Moving out of the Shadows: 
Resistance and Representation in the Struggle for Migrant Rights 

THESIS 

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Abstract

This thesis examines organizational attempts at and consequences of institutionalizing support for migrants. In addition, the thesis investigates specific instances of migrant mobility and strategic incapacitation as resistance to regimes of immigration enforcement and as contestation of US claims to sovereignty. Immigration enforcement depends upon the policing and subsequent restriction of migrants’ movement. These regimes of enforcement crossing multiple scales serve as a dragnet, generating a pretext for law enforcement interaction with migrants with potential for bypassing the criminal justice system. Immigration enforcement as well as local practices, discourses, and policies work together to render migrants as racialized, criminal subjects facing detention and removal. Connecting specific case studies of localized regimes of enforcement and targeted acts of resistance, this thesis exposes how migrants come to be understood as either lawful and worthy to remain in the US, or criminal and deserving of removal. This thesis discusses specific instances of enforcement through migrant incapacitation as well as mobility-centric attempts at resistance. I critique actions carried out by national campaigns and organizations by examining strategy behind these attempts at resistance as well as general effectiveness in contesting the discursive and practice-based criminalization of migrants. In its exploration of migrant advocacy and regulation, this paper argues for a new rights-based organizing approach no longer dependent on the binary opposition of migrants as criminal/lawful.
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Acronyms

BMV: Ohio Bureau of Motor Vehicles

CBP: Customs and Border Patrol

DNC: Democratic National Convention

DHS: Department of Homeland Security

DOJ: Department of Justice

DREAM Act: Development, Relief, and Education for Alien Minors Act, first introduced in 2001, which provides a pathway to citizenship for a subset of unauthorized migrant youth

EWI: Entry without inspection, a civil immigration charge

FBI: Federal Bureau of Investigation

IAFIS: Automated Biometric Identification System, fingerprint and criminal history database managed by the Federal Bureau of Investigation

ICE: Immigration and Customs Enforcement

IDENT: Integrated Automated Fingerprint Identification System, biometric and biographic database managed by the Department of Homeland Security

INA: Immigration and Nationality Act, the essential legal code shaping immigration law in the United States

IIRIRA: Illegal Immigration Reform and Responsibility Act of 1996, which expanded code violations outlined in the Immigration and Nationality Act

MOA: Memorandum/memoranda of Agreement

OVI: Operating a vehicle while intoxicated
Introduction

On a humid June morning in 2012, two young men in bright red and blue mortarboards and gowns walked into the Cincinnati Obama for America reelection campaign headquarters. The two carried a rolled-up painted piece of cloth, which they unfurled when they reached the desk closest to the door. The metal desk supported the banner, which read “EXECUTIVE ORDER NOW.” The two young men sat on the office’s exposed wooden floors and refused to leave until the Obama administration stopped deporting undocumented youth.

The Cincinnati Obama for America office closed immediately. Campaign staff went home; campaign supervisors told scheduled volunteers to stay away. One security guard held the office on lockdown to ensure that no more protesters stormed the office.

Three days later, President Obama announced a change in DHS’s removal priorities. As Obama detailed the program on national television, undocumented youth continued to occupy his Cincinnati, Ann Arbor, Los Angeles, and Oakland reelection campaign offices, which were still closed indefinitely. Under the newly-created Deferred Action for Childhood Arrivals program, undocumented youth fitting the stringent
requirements placed before them face a temporary stay of removal. Public opinion hailed this announcement an attempt by the Obama administration to appeal to the Latino base and secure Democratic votes in November.

Only a handful of local media and alternative national media sources reported on undocumented youth and allies’ sustained occupation of four Obama for America offices.

Obama for America did not press charges against the youth who had occupied their offices. None of the undocumented occupiers – ‘undoccupiers’ – were deported.

Why did undocumented youth destabilize the president’s reelection campaign efforts in certain cities? Why didn’t the youth advocate for passage of the Development, Relief, and Education for Alien Minors (DREAM) Act? Why did Obama choose not to deport the Obama for America undoccupiers? Why are other undocumented youth deported? How do immigration enforcement partnerships that target criminal aliens for removal result overwhelmingly in deportations of migrants with no court records? How does a migrant become a criminal alien? Why haven’t pro-migrant activists realized comprehensive immigration reform, or at least protected migrant communities from increased immigration enforcement? This thesis answers these questions within the larger theoretical framework of migrant incapacitation literature, literature on practices by marginal actors through contentious politics, and literature on representation and its dual meaning.

In this thesis, I show how immigration enforcement relies upon migrant incapacitation, and how migrant actors and their advocates push back against these spatial strategies to control and discipline migrant communities. My central argument is
that immigration enforcement requires regulating migrants’ movement across space. Chapter 1 discusses the legal justification for monitoring migrant communities within the US, as well as the devolution of federal immigration enforcement responsibilities to the local scale. Migrants who attempt to move freely across space quickly learn upon encountering law enforcement that migrant mobility means *migrant criminality*. Chapter 2 examines ways in which migrant communities and institutionalized migrant rights organizations define pressing issues (like migrant criminality) and pinpoint their potential resolutions. These spatial resistance strategies vary in effectiveness, and occupy space differently to attain their stated goals. Chapter 3 discusses the ways in which immigration enforcement and advocacy rely on *representing the migrant*. Although enforcement and advocacy may appear to be opposites, I argue that both portray the migrant as either criminal or innocent, and that advocacy represents the migrant in its claim to be the voice of the voiceless.

Multiple research methodologies inform this thesis research process. In order to gain insight into enforcement practices and resistance strategies, I conducted secondary research of news articles and legislation, interviews (Valentine 1997), and participatory action research (Kindon et al. 2007, Gibson-Graham 2007). I initially planned to interview Franklin County law enforcement officers, including the Sheriff’s Office and Columbus Division of Police. I intended to use the Franklin County, OH, case study to show the larger-scale disconnect between immigration enforcement discourse and practices (Small 2009, Herbert 1996). This study would have permitted an operational understanding of the Secure Communities immigration enforcement program at the
Franklin County scale. There is little publicly known about the locally-situated Secure Communities initiative, and speaking with police officers, sheriffs, prosecutors, ICE agents, and other partners enrolled in immigration enforcement through the program would have offered much-needed insight into the program’s internal operations. I initially found that Franklin County Sheriff Zach Scott was unfamiliar with the program his office was responsible for dedicating time and resources to uphold. Before uncovering more on local law enforcement’s involvement in immigration enforcement, I submitted an open records request to the Franklin County Sheriff’s Office. The Sheriff’s Office no longer returned my phone calls after receipt of the request, and my request was ‘misplaced.’ I contacted Columbus Police and the County Sheriff’s Office every other day for a span of two months and was unable to set up the ride-alongs or interviews with rank and file officers and supervisors I had planned to conduct. Meanwhile, I researched statewide anti-immigrant initiatives through the Ohio Legislative Service Commission, and contacted the offices of the Franklin County Board of Commissioners and Columbus City Council to discuss proposed ordinances directed toward migrants in Franklin County and Columbus. After an emergency meeting with Dr. Richard Lundman (Ohio State Sociology), it became clear that I faced unique challenges in communicating with local law enforcement that could not be easily identified or quickly overcome.

A summer filled with research hurdles, migrant rights crises, and nationwide mobilization around migrant rights presented an alternative research strategy: focusing on resistance to immigration enforcement. Before reframing my thesis topic, I contacted twenty Ohio-based migrant rights organizations. I arranged interviews with four affiliated
individuals in organizational leadership positions. In order to discourage nonmigrants from answering questions with anecdotes of migrant experiences, I asked each interviewee how she and her organization interacted with migrant communities and immigration enforcement. I gained important knowledge about localized enforcement practices in Columbus from these interviews.

Since first volunteering as a community organizer for a national comprehensive immigration reform campaign in 2010, I have actively worked to connect migrant communities with nonmigrant supporters while critiquing my role in failing to bridge the gap between the two. On June 14, 2012, I stood in solidarity with other protested outside of the undoccupied Cincinnati Obama for America office. Marco Saavedra, one of the young men inside the campaign office, is a friend. He shares his stories with ease, and has spoken about his experiences through countless media outlets. I requested the opportunity to discuss his role in two acts of civil disobedience and his interactions with law enforcement and migrant communities. Saavedra did not speak on behalf of all unauthorized migrants, nor did I expect or ask him to do so. This interview shed light on both effective resistance to immigration enforcement tactics and problematic structures within migrant rights organizations.

I will soon be a professional migrant rights advocate, and seek to support migrant rights organizing without being a migrant rights organizer. This thesis has provided me the academic exercise of thinking through learning about the way immigration enforcement takes place, the most effective strategies behind resistance, and the best way for a non-migrant to support migrants’ struggle against criminalization. I am committed
to advocacy through solidarity, not convenience, but have yet to see solidarity emerge as a central framing structure in national migrant rights and immigration reform discourse. My deeply vested interest in meaningful migrant rights organizing motivates this thesis. For too long, migrants and non-migrants alike have failed to move beyond constant superficial action to fix problems with deep roots. I hope this thesis encourages other migrant rights advocates to stop diagnosing problems faced by migrant communities, instead working alongside them to push away the shadows of fear and criminalization hanging over migrant communities.
Chapter 1: Incapacitation

Introduction

This chapter engages with current literature on the management of migrant populations, and focuses specifically on the criminalization of migrants. In this chapter, I show how the restriction of migrant mobility enforces immigration law. First, I demonstrate how regulating migrants is a federal responsibility, and federal legal precedents limit non-federal participation in migrant regulation. For the sake of national security, federal enforcement programs enroll local actors in targeting migrant populations for removal. Second, I show how immigration enforcement relies on migrant incapacitation. Third, I show how enforcement through incapacitation and removal proceedings produce migrants as criminals. Fourth, I contextualize the discursive-, policy-, and practice-based criminalization of migrants through the Secure Communities in Franklin County, Ohio, case study. Finally, I conclude that immigration enforcement through incapacitation produces criminal, removable migrants. Although only federal executive and legislative action can regulate migrants, local-federal enforcement partnerships create a dragnet responsible for the local-scale criminalization and insecurity of migrant communities.
Migrant Regulation as Federal Responsibility, and Limits to Local Involvement

For the past century, immigration policy within the US context has been first and foremost a power articulated through foreign policy. This explains the historically deferential position of the courts regarding immigration enforcement as a practice. For example, since the Chinese Exclusion Acts of the late nineteenth century, immigration enforcement has been understood as solely an executive and congressional power, off-limits to the courts on precisely the grounds that immigration enforcement is a matter of national security (Coleman 2012a, Coleman 2007, Varsanyi 2011, Varsanyi 2008b). Despite this well-established historical connection between immigration and national security, 9/11 did affect the practice of immigration enforcement. Prior to 9/11 immigration enforcement was mostly an outwards-looking power, operative primarily at the U.S.-Mexico border. The 9/11 attacks brought about a sustained redistribution of resources towards interior enforcement and the scrutiny of resident immigrant populations.

Deputizing non-federal police to undertake immigration checks and enforce immigration law accomplished a geographical shift from border enforcement to interior enforcement. One of the most important deputization programs is the Secure Communities initiative, started experimentally in North Carolina in 2008 (Coleman 2009, Coleman 2012b, Coleman and Kocher 2011). The Secure Communities program permits federally-trained officers to scrutinize individuals booked into non-federal jails for their immigration status. The program uses shared biometric data from all enrolled Secure Communities jurisdictions as well as FBI and other federal databases to alert Immigration
Secure Communities, however, is not the only program used for targeting migrants classified as criminal aliens for removal. Other federal-local memoranda of agreement (MOA) as well as non-federal practices and policies differentiate undesirable migrants from the rest of the population. Many local and state anti-immigrant initiatives exist to supplement the perceived ineffectiveness of federal immigration enforcement practices. These non-federal initiatives inhibit migrant social reproduction through incapacitation. These strategies target migrants’ access to housing, education, social services, work, and free speech. Such initiatives “[deprive migrants] of the ability to participate in a regular life by imposing additional control/regulation on their presence and mobilities” (Gilbert 2009, 31-32). I offer an in-depth discussion of these incapacitation strategies later in this chapter. Supporters frame anti-immigrant initiatives as necessary to combat unauthorized migrant-promoted lawlessness, yet federal legal precedents limit non-federal migrant regulation through policy. As clarified through the Supreme Court’s decision on the constitutionality of the controversial Arizona SB 1070, these initiatives cannot violate the Supremacy Clause, preempt current federal law or Congressional responsibilities, or challenge the plenary power doctrine.

The Supreme Court’s ruling on Arizona et al. v. United States (567 US ___ 2012) clearly delineated non-federal entities’ ability to address unauthorized migrant populations within their jurisdictions. The Supreme Court decided that of the four SB 1070 provisions under review, three were unconstitutional – §3, §5(C), and §6. Section 3 establishes a state penalty for violating a federal offense. Section 5(C) creates a state
penalty for working without proper authorization. Lastly, Section 6 authorizes warrantless arrests on the grounds of probable cause for removability. Section 2(B), which the Supreme Court upheld in 2012, requires police officers to check the immigration status of people reasonably suspicious of unauthorized presence after stopped or in police custody.

When determining SB 1070’s constitutionality, the Supreme Court considered past legal precedents as grounds for their decision. The Supremacy Clause charges the federal government with the responsibility to regulate immigration. Through this clause, federal and district courts often overturn local attempts to regulate migrant populations. When Congress determines that it is solely responsible for regulating a specific issue, a non-federal action cannot usurp Congress of this duty. A non-federal initiative cannot conflict with pre-existing federal law. The Supreme Court’s plenary power doctrine holds the federal-scale executive and legislative branches responsible for establishing and enforcing immigration policies (Varsanyi 2008b).

The Court found that existing federal laws, such as the Immigration Reform and Control Act of 1986, and previous federal legal precedents preempted Arizona SB 1070 §3, §5(C) and §6. The majority opinion emphasized the federal-scale responsibility to regulate immigration and pass laws relating to migrants. Voluntary, localized enforcement of federal immigration law goes against the US Constitution. The federal government is solely responsible for this task, and non-federal civil immigration law enforcement cannot be applied uniformly (Pham 2004). Other cases established other
legal grounds for decisions on non-federal involvement in regulating migration and migrants.

Legal challenges to the Chinese Exclusion Acts of the late 19th century established the plenary power doctrine, and clarified the place of local governments in controlling immigration. These legal challenges clearly articulated that sovereign governments have the fundamental right of choosing to exclude noncitizens. Local governments, however, do not have power over immigration—only the federal government does. Because immigration is a foreign policy issue, it is ineligible for judicial review. By placing immigration beyond federal judicial purview, the Supreme Court created the plenary power doctrine. In spite of the plenary power doctrine, there are cases regarding migrants that indeed justify judicial review (Varsanyi 2008b).

The 14th Amendment and the Equal Protection Clause may justify court action relating to noncitizens. Courts can make a decision regarding noncitizens when laws harm noncitizens as people. In these cases, equal protection overrules plenary power. Unsurprisingly, this has resulted in confusing standards. For example, the Court’s Plyler v. Doe (1982) decision classifies undocumented minors as a protected class under the 14th Amendment, but not adults. Although states cannot discriminate against noncitizens, federal legislature and executive branches can—they are protected from judicial review. States may discriminate against nonresidents if the federal government has uniformly authorized such a practice.

Three laws passed in 1996 (Personal Responsibility and Work Opportunity Act, Antiterrorism and Effective Death Penalty Act, and the Illegal Immigration Reform and
Immigrant Responsibility Act) set a new legal precedent for non-federal entities to discriminate against noncitizens if sanctioned at the federal level. Many border-distant localities facing unprecedented migrant population growth crafted local migrant-related ordinances. For example, the Hazelton, PA, Illegal Immigration Relief Acts attempted to demonize and criminalize immigrants.

The Hazelton Illegal Immigration Relief Acts criminalized local support of migrant communities through criminalization of aiding and abetting migrants, housing restrictions, and business certificate revocations for hiring noncitizens locally. The Illegal Immigration Relief Acts also made these crimes committed anywhere in the United States a violation of the act. A district court overturned Hazelton’s law because it had attempted to govern immigration, which violated the federal government’s plenary power over immigration. The Hazelton acts reflect other non-federal initiatives directed toward migrant populations.

Due to federal limits to immigration control and certain forms of migrant regulation, local governments often work to manage and manipulate public space to shape the behavior of migrants. Varsanyi (2008a) shows that localities create formal day laborer hiring sites, enforce city ordinances (like housing and trespassing regulations), establish new city ordinances, and implement informal practices to regulate migrants. Assumptions that the unfamiliar visible presence of migrants within these communities must be unlawful and that the sudden emergence of brown faces in new places stems from federal government’s failure to sufficiently enforce existing immigration laws justify this non-federal action (Parado 2012). Although localities may face legal
challenges to migrant-related ordinances, federal law enforcement encourages partnerships with local agencies to address removable criminal aliens within their communities.

Local actors may perceive insufficient federal action on immigration enforcement, which shapes the significance of their enrollment in the enforcement project. Federal actors encourage local enrollment – official and unofficial – in immigration enforcement. When dealing with migrant populations already present within US borders, federal enforcement agencies encourage partnerships with local law enforcement agencies through formalized programs. In setting up enforcement programs and MOA with non-federal law enforcement agencies, it is understood that there are significant populations of unauthorized migrants whose presence is a threat to national security. ICE established an impossible and unattainable one-hundred percent national removal rate by 2012 through a memo commonly referred to as “Operation: Endgame” (ICE 2003).

