

Punishing Immigrants: The Consequences of Monetary Sanctions in the Crimmigration System



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Research on crimmigration—the intersection where criminal and immigration law meet—shows that immigrants are increasingly punished and deported as a consequence of a criminal conviction. We investigate how immigration status shapes the imposition of monetary sanctions. By drawing on interview and court observational data from four states, we demonstrate that the legal opacity at the intersection of the crimmigration system often results in crimmigration sanctions—enhanced financial and nonfinancial penalties that are the result of an undocumented immigrant's liminal legality. Findings show that immigrants are financially exploited through gaps in criminal and immigration law that allow for crimmigration sanctions in the form of bail predation and the exchange of higher financial penalties for reduced or no jail time, lessening an undocumented immigrant's risk of deportation. The implications of these practices for due process are discussed in detail.

Keywords: crimmigration, monetary sanctions, immigration, punishment

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Immigration to the United States has slowed in recent years (DHS 2020), however, the number of immigrants living in the country continues to rise as individuals remain rather than move back to their point of origin (Budiman 2020; Migration Policy Institute 2021). Currently, immigrants make up about 14 percent of the U.S. population, almost forty-five million people (Budiman 2020; Migration Policy Institute 2021). Under current federal policy, criminal prosecution of immigration cases has increased (ICE 2017, 2018).

Although civil sanctions can lead to deportation, criminal sanctions can lead to incarceration as well as deportation. Over the past two decades, immigrants with minor criminal convictions have been detained and deported at an increasing rate (Douglas and Sáenz 2013; Gramlich 2020; De Genova 2004; Moinester 2019). The convergence of civil immigration law and criminal law, through the expansion of border security measures and local law enforcement involvement, is known as crimmigration (Stumpf 2006).¹ Crimmigration interrupts immigrant's due process rights and poses a threat to their civil liberties. In response to the shifting carceral and demographic landscapes, immigration enforcement agencies have blended with the criminal justice system, creating a new crimmigration system, characterized by both an increase in deportations and detentions and infringements on due process rights. Moreover, the crimmigration system also constructs racialized boundaries by marking Latinx immigrants as both foreign and criminal, which is then used to justify targeting them for capture and removal (Stumpf 2006).

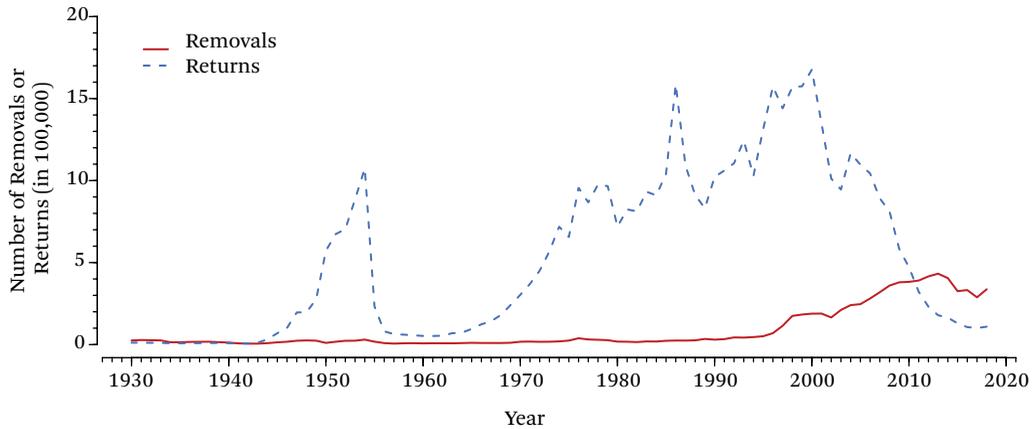
The growing crimmigration system has made immigration enforcement, detention, and deportation the cynosure of emergent research on punishment and inequality. Multiple

studies have examined the ways immigration status negatively affects criminal justice outcomes, such as the length of time in jail, the severity of punishment, the enactment of symbolic violence, and the restriction of legal rights (Beckett and Evans 2015; Light, Massoglia, and King 2014; Menjívar and Abrego 2012; Zedner 2010). Studies also focus on how the state seeks to control undocumented immigrants, producing consequences that spill over to other social domains that diffuse inequality outside the target population (Aranda, Menjívar, and Donato 2014; Donato and Armenta 2011; Kanstroom 2007).

The current literature, however, has several significant gaps in sociolegal research on the crimmigration system. First, scholars have undertheorized how immigration status can shape punishment practices in the criminal justice system, specifically the imposition of fines, fees, court costs, and restitution, or legal financial obligations (LFOs). It could be that noncitizens receive higher monetary sanctions as an expression of contempt or scorn if judges and prosecutors make a socioemotional association between noncitizens and immigrant-crime scripts, resulting in the accentuation of financial punishments (Harris, Evans, and Beckett 2011).

Further, this omission is important because LFOs affect a larger number of individuals in both criminal and traffic cases. Latinx individuals, regardless of citizenship status, are racially profiled in traffic stops in areas where law enforcement have open partnerships with Immigration and Customs Enforcement (ICE) agents (Moinester 2019). Thus LFOs likely affect a large number of immigrants and Latinx citizens alike, entangling them in the justice system with unknown monetary sanctioning consequences.

1. There are two dominant perspectives on penal power and border control: crimmigration (Stumpf 2006) and governing through migration control (Bosworth and Guild 2008; Bosworth 2008). The first anchors immigration, crime, and sovereign power in the legal hybridity of criminal and civil law, as well as, potentially, the subsuming of civil into criminal law for immigration purposes (Stumpf 2006). The second focuses explicitly on boundary reinforcement techniques during periods of social and political insecurity, giving rise to particular forms of border control that now permeate multiple spheres of governance (Bosworth and Guild 2008). Leanne Weber and Jude McCulloch (2019, 501) show that the contributions of these competing theoretical paradigms reflect the how (crimmigration) and the why (governing through migration control) of border control. Critically, for purposes of this article, the crimmigration thesis is more consistent with our focus on the administrative and criminalization processes associated with the imposition of monetary sanctions.

Figure 1. Number of Immigrants Removed or Returned, 1930–2018

Source: Authors' calculations based on *2018 Yearbook of Immigration Statistics* (DHS 2019, table 39).

Second, it is unknown how judges, prosecutors, and defense attorneys think about the imposition of monetary sanctions for noncitizens facing immigration holds or deportation. It could be that the process of deportation obviates the need to impose or to collect monetary sanctions if the defendant is awaiting return to their home country. On the other hand, court actors may exploit immigrants' vulnerable positions in the criminal justice system by seeking higher LFOs imposed as a premium for violating criminal law while not being a citizen.

