immigration Council 2018). Receiving this protected status gives the individual an immediate legal right to live and work in the U.S., even if they haven't received an employment authorization document (Immigration Equality 2018). Asylees are eligible for government benefits that undocumented immigrants cannot receive such as welfare, Supplemental Security Income, Medicaid, and Food Stamps for seven years after the application is granted, and within one year, the individual can apply for lawful permanent status (Ibid.).

Should they qualify, the benefits of asylees are far greater than those of undocumented individuals residing in the U.S. By systematically displacing individuals from the process by which they can obtain asylum, these benefits no longer become available. This act not only poses an ethical injustice, but it defies international human rights policies that the U.S. adopted decades ago.

Defying Asylum Rights Law

In 1968, the U.S. ratified "Article 31 of the Convention on the Status of Refugees, [which] prohibits party States from imposing criminal penalties on refugees for illegal entry or presence in the country to which they have fled" (Puhl 2015, 87). In other words, regardless of how a migrant entered, nations that approved the article should not impose penalties for illegal entry if the refugee expresses a fear of return. Legal scholar Emily

Puhl argues that the U.S. violates this article by imposing a prison sentence after a Streamline case (Puhl 2015).

Another law to consider is the U.S. Immigration and Nationality Act (INA), which establishes the definition of asylum, which is determined by having a "well-founded fear of being persecuted for reasons of race, religion, nationality, [and] membership of a particular social group or political opinion." In the United States, a person may obtain refugee status and therefore asylum in one of two ways. Immigrants crossing the border are almost always seeking asylum through the second method, which applies when they are already within the U.S.'s borders through unauthorized means. Here, refugees must meet the eligibility requirements of INA § 208,[41] which states that any noncitizen physically present in the U.S. can apply for asylum (8 U.S. Code § 1158. Asylum).

By imprisoning them, the U.S. breaks an international treaty and its own immigration policy by punishing a form of entry that becomes permissible once the individual expresses a fear of return. Streamline's zero tolerance approach to border security causes all apprehended immigrants to be placed directly into criminal proceedings, leaving individuals unable to express this fear before, during, and after their criminal sentence. Without access to screening processes, the U.S. risks violating both

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[41] Certain exceptions apply. Applicants may be recommended for asylum in a different country, for example, and are only eligible to apply if they have resided in the U.S. for less than a year and do not constitute any danger to the nation. The burden of proof is on the applicant, but their testimony without corroboration is enough if their "testimony is credible, is persuasive, and refers to demonstrate that the applicant is a refugee." What is or isn't a credible testimony is up to the asylum officer or judge's discretion and legal precedent (8 U.S. Code § 1158. Asylum).

international and domestic laws by returning individuals to countries where their life or liberty may be at risk (American Immigration Council 2018).

Receiving asylum is already difficult enough. Under the Trump administration, applications for asylum have been encumbered by new policies that send potential asylees to wait in Mexico as their immigration court process occurs in the U.S. and asks them to return to their port of entry for each court date (Tan 2019). Another infamous policy that separated children from their families at the border forced families to reconsider claiming asylum due to the possibility of separation. Thanks to international upheaval across political lines and news media outlets, the administration repealed this policy, but not before losing track of where thousands of children had been placed following their separation from their parents (Jordan & Dickerson 2019). Though asylees are given rights that allow them to properly live and work within the U.S., the road to asylum status under the current political moment is encumbered by various forms of political bureaucracy, even if their initial claim is accepted by the U.S. government.

Statelessness and the State of Exception

Without the opportunity to apply for asylum, the U.S. is able to remove the special rights granted to asylum seekers and treat noncitizens expressing a fear of return the same as all other noncitizens. To understand the importance of respecting the rights of asylum seekers, I frame their condition utilizing statelessness and the state of exception.

The Universal Declaration of Human Rights states that "[e]veryone has the right to a nationality" and that "[n]o one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality." These proclamations lead many to believe that nationality is a basic human right, and that the absence of nationality, known as statelessness, must be eliminated to protect the rights of individuals (Walker 1981, 106). While international law offers guidance on nationality legislation and practice, United Nations conventions[42] have targeted questions of statelessness acknowledging that individual states bestow and define nationality through internal law (Batchelor 1998, 157-158). [43]

Individuals fleeing their state due to fears of persecution or death, or those living under vulnerable economic conditions due to poverty and war are essentially stateless, for their nation was unable to defend the rights that their nationality provides.[44] With no nationality, the individual "has no guaranteed rights and can count only upon such minimal respect as international law requires all states to afford the person" (Walker

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[42] Some examples are the 1930 Hague Convention, the 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness. Additional provisions include the 1957 Convention on the Nationality of Married Women, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, and the 1989 Convention on the Rights of the Child (Batchelor 1998, 158).

[43] This idea of statelessness comes from Hannah Arendt, who discusses the failures of democratic revolutions in the eighteenth century at establishing inalienable rights (which are theoretically independent from all governments) without framing them through national sovereignty (Kerber 2005, 731-732). The modern world order, governed by nation-states, are what conceptualize and secure the rights of individuals.

[44] Linda K. Kerber notes that "documentation or its lack is a defining aspect of the production of statelessness today" (Kerber 2005, 736).

