



Legal Violence in the Lives of Immigrants

How Immigration Enforcement Affects Families, Schools, and Workplaces

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Introduction and summary

Even as the number of undocumented immigrants in the United States has plateaued at around 11.1 million people,¹ federal enforcement of immigration law has intensified over the last decade. Close to 400,000 people have been detained and deported each year since 2009, and an estimated 34,000 detention beds are available every day.² New initiatives such as the Secure Communities program, which checks the status of people booked into county jails in participating jurisdictions,³ have added another layer to the web of Border Patrol, Immigration and Customs Enforcement, and other immigration agents operating across the country.

On top of these federal efforts, some states and localities have passed their own anti-immigrant laws, such as Arizona’s S.B. 1070—the Support Our Law Enforcement and Safe Neighborhoods Act—and Alabama’s H.B. 56—the Beason-Hammon Alabama Taxpayer and Citizen Protection Act. These laws seek to criminalize all aspects of undocumented immigrants’ life and behavior.⁴

But while proponents of harsh enforcement policies or so-called attrition through enforcement feel that making life as difficult as possible for undocumented immigrants will push them to “self-deport,”⁵ the reality of immigration policy today is far more complicated. Separating the documented from the undocumented is not as simple as it seems, since undocumented immigrants do not live in walled-off families, buildings, neighborhoods, or even cities.

Instead, undocumented immigrants live, work, and go to school alongside the documented. While there are 11.5 million undocumented immigrants, for example, a total of 16.6 million people live in mixed-status families, where members have various legal status, including undocumented immigrants and U.S. citizens.⁶ Immigration enforcement affects far more than just undocumented immigrants—it touches the lives of all people living in the United States.

As we illustrate in this report, it is not simply enforcement actions themselves—detentions, deportations, raids, or traffic stops under S.B. 1070, for example—that

affect undocumented immigrants and their communities, but it is also the ever-present *fear* of enforcement actions. The expansion of immigration enforcement, and the concurrent stigmatization of immigrant status that comes with it, pushes even those with legal status to fear that their loved ones could be deported. Those with temporary legal statuses, such as deferred action or Temporary Protected Status,⁷ also fear that they too could be victims of detention or deportation.

This fear can take many forms, such as a community refusing to leave their houses or take their children to school because of an impending raid, or an unwillingness to speak out against abuse in the workplace. After the Supreme Court struck down much of S.B. 1070—while leaving in place the infamous section 2(B), the “papers please” provision—a Latino Decisions/Center for American Progress Action Fund/America’s Voice poll found that 79 percent of Latinos nationwide believed that Latinos who are *legal* immigrants or U.S. citizens “will get stopped or questioned by police.” This poll speaks directly to the deep-seated worries within the entire Latino community that state laws like S.B. 1070 will target even those born and raised in the United States.⁸

In studying the effects of immigration enforcement, this report looks at the three primary sectors of everyday life—the family, the workplace, and the school—to examine how the cumulative effects of harsh immigration laws, increased enforcement actions, and a negative stigmatization of immigrants build upon one another to harm immigrant and citizen alike. We argue that the fear created by this enforcement—both real and perceived—creates the conditions for what we call “legal violence,” harming immigrant incorporation into the United States.

The family, the workplace, and the school are the key social institutions that gave previous waves of immigrants a strong foothold in this country, allowing their children and their children’s children to prosper.⁹ We know that today’s immigrants are already integrating into public life—learning English, going to school, and buying homes, among other things—but increased legal violence directly threatens future integration efforts.¹⁰

Simply put, when everyone living in the United States is able to fully integrate, our communities are better off. A more thorough process of immigrant integration will result in: more upward mobility over time, more educational opportunities to train the workforce of tomorrow, a stronger sense of belonging, greater investment in the collective future of the country, and a more cohesive society.¹¹

Immigrants who integrate economically—whose wages increase enough to buy a home, for example—not only increase their contributions to the economy in the short term but are also more likely to care deeply about the future of their neighborhood. This, in turn, may prompt them to integrate politically to improve and care for their neighborhoods, schools, and cities.

