A Comprehensive Assessment of Barriers Encountered by Undocumented Hispanic Immigrants in Utilizing the U.S. Legal System

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Abstract

This dissertation summarizes 22 months of field research beginning February 2015 and ending October 2016 among Nashville’s undocumented Hispanic community. The goal of this project was to understand and identify the barriers this population encounters in utilizing the U.S. legal system using both qualitative and quantitative methods. Initial research consisted of formal, recorded individual and group interviews of 26 undocumented Hispanics and 15 key informants who work closely with Nashville’s undocumented community. In addition, hundreds of other undocumented immigrants were observed and informally interviewed during this time. Once saturation was reached in the interviews, the qualitative prong of the research ended. All recorded interviews were transcribed and coded and various themes were identified. The qualitative data revealed eight common themes barring the undocumented community’s utilization of the legal system. These were: 1) fear of deportation, 2) structural barriers, 3) cultural barriers, 4) real and perceived discrimination, 5) unawareness of legal rights, 6) unawareness of legal processes and structure, 7) lack of community empowerment, and 8) lack of specific legal self-efficacy.

To confirm the qualitative findings, a 69-item survey instrument was prepared and administered to a non-randomized sample of 350 undocumented Hispanic immigrants living in the Nashville area. The survey’s quantitative data confirmed the existence of these eight barriers in varying degrees among the respondents. The survey data indicated the isolated effect of each identified barrier varied amongst individuals based on such factors as life experience, current political climate, and demographics. This research
indicated that there is no lone barrier keeping the undocumented community from utilizing the U.S. legal system. Rather, it is the intersectionality of these barriers working in unison, which bars Nashville’s undocumented community from utilizing the legal system.
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Lastly, I extend my deepest appreciation to those that helped with the fundamentals of this effort. I thank Tatyana Kaplan at UNR’s Grant Sawyer Center for Justice Studies for her much needed assistance with my statistical analysis. She not only helped in the analysis, but also took the extra time to explain in detail for my
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Introduction

Claudia migrated to the U.S. from Honduras after a Honduran gang killed the father of her two daughters and threatened her and her children’s lives. Claudia determined that migrating to the U.S. without legal authorization was a better option for her and her children than living in fear in Honduras. Fearing deportation, the family lived a clandestine life in an apartment complex in Nashville’s Hispanic enclave situated along Nolensville and Murfreesboro Roads. They avoided the authorities, stayed on a routine of work and school, and seldom wandered beyond the Hispanic enclave. The family’s underground existence ended in 2010, when Claudia and her neighbors heard her ten-year-old daughter Adriana screaming for help.

They found Adriana in a stairwell where an undocumented man had molested her. The perpetrator fled, but was caught and held by Claudia’s neighbors. Fearing the police would deport her and her children to Honduras, Claudia refused to call the police. This was at a time when Nashville’s Sheriff had entered into a 287(g) agreement with the federal government to assist in the enforcement of immigration laws. Claudia knew the risk was real, but ultimately her neighbors convinced her calling the police was the right thing to do.¹

Claudia’s story is not unique in the undocumented community nor is it unique to Nashville. Across the U.S., undocumented immigrants must make similar decisions

daily. Extant research shows that two-thirds of foreign-born Hispanics and one-third of native-born Hispanics fear that they or someone close to them will be deported.

“In general, undocumented immigrants are more vulnerable: they earn less, work in more dangerous jobs, and have little access to financial and housing aid.” Typical narratives involve wage theft, criminal victimization, and maltreatment by landlords and employers. When victimized, legal status and other barriers effectively prevent them from making claims. They live in an environment where they are constantly required to balance the loss of the more prosperous life the U.S. provides against the right to legal recourse for harms they have suffered.

News stories like Claudia’s, and my personal experience as an attorney, initially piqued my interest in when and how undocumented Hispanic immigrants utilize the legal system when wronged. As my interest in this topic developed, it became clear the undocumented community was in many ways directly or indirectly barred from the legal system. I observed some of these issues while practicing law in middle Tennessee in the early 1990s, just as Tennessee’s undocumented Hispanic community began to increase rapidly. As an attorney, I was appointed to represent several undocumented Hispanics’ clients and observed many others during judicial proceedings. Clearly, the lack of English proficiency hindered them greatly in navigating the criminal process.

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As my practice expanded, I represented several undocumented immigrants in worker’s compensation claims, and slowly my practice developed a small, but dedicated clientele of undocumented Hispanics. I routinely heard stories of victimization by employers, landlords, law enforcement, and attorneys. I also came to realize that many believed they had no legal rights in the U.S. because of their legal status.

Through this experience, I began to understand that language and legal status were just two of several factors barring their utilization of the legal system. At least intuitively, the risk of deportation presents the greatest concern to the undocumented Hispanic population. One commentator has branded this concept the “deportation threat dynamic.” Fear of deportation was elevated during the 1990s when public rhetoric blamed undocumented immigrants for a number of social ills.

Regardless that much of this rhetoric was unfounded, it alarmed many Americans who demanded a response from elected officials. Populist politicians appeased their concerned constituents by demonizing undocumented immigrants at times with blatantly false information. The federal government reacted in 1996 by amending the Immigration and Naturalization Act of 1952 by permitting state and local law enforcement agencies to enter into agreements with the federal government to enforce immigration law.

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The provision, commonly known as 287(g), allowed state and local law enforcement agencies to enter into memorandums of understanding with the federal government to participate in immigration enforcement.\textsuperscript{10} Nashville entered into such an agreement with the federal government from 2007 through 2012.\textsuperscript{11} Many avoid these risks and fears by residing in “sanctuary” or “friendly” cities where the local authorities refuse to cooperate with federal immigration enforcement. There is debate about whether Nashville qualifies as a sanctuary or friendly city.\textsuperscript{12} Clearly, the Tennessee legislature saw Nashville and some of the state’s other major metropolitan areas as such. During the 2018 session, the legislature passed a bill “outlawing” sanctuary cities in Tennessee and mandating that all local law enforcement agencies cooperate with Immigration and Customs Enforcement. Governor Haslam allowed the bill to become law without his signature and it becomes effective on January 1, 2019.\textsuperscript{13}

The phenomenon of living in a litigious society with no real means of utilizing formal legal process affects every aspect of undocumented immigrants’ lives. In many ways, this is unique to the U.S. and its legal culture, which relies heavily on the use of formal legal process to enforce rights and correct wrongs. On commentator summed up American reliance on formal legal process this way:

\begin{flushleft}
\begin{footnotesize}
\textsuperscript{10} 8 U.S.C. 1357(g) (1996).
\textsuperscript{11} K. Donato & L. Rodrigues, \textit{Police Arrests in a Time of Uncertainty: The Impact of 287(g) on Arrests in a New Immigrant Gateway}, 58 \textit{AM. BEHAV.SCIENTIST} 1696,1702 Table 2 (2014).
\end{footnotesize}
\end{flushleft}
As commentators since Alexis de Tocqueville have noted, the distinctive importance that our society attaches to legal institutions has deep ideological and structural roots. It is not surprising that a nation founded by individuals escaping from governmental persecution should be wary of state power and protective of individual rights. Cross-national studies find that Americans are less willing than citizens of other nations to trust a centralized government to address social problems and meet social welfare needs. This distrust is reflected and reinforced by political institutions that give courts a crucial role in constraining state power, safeguarding individual rights, and shaping public policy. The United States relies on law to protect fundamental values such as freedom of speech, due process, and equal opportunity that are central to our cultural heritage and constitutional traditions. This nation also finds privately financed lawsuits to be a fiscally attractive way of enforcing statutory requirements without spending taxpayer dollars on legal cost. Much of this country’s environmental, health, safety, consumer, and antidiscrimination regulation occurs through litigation.14

The U.S.’ unique legal culture leads undocumented immigrants in the United States to become “hyper aware” of the law due to their legal status.15 Menjivar explained her concept of legal hyper awareness as:

[A] condition of continuously being cognizant of the (and consequently of the presence of the state) in one’s life, even when carrying out quotidian activities seemingly removed from where the law most directly exerts its effect, in a way that goes beyond simple knowledge of the law. This occurs when individuals think of the law, what the government does, and their legal status before engaging in even routine activites, as well as in larger and more consequential actions.16

This phenomenon creates “everyday fear among immigrants that curtails their lives, plans and dreams, and also bring[s] about a heightened awareness of the power of the law in their lives, as it is make visible in the presence of law enforcement in

14 Deborah Rhode, Access to Justice: Connecting Principles to Practice, 17 GEO. J. LEGAL ETHICS 369, 374 (Thomas Burke, LAWYERS, LAWSUITS, AND LEGAL RIGHTS: THE BATTLE OVER LEGAL RIGHTS IN AMERICA (2002)).
16 Id. at 378.
neighborhoods and potentially in places of work.\textsuperscript{17} It is their “deportability” that makes them hyper aware of the law.\textsuperscript{18} Undocumented immigrants with a heightened fear of deportation report: 1) trouble finding and keeping employment, 2) that their friends and family suffer, 4) lower confidence that the police and courts will treat them fairly, 5) and lower confidence in a better future.\textsuperscript{19}

Menjivar and Abrego term this phenomenon “legal violence.”\textsuperscript{20} They explain, “[T]he various laws at federal, state, and local levels today seek to punish the behaviors of undocumented immigrants, but at the same time push them to spaces outside the law.”\textsuperscript{21} Legal violence against undocumented immigrants results from the U.S.’ “multipronged system of immigration laws and their implementation, aided by a vast technological infrastructure and state bureaucracy, [that blurs] immigration and criminal law that leads to a progressive exclusion of immigrants from normal spaces and societal institutions.”\textsuperscript{22}

For undocumented immigrants, their legal status controls their access to healthcare, housing, education, and employment. Legal status affects their health risk, vulnerability in the streets, domestic violence, wages in the labor market, and family dynamic.\textsuperscript{23} They eventually “come to understand their marginalized positions as natural and can then become contributors to their own plight.”\textsuperscript{24}

\begin{flushleft}
\textsuperscript{17} Id. at 383.  \\
\textsuperscript{18} Id.  \\
\textsuperscript{21} Id. at 1385.  \\
\textsuperscript{22} Id. at 1391.  \\
\textsuperscript{23} Id. at 1389.  \\
\textsuperscript{24} Id. at 1386.
\end{flushleft}
Concurrently, native society develops “perceptions of immigrants in tenuous legal statuses as criminals and portray them as less than human … contributing to normalizing and then justifying maltreatment against immigrants who are perceived as lawbreakers.” 25 Some Americans, as Massey explains, do not perceive the undocumented “as fully human at the most fundamental neural level of cognition, thus opening the door to the harshest, most exploitative, and cruelest treatment that human beings are capable of inflicting on one another.” 26 Perceiving undocumented immigrants in this light makes it easier for some to prey upon them and even feel justified in doing so.

It is from this paradigm that I decided to undertake a comprehensive assessment of barriers encountered by undocumented Hispanic immigrants in utilizing the U.S. legal system. Nashville’s metropolitan statistical area (MSA) provided a unique opportunity for this research. As discussed in Chapter II, Nashville’s MSA has an estimated Hispanic population of approximately 123,000 of which it is estimated that between 43,000 and 44,000 are undocumented.

When I began my research in February 2015, Nashville had ended its participation in the 287(g) program. The city’s changing political landscape embraced its diverse immigrant population, including the undocumented. I was also aware that many of Nashville’s undocumented Hispanics perceived it to be a friendly city towards them. For Nashville’s undocumented community, the fear of deportation was no longer a major barrier to their access to services, including the legal system. Fortunately, I concluded my research before Donald Trump’s presidential election that again drastically elevated the fear of deportation.

25 Id. at 1389.
It is equally important to point out what this research is not. It is not concerned with U.S. immigration law, immigration policy, or the presence of immigrants in the U.S. without legal authorization. Those issues involve value judgments beyond the scope of this endeavor. This research simply acknowledges the presence of a large undocumented population in the U.S. and proceeds on the premise that the U.S. legal system cannot function as intended to the exclusion of the undocumented demographic. A review of the literature produced research relevant to my objective, but I found no comprehensive examination of the issue.

Extant literature focuses mainly on the reporting of criminal victimization by undocumented Hispanics. Victimization of undocumented immigrants is relevant to my effort but was not my only interest. Undocumented immigrants can become entangled in the U.S. judicial system as victims and that is one component of my research, but the judicial system can touch their lives in many other roles such as a witness, an informant, or as a perpetrator.

Additionally, the U.S. judicial system is just one component of the much boarder American legal system. My research focuses on the U.S. legal system and not just the U.S. judicial system. The term judicial system is limited to the adjudicatory processes of tribunals responsible for determining rights between individuals and enforcing societal obligations mandated by the government. Most noticeably, the U.S. judicial system includes state and federal civil and criminal courts, as well as administrative processes at the local, state, and federal level. The broad definition of legal system includes all

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27 I originally intended to use the term “juridical system,” but felt it was too cumbersome for readers outside of the legal field.
independent “stabilizing forces” that stop further violation of the social arrangement and restore the status quo between persons.  

Generally, these processes are referred to as law and broadly encompass all forms of governmental social control. Law therefore incorporates all forms of governmental social control intended to maintain the social arrangement between its citizenry. This expanded view includes not only traditional legislative and judicial functions, but encompasses all forms of social control used by the government to maintain social order, such as policing and regulatory oversight. I use the term legal system to encompass the judicial system and all ancillary institutions necessary to maintain the rule of law and administration of justice in the U.S.

Hence, the legal system includes: 1) institutions engaged in the administration of justice prior to the adjudicatory process, i.e., federal law enforcement agencies, including border patrol, state and local police, and administrative codes enforcement at all levels of government; 2) the judicial system or the adjudicatory process by a governmental tribunal; and 3) post-adjudicative institutions concerned with enforcement of the judicial system directives, i.e., probation officers, jails and prisons, and Immigration and Customs Enforcement. This expanded view is necessary because only a small percent of those entangled in the legal system proceed on to the judicial system. Additionally, the judicial systems, particularly in the first world, are known for openness and procedural regularity and may have a limited impact on the undocumented community.

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29 Id.
30 Id. at 2-3.
31 Id. Black says, “Law is governmental social control. It is, in other words, the normative life of a state and its citizens, such as legislation, litigation, and adjudication.”
This research makes an important contribution to the literatures concerning access to justice and victimization of undocumented residents because society needs to ensure the fair treatment of all its members regardless of migration status and that it appropriately deals with those who prey upon and harm others. Additionally, there are ramifications beyond the individuals involved in a given legal transaction. When an undocumented immigrant is treated unfairly, it not only affects that individual, but also taints the undocumented community’s perception and interaction with the U.S. legal system. These negative perceptions can carry over to the greater Hispanic population.

Research demonstrates some ethnic minorities will not utilize legal processes if they perceive the system to be unfair or to discriminate against them.\(^\text{32}\) The same can be said for society in general. When Americans observe undocumented people, or any segment of society, as treated unfairly, they will begin to see the U.S. legal system as unjust and lose confidence in the system.\(^\text{33}\) Over time, a loss of confidence in societal or macro-justice systems can denigrate the very institutions necessary for effective governance.

For many Americans, the term undocumented immigrant conjures up images of Hispanics who surreptitiously cross into the U.S. My effort focuses on undocumented Hispanic immigrants in the U.S., but this research is relevant to all undocumented immigrants living in the U.S. By far, the U.S.’ largest population of undocumented


immigrants is Hispanic originating from Mexico and Central America. However, the U.S. also has significant populations of undocumented immigrants from China, South America, Europe and Canada, and the Caribbean. Additionally, the findings of this research are important to the tens of millions of undocumented immigrants, refugees, and stateless people throughout the world as well as their host countries.

I use the term “undocumented immigrant,” but the literature uses other terms such as “illegal aliens” and “irregular immigrants” interchangeably. Many of the U.S.’ undocumented immigrants, including many I met during my research, did not secretly enter the U.S. For this research, the term undocumented immigrant includes individuals who: (1) legally enter the U.S., but remained after their visas or permit expired, (2) received a negative decision on their refugee/asylum application, but remained in the U.S., (3) experienced changes in their socioeconomic position and could not renew their residence permit, but remained in the U.S., (4) used fraudulent documentation to enter the U.S., or (5) unlawfully entered the U.S. including those who were smuggled.

I also use the term Hispanic, as is the practice of the U.S. Census Bureau, as opposed to Latino or Latina. The literature tends to use the terms Latino/Latina and Hispanic interchangeably and I found no preference within this community during my qualitative research.

34 Migration Policy Institute, Profile of the Unauthorized Population: United States (May 20, 2018), https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US.
As noted, there is a body of literature with some relevancy to this research that fits in one of two categories. First, there is a body of research focused primarily on undocumented Hispanics’ perceptions and interactions with local police and their willingness to report of criminal victimization. It consists of both empirical and theoretical offerings on good police practices and the negative effects of local police enforcing immigration law. Second, there is an empirical body of literature addressing the ease of victimization of undocumented immigrants. This body of literature addresses various criminal conduct, but much is focused on intimate partner violence (IPV).

Researchers from various fields have looked at the need and consequences of undocumented immigrants cooperating with local authorities to ensure adequate policing. This concern is consistent with the “robust body of research show[ing] that the cooperation of the general public to detect and sanction criminal behavior is critical to effective law enforcement.”

Policing ethnic communities adds another difficult dimension to the problem that local police must address. “Historically, relations between police and ethnic minorities have been fraught with problems of insensitivity,

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misunderstanding, and miscommunication … and cultural diversity has become a prominent concern of police administrators.”

A litany of research demonstrates higher levels of criminal victimization in the Hispanic community, but Hispanics are less likely than other groups to report crime. Local police work to ensure cooperation with undocumented communities so they can adequately police those areas. Immigration policies like the defunct 287(g) program and its replacement, the Secure Communities program, blur the lines between immigration enforcement and local law enforcement. These blurred lines thwart outreach efforts by local police, such as Nashville’s El Protector Program discussed later.

This has led to much discussion about whether it is good policing for local law enforcement to assist in enforcing immigration law. It has also prompted research seeking to identify the consequences of local police enforcing immigration law. Menjivar and Bejarno’s qualitative study of undocumented Mexicans and Central Americans living in Phoenix, Arizona determined the undocumented community was less likely to interact with police due to a fear deportation. They also determined that many in this community feared retaliation by the perpetrator if they reported criminal conduct to the police. Others avoided the police based on their experience with the police in their native countries.

Vidales, et al, undertook a quantitative study of undocumented immigrants in Costa Mesa, California that revealed the city’s anti-immigrant positions lowered the

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41 For a description of the Secure Communities program, see U.S. Immigration and Customs Enforcement at: https://www.ice.gov/secure-communities.
undocumented community’s perception of local police. The intervention was a series of anti-immigrant stances urged by a conservative mayor and city council. Some of the urged laws and policies brought national attention to the city. The study compared before and after data on undocumented Hispanics perception of local police. The study demonstrated that the immigrant community viewed the police more negatively, found the police less helpful, felt less accepted by the community, and said they were less likely to report crimes than before.43

A quantitative study by Becerra, et al, analyzed the relationship between the fear of deportation and undocumented immigrants’ confidence in the police and the U.S. justice system. The authors drew their data from a 2008 Pew Hispanic Center survey of over 2,000 Hispanics. The research found an inverse relationship between the fear of deportation and confidence in the police and justice system. As the fear of deportation increased there was less confidence that the, 1) police would not use excessive force, 2) police would treat Hispanics fairly, and that 3) courts would treat Hispanics fairly. Study participants with heightened fears of deportation also reported a lower likelihood of reporting violent crimes to law enforcement.44

The fear of deportation is heightened during periods of anti-immigrant rhetoric and particularly when cities entered into 287(g) agreements. Research shows that 287(g) program produced negative consequences that continue long after the program ended. Nashville’s participation in 287(g) ended in 2012, and the Obama Administration

43 G. Vidales, K. Day, & M. Powe, Police and Immigration Enforcement: Impacts on Latino(a) Residents’ Perceptions of Police, 32 POLICING: AN INT’L. J. OF POLICE STRATEGIES & MGMT. 631-653 (2009). Only 37% of the women interviewed in this study were UHI.
defunded the program in 2013. Kopel, et al, found that the 287(g) program adopted by Prince William County, Virginia failed to reduce crime in the county. The program produced unintended consequences for local law enforcement agencies. The program not only increased the workload of local agencies, but it also made their job of policing the undocumented community more difficult.

Specifically, there was a concern that 287(g) discouraged undocumented immigrants from interacting with the police, including not reporting criminal activity in their community. Capps, et al, found that 287(g) programs caused a “displacement effect” when undocumented immigrants left their communities to other locales without similar programs. This in turn destabilizes entire communities indirectly leading to an increase in crime. I found no literature assessing the effect of the “deportation threat dynamic” after 287(g) ended.

Davis, et al, sought to identify barriers recent immigrants experienced in reporting crime. Recent immigrants were not limited to those who are undocumented immigrants. These authors surveyed the chiefs of police and the prosecuting attorneys of the 50 largest metropolitan areas in the U.S. seeking information about various barriers recent immigrants encountered in reporting victimization and accessing justice. The

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48 R. Capps, et. al., Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement, MIGRATION POLICY INSTITUTE (2011).
50 Robert Davis, Edna Erez, & Nancy Avitabile, supra at note 39, at 37.
authors stated that the most reported barriers were language, cultural differences, and a lack of knowledge of how the U.S. legal system works. Less often reported were the fear of deportation, fear of retaliation, fear of authorities, and a belief the legal system would not be responsive to immigrants.51

The second vein of the literature addresses how legal status makes it easier to victimized undocumented immigrants. Fussell examined victimization of New Orleans’ large undocumented Hispanic population who came to work construction jobs post-Katrina. She found their fear of deportation made them easy to victimize because of their unwillingness to contact the authorities. This encouraged some unscrupulous employers to hire undocumented immigrants, provide unsafe and abusive working environments, and fail to pay them earned wages. The undocumented immigrants, on the other hand, reported they did not seek redress for this treatment due to the fear of deportation.52

Barranco and Shihadeh followed up on Fussell work by analyzing robbery trends of Hispanics in 282 counties across the U.S. They selected these counties because of their sizeable populations of undocumented Hispanics and African-Americans. They determined that principally African-American perpetrators singled out undocumented Hispanics to rob because they carried cash and would not report the crime. They termed this the “walking ATM phenomenon.” The authors hypothesized the perpetrators might feel justified in their crimes because in many locales, the undocumented Hispanics displaced African-Americans from the workforce.53

51 Id., supra note 39, at 190.
Much of victimization literature focuses on IPV and the fear of deportation. Zadnik, et al, found undocumented Latinas have slightly higher risks of suffering IPV than their native counterparts. They also found legal status kept undocumented Latinas from reporting IPV than others. Some of the research concerning IPV goes beyond the fear of deportation and identifies other barriers influencing the underreporting of IPV.

Vidales qualitative study of women and service providers in a battered women’s shelter in Southern California also found deportation to be a factor in failing or refusing to report IPV to the police. This study exposed barriers other than the fear of deportation that influence whether victims utilize the U.S. legal system. Vidales identified and classified these other barriers as: 1) cultural barriers, which included language, beliefs, and religious convictions, 2) structural barriers, which included income/poverty and education, and 3) institutional barriers, which included legal status and police attitudes.

In their small qualitative study of ten undocumented female IPV victims, Reina and Lohman identified barriers other than the fear of deportation that prevented Latinas from using the legal system. In addition to legal status, the authors identified education,

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economic status, and lack of understanding of the legal process as barriers to reporting IPV.57

Vidales conducted a similar, but albeit more robust study, of Latinas at a domestic abuse shelter in Southern California. The author used mixed methodology that produced ethnographic data, qualitative data from structured interviews, and quantitative survey data. The study found in addition to the fear of deportation, the females did not report IPV because of cultural barriers including language, family values, and religious convictions. She also found structural barriers including economic status, educational attainment, and legal status influenced their decisions. Vidales went on to add that there was not a definitive barrier, but rather it was the intersectionality of all these barriers influencing their decisions to not report the crime.58

This research builds on and expands the existing literature by looking beyond victimization and policing. Chapter I of this work provides a historical account of the U.S.’ immigration policy toward its southern neighbors. Chapter II examines how an estimated eleven million plus undocumented Hispanic immigrants became dispersed across the U.S. with approximately 44,000 settling in the Nashville area. In Chapter III, I posit that in addition to protecting the rights of the undocumented, there are weightier societal concerns that must be protected. Chapter IV discusses this project’s research paradigm and the methodology employed. In Chapter V, I discuss my findings of how the fear of deportation affects undocumented Hispanic immigrants’ willingness to utilize the U.S. legal system. Chapter VI identifies various structural barriers impeding the

undocumented immigrants’ utilization of the legal system. Chapter VII provides an analysis of cultural factors barring their use of the legal system.

Chapter VIII reveals how real and perceived discrimination based on migration status and ethnicity discourages undocumented Hispanics from utilizing the legal system. Chapter IX discusses how unawareness of the legal system’s processes and structure bars utilization. Chapter X explains how ignorance of substantive law and rights not only bars their use of the legal system, but can cause them to unwittingly become entangled with it. In Chapter XI, I discuss how the lack of community empowerment discourages their use of the legal system. Chapter XII examines how the lack of specific legal self-efficacy can act as a barrier to the legal system. In Chapter XIII, I conclude this work by summarizing my findings and offer suggestions to ameliorate the barriers.
CHAPTER I

Hispanic Immigration: An Historic Prospective

The U.S. has long been known as a nation of immigrants and remains the destination country for more immigrants that any other country in the world with an estimated 46.6 million immigrants by 2015.\(^1\) While the U.S. eventually welcomed all white immigrants from Ireland, Germany, Italy, and other European countries with open arms, it has historically closed its doors to Asians and people of color.\(^2\) This trend did not come with the election of Donald Trump as the 45\(^{th}\) President of the U.S. and his anti-immigration rhetoric,\(^3\) but rather is traceable to the nation’s founding.

The U.S.’ “Open Door Era” began while still under Britain’s rule and sought to bolster the colonies’ population, thereby increasing economic activity and providing for a strong defense from other foreign powers occupying the continent.\(^4\) However, the door was only open to some white Europeans. Ben Franklin summed up Colonial America’s immigration stance in his 1751 anti-German essay with the following remarks:

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\(^1\) Phillip Connor & Gustavo Lopez, 5 facts about the U.S. rank in worldwide migration, PEW RESEARCH CENTER, (May 18, 2016), http://www.pewresearch.org/fact-tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/.


That the Number of purely white People in the World is proportionally very small. All Africa is black or tawny. Asia is chiefly tawny. America (exclusive of the new Comers) wholly so [Native Americans]. And in Europe, the Spaniards, Italians, French, Russians and Swedes, are generally of what we call a swarthy Complexion; as are the Germans also, the Saxons only excepted, who with the English, make the principal Body of White People on the Face of the Earth. I could wish their Numbers were increased. And while we are, as I may call it, Scouring our Planet, by clearing America of Woods, and so making this Side of our Globe reflect a brighter Light to the Eyes of Inhabitants in Mars or Venus, why should we in the Sight of Superior Beings, darken its People? Why increase the Sons of Africa, by planting them in America, where we have so fair an Opportunity, by excluding all Blacks and Tawneys, of increasing the lovely White and Red? But perhaps I am partial to the complexion of my Country, for such Kind of Partiality is natural to Mankind.⁵

In 1790, Congress codified this immigration position with the Naturalization Act which permitted only a “free white person” to seek U.S. citizenship.⁶ When the Treaty of Guadalupe-Hidalgo ended the Mexican-American War in 1848 Mexico ceded nearly one-half of its territory to the U.S. including the states of Texas, California, Nevada, Utah, most of New Mexico and Arizona, and parts of Colorado and Wyoming.⁷ With the cession between 75,000 and 100,000 Mexicans mostly of indigenous and mestizo (indigenous and Spanish decent) became U.S. citizens living in the country. This led to the inescapable conclusion that Mexicans were “white” since only whites could be citizens.⁸

This “white only” immigration policy was continued by Congress through various legislation until 1868 when passage of the Fourteenth Amendment granted blacks

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⁸ Natalia Molina, The power of racial scripts: What the history of Mexican immigration to the U.S. teaches us about relational notions of race, 8(2) LATIN STUDIES 156, 160 (2010).
citizenship. The Fourteenth Amendment reversed the Supreme Court’s Dred Scott\(^9\) decision that blacks could never be U.S. citizens. From 1868 onward, U.S. citizenship was available to whites and blacks only.\(^{10}\) Immigration remained a concern in the western U.S. where large numbers of Chinese and Japanese laborers lived along with resident populations of Native Americans and Mexicans.\(^{11}\)

In response, Congress passed the Chinese Exclusion Act of 1882\(^{12}\) prohibiting entry to Chinese and entered into the Gentlemen’s Agreement of 1907 whereby Japan agreed not to issue passports to its citizens desiring to migrate to the U.S.\(^{13}\) Additionally, many Filipinos came to the U.S. as laborers after the U.S. acquired the Philippines in 1899, but they were deemed “troublesome” by employers due to their “active labor organizing efforts.”\(^{14}\)

![Figure 2: Mexican emigrant leaving Nuevo Laredo, Mexico for the U.S. in 1912 (Library of Congress/Bain Coll.)](image)

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\(^9\) Dred Scott v. Sandford, 60 U.S. 393 (1857).


\(^{11}\) Molina, supra note 8, at161.


\(^{13}\) Kelly L. Hernandez, Mexican Immigration to the U.S., 23(4) OAH MAGAZINE OF HIST. 25 (2009).

\(^{14}\) Id. at 25.
During the same period, Porfirio Diaz came to power in Mexico with plans of modernizing the country. Diaz’s dictatorship “expanded Mexico’s railroad system, promoted land privatization, and encouraged a switch from peonage to wage labor.”\(^{15}\) Land privatization caused nearly five million Mexican farmers to lose access to communal land holdings forcing them to labor for wages.\(^{16}\) Railroad expansion provided the transportation necessary for these displaced peasant farmers to leave Mexico’s rural regions in search of work, including a direct rail link to El Paso, Texas.\(^{17}\)

Mexican migration was also spurred on by the Mexican Revolution of 1910 against Diaz’s dictatorship. By 1920, Mexican immigration to the U.S. “for a short time rivaled the great European migrations of the late nineteenth century.”\(^{18}\) The Hispanic population began to steadily increase from an estimated 117,000 in 1850 to over 500,000 in 1890 and nearly 1.3 million in 1920. These migrants were predominately Mexicans clustered in the western States from Texas to California,\(^{19}\) but labor shortages caused by WWI also brought Mexicans to America’s heartland.\(^{20}\)

The southwestern U.S. also underwent change during this same time. Congress passed the Newlands Reclamation Act of 1902 funding the construction of dams, canals, and reservoirs to irrigate fertile, but arid lands of the southwest. This made the area the “orchard and winter garden to the world” by 1920.\(^{21}\) The expansion of the railroads

\(^{15}\) Id.
\(^{17}\) Hernandez, supra note 13, at 25. See also L.A. CARDOSO, MEXICAN EMIGRATION TO THE U.S., 1897-1931 (1980).
\(^{18}\) GUTIERREZ, supra note 16, at 40.
\(^{20}\) Molina, supra note 8, at 171.
\(^{21}\) Hernandez, supra note 13, at 25, Gutierrez, supra note 16, at 40-1.
throughout the southwest connected the region to the economy of the rest of the country.\textsuperscript{22}

Mexicans were the laborers of choice, or as one agribusiness lobbyist told Congress: “We have gone east, west, and north, and south and he [Mexicans] is the only manpower available to us.”\textsuperscript{23} Mexican immigrants were needed to fill “a wide variety of occupations, ranging from agricultural labor, mine work, and railroad construction and maintenance, to common day labor on innumerable construction sites throughout the Southwest.”\textsuperscript{24}

Xenophobia and nativism caused immigration restrictionists to pressure Congress to curtail immigration toward the end of the nineteenth century. Of particular concern to protectionists were southern and eastern European immigrants who were viewed as “racially and culturally inferior to white Americans of Anglo-Saxon heritage.”\textsuperscript{25}

In response, Congress passed the Immigration Act of 1924 which continued to limit citizenship to whites and blacks, but went further and limited all immigration to those who were eligible for U.S. citizenship.\textsuperscript{26} The Act further limited the number of southern and eastern Europeans “who were deemed inferior breeds,” and denied entry to Chinese, Japanese, and other Asians “to protect the nation from the yellow peril.”\textsuperscript{27}

Additionally, the U.S. Supreme Court had recently determined that Japanese were not white in the \textit{Ozawa} case\textsuperscript{28} and neither were Asian Indians in the \textit{Thind} case\textsuperscript{29} making

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\textsuperscript{22} Gutierrez, \textit{supra} note 16, at 41.
\textsuperscript{23} Hernandez, \textit{supra} note 13, at 25,fn. 6 (quoting the testimony of S. Parker Frisselle, U.S. Congress, House of Rep. Committee on Immigration and Naturalization).
\textsuperscript{24} Gutierrez, \textit{supra} note 16, at 45.
\textsuperscript{25} Gutierrez, \textit{supra} note 16, at 51.
\textsuperscript{26} Molina, \textit{supra} note 8, at 168.
\textsuperscript{27} Molina, \textit{supra} note 8, at 175.
\textsuperscript{28} Ozawa v. U.S., 260 U.S. 178 (1922)
\end{flushleft}
both groups ineligible to migrate to the U.S. In 1897, a similar action was filed in a federal court in Texas seeking a declaration that Mexicans were not white and hence not eligible for citizenship. The federal judge avoided the “whiteness” issue in the *Rodriguez* case by ruling that the issue of race was not relevant with Mexicans because of the Treaty of Guadalupe Hidalgo conferred the right of citizenship on Mexicans.³⁰

*Rodriguez* was hailed as a major civil rights case, but the lower federal court’s ruling did not appease everyone. The authority of *Rodriguez* was questioned after the Supreme Court’s decisions in *Ozawa* and *Thind*. The Bureau of Naturalization was unsure how to classify Mexican applicants for citizenship with some naturalization officers denying applications for citizenship based on appearance alone.³¹

During the 1920s, nativist campaigns and challenges opposing Mexicans’ eligibility for U.S. citizenship because of their race proliferated.³² In 1931, Secretary of Labor James Davis, who oversaw the Bureaus of Immigration and of Naturalization, opined that native Mexicans could not be denied naturalization based on race.³³ The issue was settled when Immigration and Naturalization Service (INS) issued Circular No. 111 in May 1937 directing INS employees to classify Mexicans as white in all INS proceedings.³⁴

The Immigration Act of 1924 did not restrict immigration from countries in the Western Hemisphere, in effect creating an exemption for Mexicans. Many Americans

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³⁰ In re Rodriguez, 81 Fed. 337 (W.D.Tex. 1897).
³¹ Molina, *supra* note 8, at 172.
³³ Molina, *supra* note 8, at 182, 197. (“The U.S. Census Bureau was so unsure of how to classify Mexican that during the 1930’s census it placed Mexicans in a race of their own. The Bureau removed the Mexican category before the 1940 census.”).
³⁴ Molina, *supra* note 8, at 197.
urged Congress to restrict Mexican immigration, as well seeing them as a “threat to the racial, cultural, and social integrity of the U.S.”

Opponents of Mexican immigration argued that Mexicans suffered poor health, were culturally backwards, and unassimilable to American culture. Proponents of Mexican immigration tended to be large-scale employers who asserted that Mexicans were not a threat to the U.S. because they returned to their homes in Mexico once their work was completed. This was largely true at the time in that most migratory Mexican workers were single males who traveled without a female dependent or children.

While Congress refused to restrict Mexican immigration by statute, the U.S. did beginning restricting Mexicans by administrative processes. The U.S.’ consuls in Mexico began enforcing existing regulations more stringently, including “the ban on contract labor, the literacy test, and the provision excluding any person likely to become public charge.”

Legal Mexican immigration which averaged 58,747 a year dropped to 12,703 in 1930 and 3,333 in 1931. But it is estimated that illegal Mexican immigration averaged 100,000 per year during the 1920s. Unofficial entry was not unusual along the Mexican border, which had been largely unregulated and informal up to this point. Congress

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35 Gutierrez, supra note 16, at 53.
36 Gutierrez, supra note 16, at 49-53.
37 Tamar Diana Wilson, Anti-immigrant Sentiment and the Problem of Reproduction/Maintenance in Mexican Immigration to the U.S., 20(2) CRITIQUE OF ANTHROPOLOGY 191, 192 (2000) (“[B]enefits of productive activity is most easily achieved if the low-skilled and semi-skilled labor force is born and raised elsewhere, and presents itself ready to work in a state of health and adequate maturity. It is also, thus, most easily achieved if male workers migrate from the country of maintenance and reproduction (the source country) without female dependents and children, presenting themselves for surplus labor extraction at the site of productive activity (the destination country) without encumbrances.”). See also, Brian Gratton & Emily Merchant, Immigration, Repatriation, and Deportation: The Mexican-Origin Population in the U.S. 1920-1950, 47(4) INT’L MIGRATION REV. 944, 947-8 (2013).
responded by lifting the statute of limitations on deportation in 1924, forming the Border Patrol, and making illegal entry a felony in 1929.\textsuperscript{39} For the 1930 census, the U.S. Census Bureau enumerated Mexican as a racial category for the first and last time.\textsuperscript{40} The U.S. had entered a new era with its southern neighbor.

Anti-Mexican immigration peaked in the 1930s during the economic crisis known as the Great Depression. It is reported that approximately two million persons of Mexican ancestry were forcibly returned to Mexico, including 1.2 million that who were born in the U.S. and presumably eligible for U.S. citizenship.\textsuperscript{41} The literature indicates that the number of deportations was greatly exaggerated by the media and empirical studies place the number closer to 350,000 with approximately 40\% being U.S. citizens.\textsuperscript{42}

Further, the outmigration of Mexicans to their homeland was largely by voluntary repatriation and less so by forcible deportation.\textsuperscript{43} Clearly there was some coercion and economic incentive to return to Mexico, including the traditional return strategy, financial assistance provided by American and Mexican agencies and charities, threatening local campaigns designed to “encourage” repatriation, and high levels of deportations.\textsuperscript{44} Mexico-U.S. relations were further strained when President Lazaro Cardenas expropriated “large amounts” of American owned lands and foreign oil companies’ holding in 1938.\textsuperscript{45}

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\item \textsuperscript{39} \textit{Id.} at 90.
\item \textsuperscript{40} U.S. Census Bureau, History, https://www.census.gov/history/www/through_the_decades/index_of_questions/1930_1.html
\item \textsuperscript{41} Apology Act for the 1930s Mexican Repatriation Program, S.B. No. 670 (2005).
\item \textsuperscript{43} \textit{Id.} at 959-960.
\item \textsuperscript{44} \textit{Id.} at 954.
\item \textsuperscript{45} Timothy J. Henderson, Bracero Blacklists: Mexican Migration and the Unraveling of the Good Neighbor Policy, 55(4) THE LATIN AMERICANIST 199 (2011)
\end{itemize}
\end{footnotesize}
Relations changed drastically when the U.S. entered World War II and was forced to approach Mexico “with hat in hand” for help. The war effort created a labor shortage and it appeared crops would rot in the fields, further imperiling the effort. In desperation, the U.S. sought Mexican migrant workers and permitted Mexico to create a program to provide the workers with any reasonable conditions it deemed necessary. Mexico responded with the Braceros program, which was readily accepted by the U.S. Braceros “were to be well-treated, transported to and from the recruiting centers, provided with adequate housing, food, and healthcare, and paid the prevailing wage.” Braceros were recruited at facilities through the interior of Mexico and worked in the U.S. pursuant to a written contract with the employer. Additionally, Mexico joined the war effort by declaring war on the Axis Powers, made its airfields available to the U.S., dispatched a squadron to the Philippines, and authorized the U.S. to conscript a quarter million of its citizens living in the U.S.

The Braceros program continued after the war, but Mexico had lost its bargaining power. Mexico refused to authorize Braceros for Texas because of longstanding patterns of mistreatment of Mexican workers. This encouraged substantial migration of undocumented workers along Texas’ long border with Mexico. A 1950 estimate placed the number of undocumented Mexican farmworkers in just three Texas counties at 100,000 or the equivalency of one for every three permanent residents.