1981, 108). Considering that citizenship to one country is a fragile claim to protection within prisons of another country (Kerber 2005, 729), the lack of a state from which to derive any rights only exacerbates the injustices asylum seekers face if their claims go unconsidered by the U.S.[45] No state will step in on their behalf to secure their rights, for they are non-nationals to every nation. The statelessness of Central and North American border-crossers is another iteration of a dynamic process where nations affirm their sovereignty according to their own interests along the lines of race, gender, labor, and ideology (Ibid., 731). The systematic denial of asylum claims and subsequent apprehension, detainment, and deportation of potential asylees is made possible because their rights are ultimately determined by the domestic laws and policies governing their existence at the border, not international human rights conventions.

The U.S.'s capitalization of statelessness and removal of asylee aspirations is not possible without the state's response of placing individuals outside the asylum process through criminal convictions. I argue that Streamline places defendants in a state of exception, which describes the ability of the nation state to deem a situation as "exceptional," thereby justifying actions that are "outside the normal judicial order" (Walters 2010, 93). Here, the U.S. invokes the "necessity" of prosecuting illegal migration through policies "justified" by border security to systematically disenfranchise

[45] Though the imprisonment of the individuals within my thesis are temporary, post-9/11 U.S. policy has also created more permanent conditions of statelessness through indefinite periods of detainment. Guantánamo Bay is a prison for both non-nationals and U.S. citizens suspected of terrorism, where even the protections of U.S. citizenship have been revoked (Kerber 2005, 742).

noncitizens of their legal rights. Once the defendants are placed within criminal procedure, they are subject to a system where their entire historical, social, and political identity is no longer considered. The only factor under consideration is whether they are a criminal or not for violating one of two laws. The criminal sentencing of refugee noncitizens reduces them to bare life, which is "*what remains* when human existence, while yet alive, is nonetheless stripped of all the encumbrances of social location, and thus bereft of all the qualifications for properly political inclusion and belonging" (Nicholas De Genova 2010, 37). By no longer considering the justified reasons an immigrant crossed, the immigrant is stripped down to the single label of "criminal," since their actions can only be regarded as illegal. This label allows the state to enact the full extent of its punitive violence towards the "criminal," who has just lost "the right to have rights" (De Genova 2010, 51). All at once, they are denied access to the law while feeling the full extent of the law.

I discuss the denial of asylum to this extent to show how even perfectly credible pathways to remain in the nation are stripped away and exploited. Because the noncitizen "chooses" to lose these rights in the acceptance of their plea deal, the U.S. frees itself of social obligations to acknowledge the noncitizen outside of a criminal context. This logistical "victory" on behalf of the nation is translated into a system that privatizes on the incredibly successful process of criminalizing migration and the migrant.

Crimmigration and the Imprisonment of Criminal Aliens

Here, I draw upon Teresa Miller's concept of crimmigration as a theoretical framework to draw connections between the intertwined relationship of immigration law and criminal law (Vazquez 2017, 1117). Miller sees these two systems as symbiotic. As the immigration system absorbs criminal procedural norms and begins to resemble the criminal system in its harsher treatment of noncitizens, the criminal system absorbed civil immigration law as criminal conduct through the prosecution of noncitizens in federal courts for immigration violations (Ibid., 1118).

In converting the nonviolent border crosser or refugee asylum seeker into the criminal, the U.S. has created a process that redefines what it means to be unauthorized, utilizing law to make criminality and unauthorized status synonymous (Abrego, Coleman, Martinez, Menjivar, Slack 2017, 699). This conflation of status is normalized, Menjivar and Abrego argue, because it is embedded in our legal practices and implemented through formal procedures. Individuals do not question it because "it is the law" (Menjivar & Abrego 2012, 1386). This "it is the law" attitude is precisely what allows the U.S. to incorporate noncitizens, often poor Latino males, into its existing frameworks of punitive control that already target Black U.S. citizens (Vazquez 2017, 1119). This simultaneously allows criminal and immigration law to police an entire population by making the undocumented body inherently the criminal body.

As this population grows in numbers, crimmigration procedures will dictate harsher penalties and stricter laws to control "rampant increases" of criminal migrants. Thus, the tools of detention will have to constantly match the tools of criminalization,

thereby justifying extraordinary measures to build prisons and other detention centers to continue housing the criminal migrant. The phenomenon of engineered criminalization and subsequent control of criminals has become so deeply embedded in the understanding of the sovereign state that it "remain[s] insulated against the usual forms of legal correction and political control" (Cornelisse 2010, 4). Having this framework allows us to understand one of the most notorious components of Streamline's mass-prosecution procedures: private prisons and the profit of the incarcerated migrant body.

Private Prisons

CoreCivic, formerly the Corrections Corporation of America (CCA), was on the verge of bankruptcy in 2000. Around that time, the Federal Bureau of Prisons (BOP)[46] started an initiative to create "Criminal Alien Requirement" prisons, which were segregated facilities for immigrant prisoners through contracts with private prison industries (Greene, Carson, and Black 2016, 102). The first two contracts were given to the CCA, leading to thirteen new contracted prisons by 2013 (Ibid., 102). Today, CoreCivic operates over seventy correctional facilities from California to New York (CoreCivic).