Neoliberalism is responsible for the shifting role of local and federal actors in immigration enforcement. Neoliberalism can be thought of as the simultaneous hollowing out of enforcement responsibilities and increased flow of immigrants into the US, the domestic need for contingent, flexible labor in the service industry and death of the manufacturing industry, as well as the economic downturn experienced by American workers and economic productivity of housing immigrants in detention centers (Hiemstra 2010). Framed by the argument that spaces can be sanitized in order to become more economically competitive, the presence of immigrants symbolizes a direct opposition to the possibility of economic revitalization. Wright (1999, 2004) makes this same argument
through her discussion of female maquila workers, sex workers, and femicide in Ciudad Juárez. Women workers threaten the economic viability of industry, and they must be purged from public spaces and work spaces to guarantee social progress and economic productivity (Wright 1999, Wright 2004). Although immigration means economic growth (Hinojosa-Ojeda 2012), people perceive immigrants as direct competitors for the few jobs available, thanks to neoliberal policies and their effect on local industry. Immigrants are a renewable resource to employers looking to hire a flexible workforce, and they have no incentive to choose a US citizen worker who requires a minimum level of pay over an undocumented laborer who works at or below minimum wage.

As opposed to the deregulation associated with roll-back neoliberalism, roll-out neoliberalism works to deeply ground neoliberal ideals in the creation and restructuring of institutions (Peck and Tickell 2002, Gilbert 2009). The recent devolution of immigration enforcement responsibility to the local scale has taken place for the sake of economic efficiency. The bill for immigration enforcement covered by the federal government is unbelievably high—just shy of $18 billion in FY 2012 (Preston 2013). The federal government still has the power to enforce immigration law and reshape the terms under which it collaborates with local law enforcement agencies. Nevertheless, localities must bear the burden of enforcement. By offering limited financial resources to local law enforcement agencies, the federal government can effectively protect the nation from the threat of immigrants and work toward a 100% removal goal without having to overhaul the enforcement process or rewrite immigration law (ICE 2003).
Addressing the paradox created by neoliberalism, the US manages tension between open borders for the flow of capital and closed borders for the flow of bodies created by free trade agreements. Instead of resolving this conflict, US policy has reflected a decision to balance “economic liberalization and political closure,” which can be seen through the decision to simultaneously maintain sloppy internal enforcement and militarize the border (Varsanyi 2008a, 879). Such an approach to internal enforcement reflects a process of “hollowing out” and rescaling, burdening localities and states with the responsibility of policing and servicing migrant populations. Devolution, then, is a useful way to understand this process. Although the power to coordinate and control is still limited to the federal scale, devolution is a neoliberal attempt to make the local-scale public sector or markets appear as the new holders of what once was federal power. Given the neoliberalism-facilitated rescaling of enforcement, localities that perceive themselves at the frontlines of these newly-situated borders may choose to take control of federal responsibilities, in turn “scaling down the state” (Varsanyi 2011, 299). Local immigration-related ordinances reflect this “hollowing out” of enforcement responsibilities, which creates the appearance of local authority.

Locally-held non-participation strategies also emerge from the uneven nature of immigration enforcement. Ordinances may directly prohibit local law enforcement from carrying out federal immigration enforcement as an inefficient use of agency time and financial resources. Law enforcement agencies may refuse to sacrifice community relations with immigrants and potentially effective criminal law enforcement (Pham 2004). There are clear restraints on localities to carry out immigration enforcement, as
well as restraints on localities prohibiting public servants from helping enforce immigration laws (Pham 2006). Nonetheless, local participation in immigration enforcement is crucial to federal enforcement strategies at the border and within the US.

The US state cannot remove every one of the estimated 11 million unauthorized migrants currently present within its borders, —for one thing, capital seeks more, not fewer, low-wage laborers—and it certainly would not be able to approach the target removal rate if federal agencies are acting in isolation from smaller-scale law enforcement communities. Instead of rounding up communities en masse, federal agencies target migrants for removal through other strategies. Undocumented immigrants are discursively tied to the illicit industry that supplies them fraudulent documentation supporting false identities. As Siskin (2007) states, “most […] aliens enter the US for economic opportunity and family reunification, or to avoid civil strife and political unrest, some are criminals, and some may be terrorists. All are violating the United States’ immigration laws.” Border protection justifies reasonable suspicion and the subsequent searching of a person’s body and/or possessions beyond the protections of the 4th Amendment (Lynch 2012).

*Migrant Criminalization, Incapacitation, and Removal*

In order to carry out its responsibility of regulating entry to the US and migrants within its borders, federal immigration enforcement relies upon the existence of criminal aliens who are easily distinguished from citizens. By understanding migrants as noncitizens whose unauthorized presence implies the propensity to commit crimes that
threaten the national security, immigration enforcement legitimizes the pursuit and removal of migrants. Although net migration from Mexico to the US fell in 2010 to – and possibly below – zero (Passel 2012), the visible presence of uninvited immigrants often justifies fears of large-scale, unregulated border penetration (Coleman 2008). The fear of border penetration comes to the forefront in punishing those who have committed a “geographic transgression,” exercising their power over the US’s self-assured sovereignty (Hiemstra 2010). Unauthorized presence challenges US sovereignty over the regulation and exclusion of noncitizens. The US removes unauthorized migrants to assert its sovereign power.

Since 9/11, immigration enforcement has increasingly relied upon conflating criminal law with civil immigration law. The Department of Justice (DOJ) breathed life into this turn from standard policy under the guise of “inherent authority” (Pham 2004) to protect the US against terrorism. The Homeland Security Act of 2002 made immigration and customs enforcement a task directly overseen by the newly-created Department of Homeland Security (DHS) (Pham 2004). The same act dissolved Immigration and Naturalization Service, replacing it with Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services, two separate offices within DHS.

Under the DHS, the removal process presumes that immigrants who encounter law enforcement are removable, although these interactions do not necessarily lead to a migrant’s immediate removal. Like interior removals, border removals collect migrants’ biometric information and store it in a database. If Customs and Border Patrol (CBP) apprehends a migrant at the US-Mexico border, the agency offers the migrant the
voluntary return process. The agency takes digital copies of right and left index fingerprints, biographic information, and the migrant’s name, and cross-checks this information with the IDENT database. If there is a match in the system, DHS places the migrant into removal proceedings. If not, the migrant can either be immediately returned or face jail time. CBP typically allows a migrant to go through the voluntary return process up to 30 times before entering into formal removing proceedings (Johnson 2011). When law enforcement identifies a potentially-removable noncitizen 100 miles or more within US borders, they follow a different process to start removal proceedings.

Noncitizens must come into contact with law enforcement in order to be removed. Jail-based enforcement agreements alert federal enforcement agencies after a removable migrant’s arrest. However, the enforcement agreements do not clarify what circumstances lead to the arrest or booking of potentially-removable noncitizens. Many federal and local enforcement agencies target enforcement practices to specific communities and spaces with high migrant populations. Strategies for encountering migrants include partnering with local law enforcement for OVI (operating a vehicle while intoxicated) checkpoints, conducting traffic stops based on suspicion of human trafficking, and knocking on doors and stopping cars in apartment complexes and trailer parks in search of migrants who failed to leave the country after an immigration judge ordered them to do so (Coleman and Kocher 2011, Mas, Interview with Author, 7/5/2012). These strategies ostensibly target migrants involved in criminal activity, and yet a migrant risks removal regardless of criminal convictions or alleged law violations when she interacts with law enforcement officials.
Immigration enforcement officials locate potentially-removable noncitizens through direct contact, other law enforcement agencies, or enforcement MOA. While in the field, an ICE officer may ask a person her immigration status. Although she is not compelled to answer, if she reveals that she is undocumented she may be flagged for removal. If ICE agents conduct an FBI-based field check and learn of a migrant’s criminal history, she may be taken into ICE custody and removed. State prisons and county jails may electronically notify ICE upon release of a removable noncitizen from the system. Local law enforcement’s enrollment in programs like Secure Communities alerts ICE after a potentially removable migrant has been booked or arrested and is in an agency’s custody. Also, if a local enforcement agency communicates frequently with ICE, it may reach out to the federal enforcement agency upon encountering an unauthorized noncitizen. In sum, immigration enforcement officials encounter potentially-removable migrants after a migrant reveals her status to law enforcement officials, or after federally-operated databases notify ICE of her status and possible criminal history.

ICE and CBP have discretion to offer different removal options to removable migrants. The most popular removal option employed is voluntary departure, where a migrant classified by ICE as non-criminal agrees to leave the country, and cannot apply for reentry for at least five years. Through an expedited removal order, immigration authorities remove a migrant encountered by law enforcement within 100 air miles of the US border. Neither expedited nor voluntary departure requires a migrant to spend time in
immigration court. Both expedited removal and voluntary departure are exceptions to formal removal procedure established in the Immigration and Nationality Act (INA).

After identifying a potentially-removable noncitizen within the US, an immigration judge from the DOJ’s Executive Office for Immigration Review decides if a migrant should be removed. DHS personnel issue a Notice to Appear (NTA) to a migrant (INA § 240). This NTA outlines the charges against its recipient, and states explicitly which part of the Immigration and Nationality Act the recipient has allegedly violated. Violations may include failure to leave the country after a court order or previous agreement to do so. Specific violations of the Immigration and Nationality Act cited in an NTA are either civil or criminal. If a migrant faces removal merely for ‘illegal presence,’ these proceedings are strictly civil. An immigration judge considers admissibility (if a person is deemed inadmissible, but enters the country anyway or is granted admission but violates her immigration status), failure to register, security risk, unlawful voting, potential risk of becoming public charge, crimes of moral turpitude, and aggravated felonies (which are neither ‘aggravated’ nor ‘felonies’ as defined in criminal code) when issuing an NTA.

Aggravated felony violations of the Immigration and Nationality Act include receiving stolen property, the possession of a firearm, document fraud, failure to appear, and obstruction of justice (INA § 101(a)(43)). Crimes involving moral turpitude are ostensibly understood as “referring to conduct which is inherently base, vile, or depraved and contrary to the accepted rules of morality and the duties owed between persons or to a society in general” (Generazio 2011). Immigration-related crimes involving moral
turpitude have included assault, disorderly conduct, and forgery charges in immigration cases, and resulted in removals.

According to Columbus criminal defense attorney Joseph Mas, the Immigration and Nationality Act-specific definition of aggravated felonies overwhelmingly harms people with lawful status but no citizenship:

[The redefinition of aggravated felonies through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996] doesn’t affect the [undocumented] community very much for the same simple reason that the community doesn’t commit felonies. …Where I have seen it, well, first of all, that is applicable mostly or relevant only mostly to residents, people with resident status or work permits, because for the undocumented, the felony doesn’t have to be aggravated, doesn’t have to be a crime of moral turpitude, doesn’t matter what it is, you’re going to get deported anyway. But the distinction does apply to legal residents and could be relevant. …I’ve had clients that are engaged in major crimes. For example, they are offered [charges to plea to], they are charged of trafficking and they are charged of possession, and if I can get the charge, the trafficking charge dismissed in exchange for a plea to the possession, they can at least make the argument that the possession charge is not included in the list of automatically deportable offenses. So we’ve had minimal impact as far as the undocumented community, which constitutes the vast majority of my
clients, but the other ones, again, it depends, it’s got to be something relatively serious. (Mas, Interview with Author, 7/5/2012)

Regardless of status, immigration authorities can remove noncitizens from the US. Although easier to remove undocumented migrants without creating legally-grounded justification for doing so, the shifting definition of aggravated felonies and the necessary openness of defining a crime involving moral turpitude facilitate the widening of the net of deportability.

Once issued an NTA, a migrant is not subject to mandatory detention but may be detained or released on bond or her own recognizance. Currently, the majority of people awaiting an immigration judge’s decision are neither in civil detention centers nor law enforcement custody. Due to automatic spending cuts triggered by the sequester, ICE released hundreds migrants of low removal priority from privately-run immigration detention centers (Foley 2013). ICE pays privately-contracted detention centers approximately $165 for each migrant they house daily (Robbins 2013). The released migrants are still in removal proceedings. After removal proceedings begin, an ICE attorney presents the case against a migrant to be decided by an immigration judge. The judge determines if the migrant is eligible for relief or is removable, and the migrant does not need to be present at this hearing. If either a government agency or an immigrant does not agree with a decision made by an immigration judge, the party can file for appeal with the Bureau of Immigration Appeals within 30 days of the initial hearing. In 2002, US Attorney General John Ashcroft streamlined the Bureau of Immigration Appeals from 23 to 11 members, pushing out its less conservative members while speeding up the time
allotted for case review and increasing appeals hearings to now be decided by a less-than-full board without oral arguments (Johnson 2011).

Although Immigration and Nationality Act violation language mirrors language in criminal code, the immigration removal process excludes protections offered through criminal law. There are no public defenders for immigration court. Migrant detainees in civil detention centers, most of whom have not been convicted of criminal offenses, indefinitely wait for an immigration judge’s decision regarding their removability. A migrant does not need to be convicted of a crime to be removed, and can be removed if she admits to a crime or its key parts (Matter of Franklin, 10 I&N Dec. 867, 868 (BIA 1994)). Unlike other standard protections offered in criminal and civil hearings, immigration judges do not need to justify the removability of migrants beyond a reasonable doubt, and decisions regarding one’s removability can be made retroactively (Siskin 2007). Because deportation is not considered a punishment, migrants facing removal have no right to counsel, a jury trial, or due process. Although it may seem that only convicted criminal noncitizens would face removal under enforcement programs, federal-local partnerships like the Secure Communities program lead to overwhelming removals of unauthorized migrants with no court records.

Federal-local enforcement partnership programs like Secure Communities threatening forced repatriation have resulted in the large-scale destabilization of migrant individuals and communities. According to Secure Communities Standard Operating Procedures for participating law enforcement agencies, the program exists to pinpoint migrants currently in the custody of law enforcement either charged with or convicted of
“serious criminal offenses” and to establish enforcement strategies primarily targeting migrants “convicted of serious criminal offenses” for removal (ICE 2009b).

Local partners face local-scale consequences for their enrollment in Secure Communities. In partnering with ICE to promote migrant removal and insecurity, local officials reinforce migrants’ overall distrust in law enforcement and the criminal justice system threatens the security of communities that immigration enforcement MOA claim to protect. If a migrant fears law enforcement will discover her or a relative’s unauthorized status, it is unlikely she will report crime or cooperate with a law enforcement investigation (Vidales, Day and Powe 2009).

Federal pressure normalizes local participation in immigration enforcement practices. If an activated jurisdiction wishes to leave an enforcement agreement, it is not clear if it can completely terminate its relationship with Secure Communities. Washington, DC, Cook County, IL, and several other former Secure Communities activated jurisdictions no longer honor ICE detainer requests. Currently, the general assemblies of Connecticut, Massachusetts,, and California general assemblies have introduced legislation clarifying that immigration detainer requests (discussed later) are not mandatory. Over fifteen other smaller-scale jurisdictions, including New York City and Los Angeles County, are establishing and enacting policies of non-mandatory compliance with ICE hold requests (NDLON 2013). Nonetheless, DHS asserts that once enrolled, a jurisdiction must continue to share all of the biometric data it collects with the FBI, DHS, and all enrolled Secure Communities jurisdictions (ICE 2009a, ICE 2010).
Biometric data collected from migrants renders them legible to governance. The maintenance of the nationwide database system promotes immigrants’ avoidance of law enforcement officials, serving as a disciplinary technique of power to ensure that they do not break any civil or criminal laws, because any criminal record translates to almost certain deportation. Rescaling enforcement responsibilities appears necessary to promote efficiency and discipline the system that has permitted the presence of unauthorized migrants.

The Secure Communities initiative operates to query individuals arrested on criminal grounds as to their immigration status, a dramatic shift from prohibiting non-federal authorities from enforcing civil aspects of the Immigration and Nationality Act (Coleman 2009). The process may also involve interviews with suspected undocumented immigrants, depending on the law enforcement agency in question. If this process reveals that an individual’s legal status is in question, the individual can be held by the law enforcement agency on federal immigration charges and then transferred to ICE custody for deportation.

Despite its stated intent to deport individuals engaged in serious criminal activity, the vast majority of people deported under Secure Communities are lesser offenders (ICE 2013b). The program dictates that local ICE offices establish three levels of criminal aliens and that they explicitly target “level 1” offenders (relating to national security violations, homicide, kidnapping, sexual assault, robbery, aggravated assault, etc.) for deportation, not “level 2” offenders (relating primarily to property offenses) or “level 3” offenders (relating to misdemeanors and minor infractions) (ICE 2009b). Cumulative data
for 2008-2013 suggests that only 24% of immigration matches made under the Secure Communities program related to level 1 offences. Moreover, only 28% of individuals physically removed under the program to date can be called serious criminals; an additional 48% of Secure Communities deportees were lesser offenders; 15% had previously been removed; and 9% had no criminal charges pending at the time they were removed from the country (ICE 2013a). This discrepancy between federal pronouncements about how the program is supposed to work and how it works in practice can be traced directly to the fact that local ICE offices and Secure Communities partners shape their authority according to local political and law enforcement contexts rather than in response to executive orders (Coleman 2012b).

It is also the case that ICE employees, who oversee Secure Communities, do not value the federal differentiation between level 1, 2 and 3 offenses. For example, a recent federal initiative to train ICE officers to strictly target level 1 offenders under Secure Communities was derided by the National ICE Council, the union for ICE rank and file officers, as preventing its members from effectively doing their jobs. The National ICE Council dismissed the initiative as political posturing by the Obama administration to win votes from immigrant groups, and vowed that its rank and file members would enforce immigration law without regard for how individuals come into contact with Secure Communities agencies (Preston 2012). Recently, internal ICE emails revealed that the agency set annual removal quotas, which were the sole performance metric for field offices. ICE also suggested methods for reaching these quotas, including participation in
local law enforcement-run traffic checkpoints, trolling state DMV records, and assigning ICE officers to jails to find removable noncitizens (Heath 2013).

As previously discussed in this chapter, migrants are excluded from due process protections afforded to citizens. Immigration law in itself is obtuse; prosecutors advise defense attorneys on how to best represent their undocumented clients (for the benefit of the state). Policy exists to encourage migrant bodies to remain hidden, otherwise revealed as criminals and inherently un-American. Migrants’ perceived criminal existences transfers to their everyday practices. Their existence in public and private space threatens citizenship. When migrants move as they wish within the country’s interior, they benefit from a right solely delegated to citizens (Cresswell 2006).