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46 Id. at 199-200.
47 Id. at 200.
48 Id.
adopted a policy of not interfering with undocumented Mexican workers, referred to as “wetbacks” in Texas, if it might hamper harvests.\(^{50}\)

![Figure 3: Braceros in 1943 contracted to harvest sugar beets in U.S. (LOC Farm Security Administration Collection).](image)

Things came to a head in 1948 in what became known as the El Paso Incident. Texas was desperate for migrant workers and Mexico refused to provide Braceros. Migrant workers gathered along the border anticipating that Mexico would assent to Texas’ request. On October 14, 1948, with no agreement in place, the U.S. opened the border crossing in El Paso for three days allowing 10,000 undocumented Mexicans to enter the country.\(^{51}\)

With Mexico’s consent, the U.S. began a policy in 1948 of “regularizing” undocumented workers by placing them under a Braceros contract in lieu of deportation. Within a year “regularized” migrant workers outnumbered documented migrant workers

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\(^{50}\) Henderson, *supra* note 44, at 204.

by five to one. This policy became known as “drying out the wetback” and in 1951 it became U.S. law.”  Congress passed additional immigration legislation in 1952, including the Texas Proviso that for the first time explicitly legalized the employment of undocumented immigrants. By 1953, remittance by migrant workers in the U.S. was Mexico’s third largest source of income behind mining and tourism, leaving Mexico in no position to object.

The U.S. entered a period where it relied on illegal migration by Mexican workers and at the same time attempted to enforce the nation’s immigration laws. During the mid-1940s on average 60,000 undocumented Mexicans were apprehended each year and in 1950 a total of 458,000 were apprehended. Enforcement included the massive “operation wetback” between 1954 and 1957 when the U.S. deported approximately 3.7 million undocumented Mexicans. However, it is estimated that five million undocumented Mexicans entered the U.S. during this same period.

Civil rights activists and humanitarian groups sought an end to the Braceros Program due to the poor living conditions and treatment of the migrant workers. This movement caught national attention on Thanksgiving Day in 1960 when CBS aired its Harvest of Shame documentary exposing in graphic detail the inhuman living and working conditions of migrant farmworkers. Criticism of the program reached its peak in 1963 when thirty-one braceros and one undocumented Mexican were killed when their

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52 Henderson, supra note 44, at 210-1.
53 Henderson, supra note 44, at 213.
54 Henderson, supra note 44, at 214.
57 Id. at 133.
makeshift bus was struck by a train in Chualar, California. Public outcry over the incident caused Congress to end the Braceros Program on December 31, 1964 over “vociferous objections” of the Mexican government.\(^{59}\)

In the 1960s, American society was more concerned with civil rights, sexual revolutions, and the Vietnam War than it was with immigration reform. But immigration reform was on the minds of the Democrat controlled Congress and Democrat President Lyndon B. Johnson who had just passed Civil Rights Act of 1964 into law. The themes of the 1960s were “hope and aspirations,” and with the passage of the Civil Rights Act, immigration quotas and outright bans of some peoples were seen as “intolerably racist.” As was the Braceros Program which was perceived as exploitive and on par with slavery and sharecropping. \(^{61}\)

The Immigration and Naturalization Act of 1965 abolished the quotas and for the first time restricted immigration from countries in the Western Hemisphere. Eastern Hemisphere countries were limited to 170,000 migrants with no more than 20,000 from any one country. Western Hemisphere countries were limited to 120,000 migrants with no single country limit. Family reunification including extended family was given preference over job skills and education. Noticeably absent was a guest worker program to replace the Braceros Program. \(^{63}\) Congress failed to understand the consequences of

\(^{58}\) Id.


\(^{60}\) Id.

\(^{61}\) Id.


\(^{63}\) Massey, supra note 58.
denying the annual inflow of a half million Mexican workers’ legal entry.\textsuperscript{64} There were concerns about a surge of immigrants from the south, but proposed amendments to the legislation failed to pass.\textsuperscript{65}

With little hope of entering the U.S. legally, many Mexicans chose to do so without authorization. Undocumented Mexicans rely on social capital or social infrastructure to overcome barriers to illegal crossings.\textsuperscript{66} Social capital includes such networks as family and friends along the border and within the U.S., knowledge of and access to guides or coyotes, and waiting employment in the U.S., sometimes with a former employer which tends to make illegal entry easier.\textsuperscript{67}

Research finds that the likelihood of Mexicans and non-Mexicans crossing the border illegally rises substantially if the immigrant has a parent, child, or sibling “with prior U.S. experience.”\textsuperscript{68} There is no shortage of Mexican social capital considering the high number residing in the U.S. Additionally, a Mexican national survey found that one third of all Mexicans have been in the U.S. at some point in their lives.\textsuperscript{69}

According to empirical estimates, 87,000 undocumented Mexicans migrated in 1965 and that number grew by 20\% annually until it reached 1.47 million by 1978.\textsuperscript{70} The number stabilized in 1979 through 1981 fluctuating between 1.2 and 1.5 million per year. Stabilization during this period was likely due to increased opportunities in Mexico.

\textsuperscript{65} Hatton, supra note 61, at 352.
\textsuperscript{68} Id. at 316.
\textsuperscript{69} Douglas S. Massey & Audrey Singer, New Estimates of Undocumented Mexican Migration and the Probability of Apprehension, 32(2) DEMOGRAPHY 203, 209 (May 1995).
\textsuperscript{70} Id. at 211 (citing R.A. CAMP, POLITICS IN MEXICO (1993)).
related to its oil boom. A severe economic crisis during 1981 caused the number to climb to 1.77 million that year and peak at 3.8 million in 1986. Accounting for return migration, it is estimated that from 1965 through 1989 the U.S. added 5.1 million undocumented Mexicans to its population.\textsuperscript{71}

Beginning in the 1980s, the U.S. experienced a surge of Central American immigrants who fled violence and economic hardship in their home countries. The Salvadoran Civil War between 1980 and 1992 displaced a quarter of El Salvador’s population including 500,000 that fled to the U.S.\textsuperscript{72} The 1980s brought increased violence in Guatemala as its civil war intensified between the U.S. backed government and leftist rebels.\textsuperscript{73}

In Nicaragua, the leftist Sandinistas overthrew the U.S.-backed Somoza regime causing 300,000 Nicaraguans to flee the nation.\textsuperscript{74} The U.S. provided greater protection to Nicaraguans when seeking asylum, but generally denied protection to Salvadorians and Guatemalans.\textsuperscript{75} Honduras did not experience political conflict as its neighbors did during the 1980s, but was racked by crime and poverty sending a significant volume of economic refugees to the U.S.\textsuperscript{76} The 1980 census determined that just over 200,000 legal and undocumented Hondurans, Salvadorans, Guatemalans, and Nicaraguans were living in the U.S.

\textsuperscript{71} Id. at 210, table 3.
\textsuperscript{72} Susan B. Coutin, Falling Outside: Excavating the History of Central American Asylum Seekers, 36(3) L. \& SOC. INQUIRY 569, 575-6 (2011).
\textsuperscript{75} Coutin, supra at 71, at 575.
The number of Central Americans from these countries rose to nearly 2.7 million by 2009. While many Nicaraguans came to the U.S. legally, the clear majority of Salvadorans, Guatemalans, and Hondurans entered the U.S. illegally. By 2014, most apprehensions at the border were Central Americans and not Mexicans. The “flood” of undocumented immigrants was no longer just Mexicans, but when combined with Central Americans accounted for 75% of all undocumented entries.

The high number of undocumented immigrants in the 1970s, 1980s, and 1990s gave rise to what one commentator termed the “Latino threat narrative” due to the level of fear it caused Americans. Americans were provided a steady stream of negative images and portrayals of undocumented Hispanic immigrants driven by political opportunists who demonized Hispanics and undocumented immigrants to garner voter support.

The media routinely referred to Latino and undocumented immigration as a national “crisis” and labeling Latino migration as a “rising tide” poised to “inundate” the U.S. and “drown” its culture. Conservative politicians and pundits referred to it as an “invasion of illegal aliens” and called on Congress to “stop the invasion.” One pundit claimed it was an Aztlan Plot by Mexicans to retake the southwest U.S. lost in 1848. In 1985, President Reagan joined the commentary adding that undocumented immigrants

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77 Id. at 63, table 1 (citing U.S. Census Bureau data).
78 Massey, supra note 65, at 1563.
79 Massey, supra note 58, at 17.
81 Massey, supra note 58, at 6.
were “a threat to national security” and warned the American public that “terrorist[s] and subversive[s] [were] just two days driving time” from crossing the U.S. border.\textsuperscript{82}

At the same time, the Border Patrol was framed as “outgunned” as it tried to “defend” the border from the “alien invaders.”\textsuperscript{83} The Latino threat initiative came at a time of increasing income equality in America, creating the belief that Latinos were taking opportunities from Americans.\textsuperscript{84} The anti-immigrant campaign succeeding in getting Americans’ to hold Mexicans, undocumented immigrants, and Latinos in the lowest levels of disgust.\textsuperscript{85}

Responding to American fears, Congress passed several pieces of restrictionist immigration legislation including the Immigration Reform and Control Act (IRCA) of 1986.\textsuperscript{86} The IRCA was intended to reduce the “flow and stock” of undocumented immigrants.\textsuperscript{87} The flow of immigrants would be reduced by increased funding to the Border Patrol and the stock of undocumented immigrants already in the U.S. was reduced by providing a path to citizenship. This measure alone “legalized” over two million formerly undocumented Mexicans.\textsuperscript{88}

In 1996, Congress moved from its apparent welcoming posture of the IRCA and passed the exclusionary Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The IIRIRA streamlined the process for “removal” of undocumented

\textsuperscript{82} Massey, \textit{supra} note 65, at 1561.
\textsuperscript{83} Massey, \textit{supra} note 58, at 6 (citing Chavez, \textit{supra} note 79, and JOSEPH NEVINS, \textsc{Operation Gatekeeper: The Rise of the “Illegal Alien” and the Remaking of the U.S.-Mexico Boundary}, (2001)).
\textsuperscript{84} Massey, \textit{supra} note 58, at 7; Massey, supra note 65, at 1560-2.
\textsuperscript{85} Massey, \textit{supra} note 65, at 1560.
\textsuperscript{86} Massey, \textit{supra} note 58, at 9, 10, table 1.
\textsuperscript{88} Id.
immigrants as well as holders of temporary visas and green cards. It also reduced immigration judges’ discretion in removal cases and placed criminal sanctions on deportees caught reentering the U.S. The list of criminal offenses justifying deportation was increased from three to twenty-eight but these additional crimes were not considered retroactively. In hindsight, its most significant provision may have been increased funding for the Border Patrol.89

The U.S. enacted eleven pieces of restrictionist legislation between 1986 and 2010.90 The militarized Border Patrol became the largest law enforcement agency in the U.S. employing some 60,000 with more than 21,000 armed agents. When combined with Immigration and Customs Enforcement’s 20,000 employees, they represent more than 40% of The Department of Homeland Security’s total employment.91 The Border Patrol uses sophisticated surveillance and apprehension technology including “remote video surveillance systems, infrared monitors, seismic sensors that can detect footsteps, helicopters, unmanned aerial vehicles (drones), and computerized databases to identify recidivists and people-smugglers among those apprehend.”92

Between 1993 and 2010, there were sixteen major Border Patrol enforcement initiatives to apprehend and deter undocumented immigrants.93 Over time, the U.S. hired more Border Patrol officers and provided them with better equipment and materiel to apprehend more migrants. The rising number of border apprehensions was then taken as

89 Id. at 37.
90 Massey, supra note 58, at 10, table 1.
92 Wayne A. Cornelius & Idean Salehyan, Does border enforcement deter unauthorized immigration? The case of Mexican migration to the U.S. of America, 1(2) REG. & GOVERNANCE 139, 142 (2007).
93 Massey, supra note 58, at 9, table 2.
self-evident proof of the ongoing ‘alien invasion,’ justifying agency requests for still
more enforcement resources and ultimately yielding a self-feeding cycle of enforcement,
apprehensions, more enforcement, more apprehensions, and still more enforcement.94

Tightened security along the border has increased the costs of crossing illegally
for Mexicans and Central Americans. Border enforcement is heaviest near urban areas,
such as San Diego and El Paso. This forces migrants to cross in more dangerous and
unknown rural areas necessitating a hired guide or coyote. Increased apprehension rates
along the border meant that crossing even with a coyote was not guaranteed. If the
crossing was successful, there was always the risk of deportation imposing a
psychological cost of living and working in the U.S. as an undocumented immigrant.95

Migrants could only assume that these costs would continue to rise given the
political environment in the U.S. Hedging against these risks, many immigrants extended
their stay and the longer they stayed the more likely they were to settle in the U.S.96 The
unintended consequences of restrictionist immigration reform and stricter border
enforcement was to change many undocumented Mexicans from sojourners to three U.S.
states for work into a “settled population of families in all 50 states.”97 Permanent
settlement is more likely with non-Mexican Latinos who have the added cost of crossing
into and through Mexico to reach the U.S. border.98

94 Massey, supra note 65, at 1562-3.
95 Massey, supra at 66, at 297.
96 Massey, supra at 65, at 1565, 1573, 1576 (Cost of a coyote in 2010 averaged $2,700. Use of a coyote in
illegal crossings was estimated at 100% as of 2010).
97 Massey, supra at 65, at 1558.
98 Massey, supra at 66, at 304.
In 2014, it was estimated that 11.2 million undocumented immigrants lived in the U.S., down from 12.2 million in 2007.\textsuperscript{99} Of these 11.2 million, 81%, or about 9.1 million, come from Mexico, Central and South America, and the Caribbean, with Mexico accounting for 52%.\textsuperscript{100} Just over three-quarters (76%) of all undocumented immigrants are of Hispanic descent.\textsuperscript{101} Census Bureau data from 2010 indicates that 85% of undocumented immigrants have lived in the U.S. for more than five years, with 35% having lived in the U.S. for fifteen or more years.\textsuperscript{102} It is estimated that 31% of undocumented immigrants are homeowners.\textsuperscript{103} Nationally, undocumented immigrants comprise 5.5% of the labor market.

Forty-seven percent of unauthorized households consist of a couple with minor children.\textsuperscript{104} Nearly one-half of all undocumented immigrants are parents of minor children who attend U.S. K-12 schools.\textsuperscript{105} This includes one million children who are also undocumented immigrants and 4.5 million children born in the U.S. to at least one undocumented immigrant. There are approximately nine million undocumented

\begin{flushright}
\textsuperscript{101} Id.
\textsuperscript{103} Profile of the Unauthorized Population: U.S., MIGRATION POLICY INSTITUTE, (2014) http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US. “Homeowner” is defined as unauthorized immigrants residing in homes that are owned, not rented.
\textsuperscript{104} Passel, supra note 99.
\end{flushright}
immigrants in “mixed-status” families that include at least one undocumented family member and one U.S. born child who is a U.S. citizen. Nationally, there are 400,000 undocumented child immigrants who have siblings born in the U.S. who are U.S. citizens. \(^{106}\) Clearly, the U.S.’ undocumented Hispanic immigrants are no longer single males looking to earn wages and return to their home countries. The U.S. now has a large settled population of undocumented immigrants including some with little or no memory or knowledge of their birth country.

\(^{106}\) Id.
CHAPTER II

Dispersion and Nashville’s Hispanic Population

Traditionally, Mexican immigrants primarily sought employment and settlement in the four southwestern states along the Mexican-U.S. border with Texas and California being the destinations of choice.\textsuperscript{1} Early Mexican migrants found unskilled employment opportunities in the region, along with low cost and risk of crossing the border in this region. Additionally, many Mexicans and descendants continued to inhabit the area, which was part of Mexico until 1848. Before the restrictive immigration policies of the 1920s, approximately 85% of all Mexican immigrants in the U.S. lived in Texas, California, and Arizona.\textsuperscript{2} In the 1910s, instability in Mexico began to “push” more immigrants across the border and agricultural and manufacturing employers “pulled” even more.

Early migration to states along the border is best explained as a herd effect where migrants seek a destination based solely on their expectation of available work.\textsuperscript{3} Employers needing cheap unskilled labor can “pull” migrants across the border and produce a herd too large or not desirable by the native population. The herd effect better explains migration patterns when migration is legal, or not overtly illegal, and the work is seasonal.\textsuperscript{4}

\textsuperscript{2} Durand, Massey, & Charvet, supra note 1, at 3. Between 1910 and 1920 Texas’ Mexican population ranged from 55% to 50%, California’s ranged from 17% to 22%, and Arizona’s from 12% to 14%.
\textsuperscript{4} Id. at 39-40.
The herd migration trend continued through the 1930s and Great Depression even considering the outmigration of Mexicans during that economic downturn. The 1930s also saw Illinois emerge as a “gateway” state with 2.5% of the Mexican population pulled far from the border by manufacturing jobs.\textsuperscript{5} Mexican immigrants in Illinois were clustered in and around Chicago and Northwest Indiana working in steel mills and factories.\textsuperscript{6} The Chicago metropolitan area in Illinois and Indiana held 6% of the Mexican population by 1960. Between 1950 and 1960, California exceeded all other states in contracting Braceros and by 1960, it had surpassed Texas as the state with the largest population of Mexicans.

The U.S. entered a period of unauthorized immigration after 1964 when the Braceros Program ended without replacement.\textsuperscript{7} Employers still sought cheap, low-skilled workers and the plentiful supply of people south of the border needed wages. Using migrant networks, employers could hire and train undocumented Mexicans.\textsuperscript{8} Between 1965 and 1985, the overwhelming majority of Mexicans continued circular migration patterns. These were predominately single male workers who labored in the U.S., remitted much of their wages to family in Mexico, and returned to Mexico when work season ended or their financial goal was attained.\textsuperscript{9}

Public backlash and restrictive immigration policies eventually ended herd effect migration. Unauthorized immigrants began relying heavily on community and personal

\textsuperscript{5} Durand, Massey & Charvet, \textit{supra} note 1, at 6.
\textsuperscript{6} Durand, Massey and Charvet, \textit{supra} note 1, at 7.
\textsuperscript{7} Douglass Massey & Audrey Singer, New Estimates of Undocumented Mexican Migration and the probability of Apprehension, 32(2) \textit{DEMOGRAPHY} 203, 209 (May 1995).
\textsuperscript{9} Douglas Massey, A Missing Element in Migration Theories, 12 \textit{MIGRATION LETTERS} 279, 286 (Sept. 2015).
networks to lower the cost and risk of migrating north. These networks connect migrants with employment, housing, and travel to the receiving destination. These personal and community networks between migrants, former migrants, and non-migrants in both the sending locale and the receiving locale mostly replaced herd migration with what is termed chain migration. For Mexicans, family networks are of vital importance in illegal immigration that tends to be intertwined with legal immigration by other family members.

Ethnic associations and enclaves also play important roles in legal and illegal migration. Ethnic associations include religious, sport, and recreational organizations that are networked to migrants and those desiring to migrate. In general terms, an ethnic enclave is a geographical area denoted by a significant concentration of the ethnicity that is identifiable by cultural markers and economic activity. Ethnic enclaves can provide migrants information about establishing businesses, business difficulties, and labor issues. Ethnic employers and employees rely on the enclave’s networks in arranging employment, but research indicates that unauthorized immigrants are typically relegated to a secondary labor market. Ethnic enclaves provide migrants with economic adjustment, social support, and acquiring the skills needed in the new locale.

Community and family network migration explains why migrants continued seeking the same destinations after 1964 and even after the initial catalyst for migration

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12 Boyd, supra note 11, at 649.
13 Boyd, supra note 11, at 652.
14 Boyd, supra note 11, at 653.
15 Boyd, supra note 11, at 654.
ended. Network migration eventually becomes a self-perpetuating structure or what one commentator coined “cumulative causation.” Cumulative causation can potentially continue indefinitely, but likely begins to decrease once the receiving location starts to saturate with migrants. Saturation is manifest in metropolitan areas when wages stagnate and housing cost begins to rise.

Hispanic migration geography changed slightly between 1970 and 1990 with newly arriving immigrants, including Mexicans, moving to the “big four” states of California, Texas, Florida, and New York. These states were also well known for high concentrations of certain Hispanic nationalities. California’s and Texas’ Hispanic population was overwhelmingly Mexican. New York’s population was predominately Puerto Rican, and Florida was the destination of choice for Cubans and South Americans. Migration to these traditional destination states continued through the 1980s with little indication of dispersal to new communities. More than one-half of all new Hispanic arrivals moved to these four states in 1980 and that number increased to nearly two-thirds by 1990. By 1990, 80% of all Mexicans immigrants lived in California.

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17 Id. at 4, citing D. Massey, Social structure, household strategies, and the cumulative causation of migration, 56 POPULATION INDEX 3-26 (1990).
18 Light and Johnston, supra note 16, at 5.
20 Durand, Telles & Flashman, supra note 8, at 66.
21 In 1980, 68% of Hispanics resided in the 47 counties having a population of at least 50,000 Hispanics. In 1990, 68% of Hispanics resided in these same 47 counties. See also, Durand, Telles and Flashman, supra note 8.
(58%) and Texas (22%) with the remainder scattered in industrial and agricultural locations in the other states.\textsuperscript{22}

However, a noticeable geographic shift began after 1990, and while Texas and Florida continued to see the number of recent arrivals grow, New York and particularly California began seeing a decrease. California received 38% of recent arrivals in 1990, but that number dropped to 18% by 2013.\textsuperscript{23} Not only did the number of Hispanic immigrants change after 1990, but the Hispanic populations in these states also began to diversify. California’s Hispanic population remains principally Mexican, but now includes large populations of South Americans, Central Americans, and even Caribbean migrants. New York City is now the destination of choice for Dominicans, Ecuadorians, Panamanians, and Paraguayans who complement the sizeable Puerto Rican population. Florida is now home to significant populations of Peruvians, Dominicans, Guatemalans, Bolivians, and Ecuadorians in addition to the Cubans who still dominate the state.\textsuperscript{24}

Between 1990 and 2000, California, Texas, New York, Florida, and Illinois had the highest Hispanic populations, but the percentage of new arrivals to these destinations began to moderate, especially in California and New York. Hispanic migrants selected other western states including Nevada, Washington, Colorado, New Mexico, and Arizona as destinations. Others migrated to the southern U.S. with large numbers settling in Georgia, North Carolina, and Virginia. Illinois’ Hispanic population increased 69%
percent between 1990 and 2000 with many more settling in New Jersey, Massachusetts, Pennsylvania, and Michigan.\textsuperscript{25}

<table>
<thead>
<tr>
<th>Table 1: Top 10 States for Hispanic Population Growth from 2000 to 2014</th>
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<tr>
<td>State</td>
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<tr>
<td>South Dakota</td>
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<td>Tennessee</td>
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<td>South Carolina</td>
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<td>Alabama</td>
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<td>Maryland</td>
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<td>North Carolina</td>
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<td>Virginia</td>
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Pew Research Center,\textsuperscript{26} data from the 2000 decennial census and the 2014 American Community Survey.

It is not clear what caused Hispanic immigrants to disperse throughout the U.S. beginning in 1990. Several plausible theories have been advanced and supported empirically.\textsuperscript{27} There appears to be a solid connection between the dispersal of Hispanic immigrants and passage of the Immigration Reform and Control Act of 1986 (IRCA). The Act was signed into law in 1986, but its provisions were gradually implemented between 1987 and 1990. Its principal components were a provision to legalized status for unauthorized migrants and criminal sanctions for employers who hired unauthorized migrants, both of which were not fully in place until 1990.\textsuperscript{28} The IRCA’s provided two paths to legalization for undocumented immigrants. The Legally Authorized Worker

\textsuperscript{25} Durand, Telles & Flashman, \textit{supra} note 8, at 94, table 3-4.
\textsuperscript{27} Light and Johnston, \textit{supra} note 16.
\textsuperscript{28} Durand, Massey & Charvet, \textit{supra} note 1, at 9.
(LAW) program allowed undocumented immigrants living in the U.S. for at least five years to secure legal authorization to remain in the U.S. The Special Agricultural Workers (SAW) program legalized undocumented immigrants who had worked in agriculture for the previous six months. The immigrants who regularized their status using the LAW program were 70% Mexican and of the immigrants regularizing their status under the SAW program 81% were Mexican. In total, 2.7 million undocumented immigrants legalized their status under the IRCA29 with 2.3 million of these being Mexican30 who were free to move to other locales within the U.S. without fear of deportation.31 Unlike new arrivals, these newly authorized immigrants had resided in the U.S. and assimilated, to some extent, to U.S. culture. As a group, they would find the task of relocating within the U.S. much easier. The U.S.’ pluralistic cultures likely meant that new locales were at first welcoming of the immigrants.32

Traditional destinations such as California and Texas tend to have older, more stable migrant populations. Relying on networks, new arrival continued coming to these destinations but did so in lower numbers in the 1990s. While network migration can theoretically continue indefinitely, in reality labor markets begin to saturate and wages falls.33 Additionally, by 1990 the IRCA created a new stock of legalized Mexican immigrants who flooded the southern California labor markets. The IRCA also imposed criminal sanctions on employers for employing undocumented immigrants.

29 Durand, Telles & Flashman, supra note 8, at 83.
30 Durand, Massey & Charvet, supra note 1, at 9.
31 Id.
32 S. N. Eisenstadt, Analysis of Patterns of Immigration and Absorption of Immigrants, 7 POPULATION STUD. 167 (Nov. 1953).
To avoid the risk of criminal prosecution, California employers hired subcontractors who then hired undocumented immigrants and assumed the risk of prosecution. In exchange for absorbing this risk, subcontractors kept a portion of the immigrants’ pay, which caused a decline in undocumented immigrants’ wages in the region.\(^{34}\) Additionally, the large influx of Mexicans caused rents to escalate as the supply of housing was unable to keep up with demand.\(^{35}\) Falling wages and increased rents incentivizes long-term immigrants to relocate and new arrivals to go elsewhere.

During this same time, California experienced an economic downturn related to a decline in the defense industry. California nativists blamed the Latinization or “brown invasion” for the economic crisis and rising crime in the San Fernando Valley. Poverty and crime increased in the valley, but this was likely due to the shuttering of the valley’s two largest employers, Lockheed and General Motors.\(^{36}\)

What became known as the “Save our State” initiative created an anti-immigrant fervor in California which culminated in a statewide referendum known as Proposition 187 which would deny undocumented immigrants access to publicly funded health, education, and welfare services.\(^ {37}\) Proposition 187’s preamble provided, “[t]he People of California find and declare: That they have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state. That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in

\(^{34}\) Durand, Massey & Charvet, supra note 1, at 10.
\(^{35}\) Light and Johnston, supra note 16.
\(^{37}\) Durand, Massey & Charvet, supra note 1, at 10.
this state." On November 8, 1994, California voters passed Proposition 187 with nearly 59% of the votes.

Regardless of the cause, as the U.S.’ foreign-born population soared from 9.6 million in 1965 to 45 million in 2015, immigrants dispersed and began settling in all fifty states and the District of Columbia. Dispersal of immigrants caused significant declines in the “big four” states. By 1996, California’s Mexican immigrant populations decreased by 11% and Texas’ reached an all-time low of 17% of its population. Arizona and New Mexico experienced increases in Mexican immigrants caused by increased border enforcement in California and Texas, which diverted undocumented immigrant flow to crossing points in these states. By 2013, nearly one-half of all new arrivals settled in states other than the “big four” states, with California receiving only 18% of new arrivals. Mexico became the “top country of origin for 33 states, encompassing most of the West, South, and Midwest” by 2013. By 2014, one-half of the 3,000 counties in the U.S. had Hispanic populations of at least 1,000, including the estimated 11.3 million foreign-born immigrants in the U.S. without authorization.

As documented and undocumented Hispanics dispersed and settled throughout the U.S., their social networks made these new locations destinations of choices for both authorized and unauthorized new arrivals. For newly arriving immigrants, the South

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38 Lennon, supra note 35, at 81.
39 Lennon, supra note 35, at 81.
40 Modern Immigration, supra note 19, at 38.
41 Durand, Massey, and Charvet, supra note 1, at 11.
42 Id. at 38.
43 Id. at 68.
45 Modern Immigration, supra note 19, at 16.
provided economic opportunity, geographical access, and welcoming immigrant communities. The South’s older forms of production in agriculture, steel, textiles, and apparel were replaced with automobile manufacturing, high-tech research and manufacturing, and biomedical research. These new higher paying jobs attracted locals, as well as other American to move to the South. The South’s increasing wages, population, manufacturing, and service industries produced a construction boom across the South driving the need for cheap construction labor. At the same time, poultry, hogs, and seafood processing plants established across the rural South with a need for cheap labor. Employers solicited Mexican workers through advertisements south of the border promising jobs in the South. Authorized and unauthorized Hispanics have become commonplace throughout the rural South and in its cities with large populations in Atlanta, Nashville, Memphis, Louisville, Birmingham, Charlotte, Greensboro, Raleigh-Durham, Greenville, South Carolina, Arlington, Alexandria, Norfolk, Virginia Beach, and Fairfax County, Virginia.

According to U.S. Census Bureau data, the southeastern U.S.’ Hispanic population reached 18.2 million by 2010 rivaling the western U.S.’ Hispanic population of 20.6 million. The South, traditionally a place of last resort for foreign-born

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48 Id. at 33.
49 Id. at 35.
immigrants,\textsuperscript{51} saw its foreign-born population surged from less than one million in 1960 to 13 million in 2013.\textsuperscript{52}

Table 2: Top 10 States for Hispanic Population Growth from 2000 to 2014 with percent foreign born.

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<thead>
<tr>
<th>District of Columbia</th>
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<tr>
<td>Maryland</td>
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<td>Florida</td>
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<td>Virginia</td>
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<td>North Carolina</td>
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<td>Georgia</td>
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<td>Tennessee</td>
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<td>Arkansas</td>
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<td>New Jersey</td>
<td>42</td>
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<td>Kentucky</td>
<td>40</td>
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Pew Research Center,\textsuperscript{53} data from the 2000 decennial census and the 2014 American Community Survey

Expectantly, the South’s undocumented immigrant population increased as well. Excluding Texas’s and Florida’s estimated 2.5 million unauthorized immigrants; the remaining southern states are predicted to have a total unauthorized immigrant population of just over 1.5 million in 2014.\textsuperscript{54} It is estimated that Tennessee has a total unauthorized population of 120,000, but some sources place the number as high as 140,000.\textsuperscript{55}

\textsuperscript{51} Bankston, \textit{supra} note 45.
\textsuperscript{52} Modern Immigration, \textit{supra} note 19, at 73.
\textsuperscript{53} U.S. Latino Population, \textit{supra} note 26.
\textsuperscript{55} \textit{Id.} (Southern states’ estimates: AL-65k, AR-70k, GA-375k, KY-50k, LA-70k, MS-25k, NC-350k, SC- 85k, TN-120k, VA-300k).
As of 2014, it was estimated that 322,000 Hispanics live in Tennessee, or 5% of Tennessee’s total population. Tennessee ranks seventh among all states for its foreign-born Hispanic population that is estimated at 43%. The majority, 60%, are of Mexican origin with the next largest contingents coming from Central America (16%) and the Caribbean (14%). Estimating the number of undocumented Hispanics immigrant in Tennessee is a difficult task; however, appropriate methodologies place the number between 113,000 and 120,000. This indicates that between 35% and 37% of all Hispanics living in Tennessee are undocumented.

The Tennessee Hispanic population is spread across the state with large populations in Davidson (Nashville), Shelby (Memphis), Rutherford (Murfreesboro), Knox (Knoxville), Hamilton (Chattanooga), and Montgomery (Clarksville) counties. The greatest concentration is found in Nashville’s MSA with an estimated Hispanic population of 123,000 with slightly over 66,000 in Nashville alone. Approximating the number of undocumented Hispanics in Nashville’s MSA is difficult. But using the percentages noted, Nashville’s MSA likely has an undocumented population between 43,000 (35%) and 44,400 (37%).

57 Id., table 1.
59 U.S. unauthorized immigration, supra note 53.
60 Nagle, Gustafson, & Burd, supra note 57, at 8.
62 Demographic Profile of Hispanics in Tennessee, supra note 55.
Hispanics were initially attracted to Nashville’s MSA by its growing economy that produced a construction boom and significant growth in the service sectors. In addition to higher wages in Nashville, immigrants found affordable housing in southeast Nashville along the corridors of Nolensville and Murfreesboro Roads. Economic decline and “white flight” from the urban core transformed this previously middleclass expanse into a biracial working class, district. The area’s plentiful and affordable housing attracted other immigrants including Asians, Kurds, and Ethiopians and the institutions catering to them. It is also home to white and black Nashvillians and retains many native institutions catering to their needs. While not completely Hispanicized, the Hispanic cultural influences on the area are evident prompting one commentator to label it an ethnic enclave. The area is Hispanicized to the extent that many non-Hispanic Nashvillians refer to it as “Little Mexico.”

The enclave’s population is majority Mexican with the remainder from Central America, South America, and the Caribbean islands. Hispanics are known for strongly identifying with their nation of origin. Greater temporal and spatial separation of Hispanics from their birth nations weakens national origin identification and it is replaced by a Hispanic identity. This change is particularly true for newer generations. Hispanics from different nations identify with other Hispanics because of their shared language,

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64 Id. at 26.
65 Id.
66 Id. at 27.
68 Id.
religion, and similar cultures. Culture refers to such things as “knowledge, belief, art, morals, law, customs, and any other capabilities and habits” learned by people as a member of a particular society. This is referred to as panethnic culture and is purely an American construct to classify Hispanics from many different counties who now reside in the U.S. In addition to cultural similarities, many Hispanics in the U.S. likely embrace this panethnic culture because it also represents their shared experience as a marginalized group.

The presence of Hispanic culture in Nashville’s Hispanic enclave is palpable with institutions catering to the population’s penchant for food, art, entertainment, religion, and commerce. In addition to these physical structures, much of the population has the unmistakable phenotype of their mixed, mestizo, Anglo and Amerindian ancestry characterized by darker skin tone, fuller lips, broader noses, and straight black hair. Clothing, accessories, and even vehicles reflect modern Hispanic styles. At Hispanic and non-Hispanic businesses and institutions within the enclave it is common to hear Spanish spoken in lieu of English. Many buildings have been built or remodeled to include Hispanic architectural elements such as adobe appearance, tiled roofs, and brightly colored paint schemes.

Passing through the area one sees Mexican, Guatemalan, Venezuelan, and Colombian restaurantes and tanquerias, alongside, Salvadoran and Honduran

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71 Masuoka, supra note 66, at 37.
pupuserias. A local tortilleria mass produces tortillas for distribution locally and to several neighboring states.73 Fresh bread and pastries are made at the many panderias and pastelerias. Bulk and unprepared foods are available at the many supermercados and smaller tiendas specializing in Hispanic goods. Family portions of fresh and cooked meats can be purchased at the numerous carnicerías that are identifiable by large smoking grills outside.

Figure 4: Hispanic businesses along Nolensville Road in Nashville

The area is also home to many Hispanic churches or iglesias affiliated with the Catholic Church, Churches of Christ, Methodist Church, Pentecostal denominations, and others. Catholicism is the by far the most common church affiliation for Hispanics at 55% followed by 22% who identify as Protestant.74 Some Hispanic churches in the

73 Chaney, supra note 62, at 26. Locals claim that La Hacienda restaurant, bakery, and tortilla factory was the first Hispanic business and hub from which the enclave originated.
enclave are small storefront operations, but many are older Anglo churches that had their Anglo congregations replaced with Hispanics as neighborhoods transformed.75 A few are best described as megachurches like Our Lady of Guadalupe Catholic Church that occupies the former Radnor Baptist Church on Nolensville Road and attracts some 4,000 congregants during Sunday service. In 2016, the Catholic diocese of Nashville purchased another former Baptist megachurch just outside the enclave as home for Sagrado Corazon or Sacred Heart Catholic Church that outgrew its former location. Sagrado Corazon’s congregation fills the church’s 3,300 seat auditorium each Sunday.76

Nashville’s “Little Mexico” is also home to many businesses catering to the Hispanic community. Spanish language signage for abogados (attorneys), multiservicios, (business services),77 mecanicos (automobile mechanics), clinicas de salud (health clinics), dentistas (dentists), and other businesses dot the roadways. Nonprofits like the Nashville Area Hispanic Chamber of Commerce78 and the Tennessee Latin American Chamber of Commerce79 work to stimulate business among Hispanic merchants and to provide Hispanic merchants’ access to non-Hispanic merchants. The Moorish and Spanish designed Casa Azafran or Saffron House houses nine nonprofits offering individualized assistance with “health, financial, and legal services to cultural, culinary

75 Jamie Winders, NASHVILLE IN THE NEW MILLENNIUM: IMMIGRANT SETTLEMENT, URBAN TRANSFORMATION, AND SOCIAL BELONGING 56-7 (2014).
77 Multiservicios are private agencies that offer a multitude of services such as insurance, notary services, assistance completing government forms, procuring business licenses, etc.
and educational enrichment.” Many nonprofits like the Hispanic Family Foundation and some churches offer English classes along with other micro level services intended to empower the Hispanic population.

Many entertainment options are available in the enclave including several large Hispanic discotecas (nightclubs), and small dance clubs and restaurants where Salsa, Bachata, Merengue, and Cha Cha bands play. The Global Event Center in the Antioch area is a live music venue located in a former shopping mall. It frequently hosts well-known musical acts from Latin America and other entertainers such as Latin American wrestling matches. It is also a favorite location for hosting the Latin American tradition

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80 According to its website Casa Azafran, “opened in December 2012 and is now home to Conexión Américas and nonprofit resident partners such as the American Center for Outreach, American Muslim Advisory Council, Family and Children’s Service, Global Education Center, Financial Empowerment Center, Justice for Our Neighbors, Tennessee Immigrant and Refugee Rights Coalition and United Neighborhood Health Services. CASA AZAFRAN (last visited March 1, 2017), http://www.casaazafran.org/about-casa-azafran/#.WLbxy00zW00.

81 HISPANIC FAMILY FOUNDATION (last visited March 1, 2017), http://hispanicfamilyfoundation.com/about-us/.

of *quinceaneras* celebrating a young woman’s fifteenth birthday and transition to adulthood.\(^{83}\)

Recreational activities abound in Middle Tennessee, but soccer is the activity of choice among all ages of the Hispanic population. Hispanic immigrants are credited with soccer’s surge in popularity in the Nashville area.\(^{84}\) Nashville’s large Hispanic population likely contributed to Nashville’s hosting the Guatemala-USA match in 2015 and the Mexico-New Zealand match in 2016.

![Figure 6: Plaza Mariachi](image)

Finally, there has been a recent move in the enclave to focus on the arts and heritage of the population. A local developer invested over $18 million dollars in converting an 85,000 square foot shopping center located on Nolensville Road into *Plaza*

\(^{83}\) *Id.*

Mariachi. Plaza Mariachi provides shopping, dining, and cultural entertainment marketed to Nashville’s Hispanics and Nashville’s non-Hispanics and tourists. The developer’s goal is to educate and empower Nashville’s Hispanic population and educate Nashville’s non-Hispanics and tourist about Mexican culture and heritage. Venues within the plaza display Latin American art and relics and live musical and theatrical performances are presented on the various stages.\textsuperscript{85}

It is home to an eclectic food court featuring quick service cuisine from various Latin American countries and a higher-end Mexican restaurant with upscale food. Retail includes a Mexican themed grocery store, clothing in traditional Hispanic styles, and upscale shops with imported products from Latin America. Other occupants include a law firm specializing in the representation of Hispanics, several Spanish language radio stations, and NGO serving the Hispanic community. The building’s interior and exterior design and finishes are in traditional Mexican architecture and style. Interior shops are located along seven faux streetscapes each named in honor of a Mexican hero. The plaza opened during the early summer 2017.\textsuperscript{86}


CHAPTER III

The Justice Motive

There are both practical and philosophical reasons to identify and address the barriers undocumented Hispanic immigrants encounter in utilizing the U.S. legal system. From the practical aspect there are sizable bodies of theoretical and empirical literatures linking society’s perception of procedural justice and individual willingness to obey the law and legal authority. Extant research also links procedural justice and willingness to obey legal authority to individual’s willingness to cooperate with legal authorities. This feeling of obligation to comply with the law and legal authority is not influenced exclusively by the “authority’s possession of instruments of reward or coercion, but also to properties of the authority that lead people to feel it is entitled to be obeyed.” People must perceive the legal authority as legitimate, or in other words, “entitled to have its decisions and rules accepted and followed” by society. One group of commentators on the topic described this relationship as follows:

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1 Daniel Pryce, Devon Johnson, & Edward Maguire, Procedural Justice, Obligation to Obey, and Cooperation with Police in a Sample of Ghanaian Immigrants, 44 CRIM. JUST. & BEHAV. 733 (2017).
3 Id. at 514.
People’s internalized sense of obligation to obey the law serves as a mediator between their perception of the procedural justice of legal authorities and their decisions to obey the law and to cooperate or comply with legal authorities. … People make judgments about the extent to which legal authorities like police officers, prosecutors, judges, and prison guards behave in a procedurally just manner. … When legal authorities treat people in a procedurally just manner, they cultivate cooperation, compliance, and other beneficial outcomes.5

This “policing by consent … is viewed as a fundamental feature of modern policing and assumes that police effectiveness is premised on people’s willingness to defer to police authority.”6 When people perceive legal authority as illegitimate, then obeyance to law and the authority declines. The literature espouses a view that willingness to obey legal authority is a proxy for perceived legitimacy.7 The same holds true for cooperation between the legal authority and communities. Gaining cooperation from individuals and communities is necessary for effective policing and security within a community.8

Research shows that minorities such as blacks, Hispanics, and Muslims decrease cooperation with legal authorities when they perceive the authority to act without legitimacy.9 Immigrants’ perceptions of legal authority in the U.S. is influenced by their “country of origin, experiences with authorities in their home country, immigration

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5 Pryce, supra note 1, at 735.
7 Pryce, supra note 1, at 735; Sunshine and Tyler, supra note 2, at 38 (describes this relationship as “the most direct measure of citizens’ assessments of legitimacy”).
status, immigration generation and length of residence in the U.S., and experiences with immigration enforcement.”  