The corporation is now valued at over a billion dollars, with nearly half their revenue coming from the BOP, United States Marshal's Service, and ICE (United States Security and Exchange Commission, 11). Each of these government organizations

[46] This agency is in charge of the custody and control of inmates in the U.S.

provides stipends to the corporation to house the individuals these agencies apprehend. In exchange for the immense task of running a prison, the corporation charges what it costs to house a prisoner each day plus service fees (Bryant, 2015). As a result, the contracted private prison is run off a business model in which admitting more prisoners for extended periods of time (i.e., filling bed spaces) leads to more profit. The success of Streamline in creating large numbers of convicts paints a picture as to why these corporations are contracting significant portions of their resources to immigration enforcement-based government agencies. Scholars at the Justice Strategies Institute estimated the cost of imprisonment of migrants between 2005 and 2015 to be $7 billion (Greene, Carson, and Black 2016, 143). To continue this kind of business, the corporation must rely on strict legal policies and enforcement efforts to ensure a steady stream of inmates. This can be done by lobbying politicians to pass bills that allocate more funds towards these government agencies.

Back in 2005, CoreCivic spent $3.2 million dollars lobbying for the construction of private prisons and multiple bills to increase funding for Homeland Security (OpenSecrets). Yearly lobbying expenditures now sit around $1 million each year for bills that promote budget increases for the very agencies that give the prison its business. As a result, we have a revolving door of profit and growth between immigration enforcement agencies and the private prison industry. This revolving door also includes individuals that previously worked within the Federal Bureau assuming high-level positions within CoreCivic.

The connections between agencies and profit-incentivized corporations has led to the convergence of greater monetary allocation towards agencies for technologies that facilitate surveillance and apprehension. In 2005, for example, U.S. Congress approved the Secure Border Initiative, allocating nearly $1 billion towards ICE for unmanned aerial vehicles, camera systems, and sensors (Fact Sheet: Secure Border Initiative). Increased funding for the Marshal's Service and the BOP also facilitate the apprehension and criminal processing of more people for private prisons.

As the criminal justice system becomes increasingly intertwined with immigration enforcement, certain agencies will expand as they allocate their resources towards border security and other immigration procedures.[47] In the Department of Justice's latest budget request, they asked for $65.9 million for new immigration judges and staff. As a result, the bonds between these agencies and the private prison industry will only become stronger. Finally, we must remember that the funds coming from government agencies towards private prisons are from taxpayer dollars, as are the dollars that fuel Streamline. In 2010, A Texan judge expressed his dissatisfaction during a court case towards the prosecution and incarceration of three nonviolent offenders because the expense for housing these three in their local jail would cost over $13,000, which didn't even include the costs of the U.S. Attorney's Office, the Marshal's Service, appointed counsel,

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[47] As an example, "In 1995, the air fleets of the Marshals Service and the Bureau of Immigration and Customs Enforcement (ICE) merged to create the Justice Prisoner and Alien Transportation System (JPATS). The merger created a more efficient and effective system for transporting prisoners and criminal aliens. JPATS is one of the largest transporters of prisoners in the world - handling about 715 requests every day to move prisoners between judicial districts, correctional institutions and foreign countries" (Justice Prisoner & Alien Transportation System).

interpreters, and transportation costs (Fan 2013, 110). Although the exact numbers for Streamline are unknown, "Tucson Magistrate Judge Charles R. Pyle estimated that Operation Streamline in Tucson alone was costing taxpayers more than $180 million a year" (Greene, Carson, and Black 2016, 141).

End

The correlation between mass incarceration legal systems and the prolific rise of the private prison industry cannot be understated. Though I focus on CoreCivic, they are not the only group engaging in extensive contracts with government agencies to fill their bed spaces with convicted undocumented immigrants. More than half (58%) of *all federal arrests* in FY 2016 took place in the five federal judicial districts along the U.S.-Mexico border (Motivans 2019). Though these facilities also contain individuals that have committed egregious acts, forty-five percent of all federal arrests in 2016 involved an immigration offense as the most serious offense committed by the arrestee. As long as organizations continue to increase and cast their punitive net across the border, even more nonviolent immigrants will be swept up in the expensive-for-taxpayers, lucrative-for-private-prison system. We must also acknowledge the effects this has on the psyche of the individuals crossing to reunite with their family or to escape persecution suddenly faced with a system that treats them as criminals and offers no other option but to send them back.

Chapter 3 | Spaces of Resistance and the Need for Change

These past two chapters have discussed the creation of a system that is highly successful in criminalizing migration, cutting off access to legal pathways towards documentation, and the role of this criminalization in the context of the for-profit prison industry that holds these individuals until their deportation dates. Despite the negative outlook of this thesis, not all hope is lost. Where previous discussions have left off on a heavier note, I conclude this project by discussing spaces of resistance and reform towards the Streamline system and the conflation of immigration and criminality more generally.

This chapter is divided into three sections. The first two demonstrate different forms of resistance: through the law and through activism. Though representing clients has been constrained through Streamline's quick turnover and mass plea system, legal challenges have pervaded throughout the years. I begin by discussing two cases that have fought against mass pleas and the shackling of defendants during trial and include legal analysis that discusses the implications of these cases. The second segment acknowledges the work of local activists in holding Streamline accountable. I interviewed a member of the End Streamline Coalition, a group of lawyers and community members in Tucson, Arizona that run programming and attend trials to document potential offenses occurring during Streamline. In the third and final section, I argue that policy reform will create the largest overhaul of this system. I discuss the policies passed by the Obama administration

and the protections offered towards undocumented individuals within the country, and how these policies should be extended towards future populations still waiting to cross.