Without these kinds of contributions, and as long as the reality of immigration in the United States is the status quo of attrition-through-enforcement policies and a large undocumented population with no possibility of achieving permanent legal status, *all* Americans lose out, regardless of their status.¹²

- Within the **family**, legal violence causes people to live in constant fear of being separated from loved ones—something that affects even U.S. natives with relatives at risk of deportation. This same fear and stigma of immigration status keeps parents from accessing social services, even those to which their citizen children are legally entitled. Harsh enforcement regimes cause even those with legal status to withdraw from public life, jeopardizing community integration.
- Within the **workplace**, increased enforcement has led to employers having more control over the exploitation and mistreatment of their workers. Many of these workers feel that they cannot stand up for their rights for fear of retribution. This type of exploitation hurts not only immigrant workers but also the native born as well, who have to contend with lower wages and less safe working situations.
- Within the **school**, legal violence makes young people and their families fear schools as a place where family members may be detained. Immigration and Customs Enforcement officers in October 2012, for example, detained parents after they dropped their children off at two Detroit-area schools.¹³ Other students underperform or exit school early based on fears of detention or the knowledge that without legal status, higher education and a good job are inaccessible.

The research for this report is based on more than a decade of observation and more than 200 in-depth interviews conducted between 1998 and 2010 in Los Angeles and Phoenix with immigrant youth and adults and with relatives of migrants in El Salvador, Guatemala, Honduras, and Mexico. During our attendance at community meetings, press conferences, and other organized events, we also spoke with advocates, community members, and officials. The interviewees' words and experiences reveal that current immigration policies are not only excluding immigrants from contributing more broadly or positively in society,

but because immigrants are perceived and treated as criminals, these policies have sweeping negative consequences for entire families, places of work, schools, and, by extension, entire communities.

To mitigate the harsh effects of legal violence and to ensure that all residents of the United States—immigrant or not, documented or not—have the ability and opportunity to integrate and prosper, we offer the following recommendations.

Most importantly, both Congress and the Obama administration must address the communitywide anxieties and vulnerabilities related to immigration. The fears that undergird legal violence will never go away while there are 11.1 million undocumented immigrants living in the United States. Congress must pass a comprehensive immigration reform bill that includes a pathway to citizenship for undocumented immigrants and includes specific provisions for immigrant youth, such as the provisions of the DREAM Act, which provides a pathway to citizenship for young undocumented immigrants who complete high school and some college or military service. The administration should target enforcement practices on serious criminals rather than low-level offenders. Finally, immigration must be decoupled from local enforcement efforts so that immigrants and their families can regain trust in authorities.

In addition, in the realm of the **family**:

- Congress should pass legislation to ensure that children are not unnecessarily separated from their families and mandate minimum standards for immigration enforcement when children are involved. This legislation should ensure that parents are able to continue making decisions about their family's well-being and take the interests of the children into account in enforcement decisions. Bills such as the Help Separated Families Act and the Human Enforcement and Legal Protections for Separated Children Act would go a long way to achieving these goals.¹⁴
- The government should allow family members who are adjusting to legal status and subject to the provisions of immigration law that bar undocumented immigrants from reentering the United States for 3 or 10 years (depending on how long they were in the country without status) to remain in the United States, rather than having to leave the country to apply for a waiver of the bar (known as a waiver of inadmissibility). The administration should also reinstate provisions that allow legal permanent residents (green card holders) with a criminal conviction to

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receive a hearing prior to being placed in deportation proceedings. Both changes would ensure greater flexibility when it comes to keeping families together.¹⁵

In the realm of the **workplace**:

- The government should ensure that all people in the United States, regardless of status, have strong worker protections, and go after employers that exploit immigrant workers. Solutions to legal violence in the workplace should ensure, as organizations such as the National Employment Law Project have argued, “that workers know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear retaliation.”¹⁶

In the realm of the **school**:

- The government should ensure that the right to K-12 education regardless of immigration status, enshrined in the 1982 *Plyler v. Doe* decision, is neither watered down nor legislated away.¹⁷
- The government should also ensure that schools are safe places, free of Immigration and Customs Enforcement intrusion. Parents must not fear that they could be detained or deported for bringing their children to school.
- Finally, Congress should support legislative changes that can give undocumented students who want to pursue higher educational degrees access to in-state tuition and the opportunity to apply for financial aid.

In the meantime, there are other things that can be done to mitigate the harshest effects of legal violence:

- First and foremost, the Obama administration should expand its usage of prosecutorial discretion to ensure that immigrants who have committed no crimes and are settled in our communities, workplaces, and schools do not face the ever-present threat of enforcement.
- Likewise, on the state and local levels, officials and nongovernmental organizations should continue their work communicating with immigrant communities to explain their rights and to allay fears of unwarranted arrest or detention.

With appropriate policy changes, the United States can ensure that all people are able to incorporate and fully contribute to our nation.

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