Additionally, recent arrivals can inherently distrust the authority due to experiences with the authorities in their native countries.  

Police may associate immigrants with increased crime causing elevated enforcement practices within immigrant communities. Additionally, post-9/11, local jurisdictions have engaged in various immigration enforcement programs removing the clear delineation between local policing and immigration enforcement. These paradigms ultimately lead immigrants to mistrusting the police. This mistrust in turn leads to a lack of obeyance to law and authority and a lack of cooperation with legal authority. Empirical research confirms this effect among undocumented communities. The blurred lines between community policing and immigration enforcement has lessened cooperation between the undocumented and local police.  

Criminal victimization, particularly intimate partner violence (IPV), goes unreported. Unfortunately, this is the reality of the undocumented community that has an “elevated risk of victimization” by hate crimes, sexual violence, and exploitation by landlords and employers.

In addition to these practical aspects, there are the philosophical needs of individuals and society to ensure that all are treated justly. I posit that this justice motive

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10 Pryce, supra note 1, at 738.
15 Pryce, supra note 1, at 38.
is of at least equal if not greater concern than the practical aspects discussed. Philosophers, theologians, and evolutionists may disagree on its origin, but all conclude that Homo sapiens possess an intrinsic need for morality and virtue. Moral judgment existed in all societies ever known and physical traces of morality are found in archaeological records at least into the Upper Paleolithic era and perhaps beyond.\textsuperscript{16} It is guided by an inherent knowledge of what is just and evidenced by visceral reactions and demands for rectification when injustice is observed. A sizeable body of empirical research confirms cross-cultural, broad universals such as; (1) condemnation of harming others, (2) valuing reciprocity and fairness, (3) establishing acceptable behavior, and (4) concepts of purity and pollution (i.e. menstruation, food, bathing, sex, and handling of corpses).\textsuperscript{17}

Philosopher Richard Joyce opines that moral judgment is fashioned with the following principles: (1) conative and cognitive expressed beliefs, (2) higher than individual interests or goals, (3) inescapability, (4) transcends human convention, (5) govern interpersonal relationships, (6) imply notions of desert and fairness, and (7) guilt regulates one’s own moral conduct.\textsuperscript{18} Simply put, moral judgment compels people to seek justice or as referred to in the literature and here as the human justice motive.\textsuperscript{19}

\textsuperscript{17} \textit{Id}. at 65.
\textsuperscript{18} Joyce, \textit{supra} note 1, at 70-1.
\textsuperscript{19} The term “justice motive” is prevalent in the field of Social-Psychology and is frequently associated with Melvin J. Lerner. The term is in interchangeable with similar terms used in the literature such as fairness motive, judgment motivation, and equity motive. See generally, Melvin J. Lerner, \textit{The Justice Motive: Where Social Psychologists Found It, How they Lost It, and Why They May Not Find It Again}, \textit{7 Personality and Soc. Psychol. R}. 388 (2003).
The justice motive exceeds the individual and ultimately affects and strengthens the greater community. As the philosopher, John Rawls explained it:

Justice is the first virtue of social institutions, as truth is of systems of thought … For this reason, justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many.... Being first virtues of human activities, truth and justice are uncompromising.20

Rawls goes on to explain that each member of society “accepts and knows that the others accept the same principles of justice, and … the basic social institutions generally satisfy and are generally known to satisfy these principles.”21 Individuals will coexist in a society perceived as just when the society adopts a “characteristic set of principles” that non-arbitrarily assigns rights and duties and properly distributes societal benefits and burdens amongst the society’s members.22

There are many theories and a robust literature attempting to construct not only what justice is, but also seeking to explain why justice is important to the individual and society in various contexts. For example, societal justice is expansive, encompassing such areas as distributive justice and political justice. From a broad societal view, distributive justice addresses how society should equitably distribute its resources to its various members and particularly the underprivileged, minorities, the disabled, and the elderly to meet the needs of all society.23

Distributive justice focuses on how society should distribute societal goods and services including material possessions, earnings, food and shelter, and healthcare to

21 Id. at 5.
22 Id.
members of society. Political justice “deals with accumulation of power and consensus for producing collective decisions and forms basic institutions of the political constitution as a precarious relation between power-compromises, interest aggregation, policy-considerations on the one side and the claims of external social configurations on the other.”  

These macro-justice theories are relevant to this work in that they present philosophical, religious, and scientific explanations of humans’ justice motive.

The most salient macro-justice theories can be categorized as philosophical, religious, or scientific. Philosophical theories consider the unique reasoning ability of human beings as the foundation of the justice motive. Using reason, humans developed justice concepts to ensure such things as self-preservation, protection of property, and so all could satisfy their social contract. Dominant philosophical theories include egalitarianism, utilitarianism, and equity/desert theories. Egalitarianism or the notion of “treating equals equally” is likely the oldest justice theory. Components of egalitarianism are traceable to philosophers Thomas Hobbes, John Locke, Jean-Jacques Rousseau, and Immanuel Kant.

Moral equality is the concept that people are to be “regarded as being equal in value or worth” and that this equal worth “entitles them to equal consideration in the

25 This is an oversimplification of the literature on morality, virtue, ethics, justice, etc. but suffices for this endeavor.
28 Id. at 1194.
treatment of their interest in a scheme of moral decision-making.”

In the legal context, egalitarianism holds “that all those to whom the laws of a particular political association apply should be subject to a standard impartial body of laws. No one should enjoy privileges that are not extended to all, nor should anyone in particular be exempt from legal sanctions.”

Egalitarian values were etched in the American belief system when it was embodied in the U.S. Declaration of Independence with the assertion that “all men are created equally.” People proclaim the egalitarian justice motive worldwide by protests and at times, violent riots over perceived inequality toward others. The U.S. has seen largescale protests seeking equality for African Americans, the LGBT community, and Hispanic immigrants.

Utilitarianism is “the view that the morally right action is the action that produces the most … overall good - that is, consider the good of others as well as one's own good.” This means that “everyone's happiness counts the same. When one maximizes the good, it is the good impartially considered. [An individual’s] good counts for no more than anyone else's good. Further, the reason … to promote the overall good is the same

30 Id. at 410
31 Choi, supra note 14, at 410.
32 “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed” THE DECLARATION OF INDEPENDENCE, para. 2 (U.S. 1776).
34 Id. at 51-88.
reason anyone else has to promote the good. It is not peculiar to any one person.\textsuperscript{36} Variations of utilitarianism have existed for millennia, but the theory is routinely attributed to philosophers David Hume, Jeremy Bentham, John Stuart Mill, and Henry Sidgwick.\textsuperscript{37}

Utilitarianism rejects egoism or the willingness to increase one’s own good at the expense of others. It also mandates that all have “a duty to others in virtue of their personhood to accord them fundamental dignity regardless of the numbers of others whose happiness is to be affected by the action in question.”\textsuperscript{38} Rhetoric aside, empirical research shows that undocumented immigrants contribute significantly to the U.S. and its economy.\textsuperscript{39} The utilitarian justice motive rejects increasing society’s “good” if it comes at a loss of dignity to immigrants by wage theft, unsafe living conditions, incarceration, etc.

Desert theory and its cousin equity theory operate on the general premise “that justice obtains when goods and evils are distributed according to desert.”\textsuperscript{40} In simple terms, these theories hold that people should receive the rewards or punishments they deserve. Individuals perceive inequity “whenever … inputs and/or outcomes stand psychologically in an obverse relation to the inputs and/or outcomes of other[s].”\textsuperscript{41} Both complement egalitarianism’s premise of treating equals equally by adding that equal

\textsuperscript{36} Id.  
\textsuperscript{37} Id.  
\textsuperscript{38} Id. at 8.  
conduct should produce equal reward or punishment. Like equalitarianism, both are fundamental values of the U.S.’ belief system. J. Stacey Adams summed it up as follows:

In the U.S. there is a strong, but perhaps weakening, predilection for the belief that effort and reward must be positively correlated. Considering the population at large, this belief has the status of a cultural norm and partially explains rather uniform reactions toward certain kinds of inequity…”

While both theories are rooted in ancient philosophy, modern understandings of desert theory are credited to the writings by Joel Feinberg and equity theory to writings by J. Stacey Adams. These theories explain society’s need to provide recourse for victimized undocumented immigrants and to punish those who victimize them.

Others believe the justice motive to be divinely inspired. Those following the Judeo-Christian tradition believe the sense of morality comes from God’s providence as explained by scripture. The fundamentals of this moral code are found in the Decalogue or Ten Commandments, as well as in other passages of the Bible. Early commentators such as Saint Augustine expounded the Bible’s moral code by blending it with Greek philosophy of the time. Saint Thomas Aquinas continued blending scripture with philosophy in his writings. Aquinas understood that God informed humans of a basic moral code by scripture with God’s most important directives to man being to “love your neighbor as yourself” and “so in everything, do to others what you would have them do.

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42 Id. at 425.
44 Adams, supra n. 26. Adam’s theory sought to explain justice within the organizational setting but has expanded to a general theory of fairness within interpersonal relationships. See also, E. Walster, et al, New Direction in Equity Research, 25 J. OF PERS. SOC. PSYCHOL. 151 (1973).
45 Exodus 20:1–17; Deuteronomy 5:4–21.
47 Leviticus 19:18; Mark 12:31.
to you” also known as the Golden Rule. It is further believed that conduct not specifically discussed in scripture can be evaluated as moral or immoral using the ability to reason relying on scripture. Aquinas’ position is summed up as follows:

There are truths … which are accessible to natural reason, that is, to ordinary experience (including the specialized observations of natural scientists), insight, and reflection; and these include practical truths about good and evil, right and wrong. (ii) Many of those truths of natural reason are confirmed, and even clarified, by divine revelation, that is, the propositions communicated directly or inferentially in the life and works of Christ, as transmitted by his immediate followers and prepared for in the Jewish scriptures accepted by those followers as revelatory. (iii) Some of the truths divinely revealed could not have been discovered by natural, philosophical reason, even though, once accepted, their content and significance can be illuminated by the philosophically ordered reflection which [Aquinas] calls theology.

Judeo-Christian morals inspired by God or otherwise are deeply entrenched in the U.S.’ culture. Biblical beliefs have inspired protests against laws and government action on civil rights, abortion, and the death penalty.

More recently, a third notion of man’s justice motive emerged claiming that man possesses a biological sense of morality, i.e. Homo moralis. The theory behind Homo moralis is that “people are born with an innate capacity to care about morality, and they are predisposed to maintain cooperative systems by rewarding those who behave morally.

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48 Matthew 7:12.
50 *Id.* at 10.
52 Roy McVeigh & Christian Smith, *Who Protests in America: An Analysis of Three Political Alternatives – Inaction, Institutionalized Politics, or Protest*, 14 Soc. Forum 685, 696-7 (1999) (“More frequent church attendance (more than once a week) ... significantly increases the likelihood of protest relative to institutionalized political action. This finding is consistent with the observations of scholars who have noted the important role that religious congregations can play in facilitating social movement activism. ... those who attend religious services the most often, which would indicate greater commitment to their religious beliefs, tend to choose protest over institutional politics.”).
and punishing those who do not.” These intrinsic moral convictions are much stronger beliefs than preferences and conventions ordained from society and their violation likely triggers angry responses with “intense feelings of contempt and disgust.” The foundations of this theory are traceable to the secular writings of Scottish philosophers David Hume and Adam Smith. In his 1759 publication, The Theory of Moral Sentiment, Smith opined that the justice motive was akin to the other senses.

This new power of perception he called a moral sense, and supposed it to be somewhat analogous to the external senses. As the bodies around us, by affecting these in a certain manner, appear to possess the different qualities of sound, taste, odor, color; so, the various affections of the human mind, by touching this particular faculty in a certain manner, appear to possess the different qualities of amiable and odious, of virtuous and vicious, of right and wrong.

In his 1871 work, Descent of Man, evolutionist Charles Darwin explicitly opined that human morality was biological and attained by the evolutionary process. Darwin asserts that man develops social instincts necessary for the protection of familial and social relationships. Social instincts are necessary for self-preservation and human affection, sympathy, faithfulness, and empathy for others while satisfying an internal need for self-satisfaction. As intellectual faculties evolved, humans developed a conscience that produced feelings of guilt and remorse when acting selfishly or contrary to society.

54 Id. at 7.
55 Catherine Wilson, Darwinian Morality, 3 EVOLUTION: EDUC. & OUTREACH 275-87 (2010).
56 Adam Smith, The Theory of Moral Sentiment 401 (2nd ed. 1798).
57 Charles Darwin, Descent of Man (1871).
58 Id. at 74-82.
59 Darwin, supra note 42, at 70-2.
Humans also developed complex language skill allowing members of society to express a “common opinion how each member ought to act for the public good.” These beliefs were reinforced by habit and eventually passed to succeeding generations. Darwin believed that all animals “endowed with well-marked social instincts, would inevitably acquire a moral sense or conscience, as soon as its intellectual powers had become as well developed, or nearly as well developed, as man’s.”

Darwin’s novel theory of his time remains the cornerstone of evolutionary morality today. Darwin based his theses on his personal observations and the observations of others, but many components of his theses have since been confirmed empirically. Neuroscience researchers have linked moral judgment to the hardwiring and chemical reactions of the brain. Recent research confirms the biological genesis of morality in infants and traces its development at various life stages.

Apart from these, broad macro-justice concepts are individual and community level issues that engage undocumented immigrants with the legal system. How undocumented immigrants interact with legal authority, their knowledge of and acceptance of the host country’s legal system, and their compulsion to obey the host country’s rule of law affects how these micro-justice contacts are resolved between immigrants and authorities. Society must assure appropriate micro-justice not only to satisfies the philosophical “imperative to do the right thing, but … it also satisfies

60 Darwin, supra note 42, at 72.
61 Darwin, supra note 42, at 71-2.
62 See generally, Joyce, supra note 1.
utilitarian objectives by generating socially meaningful outcomes.”

Research demonstrates that failed micro-justice disrupts the legal system by increasing misconduct by undocumented immigrants and permitting their victimization without recourse. Media reports of criminal activity by undocumented immigrants range from DUI deaths to the murder of Kathryn Steinle on the Embarcadero in San Francisco.

Regardless of its truth, in the U.S. there are “widespread assumptions of immigrant criminality and disrespect for the rule of law and legal authorities.” Donald Trump fueled this rhetoric in his ascent to the White House in 2016. Stories of victimization of the undocumented are plentiful as well. These range from the seemingly endless reports of wage theft and armed robberies to serial rape of female immigrant workers. Despite the fact of higher levels of criminal victimization in the Hispanic community, they are less likely than other groups to report crime.

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66 Not all misconduct equate to a crime. Therefore the term misconduct is preferred.

67 Emily Crane, Illegal Mexican immigrant with a long rap sheet who has been deported from the U.S. five times ‘killed a California woman in a DUI crash’ DAILY MAIL (March 7, 2017) http://www.dailymail.co.uk/news/article-4289892/Illegal-immigrant-charged-killing-woman-DUI-crash.html.


72 Raymond Barranco & Edward Shihadeh, Walking ATMs and the immigration spillover effect: The link between Latino immigration and robbery victimization, 52 Soc. Sci. Res. 440 (2015). Article documents the routine robbery of undocumented Hispanics who rely on a cash economy and do not report robberies due to legal status. Robbers came to refer to this demographic as “walking ATMs” because they were easy targets.


74 C. Rennison, Reporting to the Police by Hispanic Victims of Violence, 22 Violence & Victims 754 (2007).
Undocumented immigrants do not fare any better in the civil arena. Foreign-born immigrants are more likely to live at or below the poverty level increasing the likelihood of involvement with the civil legal system. Immigrants are more likely to experience problems with employment, housing, and access to social support systems when compared to native-born persons. Roughly sixty-percent of low-income immigrant households report at least one civil problem in the preceding twelve months. Almost one-third report problems with unsafe and unhealthy housing conditions and nearly twenty-percent report employment discrimination and wage theft. This demographic often forgoes redress due to a lack of familiarity, language skills, and limited social networks.

Society has a vested interested in controlling misconduct by the undocumented, as well as natives who may prey on them. In a large part, the U.S. legal system relies on deterrence theory in controlling misconduct especially in its criminal justice system. Deterrence theory “presumes that human beings are rational enough to consider the consequence of their actions and to be influenced by those consequences.” The failing of the theory is that one must perceive the consequences, i.e. reward or punishment, as certain, swift, and significant enough to induce the desired conduct.

Certainty of consequences is low if there is little chance of detection. Celerity or swiftness of the consequences is also low in the U.S. judicial system, generally regarded

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76 Id. at 647.
77 Id.
79 Id.
as slow and inefficient. While there is marginal proof that deterrence measures cause some reduction in misconduct there is no empirical proof indicating a “robust relationship.”\textsuperscript{80} Those who prey on undocumented immigrants seek them out as victims because of their unwillingness to report crime. Fully deterring undocumented immigrants from misconduct is difficult because of their lack of knowledge of substantive and procedural law in the host country. Additionally, as a group they are accustomed to living as a hidden population, thus making it difficult for authorities to detect misconduct. Put simply, neither group perceives a certainty of punishment because there is little likelihood of detection of misconduct.

Controlling conduct by the use of power only provides short-term gains and produces unintended consequences in the immigrant community.\textsuperscript{81} Additionally, the use of power, “particularly coercive power, requires a large expenditure of resources to obtain modest and limited amounts of influence over others.”\textsuperscript{82} Research “shows that such instrumental influences are small and come at a high material cost. This leaves societies vulnerable because disruptions in the control of resources brought on by periods of scarcity or conflict quickly lead to the collapse of effective social order.”\textsuperscript{83} It thus becomes necessary to influence behaviors by means other than power.

Those in positions of authority must attain legitimacy by convincing subordinates “that the decisions made and rules enacted by [them] are in some way right or proper and

\textsuperscript{80} Paternosterm, \textit{supra} note 63, at 818.
\textsuperscript{81} David S. Kirk, Andrew V. Papachristos, et. al., \textit{The Paradox of Law Enforcement in Immigrant Communities: Does Tough Immigration Enforcement Undermine Public Safety}, 641 ANNALS AM. ACAD. POL. & SOC. SCI. (2012).
\textsuperscript{83} Tyler, \textit{supra} note 67, at 377.
ought to be followed.” Authority accepted as legitimate is instrumental, as well as normative even among those disagreeing with actions and decisions in principle. Legitimate authority provides a cognitive point of orientation governing the individual’s and society’s behavior. A legitimate “norm, value, belief, practice, or procedure …becomes by virtue of the fact that it is binding, embedded in a system of social controls. Others can be expected to support it if it is violated.” “Control by others is thus replaced by self-control” as the individual internalizes social norms and values and these become part of the person’s own behaviors.

Individuals and institutions in positions of authority rely on legitimacy and related concepts in encouraging obedience to the law. “Legitimate authorities are those institutions, regimes, or individuals whose laws, edicts, or directives are perceived as desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definition.” There is no consensus in the literature constructing legitimacy and its related concepts, but the most widely used components relevant here are: (1) legitimacy of authority, (2) institutional trust, (3) cynicism about the law, (4) procedural justice, and (5) legal cynicism.

Legitimacy originates from people’s belief that individuals and institutions are conforming within their own moral principles and their own sense of what is right and

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84 Tyler, supra note 67, at 376 (citing Zelditch, infra note 70).
86 Zelditch, supra note 70, at 6.
87 See generally, M. Hoffman, Moral Internalization, 10 ADVANCES IN EXPERIMENTAL SOC. PSYCHOL. 85, 85-6 (1977).
88 Johnson, infra note 74, at 949 (quoting Mark C. Suchman, Managing Legitimacy: Strategic and Institutional Approaches, 20 ACAD. OF MGMT. REV. 571, 574 (1995)).
proper. Institutional trust “on the other hand, derives from people’s evaluation of the extent to which institutions perform in accordance with normative expectations held by the public.”

People develop “cynicism about the law” when they believe the law is used against them or their interest by elites or the government. Procedural justice is attained when persons or institutions in positions of authority treat people with dignity, fairness and respect (quality treatment) and make fair and neutral decisions (quality decision-making). Legal cynicism, as opposed to cynicism about the law, is a “cultural frame in which people perceive the law, and the police in particular, as illegitimate, unresponsive, and ill equipped to ensure public safety.”

To effectively control misconduct within the undocumented community and limit their victimization, society must convince them there is a legitimate authority exercising procedural justice. Research demonstrates that this is a very difficult task with immigrants and racial and/or ethnic minorities. These groups are more likely to perceive unfair procedural treatment and report receiving unfair outcomes from authorities during personal encounters. They are also more likely to mistrust the motives of the authorities.

Even if immigrants deem the authority legitimate they may not believe the enforcement is legitimate. In other words, an individual or community may accept the legitimacy of the actor, but not accept the policy, rule, or law as legitimate and feel no

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90 Johnson, supra note 74, at 966.
compulsion to obey it. The undocumented Hispanic community may shun and resist the police due to perceived disproportionate enforcement towards the group, biased enforcement based on ethnicity, phenotype, or legal status, or enforcement is inconsistent with the cultures and legal traditions of their nation of origin.

Undocumented immigrants can transition from resisting authority to disengaging from the system entirely. Disengagement occurs when people reject the enforcement of policies and rules, as well as the methods of enforcement. Disengagement by placing “social distance” between them and authority furthers the undocumented population’s goal of remaining hidden within the host society. Disengagement is also consistent with this demographics’ perception that some U.S. laws and policies are hypocritical and see enforcement biased against them based on ethnicity, phenotype, or legal status. Research demonstrates that it is difficult to “win over” those who voluntarily disengage from authority particularly when there is a history of poor treatment and/or police mistrust.

When people view authorities as possessing legitimacy and related concepts there is willingness to obey the authority and laws. Empirical research confirms this relationship. Ample research finds that people are more willing to accept the decisions of formal and informal authorities if they believe the authorities relied on fair procedures in reaching the decisions. People are more accepting of decisions, even adverse decisions,
when they perceive the authority as legitimate. Disfavored policies and decisions from perceived legitimate institutions garner support including unpopular judicial decisions. The extant literature demonstrates this is true for immigrants as well, even though they may have skewed opinions due to their country of origin experience.

The other side of the equation is encouraging undocumented immigrants to report civil and criminal victimization and engaging them in the process when they are involved in other roles such as a witness or informant. There is a robust body of literature demonstrating that public corroboration is crucial for effective crime control. “The ability of police to maintain order and security in communities rests largely on their ability to cultivate voluntary cooperation from members of the public. In communities where relationships between police and the public have soured, residents are often less willing to call the police, to aid the police in investigations, to serve as witnesses and testify in court, or to support police request for increased funding.”

Generally, uncooperative attitudes are traceable to mistrust of the legal system and the police in particular. The two dominant factors in this construction are the level of discrimination experienced in the host country and expectations of the legal system and police formed in the country of origin. Authorities may unfairly associate immigrants with crime and target those communities with disproportionate enforcement measures.


98 Tyler, supra note 82, at chap. 7.


100 Ryo, supra note 54, at 102.

101 Pryce, infra note 90, at 4.

Harsh enforcement is more likely when immigrants share phenotype and sociodemographic characteristics with high crime rate natives.\textsuperscript{103}

For the immigrant, perceived discrimination taints their willingness to trust authority. Discrimination signals to the individual their value to society and generates “feeling of not being treated with respect and dignity, or even of being harassed.” These beliefs also generate concerns about impartiality in decision-making by the authority.\textsuperscript{104}

Legal systems in developing countries tend to be weak and ineffective “regularly failing to hold offenders accountable and protect the poor while exposing the innocent to sanctions for crimes they did not commit.”\textsuperscript{105} Policing in some of these countries can be “characterized by abuse, violence, intimidation, and widespread corruption.”\textsuperscript{106} The 2015 Corruption Perception Index, Transparency International noted Mexico and most Central American countries high on its corruption scale.\textsuperscript{107} In general, high levels of corruption in the sending countries erode legitimacy leading to social inequality.\textsuperscript{108} Since nearly all of the U.S.’ undocumented Hispanic immigrants originate from Mexico and Central America, most will arrive with deep-seated mistrust of authorities, especially the police.

\begin{thebibliography}{99}
\bibitem{103} Pryce, \textit{infra} note 90, at 6.
\bibitem{104} Roder, \textit{supra} note 87, at 371.
\bibitem{105} Daniel Pryce, Devon Johnson, & Edward Maguire, \textit{Procedural Justice, Obligation to Obey, and Cooperation with the Police in a Sample of Ghanaian Immigrants}, 20 CRIM. JUST. & BEHAV. 1, 7 (2016).
\end{thebibliography}
CHAPTER VI

Research Methodology

Nashville’s undocumented Hispanic population is estimated to range from 43,000 to 44,400, originating predominately from Mexico and Central America.\(^1\) This demographic lives as a hidden population in communities scattered in and around Nashville with a significant population living in an enclave along Nolensville and Murfreesboro Roads.\(^2\) As previously discussed, there are both societal and individual needs for this hidden population to utilize the legal system.

The legal system is not limited to traditional judicial functions, but encompasses all forms of governmental social control used to maintain social order, such as policing and regulatory oversight.\(^3\) This writing summarizes 22 months of field research beginning February 2015 and ending October 2016 seeking to understand the barriers Nashville’s undocumented population encounters in utilizing the legal system. The research’s objective was identification of these social phenomena so that strategies could be formulated removing these barriers.

Both positivist and interpretivist research designs are useful in studying social phenomena.\(^4\) Positivists construct reality from observable and experienced phenomenon with a focus on quantitative data. Using quantitative data that are objective and

\(^1\) Chapter II, page 12.
\(^2\) Chapter II, pages 12-18.
\(^4\) Dharamsi, Shafik & Scott, Ian, Quantitative and Qualitative Research, 55 CAN. FAM. PHYSICIAN 843 (Aug. 2009).
measurable, positivists formulate generalizable theory using deductive reasoning. Quantitative methodologies apply “natural science principles, particularly, a positivist and empiricist approach in explaining social phenomena. Positivism involves such principles as setting operational definitions to concepts, ensuring objectivity by detaching from the subject, striving for replication, and establishing causality.”

The philosophical view of this research is interpretivist. Interpretivists view “reality” as a construct constantly changing as individual and social circumstances change. Interpretivists’ research focuses on qualitative methods and the use of inductive reasoning to explain social reality. The paradigm of this study is constructivist, a branch of the interpretivist philosophy.

Constructivists seek to understand how individuals and communities give meaning to events not necessarily rooted in reality, but based on the individual and community’s perceptions of events. An individual’s personal experiences, the community’s social interactions, and cultural and historical norms ground these perceptions. These perceptions become the individual’s reality of situations, events, and social facts even though not rooted in fact, reality, or logic. The ultimate goal of this project was to generate a constructivist view of a social phenomenon, i.e. the real and perceived barriers undocumented Hispanics encounter in utilizing the legal system.

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7 Williamson, supra note 5.
8 Williamson, supra note 5, at 85.
Studying hidden populations like undocumented immigrants using quantitative methods is problematic due to their unauthorized status in the U.S. and the risks of detention, deportation, and criminal prosecution. The difficulty in identifying and sampling this demographic made a strictly quantitative study impossible. On the other hand, the study of hidden populations and their perceptions of the legal system are ideal subjects for qualitative research. This is especially true when applying a constructivist paradigm seeking to explore and understand the complex subjective meanings individuals and communities assign to specific events. There is some disagreement of what constitutes qualitative research in the social sciences, but the following generic definition is informative:

Qualitative research is a situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that make the world visible. These practices transform the world. They turn the world into a series of representations, including field notes, interviews, conversations, photographs, recording, and memos to the self. At this level, qualitative research involves an interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them.\(^\text{10}\)

Qualitative research presents a better method of understanding individual perceptions. As one commentator pointed out:

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\(^{10}\) Norman K. Denzin & Yvonna S. Lincoln, *Collecting and Interpreting Qualitative Materials* 5 (2nd ed. 2003).
Qualitative research’s aim is to draw out the informants’ understandings and perceptions, as well as to explore the features of social settings and culture. It is informed primarily by an inductive model of reasoning. The collected data are intended to illuminate the meanings attached by individuals to events and situations, and to understand the dynamics of social life and the linkages between processes and outcomes. Emphasis is placed on understanding a phenomenon holistically, that is, from different perspectives and bounded by the context or setting within which it is located. The questions of “how” and ‘why’ are paramount.

The literature demonstrates that objectively gathered qualitative data are as reliable and valid as quantitative data. However, unlike quantitative research, this study of Nashville’s undocumented Hispanic community provides insight into this particular group’s perceptions and reactions and provides only limited generalizability to similar groups. However, generalizability is not the primary goal of qualitative research, as it is with quantitative research.

Among the various qualitative design options, grounded theory was the best approach for this research project. Grounded theory espouses that theory can be constructed from patterns or themes emerging in the data. Properly applied grounded theory methodologies produce real theory grounded in the data and not simply “armchair theorizing” often seen in qualitative research. Grounded theory is unlike other forms of qualitative research in two respects.

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14. Howard Becker, Culture Case Study and Ideal-typical Method, 12 SOC. FORCES 399, 400 (1934).
15. Creswell, supra note 8, at 13-6 (Major qualitative designs include Narrative, Phenomenology, Ethnography, Case Studies, and Grounded Theory).
First, unlike other forms of research, data gathering is not to prove or disprove a hypothesis. Rather, the theory emerges from the data as data are collected, and the theory does not emerge until the research is completed. Secondly, data collection and theory development are interrelated and inseparable. The researcher analyzes the data as they are collected and the theory is modified before any additional data are collected. This is essential to ensure future data collected are consistent with current theory and expands the theory if necessary. Classical grounded theory emphasized neutral questions, passive researchers, and strict coding methods. This research utilized a modified version of classical grounded theory relying on semi-structured questions, a more active researcher, and relaxed coding methods. \(^{18}\)

This study collected data from three sources in order to provide a robust picture of the Nashville’s undocumented Hispanics and their experiences and perceptions of the legal system. Multiple methods of data collection “adds rigor, breadth, complexity, richness, and depth” to qualitative research. \(^{19}\) Sources of data included; 1) formal and informal interviews with key informants working with Nashville’s undocumented community, 2) formal and informal individual interviews and group interviews of undocumented Hispanic immigrants, and 3) a non-randomized survey (n = 350) of undocumented Hispanic immigrants living in Nashville.

\(^{18}\) Kathy Charmaz, Discovering Chronic Illness: Using Grounded Theory, 30 SOC. SCI. & MED. 1161 (1990), see also, Corbin, supra note 17. There is a debate about whether this research method should be deemed grounded theory. The answer to that question is beyond the scope of this research. Hillary Engward provides a thorough discussion and analysis of the issues. H. Engward, Understanding grounded theory, 28 NURSING STANDARD 37 (2013).

\(^{19}\) Norman K. Denzin & Yvonna S. Lincoln, COLLECTING AND INTERPRETING QUALITATIVE MATERIALS 8 (2\(^{nd}\) ed. 2003).
The interviews produced data used in developing substantive theory of the barriers undocumented immigrants experienced in utilizing the legal system. The second phase was creation of a survey instrument to validate the themes and hypotheses emerging from the interviews. This methodology is similar to an exploratory sequential mixed methods design except for the non-randomized aspect of the survey. An exploratory sequential mixed methods design begins “by exploring with qualitative data and analysis and then uses the findings in a second quantitative phase.” Similar to mixed methods research, it uses both qualitative and quantitative data; however, randomly sampling undocumented immigrants was prohibitive due to their legal status. While these survey data are not generalizable, they do provide valuable understanding in validating the theories that emerged from the interviews.

I interviewed key informants who are individuals having special and professional relationships with Nashville’s undocumented community. These key informants provided unique perspectives of how undocumented immigrants interact with the legal system, processes in place assisting them, and observed difficulties they encounter. The researcher relied on snowball methods in identifying and contacting additional key informants. Some refused the invitation and some reluctantly consented, but requested anonymity for various reasons. Appropriate assurances were given and necessary steps taken to protect identities for all interviewees. Many key informants willingly

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20 Cresswell, supra note 8, at 224-226.
participated as they believed the research was consistent with their core missions within the undocumented community.

In all, there were 15 formal, audio-recorded interviews with key informants ranging from 45 minutes and 2 hours in length. In addition, there were upwards of 30 informal “interviews” with key informants who did not feel it appropriate to participate in the formal, audio-recorded process. Reasons for declination included lack of time, needing employer approval, professionally inappropriate, and so forth. Alternative locations were used for key informants concerned with being interviewed at their place of work.

Most of these interviews would not have been possible without personal referrals from associates working in this community and assurances of anonymity. Additionally, interviewee anonymity allowed the key informant to be frank and candid during the process. The interviewer referred to the interviewee by professional title and not proper name unless instructed otherwise. Transcripts of the interviews only refer to the participants as “interviewer” and “interviewee.”

Key informants interviews followed a semi-structured format utilizing a prepared interviewer guide keeping informants on topic. The interviewer guide evolved as new data were gathered. Initial interviews lasted approximately two hours but as interviews progressed and became more targeted times reduced to the range of 45 minutes to one hour. A Spanish language interpreter was essential to capture the fine detail of the dialogue when English was not the key informant’s first language. All interviews were

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audio recorded and transcribed for analysis before undertaking additional interviews. Transcript analysis identified themes and patterns and ultimately substantive theory of various barriers began to emerge. Interviews reached theoretical saturation when new data collected failed to present different themes or augment extant themes. At saturation, key informants interviews ended. The table below presents a summary of the formal key informant interviews by professional title.

Table 3: Summary of Key Informants by Occupation/Profession

<table>
<thead>
<tr>
<th>Civil Rights Attorney</th>
<th>Community Worker</th>
<th>Criminal Detective</th>
<th>Public Defender</th>
<th>Immigration Attorney</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal Attorney</td>
<td>Court Interpreter</td>
<td>City Council Member</td>
<td>Assistant Attorney General</td>
<td>NGO Director</td>
</tr>
</tbody>
</table>
| Criminal Judge        | Hispanic Pastor (1) | Hispanic Pastor (2) | NGO Founder | El Protector

I also gathered data by interviewing undocumented Hispanic immigrants living in the Nashville area. Recruiting undocumented immigrants for interviews without a personal referral was not possible and not guaranteed even with a referral. The personal risks of arrest, incarceration, and deportation are only part of the potential candidate’s consideration. The risks also include financial ruin for some who have been in the U.S. for many years with no way to protect their life fortunes. Then there is the ripple effect on one’s immediate and more distant relatives and social relationships. Securing interviews with this community required assurance from a trusted member of their social group as to the legitimacy of the invitation and a protected location. Churches meet these needs.

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25 El Protector is an outreach of the Nashville Police Department by a Hispanic officer intended to build trust and further cooperation with the Hispanic community. Additional information is available at: http://www.nashville.gov/Police-Department/Safety-Information/El-Protector-Program.aspx
Churches are unique in that they “promote values of tolerance, generosity, respect and … love of God.”

This atmosphere provides undocumented immigrants protection from exposure of their immigration status and discrimination based on race, culture, and language. Additionally, in the southern U.S., churches are a staple of social and civic life, and church attendance by the undocumented indicates assimilation of immigrants into the dominant culture.

Church also plays a major role in the Hispanic community both spiritually and socially.

Through a personal referral, I established a relationship with a Nashville church serving the undocumented community. Eventually, this church’s leadership referred me to another Hispanic congregation serving a distinctly separate Hispanic community in Nashville. Over a 15-month period, I alternatively attended weekday and Sunday services and activities with these two congregations such as Bible studies, Sunday school, and special events. Both congregations included large extended families and interrelated families with strong familial and social ties.

While some members were clearly adherents, I observed that many were social attenders, and in fact, many identified as such. Newly arriving immigrants were frequently introduced to the congregants in their first social encounter in the area. The breadth and depth of these churches’ commitment to the immigrant community was inspiring. Religious principle compelled the church leadership and adherents to help each

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26 Laura Lopez-Sanders, Bible Belt Immigrants: Latino Religious Incorporation in the New Immigrant Destinations, 10 LATINO STUDIES 128, 129 (2012).
other and especially new arrivals. As one pastor told his Hispanic congregation, “everyone is welcome in God’s house, and you won’t need a green card to get into Heaven.” Others were motivated to assist immigrants out of common identity, purpose, and experience.

I developed strong and trusting relationships with many of the congregants that continued after my research was completed. In addition to attending church functions, I was invited to attended many social activities away from the churches such as soccer matches, cookouts, and birthday parties. Family and group meals after church services at Hispanic restaurants were routine and several families invited me into their homes for traditional Mexican, Salvadoran, and Honduran meals. My family reciprocated by entertaining at our home with pizza and bar-b-que. During these social times, I informally spoke with and observed hundreds of undocumented Hispanic immigrants about their experiences and perceptions of the legal system. Many, believing the system is biased against them, eagerly discussed their personal experiences and accounts from others.

These informal exchanges also provided paths to immigrants willing to participate in formal, audio-recorded interviews. Using snowball methods, I identified 26 undocumented Hispanic immigrants willing to provide formal, audio-recorded interviews. Not all undocumented interviewees were members of these churches, but referrals to all interviewees came from members of the churches. Aside from being protestant, both churches are unrelated organizationally and geographically providing two distinct social groups from which to draw interviewees.

29 Chaim Noy, supra note 22, at 330 (discussing the use of snowball sampling to discover hidden populations).
The first objective was to chronicle specific experiences undocumented immigrants had with the legal system. The second objective was to gain an understanding of their perception of the legal system and under what circumstance they would utilize it. Relevant perceptions included inherent fairness of the system, concerns of racial and cultural discrimination, and accessibility issues such as cost, language barriers, and the risk of deportation. Additionally, the literature indicates that an individual is influenced to turn to the legal system for redress based on contextual factors, such as level of harm/damage, age and race of perpetrator, and the relationship between the parties. The interview format was semi-structured following a prepared interview guide that evolved as data were collected. This format and use of the interview guide kept interviewees on topic and ensured exploration of all relevant topics.

The original research design included a focus group at the conclusion of individual interviews. Focus groups comprised of individuals from different social settings enhance the thickness of the data and confirm the findings.\(^{30}\) They are particularly helpful in the study of “socially marginalized groups, understanding community dynamics, and eliciting feedback on sensitive issues,”\(^{31}\) such as the topics of this study and can produce an additional layer of data over individual interviews.\(^{32}\)

I received a litany of excuses for not participating in the planned focus group, but it became clear that discussing legal status and past involvement with the system in front

\(^{30}\) See generally, Sylvie Lambert & Carmen Loiselle, Combining Individual Interviews and Focus Groups to Enhance Data Richness, 62 J. OF ADVANCED NURSING 228 (2008).


of mere acquaintances and perhaps even strangers was the real impediment. Unfortunately, a formal focus group never materialized. However, it was commonplace for interviewees to arrive in groups wanting to be interviewed together to ease their discomfort. These group interviews were logistically difficult particularly for my interpreter, but did produce an additional layer of data from the participants that would not have surfaced in individual interviews. Groups consisted of as few as two participants to as many as four with some group interviews last for several hours.

![Figure 7: Service at a Hispanic Church in Nashville, Tennessee.](image)

The churches permitted me to use their facilities for the interviews, including those of non-attenders. Typical interviews ranged from one-half to one and one-half hours. Many spoke only limited English so a Spanish language interpreter translated to assure comprehension and capture the richness of the dialogue.\(^{33}\) Pseudo names were

\(^{33}\) Inhetveen, *supra* note 23.
used to protect anonymity, and I redacted any potentially identifying information from the transcripts. All undocumented interviewees were compensated with either a $10 or $20 Walmart gift card for participating in the interview depending on the length of the interview. The table below presents a summary of the undocumented immigrant interviewees.