In this article, we investigate how citizenship status affects the imposition and collection of monetary sanctions. As Katherine Beckett and Heather Evans (2015) suggest, we consider the variability in immigration enforcement cooperation across four states to examine how local imposition of monetary sanctions intersect with the crimmigration system. Our work shows that undocumented and, to a lesser extent, documented immigrants experience exploitation, extraction, and tethering to the crimmigration system in ways unique to their liminal legal status. Their due process rights and civil liberties are thus used as bargaining

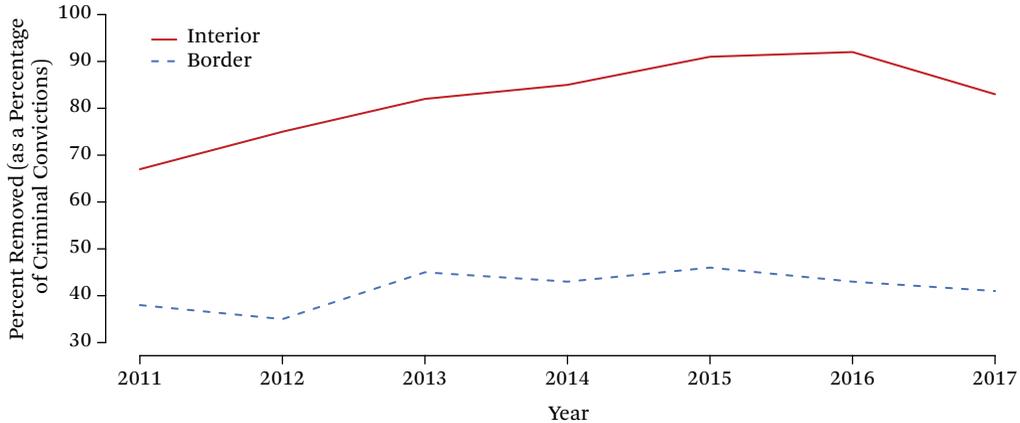
chips to negotiate and navigate reduced exposure to federal immigration agents.

THE CRIMMIGRATION SYSTEM

Significant changes in the demographic profile of ethnic groups in the United States have led to cultural and legislative backlashes in the form of anti-immigration rhetoric and increasingly punitive policies, both of which treat immigration as a national security issue (Finley and Esposito 2020; Zatz and Smith 2012; Chacón 2007). The result has been the large-scale detention and deportation of immigrants, with undocumented people being the main target.

Figure 1 displays the total number of immigrants removed or returned since the early twentieth century.² In 1930, approximately twenty-five thousand people were formally removed from the United States, some eleven thousand of whom were returned to their country of origin. Although the number of returns has vacillated, the trend for removals was fairly constant until the twenty-first century. By the 1990s, the number of removals began to rise, reaching a peak of approximately 432,000 immigrants formally removed in 2013. Further, the militarized enforcement of international bor-

2. Removals are the compulsory and confirmed movement of an inadmissible or deportable immigrant out of the United States based on an order of removal. An immigrant who is removed may have administrative or criminal consequences placed on subsequent reentry. Returns are the confirmed movement of an inadmissible or deportable immigrant out of the United States not based on an order of removal (DHS 2019).

Figure 2. Interior and Border Removals as a Percentage of Criminal Convictions, 2011–2017

Source: Authors' calculations based on 2016 and 2017 ICE Enforcement and Removal Operations (ICE 2017, fig. 5; 2018, fig. 15).

ders has “collapsed” inward into small communities in the interior of the country (Stuesse and Coleman 2014) and thus the vast majority of more recent removals have taken place from the interior of the country rather than at the border (see figure 2).

This shift in law enforcement priorities has led to a unique form of punishment for undocumented immigrants in particular because they are penalized for their immigrant status and simultaneously punished through the criminal justice system (Armenta 2017). This focus on undocumented immigrants produces a form of *legal violence*—the dualism of punishment that undocumented immigrants experience at the federal, state, and local levels in the enforcement of immigration law and the exclusion of legal protections and rights allotted to citizens (Menjívar and Abrego 2012). Lucia Zedner (2010) argues that construing immigration as a criminal justice issue rather than a civil issue constructs an inherently criminal outgroup made up of people without citizenship. The process of criminalizing their legal status makes undocumented immigrants into criminals instantly, leading to an inaccurate association between immigration and crime (Menjívar and Abrego 2012; Ousey and Kubrin 2018).

Additionally, mass deportation, similar to mass incarceration, is a method of racialized and gendered removal from society. Deportation

and incarceration disproportionately affects Black and Latino men (Golash-Boza 2016). The racial disparity in deportations can be attributed to a need for enforcement agencies to focus their attention on specific groups given the high number of undocumented immigrants in the country and that most undocumented migrants come from Mexico and Central America (Golash-Boza and Hondagneu-Sotelo 2013; Golash-Boza 2009). Through immigration enforcement domains, immigrants, as well as Latinx American citizens, become increasingly racialized and exposed to circumstances in which they can be racially targeted (García Hernández 2013; Aranda and Vaquera 2015). In areas where local law enforcement openly work with immigration enforcement agencies, Latinx people are disproportionately stopped and arrested for petty offenses, including minor driving offenses (Coleman and Kocher, 2011; Armenta 2017). Even more, researchers find that immigration enforcement raids serve to maintain Latinx immigrants' subordinate position through officers' use of micro and macro aggressions pertaining to immigrants' race and perceived ethnicity. Racial profiling of Latinx individuals, not probable cause, initiates immigration stops, searches, and raids (Romero 2006).

Even though crimmigration policy has been upheld and expanded through notions of na-

tional security, it was never meant to reduce crime, but instead to reinforce an “understanding” between the U.S. government and Latinx individuals—that they should be available as labor but absent from society when not laboring (Vazquez 2015). This framework—that punishment is lenient or relaxed for particular classes of individuals when labor is scarce but punished more harshly when labor is abundant and market dynamics are unfavorable (Rusche and Kirchheimer [1939] 1968)—has resulted in a crucible of scholarship that focuses on how labor-market structure, systems of punishment, and social inequality converge to conceal and amplify racial inequality in employment, wages, safety net programs, and criminal justice contact (Western and Beckett 1999; Beckett and Western 2001; Western and Pettit 2005; Western 2006; Pettit 2012). Market deregulation and the expansion of globalization to the far corners of the world have led to the simultaneous “de-bordering” of countries for economic purposes even as Western nations have sought to “re-border” their territories against global migrations (De Giorgi 2010, 147). As a result, migration, globalization, and punishment have become intertwined in ways that lead to administrative practices reinforcing nationalist perspectives and political agendas that fuel crimmigration processes and border control policies (Stumpf 2006; Turnbull and Hasselberg 2017; Bosworth 2008; Bosworth, Franko, and Pickering 2018; Bosworth and Kaufman 2011; Bosworth and Guild 2008). For Latinx migrants in the United States, these administrative shifts have led to greater job precarity and less relegation of low-wage work without formal labor protections (Menjívar and Abrego 2012). In regard to monetary sanctions, court actors may view LFOs as a way of extracting revenue as a premium for violating criminal law while not being a citizen.

CONSEQUENCES OF SYSTEM HYBRIDITY

The blending of civil immigration law with criminal law creates a type of system hybridity that invites legal opaqueness. This hybridity is made up of two separate systems with distinct functions that operate simultaneously and disadvantage individuals of liminal legality be-

cause administrative oversight is lacking (Chacón 2015). Within this space, criminal court actors use measures that would not be allowed during normal proceedings (Eagly 2010). Several opportunities for exploitation are evidenced within this legally opaque space, resulting in due process issues for immigrants but not citizens. Immigrants within this system face intentional tactics deployed by criminal court actors that take advantage of their liminal legal status, resulting in practices that include arrest without probable cause, longer jail time due to pretrial release denial, interrogation without Miranda warnings, and sentencing with no probation (Beckett and Evans 2015; Eagly 2010). Furthermore, over time, citizenship status has had an increasingly pronounced effect in predicting criminal justice outcomes (Light, Massoglia, and King 2014).