While I acknowledge the setbacks that have occurred during the Trump administration towards these very policies, the frameworks behind PEP and DACA demonstrate that policy reform can change the course of immigration in the United States. Other literature typically focuses on one sphere of work instead of discussing various methods of resistance and reform. Through my research, I provide side-by-side comparisons of different actors working towards immigration reform in their own ways, highlighting the strengths and weaknesses of each method. Ultimately, this chapter explores different ways in which the U.S. citizenry fights for the rights of noncitizens, and new paths our country can take to combat the problematic rhetoric and structural inequalities we have allowed to pervade in our society.

The Law

Mass pleas, muffled guilt: United States v. Roblero-Solis

The current iteration of Streamline we see today is very similar to what it looked like back in 2008 in Tucson, Arizona. There has been one crucial change, however. In 2008, public defender Jason Hannan issued a legal challenge to change a critical component of its function which has successfully remained in place to this day. Streamline is notorious for not just processing and convicting defendants all at once, but

by asking defendants questions and recording their answers all at once.[48] Back then, when forty-five to seventy immigrants would be asked how they plead, all of them would (assumingly) respond "guilty" at the same time. The only individualized component to Streamline was roll call and sentencing each defendant to a certain amount of days or months in prison. Jason Hannan worked as a public defender at this time and argued against this mass-plea system in an effort to save his clients from their criminal convictions. If he were successful in this legal argument, the courts would have to cite improper procedure and remove the criminal conviction placed on the six defendants he was representing.[49] Though the clients would still undergo removal procedures, they would be deported without a misdemeanor on their record and additional time served in prison.

During the trial, Hannan objected to the court's plea-collection method, noting that "in order to determine that the [guilty] waiver is knowing and voluntary requires an individualized assessment of the court."[50] Hannan cited Rule 11 of the Federal Rules of Procedure, which requires judges to "address the defendant personally and determine that the plea is voluntary" (Rule 11). According to Hannan, collecting seventy pleas all at once did not allow the court to address defendants "personally," thereby denying his

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[48] See page 1406, footnote 33 of: Nazarian, Edith. 2010. Crossing Over: Assessing Operation Streamline and the Rights of Immigrant Criminal Defendants at the Border Developments in the Law: Immigration Reform. Loyola of Los Angeles Law Review 44: 1399–1430.

[49] Multiple clients can be represented under a single suit as a mass-action legal challenge. All of them had been apprehended either crossing the border or within the U.S. without documentation and placed in Streamline and removal proceedings.

[50] The following commentary is reflected in the record of *United States v. Roblero-Solis* (United States v. Roblero-Solis, 2018a).

clients due process. The judge responded by asking Hannan's clients individually if they plead guilty, which all of them did, and gave them time-served sentences. The clients appealed their convictions, sending their case to district judges.[51] Of the six defendants, only one had their conviction removed. The district judges reviewing the case decided that mass pleas satisfied due process and complied with Rule 11. Five of the clients served sentences, and all six were eventually deported.

Although the original defendants could no longer be represented in court due to their deportations, the case was still allowed to move up for review by a higher court. The United States Court of Appeals, Ninth Circuit[52] concluded the following: No judge could have detected a mute response offered in the midst of a medley of voices saying "Sí." No judge, however conscientious, could have possessed the ability to hear distinctly and accurately fifty voices at the same time.

Through this decision, the Ninth Circuit set a new precedent by which judges must now individually ask their clients for a guilty plea. A small victory, perhaps, but one that more fairly aligns with standards of due process in other criminal court cases. Regardless of this advancement for future trials, the convictions against Hannan's clients were upheld.[53]

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[51] This sent the case to district judges to review the decision of the magistrate judges that initially rejected Hannan's objection.
[52] The Ninth Circuit is a federal appeals court with jurisdiction over thirteen district courts in nine states. Cases from these lower district courts come up to the Ninth Circuit for review.
[53] The Ninth Circuit ruled that for their personal conviction decisions to be reversed, defendants would have had to show that "but for the error, [they] would not have entered the plea." Since this attempt was not made, their convictions were upheld. Even if the decision was reversed and the defendant's convictions

This case was brought to my attention by Isabel Garcia because Hannan had trained in her law office before working Streamline cases. Though his legal case created tangible change within Streamline proceedings, the overarching structures affecting his clients impeded Hannan from properly representing them in trial. Isabel recounts her experience watching these objections unfold before the judge. "He got up and said, 'Your honor I would like further proceedings' and the judges were mad." Hannan objected on December fifth, and the judge decided to schedule his decision to the objection on December fifteenth. His client realized that fighting this case, an unassured gamble, would mean waiting for another ten days in prison. Isabel continued: "His client realized he was going to serve a lot more time just defending his case. I mean that's part of the problem when you've got this kind of 'Supermarket Justice'[54] whether you're guilty or not you're going to plead guilty because you've got to get done fast. You're not here to create a case law for your brilliant attorney you're here to get on with your life."

Isabel's commentary illuminates a central issue in legal challenges to Streamline. Avoiding prison time means waiting for another court case in prison. Many undocumented immigrants arriving in the U.S. are escaping persecution or seeking economic opportunities. They do not have the time to wait for another case. Even if they did, they are not afforded parole or any other opportunity to await the court's decision

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were removed, they had already served their sentences and been deported. This would only have affected future outcomes concerning their criminal status.