Table 4: Undocumented Hispanic Immigrants Interviewed

<table>
<thead>
<tr>
<th>Name</th>
<th>Age</th>
<th>Birth Nation</th>
<th>Years in U.S.</th>
<th>Occupation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sofia</td>
<td>20</td>
<td>Mexico</td>
<td>13</td>
<td>College Student</td>
</tr>
<tr>
<td>Isabella</td>
<td>50</td>
<td>Mexico</td>
<td>11</td>
<td>Restaurant Cook</td>
</tr>
<tr>
<td>Camila</td>
<td>42</td>
<td>Mexico</td>
<td>14</td>
<td>Factory Worker</td>
</tr>
<tr>
<td>Valeria</td>
<td>32</td>
<td>Guatemala</td>
<td>13</td>
<td>Factory Worker</td>
</tr>
<tr>
<td>Santiago</td>
<td>50</td>
<td>El Salvador</td>
<td>20</td>
<td>Construct. Work</td>
</tr>
<tr>
<td>Mariana</td>
<td>25</td>
<td>Mexico</td>
<td>11</td>
<td>Food Worker</td>
</tr>
<tr>
<td>Luciana</td>
<td>50</td>
<td>Mexico</td>
<td>20</td>
<td>House Cleaner</td>
</tr>
<tr>
<td>Sebastian</td>
<td>47</td>
<td>Honduras</td>
<td>26</td>
<td>Landscaper</td>
</tr>
<tr>
<td>Daniela</td>
<td>46</td>
<td>Mexico</td>
<td>13</td>
<td>House Cleaner</td>
</tr>
<tr>
<td>Lucia</td>
<td>29</td>
<td>Mexico</td>
<td>14</td>
<td>Food Worker</td>
</tr>
<tr>
<td>Sara</td>
<td>25</td>
<td>El Salvador</td>
<td>6 mos.</td>
<td>Food Worker</td>
</tr>
<tr>
<td>Diego</td>
<td>47</td>
<td>El Salvador</td>
<td>20</td>
<td>Entrepreneur</td>
</tr>
<tr>
<td>Joaquin</td>
<td>59</td>
<td>Mexico</td>
<td>13</td>
<td>Plumber</td>
</tr>
<tr>
<td>Mia</td>
<td>42</td>
<td>Mexico</td>
<td>11</td>
<td>Housewife</td>
</tr>
<tr>
<td>Tomas</td>
<td>27</td>
<td>Cuba</td>
<td>3 mos.</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Renata</td>
<td>26</td>
<td>Cuba</td>
<td>6 mos.</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Juan</td>
<td>46</td>
<td>Mexico</td>
<td>23</td>
<td>Construction</td>
</tr>
<tr>
<td>Abril</td>
<td>55</td>
<td>Mexico</td>
<td>14</td>
<td>House Cleaner</td>
</tr>
<tr>
<td>Martin</td>
<td>33</td>
<td>Mexico</td>
<td>13</td>
<td>Painter</td>
</tr>
<tr>
<td>Juana</td>
<td>30</td>
<td>Mexico</td>
<td>5</td>
<td>Painter</td>
</tr>
<tr>
<td>Javier</td>
<td>39</td>
<td>Mexico</td>
<td>18</td>
<td>Painter</td>
</tr>
<tr>
<td>Maria</td>
<td>37</td>
<td>Mexico</td>
<td>11</td>
<td>Painter</td>
</tr>
<tr>
<td>Jose</td>
<td>42</td>
<td>Mexico</td>
<td>15</td>
<td>Carpet Cleaner</td>
</tr>
<tr>
<td>Carlos</td>
<td>55</td>
<td>Mexico</td>
<td>17</td>
<td>Construction</td>
</tr>
<tr>
<td>Julian</td>
<td>30</td>
<td>Mexico</td>
<td>17</td>
<td>Construction</td>
</tr>
<tr>
<td>Manuela</td>
<td>30</td>
<td>Mexico</td>
<td>8</td>
<td>House Cleaner</td>
</tr>
</tbody>
</table>

Key informants’ and undocumented immigrants’ audio-recorded interviews were transcribed in English. A Spanish language interpreter compared audio-recorded
interviews to the transcripts ensuring accuracy. I personally coded all transcripts for data and noticed eight major themes and patterns emerge. These themes are summarized in the table below.

**Table 5: Identified Themes**

<table>
<thead>
<tr>
<th>Specific Barriers</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deportation Dynamic</td>
<td>Belief that any contact with legal system risk deportation</td>
</tr>
<tr>
<td>Structural Barriers</td>
<td>Language, socio-economic status, education, etc.</td>
</tr>
<tr>
<td>Cultural Barriers</td>
<td>Legal culture, family and gender roles, and religiosity</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Perceived bias due to phenotype, ethnicity, and legal status</td>
</tr>
<tr>
<td>Unawareness of Legal Rights</td>
<td>Uninformed and misinformed of legal rights</td>
</tr>
<tr>
<td>Unawareness of Legal Process and Structure</td>
<td>Unapprised of the workings of the legal system</td>
</tr>
<tr>
<td>Legal Self-Efficacy</td>
<td>Feeling unable to maneuver within the legal system</td>
</tr>
<tr>
<td>Community Empowerment</td>
<td>Lack of community support in asserting rights</td>
</tr>
</tbody>
</table>

The final phase of this research was validation of the eight barriers identified above by use of a survey instrument. Following DeVellis’ recommendations, I developed four scales measuring the theoretical constructs (or latent variables) of the Deportation Dynamic, Perceived Discrimination, Legal Self-Efficacy, and Community Empowerment. The scales’ latent variables were assembled from extant literature discussed further in the coming chapters. The remaining barriers, Awareness of Legal Rights, Comprehension of Legal Process, Structural Barriers, and Cultural Barriers are atheoretical. With the atheoretical barriers, as well as the demographic survey items, my interest was in the respondent’s “response per se, not in some characteristic of the person it is presumed to reflect.” Again, following DeVellis’ recommendations, I created

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35 DeVellis, supra note 35, at 8.
survey items providing empirical insight into the atheoretical barriers. The methodology employed as to these survey items was also garnered from extant literature and will be discussed in the coming chapters.

The finished survey instrument consisted of 69 items and instructions. Two native speaking translators translated the survey into Spanish following Harkness’ Ask-the-Same-Question (ASQ) model. The ASQ model ensures the survey gets the questions right and that the translated version maintains the intended measure. Harkness’ five steps were generally followed in attaining the final Spanish language survey. These include parallel translations by two translators, review by the principal researcher and the translators, adjudication of changes needed, pretesting, and documentation of any problems with the process through the pretest stage.

I tested the survey on five volunteers at a local nonprofit center. Testing exposed lingual and non-lingual issues with the survey. The non-lingual issues concerned a failure to provide for all possible responses to three of the items. The lingual issues related to differences in Spanish usage and terminology across Mexico and Central America. I rewrote these items to clarify any confusion. I then tested the corrected version on eight volunteers from one of the churches I frequented. Testing at this time produced one additional, but minor point of confusion which was corrected. Two different translators who spoke native Mexican Spanish translated the final survey back to English ensuring

an accurate translation. These back-translations were nearly identical to each other and the original English version.

I then administered the survey to 50 volunteers after a Sunday service at one of the Hispanic churches. These resulted were utilized to preliminarily test the reliability of the four scales. Reliability analyses of the four scales are presented in the table below.

<table>
<thead>
<tr>
<th>Scale</th>
<th>Number of Items</th>
<th>Cronbach’s Alpha</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deportation Dynamic</td>
<td>7</td>
<td>.854</td>
</tr>
<tr>
<td>Discrimination</td>
<td>10</td>
<td>.890</td>
</tr>
<tr>
<td>Legal Self Efficacy</td>
<td>8</td>
<td>.904</td>
</tr>
<tr>
<td>Empowerment</td>
<td>12</td>
<td>.717</td>
</tr>
</tbody>
</table>

Alpha values between .70 and .80 are “respectable,” and Alpha values greater than .80 are “very good.” These Alpha values indicated the four scales are reliable. The empowerment scale had the lowest Alpha value, but is adequate for a theoretical construct. There is no consensus in the literature defining empowerment, and therefore, no agreements as to the latent variables underlying it. I created this 12-point scale using the more commonly appearing variables in the literature. Removing individual lower performing variable only increased Cronbach’s Alpha slightly for this scale. Decreasing this scale to eight items by removing items 49, 55, 59, and 60 from the scale increased Cronbach’s Alpha to .773. These four items were important to the survey and it was unlikely they would cause other concerns, such as survey fatigue. I decided to administer the survey as prepared and address these lower preforming variables in the final analysis.

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39 DeVillis, supra note 35, at 85.
Additional explanation of the preliminary statistical analysis is located in the appendix to this chapter.

Since I could not randomly administer the survey, I intended to distribute it at multiple locations to broaden the base of respondents. This task was more difficult than envisioned. Three local NGOs provided invaluable assistance while others working with this community simply refused assistance. I was able to administer the survey at two churches, through two local NGOs, and various other locations, i.e. a day-laborer pickup point, a day-laborer homeless camp, and at employers after hours. These sources only produced 118 completed surveys; well short of my goal of 300. Just as it appeared the target of 300 was unattainable, a third NGO placed me in contact with the Mexican Consulate in Atlanta. This Mexican Consulate visits Nashville intermittently to service Mexican nationals living in the area. The consulate granted me permission to place a table immediately inside the waiting area at the “mobile consulate” and solicit respondents. Two Hispanic immigrants, one Peruvian and the other Mexican, solicited respondents from the waiting area. Over a three-day period, an additional 230 surveys were completed.

Personal contact was made with each respondent to ensure they were in the U.S. without legal authorization before the survey was administered. Additionally, each survey contained a red-letter notice that it was only for undocumented immigrants. Most respondents needed between 25 and 30 minutes to read the directions and complete the 69-item survey. Participants were given a $10 Walmart gift card as compensation for their time. The compensation was slightly higher than the average laborer wage of $15 per hour in Nashville, but was necessary to induce this hidden population’s
participation. Of the 350 surveys completed, 334 produced valid data for one or more of the topics discussed in the upcoming chapters.

The survey’s first nine items addressed the respondents’ demographics. These included nation of birth, age, gender, marital status, level of educational attainment, frequency of church attendance, number of years lived in the U.S., number of children under 19 years of age living in the U.S., and number of children under 19 years of age “not living” in the U.S.

Of the 334 respondents, 333 provided information about their nation of birth. Of these 333, 296 (88.6%) reported that they were born in Mexico, 9 (2.7%) reported being born in Venezuela and 9 (2.7%) reported being born in El Salvador. Six participants (1.8%) reported being born in Honduras and 4 (1.2%) reported being born in Colombia. Three participants (.9%) reported being born in Guatemala. Two participants (.6%) reported being born in the Dominican Republic, and 2 (.6%) also reported being born in Nicaragua. For Costa Rica and Peru, 1 participant reported being born in each (.3% each). Preferably, the sample of Mexicans would have been in the 60-65% range with more Central and South Americans. This demographic was skewed by accessing this population through the Mexican Consulate. The following table summarizes these data.

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Table 7: Nations of Birth

<table>
<thead>
<tr>
<th>Nation of Birth</th>
<th>Number (333)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>296</td>
<td>88.6%</td>
</tr>
<tr>
<td>Venezuela</td>
<td>9</td>
<td>2.7%</td>
</tr>
<tr>
<td>El Salvador</td>
<td>9</td>
<td>2.7%</td>
</tr>
<tr>
<td>Honduras</td>
<td>6</td>
<td>1.8%</td>
</tr>
<tr>
<td>Colombia</td>
<td>4</td>
<td>1.2%</td>
</tr>
<tr>
<td>Guatemala</td>
<td>3</td>
<td>.9%</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>2</td>
<td>.6%</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>1</td>
<td>.3%</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>1</td>
<td>.3%</td>
</tr>
<tr>
<td>Peru</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Three hundred and thirty-four respondents responded to the question concerning age. The mean (average) age for all respondents was 35.17. The age range was 16 to 74.

Three hundred thirty-one participants responded to the question concerning gender. Of these 331, 174 (52.6%) reported their gender as male and 157 reported their gender as female. There was initial difficulty getting males to complete the survey, but the final sample was fairly equally divided among males and females. The respondents’ genders and average age are presented in the following table.

Table 8: Gender and Age

<table>
<thead>
<tr>
<th>Respondents’ Gender</th>
<th>Number (%)</th>
<th>Respondents’ Age</th>
</tr>
</thead>
<tbody>
<tr>
<td>Males</td>
<td>174 (52.6%)</td>
<td>Mean age 35.17</td>
</tr>
<tr>
<td>Female</td>
<td>157 (47.4%)</td>
<td>Age range 16 - 74</td>
</tr>
</tbody>
</table>

Three hundred and twenty-seven respondents provided information concerning the number of years they had lived in the U.S. Of the 327 respondents to this question, 25 (7.6%) respondents reported that they have lived in the U.S. 1 year or less. Ten
respondents (3.1%) reported living in the U.S. 2 years and 8 respondents (2.4%) reported that they had lived in the U.S. 3 years. Eight respondents (2.4%) reported living in the U.S. 4 years and 5 respondents (1.5%) reported living in the U.S. 5 years. Nine respondents (2.8%) reported living in the U.S. 6 years and 6 respondents (1.8%) reported that they had lived in the U.S. a total of 7 years. Twenty one (6.4%) respondents reported that they had lived in the U.S. 8 years and 17 (5.2%) reported they had lived in the U.S. 9 years. The vast majority or 218 respondents (66.7%) reported that they had lived in the U.S. 10 years or more. Table 9 summarizes these data.

Table 9: Number of Years Lived in the U.S.

<table>
<thead>
<tr>
<th>Number of Years Lived in U.S.</th>
<th>Number (327)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Year or Less</td>
<td>25</td>
<td>7.6%</td>
</tr>
<tr>
<td>Two Years</td>
<td>10</td>
<td>3.1%</td>
</tr>
<tr>
<td>Three Years</td>
<td>8</td>
<td>2.4%</td>
</tr>
<tr>
<td>Four Years</td>
<td>8</td>
<td>2.4%</td>
</tr>
<tr>
<td>Five Years</td>
<td>5</td>
<td>1.5%</td>
</tr>
<tr>
<td>Six Years</td>
<td>9</td>
<td>2.8%</td>
</tr>
<tr>
<td>Seven Years</td>
<td>6</td>
<td>1.8%</td>
</tr>
<tr>
<td>Eight Years</td>
<td>21</td>
<td>6.4%</td>
</tr>
<tr>
<td>Nine Years</td>
<td>17</td>
<td>5.2%</td>
</tr>
<tr>
<td>Ten Years or More</td>
<td>218</td>
<td>66.7%</td>
</tr>
</tbody>
</table>

Three hundred and thirty respondents provided information concerning their marital status. Of these 330, 199 (60.3%) reported that they were married and living together (MT), 99 (30%) reported that they were single (S), 21(6.4%) reported that they were married but living separate (MS), and 11(3.3%) reported that they were divorced (D). The following table summarizes these data.
Table 10: Marital Status

<table>
<thead>
<tr>
<th>Marital Status</th>
<th>Number (330)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married Living Together</td>
<td>199</td>
<td>60.3%</td>
</tr>
<tr>
<td>Married Living Separate</td>
<td>21</td>
<td>6.4%</td>
</tr>
<tr>
<td>Single</td>
<td>99</td>
<td>30%</td>
</tr>
<tr>
<td>Divorced</td>
<td>11</td>
<td>3.3%</td>
</tr>
</tbody>
</table>

Three hundred and thirty respondents responded to the survey question concerning their level of education. Of these 330 respondents, 114 (34.5%) reported that they had completed high school, 83 respondents (25.2%) reported that they had some high school, 46 respondents (13.9%) reported that they had completed elementary, 31 respondents (9.4%) reported that they had some college, 25 respondents (7.6%) reported that they had some elementary, 24 respondents (7.3%) reported that they had completed college, 7 respondents (2.1%) reported that they had no formal education. These data are summarized in the table below.

Table 11: Level of Education

<table>
<thead>
<tr>
<th>Educational Attainment</th>
<th>Number (330)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed College</td>
<td>24</td>
<td>7.3%</td>
</tr>
<tr>
<td>Some College</td>
<td>31</td>
<td>9.4%</td>
</tr>
<tr>
<td>Completed High School</td>
<td>114</td>
<td>34.5%</td>
</tr>
<tr>
<td>Some High School</td>
<td>83</td>
<td>25.2%</td>
</tr>
<tr>
<td>Completed Elementary</td>
<td>46</td>
<td>13.9%</td>
</tr>
<tr>
<td>Some Elementary</td>
<td>25</td>
<td>7.6%</td>
</tr>
<tr>
<td>No Formal Education</td>
<td>7</td>
<td>2.1%</td>
</tr>
</tbody>
</table>

Three hundred and twenty-one respondents responded to the question concerning how many children under 19 they had living in the U.S. Of these 321 respondents, 106 (33%) reported having no children living in the U.S., 74 respondents (23.1%) reported
having two children under the age of 19 living in the U.S., 62 respondents (19.3%) reported having one child under the age of 19 living in the U.S., 55 respondents (17.1%) reported that they had 3 children under the age of 19 living in the U.S., and 24 respondents (7.5%) reported that they had 4 children under the age of 19 living in the U.S. The average number of children under the age of 19 living in the U.S. was 1.47. These data are summarized in the table below.

<table>
<thead>
<tr>
<th>Number of Children under 19 Living in the U.S.</th>
<th>Number (321)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>106</td>
<td>33.0%</td>
</tr>
<tr>
<td>One Child</td>
<td>62</td>
<td>19.3%</td>
</tr>
<tr>
<td>Two Children</td>
<td>74</td>
<td>23.1%</td>
</tr>
<tr>
<td>Three Children</td>
<td>55</td>
<td>17.1%</td>
</tr>
<tr>
<td>Four Children</td>
<td>24</td>
<td>7.5%</td>
</tr>
</tbody>
</table>

Respondents were also asked the number of children they had under 19 not living in the U.S. Two hundred and ninety-six respondents responded to this question. Of these 296 respondents, 237 (80.1%) reported having no children under 19 not-living in the U.S., 23 respondents (7.8%) reported having one child under the age of 19 not-living in the U.S., 18 respondents (6.1%) reported having two children under the age of 19 not-living in the U.S., 11 respondents (3.7%) reported that they had 3 children under the age of 19 not-living in the U.S., and 7 respondents (2.4%) reported that they had 4 children under the age of 19 not-living in the U.S. The average number of children under the age of 19 reported as not-living in the U.S. was .41. The following table summarizes these data.
Table 13: Children not Living in the U.S.

<table>
<thead>
<tr>
<th>Number of Children under 19 Not-Living in the U.S.</th>
<th>Number (296)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>237</td>
<td>80.1%</td>
</tr>
<tr>
<td>One Child</td>
<td>23</td>
<td>7.8%</td>
</tr>
<tr>
<td>Two Children</td>
<td>18</td>
<td>16.1%</td>
</tr>
<tr>
<td>Three Children</td>
<td>11</td>
<td>3.7%</td>
</tr>
<tr>
<td>Four Children</td>
<td>7</td>
<td>2.4%</td>
</tr>
</tbody>
</table>

Respondents were also asked how frequently they attended church services. Three hundred and thirty respondents responded to this question. Of the 330 respondents who responded to this question, 142 participants (43%) reported occasionally going to church (O), 115 participants (34.8%) reported attending church services weekly (W), 48 participants (14.5%) reported that they never attended church (N), and 25 participants (7.6%) reported that they attended church monthly (M). The data revealed religious adherents were not over represented among respondents. Table 14 that follows summarizes these data.

Table 14: Church Attendance

<table>
<thead>
<tr>
<th>Church Attendance</th>
<th>Number (330)</th>
<th>Percent (100%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attend Church Weekly</td>
<td>115</td>
<td>34.8%</td>
</tr>
<tr>
<td>Attend Church Monthly</td>
<td>25</td>
<td>7.6%</td>
</tr>
<tr>
<td>Occasionally Attend Church</td>
<td>142</td>
<td>43%</td>
</tr>
<tr>
<td>Never Attend Church</td>
<td>48</td>
<td>14.5%</td>
</tr>
</tbody>
</table>
CHAPTER V

Fear of Deportation

A clear theme evident in the qualitative data was that the fear of deportation had some effect on the undocumented community utilizing the U.S. legal system, but it is not an absolute barrier. One commentator branded this ever-present fear of deportation as the “deportation threat dynamic.”\(^\text{1}\) This finding is consistent with past research showing two-thirds of foreign-born Hispanics and one-third of native-born Hispanics fear deportation of themselves or someone close to them.\(^\text{2}\) A Nashville immigration attorney and community advocate for Nashville’s undocumented Hispanic population explained how the deportation threat dynamic affected undocumented immigrants’ willingness to utilize the U.S. legal system:

I think they are afraid that it won't work, and they'll get deported and never see their children again. … because any access, we hear this all the time, any time they have any sort of interaction with any law enforcement, whether it be the police, the District Attorney, an immigration person, or whoever is in that spectrum, there is a chance they will be deported or put into the deportation process. That is terrifying to them. … It’s just a constant struggle, but it's so much better than it was. It was so bad, I mean, it was terrifyingly, horribly bad, where people were afraid to take their kids to school. People were afraid to go to church, there were roadblocks set up outside schools and churches to do driver's license checkpoints just to get people to deport them.

A Nashville pastor of a Hispanic church whose congregants are 75%-80% undocumented gave his perceptions of their fear:

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Most are afraid to go to the authorities to obtain justice because they are undocumented. I knew of a case of 10-12 undocumented Hispanic workers who were working for an American contractor in construction and they were not paid. They weren’t paid, and the boss threatened to call immigration, so the workers left and never got paid. And they were afraid to go to the police because they were undocumented.

The pastor of another Nashville Hispanic church explained the difficulty that the church had in collecting information to help its undocumented members:

Obviously, the first inclination is to avoid anything with any legal aspect to it, even filling out forms or having anything to do with any type of government; they try to stay under the radar on that. We do offer English classes here, for this, for 12, 13 years, and every year continuously we have about 80 to 100 people that will enroll. ... Very good [turnout], and most of them are even reluctant to give you all their personal information, because they are trying to stay under the radar basically, so they’re very careful in how to interact with any type of authority, even with us. ... but the circumstances, or the results probably double the problems for them, because not only do they still have the legal problem that they have, now they have a legal residential or status issue.

Perhaps because it seems commonsensical, there is little literature on how the fear of deportation affects undocumented immigrants’ willingness to utilize the U.S. legal system. A review of the literature reveals several qualitative studies examining how the “deportation threat dynamic” affects crime reporting by undocumented Hispanics, especially in the context of intimate partner violence (IPV).

This lack of research is likely due to the difficulty in recruiting participants and their fear in revealing their immigration status. However, there is widespread belief

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among law enforcement and researchers that immigration status is a major factor in whether these immigrants report crime and utilize other help-seeking behaviors.4

Research has focused on IPV among immigrant women. Compared to their native counterparts, immigrant women in the U.S. experience higher levels of IPV. Undocumented Latina IPV victims are less likely to utilize formal avenues of assistance due to their immigration status.5 Congress’ passage of the Violence Against Women Act of 2000 (VAWA II) and the increase of IPV service agencies are examples of policies and practices designed to confront this trend among immigrants.6

The literature also confirms that fear of deportation leads to employers exploiting undocumented workers by wage theft and unsafe working conditions.7 It has also resulted in a pattern of employers and supervisors subjecting undocumented Latinas to increased levels of sexual harassment and battery.8 Employers have used anti-immigrant laws like the Legal Arizona Workers Act, aimed at forcing employers not to hire undocumented Hispanics, to drive undocumented immigrants “further into an underground economy” by using “the threat of detection and deportation to exploit undocumented workers by forcing extra working hours, withholding earned wages, and reducing hourly wages.”9

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The literature confirms the tendency of offenders to prey upon undocumented victims because of their fear of reporting the crime to law enforcement.10

When crime goes unreported there are societal implications, including denying victims ameliorative services, loss of the law’s deterrent effect, and it ultimately undermines law enforcement’s role.11 The decision to report crime is a rational choice made when the benefit of reporting outweighs the cost of not reporting.12 Factors considered include the victim’s relationship with the offender, the seriousness of the offense, and the offender’s prior criminal conduct.13

Unreported crime specifically affects the undocumented community by creating a lack of understanding of the nature of criminal activity in the community and formulation of policies addressing it, a sense of impunity among offenders leading to more victimization, and a division between the community and law enforcement permitting crime to escalate.14 Past research indicates that undocumented Hispanic immigrants are more willing to report crimes they deem serious, i.e. causing significant bodily or financial harm or offenses affecting multiple victims.15 Additionally, the immigrant’s life experience such as country of origin, length of residence in the U.S., and level of isolation, likely influences their willingness to report crime and exercise other help-seeking behaviors.16

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11 Hautala, supra note 4, at 236.
13 Hautala, supra note 4, at 237 – 41.
14 Hautala, supra note 4, at 236.
15 Hautala, supra note 4, at 248 - 9.
16 Angelica S. Reina, supra note 6.
Political realities can diminish this willingness to engage the system. Anti-immigration rhetoric and policies heightens the fear of deportation driving undocumented immigrants further into the shadows, thus leaving them “more vulnerable to exploitation by their employers and to becoming victims of crime.”

As the fear of deportation increases, undocumented immigrants’ confidence decreases and they do not believe: 1) the police will not use excessive force, 2) the police will treat them fairly, 3) the courts will treat them fairly, and that there is 4) a lower likelihood of reporting serious crime.

The U.S.’ current anti-immigrant movement found its roots in the 1990s when public rhetoric attributed a number of social ills to undocumented immigrants. Regardless that this rhetoric was unfounded, it alarmed the native population, who demanded a response from elected officials. Populist politicians appeased their concerned constituents by demonizing undocumented immigrants at times with blatantly false information. The anti-immigrant fervor cast the undocumented aliens in a negative light as illegals or criminals, thus permitting the native population to accept the hardships placed on them in seeking assistance as being justified.

The federal government reacted in 1996 by amending the Immigration and Naturalization Act of 1952 by permitting state and local law enforcement agencies to

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enter into agreements with the federal government to enforce immigration law. The provision, commonly known as 287(g), allowed state and local law enforcement agencies to enter into memorandums of understanding with the federal government to participate in immigration enforcement.\textsuperscript{24} The program produced unintended consequences for local law enforcement agencies. The program not only increased the workload of local agencies, but it also made their job more difficult in the undocumented community.

Heightened fear is most salient when the local law enforcement serves the additional role of enforcing immigration law through programs like 287(g) and local and state mandates.\textsuperscript{25} Specifically, there was a concern that 287(g) discouraged undocumented immigrants from interacting with the police, including not reporting criminal activity in their community.\textsuperscript{26} It also produced a “displacement effect” when undocumented immigrants left their communities for other locales not participating in the program.\textsuperscript{27} Research shows the 287(g) program had no effect in reducing crime.\textsuperscript{28}

The fear of deportation was a persistent factor among the majority of interviewees, but some did not deem it a significant concern with a few stating it was not material to them at all. Those minimizing the fear tended to be individuals who had been in the U.S. for longer periods and had higher levels of education. This clear minority

\begin{itemize}
\item \textsuperscript{24} 8 U.S.C. 1357(g) (1996).
\item \textsuperscript{27} R. Capps, M. Rosenblum, C. Rodrigues, & M. Chishti, \textit{Delegation & Divergence: A Study of 287(G) State and Local Immigration Enforcement} (2011).
\end{itemize}
relied on their own intellect and life experience in the country to avoid immigration issues. They tended to hold better jobs, and many were small business owners employing other undocumented immigrants. This allowed them to avoid Nashville’s Hispanic enclave where stricter enforcement was thought to occur. Many had adult children, employees, or other relatives who possessed a valid drivers’ license and the ability to register vehicles, thus eliminating a major point of contact with law enforcement.

The vast majority were not worried by causal contact with law enforcement but were fearful of being stopped for minor infractions that could lead to their deportation. The lessened fear was due to the perception that Nashville was a “friendly” city to the undocumented community. Although many recalled the days during the 287(g) program when it was not. Interviewees relayed the lifestyle changes they made to avoid detection. Many only ventured from home to work, attend church, and shop.

Church members with valid drivers’ licenses volunteered to drive undocumented congregants to medical appointments, shopping, work, and church. Several families were “dislocated” to communities surrounding Nashville that were not participating in the 287(g) program. I met several families who relocated to the small city of Smyrna in Rutherford County, so they could continue their lives without fear of the police and deportation. Many told stories of the fear and hardship in moving their families, children relocating to new schools and churches, and the uncertainty of the new location. Many described the period of Nashville’s 287(g) program as creating a fear of the police like they had in their native countries.

Individuals’ level of fear and its effect on them and their family was rooted in either personal experiences or historic narratives of others. Every undocumented
Hispanic encountered during this nearly two years of field research conveyed either a personal story concerning deportation or the deportation of a friend or relative. These narratives presented common themes of unnecessary and harsh mistreatment of immigrants and/or unjust actions on behalf of the authorities. From my experience as an attorney of nearly 30 years in the Nashville area, it was clear that some of the stories were embellished or simply inaccurate. Embellished or not, these stories present the social reality of the undocumented community and influences their decision to interact with government officials.

Typical stories came from interviewees like Santiago, a 50-year-old Salvadorian construction worker with no formal education, who fled El Salvador to Mexico during El Salvador’s 12-year war when he was only 16. Santiago lived in Mexico until he was 30, then came to the U.S. seeking a better life, which he described as not just more income but the ability to sleep at night without fear that someone would kill him. He described his family’s isolated life in the U.S. as six days of work and church on Sunday. He told a story of his coworker’s deportation:

I had a coworker who was following his boss to a job site, and the boss was pulled over. And my friend, he pulled over behind him because he was following him, and the police officer came and talked to him and he was arrested for no driver’s license and ended up in jail. When he was in jail, they found that he was undocumented. He was deported.

Santiago’s 48-year-old wife Mariana migrated to the U.S. from Oaxaca, Mexico seeking a better life for her three small children. She and Santiago met and married in the U.S. She has an elementary education and works five days a week cleaning homes. She spoke about her cousin:
My cousin’s boss was arrested, and he wanted my cousin to bail him out. The boss called my cousin to come bail him out. My cousin parked his car and when he was about to take his boss out of the jail, the police officer asked for his [driver’s] license, but he didn’t have one. So, the cousin not only wasn’t allowed to bail out his boss, he was arrested by the police officer. … My cousin’s boss was an American, but he was not allowed to drive. The police officer told my cousin that he had to verify that he was eligible to drive and asked for his license. He was deported. [Now] he’s in Mexico.

Lucia, a 29-year-old Mexico City native, first came to the U.S. with her mother Isabella when she was 15. She and her mother voluntarily deported when Lucia was 23, but she returned to the U.S. when she was 26. Lucia is now the mother of three, one of which is a U.S. citizen. Lucia and Isabella told the story about their arrest while working at a fast-food restaurant:

Lucia: I didn’t do anything. The U.S. Marshal was looking for my uncle. I didn’t know the reason, and they didn’t tell us the reason. He is here in the U.S. and we’re looking for him. The last thing we knew about him was that he was living in Atlanta. They came to our house and said, “If you don’t tell us where he is, we’re going to take you.” I said, “Do you want me to lie to you? Because I don’t know where he is.” So, the U.S. Marshall called ICE. … I was the cashier [at a fast food restaurant], and I was in the front. My mom was in the kitchen. They called her out the day that they arrested us. I was the at the front and my mom was at the kitchen. They asked my boss for our papers. The [job] application that he had. They just arrested us. … I understand they are doing their job, but at the same time, I am disappointed. It was our family. I’m not saying they should’ve gone looking for him with another family. Because he lived with us in our home, that is why they were looking for him. He used to live with us. We had to walk a block wearing chains. We didn’t understand why they were deporting us, simply because we didn’t provide any information to them. They also asked me about my daughter’s status. They also asked me for Baby Daddy’s status and, “Can you get me his phone number?” I said, “Yea sure!” because we weren’t hiding anything. They bugged our phone calls. They got mad, because he was a resident of the U.S.
Isabella: It frightens me, because they put chains on your arms and feet and treat you like a criminal, when you’ve done nothing wrong except be unable to provide information. It frightens me, and when some people have done even worse, they don’t put time and effort into them because they aren’t Hispanic. They treat Hispanics worse, simply because they are Hispanic.

Consistent with the literature, it became clear that location, time, and politics influenced the level of fear for these undocumented immigrants. The lowest level of fear would be expected in sanctuary cities and sanctuary states where local and state authorities refuse to assist the federal government with immigration enforcement. I would agree that Nashville is not a sanctuary city, but the majority of immigrants I interviewed considered it a friendly city, especially in light of the recent election of Mayor Megan Barry. Many interviewees could not recall Ms. Barry’s name but were aware that Nashvillians had recently elected a female mayor and she had embraced Nashville’s diverse population, particularly the undocumented community. The Tennessee legislature saw Nashville as such and passed legislation “outlawing” sanctuary cities in Tennessee. Governor Haslam allowed the bill to become law without his signature and it becomes effective as of January 1, 2019.

It also became clear that the level of fear fluctuates over time and is driven in large part by anti-immigrant rhetoric encouraged by economic and political changes. During the time of this research, the fear of deportation heightened due to political changes at the national level. As noted, this research concluded approximately three

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weeks prior to the 2016 U.S. presidential election. During this it was widely believed among the undocumented community that I interacted with that the election of Hillary Clinton was inevitable. Donald Trump’s candidacy did cause elevated concerns and influenced the community’s behavior. Many discussed their contingency plans if Mr. Trump won the election, but I did not encounter any who believed his election was possible.

One of the directors of a Tennessee based NGO focused on immigrant rights described the impact of the anti-immigrant rhetoric during the campaign on the undocumented community:

I would say two things … people are very terrified. I know people who have contingency plans who are wondering what they’re going to do. … the other kind of trickledown effect that we’ve seen is where the rhetoric around elections has really empowered hateful actions and rhetoric at the local level. We’ve gotten calls about schools where teachers are telling students that if Donald Trump is elected, they’re going to get kicked out of the country.

![Figure 8: Nashville law firm’s sign during Donald Trump’s visit to the city on August 29, 2015.](image-url)
She went on to describe the same elevated fear during the 2012 presidential election and its effect on applications for Deferred Action for Childhood Arrivals (DACA):

We saw the same thing … in the 2012 elections. We saw a huge wave of people apply as soon as applications were available and then it slowed down until November and then when President Obama was reelected, we saw another surge of people applying.

A local immigration attorney and advocate for Nashville’s undocumented Hispanic community described the impact of Mr. Trump’s election campaign rhetoric on DACA permit applications:

I don’t think you have as many people signing up for [DACA] as you would have thought. The interest is not there, and I know … I think that’s kind of been going on nationally, that there wasn't the big jump on board everybody thought there was going to be because I think a lot of people are a little bit untrusting, based on previous administrations. I think that’s the rhetoric that's out there right now, you know … who knows what the next president's going to do and this Donald Trump stuff … I mean, I don’t know that I blame any of them. If I were here for 15 years and hadn't had any problems and you want me to go put my name on a list and I don’t know how that's going to end up in a year and a half? Yeah, I don't think I would do it either. … I just don't think [trust has] been built up long enough. I wouldn't do it.

Without question, attitudes changed drastically with confirmation of Donald Trump’s election.31 Mr. Trump’s victory brought a chill to Nashville’s undocumented community immediately after his election, even though it would be more than two months before his inauguration. On the Sunday following the election, a normal crowd attended the local Hispanic church where I had met so many. Many voiced concerns about deportation and losing their lifestyle, property, and access to their children who

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were U.S. citizens. I noted that many long-term immigrants had experienced these types of issues over their tenures in the U.S. and tended to be dismissive of any change by Mr. Trump. After church, I had lunch at a Chinese restaurant in the Hispanic enclave frequented by the undocumented community. Each Sunday, the restaurant’s patronage tends to be around sixty percent Hispanic. On this Sunday, the Hispanic crowd was nearly nonexistent, thus leaving the owner concerned about their sudden disappearance.

Nashville’s government structure creates unique difficulties for the city and its undocumented community. Nashville and Davidson County merged in 1963 creating a metropolitan government commonly referred to as Nashville.32 The merged metropolitan government vested Nashville’s law enforcement powers in the Nashville’s Police Department (NPD) and removed law enforcement power from the Davidson County Sheriff. Nashville’s charter vested the Sheriff’s Department with the primary duty of operating Nashville’s jail.33 Nashville’s sheriff entered into a 287(g) agreement with the federal government from 2007 through 2012.34 Many city officials opposed the Sheriff’s participation, and it created a dilemma for Nashville’s Police Department in policing the undocumented community.

Nashville police officers routinely stopped undocumented immigrants for minor traffic infractions, which led to their arrest when they were unable to produce a valid driver’s license. The Nashville police officer remitted the arrestee to the Davidson

34 K. Donato & L. Rodrigues, Police Arrests in a Time of Uncertainty: The Impact of 287(g) on Arrests in a New Immigrant Gateway, 58 AM. BEHAVIORAL SCIENTIST 1696, 1702, Table 2 (2014).
County Sheriff pending resolution of the charges. Once in the sheriff’s custody, jail officials notified ICE that the inmate was suspected of being undocumented. The sheriff held the inmate at ICE’s request until immigration proceedings concluded, which could be long after resolution of the underlying criminal charges. One commentator described the impact on Nashville’s undocumented community as follows:

In April 2007, Davidson County launched its 287(g) program, which, following a trend across new destinations in the South, turned local police officers into immigration officials. In its first year … nearly 3,000 undocumented residents were processed under the 287(g) program, with most deported or voluntarily returned to their home countries. This figure was the highest of any participating county east of Arizona. By the fall of 2010, 7,887 immigrants in Davidson County had been flagged, and 5,338 had been deported. A 2011 report by the Migration Policy Institute noted that Davidson County had one of the nations’ highest rates of deporting undocumented traffic offenders rather than violent criminals: almost 80 percent of undocumented residents detained from October 2009 to August 2010 were picked up for misdemeanor or traffic violations. In the late 2000s, Latino immigrants learned in no uncertain terms the limits of Southern hospitality in a city like Nashville and responded accordingly in how they saw Nashville and negotiated it urban spaces.35

Policing the undocumented community prior to the 287(g) program was already difficult due to expected trust issues. In 2004, the (NPD) established the El Protector Program as a liaison between police and the Hispanic community. El Protector uses native Spanish-speaking officers “to fully integrate the [NPD] Community Oriented Policing Services philosophy to engage the Hispanic/Latino community in Nashville and Davidson County, Tennessee in reducing DUIs, traffic fatalities, domestic violence and in

crime prevention.”36 An officer assigned to El Protector during the 287(g) program, described the police’s predicament:

Well the thing is when [287(g)] came out. Me being [with] El Protector at that time … in that era. We had a lot of difficulty explaining it to the Hispanic community because they thought that we had some type of involvement with 287(g) and I had to educate them in that, at outreaches, but also in the media that we had nothing to do with the 287(g). We had arrested people in the past. We did what we did in the past with or without the 287(g). The only bad … the only thing is … is that the sheriff’s department had control of it. So, once we brought someone and gave hold, that person went to the sheriff’s department then, that's all on the sheriff’s department not, whatever relationship they had with Homeland Security. That's on them, but we could not stop our duties, our responsibility to save and to protect the community just because of the 287(g). No, we had to continue doing our duties.

He went on to describe the difficulty in explaining to the undocumented community that the Sheriff’s Department and the NPD were two distinct agencies with different missions:

Because [immigrants] have a difficult time understanding that the sheriff’s department here doesn't have any power … no arrest power whatsoever. … so, they think this … the sheriff is the sheriff. They are the police and they have rights to arrest you … they have rights to take you to jail.

These perceptions decreased interaction between the undocumented and the police department because in the officer’s words, “They thought we were the ones deporting people. They thought we were immigration.”

A longtime Nashville public defender with significant involvement representing undocumented Hispanics in criminal matters described her observations with the undocumented community during the 287(g) program:

I remember I had a client maybe five years ago, a young African-American man, who told me flat out he was like, look when I'm going to break into a house I pick a house of a Mexican. You know he didn't say Hispanics … but because they won't call the police and they keep their money in cash. So, there definitely is a perception that Latinos are less likely to call the police and they are often more targeted for crime, and I think a lot of that perception is true now. And especially back when Nashville was a 287(g) city. … So, especially back then there was just so much fear. You know, witnesses wouldn't go to court and people wouldn't call the police because it was better to be a victim of crime than to be deported.