Beckett and Evans (2015) find in their evaluation of King and Cook County jails that having an ICE detainer results in an average of 170 percent more days in local jails. This additional jail time results from various circumstances uniquely tied to crimmigration—longer pretrial confinement is due to the denial of pretrial release because of an assumed flight risk or plea negotiations that exchanged “immigration-safe” charges for longer jail sentences to avoid the risk of deportation. Through this work, Beckett and Evans highlight how the criminal system becomes entangled to the immigration system, creating a unique experience for immigrants that can result in harsher penalties. We expand their work by exploring the opaque space at the nexus of immigration and criminal law for immigrants of liminal legal status to understand how monetary sanctions are imposed on defendants of documented, undocumented, or unknown status.

MONETARY SANCTIONS AND CRIMMIGRATION

Monetary sanctions, also called legal financial obligations, are penalties the court system imposes in the form of fines, fees, or restitution. Although LFOs are often viewed as an alternative response to incarceration, their use has expanded to almost all criminal and traffic cases and they are often imposed alongside other forms of punishment (Beckett and Harris 2011;

Bannon, Diller, and Nagrecha 2010). LFOs are shaped and imposed by the state to extract revenue from mostly poor and disadvantaged criminal defendants while suppressing their economic mobility (Harris 2020; Friedman and Pattillo 2019). Monetary sanctions not only create a financial burden in individuals' lives, but also can lead toward an inescapable cycle of poverty (Harris 2016; Cadigan and Kirk 2020).

The system of monetary sanctions disproportionately overburdens marginalized groups through obscured measures and a lack of accountability (Harris 2020). In a similar vein, the crimmigration system punishes individuals through identification and racialization processes that have direct and indirect consequences on all immigrants regardless of their citizenship status (Armenta 2017). Because the criminal legal system at the local, jurisdictional level can expose a defendant to both financial punishments and incarceration, the addition of deportation within the civil, administrative realm at the federal level means that the order of proceedings and their resolutions—whether a localized criminal matter is settled before the federal immigration one—could matter for whether an immigrant defendant is at risk of economic exploitation or other forms of legal punishment. The blending of the two systems paves the way for exploitation, wherein court actors in local jurisdictions can intentionally ignore the immigration consequences of state actions for the sole purpose of imposing supplementary punishments on foreign nationals. As a result, court actors may take advantage of the legal opaqueness embedded in the nexus of criminal and civil immigration law to negotiate fine and fee amounts and incarceration, depending on their preferred method of social control. The unique financial and nonfinancial penalties that are imposed on immigrants within this legal opaque space is what we term *crimmigration sanctions*.

The power that emerges from crimmigration sanctions operating within the spaces of legal and constitutional opaqueness become mobilized within local courts in ways that can deliberately punish immigrants above and beyond what American citizens would normally experience. Specifically, we examine how this legally opaque space creates the conditions

wherein local court actors generate financial revenue by exploiting individuals' immigration status. This mode of exploitation, though created by and facilitated within this legally opaque space, largely depends on the local context and the court community structure that make up local power structures within jurisdictions that are able to circumvent state policies and produce varied outcomes for immigrants (Smith, Thompson, and Cadigan 2022, this volume).

Monetary sanctions are used as a revenue-generating tool by the state to take advantage of individuals who have limited legal rights and protections. This strategy allows court actors to financially exploit immigrants by imposing fines and fees, knowing full well that the immigration system tends to prioritize deportations as the primary form of punishment. Court actors are likely to justify this exploitation using notions of deservingness while immigrants' liminal legal status is exploited by leveraging crimmigration sanctions. Fines and fees serve as a measure of cashing in on the labor that is produced by individuals whose sense of belonging is continually questioned and easily expendable. Subsequently, the system of monetary sanctions serves to exploit immigrants' vulnerable status in the country by forcing them to pay a premium to avoid deportation consequences.

This extraction is a way for the system of monetary sanctions to appropriate wealth and resources from poor immigrant communities and reinforce social and legal inequalities (Harris 2020). Policymakers implement laws that are reinforced by court practices, resulting in the extraction of financial resources from the mostly marginalized groups enmeshed in the criminal legal system (Page and Soss 2017). Through this lens, crimmigration policies implemented at the state and federal level are predatory because they target groups of people and subject them to penalties that maintain the social hierarchy and perpetuate social inequities. These practices are similar to the exploitation of out-of-towners and Others by rural courts (see Kirk et al. 2022, this volume) and municipal courts in St. Louis County (see Huebner and Giuffre 2022, this volume) solely to generate revenue from monetary sanctions;

however, these practices are also unique to immigrants, insofar as their ability to remain within the United States is predicated on the particulars of how the court resolves their case. Thus immigrants are forced to navigate a strict field of immigration enforcement that criminalizes them under exclusionary immigration policies and simultaneously pay into the local criminal system that exploits them.

Finally, the process of imposing LFOs on individuals, particularly those marked for deportation, works to tether individuals to the criminal legal system. Tethering is the process whereby individuals who enter the criminal justice system who cannot afford to pay off their court debts become permanently tied to it (Harris 2016). Tethering is another avenue of social control that creates a tighter hold and increases the vulnerability of immigrants regardless of their documented status. Even immigrants marked for deportation continue to be tethered to the criminal legal system by LFOs. This debt is expected to be paid to the criminal justice system and often is not discharged when immigrants face deportation, thus transcending borders.

Consequently, tethering can extend to family members and friends who decide to make payments on behalf of the deported family member. Daniel Boches and his colleagues (2022, this volume) find that LFO debt is a criminal legal punishment that can be directly taken on by family members who pool resources to resolve cases. Over time, LFOs can accumulate and may end up overwhelming these family members or straining their relationships. Further, unpaid court debt can interfere with legal proceedings in immigration court as their criminal records cannot be closed or resolved until all debts are paid. Thus LFOs can function to block the pathway to citizenship for poor migrants while keeping them tethered to the justice system.

Finally, in unresolved cases due to unpaid debt, the court can call immigrants back to court at any time for review hearings (Cadigan and Kirk 2020) that may make them even more vulnerable to further criminal legal involvement through failure to appear (FTA) warrants, which can bring about new criminal charges and additional fees. These warrants can and of-

ten are imposed even if individuals are in federal immigration detention facilities or have already been deported, creating yet another mechanism that increases LFO debt and deepens criminal justice involvement even when individuals are forcibly removed. To illustrate the consequences of crimmigration sanctions, we begin with a legal analysis of state compliance with federal immigration authorities.

METHODOLOGY

Although immigration status and experiences with monetary sanctions were not focal concerns of the broader project, the salience of immigration status shaping monetary sanctions emerged across four of the eight states in the Multi-State Study of Monetary Sanctions.

LEGAL ANALYSIS AND CASE SELECTION

To interrogate the relationship between monetary sanctions and immigration status, we began by reviewing the immigration policies in each of the eight states. The legal analysis of state laws examines cooperation between local law enforcement and ICE. By starting with a legal analysis of each state, we coupled information on immigration policies at the local level with qualitative and observational data on immigration enforcement practices as they pertain to LFOs.