[54] Isabel was alluding to the quick, "in-and-out" nature of a supermarket in which customers, like Streamline defendants, are encouraged to make quick decisions in order to leave as soon as possible.

outside of prison (Lal 2017, 314). They also often lack the social networks for external support during the time of their incarceration. It is much easier to accept a plea deal that ensures a shorter sentence. Their economic status, logical unwillingness to wait in in prison, and unknown fate[55] of fighting a case in the U.S. criminal justice system compounded into guilty pleas for Hannan's clients. This victory was not without its shortcomings.[56]

Writing in the Los Angeles Law Review, legal scholar Edith Nazarian also discusses the divisive implications of the Ninth Circuit's ruling in Roblero-Solis.[57] The court grounds their decision on the Federal Rules of Criminal Procedure instead of the Constitution despite citing the Constitution throughout their decision.[58] Nazarian declares that this grounding ultimately deprives defendants of more protective rights (Nazarian 2011, 1402). The Federal Rules are subject to Congressional change, so the small advancement in due process rights given through the Roblero-Solis case could be removed much more easily than a change to the Fifth Amendment. The decision allows Congress to have power over immigrant criminal defendant procedural rights and diminishes the power this case could have. Should Roblero-Solis reach the Supreme Court and be upheld, it could only be enforced in federal courts instead of state courts.

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[55] Public defender Jordan Malka explains that rejecting the plea deal for illegal entry leads to a bench trial. If the judge determines guilt, the maximum penalty for the misdemeanor can be six months with a $5000 fine, a much harsher penalty than what is offered through the plea deal.

[56] Additional challenges citing Rule 11 have had little success. See *Unites States v. Escamilla Rojas* (2011); *United States v. Diaz Ramirez* (2011); and *United States v. Arqueta Ramos* (2013).

[57] *Supra* note 1.

[58] The Ninth Circuit refers to the Constitution in interpreting "personally" and deciding if the case was moot (1408).

Although Streamline resides at the federal level, there have been certain efforts to process criminal immigration cases in state courts as well (Ibid., 1416). The outcomes of Streamline, Nazarian notes, are too great to have legal outcomes reside in malleable policy. If the U.S. wants to impose criminal consequences, they must provide noncitizen defendants with the full procedural protections that citizens receive (Ibid., 1426). Nazarian's scholarship shows the complicated process that unfolds in establishing new procedural rights. More importantly, the case demonstrates how the rights afforded to noncitizens sit in a more precarious position than the Constitutional amendment protecting citizens throughout criminal procedures.

Breaking the Chain: United States v. Sanchez-Gomez

In the Southern District of California, like in other Streamline courts, judges adopted a policy permitting full restraints (handcuffs attached to a waist chain and shackled legs) to be used on in-custody defendants.[59] Four lawyers challenged this policy and were denied by the district court. The lawyers appealed their case to the Ninth Circuit, but before the court came to a decision, the underlying criminal cases of their clients had already ended. Normally, courts cannot decide upon a case in which a verdict has already been handed out. The case would be ruled as moot, meaning further proceedings would have no effect on the case or the law it was arguing. However, the Court of Appeals cited historical cases that saved the case from mootness, noting that the

[59] United States v. Sanchez-Gomez (2018a)

defendants "represented a broader group of similarly situated people who could be injured [too]."[60] The Court of Appeals then held the policy as unconstitutional.

However, the Supreme Court unanimously ruled against the Court of Appeals,[61] stating the case was moot. They rejected the court's use of a prior case to support an exception to mootness. "Here," the Supreme Court ruled, "the mere presence of allegations that might, if resolved in respondents' favor, benefit other similarly situated individuals cannot save their case from mootness" (United States v. Sanchez-Gomez, 2018a). Had the ruling been different, the shackling of Streamline defendants would have ended in all federal courts. The Supreme Court did not even consider if the shackling policy was constitutional or not because the case was determined ineligible for review.

Sanchez-Gomez suffers from an unfortunate reality plaguing lawyers and their clients trapped in a fast-track removal system. The turnover rate for conviction, sentencing, and deportation of Streamline defendants is much faster than the amount of time it takes for higher courts to accept a case, review it, and issue a statement. Without a client to represent, the case was no longer eligible for review.[62] Presumably, the probability that other lawsuits against Streamline result in mootness are quite high given the high guilty plea rates and quick turnover in the prison system. Once again, the system

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[60] This is called the "capable-of-repetition-yet-evading-review mootness exception" (United States v. Sanchez Gomez, 2018b).

[61] The case had been brought for review to the highest court. The Supreme Court's decision becomes the final say on the matter.

[62] *Roblero Solis* appears to be an exception to this statement. Although the clients had already plead guilty, the Court of Appeals determined that this legal violation could still affect future Streamline client, saving the case from mootness. Though the Supreme Court could have concluded this for *Sanchez-Gomez* given the precedent, they chose not to.

has capitalized on the precarious nature of the immigrant defendant to diminish their access to legal rights. That being said, the fact that the Court of Appeals declared the policy as unconstitutional gives us hope. Perhaps if the Supreme Court deemed a future case concerning shackling eligible for review, they would arrive at the same conclusion.