One of the most interesting interviewees was Diego, a 47-year-old Salvadoran who migrated to the U.S. 20 years earlier. He comes from an influential Salvadoran family and holds a bachelor’s degree in business from Universidad Tecnologica de El Salvador. Death threats directed to his politically active family during El Salvador’s civil war forced him to migrate to the U.S. An entrepreneur in every sense of the word, he spent about three months in California before moving to Nashville and introducing its
first food truck. He has since legitimated his status and works closely with his church in counselling undocumented Hispanics about domestic violence. He recalled the heightened fear of female domestic abuse victims during 287(g):

> When they call the police, they’re scared, they’re illegal, and the first thing the wife thinks is they will send my husband to Mexico. So, they don’t complain about [abuse]. Daddy drinks too much, they don’t complain because the mom says, “If we call the police, they will take me, because I’m illegal.” She doesn’t say, “They will send your daddy,” they say, “They’ll send me.” ... People were scared for their kids, you know. They said, “Hey, get down all the kids when we are driving. The police, the police.” Now we don’t see police like that.

During 287(g), undocumented friends frequently asked Diego who had a work visa and driver’s license to drive them to church and purchase groceries. He said, “They didn’t drive. They asked me, “Diego, can you drive me to buy food, please?” … I think Hispanic people are still living with fear of police. Simply like that.”

Nashville’s participation in 287(g) ended in 2012 and the Obama Administration defunded and terminated the program nationwide in 2013.37 That did not end the deportation threat dynamic for Nashville’s undocumented community though. As Diego noted, undocumented Hispanics still live in fear of the police. ICE replaced the 287(g) program with the Secure Communities Program and later with the Priority Enforcement Program. The Davidson County Sheriff participated in both programs. The current priority Enforcement Program is intended to limit deportation to undocumented immigrants convicted of specified crimes, but immigrant advocates claim ICE does not

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follow this limitation. An executive director of a Nashville NGO working directly with the undocumented community described the new program:

I mean it's different. But they're are kind of successive programs. So, although – I mean it's – the Secure Communities and then now the Priority Enforcement Program. So, it's different in the sense that the role of the individual sheriff and the deputies is different. But from the [undocumented] community perspective, whether it's through their fingerprints getting sent to ICE or the sheriff making that determination themselves. … So, no, I think the community's perception, I think people – you know, 287(g) was a pretty – there was a lot of high profile cases and it was a pretty – but during the – for example the mayoral race in Nashville last year. Many of the candidates did not know that ICE continued to collaborate with our local law enforcement because – so I think people saw the end of 287(g) as the end of that. I've rode along with a police officer myself who had no idea that when he dropped people off at the jail, that they were effectively getting turned over to ICE. So, his impression was like, “What? I'm investing all this resource in community policing and building trust, but all of that is wasted,” because the sheriff’s – you know, it's a different system. The sheriff's office has these agreements with ICE. So, I think anytime a legal proceeding is involved, folks are going to be fearful.

A Spanish-speaking Nashville police officer assigned to El Protector Program described the change within the undocumented community after 287(g) ended:

They were happy, but they didn't realize that there was another program which took effect. … [Safe Communities] so it was the same thing, but the only difference is that they only deport people if you've been deported multiple times or you had any felony, you know, but they thought it was the same as the 287(g) so we had to educate them as well. Again, to explain to them that even though it's the same program, but it’s different, you know, the difference is that if you committed a crime that is a felon, jail. If you came here and were told not to be in this country, then you’re going to be deported, but that has to do with Homeland Security. That had nothing to do with us.

The Priority Enforcement Program adopted by the Obama Administration decreased deportations and Nashville slowly became known as a friendly city to

undocumented immigrants. The undocumented community felt this shift and there was a reduced fear of deportation. A Spanish-speaking police officer in a satellite community of Nashville described how things changed over his tenure as liaison with the undocumented community:

It used to be, you drive to the community [on patrol] and you see them all run inside. Now, they will come running up to the car and ask the officer for a little sticker badge or stuffed animals or something like that. … When I first started here 15 years ago, we rarely received calls because they believed if law enforcement was involved they were maybe going to be deported. Once they figured out that wasn’t the case, and that there are services out there that are available to them, they have flooded to those services, whether it is the food bank or simple things like as a code violation. So, it has been a drastic change probably in the first five or six years I was here.

When asked if they would freely discuss their immigration status with him now he stated:

No shame to it, no regrets about it and they will just tell you they are trying to have a better life for them and their family, and they will make no apology for it.

The effect of the reduced fear of deportation changed the undocumented community’s willingness to engage authorities. A Nashville public defender described her experience with this change post-287(g):

What I notice more is getting witnesses to court and again, this is just my anecdotal experience, so I can't speak at all to the accuracy of it is as a system wide comment, but it does appear to me that in cases where the complaining witnesses are undocumented more often now they do come to court.

Sebastian a 47-year-old Honduran immigrant who came to the U.S. when he was 16 to escape the crime and violence of his native country explained his perception of the change:
I’ve known people who have been deported. It’s a trap. You don’t get stopped because of committing a crime, but just because of suspicions. You go to court and if you commit any small infraction like being late, you end up in jail and then you’re deported. … I feel like it is getting better here. I do remember when it was harsher here. People were just trying to get rid of undocumented immigrants, but those are [immigrants] who were just causing havoc. It was a good idea to get rid of them. Now I feel like they just trying to get rid of everyone who’s undocumented in general. They pretty much caught all the bad guys and deported them, now they’re just trying to get everyone else. But I do think it’s better here than it used to be since they’ve gotten rid of most of the problematic people.

As noted, some interviewees reported having no concern about the risk of deportation. One was Juan Jose, a 42-year-old immigrant for Veracruz, Mexico who migrated to the U.S. with his wife 15 years earlier. With a bachelor’s degree in business, he held a good job as an accountant in Mexico but knew from family in the U.S. that he could live better in the U.S. He and his wife were married for about a year when he decided to quit his job in Mexico and migrate to the U.S. They spent less than two years in Chicago then settled in Nashville. They have two U.S. born children who hold U.S. citizenship. He owns a business cleaning homes and specializes in carpet cleaning.

I think that, you know, a lot of these people are afraid of the system because they’re going to get deported, you know. The police are deporting the people, … sometimes they use a person that’s not a problem. They’re illegal, but they will use a good immigrant to get a bad immigrant that they’re living with. I mean, there are a lot of times the police will try to get into … they’ll give someone a ticket, or they’ll target someone that is a companion of someone that they know they’re on their list of people to get. … I think a lot of good people that get deported get caught because they get associated with bad people. Their roommate may be bad and so forth. … And when they target the bad person, sometimes good people get swept up into that, but I don’t think the police are trying to get good people for deportation. The government is not worried about me. … and I’m just not worried about that because I don’t live with anybody except my wife and my two kids. I’m not living with someone selling drugs. … I am just not worried about that at all.

When asked if things now are better than in the past Juan Jose responded:
I think so, yeah. It’s a little bit better than it used to be. You know, back about 2008, when they had that program. … 287(g) and that was a little scarier at that time, but even then, I really think they were really going after the bad people, not people like me. I’ve never had any fear. I try to live well here. I have a very established life.

Juan Jose’s lack of fear over deportation clearly represented a minority view. The majority expressed a near constant fear and spoke of their desire to avoid U.S. authorities.

While the fear waxes and wanes based on time, location, and politics, a clear theme developed that it was always present in the lives of the undocumented and affected their desire to interact with government officials. An executive with an NGO focused on immigrant rights explained, “[A]nytime law enforcement is involved, the undocumented folks are going to be really freaked out. So, we’ve seen really horrific cases where people really didn’t want to call the police and waited a long time to call the police.”

When undocumented Hispanics were asked, “On a daily basis how concerned about deportation are you?” Valeria, a 32-year-old undocumented Guatemalan factory worker in the U.S. for 13 years and Isabella a 50-year-old undocumented Mexican working as a restaurant cook in the Nashville for 14 years responded:

Isabella: It is a big fear for me whenever I’m driving down the street. I’m scared of being caught. It’s a big fear for me that I could get deported.

Valeria: While driving it doesn’t bother me that much, because I think that the police are targeting people who are driving irresponsible, drunk, or reckless, hazardous drivers. But in my job, I think it affects me more because I feel like I’m discriminated against at my job because of my status. There is a preference for people who have documentation. People who are undocumented are set aside. You really have to put your head down. We have to hang our head.

Julian, a 30-year-old construction worker from Hidalgo, Mexico and his wife Manuela, a 30-year-old homemaker from Guatemala responded:
Manuela: When I first got here, it was a big fear, but as time progressed I lost the fear, but when I saw [my husband’s uncle] get deported, then the fear came back.

Julian: Well I’m not afraid, can be anywhere with Christ, so, it doesn’t matter. I just do my best, you know, to behave, and do my best, at my job or everywhere.

Carlos, a 50-year-old construction worker from Hidalgo, Mexico, is Julian’s uncle. He has been arrested for DUI and deported in the past and was out on bond when interviewed. Contact with the authorities allayed Carlos’ fears to some extent.

Carlos: So, when I was let go from jail, I got out on bond, and it was like a $5,000 bond, so I’m, I have, the bond is due, I believe. Okay, so I was out on bond, and I got a lawyer to help me with my immigration status, so I am not really scared of it right now because I am working towards getting documentation. … I have been working with a lawyer to get a permit, for documentation.

Thirty-nine-year-old Javier migrated from Oaxaca approximately 18 years earlier and Maria, his 37-year-old wife, later joined him. Maria is also from Oaxaca, holds a bachelor’s degree in education, and taught the equivalent of middle school in Mexico before migrating. Javier has little formal education and works principally as a painter in the construction field. They responded to the same question, “On a daily basis how concerned about deportation are you?”
Javier: I feel like I run the biggest risk being deported since I am the bread earner of the family and I’m always out doing something. But I do understand that if I do it is most likely because I did something wrong to put myself out there. Like say I committed a big infraction or let’s say like I was in the wrong place at wrong time like if there was an immigration sting or whatever it’s called where they go over to a place and they look for anybody who they suspect, and they just take them. So maybe if it’s something like that but I don’t feel like it’s a giant risk. I do worry about it for my family, but I don’t feel it’s a giant risk I don’t run that big of a risk. And not having a driver’s license is also my biggest concern because if I commit the slightest infraction and I get stopped and they see that I don’t have one that’s another thing that goes on to my record and then it builds up and that’s something that’s kind of scary for me.

Maria: It’s a one percent fear that I have. I don’t worry, you know, that every time I go to the store something might happen, but it does cross my mind that it is a possibility. You worry about it day or night or whenever you go to the store.

Martin and Juana a married couple for Oaxaca were presented with the same question. Martin is 33-year-old high school graduate who served as a police officer and in the military in Mexico. He works in the construction industry in Nashville. His wife Juana is 30 years old and works as a painter, but she holds a bachelor’s degree in accounting from a university in Mexico. Juana and Maria are sisters.

Martin: It’s a great fear for me here. My children are here all of my family and friends and my life is here and if I have to go back I have nothing there, but it is a great fear for me. … Being deported is something that is a constant fear for me because I am the bread earner for my family; not only my family here, but also my family in Mexico. They can’t afford to live the lives they're living or be able to survive the way they are now without my help. And if I were to be deported right now not only the plans and intentions that I have for my family go down, but also the support system that I’ve created for my other family would also go down. So, that’s something that is a constant fear for me as well because if there were to be a massive immigration deportation then there would be so many lives affected rather than just the people that left.
Juana: I do feel safe coming [to the church]. It’s something we think about on a daily basis, but it’s not something that is the center of our attention all the time. And when I was stopped recently it kind of was opening my eyes because I have to go to court now and pay my dues, but I thought that I would just be automatically deported but I wasn’t and that’s something that kind of changed my perspective when it comes to my daily fear of being deported. I do know that unless you do something that completely is terrible then you don’t really run a high risk of being deported.

Many offered narratives of theirs and others attempts to avoid contact with U.S. authorities. Like Gabriela a 46-year-old immigrant from a small town in the Mexican state of Guerrero. She completed college in Guerrero and became an elementary school teacher there. She migrated to Nashville to join other members of her family 14 years ago. She stays in close contact with her extended family in Mexico. Gabriela spoke of three women she knew whose spouses abused them:

I know of two cases of women who have been through domestic violence. One of the women will not report it because her husband will be deported. He was already deported once for domestic violence and he’s come back to the U.S., so she does not want to tell on him again. The other lady has also not reported it and I do not know why, but this is something that they can’t resolve amongst themselves. They need a higher authority to settle that situation. … These ladies know about a place in Rutherford County, and an office there to help them, but they did not want to go. I think [he] would go to jail for a longer time this time, but he would end up being deported. [The third] was my cousin. … Yes, there are three and one of them was severely beaten. My cousin did file a formal complaint against her husband, but she did not want him to be deported, so she asked his lawyer how she could stop that, and his lawyer told her not to show up for his court date. She did not show up for the hearing, but he still got deported.

IPV often goes unreported in the undocumented community primarily out of fear of deportation of the abuser and the victim. The Nashville public defender described the predicament:
Domestic violence is very under reported in the Latino community and I think a big part of that is because women, the victims usually are women, know that the man will most likely be deported if they call the police on him for domestic violence. So, what that means in my experience is that they're less likely to call in the beginning stages because especially in immigrant communities, they may need him to support the family. They are here away from their own family resources. There's somewhat a different dynamic and they may rely more on the domestic violence perpetrator both legitimately and illegitimately. I mean they might want for example for him get classes for him to leave the home, but still be in Nashville and supporting the children. But they know that if they call the police that he'll be deported, so they just don't call, and I see that a fair bit.

Honduran immigrant Sebastian told of being scared while driving through a particular area of his community.

It is an area around Linbar Road where there are a lot of apartments where Hispanics live. The police just hang around there waiting for Hispanic immigrants—waiting to catch them doing something. Coming to church at night scares me because I have to drive through that area.

Sofia, a 21-year-old born in Mexico City, came to the U.S. when she was 8 years old with her mother and siblings. Her memories of Mexico are limited now, but she occasionally speaks with relatives there by phone. Sofia is an extremely bright young woman who graduated in the upper ranks of her high school class. She has since obtained her DACA permit and attends a private university on scholarship. She spoke about the theft of her aunt’s phone while at work and explained why she did not report the offense.
She bought this new phone. She had it in her see-through lunch bag at work. Her work required her bag to be see-through. She had hidden it in there, but she was telling everybody that she got this new phone. She left her lunch bag in the lunch break room, but when she came back to get her bag, she realized her phone was gone. … She thought if I involved the police that the police would involve her boss and her immigration status would come up and her boss would learn that she was not documented. She decided that she had to take care of herself first since she didn’t have papers and just forget about the phone. She did. She wouldn’t tell anybody or report it to the police. She did try to do her own investigation to determine who took it but didn’t have any luck.

Sofia also told of her mother’s fear that a neighbor might be deported for reporting the robbery of their home:

We live in a trailer and they live in the trailer in front of us. Their trailer got robbed. Their TV and this really old laptop computer got stolen. There was also some damage inside the trailer. It looked like some drunk people had done it or something. They called the police. My mom said, “Oh my gosh! They called the cops! I can’t believe that!” I said, “They were just robbed. What are they supposed to do?” and she said they don’t have papers. She’s like somebody needs to tell them not to. They said the police officer came out, took her name or address and contact information and asked if they needed anything else. My mom asked if the cops asked for their license and they said no. So, the cops did their investigation and found that it was some people from the same trailer place that did it. … It was an eye-opener for [my mother]. The neighbors said it was valuable things for them that they could not easily replace. My mother was surprised that their status did not become an issue. They were not mad at the cops. My neighbors thought that they should be helped and were not scared since they had done nothing wrong. So, it worked for them. But my aunt on the other hand, you can help but tell her we told you so. They got all their stuff back and were reimbursed for the damage done to the furniture.

Joaquin, a 59-year-old plumber from Chiapas Mexico, came to Nashville in 1999 but returned to Mexico in 2002. In 2006, he returned to Nashville where he has lived ever since. He completed the equivalent of half of kindergarten before he was withdrawn from school. He has no formal education and only learned to read through a program at his Nashville church. Nashville police cited him on three occasions for driving without a
license. He explained why he chose to serve his jail sentence on weekends to avoid immigration officials at the jail:

The reason why I chose two separate weekends is because I knew that one day of the week, I believe it was Tuesday or Wednesday, immigration went into the jails to take the prisoners away and to deport them and I didn’t want to be caught up in between them, which is why I chose the weekends to go to the jail instead of the weekdays.

Another clear theme to emerge was that those having minor children in their care heightened the fear of deportation. As the Legal Director of a Nashville NGO working with the undocumented community described it:

Now, the next step, who’s going to back me up when I go, for example, to the office and they said that there is welfare fraud because I lied about knowing the whereabouts of my partner to be able to get a benefit. So, who’s going to back me up? I’m going to be deported automatically. Why would I risk doing that? And then my children will be trapped in that system and then, you know, because the theory is the government is going to take over my family. My children will stay because you have a lot of … a lot of debate about the best interests of our child, if he’s going back to the country or if he is staying as a citizen. So, when you think in these terms, me as a father, I will not risk it.

Many of the undocumented immigrants acknowledged that deportation was a greater concern if they had minor children to care for. Like Lucia, the 29-year-old from Mexico City who was previously deported. Lucia spoke of the fear of reporting her physically abusive boyfriend and father of her child because she “was afraid they would deport me with my children.”

There was Sara, a 25-year-old immigrant from Usulután, El Salvador, who came to the U.S. to protect her child who she feared would be forced into a gang. She crossed into the U.S. while she was pregnant. ICE agents stopped her but then released her due to
her advanced pregnancy. Sara said, “Immigration is a concern for my children much more than for me.”

Then there was Gabriela who said, “It’s not a big fear for me now. It was more fear back when my children were younger and were dependent on me, but now they are independent so I’m no longer as afraid of being deported because of that.”

When asked directly if they would report a crime to the police if they were either a witness or a victim most indicated they would, but with reservations. Like Sebastian who said:

It would scare me to call the police because the other person might do something to me. I would also be afraid to call the police because of my immigration status. When I was in the automobile accident, I told you about earlier, the other people are the ones that called the police. I was afraid to call the police. My niece had an accident here not too long ago. When she called me to come and pick her up, I was too afraid to go because the police officer was there, so someone else had to go get her.

When asked if she would report wage theft to the authorities, Isabella explained:

I would not do anything. It would take some time and a lot of encouragement from people telling me that I have rights as a worker. I would be very scared to go, but I might possibly go get some help.

When asked if she would report a crime she witnessed, Isabella responded:

I would be afraid to give them my name, but everything else would be fine. If I saw a crime being committed, I would at least call the police. I would want to make sure at least the police knew about the crime because otherwise I might be in danger if the person knows that I witnessed it. … to avoid drawing any more attention to me or anything bad, I would not report it, but if it was something very severe, I definitely would report it.

Joaquin, the 59-year-old plumber from Chiapas Mexico answered:
If it was a major crime like if I was witnessing somebody getting murdered or beat up brutally I would report it in a heartbeat. I understand that I would have to go and give my testimony to that person and my immigration status might take a roll in that and I might have repercussions because of it, but I would still report it if it was a major crime. I would be a little bit more hesitant to report it if it were something minor like shoplifting like if somebody were stealing a pair of shoes or something, then I would really take a certain time to think if it were worth risking my status here over a pair of shoes.

The deportation threat dynamic hinders the authorities’ law enforcement ability in enforcing the law and serving their roles in the community. A Deputy Attorney General tasked with investigating the unauthorized practice of law and violations of the Tennessee Consumer Protection Act by notary publics in the undocumented community relayed the difficulties she encountered in getting the community to cooperate with the state’s investigation.

[I]t was hard getting people to talk to me because they were afraid that because, you know, I work for government that their legal status would be an issue or that, you know, somehow it would come back to harm them. … I think part of it is probably also a mistrust of getting involved in the legal system here. Because, you know, if they’re here undocumented, they don’t want to go to court. That’s like the last place they want to go. I think that is very appealing to people who want to stay under the radar.

The following theme and hypotheses where developed from the qualitative data:

Theme 1: At the time of this research, fear of deportation was not a significant factor barring Nashville’s undocumented Hispanic community from utilizing the legal system.

Hypothesis 1: Undocumented Hispanic immigrants are more likely to report crimes if the crime is deemed serious.

Hypothesis 2: The fear of deportation will be lowest for those with longer residence in the U.S., 2) higher levels of education, and 3) have no minor children.

Hypothesis 3: The fear of deportation will be highest for those with 1) shorter residence in the U.S., 2) lower levels of education, and 3) minor children.
To confirm this theme and hypotheses, I developed and included in the survey a seven item “deportation threat dynamic” scale to gauge how fear of deportation influences the undocumented community’s willingness to engage the U.S. legal system. Item 10-16 comprised this scale. For each item, respondents could elect from the following responses: strongly disagree (coded as 1), somewhat disagree (coded as 2), neither agree or disagree (coded as 3), somewhat agree (coded as 4), or strongly agree (coded as 5). The following tables summarize the data from the 7 scale items.

**Table 15**: Survey Item 10: If I’m blamed of a crime here, I wouldn’t go to the court appointment for fear of being deported.

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<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
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<tbody>
<tr>
<td>Valid</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>165</td>
<td>49.4</td>
<td>51.7</td>
<td>51.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>48</td>
<td>14.4</td>
<td>15.0</td>
<td>66.8</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>37</td>
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<td>11.6</td>
<td>78.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>33</td>
<td>9.9</td>
<td>10.3</td>
<td>88.7</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>36</td>
<td>10.8</td>
<td>11.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>319</td>
<td>95.5</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>15</td>
<td>4.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>2.14</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Table 16**: Survey Item 11: I avoid police officers for fear of being deported.

<table>
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<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
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<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>37.4</td>
<td>39.4</td>
<td>39.4</td>
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<tr>
<td>Somewhat Disagree</td>
<td>46</td>
<td>13.8</td>
<td>14.5</td>
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</tr>
<tr>
<td>Neither Agree or Disagree</td>
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<td>Total</td>
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<td>94.9</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>17</td>
<td>5.1</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
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<td></td>
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<tr>
<td>Mean Score</td>
<td></td>
<td>2.55</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 17: Survey Item 12: If I’ve been a witness of a lesser crime here, like the stealing of $20, I wouldn’t notify the police because I’m undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
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<tr>
<td>Valid</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>47.7</td>
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<td>Somewhat Disagree</td>
<td>36</td>
<td>10.8</td>
<td>11.1</td>
<td>58.8</td>
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<tr>
<td>Neither Agree or Disagree</td>
<td>47</td>
<td>14.1</td>
<td>14.5</td>
<td>73.2</td>
</tr>
<tr>
<td>Somewhat Agree</td>
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<td>9.6</td>
<td>9.8</td>
<td>83.1</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>55</td>
<td>16.5</td>
<td>16.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>325</td>
<td>97.3</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>9</td>
<td>2.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td></td>
<td>2.37</td>
<td></td>
</tr>
</tbody>
</table>

Table 18: Survey Item 13: If I was the victim of a lesser crime here, like the stealing of $20, I wouldn’t notify the police because I’m undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
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<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>160</td>
<td>47.9</td>
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<td>49.5</td>
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<tr>
<td>Somewhat Disagree</td>
<td>35</td>
<td>10.5</td>
<td>10.8</td>
<td>60.4</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
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<td>11.1</td>
<td>11.5</td>
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</tr>
<tr>
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<td>10.2</td>
<td>10.5</td>
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<tr>
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<td>17.6</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
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<td>96.7</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>11</td>
<td>3.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td></td>
<td>2.36</td>
<td></td>
</tr>
</tbody>
</table>
**Table 19:** Survey Item 14: If I’ve been a witness of a major crime here, like the rape of a woman, I wouldn’t notify the police because I’m undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
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<td>64.1</td>
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<td>11.1</td>
<td>11.6</td>
<td>75.9</td>
</tr>
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<td>7.2</td>
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<td>10.2</td>
<td>10.6</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>320</td>
<td>95.8</td>
<td>99.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>14</td>
<td>4.2</td>
<td></td>
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<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
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</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>1.88</td>
<td></td>
<td></td>
</tr>
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</table>

**Table 20:** Survey Item 15: If I was a victim of a major crime here, like a brutal assault, I wouldn’t notify the police because I’m undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
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<td></td>
</tr>
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<td>66.3</td>
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<td>8.0</td>
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<tr>
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<td>6.9</td>
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<td>87.3</td>
</tr>
<tr>
<td>Totally Agree</td>
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<td>12.3</td>
<td>12.7</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>323</td>
<td>96.7</td>
<td>99.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
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<td>3.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>1.91</td>
<td></td>
<td></td>
</tr>
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</table>
Table 21: Survey Item 16: I avoid government officers here for fear of being deported.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
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<tr>
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<td></td>
</tr>
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<td>10.2</td>
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</tr>
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<td>100.0</td>
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<td>Missing</td>
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<td></td>
<td>2.48</td>
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Theme 1: This theme, which was evident in the qualitative data, “At the time of this research, fear of deportation was not a significant factor barring Nashville’s undocumented Hispanic community from utilizing the U.S. legal system,” was supported by the “deportation threat dynamic” scale. Reliability statistics (n = 306, M = 2.22, SD = 1.13, α = .88). A factor analysis (principal axis factoring) using all seven items and direct oblimin rotation was conducted, which resulted in a one-factor solution. The Kaiser-Meyer-Olkin measure of sampling adequacy was .81 and Bartlett’s test of sphericity was significant [χ² (21) = 1182.92, p < .001], which indicated that the sample was adequate for factor analysis. One factor with eigenvalues greater than 1 was extracted. This factor (eigenvalue = 3.62) explained 52% of the variance. Factor loadings ranged from .748 to .832. The scale’s mean score of 2.24 was below the scale’s midpoint of 3 indicating that immigration status was not a barrier to the respondents’ decision to utilize the legal system and confirming the findings from the qualitative data.

Hypothesis 1: This hypothesis, “Undocumented Hispanic immigrants are more likely to report crimes if the crime is deemed serious” was also supported by the survey
A paired samples t-test using a bootstrap estimation approach with 1,000 samples was conducted to investigate the hypothesis that undocumented Hispanic immigrants are more likely to report crimes if their fear of deportation is low and the crime is deemed serious. First, participants reported that they were more likely to report a crime if the crime they witnessed was a major crime like rape of a woman (M = 1.88, SD = 1.39) than if it was a minor crime like theft of $20 (M = 2.36, SD = 1.55) and this difference was significant, t (313) = 5.84, p = .001. Next, participants reported that they were more likely to report a crime if they were the victim of a major crime, such as a brutal assault (M = 1.90, SD = 1.45) than if they were the victim of a minor crime like theft of $20 (M = 2.35, SD = 1.58) and this difference was also significant, t (313) = 5.18, p = .001.

Hypotheses 2 and 3: These hypotheses, “The fear of deportation will be lowest for those with longer residence in the U.S., 2) higher levels of education, and 3) have no minor children” and “The fear of deportation will be highest for those with: 1) shorter residence in the U.S., 2) lower levels of education, and 3) minor children,” were supported by the survey data. The results of the regression indicated that both education level, b = -.139, SE = .05, p = .007, and years residing in the U.S., b = -.06, SE = .02, p = .011, were significant predictors of deportation scale mean scores as indicated by the table that follows.
<table>
<thead>
<tr>
<th>ANOVA&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Sum of Squares</th>
<th>df</th>
<th>Mean Square</th>
<th>f</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
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<td>5.231</td>
<td>4.227</td>
<td>.006&lt;sup&gt;b&lt;/sup&gt;</td>
</tr>
<tr>
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<td>1.237</td>
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</tr>
<tr>
<td>Total</td>
<td>389.378</td>
<td>305</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<sup>a</sup> Dependent Variable: DeportMean  
<sup>b</sup> Predictors: (Constant), CH US, EDUCAT_Recode, Year US

The average mean score among all participants was 3.05. For every 1-unit increase in education level, the deportation scale mean score dropped by .139. Additionally, for every year respondents resided in the U.S., the deportation scale mean scores dropped by .056. However, the number of minor children that a participant had living in the U.S. did not significantly predict the deportation scale mean scores, b = .08, SE = .05, p = .138.

The survey data generally confirmed my qualitative data and demonstrated that the fear of deportation is not an absolute barrier to utilizing the legal system. As expected, the fear of deportation decreased the longer immigrants lived in the U.S. The fear of deportation also was lower for those how had higher levels of education. I anticipated that those with minor children living in the U.S. would have a heightened level of fear of deportation due to the risk to the family and child. However, the statistical analysis did not support this finding. Overall, the qualitative and quantitative data confirmed that the fear of deportation is one component part barring their utilization of the legal system.
CHAPTER VI

Structural Barriers

Many interviewees identified structural barriers as something that hindered their utilization of the legal system. Sociologist Pierre Bourdieu described these types of barriers as structures existing “within the social world itself and not only within symbolic systems … objective structures independent of the consciousness and will of agents, which are capable of guiding and constraining their practices or their representations.”

These barriers are “shaped by underlying social, economic, and political phenomena, not individual inadequacies.” The most prevalent structural barriers mentioned by interviewees were legal status, language, education, and income. This finding is consistent with prior demographic research showing unauthorized immigrants in general have low educational attainment, work in low income jobs, and lack English proficiency.

These structural barriers are isolated here to further a full discussion and analysis of their impact. However, they do not exist in isolation for undocumented immigrants. Typically, the undocumented immigrant must contend with many of these barriers.

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simultaneously. The intersectionality of these barriers intensifies their effect exponentially.

**Legal Status:**

By far the greatest concerned voiced was how immigration status affected their ability to assert and protect their rights. Legal status as a structural barrier is distinguishable from the fear of detection and deportation previously discussed. Legal status as a structural barrier addresses laws and governmental policies intended to deny benefits to undocumented immigrants in the U.S. A litany of federal, state, and local laws exist aimed at denying various benefits to undocumented immigrants, thus affecting every aspect of their lives, including employment, housing, and education. At the federal level, 8 U.S.C.A. §1621 prohibits undocumented immigrants from receiving any state or local public benefits. The statute broadly defines state and local public benefits as:

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

This all-inclusive federal mandate rendered all state and local laws and policies extending benefits to undocumented immigrants that existed prior to August 22, 1996, as invalid.

The act permits a state, but not a local entity, the right to confer or re-confer enumerated benefits to undocumented immigrants only by passing new legislation after August 22,
1996. Directly related to the discussion at hand is legislation overtly denying undocumented immigrants the right to government subsidized legal counsel.

In 1996, Congress amended the federal statute funding the Legal Services Corporation (LSC) prohibiting it from providing legal assistance to undocumented immigrants. Federal law also prohibits government funding of legal counsel in deportation proceedings before the immigration courts. Subsequent research demonstrates this denial of legal representation influences the outcomes of immigrants’ cases in deportation proceedings.

Although she later learned she was wrong, Lucia, the 29-year-old restaurant worker from Mexico City, delayed reporting her boyfriend’s physical abuse because she believed the police would not help her due to her legal status. She described her ordeal:

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5 8 U.S.C.A. §1621(d). State legislation must have been passed or repassed after August 22, 1996 fall within the exception.
None of the funds appropriated … to the Legal Services Corporation may be used to provide financial assistance to any person or entity . . . that provides legal assistance [to] any alien, unless the alien is present in the United States and [is a legal permanent resident, is a close relative to a citizen and has an application pending for status as a lawful permanent resident, has been granted asylum or admission as a refugee including conditional entry as a refugee prior to April 1, 1980, whose order of deportation has been withheld by the Attorney General, or belongs to a narrow category of lawfully admitted agricultural workers]. See also, Sara Campos, Representing Immigrants: What do LSC Regulations Allow, 36 Clearinghouse Rev. 558, 565 (2003).
7 8 U.S.C.A. §1229a(b)(4)(A) provides in relevant part:
(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien’s choosing who is authorized to practice in such proceedings
I lived with him when I was 15 about to turn 16. At the beginning, everything was nice and beautiful. But one day he picked me up from school. It was easier for me to go through in the school. And that is when all the drama started. He didn’t believe me. We got to his house and he kept asking me the same things. He hit me, and I didn’t know what to do. How do I get away from him? I was running out the back door. Should I call my uncles? I was going to call my friend to pick me up. I saw a cop, and I went to him and they took me to a domestic violence center and they called my mom. I convinced my mom that this was repeated. I had put a charge on him like three times. You have more rights if you’re legal here. … They know of my status. They wouldn’t show as much interest when they found out my status. … I think that everyone has the same rights, but I would have had more attention if I had more documentation. If I had papers they would pay more attention. … I felt scared of [my boyfriend]. I was afraid they would deport me without [my children].

Lucia’s mother, Isabella added, “We felt that we couldn’t do anything because of our status.”

Indirectly, governmental efforts restricting immigrant benefits and rights impose significant consequences beyond the legislations’ original goal. The global effect of these measures forces undocumented immigrants “further into an underground economy”9 where they must work in “low wage, physically demanding and poorly regulated jobs.”10 These jobs typically do not provide unemployment benefits, worker’s compensation coverage, or disability benefits, thus forcing immigrants to work while ill and injured or face termination. These low skill, low wage jobs push them into substandard housing in undesirable neighborhoods.11 Unable to secure a driver’s license,

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they become dependent on their employer and others for transportation, which leaves them highly vulnerable to exploitation.

Being unable to obtain a driver’s license or government issued identification was the greatest structural barrier, albeit indirectly, relayed by interviewees. Analogous literature identifies the lack of transportation due to no driver’s license as a barrier undocumented Hispanics face in accessing healthcare in the U.S.\textsuperscript{12} Without a driver’s license, they must either drive illegally and risk detection or rely on others for their transportation. Without government issued identification, their housing choices are limited, and they are unable to arrange necessary utilities, secure insurance, or open a banking account.

If they are fortunate, a relative or fellow church member arranges these services for them. However, many are compelled to rely on third parties who provide these services for a profit. Within the Hispanic enclave, several U.S. citizens of Hispanic decent will arrange these services for a fee. Typically, the citizen “landlord” will lease an apartment or house in his name and arrange all utilities. The “landlord” then rents space within the dwelling to undocumented immigrants on a weekly or monthly basis. While it violates Nashville’s building codes, it is not uncommon for up to eight men to share a two-bedroom apartment, which creates a nice profit for the “landlord.”

When asked what the greatest obstacle to utilizing the U.S. legal system is for the undocumented population, a Nashville attorney and civil rights activist explained that it

was the lack of a driver’s license and government issued identification. She went on to describe its impact on the undocumented community:

So, with the criminal justice system because they don't have [a driver’s license], they get pulled over for something very minor like a broken taillight and whatever. Now they have entered the criminal justice system because they have a citation for not having a driver's license or a photo ID anyway. … I think you've got untold amounts of money being spent prosecuting people for these low-level things that have nothing to do with anything. […]

You’ve got a more difficult time accessing your children's school records or whatever it is because you don't have a government issued ID. It’s endemic. If a woman gave birth and she wasn’t documented or the father wasn't documented, they wouldn't put the father's name on the birth certificate because he didn't have government issued photo ID to show the notary, you know.

If you are not married, you have to do an affidavit of paternity and they couldn't do that because they didn't have government photo issued IDs. …

The Tennessee alcohol beverage commission … they have an oath of citizenship you have to take in order to get [an alcohol] server’s permit, so that has been a huge problem.

For several years, Tennessee was one of a few states issuing drivers’ licenses to undocumented immigrants. When Tennessee’s political landscape changed, the state amended the law to require new applicants and renewing applicants to demonstrate legal residency in Tennessee. This change left undocumented immigrants with no means of identification or an expired license as their only proof. The pastor of a local Hispanic church described the changes he observed:
When we first started seeing an influx of Hispanics into Tennessee, we would realize that the government that we had at that time was very lenient and very open to the possibility of giving people driver’s licenses, so the word got around real fast in all the country and we started having problems, hundreds and hundreds of people came in to get what they needed the most [a driver’s license]. That’s what put them in contact with the police in a very negative basis, you know. You cannot get a driver’s license, you cannot have insurance, you cannot drive, and you cannot get a job if you don’t have a car to get to some place, becomes a big, big issue for them.

Gabriella, the 46-year-old schoolteacher from Guerrero, Mexico described how the lack of identification, particularly a Social Security number, affected the undocumented population’s rights.

We can’t get a Social Security number. We cannot get unemployment. You can’t retire, have no medical insurance, healthcare, you can’t drive, or do a lot of things that you just can’t get without a Social Security number.

Gabriela went on to explain how things were changing in the undocumented community since she first came to the U.S.

As the undocumented community starts to become documented they begin to understand that they have more rights and the government is not just there for show. If you don’t have documentation, then you cannot ask for anything. The first thing that they ask you is, “I need a Social Security number or identification.” Even if you go to the food bank, they request a Social Security number. We went in March to get our fingerprinting done and after doing that I did not feel as afraid as I used to, and now I feel like I have some right to ask for help.

Martin and Javier, the brothers-in-law from Oaxaca, Mexico, described the burden of living in the U.S. without a license or official identification:

Martin: So, I believe that having a license is something that would change some of the things that go on in the Hispanic community because if we have a license then the police officers are less likely to give us all these [charges]. … One of the biggest problems is not having a license. That always causes problems for Hispanics; having to pay for court, having to pay for driving school. We lose time and money that could be spent towards our family.
Javier: Another great obstacle that I see is not having a license as well. I believe that if you do have a license, it gives you sort of security knowing that you’re driving legally and not … it’s kind of a safety thing like a safety blanket. Like yeah, we were here undocumented, but driving is something everyone here needs to do.

Juan Jose, the 42-year-old former Mexican accountant, explained why he removed the advertisement from his work van:

I don’t have a sign on this van. My van is just a white work van. I redecorated it. The carpet cleaning is really nice. My cousin in Texas had made bubbles and put bubbles all over the van, but then I took them off for no driver’s license. I know one-day an accident is business. The people [think]…ah…business…they think more money, taking more money. Do you understand? … The government knows the situation. You can get insurance, but the problem is it’s more expensive if you don’t have a license. … I’m afraid I’ll get sued because if I am driving a van and I hit somebody I’ll get … people are more likely to sue me because of the business.

Joaquin, the 59-year-old plumber from Chiapas, Mexico, described how not having identification affected his ability to work on certain job sites since he lost his Tennessee driver’s license:

But I do understand that having an ID like a driver's license, there can be so much done because some of these official sites where they have work, like for the army or for a big government agency. I can't work in them because you need an identification to be able to get into the site and I understand that that is a correct law because people need to be able to know who is in there since it it’s such an official work site. That's kind of demeaning, it feels kind of, like you are tied down to not be able to work where you know you can earn a decent living and have to work any harder conditions and be paid less because you don't have an identification. …

And that is something that I think is not, that I think is fair in the legal stance, but in the moral stance I think it is unjust. Because they know that we have a family and that I am not lying. If I were to be unemployed then I will actually need that help, but I understand that I am not going to be able to get it. So, I know that I am treated differently, but I know that it is legally correct.
In the year 1999, driver's licenses were being given out and the people that obtained them in ‘99 can still renew them. And there are people who attend the church that have the renewable license, but people who obtained them in 2000 like I did, we are unable to. So, there was a time when I did have a license, but you know it was suspended and I couldn't renew it. And that's when I hired a lawyer because they did want to give me six months and the lawyer was able to persuade them that it was not through my own fault.

Because the judge was being fair, because I had read the book, the driver's book, and I knew the law. I knew how the system works when it comes to driving. And I knew that I had committed an infraction, but it wasn't because I wanted to, it’s because I couldn't do it correctly. … And those times I would have to go to the jail, first 24 hours and the second time 96 hours and then all was due, the tickets that I got were all due to driving without a license which is something I cannot have because I do not have documentation.

Joaquin’s wife Mia agreed adding, “I understand that they followed the rules because we are not in our own country. We are here illegally.”

Sofia, the 21-year-old college student from Mexico City, has lived in the U.S. since she was 7-years-old. She drove very little and worked for cash prior to securing a DACA permit. The DACA permit allowed her to secure a valid driver’s license and work legally in the U.S. She described the change it made in her life:

It has really decreased my stress. Before I got it, I did not drive. I did not work until I had my driver’s license number and paperwork completed, until I had everything. It was because I was so concerned I would do something to mess up in any little way, and they would be, “whoops sorry you messed up.” … My boss knew that I was documented and all the people I work with were documented except for a couple of others. They worked under the radar. They’re the ones that work the hardest.