Table 1 presents immigration policies enacted in the study states across five legislative attributes: whether the state has a sanctuary state policy, how the state regulates the establishment of formal ICE partnerships, whether local law agencies can enforce federal immigration law, whether the state can comply with immigration detainer requests, and whether informal cooperation with federal agencies is permitted. By most accounts, California and Washington are perhaps the states with the strongest protections for immigrants, prohibiting any contact with federal immigration agents across the first four categories. Texas, Missouri, and Georgia, on the other hand, are the most permissive, enabling and facilitating communication and coordination across local, state, and federal agencies on immigration-related matters. The other study states fall somewhere in between.

Table 1. Immigration Policies Across the Eight States

| States | Sanctuary State Policy | Establishment of Formal ICE Partnerships | Local Law Enforcement of Federal Immigration Law | Complying with Immigration Detainer Request | Informal Cooperation with Federal Agencies |
|------------|---|--|---|--|--|
| California | Yes. Prohibits any formal contract with the federal government (CA Civ Code § 1670.9) | Prohibits a city, county, or local law enforcement agency from entering in contract with the federal government (CA Civ Code § 1670.9) | Prohibits arrests on civil immigration warrants (CA Civ Code § 7284.6) | Prohibits detaining an individual on a hold request (CA Civ Code § 7284.6) | Allows cooperation between the courts and INS (Ca. Govt. Code § 68109) |
| Georgia | No. Authorizes cooperation and provides immunity to government officials from damages and liability related to immigration enforcement (Ga. Code § 25-1-17) | Encourages law enforcement to work with federal immigration agencies (Ga. Code § 25-1-17) | Authorizes law enforcement to determine immigration status and make immigration-related arrests (Ga. Code Ann., § 17-5-100) | Law enforcement and prosecutors authorized to send, receive, and maintain information relating to immigration status (Ga. Code Ann., § 17-5-100) | Law enforcement can use any authorized federal identification database to determine immigration status (Ga. Code Ann., § 17-5-100) |
| Washington | Yes. Prohibits cooperation with policies that target noncitizens (RCW 43.17.425) | Prohibits state agencies from working with federal action that targets individuals solely on immigration status (RCW 43.17.425) | Limits law enforcement's relationship with civil immigration law (RCW 43.17.425) | Prevents local jails and state prisons from complying with voluntary federal immigration holds (SB 5497) | The secretary is authorized to assist with federal authorities in prosecuting undocumented immigrants (RCW 9.94A.685) |

(continued)

Table 1. (continued)

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|-----------|--|--|---|---|--|
| Texas | No. Criminalizes non-compliance with a detainer request (C.C.P. Art 2.25, SB 4) | No state law restricting partnerships | No state law restricting immigration enforcement | Requires law enforcement to comply with immigration detainer requests (SB 4) | Local entities and campus police prohibited from limiting the enforcement of immigration laws (Tex. Gov. Code § 752.052) |
| Illinois | Yes. Prohibits arrests on the basis of immigration status but allows communication (SB 31) | Prohibits entering or remaining in an agreement with 287(g) program (5 ILCS 835/5) | Prohibits law enforcement from stopping, arresting, searching, or detaining a person solely based on their citizenship status (5 ILCS 805/15) | Prohibits the detention of individuals on an immigration detainer or non-judicial immigration warrant (5 ILCS 805/15) | No state statute prohibits communication between law enforcement agencies and federal immigration agencies |
| Minnesota | No. No state law on immigration cooperation | No state law restricting partnerships | No state law restricting immigration enforcement | No state law restricting cooperation with detainers | No state law restricting informal partnerships |
| Missouri | No. Prohibits sanctuary policies in municipalities (V.A.M.S. 67.307) | No state law restricting partnerships | No state law restricting immigration enforcement | Prohibits any restriction of communication or cooperation with ICE (V.A.M.S. 650.475) | Requires jails to verify immigration status and notify DHS (V.A.M.S. 544.47) |
| New York | Yes. Executive order prohibiting inquiring about immigration status (Gov. Cuomo executive order) | No state law restricting partnerships | Prohibits the use of law enforcement resources for the sole purpose of enforcing civil immigration law (Executive order) | Prohibits law enforcement from inquiring about immigration status (Executive order) | Law enforcement allowed to inquire immigration status when investigating criminal activity (Executive order) |

Source: Authors' tabulation.

Table 2. Selected States, by Immigration Destination and Sanctuary Status

| State | Type of Immigration Destination | Formal |
|------------------|---------------------------------|--------------------|
| California | Traditional destination | Sanctuary state |
| Georgia | New destination | Nonsanctuary state |
| Texas | Traditional destination | Nonsanctuary state |
| Washington State | Reemerging as destination | Sanctuary state |

Source: Authors' tabulation.

Based on the policies listed in table 1, we examined how monetary sanctions operate in two traditional and nontraditional immigration destination states. Further, we also focus on whether these states provide sanctuary or nonsanctuary protections from ICE. Table 2 displays our selected states—California, Georgia, Texas, and Washington—by traditional immigration destination type and sanctuary policy. These states represent both traditional and new immigrant destinations and two of the four states are considered sanctuary states.

In 2010, 35 percent of the foreign-born population living in the United States lived in California or Texas, which continue to be traditional destinations for immigrants, particularly from Mexico and Central America (Portes and Rumbaut 2014). Although Washington State and Georgia each have a relatively similar percentage of the total foreign-born population (5 and 2 percent, respectively), Georgia's grew by about 445 percent between 1990 and 2010 (Portes and Rumbaut 2014). Like other southern states, Georgia has become a new destination for immigrant populations in recent decades.

The selected states also vary in their permissiveness in allowing local law enforcement to cooperate with ICE correctional staff, limiting or facilitating various efforts to identify deportable immigrants in the criminal justice system. Both California and Washington have statewide laws that formally prevent ICE partnerships; Georgia and Texas do not. Further, both Texas and Georgia have more punitive immigration laws: Texas Senate Bill 4 bans sanctuary city laws; and Georgia Senate Bill 269 requires cities to certify that they do not provide sanctu-

ary to undocumented immigrants to receive state funding. However, even with state-level mandates, ambiguity created by the crimmigration system may still create space for local court actors to use their own understandings of how to consider immigration status in criminal proceedings (see Smith, Thompson, and Cadigan 2022, this volume).

By comparing criminal court processes in states experiencing a large influx of new immigrants with states that have traditionally seen migratory flows as well as varying approaches to immigration enforcement, we are able to investigate how the crimmigration system operates under different orientations toward immigrants.

DATA

To answer our research questions, we drew on surveys and semi-structured interviews with 206 judges, defense attorneys, prosecutors, probation or parole officers, and court clerks and contextualize these interviews with more than eight hundred hours of ethnographic observation in courtrooms within fifteen jurisdictions across our selected states. Interviews lasted between thirty and ninety minutes and respondents were asked to report their professional history and their understanding of LFOs as they operated within their jurisdiction. Specifically, questions asked respondents to reflect on how amounts of LFOs imposed vary by characteristics of defendants, if at all, and how a person's ability to pay was assessed. Finally, we asked whether they knew of any personal or professional consequences that LFOs had for individuals.³

In the answers to these open-ended ques-

3. For more information on the selection process for our interview sample and court ethnography methodology, see Harris, Pattillo, and Sykes 2022, this volume.

tions, themes regarding the role of immigration status in the imposition and collection of LFOs emerged. To triangulate our interview data, we examined field notes from our ethnographic observations to understand how and when immigration status was brought up in court. Coupling field note data with the interview transcripts enabled us to contextualize the role of immigration status in criminal proceedings by observing how monetary sanctions came up in court, illuminating its role in any nonvisible negotiations that took place outside the courtroom.