When migrants become publicly visible, local policies respond to severely limit their ability to socially reproduce (Herbert 2009, Varsanyi 2008a, Parado 2012). Internal policing of migrant social reproduction reflects the conflation of criminality and immigration. For example, policing areas where migrants gather is a tactic of strategic, indirect enforcement. The border is diffuse, but still clearly delineates a space characterized by legality and protection under the law from a space characterized by illegality and the lack of access to due process. (Herbert 2009). Locally-created spaces of immigrant incapacitation reflect this understanding of legality and illegality through mechanisms of control (Gilbert 2009).

Local ordinances reestablish the lines between migrants and citizens, and connect unease, which draws migrants as threats to security. Incapacitation relies on diffuse social control through enforcement to diminish possibilities for resistance. The expansion of
aggravated felony Immigration and Nationality Act offenses, which potentially result in deportation, facilitates migrant social control (Gilbert 2009, 29). Non-federal entities invoke migrant-incited public nuisance to justify municipal response to this strictly municipal responsibility.

In both federal and local contexts, agencies channel and incapacitate possible unauthorized migrants to encounter removable migrants and discourage migrant visibility and mobility. Channeling migrants’ movement within the US in carefully-directed ways may ensure their interaction with law enforcement. Immigration enforcement promotes incapacitation to prohibit any movement that challenges the right to mobility only citizenship affords (Cresswell 2010). Because these programs are administered locally, selective enforcement means spatially uneven policing.

Law enforcement agencies currently engage in an unprecedented level of information-sharing. Biometric data is collected and crosschecked to determine immigration status, and local authorities can hold immigrants for deportation without criminal charges having been filed. These changes reflect a different exercise of territorial sovereignty by the state, in that it is now policing immigrants’ existence (Coleman and Kocher 2011). This change in enforcement is a new exercise of sovereign power over migrants. Incapacitation through surveillance and the criminalization of movement pushes migrant populations into the shadows.

Current theory on the restriction of migrants’ movement addresses the way in which enforcement both justifies and produces migrant illegality, but it is crucial to examine this locally situated regime of immigration enforcement through incapacitation
with the case study of Franklin County, Ohio (Small 2009). Observing state practices in the context of policing, which is an integral part of the Secure Communities program, is necessary, given its “spatial instantiation” (Herbert 1996, 579).

Secure Communities in Franklin County: A Locally-Situated Case Study

Within Franklin County, Ohio, the most effective method for finding and removing criminal migrants is regulating the movement of migrants across space (Mas, Interview with Author, 7/5/2012, Vicente, Interview with Author, 7/2/2012). However, when determining how a person comes to be understood as a criminal migrant, one must recognize the ways in which incapacitation practices create migrant criminalization.

Like Franklin County, the vast majority of currently or soon-to-be enrolled jurisdictions in Secure Communities have no other non-federal immigration enforcement responsibilities. Ohio has yet to pass any bills regulating migrants, although several have been introduced in the past two decades. The Columbus City Council has not approved anti-immigrant ordinances, and instead unanimously passed a 2010 resolution in support of comprehensive immigration reform.

Nonetheless, Franklin County enrolled in Secure Communities effective January 19, 2010 at the request of former Franklin County Sheriff Jim Karnes. Sheriff Karnes encouraged elective enrollment in the program to address increasing numbers of suspected undocumented immigrants in county jails (ICE 2009a). Since then, 81,408 fingerprints scanned at Franklin County’s correctional facilities and an unknown number of admissions of unauthorized presence have resulted in 698 removals under the program.
(ICE 2013b). Secure Communities biometric databases contain fingerprints of previous civil and criminal offenders, and are shared between the FBI, DHS branches, and Secure Communities activated jurisdictions. Biometric data used to justify removal and corresponding immigration records are notoriously out-of-date. According to Lynch (2012), Secure Communities nationwide flags about 3,600 US citizens as deportable each year.

It is possible that a law enforcement agency learns of a migrant’s unauthorized immigration status through a post-arrest interview. If a migrant already exists in Secure Communities databases or law enforcement already knows a migrant is unauthorized, ICE may issue a hold while the individual is in the arresting authority’s custody until placed in removal proceedings. If the arresting agency is pursuing charges against the individual, it is possible that he may serve time toward a sentence or agree to a plea deal before being deported.

Secure Communities operates by matching an arrestee’s biometric data with existing information in shared law enforcement and intelligence databases. First, a Secure Communities activated jurisdiction either books or arrests a migrant. Upon entering an activated jurisdiction’s custody, the intake officers at the jurisdiction’s jail scan the migrant’s fingerprints to search for a match. This request for fingerprint match information is also known as an Immigration Alien Query. In Ohio, the State Bureau of Criminal Identification and Investigation sends the Immigration Alien Query as a Criminal Alien Request to the ICE Law Enforcement Support Center. The Law Enforcement Support Center then checks the fingerprints against the FBI’s Integrated
Automated Fingerprint Identification System (IAFIS) and United States Visitor and Immigrant Status Indicator Technology’s (US-VISIT) IDENT database.

Next, the Law Enforcement Support Center conducts an immigration status determination, and finds if the migrant in question has already been convicted of or is currently charged with an L1 offense. If there is no fingerprint match, the Law Enforcement Support Center notifies the law enforcement agency within 24 hours of submitting fingerprints. If there is a match, FBI Criminal Justice Information Services sends an IDENT data report and Immigration Alien Response to the Ohio Bureau of Criminal Identification and Investigation. In turn, the Bureau of Criminal Identification and Investigation forwards this Immigration Alien Response to the law enforcement agency holding the migrant in its custody. When there is a match, ICE may request an immigration detainer (also known as an ICE hold, or I-247). To honor an immigration detainer, the law enforcement agency holds a migrant until ICE takes the migrant into custody or until the migrant passes 48 hours\(^1\) in law enforcement agency custody without ICE’s arrival. Once a migrant is in ICE custody, removal proceedings begin. ICE files immigration detainers when a migrant is booked, but it is possible for a migrant to be released before an immigration detainer is issued (ICE 2009a, ICE 2009b). Activated Secure Communities jurisdictions only participate directly in the removal process if in communication with local ICE agents about arrestees/inmates who admit to an unauthorized immigration status. Secure Communities obscures the process leading to

\(^1\) Although the program outline dictates that a migrant is not to spend more than 48 hours (not counting weekends or holidays) in law enforcement custody while awaiting ICE, many detained migrants may wait for several days until retrieved and entered into removal proceedings or released
migrant removals, and conflates ICE hold receipt with past criminal conviction (ICE 2009a, ICE 2009b).

Across enrolled jurisdictions, Secure Communities results overwhelmingly in the deportation of level 2, level 3, and non-criminal offenders. Cumulative Franklin County data for 2009-2013 suggests that only 24% of immigration matches made under the Secure Communities program related to level 1 offences. Moreover, only 28% of individuals physically removed under the program to date can be called serious criminals; an additional 48% of Secure Communities deportees were lesser offenders, and 24% had no criminal charges pending at the time they were removed from the country (ICE 2013b). Since Franklin County became an activated jurisdiction in 2010, only 70 of the total 698 removals (10%) were convicted level 1 criminals according to ICE (ICE 2013b).

Despite the grounds for removal, after unauthorized reentry a migrant becomes a felon. Regardless of respective status (level 1-3 or non-criminal), migrants who attempt reentry after deportation before the several year-long ban on their reentry to the US is lifted are charged with a felony. If caught, these migrants must carry out a sentence in a federal prison before being removed again.

Many discourses surround the entry and regulation of activated jurisdictions in Secure Communities, as well as the regulation and control of immigrants within the US. Local law enforcement agencies’ discourses of enrollment in Secure Communities shed light on the larger-scale understanding of policing immigrants, enforcement responsibility, and national security. Before the program becomes mandatory nationwide,
any jurisdiction entering into the agreement had done so one of two ways: either a county representative entered into the memorandum of agreement on the county’s behalf, or a state agency enrolled the entire state in the MOA (for example, the Delaware State Police enrolled the entire state) (ICE 2011a).

Secure Communities promises to establish safety and maintain the integrity of communities that face the threat of insecurity caused by the criminal presence of immigrants. ICE frames the program as a “simple and common sense” tool for keeping the nation safe from any threats to its security without “imposing” enforcement decision-making responsibilities on enrolled law enforcement agencies (ICE 2012). This bolsters the discourse that enrollment is logical, and participation is an efficient way to fix the imagined correlation between immigration and crime on a local scale with federal support (IPC 2008).

Signing on to participate in Secure Communities is a rational way for jurisdictions across the US, whether near a border or in the nation’s interior, to address undocumented and undesirable immigration to their communities. In protecting their communities through enrollment in Secure Communities, activated jurisdictions take on the responsibility to keep their communities and the nation safe from criminal immigrants. Participating jurisdictions enter into MOA without expecting additional responsibilities or costs, although programs divert existing local law enforcement resources to immigration enforcement (ICE 2009a, ICE 2009b). Once adopted by a jurisdiction, there is no guarantee that the program’s discursively-established internal parameters will be followed. Moreover, contradictions between stated enforcement strategies and
enforcement practices result in uneven enforcement of the program’s goals to identify and remove convicted level 1 criminals.

Secure Communities internal operations appear to ensure the responsible, targeted enforcement of criminal aliens, yet fail to reflect the reality of enforcement practices. Secure Communities issues a standard operating procedures handbook to law enforcement agencies in activated jurisdictions, which establishes the different levels of immigrant criminal offenses and outlines the participation of law enforcement agencies in the program. The handbook is only eleven pages long, and does not begin to address the complexities of immigration law enforcement or the rationale for placing specific crimes into their respective categories. There is no discussion of an enrolled jurisdiction expressing discretion by filing charges against the Secure Communities immigrant arrestee. It is unclear if enrollment in Secure Communities hinders a locality’s pursuit of justice against a potentially removable migrant.

According to an ICE report dated March 2011, Franklin County ranked 17th nationwide in terms of non-criminal deportations under the program (ICE 2011b). Specifically, more than 50% of individuals deported via Secure Communities in the county had no pending criminal records at the time they were deported. This figure includes charges never proven in court, as well as charges dropped by prosecutors after learning a migrant’s immigration status. ICE officers partner with non-federal LEAs, the ultimate responsibility for enrollment in and maintenance of the Secure Communities program lies with local LEAs.
Columbus, the Franklin County seat, houses a branch of the Criminal Alien Program, as well the USCIS Columbus Field Office, and ICE Enforcement and Removal operations sub-field office. Columbus has the second highest percentage of foreign-born residents from a list of fifteen major US municipalities since 2000 (CRP 2009). The influx of Somali immigrants and refugees bolstered this recent increase, making the city the second largest settlement of Somalis in the US. In Franklin County, slightly less than ten percent of all residents are foreign-born. Ohio’s immigrant population is less concentrated than its central region, given that an estimated 4.1% of all Ohioans are immigrants (just under half of whom are naturalized citizens, and less than a quarter are undocumented) (IPC 2012).

According to Ohio’s SB 20 (effective 1995), every Ohio driver must carry proof of car insurance in addition to a valid driver’s license and car registration. Although Ohio drivers can acquire vehicle insurance coverage regardless of immigration status, Ohio Motor Vehicle Laws mandate that a license applicant must present documentation proving her lawful presence in the country (Ohio Administrative Code 4501.1-1-21). The Ohio Bureau of Motor Vehicles cannot lawfully issue driver’s licenses to undocumented immigrants. In 2009, the Ohio BMV issued letters threatening to cancel vehicle titles unless the recipients, who had previously failed to disclose a proper social security number, paid an additional fee, provided a valid social security number, and requested to have their case heard before a court. This resulted in the mass cancellation of 47,000 titles statewide. On March 6, 2012, the Tenth Appellate District issued a decision in

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2 Austin, Charlotte, Chicago, Cincinnati, Cleveland, Indianapolis, Jacksonville, Kansas City, Louisville, Milwaukee, Minneapolis, Nashville, Portland OR, Raleigh, San Diego
LULAC v. The Governor of the State of Ohio (10 AP 639), finding that there was no sufficient basis in Ohio law for the mass cancellation or conditions of reinstatement. There is still no indication if the decision will be appealed, or what possible remedy exists for the victims of this wrongful revocation. In spite of the legal victory, the community suffered while awaiting a decision:

Si tú vas y le preguntas a la comunidad si ha sido victoria para la comunidad latina, ellos te van a decir que no. Porque la victoria vino muy tardía. Y todavía no ha sido clara. Porque todavía dicen, ok, se ganó en la corte. ¿Pero qué significa eso? No significa que las personas que tenían sus encomados o sus placas anteriormente van a poder recuperar esas placas, o les van a devolver el dinero que técnicamente es lo que se necesitaría, verdad. Si el BMV rompió un contrato, ellos ya habían cobrado por ese contrato. Técnicamente debían haber regresado el dinero. No lo hicieron. En cuestiones legales, sí se ha ganado, se ha conseguido una victoria. Pero en cuestiones de comunidad, las comunidades tuvieron que hacer lo que tuvieron que hacer. Muchos de ellos terminaron pagando otra vez a gente que abusa del sistema, el mercado negro, verdad, y finalmente quienes salieron ganando fueron la gente que se encarga de navegar ese mercado negro, porque ellos fueron los que cobraron dinero, fueron gentes que posiblemente robaron automóviles a mucha gente también, y que esta gente no pudo poner una queja. [En contra de, por ejemplo,] gente [como notarios públicos] que se pone a hacer compañías
In spite of legal victory, people still take advantage of migrants. Due to the spatial unevenness of immigration enforcement, heavily-concentrated migrant communities are isolated from surrounding non-migrant spaces. Self-proclaimed advocates offer to help migrants navigate unfamiliar laws and customs, but charge exorbitant rates for services they are unauthorized to offer and exploit local migrant communities. Unauthorized migrants cannot access the same resources that encourage citizens’ mobility.

With the 2005 passage of the REAL ID Act, states could no longer issue driver’s licenses or other forms of official identification without confirming the applicant’s legal status (Siskin 2007). Although migrants in Ohio without Social Security Numbers could not receive licenses since 2002, many would travel to Michigan for a valid form of identification. A driver’s license or state ID facilitated trips to work, school, the grocery store, and around their communities without fear of criminal charges (Stewart 2003). In

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3 If you go ask the community if this has been a victory for the Latino community, they are going to tell you no. Because the victory came very late. And it still isn’t clear. Because they still say, ok, this issue was won in court. But what does this mean? It doesn’t mean that people that had entrusted their things or their license plates before will be able to get their license plates back, or that they’ll be returned the money that’s technically what would be needed, right. If the BMV broke its contract, they had already charged for it. Technically, they should have returned the money. They didn’t. In the legal context, yes, there’s been a victory. But in the community context, the communities had to do what we had to do. A lot of them ended up paying people again who abuse the system, are in the black market, right, and finally, they are the ones who ended up benefiting, the ones who are in charge of navigating the black market, because they were the ones who charged money, they were the ones who, possibly stole cars from a lot of people, too, and people couldn’t file charges against them. [Against, for example,] people [like notaries] that begin to make fictitious companies that don’t exist, right, and say that they help the community. Then, technically there’s a victory, but it’s not a victory that exists in our community, the people who really needed a victory.
sum, undocumented migrants in Ohio have no access to lawfully drive or own a state-registered car. In addition to barring migrants from obtaining valid driver’s licenses, the Ohio BMV does not recognize migrants without SSNs as the legal owners of their cars. In order to remedy the situation, many local notaries offered to transfer car titles to the names of citizens or issue international driver’s licenses to people blocked from accessing state-issued identification. This expense does not protect a migrant stopped by law enforcement from removal. Executive Director of the Ohio Hispanic Coalition, Josué Vicente, discusses the role that profit-driven notaries and document translators have on local migrant communities:

…[E]llos catalogan de que son expertos en leyes de inmigración cuando ellos no saben posiblemente más que llenar una forma. Pero no saben, obviamente, las leyes a fondo como un abogado de inmigración. Pero sí tratan de cobrarles cantidades bastantes caras a las personas. Otra situación es que estamos viendo es las fianzas que la gente tiene que depositar. Ellos vienen y tratan de dejarles saber, no, que les van a conseguir la fianza, pero ellos tienen que pagar determinado la cantidad de dinero ahí para que ellos puedan hacer eso. Entonces tú sabes que si tú no eres un abogado y no tienes un título, legalmente no puedes representar a una persona ante la corte… Es todo esto misinformación que están

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4 In early February, Ohio migrant rights activists discovered that some Ohio BMV offices refused to issue driver’s licenses and learner’s permits to undocumented youth with SSNs through the Deferred Action for Childhood Arrivals program. After public outcry from undocumented youth and their allies and affirmation from Ohio Attorney General Mike DeWine that there was no legal basis for prohibiting youth from state ID, the Ohio BMV has yet to respond with an official policy. State Senators Kearney and Tavares announced on March 4, 2013 that they would introduce Senate Bill 62 to ensure the BMV issues state ID to Deferred Action for Childhood Arrivals recipients.
Immigration enforcement and exclusionary tactics both result in the increasing isolation of migrant communities from other communities. The multiscalar nature of federal-local immigration enforcement practices results in uneven spatial consequences. Participation in programs like Secure Communities supposedly guarantees the even application of immigration enforcement to individuals in law enforcement custody. Nonetheless, certain communities face differential levels of policing which translate to increased likelihood of encounters with law enforcement resulting in removal. Within Columbus, law enforcement and ICE officers police certain public spaces differently from others (Mas, Interview with Author, 7/5/2012). Law enforcement targets communities with large, newly-settled migrant populations. This uneven focus on specific areas creates spaces of migrant insecurity. Spatially uneven enforcement practices lead to spaces of social support and organized community. Multiscalar enforcement practices also mark these migrant-concentrated spaces with fear and anxiety. Because these highly policed spaces

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5 They assert that they’re experts in immigration law when it may be that they know nothing more than how to fill out a form. They don’t know, obviously, the laws as well as an immigration attorney. But they try to charge significant, expensive fees to these people. Another situation we’re seeing are the bonds that people need to deposit. They come and try to let them know, right, that they’re going to get a bond, but that they have to pay a determined amount of money right there so they can perform the service. So you know that if you’re not an attorney and you don’t have authorization to practice law, you can’t legally represent someone before the court. This is the misinformation that people are hearing. So, as an organization, it’s an important and difficult job to do. At the same time, you’re fighting with all of these people who have direct access to communities, and they’re misinforming people in because they want to make a profit.
are disconnected from the wider community, social support networks may lead to rapidly- and widely-shared misinformation, which in turn creates more insecurity (Vicente, Interview with Author, 7/2/2012).