Several months after my field research was completed, I spoke with Sofia who was attending college with her DACA permit. She is a junior in college, works part-time, and is very active in community programs. President Trump’s position on the DACA program concerned her, but her strong faith and her life experience have made her too
strong of a person to cause her to change her course. She has decided to attend law
school after graduating from college. Unfortunately, the Florida Supreme Court, applying
the language in 8 U.S.C.A. §1621 above, has held that an undocumented, but DACA
permittee, law school graduate could not hold a Florida law license even though he
passed the bar examination.\textsuperscript{13} The California Supreme Court ruled that a similar
applicant in its state could sit for the bar based on a newly passed statute authorizing the
action.\textsuperscript{14}

\textbf{Language:}

Interviewees identified their lack of English proficiency as the second most
prevalent structural barrier hindering their navigation of the U.S. legal system. This is
consistent with the small body of empirical literature finding language to be a structural
barrier in reporting crime\textsuperscript{15} particularly intimate partner violence (IPV).\textsuperscript{16} Many
interviewees also pointed to the lack of Spanish language legal information, court
interpreters, and Spanish-speaking police officers as a hindrance. This finding is
consistent with prior research finding that officers often rely on limited “survival”
Spanish in interacting with Spanish-speaking complainants, thus causing delays and at
times, the failure of police response.\textsuperscript{17}

\textsuperscript{13} Florida Board of Bar Examiners, Re: Question as to Whether Undocumented Immigrants are Eligible for
Admission to the Florida Bar, 134 So.3d 432 (Fla. Supreme Ct. 2014).
\textsuperscript{14} In Re Garcia, 315 P.3d 117 (Cal. S. Ct. 2014).
\textsuperscript{15} Robert C. Davis, Edna Erez, & Nancy Avitabile, Access to Justice for Immigrants who are Victimized:
The Perspectives of Police and Prosecutors, 12 CRIM. JUST. POL’Y REV. 183 (2001).
\textsuperscript{16} Guadalupe T. Vidales, Arrested Justice: The Multifaceted Plight of Immigrant Latinas who Faced
\textsuperscript{17} Leigh Herbst & Samuel Walker, Language Barriers in the Delivery of Police Services: A Study of Police
and Hispanic interactions in a Midwestern City, 29 J. OF CRIM. JUST. 329 (2001).
There is much literature on language as a structural barrier from the judicial and legal professions based on intuition and anecdotal evidence. It does seem reasonable that the lack of communication skills limits one’s abilities to assert their rights and utilize the necessary institutions. All states have implemented some measures to assure that language does not obstruct access to justice. The National Center for Access to Justice at Fordham Law School evaluates these efforts annually based on indicators such as the use of certified interpreters, translated court forms, judge training, etc. to grade and index each state’s efforts.¹⁸ In its 2016 index, Tennessee ranked eighth among all states for its efforts in providing access to justice for its non-English proficient residents.¹⁹

I learned early in my field research that many, particularly men, within this community overestimated their English proficiency. The majority of English speakers have conversational skills at best. It became evident that many did not have a level of proficiency that would permit formal interviews in English. Based on these observations, I decided to conduct all interviews in Spanish with an interpreter. During my time within this community, I routinely saw children, some I would estimate as young as eight years old, interpret for their parents. This is a common sight in retail establishments in and around Nashville’s Hispanic enclave when immigrants encounter employees that do not speak Spanish.

Police officers I interviewed relayed that it was typical for patrol officers to rely on children to interpret as well. From my observations, it appeared that low educational

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attainment and lack of documentation led to low income employment and isolation within
the Hispanic enclave and other Hispanic areas. Undocumented immigrants living in these
areas do not need to learn English to survive and rarely do. Several police officers told
me that lack of English was a revealing indication of undocumented status. Children, on
the other hand, attend school due to compulsory education, but also because the parents
want an “American” education for them. A teacher at an elementary school in the enclave
told how the school would receive kindergarten children with little or no English skills.
The school was tasked with teaching them English, which according to her, they quickly
learned.

The vast majority of Hispanic children I encountered wanted to communicate in
English only. The vast majority of parents I encountered want to ensure the children did
not lose their Spanish language skills and their cultural identity. The norm is English at
school and Spanish at home, but it is a real point of contention between the parents and
children. Even at a very young age, their language skills quickly surpass their parents,
thus making them readily available and a trusted interpreter. I observed an unusually high
level of maturity in these children attributable to their unique role interpreting for their
parents.

Another phenomenon I observed is that many speak English, but are unable to
read English and many never learned to read Spanish. This was most evident with
respondents at the day labor location. At that location, approximately one-half the men I
spoke with stated they could not read Spanish, but I suspect it was a much higher
percentage. In that situation, I had a volunteer read the survey to them and record their
answers. On one occasion, a Hispanic minister asked me to consult with a congregate
concerning a landlord/tenant issue. Another church member who I knew well attended to serve as interpreter. The interpreter, who has lived in the Nashville area for over 20 years, spoke very good English. She asked me to read certain papers and explain them to her. It was then that I realized that she was unable to read. She later confided to me that she was unable to read Spanish or English. As my research progressed, I learned that this was common among this community and many were embarrassed to acknowledge their lack of reading skills and feigned their ability.

Many interviewees described the difficulties they encountered in dealing with police officers and court officials due to their lack of English proficiency. Manuela, the 30-year-old homemaker from Guatemala, shares this typical experience. She relayed how she relied on her brother-in-law to interpret when she encountered a police officer. She said her English was not sufficient to communicate with the police officer or with the court. If her brother-in-law had not been present, she would not have been able to communicate at all. Many, like Carlos, the 50-year-old construction worker from Hidalgo, Mexico, muddled through the process and hoped for the best. Charged with DUI on two occasions, Carlos was asked if he was able to communicate with the officers. He replied, “I did sort of understand.”

Martin and Juana, the married couple from Oaxaca, Mexico spoke of their concerns about their lack of English proficiency and police officers’ lack of Spanish proficiency:
Martin: The language is what I believe is the main obstacle and you know there always has to be a translator for everything. And not all Hispanics know a little bit of English in the same advanced position in English. And another thing I know that would help a lot is if there was more Spanish-speaking police officers that could help us understand the process, and the things that we have to go through. … When it comes to like traffic laws and things like that we try to stay very informed so that we can understand what they’re saying. I could understand it. I wasn’t perfectly able to communicate my thoughts, but those are things we do worry about; to try and learn as soon as we can.

Juana: Not speaking English. The language is the main problem for me. […] I was given a ticket for speeding. But I didn’t agree with it after I read it after the police officers were already gone because I wasn’t speeding. I was going down the hill, but I was going at the limit because I was pushing on the brake. I feel like if I would have been able to communicate with him better, he would have been able to communicate with me better. I could have understood what it was that he was telling me that I did wrong. But at the time I didn’t understand what was going on.

Sofia, the 21-year-old college student from Mexico City, described her stepfather’s difficulty in reporting a skunk to animal control.

My parents had a little garden that didn’t last because skunks were eating the fruits and vegetables. He tried to call in to the animal control people, but they could not understand him when he would give them the address. He waited until I got home, and we called back, and I gave them the information. If they had someone that that spoke Spanish, he could’ve dealt with it sooner. He speaks the basics, like if he really needs to go to the bathroom, or if he needs help finding something and he knows what the thing is called in English, but when it’s something like giving an address with a thick accent, people just cannot understand you. [T]hey did but they had to wait for me to call him.

Joaquin, the 59-year-old plumber from Chiapas, Mexico understood what the officer said when he was arrested but was unable to respond to the officer in English.
If it’s an emergency like if she [wife] died I could probably tell them that she died. The times that I was stopped by cops, I didn’t need a translator, so I could understand that one time that I was placed in the cop car, but I was not put in handcuffs. I understood when the officer said, I’m you going to place you in the cop car but I’m not going to handcuff you. So, I understood what he was saying but I didn’t have the ability to be able to answer back. So, I can understand most of it, but I can’t speak it.

Others described the difficulty they had encountered dealing with the courts. Like Juan Jose, the 42-year-old college educated accountant from Veracruz, Mexico who believes his English proficiency is much better than it actually is. Juan Jose described attending court for a traffic violation. During his interview, he said he did not need an interpreter for the court hearing, but at the same time acknowledges he did not understand the judge.

Juan Jose: When the judge told me how much I need to pay, I thought it was $45. When coming to pay, I found out it was $400.

Interviewer: Was there an interpreter there?

Juan Jose: No, I was nervous. I signed the form. I understood it was cheaper, when coming in the window to pay the lady, she told me that only included the ticket for not having the seatbelt on. I paid two times. I paid $200 and then went to pay the rest.

Interviewer: So, was there an interpreter in court that day?

Juan Jose: There was no interpreter. I didn’t seek the services of an interpreter because I was guilty, and I was just going to pay the ticket. Interviewer: So, you just pleaded guilty?

Juan Jose: Yeah.

Interviewer: So, did you feel like you understood what was going on?

Juan Jose: The one thing I didn’t understand was the amount.

Isabella and Lucia, the mother and daughter restaurant workers from Mexico City, explained the difficulty they encountered during their deportation hearing:
Lucia: Isabella didn’t understand the question and answered “Yes.” She answered incorrectly, and the lawyer didn’t translate accurately. The lawyer didn’t fix that question, even though this was truly the only instance of them having trouble with the law. So, there was a lot of miscommunication from the lawyer to the clients and that ended up with them being deported. So, that affected the case. … [The judge] was American … the judge was speaking English, but the lawyer was supposedly speaking Spanish, but, not well enough.

Isabella brought old documents from her immigration case that she could not read, although she spoke decent English. It became a common occurrence during my field research with this community to have them bring me papers to translate. I learned that many, maybe most, in this community that spoke English well enough to communicate were unable to read English.

Those working with the undocumented Hispanic community also described how the language barrier affected immigrants’ rights. The president of a Nashville nonprofit working closely with the undocumented Hispanic population relayed a story about a group of parents at a school’s parent night:

A mother recently went to her school’s parent night and she’s bilingual and she, you know—and she noticed that a lot of Hispanic women were sitting in the back quiet and mostly the others were sitting in the front. Being that she’s an educated Hispanic, she could sit anywhere but she went to sit with the ladies in the back.

They wanted to ask a question because they didn’t know enough English, but they cared so much about what’s going on with their kids, they know education is important. So, she raised—she would hear them, and she’d raise her hand and ask the questions whether she knew the answers so that they could hear the answer.

A lay minister from a Nashville Hispanic congregation, fluent in English and Spanish, explained his experience in attending a court hearing with an undocumented mother from El Salvador who was accused of abusing her infant child:
The translation that was provided to them was not verbatim. They just don’t translate everything. They just say sign here, do this ... it’s completely ... but I want to talk to you a little bit about this because I have a real big concern now about the conversation I had with the attorney and I’ll tell you what happened. …

But they went to the court hearing and she waved her right to a preliminary hearing, so she then could get rescheduled and get a court time to decide what to do about the kids. … but you know, he doesn’t speak Spanish, he only knows a few words and he said a few things here and there and his wife’s sister was concerned that he did not know Spanish. And the friend said that he made her cry, and that was her own defense lawyer and he told her that she can get a new lawyer, but no one has tried to get a new lawyer yet.

By all accounts, Nashville has struggled to hire a sufficient number of native Spanish-speaking police officers. A Nashville Public Defender explained why she believed Nashville was unable to hire a sufficient number of Spanish-speaking police officers:

Language is a big obstacle. The police…I mean Nashville does not have a very entrenched Hispanic community. […] Here, the Latino population is newer and so there are fewer citizens or multiple generation Latinos and so, there just aren't very many Latino police.

The Nashville Police Department established the El Protector Program placing Hispanic police officers as a liaison between the police and the Hispanic community. An officer with El Protector explained his role in the undocumented community.

[T]hey feud because of language barriers, they don't feel comfortable speaking to someone else that is not trustworthy because in their country they don't trust police, period. So, they felt that by starting this program and having the Hispanic liaison these people will be able to go to this one person and be able to relay information and feel comfortable with the police department. So, it was just like training and building a trust within the community.
A police officer with a satellite city bordering Nashville described his role as a liaison with that city’s large undocumented Hispanic community.

One of the things that I got to do when I got here and finished my degree [with a] minor [in] Spanish studies was I put together a program where we also had a four-day course in basic Spanish. This is just to give everybody a little crash course, and give them some good command words, things to get through the day … day-by-day stuff. … The biggest barrier for them at this point is just the language barrier. …

And a lot of what happens on the scene is officers get there, there is a language barrier and they have to use the children as translators, often times things don’t get translated the way that it should have, and so there is some misconceptions there and misunderstandings and that’s what happens when they see mommy and daddy going away with the cops, and they thought they were just trying to help the cops by translating, but now they are not going to do that anymore because all they do is take mommy and daddy away to jail.

They come to domestic a lot, because a lot of what I deal with now is domestic assault, once the officer determines who the permanent aggressor is, the state laws says you shall arrest, so they have to make an arrest. … For example, I had a lady that I was trying to help from Guatemala and there were so many dialect differences, I was having a hard time understanding her, and trying to find that middle ground where we can communicate together. So even if they know basic Spanish, they ran into all these different dialects, different phrases, even different words for the same thing.

Javier, the construction worker from Oaxaca, Mexico described his concern with the Hispanic police officers he had encountered:

The language is also a problem. We do have this responsibility as a Spanish officer to learn English because this is the country we live in. Also, there are police officers that know how to speak Spanish, like they can be Puerto Rican or from some other country, but they refuse to. Even though we know that they can because we can hear the accent and they tell us where they’re from, but they refuse to speak that language. And that’s another thing that can be frustrating. The language and not having a license I believe are the main obstacles.
A Nashville area judge described her interaction with Hispanics in her court as not just having a lack of English proficiency, but also having a lack of understanding about the legal terminology even though an interpreter is used:

Now sometimes what we find is that people speak English well enough that they understand, but when they get into the courtroom and when my clerk makes an announcement at any of them, that they’re still entitled to a translator here. So, I will always have several people who were not identified as needing a translator at arrest, but when they get into the courtroom they asked for one. …

I would say the language barrier as it relates to this understanding of what is going on. They speak English and they know enough, but I may use the term suspended sentence, or I may use the term a way you and they may not necessarily understand what it means. So, it’s a language barrier, but as it relates to the legal system. But I still think the barrier is understanding.

A Deputy Attorney General tasked with investigating the unauthorized practice of law and violation of the Tennessee Consumer Protection Act by notary publics in the undocumented community relayed the difficulties she encountered in getting the community to cooperate with the state’s investigation:

I think part of it is that it’s much more comfortable to go to somebody who speaks your language and who people you know have gone to before. So, there’s that familiarity and trust. I think, you know, it’s probably harder for them to go to … there’s not a lot of attorneys in town in Tennessee who speak Spanish. There are some, but it’s not common necessarily, so I think just that the ease of going to somebody who speaks your language

The language barrier also comes to play when police officers, attorneys and court personnel speak and understand some Spanish, but not to the degree necessary to effectively communicate with the Spanish speaker. A certified court interpreter was interviewed and relayed the story of a criminal case where the Hispanic defendant asked
for a lawyer and the interrogating police officers did not understand Spanish well enough to know. The issue did not come up until the matter was in court.

So, I’ve worked on things where both the state and the defense said, “Well, can you look at this?” “Can you take it home, clear it up as best you can?” “Get the noise out EQ and everything” and I get there and its one minute … one hour, I am 7-8 hours into this thing, and then there’s this blip for 5 or 10 seconds.

Of course, you got two detectives in the room, an officer acting as an interpreter supposed to be “bilingual” and the detectives are getting bored when there’s Spanish being spoken, so they’re talking to each other in English. And then in the corner, the defendant says, “I want an attorney” and nobody heard it, but I listened, and I got to that 20 seconds, I spent a half hour on the 20 seconds. I go get a cup of coffee and I come back … and I came back, and I showed it to the state and to the defense and this was an especially aggravated vehicular homicide so, somebody had died. … actual case.

And so, at that point in time I said well, look, you could hear. This is what you want to listen for abogado, sounds like gobble gobble, lawyer, and they both listened, they said, “Oh, abogado?” So, the case settled I think for 20 years, didn’t go to trial stuff like that. …

He went on to describe typical incidents were police officers with limited Spanish proficiency attempt to interpret or question a Spanish-speaking offender:

But as an officer you’re “bilingual” probably you hear … I hear … I’ve been asked, and other interpreters are asked to do the transcription translation and when you do that, you find out if that person acting as an interpreter really knows their stuff or not because that detective is basing everything on what comes out of the interpreter's mouth as what the accused person or the defendant is saying, and they may or may not be saying that stuff. … Most of the time it’s, “I’ll do whatever the judge decides.” … Those cases usually never go to trial because both the state and the defense realize the officer who said he could interpret, didn't interpret. So that weakens the state's case and it strengthens the defense case, because of the interpreter’s failures; however, there are really good officers out there that know their stuff.
Two things on that: one is, most lawyers that are bilingual, several do know their stuff and they'll take care of everything to the points on advice–now, we got to go before the judge for a plea, or for retirement and I interpret for the court. But other lawyers, even if they're bilingual, they say "Okay, can you interpret?" They want to make sure, to cover their responsibilities. In the hallway I interpret for them, you know, before they go in. [...] and I know other interpreters have had lawyers say, "That's not what he said."

A Nashville attorney with limited proficiency in Spanish who works with the Hispanic community described his procedures to deal with Spanish-speaking clients.

A lot of times they speak both. Some of them … like a guy came in the other day and he speaks both. Pretty good English and obviously Spanish. And other ones … I got a lady right now who I’m helping over at juvenile court. She’s got a custody issue with her boyfriend or boyfriend had a baby. And she got referred to me and she came in the other day and one of her best friends came with her and she said, “[Attorney], she doesn’t speak … she speaks zero English.” So, we met in our conference room. And of course, the girlfriend and the friend were sitting there, and her entire conversation was translated by somebody else. … You know, I’d say that’s probably 50/50. Some of them can speak enough to get by. … To make sure that there’s a clear path of communication, and so if I think that there’s anything that they do not understand that I’m telling them. Then I’d tell them to leave and go get a translator and come back.

The attorney told the story of an undocumented Hispanic woman he represented in a child custody dispute.

[My client’s] boyfriend, just giving an example, back last October [client] and her boyfriend got into an argument, and she called the police. Police came to the house and the police wrote down an incident report and gave it to her. Apparently, they communicated to her, and they said, “You need to go get an order of protection. Kind of keep him away.” Well she’s carried around this in her pocket for six months, this incident report, thinking she had an order of protection. … She thought that was it. And come to find out this summer is when he filed for custody of their child. That’s when she came to see me. And turns out … she found out that she didn’t have an order of protection at all.
A Nashville immigration attorney and civil rights advocate described the difficulty her clients encountered with the police department due to a lack of fluent Spanish-speaking officers and employees.

There's just nobody that speaks Spanish. I mean ... it's ... I'm like ... I'm an Attorney and my entire office here is ... you know, we all speak Spanish ... and we must physically go down and do translating for people to get the order of protection, to get, you know, there's like I think, one person at the police department that speaks Spanish, maybe two. ... It's a huge problem. I think there's a lot of officers that speak like a little bit of Spanish and so they think that's ok, but, you know, the other problem that comes with that if you're not fluent is that you miss a lot of those really important details and so, she could be saying something and you're taking it as whatever and that's not accurate. So, the language barrier is a huge problem.

She described how officers were provided que cards with information in Spanish to read to Spanish speakers.

And sometimes officers will just ... they're written out in Spanish perhaps and so they'll read them to the person thinking they ... if you just read it and it doesn’t sound even close to right ... I mean, you can't just read in a foreign language because you think that that makes it the foreign language. And so, a lot of times you have that, when an officer's like, "Why, I read it to him," or they'll hand them the form and a lot of my clients, not only are not literate in English, they're not literate in Spanish. So, there's a lot of issue with that in consent issues, specific details on what's happened on a case, specific details, you know, of supposed confession ... all the time.

To gain a better understanding of language as a structural barrier, the survey asked 334 undocumented Hispanic immigrants to rate their English proficiency. The following table summarizes these responses.
Table 23: Survey Item 35: I speak English well enough to communicate with officials, such as police officers and judges

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<tr>
<td>Total</td>
<td>322</td>
<td>96.4</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>2.95</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.95 is slightly below the scales midpoint of 3 with nearly 56% of respondents unable to agree at any level with the statement, “I speak English well enough to communicate with officials, such as police officers and judges.” This supports the findings of the qualitative data that lack of English proficiency is a structural barrier to utilization of the legal system for many in this community.

**Education:**

The third most cited barrier was the lack of education. When Diego, the Salvadoran immigrant who works with the undocumented community, was asked to identify the greatest barrier the undocumented community experienced in utilizing the U.S. legal system, he quickly responded:

Definitely it is lack of education, and I can feel that, but it is nice people too. Beautiful people. … That are difficult to teach people. They don’t read, and sometimes they don’t write. … I saw many people, and they have difficulty learning to read and write.
Gabriela, the former Mexican schoolteacher, also thought education was a major barrier. In her words, approximately 10% of the undocumented Hispanic community cannot read or write. One of the Hispanic churches I frequented offered free English classes to the undocumented community. The pastor and instructors spoke of their frustrations in learning that many of their students were not literate in Spanish, making it near impossible to teach them English. One church member from El Salvador was fluent in Spanish and spoke broken English. He had learned to read and write in English through the church’s program but had not mastered the ability to read and write in Spanish.

As the following table shows, many undocumented Hispanics have an elementary level or lower educational attainment. The table also shows the general level of educational attainment for all undocumented immigrants in the U.S. When these data are compared, it appears my respondents’ educational attainment is consistent with past research for all undocumented immigrants.

<table>
<thead>
<tr>
<th>Respondents Highest Level of Education</th>
<th>Undocumented Immigrants Generally(^{20})</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>0 to 5(^{th}) Grade</td>
</tr>
<tr>
<td>Some Elementary School</td>
<td>6(^{th}) to 8(^{th}) Grade</td>
</tr>
<tr>
<td>Completed Elementary School</td>
<td>9(^{th}) to 12(^{th}) Grade</td>
</tr>
<tr>
<td>Some High School</td>
<td>High School/GED</td>
</tr>
<tr>
<td>Completed High School</td>
<td>Some College/Associates</td>
</tr>
<tr>
<td>Some College</td>
<td>College Degree</td>
</tr>
<tr>
<td>Completed College</td>
<td></td>
</tr>
</tbody>
</table>

The Nashville court interpreter recognizes this lower level of education when interpreting for Hispanics. While immigration status is not relevant to his work, he

\(^{20}\) Migration Policy Institute, supra note 3. These percentages are for all undocumented immigrants in the U.S. and not just Hispanics.
suspected that the majority of those he provides services to are undocumented. He described the typical Hispanic he interprets court proceeding for:

They’ve got a primary [school] and a secondary [school]. Where we’ve got elementary junior high or middle school and then high school, but most that I interpret for, probably have only finished what we would call elementary type level.

The Nashville Public Defender also perceived lack of education to be a significant barrier. She explained her experience:

There's two other aspects; one is that many of the people who immigrate here from Mexico and Central America have fairly low educational backgrounds. I mean having completed sixth grade is pretty average and that's what they get like second or third grade. … And the second is it is very hard to explain things like arraignment or the grand jury or constitutional law. So, you know you end up having to sort of simplify or even a jury just a lot of the legal concepts which can be hard to explain to any client, are that much harder to explain to a Latino client or frankly any non-citizen client.

A co-founder of a large NGO focused on Nashville’s Hispanic community relayed his observations in the undocumented community:

We kept hearing from some of our earlier parents saying we have no idea what’s going on in the school system. I mean back in Mexico or Guatemala or whatever, these folks have a totally different mindset, so like they arrive and they don’t even know how to read a report card; they don’t know what SAT is … their role they take in their education of the kids is totally different, so here [the non-profits] programs kind of explains what are you expected, what’s your role as a parent … [what’s it] supposed to be in your kids’ education … what do you do as a parent when they call you or when the principal calls you and that’s been really successful and it’s grown a lot … that we built a network … back then there were no interpreters and so, there may be people also, through word of mouth people now know, oh yeah, the people you go to. Like early on there were a lot of fear and people didn't understand it, being from an authority figure.
He went on to explain the unique difficulties the indigenous immigrants from Mexico and Central America encounter in the U.S.:

Spanish is not their first language, right. So, they speak some of this dialect that has nothing to do with Spanish. Now this population is very poor. It’s [un]educated poor. They’re like at the bottom of the pyramid and you don’t see a lot of that population in urban settings; certainly not in Tennessee because they are at the bottom of the economic and skill [pyramid]. They are the ones that are most likely going to be ending up working in the fields in rural areas.

The Legal Director of another Nashville NGO working with the undocumented Hispanic community explained how language and low education levels were intertwined.

He did not learn the street address until moving to the U.S. from Google Maps. He described his life in Managua and his ignorance of his own street address:

It was this bad. It was that bad. This is going to make you laugh. It’s like, I realized that I live in 32nd Avenue [until] like a couple of years ago in Nicaragua. In the U.S., I came to realize where I was because I would say from that statue. Even my address was from the big statue of Monsignor Lezcano, five blocks down toward the lake.

He realized that many from Central America had the same experience and did not know how to locate places based on the street address alone. He went on to explain:

[F]rom two perspectives, the language and also the education, not just the language barrier because even educated, the system works totally different. It’s very practical. … When I want people to come to our office, I had to use my Nicaraguan mind and knowing that they would get there with landmarks, not with an address, with a landmark. I had it in my head. It’s like I say “Okay, do you know Nolensville Road?” I would say. “Yes, yes, yes.” “So, go all the way down a la feria, the fair garden.” “Yes.” “Turn left.” Look, this is … “You are going to drive in only three streets and you’re going to hit the place.” And in the past, they would give you the interstate, and clients wouldn’t show. After I developed that strategy, they would show. Because they had to go “Nolensville, turn left on the feria, turn right on 19th.” 1, 2, 3, you are going to…everyone who understood that. I know Exit 65B and then turn left and then…
Income:

Low income and the cost of legal proceeding was the fourth most mentioned barrier by interviewees. I interviewed an immigrant pastor of a Nashville Hispanic church who estimated that 60% of his congregation is undocumented. He explained that he saw low-income as the greatest barrier for the undocumented community:

I think that it’s because we’re poor. … [T]he Mexicans who are richer don’t come to this country except for vacation. So, there is a general understanding that the Hispanics that come to the States … come here … are coming here for a better opportunity for their children … a better life. There is an understanding that the Hispanics that come here to the States haven’t had a chance for a good education because they’ve been working. It’s not because of our culture or skin color … it’s because we are poor.

This is a barrier well documented in the literature for low-income households in general. Research shows that low-income households in general have from 1 to 3.5 unmet legal needs at any given time including IPV, child support and visitation disputes, criminal charges, and landlord tenant disputes. There is no reason to expect any differenced for low-income Hispanic households regardless of legal status. In fact, many low-income interviewees experienced and discussed these types of legal issues on a regular basis.

“For people of limited financial means, access to an attorney can be the difference between losing a home or keeping it; suffering from domestic violence or finding refuge; succumbing to illness or obtaining a cure; remaining hungry or securing food or

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languishing in prison or reuniting with family and community.”

Research shows that low-income people have higher opinions of the legal system and higher satisfaction with the resolution of their cases if they have an attorney. But the cost of retaining a private attorney is cost prohibitive for low-income households. The U.S.’ primary method of providing legal services to the poor is through the LSC. The LSC is so underfunded that it is not able to serve all the people requesting services. But as noted, undocumented immigrants are not eligible for assistance from Legal Aid (LSC), which leaves them in an even worse situation.

The literature also shows that pro bono representation has not been effective in meeting the needs of low-income households. Low-income offenders fair no better in the criminal area. The Supreme Court’s decision in Gideon v. Wainwright required that criminal defendants have an appointed legal counsel. But underfunding has led to inadequate compensation for appointed attorneys who develop a “meet ‘em and plead ‘em” attitude. Heavy caseloads and inadequate funding of public defenders, including the denial of funding for trial experts, investigations, and other support services, places them in a disadvantage with the prosecuting attorney.

Two of the survey items sought to measure respondents’ knowledge about the availability of free or discounted advice about their legal rights. As discussed previously, most undocumented Hispanic immigrants do not see their native country’s legal system

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27 Udell & Diller, *supra* note 22, at 1136.
as legitimate or available to people of their socio-economic status. Once in the U.S. they are entitled to a litany of rights and have access to a functioning legal system. If and how they learn of these newfound rights is the important first step in asserting their rights.

Nashville has many NGOs providing free information concerning legal rights and many of them target the undocumented population. Many of these NGOs have specific missions focused on legal rights such as landlord/tenant issues, domestic violence, wage theft, etc. Additionally, other resources such as law firms, governmental entities, radio stations, and the internet provide free information about legal rights.

A significant percentage of undocumented immigrants I encountered during my field research were unaware of Nashville’s numerous NGOs focused on assisting their own community. Many expressed a complete lack of knowledge of how to access information and learn about their legal rights. Item 54 of the survey sought to gain a better understanding of how well the availability of this information is known within the undocumented community.

**Table 25: Survey Item 54: I can access information about my legal rights without cost.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Totally Disagree</td>
<td>52</td>
<td>15.6</td>
<td>16.7</td>
<td>16.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>39</td>
<td>11.7</td>
<td>12.5</td>
<td>29.3</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>68</td>
<td>20.4</td>
<td>21.9</td>
<td>51.1</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>65</td>
<td>19.5</td>
<td>20.9</td>
<td>72.0</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>87</td>
<td>26.0</td>
<td>28.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>311</td>
<td>93.1</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>23</td>
<td>6.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>3.31</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
This item’s mean score of 3.31 is slightly above the item’s midpoint of 3 with 51% of respondents unable to agree with the statement, “I can access information about my legal rights without cost” at any level. A fair interpretation of these data is that more than one-half of the undocumented community does not know of the availability of free information concerning one’s legal rights. This finding is consistent with my qualitative findings.

Survey item 58 is very similar, but focuses on receiving direct advice about one’s rights as opposed to accessing general information.

Table 26: Survey Item 58: Legal advice about my rights is available to me either free or at reduced cost.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Total</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>51</td>
<td>15.3</td>
<td>16.2</td>
<td>16.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>34</td>
<td>10.2</td>
<td>10.8</td>
<td>27.1</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>92</td>
<td>27.5</td>
<td>29.3</td>
<td>56.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>70</td>
<td>21.0</td>
<td>22.3</td>
<td>78.7</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>67</td>
<td>20.1</td>
<td>21.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total Missing</td>
<td>20</td>
<td>6.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.22 is slightly about the item’s midpoint with 56.4% unable to agree with the statement, “Legal advice about my rights is available to me either free or at reduced cost” at any level. As discussed, there is a multitude of legal resources available to this community either free or at a reduced cost. This item’s results indicate that a significant percentage of the undocumented community does not know the availability of these legal services.
Legal expenses are not limited to attorneys’ fees. Low-income households must also contend with court cost, legal fines, and probation fees.\textsuperscript{28} Indirect costs includes lost income to attend court hearings known for delay and transportation cost.\textsuperscript{29} Transportation is a significant factor for the undocumented low-income because they do not have a driver’s license. The vast majority of interviewees in this study became entangled with the legal system because they did not have a driver’s license. This requires them to secure transportation to and from their court hearings from someone who has a driver’s license, and frequently that is not someone in their social circle.

The Co-Executive Director of a Nashville NGO focused on immigrant and refugee rights described how the expense and time necessary to secure a DACA permit was prohibitive for many eligible:

\begin{quote}
[I]t’s $485 to the federal government. So – you know, especially if a family has two or three kids who are eligible for DACA. That’s pretty expensive. So, I think cost is a big piece. […] I think establishing that you qualify, like the number of documents to prove your presence over five years is pretty tremendous. So that is a barrier, that it takes folks a while sometimes to gather all those documents.

I think that for the first time, I think it would be more so for the people who would have been eligible for the President’s program, the 2014 executive actions. So, a lot of the youth can establish their school records. So, I would say, yeah, there are definitely some people where documentation is a barrier and sometimes like the earlier months – you know, when they first got here, they know to establish that they were here at a certain time.
\end{quote}

A Nashville criminal defense attorney described his experience with Hispanic family and churches pooling money to help those in the judicial system:

\begin{footnotes}
\footnote{28 Monica Llorente, \textit{Criminalizing Poverty Through Fines, Fees, and Cost}, 19 \textit{CHILDREN’S RIGHT LITIGATION} 1 (2016).}
\footnote{29 James Meeker & John Dombrink, \textit{Access to the Civil Courts for Those of Low and Moderate Means}, 66 \textit{S. CAL L. REV.} 2217, 2228-9 (1993).}
\end{footnotes}
And what we found is a lot of people, families pool money, and they just kind of have like a…. we call an "oh shit fund" and it's kind of the general family fund and if somebody needs it, then I’m going to pay for you and then if I, you know, when I get out, I’ll replenish it and you pay for me. When we had the big rape case, all sorts of church people, I mean just jumped right out to try and help pay bonds and yeah, huge, huge church network.

Consistent with previous research, the majority of undocumented Hispanic immigrants I encountered work in lower paying jobs with little or no benefits. Most are paid cash and provided no paid leave. Missing work may result in termination. The two greatest concerns I heard during interviews was that the expense of hiring a lawyer and the time lost at work to attend to legal matters was a significant financial burden. The following two items were included in the survey to gauge this effect on the undocumented population.

Table 27: Survey Item 36: Paying a lawyer to handle my legal problem would not be a hardship to me.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>62</td>
<td>18.6</td>
<td>19.1</td>
<td>19.1</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>67</td>
<td>20.1</td>
<td>20.7</td>
<td>39.8</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>57</td>
<td>17.1</td>
<td>17.6</td>
<td>57.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>71</td>
<td>21.3</td>
<td>21.9</td>
<td>79.3</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>67</td>
<td>20.1</td>
<td>20.7</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>324</td>
<td>97.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>10</td>
<td>3.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mean Score: 3.04

This item’s mean score of 3.04 is slightly above the item’s midpoint of 3 with 57.4% of respondents unable to agree with the statement, “Paying a lawyer to handle my legal problem would not be a hardship to me” on any level. This is consistent with my
qualitative data, but somewhat surprising that 42.6% did not believe hiring an attorney would be a hardship to them.

**Table 28**: Survey Item 37: Missing time from work to deal with a legal problem would not be a hardship to me.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>75</td>
<td>22.5</td>
<td>23.6</td>
<td>23.6</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>48</td>
<td>14.4</td>
<td>15.1</td>
<td>38.7</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>31</td>
<td>9.3</td>
<td>9.7</td>
<td>48.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>66</td>
<td>19.8</td>
<td>20.8</td>
<td>69.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>98</td>
<td>29.3</td>
<td>30.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>318</td>
<td>95.2</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>16</td>
<td>4.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.20 is slightly above the item’s midpoint of 3 with 48.4% of respondents unable to agree with the statement, “Missing time from work to deal with a legal problem would not be a hardship to me” on any level. This is consistent with the qualitative data, but again somewhat surprising is that 51.6% percent of respondents did not believe missing work to tend to a legal issue as it would be a hardship to them.

The survey data confirmed my qualitative findings that many in the undocumented community are unable to utilize the legal system due to language, access to information, educational attainment, economic status, and employment obligations. Overall, the qualitative and quantitative data confirm that these structural barriers are component parts barring their utilization of the legal system.
CHAPTER VII

Cultural Barriers

Many interviewees identified their culture as a barrier to utilization of the legal system. Culture is “that complex whole which includes knowledge, belief, art, law, morals, customs, and any other capabilities and habits acquired by man as a member of society.”

Cultures consist of “information capable of affecting individuals’ behavior that they acquire from other members of their species through teaching, imitation, and other forms of social transmission.”

Legal Culture:

Although Hispanic immigrants come from several Latin American countries, they share similar cultures and values they are reluctant to surrender to Americanization. Cultural barriers are organic to the individual or sub-group, unlike structural barriers which arise externally and are beyond their control. Dominant cultural barrier themes include the legal culture in their native countries, traditional family and gender roles, and religiosity.

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1 Edward B. Tylor, PRIMITIVE CULTURE: RESEARCHES IN THE DEVELOPMENT OF MYTHOLOGY, PHILOSOPHY, RELIGION, LANGUAGE, ART AND CUSTOM, 1 (1871).
3 Id. at 16.
A legal culture different from the U.S.’ was the prevalent cultural theme that developed from the formal and informal interviews. This difference in legal cultures is confined to the socio-economic characteristics of the undocumented Hispanics I formally and informally interviewed.

This community is not much different from their American counterparts in the same socio-economic class. Marc Galanter refers to this demographic as “have-nots,” who resort to “lumping-it” instead of complaining or making formal claims because they lack information, access, skill, and financial ability to proceed otherwise. It is possible, in fact likely, that Mexicans and Central Americans in the higher socio-economic classes, as Galanter refers to as the “haves,” see the legal systems in their countries much differently and have a very different legal culture.

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Law professor Lawrence Friedman coined the term legal culture,\(^5\) and while there is great debate over the meaning of legal culture,\(^6\) Friedman originally intended the term to refer to:

>[T]he values and attitudes which bind the [legal] system together, and which determine the place of the legal system in the culture of the society as a whole. What kind of training and habits do the lawyers and judges have? What do people think of law? Do groups or individuals willingly go to court? For what purposes do people turn to lawyers; for what purposes do they make use of other officials and intermediaries? Is there respect for law, government, and tradition? What is the relationship between class structure and the use or nonuse of legal institutions? What informal social controls exist in addition to or in place of formal ones? Who prefers which kind of controls, and why?\(^7\)

During my field research, not one interviewee or informant spoke positively about their native nations’ legal system. In fact, many found the issue humorous when asked. Typical comments were like Diego’s, the food truck entrepreneur from El Salvador, who described El Salvador’s legal system as “totally corrupt.” He describes the system as “powerful with the weak people … and very weak with the powerful people. A lot of people who are in jail - they don’t have to be there, but they are there because they don’t have the money to suborn a judge. To pay a lawyer you know (he gestured as if doling out money), this is for you, this is for you, this is for you, I don’t like this guy so put him in jail, simple as that.”

Camila, a 43-year-old factory worker from Oaxaca who has been in the Nashville area for 14 years, described the Mexican legal system: “Everything is unfair. … The law weighs as much as your wallet does in Mexico.” Gabriela, the former Mexican

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\(^7\) Id. at 34.
schoolteacher from Guerrero, described the Mexican legal and political systems as “totally bad” and went on to explain why:

Everything costs money. If you go to the doctor and you need some kind of emergency help, you have to pay. Everyone has to pay something. Even though it’s supposed to be free help for the public it’s not, everyone has to pay something. When you talk about the justice system, there is no justice. The amount of justice is measured by the amount of money you have. If you take a case like theft and you hire a lawyer and you pay the lawyer with your money you know, that case is never going to go anywhere unless you are an influential person, or you have money. If you don’t have that influence, then your case will never be solved. So, it depends on your [political] influence and the money.

This is in stark contrast to the U.S.’ legal culture that Robert Kagan labels as adversarial legalism. American legal culture “relies on lawyers, legal threats, and legal contestation in implementing public policies, compensating accident victims, striving to hold governmental officials accountable, and resolving business disputes.” A legal culture relying on “lawyers, litigation, and courts … as powerful checks against official corruption and arbitrariness, as protectors of essential individual rights, and as deterrents to corporate heedlessness.”

Anthropologist Sally Engle Merry’s view of legal culture is particularly helpful in the analyzing of my qualitative data. Merry sees legal culture as a construct of four distinctive underlying factors including: 1) the practices and ideologies within the legal system, 2) the public’s attitude towards the law, 3) legal mobilization or “how readily people define their problems in legal terms, and 4) legal consciousness or “the extent to

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9 Id.; see also, Thomas Burke, LAWYERS, LAWSUITS, AND LEGAL RIGHTS: THE BATTLE OVER LITIGATION IN AMERICAN SOCIETY (2002).
which individuals see themselves as defined by the law and entitled to its protections.”

Interviewees spoke of each of these underlying factors leading to the conclusion that their native legal cultures were corrupt, ineffective, and not a viable resource for them.

Merry’s first factor underlying a society’s legal culture is the practices and ideologies within the legal system. This means, “the way practitioners within the law see the rules, the legal system and the kinds of people who use it.”

My qualitative data was consistent with prior research indicating immigrants frequently had negative experiences with legal authorities in their native countries.