All field note and interview data that included any discussion about immigration or immigration status among defendants were coded using NVivo 12, under the topical code “Immigration” (for a more detailed discussion about the Multi-State Study of Monetary Sanctions codebook, see Harris, Pattillo, and Sykes 2022, this volume; see also Richards 2015). After examining all data with this descriptive code, we conducted a text search query to identify any data not coded under the topical code using the following list of keywords: immigration, immigrant, migrant, alien, illegal, and undocumented. We then conducted a second wave of close, analytic coding for the present study (Richards 2015). We identified several themes that emerged within a subset of this data: the trade-offs between fines and jail time, the construction of “deserving immigrants,” the interruption of due process, punishment beyond borders, and court actors’ use of discretion. After identifying these themes, we wrote memos outlining the how immigration status shaped the imposition and collection of monetary sanctions and how court actors handle immigration cases within the justice system. We then compared these processes across each state, searching for similarities and differences between various contexts before developing our findings in the following section.

FINDINGS

Within the boundaries of local courts, immigrants, both documented and undocumented, experienced liminal legality because they were not citizens. Liminal legality refers to the bounded legal rights and protections provided to immigrants because of their indeterminate

status in the country. Contact with the criminal justice system can be detrimental to immigrants’ legal status and even worse for those without documentation. State governments dictate criminal statutes and the consequences of violating these statutes. The types and level of punitiveness that can be leveraged against immigrants in criminal court thus depend on state and local cooperation with federal enforcement agencies through immigration detainers. The hybridity between the federal immigration system and state and local criminal justice systems creates a space of legal ambiguity in which criminal court actors are left to interpret. Court actors in local jurisdictions are assigned the responsibility to manage the outcomes of immigrants charged with a criminal offense. Court actors use this power to then negotiate different forms of punishments allowable under state law in ways that align with their moral conceptions of immigrants’ deservingness and place in the United States. As a result, court actors can exploit the liminal legality of immigrants by leveraging specific punishment practices to benefit the system’s procedural functioning. Using their discretion, they can selectively choose to prioritize the functions of either the immigration system or the criminal justice system.

Across the selected states, it was evident that, when it came to cases involving immigration-related consequences, court actors negotiated punishment practices in ways unique to this liminal status. In Georgia, immigrants at risk of deportation frequently ended up with more jail time and lower fines. A prosecutor in one Georgia county related that in negotiations, the defendant’s defense attorney usually explains that their client has an ICE hold and is not going to be able to leave detention. The defense suggests jail time without fines and the prosecution usually agrees. In a case our team observed in Georgia involving a Latinx male in his thirties who identified himself to the judge as undocumented, the judge suspended fines in favor of jail time. The defendant was charged with a second offense of driving while unlicensed and a tail-light violation. The judge sentenced him to thirty-seven days in jail for the driving while unlicensed charge and three days for the taillight violation, telling

the defendant that he would not have to owe any money but warning him that if immigration has a hold on him, he might not be able to get out of jail after serving his time. Whether the judge acted out of direct prejudice is not known, but prior work finds similar outcomes when immigrants with ICE holds tended to have longer jail stays than citizens and immigrants without them (Beckett and Evans 2015).

These increased penalties were justified using racialized rhetoric stereotyping Latin American immigrants as prone to crime and unwilling to assimilate. In Georgia, two court actors discussed their opinion about undocumented individuals and traffic-related citations. In an interview with a public defender, the public defender stated, “If you’re driving in the United States, you should at least understand the signs. Okay? Maybe not read everything, but you can understand the signs. To come to the court and say, ‘I have no way of communicating whatsoever,’ why are you driving an eighteen-wheeler?” A judge in another county argued that traffic citations should continue to be misdemeanors rather than noncriminal traffic violations: “People that come here from other countries, it takes them time to acclimate and appreciate, and I saw a lot of Hispanic drivers over and over and over and over who chose to drive without licenses because in their home country, it just didn’t have a consequence.” These racialized perspectives exploit Latinx individuals by justifying the notion that they deserve harsher punishment because they have not assimilated to U.S. laws and customs. These conversations centered on general attitudes toward immigrants or dealt mostly with incarceration, but evidence also indicated that financial penalties exploited immigrants’ liminal legal status to extract revenue at various points in the criminal court process using similar racialized rhetoric.

CRIMMIGRATION SANCTIONS AS FINANCIAL EXTRACTION

In some jurisdictions in Texas and Georgia, monetary sanctions exploited racialized ideas of the deservingness of punishment for Latinx immigrants in ways that were financially extractive. A prosecutor in a Texas county explained that perceived race, class, and English-language

proficiency mattered to judges when considering the assessment of LFOs.

it might be like they pay 10 percent more on the average. It’s not something I would notice normally. . . . race as a shorthand to be a lot of different things that a person might use to disparage another person. It could be class, it could be what the guy is wearing that day. It could be the way he speaks, if he has an accent. The way he looks, how he has his hair, how he’s dressed. How he addresses the court. Any number of things like that, that are not exactly the most legal of reasons to increase a fine or punishment.

Another defense attorney in a different Texas county supported this claim by explaining that in the courtrooms where he practices, individual characteristics such as English-language proficiency are taken into consideration when imposing a fine. He explained, “So somebody that’s middle class with a college education and a lot of patience and social skills are gonna be able to communicate in a way that the prosecutor’s gonna be more receptive to than somebody who’s doesn’t speak English as a first language.” Even though these observations made by court actors may or may not be true to varying degrees, court actors within these jurisdictions clearly recognize that immigration status and English-speaking ability shapes the punitiveness of financial penalties above and beyond what is expected for citizens. Researchers confirm that Latinx individuals as well as Native Americans, have the highest LFO amounts imposed through criminal court (Stewart et al. 2022, this volume; Harris, Evans, and Beckett 2011). Thus court practices driven by racialized subjectivity like the use of immigrant-crime scripts to frame deservingness likely influences the imposition of LFOs.

EXPLOITING THE DESERVING IMMIGRANT

Some courts with a more disparaging orientation toward immigration drew on these negative stereotypes to justify enhanced financial punishments on immigrants. Others, however, drew on racialized and gendered narratives to

justify the use of their discretionary power for deserving immigrants.

In one county in Washington State where ICE was active, despite the state's designation as a sanctuary state, court actors discussed seeing a pattern of Latinx individuals paying higher fines in exchange for less jail time. One superior court public defender stated that to avoid any jail time, which would put their clients at risk of ICE detainment, he usually asks for higher fines during plea negotiations when their clients are not citizens.