_Picking Up at Random_

In Franklin County, immigration enforcement – Secure Communities and local ICE presence combined – centers around monitoring and restricting the movement of migrants in automobiles. Within Columbus, stories have circulated of migrants parked at gas stations being approached by ICE agents suddenly appear out of a black SUV with tinted windows. When migrants get ready to leave their apartment complexes in the morning to drive to work, they may find ICE agents awaiting them, asking if they have documentation to confirm their legal presence. Recently, local advocacy organizations have heard tale of ICE agents dressed in civilian clothing who fail to identify themselves as such. The community is aware of ambush tactics, and although ICE agents are ostensibly targeting “individuals with criminal records, and that they’re spending time in apartment complexes where these people used to live, looking for them… they never find the criminals they’re looking for and always end up finding other victims that live at those addresses” (Vicente, Interview with Author, 7/2/2012). Misinformation and incapacitation promote migrant insecurity in Franklin County. ICE agents target apartment complexes and neighborhoods where recent arrivals settle to find deportable individuals:
Now, as far as the tactics, again, I have no problem with the authority that they have to identify and detain somebody that has not committed a crime, that just as the status of the civil violation is subject to deportation… [T]he recent execution of that tactic in going to apartment complexes – and [ICE agents] admitted everything 100%. … I was afraid they were going to say, like, “no, we’re not doing that, we’re not doing that,” no! They admitted to everything. Going the parking lots of apartment complexes to try to locate people that now they have a good address, because they picked up a ticket, I feel that that terrorizes the community. And the, my take on it is that it’s a rush to increase the numbers of individuals so identified, because I think that once that immigration reform is launched, that they’ll exclude those individuals. So I think what they’re doing is calling the herd, is trying to eliminate as many possible applicants as they can. I think it’s an accommodation to the very conservative union that happens to represent those officers. (Mas, Interview with Author, 7/5/2012)

Many variables explain increased ICE presence in spaces where they can easily encounter unauthorized migrants. Nonetheless, the majority of the people ICE detains and removes have no criminal records. Mas (Interview with Author, 7/5/2012) suggests that Columbus-based ICE agents know that at least 55% of the people they pick up are not criminals, and according to Mas, an ICE agent responded to the accusation: “‘well, they technically have violated criminal statutes of this country.’”
With reference to Franklin County having the 17th highest percentage of non-criminal removals, Mas asserts that “the other X percentage, 45, whatever, [comes from] driving without a license as a crime, or illegal entry as a crime. I mean, there, it’s just public relations on [ICE’s] part, because they don’t want to appear like they’re going around just picking up at random, which they are” (Mas, Interview with Author, 7/5/2012). ICE agents present an unpredictable and impending threat; they may suddenly appear to question migrants and confirm their right to exist in the country. In southwest Columbus, this possibility has discouraged migrant parents from opening their front door to let their children catch the school bus. Foreseeable interaction with law enforcement also causes anxiety-based insecurity in Columbus migrant communities.

Predictable encounters with law enforcement officers, such as announced OVI checkpoints and routine traffic stops, may result in the removal of undocumented migrants. If a driver passes through a City of Columbus traffic stop and cannot provide state-issued identification matching the name on her automobile registration, the city confiscates her vehicle. The car rests in an impound lot until the title holder (or a relative) provides sufficient identification and pays a fine to recover the car. When dealing directly with local law enforcement officers, there is more room for subjectivity than an Immigration Alien Query that transforms into an ICE hold. According to Mas (Interview with Author, 7/5/2012), “who picks them is usually not an issue. It’s when they get put in jail that it’s a problem. Or they get fingerprinted.” The responding officer can ultimately decide whether a migrant is set on the path to removal proceedings or is free to continue without incident until stopped again:
You have police officers that are generally sympathetic to the community, and you can break them up as 1/3 sympathetic, 1/3 completely unsympathetic, and the other ones, it depends on the circumstances and how they’re feeling that particular day. …[I]t means that 1/3 of the cases, the officers are going out of their way to make sure that the individual is not identified as an undocumented. (Mas, Interview with Author, 7/5/2012)

The justification for stops that lead to a migrant’s arrest and eventual removal is highly contingent upon the officer involved. Law enforcement agencies like the Columbus Division of Police may have official directives about how to handle immigrants suspected of unlawful presence, yet this does not mean that all agents and departments will follow them (Ramos, Interview with Author, 8/11/2012, Herbert 1996). The Columbus Division of Police is no stranger to problematic internal practices that contradict agency policy, and faced severe consequences for allegations of racial profiling. In 1999, the DOJ filed a suit against the Columbus Division of Police for civil rights abuses, including use of excessive force, false arrest, and improper search (Hensley 2012). Although unsanctioned, it appears that law enforcement racially profiles possible removable migrants. As Mas (Interview with Author, 7/5/2012) explains, most of the charges leading to the removal of migrants, whether or not they are convicted, come from driving:

91% of cases [with Hispanic migrant defendants] are classic traffic cases.

Now, do they involve maybe more dangerous activities like hit-skip, leaving the scene of an accident, or driving under the influence - OVI,
they do. But the percentages track those of the general community. They are no more or less predisposed to commit those offenses than anybody else. The great bulk of the cases involve driving without a license. But what really, what shocks the magistrates sometimes… is that the justifiable suspicion, that’s what used to be called probable cause, for stopping the individual is usually something that is obviously an excuse of some sort. You know, like the more common one is license plate light out or dark windows—things that are subjective in nature, that may or may not be the case. Failing to put a blink signal. I’m handling a case right now. The guy was guilty of possessing drugs. He possessed a small amount of heroin and cocaine, but the officer saw him buying it off someone, it may have even been an informant, who knows. And so what do they do? They follow him, and then they note that he entered through the intersection without putting the blinkers on. They note it. It’s baloney. You know, it’s just to create probable cause, but they are trained to do that, so the vast majority of the cases involve a probable cause stop that is highly subjective in nature. It’s very seldom something like speeding, or something like that. It’s usually that you can see it, that it’s a driving while brown-type of offense.

Once a person is charged with driving without a license, an arresting officer may determine that lawful identification, like the Mexican government-issued *matrícula consular* or a lawfully-obtained driver’s license from New Mexico, Utah, or Washington,
or the notary-issued international driver’s license (which is not sufficient proof of identity, and is not an actual state-issued form of driving authorization) are fraudulent. If so, a migrant faces a felony charge of identity fraud or identity theft, which prosecutors often remove in exchange for a guilty plea to driving without an operator’s license, a misdemeanor charge. Because the vast majority of people removed through Secure Communities are accused of low-level criminal offenses and civil (which includes both traffic and immigration) violations, some researchers speculate that the majority of police interactions leading to booking in enrolled jails are tied to the visible mobility of immigrants (Herbert 2009, Gilbert 2009, Coleman and Kocher 2011).

**Conclusion**

Franklin County, Ohio, reflects a fast-growing trend toward immigrant incapacitation (Gilbert 2009, Coleman and Kocher 2011). Through Secure Communities in Franklin County, one sees the scalar shift in enforcement responsibilities, as well as the everyday operations of a program that ostensibly targets criminal immigrants, overwhelmingly removes low-level offenders, and criminalizes migrants’ mobility.

Practices and discourses ensnare migrants in a deportation dragnet. Even though a migrant may have only violated civil immigration code, perceived illegality leads produces migrants as criminals (Cruikshank 1997, Goffman 2009). If a migrant reenters after removal for unlawful presence, a non-criminal offense, she commits a felony-level violation of criminal law. Fear of removal stemming from interaction with law enforcement discourages from movement. This incapacitation results in the
criminalization of those who try to move freely, and severely inhibits the ability of migrants to socially reproduce without fear of removal.

Immigration enforcement presumes the presence of large numbers of unlawful migrants who commit criminal acts. However, DHS classifies the majority of migrants it has removed as low-priority. Restricting migrant mobility enforces immigration law. By criminalizing migrant movement, immigration enforcement creates and maintains a population of deportable “criminal” migrants.
Chapter 2: Resistance

Introduction

Managing unwanted migrant populations means regulating their movement through space. However, many individuals and organizations have contested migrant criminalization through the act of moving (or not moving) in space. In Chapter 1, I revealed actors and structures behind effective immigration enforcement and criminalization of migrant communities. Chapter 2 explores strategies for resisting the federal and local push toward migrant insecurity. I critique actions by national campaigns and organizations, speculating on their effectiveness in contesting anti-migrant discourse and rejecting incapacitation.

This chapter examines specific cases of migrants and immigrant rights groups acting to effect political change for migrants’ benefit. Each case study either directly or indirectly engages with mobility-centric regimes of enforcement. Each case study relies differently on the discourse of legality in justifying either deliberate movement across or sustained occupation of sovereign space. As explained by Foucault (1996), the diffuse nature of power always provides a possibility for resistance. Specific mentalities,
discourses, and techniques for managing migrant individuals and populations sustain the criminalization of migrants through incapacitation. However, these tools are internally inconsistent. Individuals subjected by power relations of criminalization are able to eventually arrive at the establishment of new truths and in order to push forward alternate discourses must create new practices.

First, I discuss the 2010 March For America and its political advocacy for comprehensive immigration reform. Second, I examine the 2010 Trail of DREAMs and its role in supporting passage of the DREAM Act. Third, I discuss the 2012 undocumentation of Obama for America offices and the demand for an executive order to end removals of undocumented youth. Fourth, I discuss undocumented youth’s 2012 infiltration of the Broward Transitional Center, an immigration detention center, and support for ending low-priority detention and removal. Fifth, I examine the 2012 UndocuBus Ride for Justice and its call to end migrant criminalization. Finally, the chapter addresses each action, its spatial strategy, its overall effectiveness in realizing stated goals, and its relative reliance on the representation of migrants as legal and deserving of the right to stay to legitimize resistance. I conclude that migrant-led strategies are the most effective in resisting enforcement and criminalization. When advocacy organizations define problems the migrant community faces, they limit the scope of resistance. These organizations understand transformative action within the realms of legislative action and electoral politics but often dismiss migrant-led organizations’ acts of civil disobedience and political strategies as too controversial or ineffective.
§1. *March For America and Comprehensive Immigration Reform*

On March 21, 2010, more than 200,000 pro-immigration reform advocates converged on the National Mall in the March For America, demanding comprehensive reform to the current immigration system (Rivlin 2010). The March For America, organized by Reform Immigration FOR America (RI4A), had been publicized within state-level campaign offices since February 1, 2010. Although there was no bill in the Senate to pressure Congress to support, Representative Luis Gutiérrez’s House Bill CIR-ASAP met the five marks of comprehensive immigration reform legislation that Reform Immigration FOR America and other national organizations vowed to support: 1) increased border security, 2) employment verification, 3) visa reforms, 4) an earned path to citizenship for undocumented immigrants, and 5) provision of a pathway to citizenship for people who qualify for relief through the DREAM Act (Reform Immigration FOR America 2009).

After the March For America’s date and location were solidified, local chapters of the campaign were encouraged to fundraise, book buses, and hold send-off rallies to marchers traveling to the Capitol for the Sunday march (Brown 2010). In spite of their crucial role generating turnout, local campaign officers were not included in the dialogue to determine the march’s agenda or structure, but rather were told to adopt and spread predetermined messaging tools. The first March For America talking points to be distributed across campaign offices came from an email sent on February 25, 2010. The talking points were generated by a communications specialist working for Center for Community Change, an affiliated progressive movement-building organization.
Messaging focused on unity within the pro-reform community in asserting their rights as members of their nation and demanding that Congress (and secondarily Obama) make good on their promises of immigration reform (Moreno 2010). State-level grassroots organizers and directors were charged with distributing national campaign information to local campaign offices, rather than generating their own locally-based messaging (Herrera 2013). An email directed to Cincinnati-based supporters of Reform Immigration FOR America was taken verbatim from the communication strategist-generated talking points and subsequently distributed to supporters throughout the state (Beck-Borden 2010).

In addition to talking points, these national campaign-sanctioned communications included rigid guidelines for participation in the march. In an email sent on March 10, 2010 to Central Ohio-area Reform Immigration FOR America supporters, the only clear requirements for participants in the March For America were to carry only US flags and non-corporate signs or banners. Six days later, participants were told that in addition to the flag restriction, they needed to wear white shirts in order to march (Hines 2010). This same message was distributed to participating organizations and campaign offices across the country.

In order to ensure that noncitizens who feared potential removal from the US would participate, the Reform Immigration FOR America campaign emphasized the safety of all who took part in the March For America. DHS was notified of the march, and entered into an agreement with the organizers assuring that they would not intercept vehicles while driving to or from the march. Migrant marchers did not need to worry
about being detained and placed in removal proceedings because of their participation in
the march, because ICE would be notably absent from the event. Upon arriving to the
National Mall, delegations occupied the space for several hours as part of a rally,
listening to national civil and migrant rights leaders speak. A video message from Obama
appeared on two giant screens, interrupting the simulcast of the main stage. Shortly after
the prerecorded greeting, the crowd set off for a march through Capitol Hill and
residential neighborhoods. Law enforcement was only visible when the marchers started
moving. Police shouted at marchers, encouraging them to stay on the sidewalks or
potentially face arrest. Official messaging promised that marchers would “raise [their]
voices and tell politicians that [they] want action,” but the creation of a homogenous,
unified community asking for a single request to be granted did not guarantee the
realization of this demand (Moreno 2010).

The March For America resulted in the temporary protection of marchers from
removal, as negotiated between DHS and the event organizers. The event’s stated
purpose was to reach its intended audience, Congress (who happened to be in session and
voting to approve the Affordable Care Act), and push them to approve a piece of
legislation that would meet the specific criteria around which a campaign was
deliberately structured. This march did not target a specific technique of governance
controlling migrant populations, and had no long-term objectives to do so.

In its centralization of power, the planning and results of the March For America
serve as a metaphor for the effectiveness of the Reform Immigration FOR America
campaign. National “movement-building” trainings preceding the public push for
comprehensive immigration reform stressed the importance of the snowflake organizing model. In the snowflake model, networks are extended and grown through personal relationships, but they always link back to the center, where the leader lies. The power to make decisions within Reform Immigration FOR America was concentrated within the center of the snowflake. Although the outer edges played an integral role in spreading Reform Immigration FOR America’s messages and gaining new supporters, the campaign was characterized by its dedication to promoting consistency at the expense of diversity. Local campaign offices stayed on-message through repeated national talking points. On the day of the march, Reform Immigration FOR America successfully presented a united, non-threatening, white shirt-wearing, American flag-waving mass of marchers, all aspiring citizens connected in their support of comprehensive immigration reform with a path to citizenship. Marchers expressed differences in nationality, ethnicity, faith traditions, and political beliefs with banners and signs.

Reform Immigration FOR America and the March For America focused on a legislative recourse for a broken immigration system and did not intend to address specific strategies of immigration enforcement that destabilized migrant communities. The rally and march appealed to Congress and President Obama for comprehensive immigration reform legislation, not a moratorium on deportations or an end to federal-local enforcement MOA. The March For America sought a solution to problems faced by migrant communities through the federal legislative process. The March For America was an ineffective strategy in resisting migrant criminalization and long-term restrictions on migrant mobility because it never understood migrant criminalization or incapacitation.
as the problem it wanted to address. Internal discourse and talking points demonstrate that the immigration reform campaign was primarily concerned with garnering support for federal comprehensive immigration reform legislation, not smaller-scale pro-migrant policies or national strategies generated outside of the legislature without a path to citizenship (Beck-Borden 2010). The 2010 Trail of DREAMs, which culminated in its arrival to Washington, DC on May 1, 2010, was a distinct exercise in resistance through mobility.

§2. Trail of DREAMs and the DREAM Act

On January 1st, four undocumented youth in their twenties set off from Miami to Washington, DC on foot to raise awareness of the need for immigration reform, and more specifically, to raise awareness of the plight of undocumented youth with no path to citizenship. A highly-publicized and 1500-mile journey, the Trail of DREAMs supported the Development and Relief of Alien Minors (DREAM) Act. The walkers first met through the Miami-based organization Students Working for Equal Rights, known for its work to ensure the passage of the DREAM Act (Presente.org 2010). Media attention – or protesters, which were soon followed by media attention – met Carlos Roa, Felipe Matos, Juan Rodriguez, and Gaby Pacheco at each stop along their trek to Washington, DC (Mahendra 2010). The four walkers provided updates on Trail2010.org website, which national pro-migrant and Latino clearing houses, like America’s Voice, the National Day Laborer Organizing Network, and Presente.org also distributed.
Ensuring a May 1 arrival to Washington, DC for a national convergence of undocumented youth to push for relief through legislation, the Trail of DREAMs programmed several important stops along the way. On February 19, 2010, Roa, Matos, Pacheco, and Rodriguez arrived to Nahunta, GA. They were greeted by a KKK rally, held to denounce the United States being invaded by Latinos that was planned in anticipation of their arrival (Mahendra 2010, Rodriguez 2010). Shortly after this encounter, on March 2, 2010, the four Trail of DREAMs participants arrived in Gwinnett County, Georgia. County Sheriff Conway, an active participant in the 287(g) immigration enforcement deputization program with a notorious reputation for targeting migrants, refused to speak with (or arrest) the four walkers when they arrived at the courthouse (Srivastava 2010). The controversial, anti-immigrant official experienced public pressure to meet with the four walkers. If the sheriff met with the youth without alerting immigration officials, his constituency would criticize his temporary support of sedition. If Sheriff Conway brought the undocumented youth into custody, national migrant advocacy organizations would condemn his actions.