Activism

Community oversight: The End Streamline Coalition

Though legal challenges are able to create precedent and change procedure in courts across the U.S.-Mexico border, Roblero-Solis and Sanchez Gomez serve to show the difficulties in establishing immigration reform through judicial review and procedure. The process is slow and bureaucratic, and at times, different forms of resistance and action are necessary. I highlight the work of the End Streamline Coalition in Tucson, Arizona to demonstrate the intersection between community members and political and legal accountability. The Coalition began in 2012 after a conference celebrating the history of resistance and struggle in the borderland to oppose Streamline through public education and advocacy. Their goals are centered around the abolition of Streamline and the general practice of criminalizing and prosecuting undocumented immigrants. The Coalition works toward this goal through three programs: Public Awareness, Daily Witness, and Legal Training.[63] For the past twenty years, members have held talks in

[63] Interview with Coalition activist Leslie Carlson.

local churches or to visiting border-learning groups[64] to educate them about Streamline. During an interview, activist Leslie Carlson told me how these discussions reframe the conversation around the criminal justice system and its treatments of noncitizens.

The Daily Witness program is where trained Coalition members attend Streamline proceedings every weekday to write a report about the case so "the lawyers and the magistrates and the people who are the machinery of Streamline know that we are there," in Carlson's words. The member documents "egregious" concerns in the court room. Leslie mentions two instances as examples, where a defendant mentioned receiving injuries that had occurred from a Border Patrol chase, and individuals travelling with medication that had been confiscated upon apprehension. These instances are documented as potential evidence in case further legal action is taken on behalf of the defendant. Most importantly, they have kept a database of 1,000 records over the past four years of any defendant that expresses fear of return or mentions asylum.

The Coalition is clear in making their daily presence known through their visible presence each day and the documentation of each case as a method of surveillance. The scope of this surveillance is limited once defendants exit the court room and leave the public boundaries of the criminal immigration system. There, more clandestine forms of punitive control occur outside the eye of Coalition's activists. For example, immigrants are left on their own in asking for a credible fear interview. Leslie notes that defendants

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[64] Other local nonprofits such as Borderlinks host college and faith-based groups from other states to spend a week learning about and visiting different spaces around the border. Leslie mentions that through these partnerships, more people from outside Tucson proper end up learning about Streamline's functioning than the community members themselves.

are instructed to mention this fear to the ICE agents that pick them up after their criminal sentences have been served.[65] So, this "mention" occurs after the court case and prison sentence but before the physical removal of the immigrant. "That's when they're magically supposed to know to ask the ICE official for the credible fear hearing, and if the ICE agent doesn't know[66] or doesn't care they won't get it," Leslie says. According to U.S. Citizenship and Immigration Services, an individual can only apply for asylum if they are not in removal proceedings.[67] Considering ICE prepares these proceedings directly after the immigrant's criminal sentences are served, the window of opportunity to request a hearing appears to be limited or outright nonexistent. Moreover, immigrants wait for months in between their attorney's crash course lesson on the asylum system the morning of their criminal defense case and the moment in which they can actually ask for an interview. Regardless of these barriers, the Coalition has taken several steps in extending their surveillance and aid beyond the Streamline proceeding to give defendants the chance at asylum.

For the past two years, the Coalition has partnered with the ACLU[68] and a local pro-bono immigration group The Florence Project[69] to host a "continuing legal education

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[65] 23 I&N Dec. 117 (BIA 2001) notes that any "criminal alien" released from criminal custody is subject to mandatory deportation.
[66] (If the agent doesn't know they have a fear of return).
[67] The U.S. Citizenship and Immigration Services website notes that certain crimes bar applicants from receiving asylum, such as having been convicted of "a particularly serious crime" or if one "pose[s] a danger to the security of the United States." These qualifiers appear to be up to the Asylum Officer or Immigration Judge's discretion (USCIS)
[68] The American Civil Liberties Union (ACLU) is a nonprofit legal activist organization that fights government abuse of individual freedom.

training" program for Streamline attorneys. The majority of these attorneys are trained in criminal defense and not immigration law and procedure. Therefore, the goal of the program was fourfold: to educate attorneys on the asylum process so they could pass this information on to their client, proactively asking their clients if they had a fear of returning to their home countries, emailing ICE the client's biographical data and the mention of fear, and orally stating this fear during Streamline proceedings to have it on the record. Leslie notes that when lawyers take these steps, it increases the likelihood the defendant receives an interview. The surveillance efforts of Daily Witness are thus extended onto the lawyers to ensure they are taking these steps. It allows activists to have their presence felt at each step of the immigrant incarceration and deportation process and engages the efforts of the community in combatting Streamline's injustice.

The work is not without its pushback from the judicial and punitive system. In response to oral claims of asylum, Leslie accused magistrate judges of trying to "streamline Streamline"[70] by telling judges it is unnecessary to mention their client's credible fear because the record already reflects it. Without this, the Coalition cannot know which of the defendants that day are expressing a fear of return. Other immigrant education efforts such as handing asylum seekers papers with instructions on receiving an

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[69] "The Florence Immigrant and Refugee Rights Project is the only organization in Arizona that provides free legal and social services to detained men, women, and children under threat of deportation" (The Florence Project, 2019).

[70] In other words, shorten the procedure by skipping past "unnecessary" statements from lawyers.

interview have been taken away by ICE officials once the immigrant is imprisoned. Regardless, Coalition's members are determined to succeed.

Streamline must end

Leslie acknowledged that this effort "doesn't address criminalization, but it helps there be some shred of justice for asylum seekers." With cases occurring each weekday and affecting up to seventy people, the need for oversight and change is immediate. On the other hand, changing the fate of criminalizing migration requires the slow, bureaucratic, comprehensive effort that is immigration and criminal justice reform.