“The ICE agent here is very active. He’s at the jail a lot. So, immigration—that’s another reason sometimes big fines—that might be something you’re interested in. Going back to the question of classes of people. Illegals. We would tend frankly to suggest bigger fines and avoid the risk of jail time at all because if they run through the jail, even for a day—if they say, “Okay, community service,” if they don’t do the community service, they’re one step to going to jail and you go to the jail and you’re going to get snagged by ICE. So they are better off to have a fine that they didn’t pay than to go through the jail. . . . A person in that situation that doesn’t have good immigration status needs to be avoided in the jail [here]. Other counties, not so much because ICE isn’t there all the time. But ICE is here a lot and most people that run through the jail, especially more than a day are going to get nabbed. And so to avoid the ICE hassle, if we can keep them out of jail, then that’s worth money to them. And they may be the most indigent people but they gotta avoid the jail.

Another public defender in the same county explained that restitution can be a good bargaining chip used to help get clients an immigration-safe plea deal. He explained that it usually helps to mention that if the individual is deported they will not be able to pay the restitution owed to a victim. Taken together, Latinx immigrants agreed, just to avoid jail time, to pay more money than other defendants who were citizens with similar charges even when court actors knew they could not afford it. This aligns with Mary Pattillo and Gabriella

Kirk’s (2021) finding that the system of monetary sanctions acts as a form of “layaway freedom,” under which individuals make payments in exchange for their freedom until they have paid off court debts. However, in this case, the system of monetary sanctions exploits the vulnerable position of immigrants caught in the crimmigration system as they choose between paying more money or facing deportation.

Court actors tended to rationalize this financial extraction by explaining that immigrants are likely to prefer higher fines to additional punishments because of fear of potentially deleterious consequences to their employment, family, or immigration status. According to a public defender in one Washington jurisdiction, Latinx individuals who “fit the migrant mode” are more likely to take on higher fines in exchange for other forms of punishment, such as community service or jail time, to avoid losing their jobs. The superior court clerk in the same county explained that he saw a pattern of Latinx individuals paying their LFOs much quicker than other demographic groups other than young wealthy White men. He attributed this to the culture of Latinx individuals and the fear of being targeted by the immigration system even if they have legal residency. Researchers find that Latin American immigrants with legal residency can be even more fearful of deportation than undocumented individuals who have no formal ties to the immigration system through legal residency programs (Asad 2020).

Similarly, one prosecutor in Texas explained that undocumented immigrants often try to come up with the cash they need to avoid getting in trouble with the law because they are worried that ICE will show up, take their assets, and deport them. In California, a probation officer put it this way: “A lot of those clients who are from Mexican descent, they don’t like to have debt. So, they would rather pay me than to make rent that day.” He later said that many of his clients are undocumented and worry that if they don’t pay they could be deported. Hence many opt to pay their court debt in lieu of other bills owing to fear of deportation. The court generates revenue at the expense of immigrants who often feel that they have no choice but to pay their criminal justice debt.

In effect, the courts extract financial re-

sources from individuals who are exceptionally vulnerable given their social position and indeterminate status in the country. Because of the structure of the criminal justice system, bureaucratic oversight over the handling of immigration cases within the system is limited. As a result, some court actors and other external criminal justice agencies can freely engage in the financial extraction of immigration without repercussions. Although LFOs may appear to be a more lenient punishment mechanism, these individuals' immigration status is a mechanism through which the court is able to extract more revenue from a poor community who are "willing," out of fear. This extraction is justified by the notion that immigrants want to pay off their court debt, which contrasts sharply with the construction of legal subjecthood documented in other studies that find the court acts and views indigent defendants as "willful nonpayers" (see Fernandes, Friedman, and Kirk 2022, this volume).

Moreover, although avoiding deportation was a huge motivating factor for taking on greater financial debt, the most recent sanctuary state law in Washington State was named the Keep Washington Working Act.⁴ This, coupled with the enhanced financial penalties necessitating diversion of wages to the state, suggests what Vazquez argues—that the criminal justice system is primarily about valuing Latinx labor rather than Latinx communities (Vazquez 2015).

LENIENCY AS RACIALIZED PROCESS

Because enhanced financial penalties, or financial criminalization sanctions, are justified as an act of mercy, leniency in the court was framed in racialized terms. In a Georgia courtroom, we observed a judge continue a case for thirty days for an undocumented immigrant charged with driving without a license to give him more time to complete the paperwork necessary to get his license. In an interview, a Georgia judge explained why he is lenient when dealing with immigrants charged with driving without a license: "They're, call it undocumented alien, illegal alien, whatever, they can't get a license, or let's say they have a car that was

totaled, and they also got a ticket for no tag, they can't get a tag. I'll cut the fine in half because they're in an impossible position. Why is this noncitizen driving? They've got to go to work. They've got a family to support in another country." Here, the undocumented defendant the judge is talking about is deserving because of his labor and his merely trying to get to his job. Moreover, this individual is a breadwinner; he supports his family. This justification reinforces the idea of deservingness being tied to labor and fulfilling socially acceptable roles such as supporting a family.

In a Texas courtroom, our team observed a prosecutor dismissing cases filed against undocumented individuals as a way of circumventing possible immigration consequences. Two prosecutors in two Texas jurisdictions spoke about how they tended to demonstrate lenient judgments by dismissing cases brought against "dreamers" or individuals protected under Deferred Action for Childhood Arrivals (DACA) who have no criminal history.

In these scenarios, court actors demonstrated lenient judgments based on their perception of "deserving" immigrants. Those seen as more deserving were those in the process of obtaining proper documentation, those protected under DACA, and those perceived to be family oriented and hardworking. Although the state legislation outlines the enforcement of immigration laws, judges and prosecutors have the discretionary power to dictate how criminalization sanctions will be imposed. Thus court actors can exploit the racialized and gendered notion of the hardworking and family-focused migrant by penalizing individuals who violate the norms of deservingness.

Overall, using monetary sanctions, we found multiple courts were taking advantage of the vulnerable positions of immigrants entangled in the justice system, exploiting the possibility of deportation as a tool to leverage higher LFOs from undocumented defendants or documented defendants at risk of deportation. Thus courts often extract resources from Latinx immigrants, who are often targets of the racialized criminalization system and justify decision-making through notions of deservingness.

4. Keep Washington Working Act, Laws of 2019, ch. 440, E2SB 5497.

However, in some cases, leniency—in the form of reduced fines and fees or outright dismissal of cases—was implemented to minimize the impact of criminal proceedings on a defendant’s immigration status hearing. Nevertheless, imposing LFOs at conviction was not the only extractive crimmigration sanction used by criminal court systems.

BAIL AND WARRANTS AS CRIMMIGRATION SANCTIONS

Further, we found that court actors used distinct tactics that also worked to extract financial resources from immigrants. Setting artificially high bond amounts, predatory bail practices, and the use of warrants with fees for immigrants flagged for deportation are methods deployed to extract financial resources from undocumented and documented immigrants and, in some cases, their families.

Immigration detainer requests sent from the federal government require local law enforcement to hold immigrants who are in custody until ICE takes jurisdictional control of them. ICE then moves the individual from the local jail to a federal immigration detention facility where they await a civil trial determining their immigration status. This practice prevents immigrants from being released into civil society even if they are eligible to be bonded out and released into their community as they await trial. We observed instances when detained immigrants had posted bond for release but were then immediately taken to a federal detention facility for having an ICE hold. In a case in Georgia, a Latinx man was brought before the court by mistake because he happened to have the same name as another defendant who was on the docket. However, while in front of the judge, it was disclosed that he had posted bond but was not allowed to be released. The judge stated, “ICE has a hold on you” and he was then taken back to jail. ICE holds do not prohibit payment for bonding but do restrict the court’s ability to release immigrants with ICE holds who pay their bonds for pretrial release. This practice financially penalizes immigrants who post bond in order to be released back into their community only to end up having to forfeit that bond as they are taken into ICE custody directly from jail.