Mark Krikorian, an anti-immigration activist and Executive Director of the Center for Immigration Studies publicly criticized the Trail of DREAMs, suggesting that only the most sympathetic of migrant stories were shared through the immigration reform awareness-raising campaign, obscuring the reality of large numbers of threatening, criminal immigrants from the public (Montgomery 2010). Krikorian is not wrong: it was an intentional decision to have Trail of DREAMs walkers be young, model students with
bright futures, no criminal records, and easily-palatable background stories to explain their undocumented immigration status.

It was no accident that the four upstanding DREAMers (undocumented youth eligible for potential citizenship through the DREAM Act) visited a potentially hostile sheriff’s office while wearing t-shirts that clearly broadcast their undocumented status. Immigration-related discourse often pits innocent, passive victims of border-crossing against criminals who threaten national security. When a person that embodies the stories Americans tell about themselves comes out as undocumented, she hopes to unsettle the idea that citizenship is a necessary foundation of independence, determination, nationalism, and faith. People without status can uphold the ideals of citizenship, but by coming out as undocumented express that they should not be forced to indefinitely remain noncitizens.

When undocumented activists reveal their status, they often do so in highly publicized ways, such as acts of civil disobedience. If they were to face removal, their potential deportation would directly contradict countless promises made by ICE and Obama. Their removal would prove that the administration may rhetorically differentiate between noncriminal and criminal immigrants, but in practice, all unauthorized immigrants are removable criminals.

Having publicly revealed their status, migrants can jump scale in their connection to national advocacy organizations and sympathetic news outlets. If facing the threat of removal, their story would spread widely. Publicizing DREAM Act-eligible youth’s possible removal bombards ICE, legislators, and Obama with a loud public outcry.
Large-scale rejection of the technique of biopower that manages migrants by keeping them out of sight would force the production of new truths and ways of understanding illegality and what it means to be a migrant in the US.

Many exceptional, ‘law-abiding’, politically active, educated unauthorized migrant youth choose to reveal their immigration status in order to challenge immigration authorities to connect discourse with practice in their treatment of undocumented youth. As the Trail of DREAMs walkers demonstrated, publicly coming out as undocumented is an effective strategy of resistance. By coming out, migrants show that not every unauthorized migrant is a criminal. This action contests the biopolitical strategy of migrant population management through illegality.

Here, the Trail of DREAMs participants provide an alternative, suggesting that migrants should be treated either as criminals, deserving of removal, or as aspiring citizens, deserving the right to stay in the US because of their potential contributions to the moral fabric of the nation. The Trail of DREAMs was created to garner widespread public support for undocumented youth of good moral standing to eventually receive citizenship, which was to be included in comprehensive immigration reform legislation, not passed separately (Presente.org 2010).

The Trail’s conclusion in Washington, DC reflects the participants’ and supporting organizations’ conception of a long-term solution to problems in the immigration system as a whole, not as specific ways in which immigration enforcement or immigrant exclusion take place. Following this logic, the power to change the large-scale treatment of migrants lies with legislators, who must be lobbied to create
legislation, which will solve problems born of previous legislation and the uneven application of existing policy. The National Immigrant Youth Alliance, an undocumented youth-led organization, has taken a different approach in its strategy to resist immigration enforcement.

§3. Undocumentation of Obama for America and Deferred Action

In the summer of 2012, undocumented youth and allies walked into Obama for America campaign offices wearing graduation caps and gowns, refusing to leave until an executive order was issued to place a moratorium on the deportation of undocumented youth. On June 7, 2012, in Denver, Colorado, two undocumented youth entered into the Obama for America campaign office with no intention of leaving. After the two undoccupiers announced that they were on a hunger strike, campaign staff closed the office to volunteers. On the next day, the campaign office was closed until further notice. Nonetheless, the Obama for America campaign staff refused to pursue criminal charges against the graduation robe- and mortar board-clad youth (Rahman 2012). After seeing that their undocumentation resulted in the office’s closure, the undocumented youth that had already strategized a multi-city action escalated their plans to inhabit and now shut down campaign offices in swing states.

In the action’s planning stages, the National Immigrant Youth Alliance targeted swing states like Colorado, North Carolina, Ohio, and Pennsylvania, as well as Michigan, California, and Georgia – where there were enough interested youth willing to participate – for occupations. Having heard that the Obama administration was about to make a
significant announcement on immigration, considering the impending threat of a far-from-ideal Rubio DREAM Act, and given lower-than-expected support for Obama among Latino voters, the National Immigrant Youth Alliance decided that it was the perfect time to pressure the Obama administration into action (Saavedra, Interview with Author, 1/15/2013).

Like previous acts of civil disobedience, the activists planned to have the “most desirable immigrants in every category” carry out the occupation, challenging the administration’s wish to be seen removing only criminal migrants (Saavedra, Interview with Author, 1/15/2013). Unlike previous resistance strategies, the National Immigrant Youth Alliance did not want to visit the Capitol or demand legislation. Instead, organization wanted to create a “visual, physical disturbance” that would be a “real threat, not like an hour-long demonstration, but an always there, very real-life threat” that would “act how deportation works in [the migrant] community… getting to their communities the way they get to ours (migrants’)” (Saavedra, Interview with Author, 1/15/2013).

One week after the Colorado offices closed from undoccupation, undocumented youth stepped into Obama for America field offices in Cincinnati, Ohio, with the goal of remaining “physically and indefinitely, being disruptive to campaign and staffers” (Saavedra, Interview with Author, 1/15/2013). Marco Saavedra, one of the Cincinnati undoccupiers, emphasized the importance of using both undocumented people and allies in this action. “Although optimally, the events would have just been undocumented youth, the action was still led by undocumented folks, but allies were included due to a
lack of time and because Obama was working to get the Latino vote,” and it would be powerful to include Latinos publicly voicing their frustration against the Obama administration’s targeting of migrant communities.

In Cincinnati, supporters rallied outside of the closed campaign office while Saavedra and Cruz Bonlarron (a young Latino migrant ally and US citizen) waited in the storefront office, remaining visible to passers-by curious about what was happening inside. Saavedra and Bonlarron were prepared to stay “indefinitely. [They] wanted the perception of potentially staying indefinitely to be true. In the mission to dramatize and [to] confuse the staffers, [they] used the same in-your-face, confrontational tactics and lies that they use against you or your family when you’re in deportation proceedings” (Saavedra, Interview with Author, 1/15/2013). Instead of pushing for a case-by-case process to stop deportations (which already exists as prosecutorial discretion, and is supposedly offered or requested in low-priority removal cases, veterans, spouses and parents of citizens, and undocumented youth) (ICE 2011d), Saavedra “wanted to be seen as more aggressive and demanding, with the hope that they’d be more wanting to compromise or more amenable to what [they] were asking… a blanket stop for all juveniles in deportation proceedings” (Saavedra, Interview with Author, 1/15/2013). When the Obama administration made the Deferred Action for Childhood Arrivals announcement, some migrant rights and undocumented youth groups celebrated the victory. Deferred Action for Childhood Arrivals provided eligible youth with two-year renewable temporary protected status, work authorization, and relief from removal, but no path to citizenship. “The news said that [the policy decision] was made because
Obama for America wanted more donations and votes from their Latino base, which was not what we were wanting. … We didn’t want to be congratulatory [because self-congratulation implies satisfaction and future inaction], but this was the leverage we wanted to pull against the administration” (Saavedra, Interview with Author, 1/15/2013).

Considering the bargaining chip the undoccupiers hoped to use to guarantee long-term stays of removal for every undocumented youth, the action fell short of its intended long-term goal. However, shutting down five offices was “very significant to counter the campaign at the community level and obstruct their work. This was how we wanted to dramatize [the insecurity of communities] and effectively did so” (Saavedra, Interview with Author, 1/15/2013).

The Deferred Action for Childhood Arrivals announcement did not emerge merely from the Obama administration’s drive to win Latino votes; the undoccupation of campaign offices played an important role in this policy creation (Saavedra, Interview with Author, 1/15/2013). Undoccupiers cut off Obama for America’s access to campaign work in key regions of swing states. Without this sustained threat to get out the vote work, the Deferred Action for Childhood Arrivals announcement may not have been made or implemented with such haste. One long-term goal that the undoccupiers hoped to meet was not just demonstrating that “civil disobedience is a tool that anyone can use, but [making] it now more accessible to [the] community. The more people do it and the more they’re comfortable doing it, the better it is. If the circumstances are as bad as we know they are, it’s an important tool to use” (Saavedra, Interview with Author, 1/15/2013).

Although the change in policy offered a temporary form of relief to some undocumented
youth, the National Immigrant Youth Alliance continued pushing for changes to benefit a larger portion of the migrant community.

§4. Infiltration of Broward Transitional Center

On July 30, 2012, a press release revealed that Viridiana Martinez, an undocumented activist, had infiltrated the Broward Transitional Center, an immigration detention center for migrants awaiting decisions from immigration judges, and was organizing from within. Two days later, the National Immigrant Youth Alliance issued another press release declaring that Marco Saavedra was a second infiltrator, and had been in the facility since July 11, working to organize male inmates. Both Martinez and Saavedra are DREAM Act-eligible and qualify for relief from deportation under Deferred Action for Childhood Arrivals (if they choose to apply). Despite claims that the removal process offers protections to DREAM Act- and Deferred Action for Childhood Arrivals-eligible youth, the arresting officers failed to look into either infiltrator’s date of birth or background information. In theory, such background screening should have prevented Martinez and Saavedra from entering the detention center in the first place. The National Immigrant Youth Alliance chose Broward Transitional Center because of their familiarity with the center, its location, and research already conducted from site-specific removal cases. The organization previously represented detainees inside Broward Transitional Center with cases that could have qualified for prosecutorial discretion or Deferred Action for Childhood Arrivals.
Florida was a potential swing-state in the elections, Sen. Rubio had brought immigration reform to national attention, and Sen. Ben Nelson “needed to be pressured to do more immigrant-friendly advocacy work for families” (Saavedra, Interview with Author, 1/15/2013). The GEO Group-controlled Broward Transitional Center was seen as a “model facility” by civil detention center standards, and is home to “one of the five worst immigration judges in the US” (Saavedra, Interview with Author, 1/15/2013). The short-term goal behind infiltration was to “gather as many cases that could get prosecutorial discretion as possible, not gain publicity,” and the long-term organizing strategies were to bring about a full review and resulting shutting down of Broward Transitional Center and to “organize to push the limits of your own detention once you’re in a detention facility” (Saavedra, Interview with Author, 1/15/2013). Saavedra and Martinez had previously processed large quantities of intake for potential cases to be handled by the National Immigrant Youth Alliance and result in relief. Both knew that this escalation to the point of infiltration would shed light on the commonly-held belief that deportation and detention are the absolutely worst possible events to befall an undocumented person:

This was a little more ambitious and more proactive than waiting to hear about deportation cases. Actively going to the case is more aggressive, and for me, personally, there are more cases than we have that we don’t hear of where people are obviously being deported. Both in the long term and short term, our goal is to actually go to the centers that operate to deport
people with an easily-transferrable organizing model that can be taken to other sites. (Saavedra, Interview with Author, 1/15/2013)

Once inside of the center, Martinez and Saavedra began to reach out to detainees, sharing the National Immigrant Youth Alliance’s hotline number and connecting them to attorneys to build their cases from within Broward Transitional Center’s walls. Because Broward Transitional Center was “perceived as a model facility, the space for males… had rooms like a motel, there was a courtyard. Rooms aren’t locked, and relationships with guards were pretty friendly…” (Saavedra, Interview with Author, 1/15/2013). When it came to organizing strategy within the space, Saavedra mentioned that there are designated spaces and times where certain people are permitted to walk around. For example, “you have to walk down hallways to get cleaning utensils, and we used that time to talk to 8-10 people room-to-room, give them the hotline, and confirm the hunger strike” (Saavedra, Interview with Author, 1/15/2013). These open spaces that encourage the relatively free movement of detained migrants are uncommon at other detention centers. At first, Saavedra and fellow detained migrants who became organizers were tentative about where and when they had organizing conversations, but eventually toted a notebook to facilitate organizing. “The biggest fear people felt was to be moved to Krome (another detention center, structurally a more hostile place), which wouldn’t have been the worst case scenario for organizing, because they’d be able to organize a new space” (Saavedra, Interview with Author, 1/15/2013). Broward Transitional Center forcibly released Saavedra and Martinez after 23 days inside. In that time, Saavedra worked with migrant detainees who organized a hunger strike in which all 500 male
detainees participated. Saavedra, Martinez, and National Immigrant Youth Alliance crafted a scale-jumping campaign for publicity about detention practices, the detention of low-priority migrants, the lack of application of prosecutorial discretion, the limited asylum granted to migrants, and scarcity of medical treatment for detainees.

Soon after Martinez’s interviews with national media outlets while still detained, Broward Transitional Center management and immigration officers revealed to Martinez and Saavedra that they qualified for relief from removal through prosecutorial discretion and would be released. Both Martinez and Saavedra refused to leave because countless other inmates qualified for prosecutorial discretion as well, and were forcibly removed from Broward Transitional Center. Soon after, Martinez and Saavedra took part in an act of civil disobedience, being arrested in front of the center for blocking traffic. Saavedra explains:

We were about to get exposed for the infiltration, and we knew that that would force ICE to kick us out, and so we wanted to continue that narrative, continue the stories to come out from the media by doing the [civil disobedience], and shifting the focus not to us and why we turned ourselves in, but to the plight of the detainees and their families – to continue the press around [Broward Transitional Center], but to center it around the families. It wasn’t because we wanted to, so many of the stories were about the infiltration, but didn’t catch on to the detainees, because I feel that it might seem like more appealing of a story line.

(Saavedra, Interview with Author, 1/15/2013)
The civil disobedience served to focus attention not on the infiltrators, but on the detainees (Sweeney 2012). Another reason for this post-release act of civil disobedience was “to introduce the idea of [civil disobedience] to the community, to make them more comfortable about how us, as undocumented people, could fight back against the system, not just outside, but inside, too” (Saavedra, Interview with Author, 1/15/2013). Five-hundred detainees within Broward Transitional Center signed a letter asking for the center’s full review, and 26 house Democrats filed a motion asking for the same.

Saavedra (Interview with Author, 1/15/2013) explains that the infiltration forced a dramatic shift in organizing practices, in that ICE was being forced to respond to strategic action taken by undocumented migrants, not vice versa:

At the very beginning of the infiltration, ICE made a statement that the allegations made by [the National Immigrant Youth Alliance] weren’t true and that we didn’t have as much info as they did, but that was effective, because it got them to react to us, because we usually have to respond to them – they were responding to us interfering with the work that they were doing. Also, this might be too ambitious, but a [long-term] goal of the infiltration was to change the narrative of detention and how one can still organize inside so other people can see this as an option in terms of organizing their community, and be ready, hopefully, if they were ever in that worst case scenario or attempting to plan about it. (Saavedra, Interview with Author, 1/15/2013)
Directly contesting the technique of disciplinary power that threatens each individual migrant with the ultimate punishments, imprisonment and removal, organizing migrant detainees within a civil detention center shows that even the most panic-inducing situations are potential organizing opportunities for self-empowerment.

Saavedra and Martinez worked with detainees to redefine detention from a space of uncertainty and fear into a space of opportunity and resistance. Saavedra and Martinez willfully occupied detention space, which challenged the discourse that migrants must languish in detention while passively awaiting an immigration judge’s decision. During the same span of time as the infiltration of Broward Transitional Center, national organizational partnerships carried out a different form of strategic resistance to enforcement practices.

§5. UndocuBus and Migrant Dignity

On July 29, the 2012 UndocuBus Ride for Justice set off from Phoenix, Arizona, heading for the Democratic National Convention (DNC) in Charlotte, North Carolina. Thirty-five riders packed into the bus named ‘Priscila’ (affectionately named after the Australian film *The Adventures of Priscilla, Queen of the Desert*), which was adorned with Monarch butterflies, and defiantly proclaimed “No Papers, No Fear – Journey for Justice” in English and Spanish on its sides (Franco 2012). Like the Trail of DREAMs, the Ride for Justice had highly-publicized and planned stops along its journey to the DNC. Framed differently from other cross-country treks, the Ride for Justice emphasized the diversity of its participants. Naming the journey after justice (as opposed to a piece of
legislation) reflects UndocuBus’ support for a more inclusive, larger-scale shift in the
treatment of often marginalized people.

Rather than seeking legitimacy to make their claims through a forced unity born
of homogeneity, UndocuBus publicized differences between bus riders. Unlike the Trail
of DREAMs and the undoccupation of Obama for America, UndocuBus riders ranged
widely in age, country of origin, current place of residence in the US, ethnicity, past
interaction with law enforcement, immigration status, and notoriety. Entire families –
mothers, fathers, and daughters, queer youth, day laborers, community organizers,
students, migrant rights advocates, and queer middle-aged health promoters were among
the riders. Instead of limiting participation to fresh-faced, A-student immigrant youth,
UndocuBus made it clear that the justice they advocated is not limited to one subsection
of the undocumented migrant population (UndocuBus 2012). This emphasis on the
diversity of migrant rights supporters was reflected in discourse and direct action planned
along the UndocuBus’ trip to Charlotte.

Five days before the Ride for Justice’s kickoff, four UndocuBus riders stepped
away from a rally in Maricopa County, AZ. Inside of the Phoenix courthouse, infamous
Sheriff Joe Arpaio was on trial for racial profiling. Immediately following an act of civil
disobedience, local law enforcement arrested the four riders, and ICE requested holds
against each of the four. UndocuBus and its organizational partners issued an urgent call
to advocates nationwide demanding that ICE and county officials release the
demonstrators. Soon after, all four participants were released and ICE dropped its hold
requests (Goodman 2012, Alcazar 2012).
Along the way to the DNC in Charlotte, UndocuBus riders stopped to visit supportive faith communities, art collectives, and migrant rights coalitions, who often planned rallies in support of the riders. Riders welcomed new participants in the Ride for Justice, and several participants who arrived on the UndocuBus to Charlotte joined after the bus left Phoenix (Mills 2012). After traversing ten states, the UndocuBus riders arrived to the DNC on September 4. Blocking traffic in front of the convention center, ten of the undocumented riders dressed in white shirts decorated with Monarch butterflies held cloth banners reading, “UNDOCUMENTED,” while kneeling and chanting, “no papers, no fear” as a crowd gathered around them. The ten activists spent one night in jail, but were released without being assigned immigration court dates or threatened with removal (Wright 2012). With regard to raising awareness of the presence of a diverse undocumented community while protecting themselves from removal, the civil disobedience culmination of the Ride for Justice was a success. It is also important to examine UndocuBus’ less obvious acts of resistance and their intended targets.