When it comes to Streamline, the best solution is abolishment. As it stands, the system is not built to allow noncitizens to access critical components of our immigration system. It combines severe penalties through criminal procedure with fast-track processes that restrains proper legal counsel, denies adequate time for decision-making, and disables a lawyer's ability to object and submit a case for further review. If the process is to continue, we must critically examine the potential benefits of processing and incriminating immigrants, specifically those that carry no prior convictions. Before their plea these defendants are shackled, and after their plea are placed in prison alongside other criminals with far more egregious criminal records. This demand does not entail a porous border, for without Streamline, previous systems of surveillance, control, and judicial and administrative punishment would still be in effect. But "if the United States chooses to impose consequences-especially those that it deems to be beneficial by serving

as a deterrent-it should, in fairness, entitle these individuals to the full procedural protections that they deserve in these proceedings" (Nazarian 2011, 1426). This means grounding noncitizen rights in the Constitution[71] and shifting immigrants back to the civil immigration system, where claims are properly reviewed, and the most serious penalty individuals face is deportation. Historically, immigration law focused on the administrative admission and removal of individuals but has transformed into a process of punishment (Vazquez 2017, 1116). This must be reversed. The "tough on crime" approach that Streamline embodies may be upheld by immigration agencies and border-state politicians, but it comes at too steep an ethical and monetary cost to be determined effective and is not targeting legitimate security threats along the border.

Policy

Retracing steps and a vision for the future

As it stands, our nation needs to engage in immense shifts in how we prosecute and demonize the act of migration. Various policies from the 1980s that criminalized undocumented immigrants are still in place today (Abrego et al 2017, 697-698), but new acts under the Obama administration began shifting the prioritization of certain

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[71] Historically, noncitizens have lost cases because the U.S. Constitution refers to "the people" and their alien status barred them from being a part of the nation's community [See *United States v. Verdugo-Urquidez* (1990)]. Later cases rejected this approach, giving noncitizens rights under the Fourth, Fifth, and Fourteenth amendments based on their presence on U.S. soil (theory of territoriality) [See *Yick Wo v. Hopkins* (1886); *Wong Wing v. United States* (1896); *Shaughnessy v. United States ex rel. Mezei* (1953)]. Nazarian argues that if noncitizen rights were truly protected under the Fifth Amendment, en masse proceedings would not exist under "any form" (Nazarian 1418-1424).

individuals under the U.S.'s crimmigration complex. For example, the Priority Enforcement Program (PEP) started in 2015, which allowed ICE officers to "exercise prosecutorial discretion to not remove certain people even if they fell within one of the 'enforcement priority categories.'" (Rosenblum 2015, 1 as cited in Abrego et al 2017, 709). In other words, it offered guidelines to determine which individuals should actually be considered for detention and removal.[72] This protected an estimated "87 percent of the 11 million unauthorized immigrants who were residing in the United States when PEP was enacted" (Abrego et al 2017, 709). And of course, the Obama administration's DACA and DAPA[73] policies carved out spaces of safety for children and their families, allowing them to live, work, and study in the U.S. under prosecutorial discretion that defers removal action against them. (USCIS 2018). These policies are not perfect. They protected millions of individuals residing within the country but did little to protect recent arrivals and border crossers (Abrego et al 2017, 709). Obama prioritized certain classes of people for removal, but the administration also deported more individuals than any other president in history (Law 2017). Streamline was never revised throughout his tenure.

Instead of building upon the positive groundwork of his predecessor, President Trump has worked to replace or outright eliminate these programs and policies, removing

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[72] PEP contains three categories of descending prioritization for removal. The first (prioritized for removal) focuses on national security threats, gang members, those apprehended immediately at the border, and those with felonies. The second priority (subject to removal) includes those with misdemeanors, those with unlawful presence in the U.S., and visa program abusers. The third priority (generally subject to removal) includes noncitizens that have been issued a final order of removal after the PEP program was put in place.
[73] Deferred Action for Childhood Arrivals and Deferred Action for Parents of Americans, respectively.

the few protections that were offered and even expanding ICE staffing (Abrego et al 2017, 710). This approach will only set us down the same path that crimmigration has already created. Instead, we must maintain previous protections and extend them towards border arrivals. Before subjecting apprehended noncitizens to the criminal justice system, we must utilize an indicator of risk beyond undocumented status (Fan 2013, 135). This includes those with misdemeanors and felonies on their records from illegal entry and reentry, for these crimes are still based on documentation status and the mere act of migration. While the civil immigration has its flaws as well, civil deportations do not require criminal processing and the subsequent use of federal facilities, prosecutors, criminal court personnel, translators, and all of the other additional costs and logistics we implement for the exact same outcome of deportation (Ibid., 134). Fan summarizes this nicely: "the principle makes sense as a matter of cost-efficiency and common sense. Why activate the expensive heavy artillery of criminal law for something customarily addressed by civil removal just to reach largely the same outcome of removal?" (Ibid., 136). Inherent within this thought process is the end of Streamline. Instead of this system, resources can be reallocated towards immigration courts, asylum processes, and integration programs for individuals that pose no security risk and are able to thrive within the nation under older ideologies that painted the immigrant as a hardworking individual searching for better opportunity.