During a case in Washington State, a Latino man came into court to ask the judge for the bail money that he posted for someone who was later picked up by ICE while out on bond and subsequently deported.

JUDGE: It’s unfortunate, but you promised that the defendant would show up to court when you posted bail and he didn’t show up, so that bail is forfeited.

MAN: But he couldn’t because he got deported! Immigration took him.

JUDGE: Well, that’s why you shouldn’t post bail for others. The current bail is forfeited. That’s the way it works and that’s the risk you take.

MAN: He was supposed to be here, but immigration—

JUDGE: Basically, you signed this, sir, that the above guy will show up.

MAN: So, I just lose that money?

JUDGE: Yes. If he doesn’t appear in court, that’s why we set bail.

The judge scolded this man for not understanding how bail works in this legally opaque space. Custody in the criminal court system and custody in the immigration system are not the same, but to those on the outside without this knowledge, the mistake was costly.

A judge in Georgia described an unfair practice involving bonding companies that targeted undocumented immigrants. The families of immigrants arrested for driving without a license would go to bonding companies and be charged a fee to get the individual out of jail. The individual, however, was not released because they had an immigration hold. The company’s predacious actions extracted money from the immigrant’s family and friends knowing that neither would they get their money back nor would their loved ones be released from jail. As Alexes Harris, Tyler Smith, and Emmi Obara (2019) demonstrate in their research, private companies generate profit in many ways from individuals who come into contact with the criminal justice system. Not only did we find the court taking advantage of immigrants’ precarious situations, but private companies involved in the criminal justice system were also benefiting from the criminaliza-

tion of immigrants and their liminal legal status. In the Washington case, the immigrant and the individual who posted the bail money, which was \$900, were blamed for the conflict between the immigration and the criminal justice systems. In both cases, families and friends who provided financial support for immigrants caught in the crimmigration system were penalized. Through the bureaucratic structure of the deportation machine and the criminal justice system, bail fees amplify the punishment immigrants experience because of their non-citizenship status. Moreover, warrants can still be issued even if an individual is knowingly taken into ICE custody and thus individuals can incur warrant fees.

In one Washington county, judges would order a warrant for failure to appear when individuals held in the local jail were taken to an ICE facility before their next hearing, which often resulted in warrant fees and forfeited bonds.

JUDGE: They need to find out their immigration status. And I think today, I was a little concerned one of our lawyers shared that status on the record except it was a hold, which is a relevant thing when you are talking about when to set court next, if they have a [ICE] hold, they probably aren't going to be here next week. It doesn't necessarily mean that, but. . .

INTERVIEWER: If they have a hold and then they are deported before the next court date, is that when a warrant is issued?

JUDGE: Often. Often. I don't like it, but I don't know what else to say.

Court actors would sometimes not know whether and when an undocumented defendant was transferred to an immigration detention center when setting their next court date, even whether the individual was currently in local custody. If someone flagged for deportation posted their bail, as mentioned, they would not be released back into the community. Instead, they would be sent to an immigration detention center, causing them to miss their next criminal court date. It did not matter whether they were immediately released to ICE custody from the local jail or picked up in the

community, these defendants would get a warrant issued and be saddled with resultant warrant fees.

As a result of this competition for custody, some court actors in Washington implemented tactics to circumvent the immigration system to keep undocumented immigrants detained until a case was resolved. A public defender in Washington described how a judge would set artificially high bonds on individuals with an ICE hold, for example. Knowing that someone with an ICE hold was unlikely to be released from federal custody and thus able to return for their criminal court hearing, the court imposed high bond amounts to prevent an individual from posting their bail. They justify imposing such an exaggerated amount to allow for local criminal case proceedings to be resolved rather than having an immigrant released on bond and ICE taking over, preventing the case from being fully adjudicated. This tactic prioritizes court managerial processing and discounts an immigrant's due process rights to pretrial release. These court processes compare to Beth Huebner and Andrea Giuffre's findings (2022, this volume) that individuals bear the burden of navigating the complex system on their own due to the decentralized nature of the court system and lack of oversight. Not only are immigrants themselves punished through detainment without opportunity for release. Their families also bear much of the economic burden as family members and friends would sometimes come up with the money for bail.

THE TETHERING OF MONETARY SANCTIONS

In some jurisdictions, monetary sanctions transcended borders and tethered immigrants to the U.S. criminal legal system indefinitely or until the LFOs were paid off. Tethering is used to describe the way unpaid LFO debt can connect poor individuals to the criminal justice system indefinitely given that they can never secure the means to pay the debt off and exit the system. However, tethering affects immigrants in unique ways because of their vulnerable status and their high risk of removal when facing criminal justice contact. We found that tethering disadvantaged immigrants subject to deportation as well as those applying for per-

manent residency. In particular cases, the court system would assess LFOs through the criminal justice system even when it was clear that the defendant had an ICE hold and was likely being deported. This meant that even after a case had been adjudicated, individuals would likely accumulate outstanding criminal justice debt after their expulsion from the country. A similar tethering process was also observed with documented immigrants. Unpaid criminal justice debt often worked to block the pathway to citizenship because these cases could not be resolved and thus kept immigrants tethered to the system. Not only were immigrants themselves affected by criminal justice debt: the consequences also extended to their families, who became an appendage of the tethering.

In discussing discretion regarding imposing LFOs in a Washington State superior court, one public defender explained during an interview that some LFOs are mandatory and cannot be waived regardless of indigency, disability, or immigration status. He was explicit: “Even the people who are being deported are required to pay fines and fees, even though it’s a fiction because you’re not going down to Mexico to pay.” During a case we observed involving an immigrant set to be deported, the judge asked about his ability to pay, specifically whether he was able-bodied and could find a job when he got back to Mexico in order to pay off his court debt. The judge then waived all nondiscretionary LFOs and imposed \$800 in mandatory costs, saying, “I have to impose the statutory mandated LFOs, coordinate with the clerk’s office assuming you come back at some point.”

We observed a similar case in Georgia involving a defendant, not a U.S. citizen, accused of underage drinking and battery. The defendant had an ICE hold and was expected to be deported. The judge agreed to sentence him according to the plea recommendation—twelve months on probation, drug treatment, and no contact with the victim. No fine was assigned because the defendant was set to be deported. The defendant asked what would happen to the probation once he was deported. The judge responded that the probation would still need to be completed and that if he returned to the country, he would face the consequences of vi-

olating probation. Both examples make it clear that judges impose sanctions that tether individuals to the system knowing that the person will be deported and unable to successfully complete the terms of their sentence.

One judge in California, who previously practiced immigration law, explained that these LFOs could directly shape someone’s ability to access immigration benefits and permanent residency: “If you owe money, and this is just in general, they [immigration court] also look into that as well. So, if there’s any judgments against you, and in this case if there’s a monetary judgment, which is what the judgment sends, of course, that’s been entered against you, then if you haven’t paid, that could create a barrier, as well, for you for applying for benefits or receiving immigration benefits. I’m not saying benefits as far as money benefits, but benefits as far as trying to get some type of status with immigration officials.”