The Ride for Justice emphasized the importance of dignity – not fear – in spite of one’s undocumented status. In a statement on the UndocuBus website, the participants target action to decision makers:

We travel to North Carolina first and foremost because it is a place, like so many others across the country, that faces the federal and local policies that criminalize and marginalize our communities. It is the home of the Shogun 12, it is the home of emerging day labor centers and where undocumented youth have come out of the shadows in the face of
repression. A movement is building and growing across sectors in North Carolina that includes the LGBTQ community, Occupy, families of and formerly incarcerated people, labor and worker organizations and many more. We come to North Carolina first and foremost to build with local communities. …When we arrive after having braved so much, will we be included as undocumented leaders, as honorary delegates, as people who have felt the direct impact of today's immigration policies, or will we be excluded? Decision-makers who feel our community's pain can take decisive action to end it. We're ready to move the country forward and we're risking everything to do so. We hope to inspire officials to match our courage. (UndocuBus 2012)

The statement invokes the act of “coming out of the shadows,” which is central to the lexicon of undocumented activism. Regardless of immigration status, perceived criminality can mean deportation (Hernandez 2012). Because of this technique of power, many immigrants either choose to perform the role of super-citizens, which may include the open profession of their love of the US and unwavering support for domestic laws and policies, or decide to avoid surveillance altogether by “living in the shadows” – rendering themselves invisible to public scrutiny. This symbolic act of moving out of the shadows and into the light characterizes one aspect of migrant resistant strategy. Migrants reject attempts to criminalize their visibility, and assert their right to be undocumented in public without fearing removal.
In coming out, the UndocuBus riders appeared to broadcast a wider message to fellow undocumented people to reject fear and fully embrace dignity. However, the above statement from the UndocuBus website and the Ride for Justice’s concluding act taking place in front of the DNC suggest that event’s intended audience was policy makers and Democratic allies to immigrants. Pressuring Obama, Democrats, and Obama supporters while taking advantage of national media presence, the UndocuBus riders demonstrated their understanding of the potential source for their community’s relief. It was important to appeal to the Obama administration as well as its supporters for a change in policy on removals.

At the discursive level, the UndocuBus Ride for Justice was about encouraging undocumented people to refuse to let fear of removal take away their dignity. The two acts of civil disobedience protected their participants from deportation. This action effectively targeted the technique of disciplinary power that poses the constant threat of removal to individual migrants. However, when looking at the entire undocumented community in the US, the UndocuBus riders’ resistance does not effectively target overarching techniques of biopower that aim to manage the entire undocumented migrant population.

Effectiveness of Spatial Strategies of Resistance

Techniques of governance also work to locate differences between immigrants and the larger population at the scale of the body and to define the terms of racialization and illegality. Illegality and its racialized construction informs the way society and
immigration enforcement understand migrant populations. Immigration enforcement practices push unauthorized migrant populations to become invisible. Law enforcement, policy-makers, and society discursively shape and maintain migrant populations. Here, the difference between citizens and migrants is a difference between goodness and criminality.

Techniques of power categorize, manage, and discipline migrants. These techniques racially mark immigrants, normalize their behavior, and incapacitate, immobilize, and render entire migrant populations invisible to the general public. At the same time, migrants who fail to conform to these techniques of disciplinary power become legible to governance through interactions with law enforcement. After analyzing the power relations behind migrant incapacitation and criminalization, a migrant understands her subjectification. After forming a critique, she can resist.

Although removing one’s fingerprints makes placement in the Secure Communities biometric databases impossible, this is not a realistic or safe option. Migrants use other tactics to directly address the techniques of disciplinary power targeting individuals by creating new practices of visibility and mobility. Currently, immigrant youth deploy strategies that could potentially result in deportation to redefine unauthorized status and expose the production of criminal migrants.

The UndocuBus Ride for Justice makes for an interesting comparison with Leitner, Sheppard, and Sziarto’s (2008) case study of the Immigrant Workers' Freedom Ride in the process of coalition-building, as well as the dual strategic-symbolic nature of the freedom ride. The UndocuBus carried a message of dignity regardless of immigration
status, and encouraged coalition-building between migrant rights and progressive, faith-based allies, as did the Immigrant Workers' Freedom Ride. Both UndocuBus and the Immigrant Workers' Freedom Ride employed movement across the US to facilitate nationwide mobility and local mobilization. Each of the trips took riders through the South, yet the Immigrant Workers' Freedom Ride’s ride more openly reenacted the Freedom Rides of the 1960s and actively sought to echo the Civil Rights Movement (Leitner, Sheppard, and Sziarto 2008, 166). Each bus provided a space for the creation of alternative discourses and fostered solidarity. This mutual investment in collective liberation crystallized through the participants’ contact with CBP, who boarded the Immigrant Workers' Freedom Ride bus, and civil disobedience in refusing to answer questions or exit the bus.

Although the March For America and Trail of DREAMs used different strategies in staging migrants’ mobility for political ends, both resulted in a convergence on Washington, DC. A central assumption to the actions targeting the creation of new laws is that the status quo is most effectively reversed through federal legislation. Given the case study of day laborers and the “right to the city” of undocumented migrants, Varsanyi (2008a) provides useful insight to investigating the disappointing results of both actions. Varsanyi notes the importance of scale when looking at migrants' claims to public space, referring to national migrant rights organizing and local claims to cities (while noting that political action is not limited to the fixed nation-state scale).

The March For America targeted national-level political actors without considering the significance of non-legislative action at smaller and different scales.
Although Reform Immigration FOR America encouraged local send-off events, the March For America promoted a national-level showing of support for comprehensive immigration reform. Trail of DREAMs and the UndocuBus Ride for Justice also directed their message at the national scale: more specifically, the Trail of DREAMs targeted legislators and the Ride for Justice targeted executive decision-makers. The Ride for Justice, however, made this appeal through a deliberately contentious use of public space resulting in participants’ arrest, as opposed to appealing to the national scale at its core like the Trail of DREAMs and March For America.

Varsanyi’s (2008a) discussion of “right to the city” literature through migrant use of public space explains the March For America and Trail of DREAMs’ unmet goals. Contesting the general dismissal of rights talk literature, Varsanyi points to the importance of rights talk, in that many of the rights in "right to the city" literature are not guaranteed by the law. When citizenship is the assumed base for legitimate claims to the city, attempting to make claims outside of this realm becomes highly problematic. Recognizing the possibility of these claims being ignored because of immigration status, undocumented youth in the Trail of DREAMs emphasized their role as exceptional migrants, and the March FOR America forced a singular, highly nationalist identity on its participants. However, these organizational appeals to lawmakers for comprehensive immigration reform was based the assumption migrants had the “right to the city.” This right would have legitimized their larger request for legally-guaranteed rights. This and other shortcomings in targeting specific techniques of governance that attempt to manage migrants are important ways to explain the relative ineffectiveness of the two actions.
In its Ride for Justice, UndocuBus worked to problematize the way racialization produces illegality. The discursive construction of migrants as alien, un-American, non-white, criminal, and inhuman is an important tool in migrant control and regulation. Hiemstra (2010) discusses the American public’s understanding of all brown bodies as Mexican (regardless of country of origin), and of illegality marked by brownness (regardless of immigration status). Observing or perceiving the brownness of a person facilitates criminalization. Race is the visual marker of difference that allows for discourse to presume illegality without knowing a person’s immigrant status or country of origin. Discourse, then, racially marks immigrant bodies, inscribing them with undesirability as well as illegality. Immigrant illegality is a racial construction.

In order to effectively resist external attempts to conflate race with criminality, migrants constantly negotiate and struggle with the ultimate goal of adjusting the way in which power and authority exist across scales (Leitner, Sheppard, & Sziarto, 2008, 159). In acts of resistance, there are four strategies of investigating and manipulating scale and multi-scalar connections: 1) scale, which shapes the confrontation of practices on a continuum of state and non-state, and the state’s multi-scalar nature in local places; 2) scalar strategies of place-based politics and scale-jumping, which necessitate negotiating contradictions between the two; 3) scalar frames, which should be established and used in contentious politics; and 4) conflicting scalar frames and policies, which coexist in social movement alliances. Networks, deliberations, and co-presence cannot merely be explained by scale. A hierarchical approach to scale is too simple, and overlooks the
complexities of power hierarchies. Scalar relations do not connect territorially-bound people and places, because place itself is heterogeneous (Massey 1993).

New practices can inscribe places with new meanings, and this is clear through undocumented activists’ unsettling and indefinite occupation of space. The materiality of place correlates to and shapes quotidian practices as well as interactions between people, and therefore is “imbued with power” (Leitner, Sheppard and Sziarto 2008, 161). In order to contest hegemonic norms, “[movements] often seek to strategically manipulate, subvert, and resignify places that symbolize priorities and imaginaries,” and “to defend places that stand for their priorities and imaginaries; and to produce new spaces where such visions can be practiced” (Leitner, Sheppard and Sziarto 2008, 161-62). Instead of moving in unrestricted channels, the two acts of civil disobedience coordinated by the National Immigrant Youth Alliance relied upon the continued occupation of space. As Cresswell (2006) explains, “one correct way to practice mobility is as a citizen” (Cresswell 2006, 750). In staying put, the undoccupiers were not practicing citizenship, but rather an odd, self-imposed form of restricted mobility. Und occupiers’ continued presence meant “threats to good order of particular kinds of spaces...” – private spaces – “which had been invested with moral (and legal) worth” (Cresswell 2006, 751).

Shadow citizenship and the discourse and practice of the law are contradictory (Cresswell 2006, 752), and effective strategies of resistance highlight this contradiction. Politically contentious movements seek to redefine place and resignify the meaning of space. These strategies are exceptionally clear through undocumented youth’s occupation of Obama for America offices and infiltration of Broward Transitional Center. Targeted
acts of resistance “…temporarily [re-signify] the meaning of […] space […] as one of political contention” (Leitner, Sheppard, & Sziarto, 2008, 162). Staging, performance, humor, and irony can foster this process. Saavedra (Interview with Author, 1/15/2013) repeatedly emphasizes the importance of dramatization in order to ironically reflect the technique of biopower that keeps entire populations of migrants living in fear of constant uncertainty upon those responsible for its application. Each instance of strategically-targeted resistance presents a specific understanding of a problem affecting migrants and how to change it.

From each migrant-led act of resistance, extensive planning leads to the creation of alternative discourses about being undocumented, as well as the reflection of techniques of governance onto the actors that promote instability in migrant communities. Leitner et al. (2008) insinuate that little to no academic/intellectual planning takes place while developing alternatives to hegemonic norms. Rather, they suggest that migrant activists "draw on their experience and knowledge, crafting and intuiting strategies that they hope will succeed, and will simultaneously engage multiple spatialities" (Leitner et al. 2008, 166). The authors severely underestimate the strategy required for effective campaigns against hegemonic norms.

**Conclusion**

Migrant communities are intensely aware of the strategies that aim to destabilize, regulate, criminalize, and remove them. Each of these instances represents a geographical transgression that challenges the government to enforce its immigration policy. Through
scalar and spatial tactics, migrant activists and advocates directly contest enforcement strategies. The National Immigrant Youth Alliance, the Trail of DREAMs, and the UndocuBus Ride for Justice used non-migrant support to jump scale. By reaching out to allies and media outlets, these organizations made local, campaign-related removal cases into national issues.

Spatial strategies of resistance use the occupation of space to target specific techniques of enforcement. Incapacitation is the central tenet of immigration enforcement, and effective spatial strategies examined above take over spaces that are either exclusively intended for or absolutely forbidden to migrants. When migrants occupy space in ways unanticipated by immigration enforcement, they transform it. This transformational occupation contests techniques of enforcement, and allows migrants to shift discourses of criminality, unauthorized status, and migrant access to public space.

Resistance to migrant incapacitation and criminalization should not pit migrants against one another. Although rights advocacy presumes citizens can effectively lobby to guarantee migrant rights, not all migrant rights organizations operate with the same theory of social change. Many neglect to effectively engage migrant communities to assess desirable community improvements and problems to be solved. When advocacy organizations define problems the migrant community faces, they limit the scope of resistance. These organizations understand transformative action within the realms of legislative action and electoral politics, but often dismiss migrant-led organizations’ acts of civil disobedience and political strategies as too controversial or ineffective. Supporting legislation that blocks criminal migrants from eventually accessing
citizenship in order to afford a small number of deserving migrants the same opportunity ignores the reality of migrant criminalization. Immigrant rights organizations cut political deals to bargain away the rights of some undesirable migrants for the rights of other migrants in the name of migrant rights for all, which is far more problematic and controversial than an act of civil disobedience.
Chapter 3: Representation

Introduction

In this chapter I explore the problematic overlap between migrant criminalization through incapacitation and pro-migrant advocacy: representing the migrant. First, I establish a theoretical framework for discussing representation. Spivak’s essay *Can the Subaltern Speak?* (1988) discusses the dual nature of representation, and expresses harms caused by the desire to represent others. Second, I show how immigration enforcement depends upon representing the migrant. Third, I discuss how pro-migrant advocacy represents the migrant. Lastly, I conclude that migrant advocacy and immigration enforcement both silence and criminalize migrants. Although these diverse interests appear diametrically opposed in their treatment of migrants, both rely on the image of the migrant as either criminal or lawful to carry out their work. The discussion of migrants as either criminal or lawful is antithetical to a discussion of migrant rights. Through the examples of migrant-driven resistance to regimes of enforcement as contrasted with non-migrant-led organizations and campaigns against regimes of enforcement, this chapter
posits that in order to truly take part in a struggle for collective liberation, one must constantly struggle with the desire to represent.

“Can the Subaltern Speak?”: A Commentary

Before further discussing representation and its role in migrant criminalization and advocacy, I will first offer a critical perspective of representation and its underexamined and sordid place in the history of Western thought. Spivak discusses the historical tendency of Western intellectuals to homogenize and represent subaltern experiences.

Weaving the narratives of Western intellectuals on the homogenized subaltern experience with the individual narrative of Bhuvaneswari Bhaduri, “Can the Subaltern Speak?” (Spivak 1988) expands beyond the limitations of a two-dimensional page into life as text. Textual analysis and the possibility of close-reading are not limited to the written word – as Spivak (2010) states in *In response: Looking back, looking forward*, even death can be read as text (Spivak 2010, 235). “Can the Subaltern Speak?” (Spivak 1988) asserts that it offers an alternative frame for situating Western discourses as well as for the possibility of speaking of (or for) the subaltern woman. Does the use of a singular subaltern woman imply that there is only one singular subaltern experience? Within the implicit frame of Western thought from the Western subject, can the subaltern speak? By asking this question, Spivak unsettles the notion of a singular, self-evident subaltern. Spivak shows the Western intellectual tradition of epistemic violence has foreclosed upon the possibility to trouble the subaltern as a divided, incoherent category. In doing so,
Spivak argues that this foreclosure extends to the possibility for the subaltern’s self-representation (Spivak 1988, 295).

In a 1972 conversation, Foucault and Deleuze discuss power and struggles for liberation, connecting them to class struggle. Spivak dissects their speech (1988) to make the Western subject visible, previously shrouded by Western intellectual tradition. When Deleuze suggests that conditions may develop where prisoners are able to speak, Foucault inserts that the masses “know perfectly well, clearly, …far better than the intellectual, and say it very well” (Spivak 1988, 279). When further fleshed out in their conversation, Foucault and Deleuze suggest that the masses are neither naïve nor ignorant, but instead complicit in decisions that shape their governance. Their assumptions are that “the oppressed can know and speak for themselves,” and that there is no representation, only subaltern reality (Spivak 1988, 279). Spivak shows that “indeed, the concrete experience that is the guarantor of the political appeal of prisoners, soldiers, and schoolchildren is disclosed through the concrete experience of the intellectual the one who diagnoses the episteme,” countering Deleuze’s assertion that “there is no more representation; there’s nothing but action” (Spivak 1988, 275).

One important consequence of undisclosed Western Self has been the refusal to acknowledge any need to represent the Other, while doing exactly that. Without interrogating the conditions of the production of the Other in the Western intellectual tradition, one will continue the creation and separation of the Western Self from the Other. The creation and obscuring of a Western Subject is dependent upon narrative and institutional structures upheld by intellectuals that simultaneously result in “the
constitution of Other as the Self’s shadow” (Spivak 1988, 280). The Western Subject’s creation of the Other is a continual process. The Subject’s role in “[obliterating] the textual ingredients with which a subject could cathect, could occupy (invest?) its itinerary…” prevents the possibility of the Other as Self (Spivak 1988, 280). In its refusal to acknowledge this separation, the Western Subject – the Self – forecloses on the possibility of the Other’s self-representation, acknowledging the Other’s experience as already accurately presented. In Foucault and Deleuze’s discussion of the working class and Marxist, hand-waving occurs that necessarily defines those “those who act and struggle” in opposition to those discuss their action and struggles (Spivak 1988, 275). This distinction implies the Western Subject as the tidy, bounded, and unproblematic foil to the Other. However, “…[t]o buy a self-contained version of the West is to ignore its production by the imperialist project” (Spivak 1988, 291).