Conclusion

Operation Streamline is a component of an enormous, interconnected web of social issues affecting the U.S. and its neighboring countries. Removing the mass-prosecution of noncitizens crossing the border should be the first step in eliminating extraneous costs and the siphoning of nonviolent offenders seeking protection or economic relief into the criminal justice system. Though my thesis did not interview immigrants directly, the narratives from my friends in Tucson and within my research articles indicate the need for more humanitarian approaches to border security and immigration policy. I believe policy-makers need to be more cognizant of the effects criminalizing migration has on individuals that are leaving behind their homes because there is no opportunity for them there anymore, or on those that simply want to come earn money for a few months and leave.

The current political moment is imbedded with racial anxieties and the polarization of politics concerning undocumented individuals and immigration. The racialization of anti-immigrant rhetoric and its perceived threats on U.S. citizens has been consistently used for political gain. This can be seen with President Donald Trump's description of Mexican border-crossers as "criminals" and "rapists" during his run for presidency or through advertisements during election years. An advertisement by the Trump administration was pulled from NBC, Fox, and Facebook after it accused Democrats of allowing an undocumented Mexican immigrant that murdered multiple police officers to enter and reside within the U.S., followed by scenes of a migrant

caravan to correlate these individuals with a convicted felon (Stelter & Darcy, 2018). The advertisement was pulled for factual inaccuracy and its incendiary message. Another advertisement by Republican Senator Ted Cruz titled “Invasion” argues that our nation is not doing enough to address the low-skill workers driving down wages in our country, as scenes of white men and women dressed in business suits wade through rivers and sprint across the desert, presumably towards the U.S. border (“Invasion”, 2016).

Starting last year, thousands of Central Americans from Honduras traveled together as members of migrant caravans seeking asylum or work within the U.S. Along the way, they have been labeled as invaders, repelled by Border Patrol agents spraying tear gas, and forced to settle down in shelters in Mexico as they await the opportunity to claim asylum (Villegas 2019). In response, President Trump has threatened to shut down the border entirely and eliminate monetary aid to Guatemala, Honduras, and El Salvador which fund programs that combat violence and poverty and strengthen the justice system (Specia 2019). These are often the cited reasons for which immigrants leave their countries in the first place. These actions have coincided with the longest government of U.S. history, 35 days, over the allocation of $5.7 billion towards border wall construction. It was the first time a U.S. president had declared a state of emergency to ask Congress for funds after it had already decided against funding the project; most historical states of emergency were sanctions on foreign groups for violations such as terrorism or illegal narcotics trafficking (Savage 2019).

Now more than ever, the U.S. needs to consider the human rights abuses it is committing through its militarization of the border and its connection to racial fears of

'foreign invasion,' when even the thousands of individuals arriving at the border through caravans are purposefully turning themselves in to access legal processes. Even for individuals entering clandestinely, their motives often do not fall within the bounds of what criminal justice procedure should prosecute.

Regarding asylum, the nation should make it a large priority to avoid prosecuting potential asylum seekers considering only 20% of applicants actually receive asylum (Tobias 2018). Asylum approval rates sit around 20,000 individuals accepted each year even though in FY 2016, the president set the worldwide refugee ceiling at 85,000 individuals (American Immigration Council 2016). Considering this ceiling, there is enough space for refugees to discredit the need for prosecuting and deporting thousands of people before they can even make their claim.

In arguing against Streamline and the laws it prosecutes, I fully acknowledge the border security issues occurring on the border. From organizing criminal violence to drug and human trafficking, there are certainly reasons to utilize border security technologies and personnel. However, there must be a distinction between which detainees receive the full extent of the violence imbedded within our punitive, criminal, and immigration systems considering that there are separate criminal laws to distinguish more violent or problematic actions from the act of "illegal migration."

As it stands, illegal entry and reentry are the most prosecuted crimes in the U.S. The Department of Justice notes that "in FY 2018, more than 68,400 defendants were charged with misdemeanor illegal entry. This is the highest number of such defendants charged since EOUSA started to track this category and an almost 86 percent increase

from the previous year" (Department of Justice Office of Public Affairs). Illegal re-entries went up to 23,400 defendants, up more than 38 percent from FY 2017 (Ibid.). Ending the prosecution of these laws does not mean we should openly accept every single individual that wants to enter, but I believe the vast amount of funding going towards this effort can be reallocated towards programs that can actually capitalize on the economic aspirations of many individuals trying to cross the border. This is done through more expansive worker-visa programs that permit work in both local and nationally-competitive industries. We should also honor reunification requests with family members under certain conditions that ensure admitted members make contributions to their community or society at large before receiving the social security benefits our nation has to offer.

Parts of this project have been very difficult to work on because of the incredible interpersonal relationships I have made through my time in Tucson. I think back to the friends that shared their border-crossing stories with me or their detention stories with me, and my own visits to the Sonora desert, the Streamline court, and a detention center to talk with inmates. During this project, I constantly reflected on the individuals within that court room, and how many will try to cross again in hopes of a better outcome the next time around. These connections have created turbulence as I navigated between my voice as a scholar, utilizing statistics and theory to support my arguments, and the voice of someone that has deep moral sympathy for my friends and family members that reside in the U.S. without documentation, and how they too could be charged with these crimes. Throughout the year, my argument on paper would simply read, "this is wrong. It just is.

It has to end." I am grateful for this yearlong journey of writing and research to conceptualize the endless ways in which I now know this system is wrong and look forward to the work I will be doing in the future in order to fix it.

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