Sara, the 25-year-old Salvadoran mother of two, described her country’s legal system as corrupt from the police officers to the courts. She moved to the U.S. out of fear gangs would force her eight-year-old son to join. She arrived in the U.S. pregnant and gave birth in Nashville to her second son, who is an American citizen. She explained her experience with the Salvadorian legal system:

[T]he police are corrupt, they, some of the gang members are affiliated with the police, and they can be bought off or have the police do their dirty work for them. The courts … I’ve never had any experience with, so I don’t know if they’re corrupt or not, but I think that they are as well. Some of them might be … yes. … Salvador is run by money, whoever can pay them off with the most amount. … We used to live out in a town outside of the city, but when we moved to the city, that’s when I started to feel insecure and unsafe. The city’s name was El Amate. … because of the gangs that were in the city. [In school], we were told to read the Constitution, laws and everything like that, but they didn’t matter because they were never followed.

11 Id.
Isabella, the 50-year-old cook from Mexico City, described her family’s encounter with Mexican police officers that led to bribery of the officers:

"My son was out drinking with his friends around the home. He wasn’t out causing trouble, but just because he was drinking he was incarcerated. In order for us to get him out of the jail, we had to pay money to the police officers. You could be walking down the street and if the police officer wanted to arrest you for whatever reason, you have to pay them not to arrest you. Before the cop gets you to the jail, you can pay them off and he’ll let you go. My daughter’s husband was in Mexico and he was also arrested for drinking. It was just outside of the home, but the cops saw him as they were driving by. It was also the day before he was to fly back to the States. So, we had to pay the cops off to keep them from arresting him or else he would’ve missed his flight back to this country."

Camila, the 43-year-old factory worker from Oaxaca, explained what happened when she sought a divorce in Nashville from her husband, a Mexican national, who also lived in Nashville:

My ex-husband … he paid someone to make the divorce there in Mexico, but we were here in Nashville. He wanted to pay someone in Mexico to make it look like he was in Mexico when in reality he was here in Nashville. Someone in Mexico forged his signature. … He paid off a lawyer to do it and hired a girl and a man [to impersonate him and Camila in court].

Camila hired an attorney in Mexico who notified the Mexican divorce court, effectively ending her ordeal.

Sofia, the 21-year-old college student born in Mexico City, but living in the U.S. since she was eight, described her family’s perception of the Mexican legal system.
There is corruption with the police officers, in the judicial system. Officers are bribed and are corrupted. If you’re rich, and you have enough money to pay them off, you’ll be fine. If you are not, then life will be very hard. It’s clearly unfair. My mom, from what she’s told me, she was actually born into a wealthy family. Her father, actually her grandparents, were very wealthy. She was able to attend a school and it was paid for and it was great. My biological father was not as privileged as she was, but they fell in love and yada yada. She got a taste of both sides of living in Mexico. At one time being very wealthy and in the next living in an environment where your house is falling down around you. She knows about all that stuff and she knows what it’s like to be threatened. You know … give me this amount of money or I’ll shoot you. She knows what it like to be able say, “Here take the money, go away and leave me alone,” but also being unable to pay and being afraid for your life.

Juan, a 46-year-old construction worker from Hidalgo, Mexico, explained why he distrusted the Mexican police:

In Mexico, if you got no money you just give up. I know there are some bad cops [in the U.S.] too, but it's not the same as Mexico. … I was driving my bicycle. One time the police officers from Mexico they stopped me and just stole the bike from me. They threw sand into my eyes and they took off. … They weren’t bad that time, but sometimes they came just to beat you up if you don’t pay money or tried to receive something.

Merry's second factor underpinning legal culture is the society’s attitude towards the law. According to Merry, “the legal system may be seen as a source of corruption and ethnic preference … or it may be viewed as an institution that offers the rule of law for all people equally...” Interviewees made it clear that they did not see their native legal systems as systems offering the rule of law equally to all. Typical comments were like Isabella’s, the 46-year-old restaurant worker for Mexico City, who explained her perception of the Mexican legal system:

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13 Merry, supra note 10, at 44.
I don’t even trust the dogcatcher because they abuse the animals. My brother was beaten, and when we went to report it they wouldn’t do anything about it because we would not give the police any money. The police wanted us to pay them before they went to arrest the men that assaulted my brother.

Martin and Juana, a married couple from Oaxaca, Mexico, described their perception of Mexico’s legal system:

Martin: I believe that there’s a lot of corruption in the justice system starting from the top, so with the main government people. They link a web all the way to the weakest link or the bottom.

Juana: So, I believe that it’s also corrupt. There’s total corruption in Mexico. The police that are supposed to be defending the people are against the people, so people are turning more towards violence and crime because the police officers turn a blind eye to the problem. Then if you try to do what’s right, they’ll make it almost impossible to make the right decisions because they won’t support you whenever you ask for justice.

Javier and Maria, another married couple from Oaxaca, Mexico (Maria and Juana are college-educated sisters), summed up their beliefs about the Mexican legal system:

Javier: I believe there’s a lot of corruption as well, from my family members. The people are scared of the police instead of being made more comfortable. They don’t feel safe around them. I do not want to go back to my country, and I won’t unless I get deported. … Everything that the police officers do, they’ll collaborate with the criminals, and sometimes when they see somebody that’s doing well that’s advancing in their life and with their family, they go, and they attack them. They kidnap somebody in the family because they’re like, “Oh so they’re doing well, so now they have something that we want.” Maybe they’ve got money and can get something out of them. So, people can’t live a life as they want because somebody might get kidnapped if they start showing that they’re doing well in their life. … People are, instead of trying to watch out for the criminals, they try to watch out for the police officers, because instead of having them help you, they’re always looking out to get something out of people.
Maria: So, another thing that’s becoming complicated in Mexico is studying. Right now, if a student tries to study, they get killed. Whenever they see somebody doing something productive and positive, they don’t like that, so they kill people. Even the teachers are getting murdered.

Santiago, the 50-year-old construction worker for El Salvador, described his beliefs about El Salvador’s legal system:

El Salvador, it’s not a just place to live in. The police and the judges are not just. That’s about what caused the 12 Year War to happen. … It’s getting worse. The 12 Year War in El Salvador is actually over, but the delinquency and all the crimes are actually getting stronger. None of it decreased after the 12 Year War. The same is true in Mexico. There’s nothing improving.

When asked what caused the corruption in his country he responded, “everyone wants to make money, and they could do it by selling drugs and killing people. It’s for the money that they do it.” Santiago, who lived in Mexico for many years before migrating to the U.S., explained that he left Mexico because of its corrupt system and the crime there: “[I left] for peace. There is no peace there. You cannot go to sleep because someone can kill you. And nothing will happen.” Santiago’s Mexican wife Mariana described her perception of Mexico’s legal system:

No, I had an accident. I was run over there and could get nothing. … Yes, if you have money, people hear you. If you have no money, no one hears you. … Laws are not made for poor people but are made for people who have money and influence, because money speaks.

Many formed their opinions about the status of their countries’ legal system based on personal experience and the personal experiences of friends and family. New stories from their countries reaffirmed their opinions particularly for those long removed from their homelands.
Sofia, who is attending college on her DACA permit, has not been in Mexico since she was seven, but she understands the Mexican legal system to be corrupt based on news stories, particularly coverage of shocking events, and information from her family in Mexico. She described her attitude about the system:

I see it in the news all the time. I know about the students that were killed or murdered there. I think it was by the narcos or drug dealers who had a connection with the police. It was just awful. The police had sided with the drug dealers instead of the students. The students were protesting because they wanted the police officers to stop doing that. The students continued to do that even though they were threatened by the drug dealers and eventually the students were killed. … I have about handful of family members who’ve told me that they were just walking down the street or were in the wrong place at the wrong time and end up in the middle of gunshots. … He was reporting on how corrupt police officers and the judicial system were and he wouldn’t stop, and the drug dealers threatened him and eventually he got murdered. He was abducted once and brutally beaten. My mother was devastated she couldn’t do anything, because she was here when he was found; he was barely alive. I think he was in a ditch or something, but he recuperated, and he continued to report the corruption and then, he was killed.

If you have enough money to pay off the police you can say, “You know if you’ll go get that guy, I’ll will give you so much money.” They’ll do it for the money. It’s really awful. They’ll just do that for the money. … If they hire a new police chief he turns out to be a really good guy, but in a little while he turns out to be corrupted also. Then people say, “Get us a new one, he’s corrupt” and they throw him out and get a new one and then within a short time he’s also corrupt. It looks like they just get a new person every day, but the outcomes always same. … I think it’s a drug cartel leader or some people who are involved with drugs … they go through the entire flea market and tell the people they have to pay their dues. If people say, “No I can’t pay you,” then their response is, “Then we can’t protect you,” and something bad might happen to you if you don’t pay it. And the people who are being asked to pay the money can’t go to the police because the police are the ones who come back and burn down the stalls if they don’t pay, so they have to deal with it on their own, and they really have no choice but to pay them. … I have a family member who actually is a pastor at a church there. My mother spoke to him recently, and he told her that the church was even required to pay dues. His thought is that as long as he can keep his members safe, then he’ll pay. He doesn’t mind. It’s really a lose-lose situation … nobody can win.
Juan Jose, the college educated, self-employed carpet cleaner, described his attitude toward the Mexican legal system based on events in Mexico and observations from his family still living in Vera Cruz:

[My family says] do not come back, especially where I’m from, Veracruz, very bad, kidnapping and drugs. Anyone that has any kind … anyone that’s living well, that’s working hard and saving money, the people, the gangs see you and target you. So, the people that have money, they were smart and live like they’re really poor, so they’re not targeted. … I do not like watching the news from Mexico. Everything is death and destruction and delinquency. … You heard about those 43 students getting killed? That was (he became emotional) oh, yea. I don’t know. You could feel the rage here about those students, and everyone was mad about El Chapo. I mean, people here, the immigrants here hate what happened to the 43 students. The students were going out and teaching primarily. They’d formed some kind of group and they were going and they were teaching impoverished kids in the countryside. They just found … they rounded up 43 kids and still don’t know what happened to them, but they were probably killed, decapitated, burnt, thrown in acid, whatever and the government did nothing. And it’s a fatal state, and you’re talking about the people … there are pockets of resisting vigilantes. "… There was the 12-year-old hitman. Have you heard about that one? A 12-year-old was responsible for executing about 15 different people all in the course of a year and a half. He’s evil.

Gabriela, the former Mexican schoolteacher from Oaxaca, told the horrendous story about her brother Baltazar a former federal narcotics officer:

My brother Baltazar … he worked for PGR. That is part of the justice system. PGR works to decrease the amount of drug trafficking and corruption in the government and everything that has to do with the biggest crimes there. He worked for that department. He was in charge of an area in the state of Guerrero, where we are from. His job was to go after people who were growing marijuana, to put them in jail and destroy the crops. He does not do that anymore. The reason he is in Australia is because he’s being protected by the government. … He was kidnapped and brutally beaten but survived. Since he survived, the government protected him and sent him to Australia. I do not know if he’s alone or with his family. … He writes to me, like text messages, but he does it so as to hide his whereabouts because he’s being protected by the government.
Gabriela went on to say Mexico’s legal system is worse now than when she migrated to the U.S. 14 years ago. She does not feel that it would be safe returning to Mexico.

Merry’s third factor in developing a society’s legal culture is legal mobilization. Legal mobilization refers to “instances when individuals in various social groups and situations turn to the law for help.”\textsuperscript{14} It was clear that the concept of turning to law enforcement or the courts to protect or assert their rights was not part of these undocumented immigrants’ legal culture. All described non-functioning legal systems in their native countries, thus creating a legal culture that does not rely on official process to protect or enforce their rights. As the married couple from Oaxaca, Martin and Juana explained:

\begin{quote}
Martin: Hispanics are not sue-happy; Mexicans are not sue-happy because why would you sue somebody and then you run the risk of people … the courthouse or wherever you’re going to go sue them and they take the other person’s side because they have more money than you. And if you do try to sue them, and that person might try to kill you. So, the people who are the poorest don’t sue at all. They just keep quiet.
\end{quote}

\textsuperscript{14} Merry, \textit{supra} note 10, at 44.
Juana: Yeah, you don’t sue people. You have to run away, leave the place or you kill them, or they kill you. You don’t sue people. … Here in Mexico you can’t go out and sue somebody because then that other person will just show up in court with a roll of money and then you’ll be left in the road. But here if you do get sued, it’s for a legitimate reason and you can hire somebody to represent you and do their own job and your rights as a citizen will be respected whereas in Mexico we don’t have that. … But in Mexico, even if you try, they’re not going to listen to you, they’re not going to do anything about it, especially if it’s somebody that’s involved with the government, like a police officer or an official person. That’s what is the main difference I have seen between the U.S. and Mexico. Another thing is that, in here they respect the laws, and yeah, we as immigrants are afraid to drive, but at least we know that if we get in trouble it’s because we actually did something wrong and not because somebody was just pointing us out, because there are racist people but there’s not a lot of people that are like that.

The other married couple from Oaxaca, Javier and Maria, explained why they would not resort to official processes:

Javier: We don’t sue people. We just either take care of it ourselves or just not do anything about it because, you know, if you’re running … there’s no logical person who would go sue somebody. Because knowing from the experiences and odds that we have about our own justice system, it’s nuts. It doesn’t work. It doesn’t work at all. So … another thing that they can do is either you kill them, or they kill you or you just don’t do anything about it. So, those are really the options you have.

Maria: Yeah, unless you have a family member in the justice system or a friend or somebody that you know that works in the inside or if you have money, you can’t sue anybody. There’s no point in it. Over here, at least if you get sued you can hire somebody to help you out. You know that they can’t be bribed easily. Here in the US, you can sue people, but I don’t think you can sue people for just anything. You can’t just go sue somebody. You have to have a legitimate reason. She gave the example of if you go to a restaurant and there’s a cockroach in your food you can sue that restaurant. And you’ll probably win because the county or the country cares about the customer’s health and safety. So, if you’re in Mexico you can’t do that. You can’t sue for any reason.

Diego, the college educated Salvadorian immigrant, explained his understanding of why undocumented immigrants do not use the legal system in the U.S.:
Because we are not used to it in our country and we don’t use it here. We prefer if somebody does do something against you, like me, somebody hit me in my throat, I say, “Forget him. Go home. Just be careful next time.” Because it’s time consumption and we don’t use the justice system in our country. Here, it is the everyday, you have problems, you call a lawyer, you put, “Come se llama, una demanda ... como se dice?” … Yes, part of [our] culture is we don’t use lawyers, because over there you have to be rich to use lawyers. … We come into this country, that’s easy. We don’t try to use the system, because that thing never existed for us, but we come and don’t use it here. We’re waiting for somebody to react, but we never do something against somebody. Maybe a few people, because accidents happen on the job, you know, work, maybe an injury or something like that.

Merry’s fourth and final factor constructing a society’s legal culture is legal conscientious. This “describes the extent to which individuals sees themselves as defined by the law and entitled to it protections.”\footnote{Merry, supra note 10, at 44.} Sebastian and Sara’s comments were typical regarding this factor. He is the 47-year-old landscaper from Honduras who came to the U.S. when he was 16-years-old to escape Honduras’ rampant crime. Sebastian described how the Honduran legal system failed his family when his brother was murdered:

"One of my brothers was robbed and then burned alive in Honduras. … I don’t believe there are actually any laws like that. If there are though, they’re not enforced. Most the time it’s the police officers or the people who are supposed to be upholding the law who are committing the crimes, so I believe even if there were such a law, it would be a waste of time."

When asked if Honduras had a worker’s compensation type system for injured employees, he responded, “No. … there may be a law, but if you hire a lawyer, your boss or whoever has more money will pay off your lawyer.” He went on to say the wealthy use the law for their benefit and to harm the poor. When Sara, the Salvadorian who recently migrated to the U.S., was asked, she said, “if you were assaulted or your property stolen in El Salvador, would she call the Salvadorian police?” She responded:
[The police] wouldn’t get there. They wouldn’t go. … Where I used to live, another home, one of the gangs went up and shot a home and stole all their property, and they called the police, but the police never went. … The laws are similar, but the biggest difference is that they’re not fulfilled in El Salvador the way that they are here.

The U.S.’ legal culture forces immigrants to contend with issues their native legal culture does not define by law and/or enforce. This leads many to unintentional entanglement with the U.S. legal system while living in the “American legal culture.” A Nashville area police officer working with the undocumented community stated it this way:

[A] lot of things that are criminal here are not necessarily criminal or enforced in the countries they may have come from, like the statutory [rape] laws, people over the age of 18 having relations with people much younger, 15 and 16 years old. So, in the United States and in Tennessee that is illegal, but where they are coming from and where they were raised that was just a part of life.

Statutory rape or engaging in sexual activities with a minor in the U.S. is a frequent offense bringing undocumented immigrants into the legal system. A Nashville attorney who has represented several undocumented Hispanic men on statutory rape changes explained the issue:

In Latin America, with statutory [rape] … right, … the female 15-year coming out party at 15 years of age … her Quinceañera … is her coming out party and at that point on in her life she's not only able to date, but also to engage in romantic relations … and it would not be unusual for a 15-year-old [female] to engage with a 22-, 23-, or 24-year-old male.

Many interviewees relayed the same information about underage sexual relations and the need among low-income families, especially those in agriculture, to find stable homes for their daughters because they could not support them. To ensure she got a good
“placement,” she must go while she is young and beautiful to a man old enough to support her. In an agrarian community, that may be a man many years her senior.

Other frequent issues are violation of U.S. prostitution and alcohol consumption laws, which are quite different from many areas of Latin America. Discussing a recent Nashville prostitution sting that netted many undocumented Hispanic males, the legal director of a local Hispanic NGO explained the issue:

I’m sure that this guy had no clue that it was illegal.” He wouldn’t have been walking on whatever street in Nicaragua, Colombia, Puerto Rico, and never would a police officer offer sex for money in our country.

Public intoxication, driving under the influence, and drinking in public are major issues, according to an officer with Nashville’s El Protector Program. Educating immigrants on alcohol laws and other legal differences in the U.S. and their native countries was a priority of his outreach. In his experience, it was not uncommon for the police to find a group of new arrivals drinking beer and socializing in the Wal-Mart parking lot located in Nashville’s Hispanic enclave. To them, it was either legal in their countries, or if illegal, was never enforced. Under either scenario, it was socially acceptable behaviour in their experience.

These narratives describe ineffective and corrupt legal systems that undocumented Hispanic immigrants want to avoid instead of embrace. In stark contrast to these narratives of “unjust” Mexican and Central American legal systems was Renata and Tomas’ perception of Cuba’s legal system. Castro’s revolution in Cuba was intended to usher in Marxist style reforms based on “humanism and egalitarianism” with their
“persuasive appeal to the less fortunate individuals, groups, and classes in society.”

These concepts enforced by the dictatorship of Fidel Castro created a “regime, that in the process of quieting the opposition, also has maintained a rigid system where common crime and open political violence are still rare.”

Renata and Tomas are a married, late-twenties Cuban couple who had entered the U.S. seeking asylum just a week prior to my interview of them. Cuban society would consider them privileged or “haves” in Galanter’s nomenclature. Both are college educated and Renata was a licensed psychologist in Cuba. Tomas was a professional dog trainer. In contrast to other interviewees, they come from a country with a highly functioning government and from a very different socio-economic position. Renata’s position and work were sufficient for the couple to obtain permission to vacation in Mexico where they crossed the border to the U.S. Renata explained her perception of Cuban law enforcement:

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Renata: And the police are very strict about that, and sometimes they can be extreme. They can punish them in an extreme way for doing that, and that’s just because the person is poor, and they don’t make enough to fulfill their needs. But outside of the police, I believe that the judicial system is quite fair. … It’s not very common in Cuba to be able to bribe a police officer. There’s different levels of police officers. Maybe one that’s in the lowest level possibly could be bribed, but it’s not very common. Most of the corruption in Cuba is linked to the poverty of that person, to their wealth. So, the poorer the person is, the more things they’ll do to get money, most of the things being illegal. The police officers are very faithful to the interests of the state. … I had a necklace that was stolen. I was walking in the street and somebody yanked my necklace off my neck. They scratched my skin. I was bleeding and everything. The next day I went to see the police officer at the police station. And I reported the crime and a week later they caught the man, but he didn’t pay the fine that he was supposed to pay to replace the value of my necklace. He went to jail, but outside of that I never got any sort of recompense or anything of that nature.

Tomas: I believe everything in Cuba is centered around the state, centered around the laws, the president, everything like that. And so almost all the Cuban companies are centered in the state for the state’s interests. […] If they grow their own tomatoes and sell them, that’s a crime because you can’t have your own business. If it’s not helping the state, it’s a crime. … I don’t believe there’s racism. There’s all the good quality when it comes to jobs and in the church and in the government – the way the people are treated. Whether you’re dark skinned or light skinned, if you do something wrong you’re going to get punished, regardless.

The majority of undocumented Hispanic immigrants interviewed felt that the U.S. legal system was just. Like Juan, introduced earlier, who said, “over here the law is equal. It doesn't matter if you got money or got no money. You still got to pay for whatever you do.” Similar comments by Martin and Javier were typical in describing their perception of the U.S. legal system:

Martin: Yes, I do believe it’s just. … There’s more respect towards the community and they dedicate their time to try and help others and do what’s just.
Javier: We know at least the police officers will be respectful towards us, and if we do get caught they’re not going to beat us up or take our money. They’ll do what’s just within the law, whereas in Mexico if you see a police officer driving down the street and he’s trying to stop you, you might even not move over because you don’t know what he’s going to do to you. Here if you get stopped by a police officer, you have laws or whatever they say, because you know what they’re going to do what’s just.

Many also voiced reservations about the U.S. legal system. Like Maria whose personal experience with the police was satisfactory, but stories she had heard from others caused her concern:

The occasions that we’ve met police officers, they’ve been respectful and caring, but I have heard of other experiences from acquaintances that have said that the police officers can be abusive. Recently I heard a story on Wallace Road, there was a police officer who stopped an individual with Hispanic [features], and apparently his blinker, he didn’t put his blinker on, so he was stopped, and apparently the police officer went into that person’s wallet and took some money out. So, there are occasions where police officers can be abusive.

The experiences of undocumented immigrants “with the home country police authorities and with crime, whether political or common, later shape their perceptions of crime and police authorities in the U.S.”18 A Nashville attorney working with the undocumented community explained the difference in the systems, but a continued belief that the U.S. legal system might be similar:

I think you can bribe your way out of things [in their countries]. I think there are non-functioning governments and here that’s not the case and some will say [make a] political contribution, but you know whatever. Clearly very different, very, very different so I think it’s that.

A Nashville attorney specializing in immigration law said that undocumented Hispanics had an inherent distrust of government officials he attributes to coming from

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counties where there was no strong government or legal system. He believes that this inhibited some from retaining and trusting their attorneys in the U. S. because corruption was so prevalent in their native countries.

Additionally, many hiring him have the impression that they were, “buying an outcome,” in his words. They feel like the money they pay him will in part be used to bribe the prosecutor or his adversary and the judge. They expect a portion of the fee paid to help purchase the outcome that they desire. When asked if her undocumented clients trust her, a Nashville public defender responded, “Some yes and some no. It's very hard.”

Santiago and Mariana both believed that an attorney in their native countries could not be trusted to place a client’s interest ahead of their personal interest. When asked if a person’s lawyer could be bribed in El Salvador by the opposing party, Santiago responded, “quickly.” He believed the same about Salvadorian judges. Both explained that they would have similar opinions about American attorneys:

Santiago: I’ve never had to hire a lawyer, but I feel the same here. That if I didn’t have money, that lawyer really wouldn’t help me.

Mariana: No, I don’t think I could trust him either. I’ve known people who have hired lawyers to get documentation and the lawyer just prolongs and prolongs the process and the people just pay and pay. And then when it comes time, the lawyer says, “I’m sorry. I can’t help you.” They just play with people’s needs in order to get their money.

Many key informant interviewees also felt that the undocumented community held beliefs based on their experience in their native countries. A Nashville criminal defense attorney saw a reluctance and sometimes fear with his clients from Mexico and Central America asserting their individual rights as opposed to the collective rights of their family or greater community. In other words, he observes a greater willingness to
assert their rights when the matter affected a family member or when they could join with their community and collectively assert their rights. When the individual had the role of asserting their individual rights, they tended to forgo the process mainly out of fear of the process.

Another attorney and civil rights advocate for Nashville undocumented Hispanic community believes they are fearful of law enforcement officers in the U.S. based on their native country experience. This made them submissive to the police out of fear or in her words:

I think they fear [the police], which is not quite really the word that I'm looking for. Most of my clients feel that they cannot resist authority. So, if an authority figure is saying, "I want you to give me your ID or I want you to do this or you have to do this," they’re just going to do it. … I think you just listen to the person who has the gun. I think that's probably just them agreeing … that you just listen to the person with the gun.

A Nashville area police officer entrenched in the Hispanic community described it this way:

I have heard them say we just know all police are corrupt and when I first started that was a concept that all cops are dirty, and you can’t trust the cops, like I have said they assimilate or just through word of mouth, they realize that is not the case [here]. We are just trying to help. We are trying to do the things that we need to do.

Lastly, many interviewees discussed their fear of retaliation if they became entangled as a witness or victim in the legal system. This fear likely resonates from their life experience or narratives from their native countries’ legal systems where self-help measures prevail. An officer with Nashville’s El Protector Program explained that he saw the fear of retaliation as second only to the fear of deportation for undocumented immigrants not reporting crime:
So, I’m afraid that there’s going to be retaliation against me like breaking into my house or vandalizing my car or putting harm to my kids. So that’s why a lot of them won’t.

The following six themes were evident from the qualitative data:

Theme 1: Undocumented Hispanic immigrants come from legal cultures that are not focused on judicial process to correct wrongs.

Theme 2: Undocumented Hispanic immigrants view their native legal systems as corrupt.

Theme 3: Undocumented Hispanic immigrants do not view their native legal systems as relevant to their lives.

Theme 4: Undocumented Hispanic immigrants do not perceive the U.S. legal system as corrupt.

Theme 5: Undocumented Hispanic immigrants find government officials within the U.S. legal system as trustworthy.

Theme 6: Undocumented Hispanic immigrants fear retaliation if they use the legal system.

Relevant to Theme 1, “Undocumented Hispanic immigrants come from legal cultures that are not focused on judicial process to correct wrongs,” the following item was included in the survey:

**Table 29**: Survey Item 40: Americans are too quick to go to court if they feel wronged.

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<td>Totally Disagree</td>
<td>26</td>
<td>7.8</td>
<td>8.3</td>
<td>8.3</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>24</td>
<td>7.2</td>
<td>7.7</td>
<td>16.0</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>63</td>
<td>18.9</td>
<td>20.2</td>
<td>36.2</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>54</td>
<td>16.2</td>
<td>17.3</td>
<td>53.5</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>145</td>
<td>43.4</td>
<td>46.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>312</td>
<td>93.4</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>22</td>
<td>6.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td></td>
<td>3.86</td>
<td></td>
</tr>
</tbody>
</table>
This item’s mean score of 3.86 is above the item’s midpoint of 3 with 63.8% of respondents either somewhat agreeing or totally agreeing with the statement that “Americans are too quick to go to court if they feel wronged,” and only 16% of respondents either somewhat disagreeing or totally disagreeing with it. Most telling from this item is that 84% of respondents were unable to disagree on some level with the statement. This finding is consistent with my qualitative data and supports the finding that, unlike Americans, undocumented Hispanics do not see the judicial process as the appropriate path to correcting wrongs.

Relevant to Theme 2, “Undocumented Hispanic immigrants view their native legal systems as corrupt,” the following item was included in the survey:

Table 30: Survey Item 43: In my birth country, judges, police officers, and government officials are not corrupt.

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>150</td>
<td>44.9</td>
<td>47.8</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>33</td>
<td>9.9</td>
<td>10.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>46</td>
<td>13.8</td>
<td>14.6</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>26</td>
<td>7.8</td>
<td>8.3</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>59</td>
<td>17.7</td>
<td>18.8</td>
</tr>
<tr>
<td>Total</td>
<td>314</td>
<td>94.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>20</td>
<td>6.0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>2.40</td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.40 is below the item’s midpoint of 3 with only 27.1% of respondents either somewhat agreeing or totally agreeing with the statement, “In my birth country, judges, police officers, and government officials are not corrupt,” and 58.3% either somewhat disagreeing or totally disagreeing with the statement. This
finding is consistent with the qualitative data and supports the finding that many undocumented Hispanic immigrants perceive their native countries’ legal systems as corrupt. That 18.8% of respondents “strongly agreed” with the statement was surprising. This indicates that nearly one-fifth of respondents do not believe their native legal systems are corrupt. This is a very different finding from my qualitative data and may be indicative of the breadth of the survey pool. In Galanter’s terms, we may have accessed some that were “haves” in their native countries and see those legal systems in a different light. Relevant to Theme 3, “Undocumented Hispanic immigrants do not view their native governments as relevant to their lives,” the following item was included in the survey:

**Table 31:** Survey Item 41: The government in my birth country does not help people like me.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>46</td>
<td>13.8</td>
<td>14.6</td>
<td>14.6</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>25</td>
<td>7.5</td>
<td>8.0</td>
<td>22.6</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>64</td>
<td>19.2</td>
<td>20.4</td>
<td>43.0</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>48</td>
<td>14.4</td>
<td>15.3</td>
<td>58.3</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>131</td>
<td>39.2</td>
<td>41.7</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td><strong>Missing</strong></td>
<td>20</td>
<td>6.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mean Score</strong></td>
<td>3.61</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.61 is above the item’s midpoint of 3 with 57% of respondents either somewhat agreeing or totally agreeing with the statement, “The government in my birth country does not help people like me.” Most telling with this item is that only 22.6% of respondents either somewhat disagreed or totally disagreed.
with the statement. This finding is consistent with the qualitative data and supports the finding that undocumented Hispanic immigrants do not see their native governments as relevant to their lives.

Relevant to Theme 4, “Undocumented Hispanic immigrants do not perceive the U.S. legal system as corrupt,” the following item was included in the survey:

**Table 32:** Survey Item 42: American judges, police officers, and government officials are corrupt.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>113</td>
<td>33.8</td>
<td>36.0</td>
<td>36.0</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>46</td>
<td>13.8</td>
<td>14.6</td>
<td>50.6</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>103</td>
<td>30.8</td>
<td>32.8</td>
<td>83.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>32</td>
<td>9.6</td>
<td>10.2</td>
<td>93.6</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>20</td>
<td>6.0</td>
<td>6.4</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td><strong>Missing</strong></td>
<td>20</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>334</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mean Score</strong></td>
<td>2.36</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.36 is below the item’s midpoint of 3 with only 16.6% of respondents either somewhat agreeing or totally agreeing with the statement, “American judges, police officers, and government officials are corrupt,” and 50.6% either somewhat disagreeing or totally disagreeing with the statement. Most telling with this item is that 83.4% of respondents were unable to agree with the statement on any level indicating that they did not perceive American judges, police officers, or government officials as corrupt. This finding is consistent with the qualitative data and
supports the finding that undocumented Hispanic immigrants do not perceive the U.S.
legal system as corrupt.

Relevant to Theme 5, “Undocumented Hispanic immigrants find government
officials within the U.S. legal system as trustworthy,” the following items were included
in the survey:

Table 33: Survey Item 44: I fully trust American police officers.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>32</td>
<td>9.6</td>
<td>10.2</td>
<td>10.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>35</td>
<td>10.5</td>
<td>11.1</td>
<td>21.3</td>
</tr>
<tr>
<td>Neither Agree or</td>
<td>99</td>
<td>29.6</td>
<td>31.5</td>
<td>52.9</td>
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<tr>
<td>Disagree</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>81</td>
<td>24.3</td>
<td>25.8</td>
<td>78.7</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>67</td>
<td>20.1</td>
<td>21.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
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</tr>
<tr>
<td><strong>Missing</strong></td>
<td>20</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>334</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mean Score</strong></td>
<td>3.37</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.37 is above the item’s midpoint of 3 with 47.1% of
respondents either somewhat agreeing or totally agreeing with the statement, “I fully trust
American police officers,” and 21.3% of respondents either somewhat disagreeing or
totally disagreeing with the statement. This is consistent with my qualitative findings that
many professed trust in law enforcement officers, but many others believed that law
enforcement officers targeted Hispanics in general and specifically undocumented
Hispanics. That 52.9% or respondents were unable to agree at any level with this
statement shows this disconnect. A reasonable interpretation of this item’s data is that
52.9% of respondents do not fully trust American police.
Respondents were asked the same question concerning trust in American judges but in the negative.

**Table 34:** Survey Item 45: I do not trust American judges.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>80</td>
<td>24.0</td>
<td>25.6</td>
<td>25.6</td>
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<tr>
<td>Somewhat Disagree</td>
<td>50</td>
<td>15.0</td>
<td>16.0</td>
<td>41.7</td>
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<tr>
<td>Neither Agree or Disagree</td>
<td>103</td>
<td>30.8</td>
<td>33.0</td>
<td>74.7</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>51</td>
<td>15.3</td>
<td>16.3</td>
<td>91.0</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>28</td>
<td>8.4</td>
<td>9.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>312</td>
<td>93.4</td>
<td></td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>22</td>
<td>6.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>2.67</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.67 is below the item’s midpoint of 3 with only 41.6% either somewhat disagreeing or totally disagreeing with the statement, “I do not trust American judges,” and 25.3% of respondents either somewhat agreeing or totally agreeing with it. It was somewhat surprising that 58.4% of respondents were unable to disagree on some level with this statement. A reasonable interpretation of this item’s data is that 58.4% of respondents were unable to affirm their trust in U.S. judges. This was higher than expected but not totally inconsistent with my qualitative findings. While many undocumented immigrants professed trustworthiness in U.S. judges, many felt judges treated Hispanics and undocumented immigrants unfairly as a group. Interviewees seemed more willing to place trust in the courts as a system, but less trustworthiness in individual judges. Either personal experiences or stories of others’ experiences within the community influenced these opinions.
The survey also asked about the trustworthiness of government official in the U.S.

**Table 35: Survey Item 46: Government officials in America can always be trusted.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>29</td>
<td>8.7</td>
<td>9.3</td>
<td>9.3</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>48</td>
<td>14.4</td>
<td>15.4</td>
<td>24.7</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>114</td>
<td>34.1</td>
<td>36.5</td>
<td>61.2</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>69</td>
<td>20.7</td>
<td>22.1</td>
<td>83.3</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>52</td>
<td>15.6</td>
<td>16.7</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>312</td>
<td>93.4</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>22</td>
<td>6.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>3.21</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.21 is above the item’s midpoint of 3 with 38.8% of respondents either somewhat agreeing or totally agreeing with the statement, “Government officials in America can always be trusted,” and only 24.7% either somewhat disagree or totally disagreeing with the statement. Most telling with this item is that 75.3% of respondents did not disagree on any level with the statement. A reasonable interpretation of this item’s data is that 75.3% of respondents believe American government officials to be trustworthy. Contrast that with the finding that only 58.4% of respondents trust (or do not distrust) American judges and only 47.1% of respondents trust police officers.

It is worth noting that the issue here is trust in the individual in performance of their job as opposed to corruption as discussed previously. When asked if American judges, police officers, and government officials are corrupt, only 16.6% agreed on some level with that statement. That is consistent and supports my qualitative findings. The vast majority of interviewees believed it was not possible to bribe an American official
(corruption), but many believe that police and judges are biased against them due to legal status and/or ethnicity and did not trust them on these bases.

Relevant to Theme 6, “Undocumented Hispanic immigrants fear retaliation if they use legal process,” the following items were included in the survey:

**Table 36**: Survey Item 59: If I was the VICTIM of a crime, I would not report it because I fear retaliation.

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>159</td>
<td>47.6</td>
<td>50.3</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>48</td>
<td>14.4</td>
<td>15.2</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>48</td>
<td>14.4</td>
<td>15.2</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>36</td>
<td>10.8</td>
<td>11.4</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>25</td>
<td>7.5</td>
<td>7.9</td>
</tr>
<tr>
<td>Total</td>
<td>316</td>
<td>94.6</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Missing</strong></td>
<td>18</td>
<td>5.4</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>334</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Item 59’s mean score of 3.14 was above the item’s midpoint of 3 with 65.5% of respondents either somewhat disagreeing or totally disagreeing with the statement, “If I was the victim of a crime, I would not report it because I fear retaliation,” and only 19.3% either somewhat agreeing or totally agreeing with it. From my qualitative findings, I expected a larger percentage of respondents to say they would not report their criminal victimization due to the fear of deportation.
Table 37: Survey Item 60: If I WITNESSED a crime, I would not report it because I fear retaliation.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>155</td>
<td>46.4</td>
<td>49.1</td>
<td>49.1</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>46</td>
<td>13.8</td>
<td>14.6</td>
<td>63.7</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>42</td>
<td>12.6</td>
<td>13.3</td>
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</tr>
<tr>
<td>Somewhat Agree</td>
<td>41</td>
<td>12.3</td>
<td>13.0</td>
<td>90.0</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>32</td>
<td>9.6</td>
<td>10.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>316</td>
<td>94.6</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>18</td>
<td>5.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>2.98</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.98 is slightly below the item’s midpoint of 3 with only 23.1% of respondents either somewhat agreeing or totally agreeing with the statement, “If I witnessed a crime, I would not report it because I fear retaliation,” and 63.7% either somewhat disagreeing or totally disagreeing with it. This item’s data is also inconsistent with my qualitative findings. I expected a much larger percentage of respondents to indicate they would not report a crime they witnessed due to a fear of retaliation. Comparing these two items’ data, 4% of respondents were more likely to report their victimization opposed to reporting a witnessed crime. Most telling of this data is that one-fifth to one-fourth of respondents would not report criminal conduct to the police out of a fear of retaliation.

Traditional Family Values and Gender Roles:

While not as prevalent as legal culture, a second theme that arose from the qualitative data was how traditional family values and traditional gender roles persuaded undocumented immigrants from utilizing the U.S. legal system. This is principally a
concern for females in the context of IPV. A significant body of literature indicates that immigrant women in general experience higher incidents of IPV indirectly linked to their native cultures.\(^{19}\) These cultures revere women for their self-sacrifice to family while simultaneously disempowering them, thus leaving them vulnerable to IPV.\(^{20}\) Isolation from family, lack of English proficiency, and immigration status exacerbates the risk of IPV and intimidates them to remain in abusive relationships.\(^{21}\) The risk and incidents of IPV decreases as immigrant women acculturate to the U. S.’ more egalitarian gender roles.\(^{22}\)

A central tenet of Hispanic culture is dedication to their nuclear and extended family or *familismo*.\(^{23}\) *Familismo* emphasizes closeness, interconnectedness, loyalty, and solidarity with one’s family. It affects both attitudinal and behavioral norms influencing how Hispanics view their responsibilities and obligations to family.\(^{24}\) Additionally, Hispanic culture embraces traditional gender roles for men and women, especially among recent immigrants.\(^{25}\) *Machismo* necessitates Hispanic men display “responsibility, toughness, and aggression,” while Hispanic women exhibit traditional roles of “wife and mother, having a passive, feminine role in the family” or *Marianismo*. Latinas seek a


\(^{20}\) Id. at 369.

\(^{21}\) Id. at 385-387.

\(^{22}\) Id. at 370.


cultural script of *simpatica*, meaning a permanent personal quality of being “likable, attractive, fun, and easy going.”26

A Nashville area judge observes these traditional gender roles when Latinas appeared in her court always accompanied by a male who makes the final decisions. Typically, the Latinas are charged with driving without a valid license leading the judge to believe they are likely undocumented. She explained her observations, “[M]ost of the time, women never come alone. They have either another female or a male with them. But if it is a female and her friends and her friend is with her or her sister or whatever, there’s going to be a Hispanic man around somewhere saying it’s okay to them.”

These cultural beliefs result in the documented underreporting of IPV by Latinas in general and particularly undocumented Latinas.27 Latinas perceive their abuse as necessary to preserve the family and often they accept that their husband has a right to abuse them.28 My research findings were consistent with the extant literature on the issue. Many interviewees either had experienced IPV or knew of a friend or relative who experienced IPV but were afraid to seek help from the police or other social service agencies. As reported in the literature, they fear that seeking help will lead to the arrest and deportation of the batterer causing the family to lose its only means of economic support and leaving the children fatherless.29 Their undocumented status, fragmented

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26 Vidales, *infra* note 29, at 536.
social support in the U.S., lack of English proficiency, and economic reliance on the batterer pressures these Latinas not to report IPV and remain in the abusive relationship.

As one Nashville attorney rooted in undocumented community summed it up, “with domestic violence, the idea that a man has a right to strike or hit his wife was just accepted in [Hispanic] culture and it's not accepted in U.S.” Sofia, the 21-year-old college student from Mexico City, comments on the issue were typical for this community. She explained that her mother migrated to the U.S. in part because of the ongoing domestic abuse by her father and how her father’s family and her own family treated her mother when she sought help:

His family's attitude towards domestic abuse is if your husband beats you, it’s your fault. You did something wrong. My biological father was physically violent towards her and there was nothing she could do, including turning to her own family because they did not like him because she eloped with him. Their attitude was don’t come to us because we told you not to go with him. I believe it’s a big cultural issue.