The lack of ability to pay within the court system can lead to detrimental outcomes for immigrants who hope to obtain legal residency. LFOs function as another layer of social control within the crimmigration system and can further marginalize immigrants with an uncertain status. Thus court debt can tether immigrants to the crimmigration system, not only the criminal justice system, by keeping them from successfully applying for permanent residency and other benefits. LFOs become another way that immigrants, particularly Latinx immigrants often targeted by the crimmigration system, are further marginalized and excluded from U.S. society.

Additionally, a prosecutor in Texas explained that each time an individual either without a license or with a suspended license incurs a driving conviction, a surcharge is added to their fine and to their record. Once an undocumented individual becomes a permanent resident, they will have to pay the surcharges before being able to obtain a license. This practice financially penalizes immigrants even after they have legalized their status in the country. Immigrants are not truly free unless they can pay off their criminal justice debt.

In some cases, family members bore the responsibility of paying off the debts even when the debtor was deported. A superior court clerk

in a Washington court explained that most of the money he sees coming in to pay LFOs are not from the defendant but instead from a family member: “A spouse or a mom or an uncle or aunt or a grandma that’s helping out their family member to get these fines paid off.” When it comes to LFOs for individuals who have been deported, he saw a similar trend where LFOs were being paid by family members:

recently a young man was sentenced to something, whatever the charge was, got deported, so now they’re in Mexico with a thousand dollars in fines. Now his mom is calling saying, “Well, what’s going to happen?” My answer to that, because I’ve had like maybe five of those phone calls since I’ve been here where the person’s been deported, I tell them, “The thing is that you don’t have to pay this,” because, normally, there isn’t restitution on it. I told them, “You don’t have to pay it, but it’s something that’s going to always be here, so if they ever end up coming back, it’s going to be here. It’s going to grow in interest.” Now you have mom or wife or sister paying this fine for somebody who’s in Mexico or in some other country.

This statement connects to Boches and his colleagues’ article (2022, this volume) on familial support, in which the authors highlight how LFOs can financially stress families shouldering the burden. However, in this case, LFOs are being paid by family members of those who have been deported. They are disadvantaged in a unique way because their family member has been removed from the country, leaving behind a financial burden for the family to take on alone.

In brief, the imposition of monetary sanctions tethers immigrants to the system in unique ways because of their indeterminate legal status. The procedural nature of the system forces court actors to impose financial punishments on deported individuals that often cannot be fulfilled. This practice only maintains the bureaucratization of the courts system to prevent immigration proceedings from undermining the process. Consequently, this practice tethers immigrants to the criminal legal system and can subjugate their families as well.

DISCUSSION AND CONCLUSION

The crimmigration system runs parallel to the criminal justice system and is reserved for immigrants. Given the increasing criminalization of immigrants, the criminal justice system has adjusted to handling a higher number of immigration proceedings (Chacón 2012). Local court actors have become responsible for handling both criminal and immigration cases. Although these two systems appear to be working in conjunction, they have distinct goals regarding punishment. Immigration proceedings prioritize detainment and deportation on the federal level, overshadowing and interrupting due process rights in the criminal justice system. Thus the blending of both systems creates a legal opaque space where immigrants can be subject to crimmigration sanctions, which often include a combination of penalties imposed by the court system, such as incarceration, fines and fees, and probation negotiated with their immigration status in mind. Court actors followed distinct strategies to process proper punishment to immigrants while taking advantage of the limited rights afforded to immigrants in court proceedings. They purposefully and tactically used this legal opaque space to punish immigrants and extract any wealth possible on those whose sense of belonging is continuously questioned.

These findings contribute to the literatures on immigration, criminal legal studies, and monetary sanctions. The theoretical framework of crimmigration sanctions derives from strategies commonly practiced within the system of monetary sanctions. Exploitation, extraction, and tethering all depict the strategies used to generate revenue for the state at the expense of poor and marginalized immigrant communities. These strategies generate greater control because immigrants’ citizenship status limit their legal rights and situates them to receive simultaneous punishment at both the federal and the local level. Monetary sanctions can be leveraged by court actors to prioritize exclusion, to evade deportation, or to further penalize immigrants at risk of expulsion. Although the crimmigration literature has expanded in recent years, research on the relationship between monetary sanctions and immigration has been largely absent. Cecilia

Menjívar and Leisy Abrego (2012) developed the term *legal violence* to refer to the dualism of punishment that immigrants experience at all levels of government through immigration enforcement and the exclusion of legal protections. This study builds on that research by demonstrating how immigrants' limited rights and protections are exploited within the court system to prioritize system bureaucratization at the cost of freedom and due process rights.

Nonetheless, a few limitations in our study are worth mentioning. First, the four states providing our ethnographic and interview data were not randomly selected. Instead, they were part of the Multi-State Study of Monetary Sanctions and just happened to also be traditional or new immigrant destination. Future research should consider how immigration policies are practiced in states that are not common immigrant destinations or should purposefully study punishment practices in different immigration-related policy contexts. Second, we did not interview immigrants themselves about their experience with monetary sanctions and other criminal justice-imposed sanctions. It would be worthwhile for scholars to consider how court debt burdens immigrants' lives and explore the negative repercussions that accompany this unaccountable crimmigration system. Third, these data were limited in that interview questions did not focus on immigration-specific issues. Instead, these themes emerged through our interviews and were aided by court actors willing to expand on their bearing on immigration. Researchers should therefore continue exploring the disparities that emerge through the legal hybridity of the immigration and criminal justice systems.

Several policy implications stem from this research. First, protections need to be put in place that enable immigrants to have access to the same due process rights as citizens. This includes being able to come to court to deal with a criminal or traffic matter without fear of being detained by ICE. This would allow immigrants to resolve their criminal matters before they become immigration issues. Moreover, leveraging LFOs in exchange for immigration-safe pleas is extortion. However, not allowing courts to negotiate between various punish-

ment tools to avoid the immigration system would leave immigrants in potentially more vulnerable positions. This paradox reveals the motivations of the crimmigration system as being exploitative and extractive in ways the subjugate mostly Latinx migrants. As a first step toward change, monetary sanctions should not be imposed on indigent immigrants scheduled for deportation. To tether an individual who has been removed from the country to the criminal justice system through LFOs is unnecessary. Mechanisms should be in place for those detained by ICE to have their LFO debt waived to help them clear criminal matters as they build a defense for their civil immigration issues. Further, bonds paid for by immigrants or their family should not be forfeited if the immigrant ends up detained by ICE or deported. The federal government is forcibly taking these individuals into custody, and they are physically unable to attend their court hearings to resolve their criminal matters. Taking their bonds is another method of extraction and exploitation.

In sum, monetary sanctions add a layer of legal violence against immigrants within the crimmigration system. The legal opaqueness revealed through system hybridity allows court actors to enact strategies that would not be permitted in normal proceedings under the U.S. Constitution. Because immigrants are often excluded from these protections, they are subject to financial exploitation and extraction under crimmigration sanctions that emerge out of legal opaqueness. Only by offering legal rights and protections to immigrants can this form of legal state-sanctioned violence be circumvented.

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