The conversation between Foucault and Deleuze reveals an unwitting merging of two meanings of representation, which creates the illusion of the self-representing subaltern. “Running [these two understandings of representation] together, especially in order to say that beyond both is where oppressed subjects speak, act, and know for themselves, leads to an essentialist, utopian politics” (Spivak 1988, 276). This implicates not just Deleuze, but the entire Western intellectual tradition. The assumption embedded in the foundation of this tradition is that the oppressed and the intellectual speak and act in the same register; there is no need to translate or transpose that which is already legible. Western logic dictates that it be imposed externally on perceived actions, speech, or knowledge without acknowledging the possibility of a different internal logic. Here,
Spivak distinguishes between the two forms of representation in the context of establishing ideological theories of power:

Such theories [of ideology] cannot afford to overlook the category of representation in its two senses. They must note how the staging of the world in representation—its scene of writing, its Darstellung—dissimulates the choice of and need for ‘heroes,’ paternal proxies, agents of power—Vertretung. (Spivak 1988, 279)

Spivak complicates Deleuze’s deceptively simple and imprecise use of representation that vacillates between vertreten, representation as speaking for, in politics, and darstellung, re-presentation, subject predication, art or philosophy. “The complicity [of the two], their identity-in-difference as a place of practice—since this complicity is precisely what Marxists must expose, as Marx does…—and can only be appreciated if they are not conflated by a sleight of word” (Spivak 1988, 277).

Elaborating, Spivak offers a reading of Marx’s The Eighteenth Brumaire that refuses to fall into the trap of using both concepts of representation interchangeably:

Here is Marx’s passage, using “vertreten” where the English use “represent,” discussing a social “subject” whose consciousness and Vertretung (as much a substitution as a representation) are dislocated and incoherent: The small peasant proprietors “cannot represent themselves; they must be represented. Their representative must appear simultaneously as their master, as an authority over them, as unrestricted governmental power that protects them from the other classes and sends them rain and
sunshine from above. The political influence [in the place of class interest, since there is no unified class subject] of the small peasant proprietors therefore finds its last expression [the implication of a chain of substitutions – *Vertretungen*—is strong here] in the executive force [*Exekutivgewalt*—less personal in German] subordinating society to itself.

(Spivak 1988, 276-277)

The small peasant proprietors’ representation by a “‘representative’ who appears to work in another’s interest” unites them in the experience of forced representation (Spivak 1988, 276).

This discussion of *vertreten* in the context of political representation continues with a meditation on presentation through proper names. Spivak continues to dwell on Marx, and the French socio-historical context addressed in his almost journalistic work *The Eighteenth Brumaire*. The simultaneous affirmation of the French peasantry’s lineage through Napoleon and rejection of the possibility for “search for the natural father” is another clear example of representation as *vertreten* (Spivak 1988, 278). Homogeneity is forced onto those being represented, and this establishes a false “monolithic collectivity… whose fractured subjectivity allows them to speak for themselves against an equally monolithic ‘same system’” (Spivak 1988, 278).

Spivak shows spaces where texts deconstruct themselves, revealing a mismatch between the signifier and signified (Spivak 1988, 306). This close reading allows Spivak to interrogate concepts and structures that have been previously unquestioned, which reveals an unraveled text. Reading each slip and omission, this language-centric
investigation is a careful, deliberate treatment of theory born of the assumption that the subaltern are actively representing themselves, and that mediation by intellectuals or institutions is therefore unnecessary. Instead, the subaltern are a signifier of collectivity for the political projects of others. Here, Spivak mentions alliance-based politics responding against a unified repression. Assumed collectivity is a fallacy, given that the “colonialized subaltern subject is irretrievably heterogeneous” (Spivak 1988, 284). However, despite the international division of labor and systematic spatial unevenness of the ideology of consumerism, members of dominant social groups that support the idea of international feminism see the utility in forming a political bloc. Here, the image of the subaltern woman emerges as “doubly in shadow:” “on the other side of the international division of labor, the subject of exploitation cannot know and speak the text of female exploitation, even if the absurdity of the nonrepresenting intellectual making for her to speak is achieved” (Spivak 1988, 288).

Spivak mentions the Foucauldian use of domination (power) and exploitation (production) to distinguish between the two conditions behind the two terms’ existence. Alliance politics are built on a specific struggle against power as domination, not against the international division of labor or capitalist production relations. The imposition of the workers’ struggle on the worldwide proletariat overlooks the international division of labor, and is a forced representation (vertreten) and homogenization of an entire class.

Spivak introduces Derrida’s project through productively accurate misreadings of his close readings. Spivak argues that Derrida’s work is less dangerous than what she calls the disappearing act of the benevolent Western intellectual who “masquerades as
absent non-presenter who lets the oppressed speak for themselves” (Spivak 1988, 292). Derrida “articulates the European Subject’s tendency to constitute the other as marginal to ethnocentrism and locates that as the problem with all logocentric and therefore all grammatological endeavors” (Spivak 1988, 293).

The task of forcing the representation with regard to the subaltern is also a logocentric endeavor. The important discussion of Lyotard’s term differénd, which was addressed earlier in this text but without its proper name, shapes our understanding of the female subaltern subject as a state of alterity that cannot be linguistically reconciled (Spivak 1988, 300). The construction of the female subject in life is the place of the differénd (Spivak 1988, 301): the problem of the subaltern’s self-representation is the gap between signifier and signified.

Specifically, the female subaltern – and the example of sati that is not to be taken as a generalization, but only an illustration – may choose to adjust what is signified, but this does not mean that that which is signified will be read as intended through the signifier. For example, although the two terms ‘suttee’ and ‘sati’ ostensibly share the same meaning, they are not used interchangeably in Spivak’s text. Unlike sati, suttee is refers to the colonizer’s conception of the act. Spivak explains that the instance of sati shared in “Can the Subaltern Speak,” (1988) and elaborated upon in In response: Looking back, looking forward (2010) is not sati – the burning of the good wife, but rather arrival at truth-knowledge, justified suicide, because, as Spivak states, it represents the revolutionary moment, the act of speaking and realizing agency, albeit through self-immolation. The subaltern woman speaks: the text we are left with is her death.
As addressed in *In response: Looking back, looking forward* (Spivak 2010), the subaltern can speak, but speech as self-representation is externally illegible. Spivak uses the example of Bhuvaneswari Bhaduri to show that her speech (her death) was misread and dismissed. Rewriting social text, using language and actions to represent herself, the subaltern woman cannot guarantee that her actions, her speech, her experience, her message will not experience slippage in translation between signifier and signified. In “Can the Subaltern Speak?,” Spivak (1988) has attempted to recover one of the coded messages incoherent to the Western intellectual project of white men, dedicated to saving brown women from brown men (or themselves) (Spivak 1988, 297).

*My Role in Representing the Subaltern*

For the past two years, I have made a living by thinking, reading, and writing; I fall into Gramsci’s category of the traditional intellectual. I am indirectly charged by Spivak with furthering the project of continually establishing the Other in the shadow of the concealed Western Subject. This has happened through the attempted retrieval of information in one context and its forced (and impossible) translation into another. Despite all of the evidence against committing the epistemic violence of data collection and retrieval, why am I compelled to keep moving forward with empiricism (Spivak 1988, 295)? Why have I limited the scope of this work to the textual analysis of others’ peer-reviewed experiences? Why have I only analyzed events where either I or friends were present? Is this an unconscious attempt of avoiding the question of the desire to represent?
I naturally hope for this productive engagement with texts to result in the successful completion of a master’s degree in geography. I will soon be employed by a local immigrant advocacy organization. The desire to represent motivates my work, as well as the discipline within which I find myself (Wainwright 2012). Admittedly, attempting to confront desire without the safe distance provided through a psychoanalytic lens is foolhardy at best, but perhaps I will stay at a safe distance in order to still emerge unscathed from a close reading. (This does not mean that I will avoid confronting my desire to represent or desire to represent this desire.)

At my desk, I’m surrounded by faces with covered mouths. Zapatistas state, “para que nos vieran, nos tapamos el rostro; para que nos nombraran, nos negamos el nombre; apostamos el presente para tener futuro, y para vivir… morimos.” The woodblock stamp of the Virgen de las Barrikadas’ masked face, keeping tear gas and pepper spray out; an anonymous female protester’s mouth covered with a bandana as her fists shoot high in the air. Why do I surround myself with these images of popular struggles of groups to which I do not belong? Why have I chosen to draw caracoles, symbols of communal voice, and placed them alongside these silent, two-dimensional representations? Why am I so anxious about a career in which I am part of an institution that exists because it intends to represent migrants?

The reader inscribes meaning on the perceived silence. Although the migrant actor may have intended to remain silent so that her speech would not be (mis)translated, the reader has represented the migrant and interpreted her silence: “The migrant’s silence

6 “So that they would see us, we covered our faces; so that they would name us, we denied ourselves a name, we gamble the present to have a future, and in order to live… we die.”
elicits […] racist fantasies of purity and persecution that must always return from the outside, to estrange the present of the life of the metropolis, to make it strangely familiar” (Bhabha 1994, 238-239). Is reading these silences and inscribing them with meaning an unavoidable pitfall?

In the institutionalized struggle for migrant rights, organizations and allies have often failed to consider their desire to both represent the migrant politically (vertreten), as the voice of the voiceless migrant, and as a two-dimensional figure (darstellen), a purely a passive victim, unjustly persecuted. In order to move forward in the struggle for collective liberation, non-migrant advocates must acknowledge the harms committed by immigration enforcement and advocacy desiring to represent the migrant. If we realize a migrant rights movement without the desire to represent and focus it on the inherent dignity of every human being, we would do so at the expense of sovereignty.

*Immigration Enforcement and Representation*

When examining the ways in which the migrant is represented in ways that facilitate her criminalization, immigration enforcement practices do not represent (vertreten) the migrant as a proxy, but do depend upon and further the re-presentation (darstellen) of the migrant as a criminal. First, looking at language ICE uses in its interoperability removal reports, there is no longer the possibility of “non-criminal” alien status. All immigrants formerly categorized as non-criminal are classified as ICE fugitives, prior removals and returns, or EWIs (entered without inspection), visa violators, and overstays (ICE 2012c). Previously, ICE separately listed categories for the
people it arrested or booked and removed or returned as level 1, level 2, level 3, and non-criminal (ICE 2011b). This shift in categorical composition of immigrants makes each noncitizen, non-visa holder, and non-legal permanent resident into a potentially deportable body threatening the health of the nation. After the initial release of FOIA-requested interoperability reports in 2010, immigrant rights groups raised concerns about the contradiction between the intended purpose of targeting level 1 offenders and the mass removals of non-criminal immigrants, or “EWIs” (an offense that previously would not have merited deportation without having initially committed an aggravated felony). In response, ICE issued a press release entitled “Setting the Record Straight,” directly confronting specific immigrant advocacy organizations and rebutting claims that the program’s operations and conditions of enrollment are shrouded under secrecy, and that the program does the opposite of what it claims by removals of non-criminals making up over 25% of all deportations:

Secure Communities strategy reduces the possibility for allegations of racial or ethnic profiling because, unlike the current system, it relies on biometric—not biographic—information. Biometrics (in this case, fingerprints) are unique and virtually impossible to forge. Further, the fingerprints of every person criminally booked into local law enforcement custody are submitted through IDENT/IAFIS interoperability.

Additionally, ICE’s use of IDENT/IAFIS interoperability does not change local law enforcement’s daily operations, including what types of crimes warrant arrest or fingerprint submissions. This is enhanced by ICE’s
prioritization efforts which focus ICE resources against the greatest threats—criminal aliens. While ICE prioritizes the removal of convicted criminal aliens, the agency retains the authority to take immigration enforcement action toward any alien who is subject to removal, including non-criminal aliens. (ICE 2010b)

ICE brushes off any possible claims of racial profiling during the Secure Communities process (although it does not discuss the potential instances of racial profiling leading to a person’s arrest and subsequent search through the biometric database), as well as justifies the deportation of any “alien” within the US. This contestation of the immigrant and civil rights groups’ claim does not explain the presence of non-criminal immigrants’ biometric data in the database, nor does it attempt to broach the subject. This discourse connects with the previous establishment of a 100% national removal rate by 2012 in an ICE memo commonly referred to as “Operation: Endgame” (ICE 2003).

Societal discourses also play an active role in controlling immigrant populations for the benefit of communities (the local) and national security (the federal). In the wake of 9/11 (and with the establishment of DHS and ICE), the illegality of immigrants is discursively produced (Hiemstra 2010). The claim that “illegal is illegal,” one of the most commonly-used ways of explaining the need to target immigrants for removal and deny them access to work and social services, is connected to a larger regime of truths.

Laws establish guidelines, but the existence of laws does not guarantee that they will be followed. It is against the law to drive over the speed limit, yet a large portion of all drivers speed. Entering the country without inspection or remaining in the country
after a visa has expired is a civil, not criminal, offense. Whether or not they have committed an immigration offense, public discourse marks immigrants as criminals. Discourse on migrants conflates unauthorized presence with criminality. There is nothing inherently criminal about being an immigrant, and perceived immigrant status does not imply unlawful presence. Despite this, the discourse on unlawful presence is tied to unlawful entry, which is understood to be a breach of security. Immigrant bodies crossing the border took on a new threatening meaning following the attacks on 9/11. In the most literal sense, discourse shows that immigrants breed terror: foreign-born terrorists could come to the US, give birth to a US citizen, and this “terror baby” could attack the nation from within. Pregnant immigrants can also sneak across the border, giving birth shortly after arrival to “anchor babies,” which supposedly guarantee them eventual citizenship and free access to programs such as Medicaid, welfare, and housing assistance. As per a recent report issued by ICE, this assertion is disconnected from material practices, but shapes the way many people understand immigrants and their presence in the US (ICE 2012a). Immigrant advocacy also relies upon representing the migrant.

Advocacy and Representation

In meetings and conference calls, migrant rights organizations are quick to remind participants that they are charged with giving voice to the voiceless. It is the duty of advocates to frame their experiences and stories, whether they belong to themselves or were shared by others, to target potential supporters. The narrative burden of sharing the migrant’s plight lies on the shoulders of allies. Many organizations, such as Reform
Immigration FOR America, encourage the use of narrative framing devices for appealing to potential non-migrant supporters. The Ganz Model of organizing through storytelling as employed by Reform Immigration FOR America relies on the deliberate integration of migrants’ perspectives. Integrating narratives of the speaker and her interaction with the broken immigration system, the Story of Self establishes the speaker’s authority to talk about immigration reform. Even if the speaker is a citizen and has never personally experienced the fear of separation from her family, having heard someone else talk of the feeling authorizes them to share the story. In order to create and build a connection between the speaker and her intended audience, the Story of Us points to shared experiences that tie the listeners and the narrator to each other. In its final stage, the Ganz Model pushes for immediate action in the Story of Now. The speaker appeals to the urgency of change, and suggests that the now is the best time to act. In these three stories, the migrant is the tool in the narrative framework that justifies the pro-reform perspective. Implicit in the Ganz Model is the recruitment of non-migrant supporters, who will in turn use the stories they hear to garner more non-migrant support in favor of reform.

In framing the argument in favor of immigration reform and using the stories of migrants, immigration reform and migrant rights groups represent (vertreten) and represent (darstellen) migrants. A path to citizenship through good moral character or military service, as well as acknowledgement of wrongful presence in paying a fine or returning to one’s country of origin for a visa are the requirements for the only solution to one’s undocumented status. When immigration reform becomes an agency’s only goal,
the only problem migrants face is perpetual undocumented status. Regardless of other problems that the migrant community faces, the only remedy is creating an earned pathway to citizenship. Within this logic, there is no way that a migrant would actively choose to stay undocumented. If undocumented youth have criminal records or for personal or financial reasons decide not to take part in military service or pursue higher education, they are denied the only opportunity to fix their status. As seen in Chapter 2, when immigration reform is the only solution, it overlooks the intricacies of individual migrants’ circumstances and perpetuates larger problems of migrant criminality. Through CIR, only the most desirable migrants are permitted to become citizens, leaving behind and criminalizing those who are unable to pay their way or avoid law enforcement regardless of reform. Instead of politically representing migrants, lobbying and shaping policy on their behalf, migrant rights organizations could stop defining the problems of undocumented migrants if their internal structure changed dramatically.

According to Saavedra (Interview with Author, 1/15/2013), “[it’s] super necessary to have the people who are most afflicted voicing and leading migrants. Hopefully you don’t replicate the hegemonic structure on the outside within your movement.” As frequently seen in advocacy organizations, citizens or documented migrants are the decision makers. Although migrant rights organizations may tout undocumented membership, a miniscule amount is undocumented-led. This exclusion of undocumented voices in the management of migrant rights groups and immigration reform campaigns is bound to result in the continued refusal of alternate perspectives on what it means to be undocumented, and will diagnose being undocumented as a problem
that must be cured with a pathway to conditional citizenship. In addition to the problems resulting from acting as proxies on behalf of migrants (*vertreten*), migrant rights organizations have depended on the limited characterization of migrants as a potential source of economic productivity, or as criminals or victims.

Migrant rights advocacy depends upon the separation of citizens from noncitizens (signaled by Cresswell 2006), as well as the separation of good migrants from bad migrants. This is a form of representation-as-*darstellen*, because of its aesthetic portrayal of migrants as either good or bad, not as a proxy for migrants. Many immigrant rights organizations have worked to frame the debate simultaneously in economic and highly moralistic terms.

Many of the Ganz Model stories told to encourage public support for immigration reform centered on the experience of innocent undocumented youth who were brought here by no fault of their own, and who want to contribute to the country they call home but are unable to do so because they lack a Social Security Number. In this narrative framing, the parents of undocumented youth are to blame, and are guilty of trafficking their children into the US. Parents are to blame for the predicament of their undocumented children. Innocent victims and model citizens, DREAMers must push for the passage of the DREAM Act, their only recourse for contributing to American society. Because they are made to exemplify academic achievement, love of country, and good moral character, they, unlike other undocumented migrants, deserve to eventually become US citizens.
In spite of undocumented youth and their families’ diverse experiences, advocacy sacrifices heterogeneity for the sake of gaining a pathway to citizenship. There are many ways in which undocumented youth and their families can arrive to the US. Regardless of status, many migrants live and work while asserting their dignity. Migrant advocacy organizations homogenize undocumented youth as good, setting them up in opposition to bad, criminal migrants who admittedly deserve to be jailed and removed. Comprehensive immigration reform bills include additional funds and CBP officers to the US-Mexico border to catch drug traffickers and unauthorized crossers; a legislative condition of a pathway to citizenship for people already in the US is blocking others potentially looking for the same opportunity from entering the country. In addition to re-presenting migrants as either deserving to stay in the country or undeserving of admission or continued presence, migrant rights organizations have portrayed migrants as sources of profit.

In its January, 2010 training in Columbus, Reform Immigration FOR America announced its strategy to lobby local business owners to endorse the economic viability of a pathway to citizenship. Migrants would be framed as potential taxpayers (many already pay payroll, sales, and income taxes as useful laborers), and if offered a pathway to citizenship with a fine, they could inject billions of dollars into the economy (Hinojosa-Ojeda 2012). Their presence and potential citizenship are framed as economically beneficial. Instead of appealing to supporters of reform with the humanity of migrants, pro-migrant organizations like America’s Voice, Reform Immigration FOR America, and CHIRLA argue that migrants will contribute to the US economy most effectively when citizens. This frame for positioning the migrant as a source of
government revenue ignores what else migrants have to offer or are currently providing to the communities in which they live. For the sake of immigration reform, migrant advocacy organizations limit the influence of migrants to the money they can bring into the national economy. This re-presentation of migrants as economically productive, passively undocumented and deserving of a path to citizenship, or criminal and undeserving of the right to stay in the US conducted by migrant advocacy organizations touches down in the everyday lives of migrants, shaping the way in which their status is experienced and understood.

Although representation in immigration enforcement relies solely upon *darstellen*, pro-migrant advocacy re-presents (*darstellen*) and represents (*vertreten*) migrants, and in doing so, has committed significant harms to migrant communities and individuals. Representation for the ends of benefitting migrants often goes untroubled. Assuming that migrants’ speech is inherently legible implies that there is no need for representation because migrants are already sufficiently self-representing is problematic.

**Migrants Silenced and Criminalized through Advocacy and Enforcement**

In the post-9/11 context, immigrant illegality has been discursively linked with illegality/criminality. On the local scale, immigrants are understood as a marker of declining industry, a struggling economy, and the establishment of a service industry dependent upon flexible labor. The assertion that immigrants bring crime or are criminals is not founded in data, but is a discourse that is perpetuated through the current regime of truth, and pushed forward by enforcement practices. Both immigrants and citizens who
feel they must compete with immigrants for employment opportunities are victims of the same neoliberal mentality, which has fostered economic destruction of former centers of industry in the US, increased demand for flexible, contingency labor, and bolstered out-migration by destroying the possibilities for traditional means of social reproduction in immigrants’ home countries (as well as rescaled enforcement responsibilities to localities across the US) (Hiemstra 2010). Through the re-presentation (darstellen) of migrants as criminals and illegal, ICE justifies their pursuit, arrest, and removal of people who are not citizens. By targeting noncitizens and working to make sure that citizens see them as outsiders whose right to be in the country is questionable at best, an important part of migrant criminalization happens through portraying them as illegal. Although working to provide a pathway to citizenship for undocumented migrants and forcibly removing them from the country appear to be at odds, both advocacy and criminalization rely on the re-presentation (darstellen) of the migrant as either criminal or lawful. How can this be? Why does the criminalization of an entire population living in the US share any characteristics with the struggle to ensure their right to stay in the country? How do I ensure that my work does not further the mutually constitutive categories of migrants as illegal and legal?

When thinking of how to move forward, the frustratingly impossible translatability of silence reappears; silence is inaccessible, and cannot be translated from one mode of discourse to another. Why am I fixated on the silence of migrants? Why am I reading into what I perceive to be silence, when it may be speech? Silence may signal an unwillingness to speak. Silence can be a form of resistance. It seems too simple that
the alternative to speaking/language is silence/absence of language. Silence resonates when understood through the subjectivity of the ears upon which it falls.

Is authority anxiety rooted in the revelation of its power as anything less than absolute? Is it possible to produce writing outside of representation? Is my authority as an author the root of my anxiety and desire to represent? I see that before confronting the discussion of desire and representation in the body of Spivak’s text, I must dwell on the conditions for this unsettling, seemingly insurmountable difference. After all, “it is certainly not the desiring subject as Other” (Spivak 1988, 273). The represented migrant is not the desiring subject. What do I do with my desire to represent? “To confront [the Other] is not to represent (vertreten) them but to learn to represent (darstellen) ourselves” (Spivak 1988, 288-289). How do I move beyond my desire to represent the Other and learn to re-present myself? How do I confront the other without representing the Other? My role as a geographer, as a human being, and as an activist should be to learn to re-p resent myself (darstellen), which is a vital task in moving beyond what I have unwittingly done through this thesis: representing and homogenizing the migrant for the sake of pro-migrant advocacy.

Deconstruction provides an important lesson in rearranging the desire to represent. Unlike other Eurocentric intellectuals previously mentioned in the essay, Spivak suggests that Derrida “is less dangerous when understood than the first-world intellectual masquerading as the absent nonpresenter who lets the oppressed speak for themselves” (Spivak 1988, 292) Instead of furthering the imperialist project of representing the Other or assuming the Other’s capacity of self-representation, “Derrida
does not invoke ‘letting the other(s) speak for himself’ but rather invokes an ‘appeal’ to or ‘call’ to the ‘quite-other’ (tout-autre as opposed to a self-consolidating other), of ‘rendering delirious that interior voice that is the voice of the other in us” (Spivak 1988, 294). The other is not defined in its difference from the subject, but rather exists within the traditionally-centered Western subject. I must work to make the voice of the other within me delirious through its reverberation by re-presenting myself. I must find new ways to re-present myself instead of attempting to re-present the migrant, a sin I have committed in this thesis in spite of warning against it.

Although the task ahead of moving beyond the desire to represent may appear impossible, Spivak, “[whose] work, as [she has] said many times, is the uncoercive rearrangement of desires, the nurturing of the intuition of the public sphere – a teacher’s work,” offers many suggestions for moving forward (Spivak 2010, 230). Fieldwork without transcoding, which is marked by “hanging out in subaltern space,” is an alternative to the empiricist understanding of fieldwork in social sciences (Spivak 2010, 229). Although we retrieve information from “silenced areas,” convincing ourselves that we are being helpful by accurately representing these places and the subaltern people we encounter, “…the assumption and construction of a consciousness or subject sustains such work and will, in the long run, cohere with the work of imperialist subject-constitution, mingling epistemic violence with the advancement of learning and civilization” (Spivak 1988, 295). The passage below further expounds the need for fieldwork without transcoding:
Whatever the hell else we are doing, we have to be earning trust.
Unfortunately that’s also the model of good fieldwork. That is why I say fieldwork without transcoding to describe this other approach, a fieldwork whose end is not producing discourse for our equals by bringing back news. There’s nothing particularly good about penetrating into subalternity. I’m not in search of the primitive or anything. But if we are going to talk about it, then I will say that if one manages to penetrate in there, and it’s not easy, then I think what we have to do is take a moratorium on speaking too soon. (Sharpe and Spivak 2003) 619)

It is necessary to earn trust, but earning trust is not limited to fieldwork without transcoding. Did I earn the trust of the people I interviewed? Does signing a consent form mean trust? One cannot collect information with the intention of tearing it from its initial environment without considering the consequences of doing so. When data is generated and forcefully translated from one context to another, it is necessarily a form of epistemic violence.

While I trip over words and symbols in an attempt to uncover the reason for their resonance, dangerously close to falling into a murky pool of guilt, many undocumented youth plan, organize, and act to create new truths that diverge from decades-long public discourse over their conditional right to exist in the US. They push reluctant politicians, decision makers, law enforcement officials, and organizational leaders to honor existing policies as well as offer new protections to migrants of all ages.
Conclusion

Some migrant activists organize sustained, intentional direct action that results in clear policy changes. These changes in policy benefit the very people who risk removal for revealing their status and participate in civil disobedience. They publicly share their undocumented status while pointing to the lack of enforcement of the policies supposedly designed to ensure their continued presence and future opportunities for regularized status. Coming out is a direct response to an administration touting its defense of undocumented immigrant youth of ‘good moral character’, using this as leverage when the administration decides to deport public figures for unlawful presence. Not only is the act of coming out as undocumented important in ensuring that one is not removed, it provides a new way of understanding what it means to be undocumented. Instead of unauthorized status being a source of extreme anxiety, it can be a tool for asserting one’s right to be no matter where they are: “Without alternative narratives, those realities of deportation and detainment, there’s every reason why people in that community, as undocumented folks, we would live in terror” (Saavedra, Interview with Author, 2013).

Coming out as undocumented is a publicly-targeted strategy for avoiding deportation and Latino allies were included in the undoccupation of Obama for America, and yet undocumented activists are not dependent upon ally support in affirming their right to be. Undocumented-led organizations demarcate space for supporters to follow their call to action by signing petitions addressed to DHS leadership and staff. When organizations run by non-undocumented migrants plan and carry out acts of civil disobedience in solidarity with undocumented people, “the impact isn’t as significant…
It’s so much more empowering, and it has greater moral authority if it’s coming from a member of the community, who has every reason not to go forward because of the risks they take”  (Saavedra, Interview with Author, 2013).

When working to avoid repeating the same harms committed by refusing to let migrants speak, or interpreting their speech for whatever end, it is important to keep in mind the way in which representation has shaped advocacy as well as migrants’ experiences. Is it possible to acknowledge the migrant’s role as the desiring subject to shift the balance in defining the Self and the Other away from the Western Self? Can one be an advocate without falling into the trap of placing migrants into the dialectic of legal and good or illegal and bad? Can one work with migrants without speaking or making decisions on their behalf?

In wrestling with these questions, it is important to acknowledge the community built around the same goals: the ability for migrants to live with dignity, regardless of immigration status, without fear of being uprooted from communities they have built and discarded somewhere else. Membership in a group of people that care about each other and want to work together for their collective liberation is an invaluable resource. Although I am not certain why anyone desires to effect change for mutual benefit, I have come to recognize the value in reaching out and maintaining communication with others, i.e. earning trust. In talking with undocumented activist Saavedra about the roles of advocates and the importance of solidarity, and the fear of foreclosing on the ability of undocumented migrants to set the terms of and lead the struggle for their rights, he
articulates many of the concerns and half-formed ideas floating around inside of my head:

I feel like the best way to evade that is to be really involved and really in-tune to what’s happening to undocumented immigrants. It doesn’t have to be within specific groups, like DREAMers, but the people who are the most oppressed are the foremost experts on their conditions, on what’s happening. …Totally respect where people are coming from. Most undocumented folks can link to other movements as well. Just to spend more time and hear out people, and that can help with the guilt or hesitation that comes with being an ally. And whenever those unsettling moments come up, speak up and vocalize them. A lot of the problems we have are because we don’t talk. If there’s an uneasiness, there’s probably something legitimate that needs to be voiced or dialogued about.

(Saavedra, Interview with Author, 1/15/2013)

In this attempt to both look back and move forward, I should focus on collaboration to address uncomfortable situations as the arrive instead of worrying about accidentally representing or re-presenting the people that I want to work alongside.

In addition to vertreten and darstellen, Spivak hints at a third meaning of representation, representation as transformation, suggesting the use of open space between signifier and signified, which ‘rhymes’ with transposability and mimicry discussed by Bhabha (1994). Spivak (1988) suggests that in order to move beyond the desire to speak for the subaltern, an unlearning must take place. “In seeking to learn to
speak to (rather than listen to or speak for) the historically muted subject of the subaltern woman, the postcolonial intellectual systematically ‘unlearns’ female privilege” (295). I must unlearn the privileges I’ve experienced in my formation as a subject that have shaped my academic interests and ingrained in me the desire to speak on behalf of the other. The answer lies in learning to re-present (darstellen) myself.

In addition to the need for unlearning repeated by Spivak, the lesson of deconstruction in making the internal quite-other delirious, and fieldwork without transcoding, I am left with the themes fleshed out in the first section of the text. How can I productively engage with the concepts of mimicry, transposition, and fieldwork without transcoding? How do I unsettle the muting of the subaltern in my work and the text with which I interact? Although they cannot be translated, can silences be transposed? The task of rearranging desire is not one of representation, but rather one of transposition. How can signification muted in one context resonate in another? I must not try to translate silence – it is not my place to think that I can understand the intended meaning behind what is signified – but rather transpose it. Perhaps through such a transposition, dissonance will resonate, becoming legible in a new register.

Instead of desiring to represent the other as something/one/place outside of me, I must turn inward to engage the quite-other within me. The task at hand is not denying the existence of representation, accurately representing the experience of a migrant subjected by an exploitative system, providing a mimesis of ideas put forth by my advisor or committee members, or visiting the field for the sake of bringing back information. I must continue to interact with text and struggle with my desire to represent. This
engagement with text is an attempt to repeat Spivak with the hope that the slippage between her initial presentation and my imperfect repetition produces a new way to approach a writing of difference without masking difference.
Conclusion

This thesis connects immigration enforcement, resistance to attempts to control migrant populations, and the ways that ineffective advocacy and effective criminalization both stem from representing the migrant. In Chapter 1 I discussed the legal justification for monitoring migrant communities within the US, as well as the devolution of federal immigration enforcement responsibilities to the local scale. Immigration enforcement depends upon regulating migrants’ movement across space. These enforcement practices criminalize migrants through incapacitation. I examined in Chapter 2 how migrant communities and institutionalized migrant rights organizations define important problems as well as their potential resolutions. Spatial resistance strategies vary in effectiveness, and use space in different way to realize the actors’ goals. In Chapter 3 I discussed the ways in which immigration enforcement and advocacy rely on representing the migrant. Although enforcement and advocacy may appear to be opposites, both portray the migrant as either criminal or innocent, and by asserting its role as a necessary spokesperson for the migrant, advocacy unnecessarily relies on representing immigrants.

In this thesis, I have examined specific instances of migrant mobility and strategic incapacitation as resistance to immigration enforcement and migrant criminalization. Immigration enforcement depends upon the policing and subsequent restriction of
migrants’ mobility. Local enrollment in federal enforcement responsibilities creates a deportation dragnet that catches and removes criminal migrants. However, immigration enforcement and local practices, discourses, and policies interact to produce migrants as racialized, criminal subjects facing detention and removal, regardless of so-called criminal activity.

Connecting specific case studies of localized regimes of enforcement and targeted acts of resistance, this thesis examines how migrants come to be understood as either lawful and worthy to remain in the US, or criminal and deserving of removal. Both immigration enforcement and immigration advocacy create and perpetuate the line between lawful and criminal. This thesis has examined specific instances of enforcement through migrant incapacitation and mobility-centric attempts at resistance. In conclusion, this paper offers a critique of actions carried out by national campaigns and organizations regarding attempts at resistance, as well as their discursive and practice-based indirect criminalization of migrants. In its exploration of migrant advocacy and regulation, this paper signals the need for a new rights-based organizing approach no longer dependent on the binary opposition of migrants as criminal/lawful.

This thesis contributes to the discipline through my Chapter 2 discussion of spatial and scalar strategies of resistance. Effective strategies of resistance target specific techniques of enforcement. Because migrant incapacitation is the central tenet of immigration enforcement, effective spatial strategies of resistance occupy space either forbidden to or created for migrants. When migrants occupy space in ways unanticipated by immigration enforcement, they transform it. By transforming space and contesting
techniques of enforcement, migrants shift discourses of criminality, unauthorized status, and migrant access to public space. Migrant rights activism also relies on the scalar integration of national news media, pro-migrant press, migrant rights organizations, and individuals. Effective migrant rights campaigns jump scale to raise awareness of migrants facing removal proceedings, whose removal would contradict Obama administration and ICE policy. Also, as I examined in Chapter 1, multiscalar federal-local immigration enforcement MOA result in the uneven spatial practice immigration enforcement. Within Columbus, law enforcement and ICE officers police certain public spaces differently from others (Mas, Interview with Author, 7/5/2012). Law enforcement targets communities with large, newly-settled migrant populations. This uneven focus on specific areas creates spaces of migrant insecurity. Spatially uneven enforcement practices lead to spaces of social support and organized community, but these are also spaces marked by fear and anxiety. Because these highly policed and migrant-concentrated spaces are disconnected from the wider community, social support networks may lead to rapidly- and widely-shared misinformation, which in turn creates more insecurity (Vicente, Interview with Author, 7/2/2012).

Immigration enforcement ostensibly targets criminal migrants for removal, but in the process of incapacitation, criminalizes migrants whether or not they have violated criminal law. In working to contest the restriction of their mobility and criminalization of their communities, undocumented activists have practiced staying put or moving around in carefully calculated ways that have unsettled the tie between undocumented immigration status and insecurity. These targeted actions have sparked a shift in what it
means to move undocumented, encouraging a large-scale movement out of the shadows. Immigrant rights organizations and reform campaigns have also pushed for changes in the treatment of migrants by lobbying for changes in immigration law.

In their representation of migrants, immigrant rights organizations, policy groups, and reform campaigns have caused serious harm. In simultaneously characterizing immigrants as lawbreakers, model Americans, and a potentially monumental source of economic benefit to the US, advocacy groups establish a homogenizing representation \textit{(darstellen)} of migrants. By this establishment of two possible, juxtaposed migrant identities, migrants are forced to conform to one of the two options to support comprehensive immigration reform campaigns. This form of advocacy prevents migrants from dwelling in the space between the extremes of criminal and lawful. In order to realize advocate-prescribed changes in legislation that will benefit migrants, citizens, and the US economy, they are kept from negotiating their identity outside of the real of criminality.

Through acting on behalf of migrants in shaping immigration policy and claiming to be the voice of voiceless and oppressed migrants, nonprofits and campaigns represent \textit{(vertreten)} migrants. I argue in my research that effective rights organizing without furthering the criminalization or silencing of migrants is necessary and must be realized by moving beyond the desire to represent. As a result, this thesis speaks to the potential role of non-migrants in the immigrant rights movement. This thesis argues in sum that immigrant rights organizations are also indicted in perpetuating the incapacitation, silencing, and criminalization of the very populations they aspire to serve.
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