Advising both Hispanic men and women that U.S.’ culture does not condone IPV is a mission of several local NGOs as well and the Nashville Police Department’s El Protector Program. The El Protector Program apprises Hispanic immigrants of their rights and liability for IPV principally through radio and direct community interaction at Hispanic events. An officer with the program pointed out that IPV incidents within this community were not always male batterers and female victims. He described his experience:
"[t]he thing is, is that it goes vice versa for men and women but a lot of the men they feel they are machismo. They are afraid to say anything, so they don't say anything. When some of them do call and say, “I have an issue with my wife and this and that,” I tell them what their rights are, what they're capable of doing, what services we do provide to them. It’s the same service if it was a woman. … They have the rights to accuse, do prosecution, they have the right to get order [of] protection, they have the rights to receive safe haven, they have the rights to receive counselling if they need counselling. They have the same equal rights, but some, a lot of them, refuse their service. … [B]ecause they are machismo. They are a man. [They say], “Oh we don't, you know, I prefer just forget about it.” Then I explained to them that if it was the other way around they don't think of it, it's okay. I'm a female no big deal, no they'll do the prosecution, they'll do whatever it is.”

It became clear that the El Protector Program was successful in disseminating information to the undocumented community about IPV and other legal differences in the U.S. The vast majority of immigrants I encountered during field research were aware of the program and many could name the current and previous officers by name. Many male immigrants acknowledged hearing the officer speak about the legality of IPV in the U.S. on local Hispanic radio. Comments about this information made the cultural difference clear on the issue of IPV. Most undocumented males spoke sarcastically about the officer’s presentations and the presentations angered some. The point was clear, that the El Protector Program was unnecessarily “empowering” their female partners and weakening their positions.

The U.S.’ cultural and legal difference is not lost on Latinas. Many were aware of IPV protections in the U.S. from various NGOs, as well as the El Protector Program. The comments of Manuela, the 30-year-old homemaker from Guatemala, were typical. She explained that women in the U.S. have many more rights than they do in her native Guatemala, especially when it comes to domestic abuse:
"When it comes to domestic violence in Guatemala, there's no rule that says like you can't beat a woman, so a husband can beat his wife, but here there's a law protecting women against domestic violence."

The qualitative data concerning IPV bore out the following theme:

Theme 7: Undocumented Hispanic immigrants underreport IPV due to traditional gender roles.

Relevant to this theme, the following item was included in the survey:

**Table 38: Survey Item 39: The police and courts should NEVER become involved in a family dispute even if someone gets injured.**

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>178</td>
<td>53.3</td>
<td>56.2</td>
<td>56.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>37</td>
<td>11.1</td>
<td>11.7</td>
<td>67.8</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>47</td>
<td>14.1</td>
<td>14.8</td>
<td>82.6</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>25</td>
<td>7.5</td>
<td>7.9</td>
<td>90.5</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>30</td>
<td>9.0</td>
<td>9.5</td>
<td>100.0</td>
</tr>
</tbody>
</table>

**Total**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>317</td>
<td>94.9</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

**Mean Score**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2.03</td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.03 is below the item’s midpoint of 3 with 67.9% of respondents either somewhat disagreeing or totally disagreeing with the statement, “The police and courts should never become involved in a family dispute even if someone gets injured,” and 17.4% of respondents either somewhat agreeing or totally agreeing with it. Most telling from this item’s data is that 32.1% of respondents did not disagree at any level with the statement. The fact that nearly one-third of respondents would not report IPV even if someone was injured is consistent with the qualitative data and supports theme 7.
Religiosity:

The last cultural theme to arise from the qualitative was that religious beliefs help the undocumented community manage legal issues and avoid the U.S. legal system. Among the undocumented community, it is common to hear, “En las Manos de Dios” or “it is in God’s hands.” This is not as much a barrier to utilizing the system, but rather a coping mechanism that allows them to live with the hardships they encounter including legal problems.

“Religious coping involves the use of cognitive or behavioral strategies that are based on religious beliefs or practices (e.g., praying, seeking comfort, or strength from God).\(^\text{30}\) It is “distinct from general religious observance because it refers to specific cognitive acts that emerge from a person’s religious beliefs that are used to deal with stressors.”\(^\text{31}\) In Galanter’s nomenclature, religion makes it easier for the undocumented to be “lumpers” when their rights are infringed.

Religious coping is most prevalent among groups holding religiosity as a central value.\(^\text{32}\) The literature indicates that religious coping is prominent among Hispanics.\(^\text{33}\) The literature well documents a higher level of religiosity among Hispanics compared to

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\(^\text{32}\) Id. at 92.

\(^\text{33}\) A. Abraido-Lanza, C. Guier, & T. Revenson, *Coping and Social Support Resources Among Latinas with Arthritis*, 9 ARTHRITIS CARE & RES. 501 (1996),
The vast majority of Hispanics “subscribe to views sometimes described as the prosperity gospel, the belief that God rewards the faithful with physical well-being and financial prosperity in this life.”

Seventy-three percent of Hispanics believe that God grants wealth and health to the faithful, and 75% believe that miracles occur today as they did in ancient times. Nearly 70% of foreign-born Hispanics living in the U.S. report being Catholic. Foreign-born Hispanics are more likely to attend church services with 69% reporting that their religion is “very important” in their lives.

There is a significant literature in the fields of psychology and healthcare finding that religious coping is used by Hispanic immigrants, both documented and undocumented, to address chronic pain and a multitude of psychological factors caused by acculturation into American culture. These literatures also demonstrate that reliance on religious coping is reduced as immigrants acculturate to the receiving society. Pertinent to this research is Vidales’ qualitative study on IPV wherein he found that a “small number of women” in his study sought assistance from their churches when battered. Some women in his study reported that they did not seek assistance because of

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36 Id. at 21, Figure 2.5.
37 Id. at 6-7
41 Vidales, *supra* note 29, at 537.
their religious convictions and the concept of fatalism or the “belief that there is no solution to what may happen in the future because many things are predestined” by God.\footnote{Id.}

While the literature on religious coping and asserting legal rights is thin or nonexistent, there is sufficient literature from these other disciplines to support the thesis. It is also consistent with my qualitative research findings. The majority of undocumented Hispanics I encountered relied on their religious convictions or beliefs in fatalism to cope with legal issues. Some I encountered are deeply religious and their religious convictions are their first system of addressing adversity. Sebastian, the deeply religious Honduran landscaper, gave a typical response among these individuals. When asked why he did not assert his right to payment for his work through aggression if necessary, he responded that, “the spirit is too great in me to do that.”

However, many I encountered coped through fatalism or the belief that God predestined events and they were helpless in controlling the outcome. Typical among this group was Catalina from Mexico. Her Mexican husband secured a work permit in the U.S., but she was unable to secure documentation. Ultimately, he gained citizenship and moved to Texas leaving her in Nashville with their minor children one of which was a U.S. citizen and the other a Mexican citizen. He occasionally paid support and Catalina, who speaks little English and cleaned houses to make ends meet. She and the children lived in a rented four-bedroom house in Nashville’s Hispanic enclave. I met her friend at a church related social event earlier in the year, but Catalina did not attend church. Her friend asked me to meet with them and discuss Catalina’s legal issues.
To make money, Catalina and her children moved into the master bedroom and she rented the other three bedrooms to other immigrants. She rented two of the bedrooms to four undocumented Mexican men, two in each room, who worked construction. She rented the third bedroom to a Puerto Rican man who she assumed was also in the country illegally. The Puerto Rican stopped paying rent shortly after moving in and threatened to report Catalina to ICE. He did not work and was intoxicated most nights. He refused to move from the home and caused her Mexican tenants to move out.

Catalina’s rent was delinquent, and the property owner gave her notice to move out. She was afraid to seek assistance with child support or any social services because she feared it would lead to her deportation and leave her American child in limbo. Catalina did not have family in the U.S. and her limited social network was not much better off financially. She did not regularly attend church and lacked that important social network. Catalina’s response was simple, “es la voluntad de Dios” or “it is God’s will.” Unlike Sebastian, who found strength and empowerment in God, Catalina simply recognized her helplessness in controlling her destiny.

The qualitative data concerning religion produced the following two themes:

Theme 8: Religion is very important in the lives of undocumented Hispanic immigrants.

Theme 9: Undocumented Hispanic immigrants rely on their religion to cope with legal issues.
Relevant to theme 8, “Religion is very important in the lives of undocumented Hispanic immigrants,” the following items were included in the survey:

**Table 39:** Survey Item 8: Respondents and U.S. average church attendance.

<table>
<thead>
<tr>
<th>Church Attendance</th>
<th>Number (330)</th>
<th>Percent (100%)</th>
<th>U.S. Average&lt;sup&gt;43&lt;/sup&gt;</th>
<th>Church Attendance</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attend Church Weekly</td>
<td>115</td>
<td>34.8%</td>
<td>Attend Weekly</td>
<td>45%</td>
<td></td>
</tr>
<tr>
<td>Attend Church Monthly</td>
<td>25</td>
<td>7.6%</td>
<td>Attend Monthly</td>
<td>17%</td>
<td></td>
</tr>
<tr>
<td>Occasionally Attend Church</td>
<td>142</td>
<td>43%</td>
<td>Seldom/Never</td>
<td>37%</td>
<td></td>
</tr>
<tr>
<td>Never Attend Church</td>
<td>48</td>
<td>14.5%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I was concerned that highly religious respondents might be oversampled since a random sample of undocumented Hispanics was not possible and churches were initially used to access respondents. However, respondents reported church attendance below the Americans’ average church attendance based on the latest data. This indicates that oversampling of a highly religious demographic did not occur.

To better understand how important religion is to this demographic, the following item was included in the survey:

**Table 40:** Survey Item 47: My religion is very important to me.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>32</td>
<td>9.6</td>
<td>10.1</td>
<td>10.1</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>11</td>
<td>3.3</td>
<td>3.5</td>
<td>13.6</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>65</td>
<td>19.5</td>
<td>20.6</td>
<td>34.2</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>51</td>
<td>15.3</td>
<td>16.1</td>
<td>50.3</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>157</td>
<td>47.0</td>
<td>49.7</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>316</td>
<td>94.6</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>18</td>
<td>5.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>3.92</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.92 is above the item’s midpoint of 3 with 65.8% of respondents either somewhat agreeing or totally agreeing with the statement, “My religion is very important to me,” and only 13.6% of respondents either somewhat disagreeing or totally disagreeing with it. For Americans in general 53.2% report that their religion is “very important” to them and 24.5% report that religion is “somewhat important” to them with 21.6% reporting that religion was either “not too important” or “not at all important” to them.\(^{44}\) In comparison, this sample of undocumented Hispanic immigrants appears to value their religion at higher rates than Americans, but church attendance is no greater.

The ultimate question is whether this demographic uses religion to cope with legal problems as was revealed in the qualitative data. Relevant to Theme 9, “Undocumented Hispanic immigrants rely on their religion to cope with legal issues,” the following item was included in the survey:

**Table 41**: Survey Item 48: I cannot control what happens to me; it’s in God’s hands.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td></td>
<td>66</td>
<td>19.8</td>
<td>21.0</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td></td>
<td>33</td>
<td>9.9</td>
<td>10.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td></td>
<td>62</td>
<td>18.6</td>
<td>19.7</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td></td>
<td>36</td>
<td>10.8</td>
<td>11.4</td>
</tr>
<tr>
<td>Totally Agree</td>
<td></td>
<td>118</td>
<td>35.3</td>
<td>37.5</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>315</td>
<td>94.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td>19</td>
<td>5.7</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>334</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>3.34</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^{44}\) *Id.*
This item’s mean score of 3.34 is above the item’s midpoint of 3 with 48.9% of respondents either somewhat agreeing or totally agreeing with the statement, “I cannot control what happens to me; it’s in God’s hands,” and 31.1% of respondents either somewhat disagreeing or totally disagreeing with it. This finding is consistent with the qualitative data and indicates that a significant portion of this demographic forgoes their rights or as Galanter would say, they “lump it” and instead rely on their faith to correct wrongs.

The survey data supported my qualitative findings that cultural factors such as legal culture, traditional gender roles, and religiosity act as de facto barriers to this community utilizing the legal system. Legal culture stood out as the most salient barrier for this community. Most come from socio-economic backgrounds in their native counties that do not rely at all on formal legal process. Once in the U.S., they live in a legal culture consumed with formal legal process. The change is drastic and difficult for them to comprehend and accept. Specific to Latinas suffering IPV, traditional gender roles may act as a hard barrier. My qualitative research indicated that gender roles and the barrier’s effect diminished as Latinas acculturated to American culture. For devote religious adherents, religiously alone may act as a hard barrier to using legal process. However, my qualitative finding indicated religiosity was not as much a barrier for most as it is a coping mechanism allowing the undocumented to “lump” their loses. Overall, the qualitative and quantitative data confirm that these cultural barriers are component parts barring their utilization of the legal system.
CHAPTER VIII

Real and Perceived Discrimination

Many undocumented immigrants believe the legal system is biased against them due to a combination of their Hispanic ethnicity, legal status, or phenotype. A Nashville Public Defender working closely with this community described this phenomenon:

I think most of them do not [think the system is fair]. I think most of them assume that the process will be biased against them and I think that is based on two things. One is that in their own countries the process would be biased against them because they are not people who come from powerful sectors of society. And in many of their own countries bribery, and political influence matter a lot. And two is because I think they assume that, you know, they're so marginalized in other ways like not being able to get a driver's license, not being able to come out of the shadows that I think they assume the criminal justice system would marginalize them in the same way.

When asked if they believe the system discriminates against them due to ethnicity or legal status, the Public Defender responded, “They absolutely do. … I think both. I think I hear it more being complained about it being Hispanic, but I think they're also sort of wrapped up together.” The Public Defender went on to describe actual bias observed against Hispanics and undocumented immigrants from judges and juries:

So, I think many of the judges seem particularly unsympathetic to immigrant clients, especially if they're undocumented. Not all of them. The fourth factor that plays into that is a jury, and I definitely…you know whether someone is Latino and/or undocumented is definitely something that I take into account any time before we anticipate a jury trial. When juries and, you know, they make some sense of…that if you're here illegally and then breaking the law, there's less tolerance for that. So, if I have a [Hispanic] client who is legal here I'm very sure to let the jury know…. And if they're here illegally, I file motions to keep it out. But I think most people assume that that [Hispanics] are here illegally.
Whether discrimination is real or just imagined, the results are the same. These beliefs are the social reality of this community and sufficient to make them feel they will not be treated fairly. This belief in a biased system and the futility of utilizing a biased system was a clear theme presented in the qualitative data. Javier, the 39-year-old housepainter introduced earlier, who migrated from Oaxaca, Mexico, gave a narrative about the police that was typical. Javier relayed the story of his coworker:

I have a friend who was stopped on Nolensville [Road], he was stopped. He wasn’t committing any infractions but simply because he looked Hispanic the police officers stopped him, and said, “Give me your documentation.” And then that person was actually documented and had a driver’s license and he said, “No. Why are you stopping me?” He confronted the police officer and asked him, "do you even need a reason why he should show them the information." And so the police officer…all he did was get back in his car and he left because he didn’t commit any infractions. So he was in the right and he was able to stand by that because he knew he really wasn’t committing any infractions because he did have a license and everything else he needed.

Many undocumented immigrants also spoke of the belief that judges were biased. Typical narratives where like Camila’s, the 43-year-old factory worker from Oaxaca, Mexico who described how a judge treated her disrespectfully during a domestic relations case:

The judges do not want you to speak. I was in the family court …. my ex-husband makes a lot of money. I am ill. I have Lupus. During this time I was very sick. I don’t think the judge heard that or didn’t care about my health. The judge set the amount of money that he was supposed to pay me, but the judge did not analyze how much my ex-husband was really making or really consider all the circumstances of why we were in the family court to begin with. The judge just kind of decided right then and that was it.

Interviews with key informants provided factual bases underpinning these beliefs. Many key informant provided examples of discrimination by actors within the legal
system they had observed. Comments of a Nashville criminal defense attorney and advocate for the undocumented Hispanic community were typical for the key informants.

The attorney explained his experience:

I had this one particular DA I know who I will not name, who whenever I see him, he makes jokes about, “is your client going to go make me a burrito while you are out there? Do you think you can get him to mow my lawn? No wait, I want a chalupa. We can't deport all of them, who would make my tacos? I love the tacos at this place, so I guess we'll let yours stay. She sure is a pretty one.” … I mean filth, what year is this! … Everybody is illegal; they call them all illegal and there is zero difference if you are Mexican, Guatemalan, El Salvadoran. I mean it’s all the same. They are all illegal or they’re Mexicans and that’s how they are just absolutely lumped. Everybody just lumps them together like that. There was a 13-year-old little boy who was out playing soccer and they stopped him and wanted to see his papers and asked, “Where were you born?” and all this. And he was born in North Carolina. His English is better than mine. He’s an American, as American as can be.

A longtime court interpreter told the story of his experience with a criminal court judge in a satellite jurisdiction to Nashville:

I was in a county I won’t name, but it wasn’t this county without a doubt it wasn’t Davidson County, but a county I won’t name and on the record, the circuit court judge said, “I don’t appreciate our tax dollars having to go to an interpreter for you.” And the [hearing] was a longer [hearing], whereas the comment in one of those rules of the Supreme Court system, not the rule itself, says if the [hearing] is going to last for more than two hours straight, it’s best to have two interpreters to tag off because after a certain point, your mind subconsciously will start to take shortcuts to where you’re not even aware that your precision and accuracy are going down.

A Nashville criminal defense and civil right attorney had no hesitation in saying there was actual discrimination against this demographic from some Nashville police and some Nashville judges. This attorney did not name officers or judges, but explained that there were officers who demonstrated patterns of practice that indicated discrimination. According to this attorney, the criminal defense bar knew that certain judges were biased
against Hispanics in general and specifically undocumented Hispanics. Several attorneys who represent Hispanic clients explained how they manipulated the system to avoid these judges. On criminal defense attorney described the indices of discrimination as ranging from disrespectfulness toward Hispanic defendants to blatantly imposing harsher sentences on Hispanics. Another criminal defense attorney had no hesitation in naming a former judge and labeling the judge a “racist.”

Discrimination based on ethnicity or race is commonly referred to as racism. Racism is constructed from the “beliefs, attitudes, institutional arrangements, and acts that tend to denigrate individuals or groups because of phenotypic characteristics or ethnic group affiliation.” Actual discrimination by legal system actors must be addressed for a variety of reasons. First, society has a moral obligation to ensure that public servants fairly address the rights and needs of both the majority and the minority populations. Second, if the legal system is not considered legitimate due to bias, the necessary cooperation by minority populations is lost likely leading to the underreporting of crime. Third, perceived discrimination by the legal system create general feelings of rejection in the minority populations and a lost desire to participate in legal processes. Lastly, the victims of bias and discrimination by legal system actors are not in a position to confront the bias on their own.

Discreet acts of discrimination affect the psyche differently than perceived discrimination. Incidents of disparate treatment due to race or ethnicity may trigger

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“anger, fear, and a sustained vigilance” to discrimination.\(^3\) While discreet acts of discrimination can be dismissed as peculiar and isolated behavior, perceived discrimination is internalized as pervasive and systematic discrimination over time and contexts.\(^4\) On commentator described it as “a coherent complex of oppression continuously present and systematically activated personally through encounters, vicariously through the experiences of other [people of color], through the media and through the daily awareness of racial injustice in society.”\(^5\) Once discrimination is perceived as systemic and pervasive it leads to feelings of “being excluded or shunned in social situations [and] may induce sadness, loss of self-esteem, and avoidance.”\(^6\)

Since one’s self-concept “emerges” from the range of social interactions, people internalized how others view them.\(^7\) A perception that the majority sees you as a member of an inferior group “implies a rejection or exclusion of the targeted group and its members and thus can undermine psychological well-being by threatening the fulfillment of needs for inclusion and acceptance.”\(^8\) Unlike discreet acts of discrimination, perceived discrimination ultimately creates “a sense of powerlessness, as it implies a lack of control over important life outcomes and exclusion from positions of power.”\(^9\) Once minorities accept discrimination as systemic and pervasive, they tend to explain events from this paradigm. Although events may have valid non-discriminatory bases, they tend to

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\(^6\) Brodolo, *supra* note 3, at 337.


\(^8\) Id.

\(^9\) Id.
understand occurrences based on their perceived discrimination. This “self-fulfilling prophecy” is known as confirmation bias in the social sciences.\textsuperscript{10}

There is a robust body of literature documenting perceived and actual discrimination against Hispanics in general in various contexts including healthcare,\textsuperscript{11} housing,\textsuperscript{12} media portrayals,\textsuperscript{13} and employment.\textsuperscript{14} There is also a robust body of literature documenting actual and perceived discrimination directed towards undocumented Hispanics.\textsuperscript{15} Anti-immigrant rhetoric directed toward Hispanics over the last three decades has reinforced undocumented Hispanic immigrants’ perceived discrimination and increased actual discrimination within the legal system. Anti-immigrant sentiment is not uncommon in American history. Many Americans have traditionally stereotyped immigrants as the cause of increased crime and other social ills.\textsuperscript{16} The American public’s historical perception of immigrants has led to restrictive immigration policies and even contributing to the passage of the Eighteenth Amendment to the U.S. Constitution commonly referred to as Prohibition.\textsuperscript{17} The new wave of Hispanic immigrants have fared

\begin{itemize}
\item \textsuperscript{10} D.L. Shapiro & B.L. Kirkman, Anticipatory Injustice: The Consequences of Expecting Injustice in the Workplace, ADVANCES IN ORGANIZATIONAL JUST., 152-178 (Greenberg & R. Cropanzano, eds.) (2001).
\item \textsuperscript{12} Stephen Ross & Austin Margery, Housing Discrimination in Metropolitan America: Explaining Changes between 1989 and 2000, 52 SOC. PROBLEMS 152 (2005).
\item \textsuperscript{14} T.K. Hernandez, Employment Discrimination in the Ethnically Diverse Workplace, 49 JUDGES J. 33 (2010).
\item \textsuperscript{15} Chenoa Flippen & Emilio Parrado, Perceived Discrimination among Latino Immigrants in New Destinations: The Case of Durham, North Carolina, 58 SOC. PERSPECTIVES 666 (2015); T.D. Joseph, “My life was filled with constant anxiety”: Anti-Immigrant Discrimination, Undocumented Status, and their Mental Health Implications for Brazilian Immigrants, 3 RACE & SOC. PROBLEMS 170 (2011); Helen B. Morrow, NEW DESTINATION DREAMING: IMMIGRATION, RACE, & LEGAL STATUS IN THE RURAL AMERICAN SOUTH (2011).
\item \textsuperscript{17} Id.
\end{itemize}
no better with the American public. “[M]any people believe that undocumented aliens are
the source of the increase in serious crime…and that the increasing number of
undocumented aliens is due to the U.S. government’s inability to control the border.”\footnote{18}

Between 2005 and 2011 in excess of 8,000 pieces of legislation were introduced
in state legislatures seeking to curtail undocumented immigration.\footnote{19} This legislation
generally: 1) penalized the employment of undocumented immigrants, 2) required
employers to confirm citizenship of new hires, or 3) authorized or required local law
enforcement to enforce federal immigration law.\footnote{20} There is similar legislation at the local
level. Since 2005, approximately 370 municipalities have adopted anti-immigrant
ordinances.\footnote{21} These ordinances generally seek to: 1) fine business that employ
undocumented immigrants, 2) fine individuals who rent housing to undocumented
immigrants, 3) prohibit or restrict day-labor markets, and 4) increase enforcement of
building codes to target immigrants who tend to crowd into single family homes.\footnote{22} The
South stands out from other regions of the country with nearly 90\% of municipalities
located there having passed anti-immigrant ordinances.\footnote{23}

Perceived discrimination based on ethnicity and legal status cause the
undocumented Hispanic community to question the procedural fairness of the legal
system. As previously discussed, when there is a perception that procedural fairness is lacking, i.e. discrimination, then legal authority loses its legitimacy. Once legitimacy is lost, people become reluctant to obey or cooperate with the legal authority.\textsuperscript{24} The literature documents this phenomenon with the police as well as the court system.\textsuperscript{25} It is this perception of discrimination or “unequal treatment [that] is the single most important source of popular dissatisfaction with the American legal system.”\textsuperscript{26} This was a clear sentiment of much of the interviewees during the collection of qualitative data. The qualitative data indicated the perception of unfair treatment was a significant barrier influencing the undocumented community to avoid the legal system.

A Nashville civil rights attorney attributed the actual and perceived discrimination of Nashville immigrant community to the 287(g) program implementation:

\begin{itemize}
\end{itemize}
Take a historical look at that, starting in 2007. I think it was absolutely awful and I think everybody was racially profiling and I think it was like shooting fish in a barrel. You could drive down Nolensville Road and see a Hispanic guy and stop him and he’s probably not going to have a driver's license. They would arrest them and get their numbers up, then process them through 287(g) and then great. You have these great numbers for deportation and I absolutely believe that this was happening. There was a lot of advocacy by a lot of non-profits and lawyers like us who sued and we sued over and over and over and over again. I think it will change leadership with the police department. So, I think that changed a lot of things locally and then I think the numerous lawsuits against immigration here, our local immigration office they've said it, they have admitted it, changed the way they kind of enforce immigration law here in Middle Tennessee.

Many key informants believed that Nashville’s situation had changed with the ending of the 287(g) program and new leadership for the city. A longtime Public Defender working closely with the undocumented community took notice of this change particularly within the NPD. She described her observations:

The police I think that has improved frankly under Chief Anderson. I think it used to be a lot worse. But you still do hear of police officers inappropriately questioning people or making inappropriate statements and I think also because the police know that most Latinos are undocumented here in Nashville, they are more likely to pull over a Latino driver; if they need to up their arrest numbers for the day because there's a very high probability that person does not have a driver's license. So systemically I don't see as many problems with the police as there used to be. There are always of course some bad actors. With the DA's again I don't see it as much as I used to. I think there is a better understanding now in the DA's office of the challenges that non-citizens face and I don't hear as much as I used to from DA's things like, “You know, well, they should have thought of that before they came to this country.” So again, I think the general tone in that office has changed some. … I think in my opinion it's more due to a change of leadership. Both those offices have had recent changes in leadership. And I think both new leaders have worked more on relating well with community members.

Many interviewees, undocumented immigrants and key informants alike, believed that the anti-immigrant rhetoric of Donald Trump’s presidential campaign and the Trump
administration created even more discrimination against the undocumented. The comments of Martin, the 33-year-old high school graduate who served as a Mexican police officer and in the Mexican army, were typical concerning Mr. Trump.

The social media has promoted a lot of racism and things like that. People like Donald Trump are promoted a lot and as we heard vote early ignorant is what he said. And when we turn on the TV and see him being promoted and seeing him being as the center of attention right now that also shows the growth of racism how people begin to look at it and they tolerate it instead of fighting it the way they used to. … Right now it doesn’t affect me because he is not in power, but were he to become in power then that would be a worrisome thing because how many other people would support him and the decisions he would make. That’s something that would worry me but as long as he stays out of power then he can say or do pretty much what he wants, and I’ll be fine, but if he does come into power then that would change the circumstances.

Martin’s wife Juana, the 30-year-old housepainter with a bachelor’s degree in accounting from a Mexican university, added her thoughts on Mr. Trump’s anti-immigrant rhetoric:

So right now what Donald [Trump] is doing is instead of trying to diminish racism he is like adding fire, adding wood to the fire he is building it higher instead of trying to demolish it, which is what he should be doing.

From the qualitative data, it was clear that there is a widespread belief of discrimination in general amongst the undocumented community. These beliefs extend beyond the legal system to all aspects of their lives. Sofia, the 21-year-old college student from Mexico City who recently received her DACA permit, summed up her perceptions as, “Well, you know Anglo-Saxon superiority is everywhere. You know the skin color plays a role.” Santiago, the 50-year-old Salvadoran construction worker, described it this way, “In Mexico, there is discrimination against the indigenous people, but here they discriminate against Hispanics … just ethnicity. Even in church I feel discriminated against. There are people [referring to the predominately-Caucasian congregation] who
don’t greet me. They turn their head away from me when they see me. I think that’s also
discrimination.”

Juan and Abril, the married couple from Hidalgo and Vera Cruz respectively,
described their experiences and perceptions of discrimination against Hispanics while
living in the U.S.:

Juan: Like when you go to buy groceries, or other stuff, they don’t talk in
a friendly tone like everybody.

Abril: A friend of mine has a daughter or son that is in elementary school,
and he feels that she’s being, her son is being discriminated because the
teacher wouldn’t care as much for that student, or give him as much
individual attention as she would the others, and the mother thinks that
that is because they are Mexican, that her son isn’t getting the same
quality education as the rest of his classmates. So in Mississippi I have
heard of instances of discrimination against Hispanics. … I remembered
an instant of discrimination. We were in a grocery store in Mississippi. I
guess it’s like a Walmart, I don’t know, but we were in a, we were
shopping, and she was about seven years old, my daughter, and an older
American white woman stood next to the seven year old daughter, and
said, “You’re Mexican. What are you doing here? You should be in your
country.” She said that to a seven-year-old little girl, and that’s something
that stood out to me as an instance of obvious discrimination.

Some attribute the discrimination to language and their phenotype. I had the
opportunity to interview the co-founder of a large Nashville NGO working with the
Hispanic community in general. Undocumented Hispanics are not a target client of the
NGO, but due to Nashville’s large number of undocumented immigrants, many of the
Hispanics the NGO serves are undocumented. The co-founder is of Mexican decent and
resides in the southern part of Nashville, near but not directly in Nashville’s Hispanic
enclave. He dresses consistent with his professional employment and drives a late model
automobile. He described his experience and perception of discrimination in general and
specifically with policing in the South Nashville area near the enclave:
They listen to you speak … they shut you down like, “No. Go and find whatever, but get out of here because I’m not going to mess with all this stuff.” … We are targets. I understand that we are being targeted in many situations. I have to acknowledge that part and be responsible for that situation. … I live in South Nashville, so I was stopped five times, you know, without issuing even a citation because I have my driver’s license. So, they acknowledged that I was a citizen … I had to basically explain to them. I don’t want to get in trouble. “Yes, sir, I’m a citizen.” Not even one citation. … because they knew that it would show that, “Hey, you stopped [him] five times? Come on, what’s going on?

Some undocumented interviewees believe the discrimination is based more on their legal status than ethnicity. Manuela, the Guatemalan homemaker, described her experience with the legal system:

Manuela: So, my sister's stepson was beaten. He was beaten up while he was at a gas station. The police don't really do much for the Hispanic community because even in that case, whenever there was proof, there was cameras, people saw what had happened and nothing was done because of that. The boy's parents went to the police station to find out what had become of the case and they said that the case was closed even though we had no, they've never heard anything about it since they had reported it. So, I feel that the police and that the judicial system is not supportive. … So, there is another case. I didn't know what the crime was, but this person came to the U.S. with a visa, was documented and they also reported the crime, a crime, but that crime, they did pay attention to it and they did come about with a resolution whereas for the person that was undocumented, they just brushed them aside. So, I do think it makes the difference between, not so much for Hispanics or non-Hispanics but for documented and undocumented Hispanics.

The pastor of a Hispanic church in Nashville told the story of a church located in a city just south of Nashville that decided to sponsor Hispanic services to serve the growing Hispanic community. The elders of the predominately-Caucasian church learned that many of the Hispanic congregants were undocumented. One Sunday after service for the Hispanic congregants, it was announced that those who were undocumented could not return to the church. In his words, “Then next Sunday, there were no Hispanic attendees.
Everybody left that congregation. Everyone was undocumented. This was just a little true story!"

Since this population feels discriminated against in all areas of their lives, it is not surprising they believe the legal system also discriminates against them. The pastor of a Nashville Hispanic church provided a unique prospective on these beliefs. As part of his ministry, he frequents several jails in and around Nashville to provide spiritual advice to Hispanic inmates, the majority of which are undocumented. The pastor is of Latin American decent and believes the jails’ staff discriminates against him when he visits due to his ethnicity. Based on the stories the inmates have relayed, he has come to believe that the legal system is biased against them due to their ethnicity and legal status. He summed up his experience:

I’ve heard of jail inmates that have complained that the judge was racist when he gave the sentence. The police too. Outside of being undocumented the other reasons why people [are not] getting justice is due to racism and being poor and because they won’t win because they don’t have documentation – they feel the law is not on their side. … But there are some judges that people know are racist. I have a friend …, who was a very good friend. He has stayed at my house and visited [Latin America] with me. He learned how to speak Spanish in [Latin America] and he’s an attorney now, and he says that as an attorney, he knows there are some attorneys that are racist. He knows of cases where the attorneys and judges are racist, and the accused have gotten worse sentences then they deserved, simply because they are Hispanic, and that is something that other Hispanic jail inmates and attorneys notice. … I think that it’s because we’re poor. There is an understanding that the Mexicans who are richer don’t come to this country except for vacation. […]It’s not because of our culture or skin color … it’s because we are poor.

These beliefs are rooted in either personal experiences with the legal system or stories of others suffering discrimination by the legal system. Typical narratives came from people like Lucia, the 29-year-old from Mexico City and her 50-year-old mother,
Isabella who believe federal officers discriminated against them due to their ethnicity and legal status. They described how federal officers treated them harshly when arrested on immigration charges:

Isabella: It frightens me, because they put chains on your arms and feet and treat you like a criminal, when you’ve done nothing wrong except be unable to provide information [to the officer]. It frightens me, and when some people have done even worse, they don’t put time and effort into them because they aren’t Hispanic. They treat Hispanics worse, simply because they are Hispanic. … [While being transported after] we got arrested, the two [officers] said, “You know how much bonus we’re going to get from ICE? About $2,000!” I was just listening.

Lucia: They didn’t give us a translator. We are scared I tell them, … then they call Immigration. That’s why we think they’re not fair.

The accounts of Sara and Carlos’ treatment by actors within the legal system were characteristic. The state charged Sara, the 25-year-old recent arrival from El Salvador, with neglect of her infant child in Nashville’s juvenile court. Tennessee’s Department of Children’s Services (DCS) sought to take the child from Sara and place the infant in state custody. Sara was convinced the DCS workers, court officials, and the judge discriminated against her due to ethnicity and legal status. Carlos, the 50-year-old construction worker from Hidalgo, Mexico, was suffering with an untreated, but severe work related injury when Nashville police arrested him for DUI. According to Carlos, the jailers were aware of his injury but refused to call for medical treatment. The Sheriff’s Department incarcerated him for several days before transferring him to a federal detention facility where he received medical treatment. He attributed the Nashville jailers’ lack of concern to his ethnicity and legal status.
Julian, the 30-year-old construction worker from Hidalgo, Mexico, talked about attending court hearing with his lawyer:

The lawyer talked to us and says, "I'm going to see ... they're going to help a little bit just so he can stay here. Not go to the other jail." So the judge didn't help me. [He] just says no. So he [lawyer] came back and he said, “No, [the judge’s] not going to change his mind. He doesn't like Hispanics.

Sebastian, the 47-year-old landscaper from Honduras, described an incident where his truck broke down in the middle of Nolensville Road. An officer stopped to investigate the issue. Sebastian asked the officer for assistance in pushing the truck to the side of the road and received a terse and condescending response from the officer that Sebastian deemed discriminatory. Sebastian did not believe it was related to his legal status, because the officer never asked, but rather to his ethnicity and his outward appearance, including his old truck, of poverty. Sebastian went on to describe a widespread belief within Nashville’s Hispanic enclave, that police officers target Hispanics:

There is a street called North Hill that leads to an apartment complex where a lot of Hispanics live. The police always stay around that area waiting to stop Hispanics going there. They always manage to catch some of the Hispanics driving there. I do not think any other parts of the system are unfair other than the police.

Sebastian concluded by saying he felt some officers had good intentions of enforcing the law, but others enjoyed stopping Hispanics in hopes of getting someone who was undocumented and would be deported.

Some accounts told of experiences with law enforcement that were difficult for interviewees to relay. Gabriela, the 46-year-old former Mexican schoolteacher from Guerrero, Mexico and her daughter Daniela described how their 15-year-old relative was
killed by a hit and run driver. The police took little interest in the crime even though they knew the identity of the perpetrator. She attributes this lack of concern to the fact that her deceased relative and the perpetrator were both undocumented.

Gabriela: I think [the legal system] is 90% just. … I don’t think that the justice here is bad, I just think it is lacking. I had a nephew named Kevin who was killed in a car accident. … They should put more effort into pursuing and capturing criminals. In cases concerning disappearances or murders like the Holly Bobo case … that case has been going on forever and the people and the police never gave up. But in my nephew’s case, they just gave up. It is as if they said that person died and oh sorry, they just got away. …

Daniela: He was in high school; he was very young. It was on Tusculum Lane. He was run over by a car. It wasn’t just a hit-and-run. He was intentionally killed by the vehicle.

Gabriela: He [the perpetrator] went to jail and his father paid his bail. They put the thing on his ankle, but he cut it off and he fled. And they’ve not been able to find him since. They just say he got away. He was also undocumented.

Santiago spoke of the burglary of his home and the difficulties in replacing the taken valuables and sentimental items. Nashville police were call through 911 dispatch for assistance but no one ever responded.

Santiago: Someone broke into our home. We called the police [911], but they never came. We’re still waiting for them to show up. … There was evidence of a window broken and there were things missing. There was a bucket of quarters missing. They just took little valuables not a TV or anything. They took [my wife’s] wedding ring and small things like that.

When asked if he thought there was a communication problem, Santiago responded, “There was a communication problem [sarcastically]. I believe they noticed that we were Hispanic because of our accent and they didn’t do anything.”

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27 Male acquaintances abducted, raped, and eventually murdered the 20-year-old college student near her home in Savannah, Tennessee. There was significant media coverage from local, state, and national outlets.
Manuela, the 30-year-old homemaker from Guatemala, spoke of burglary of her home and the family’s most valuable assets taken. The police responded and Manuela’s family provided evidence identifying the perpetrator including his name, but there was never an arrest. She attributed this to the police suspecting she was undocumented. She described her perceptions:

So the person that robbed our home was not an acquaintance of ours. He was an acquaintance of one of our family members, and we didn’t know him. But that person went over to our house once, and so that’s how he knew where we lived, and so we knew that person was the one who stole the things, because we had the license plate number of the car, we had a picture of the person, we had a full description, Facebook account, everything, but nothing happened.

With little exception, most undocumented Hispanic immigrants I formally and informally interviewed believed that the legal system would treat them unfairly. Martin, the 33-year-old former Mexican police officer and soldier, and his sister-in-law Maria, the 37-year-old former Mexican school teacher, were asked if they thought the legal system would treat them unfairly due to ethnicity, legal status, or phenotype, this is how they responded:

Martin: I do feel that I would be discriminated against, not only for being Hispanic but mostly for being undocumented.

Maria: I think I would be discriminated against mostly for not being able to communicate and express myself. … I think that we would be less discriminated simply for being Hispanic … for having all the facial aspects of being Hispanic.

Maria added that the discrimination came from “the Anglos, the whites” and not others like African-Americans.
I asked Maria’s sister Juana, the 30-year-old from Oaxaca, Mexico who holds a bachelor’s degree in accounting, the same question. She believed the system would treat her unfairly due to her Hispanic ethnicity, but added:

I feel like I would be discriminated against for not having documentation but also for not being able to speak correct English. I feel like that would be something that would be cause of mockery. I think those are too many points … it’s not being able to speak it correctly and not having the valid documentation. … I believe that the discrimination for skin color is another main problem not just against Hispanics, but also African-Americans and in the U.S. it’s something that’s trying to be combated and they’re trying to fight against that, but it’s still alive it’s just something that occurs.

Juana went on to say that believing she would be discriminated against would influence her decision to contact the police or assert her rights in a criminal or civil matter. This was because in her words, “They’re categorizing the Hispanic as criminals and just unethical people, so it makes us feel like everybody sees us that way, so we don’t want to draw attention to ourselves.”

The qualitative data demonstrated that there is actual bias in the legal system against undocumented Hispanic immigrants. However, confirmation bias or the tendency to interpret events based on existing beliefs likely explains some of the perceived bias. A Nashville criminal defense and immigration attorney deeply rooted in the undocumented community routinely heard clients complain about discrimination and bias, but he sees it this way:
I think if they win, they think it is fair. If they don't, they think it’s not. Then I think the same is true for immigration. With the immigration clients I know, they get very specifically frustrated because the way the immigration laws are set up. There are so many things that are absolutely mandatory that give the judge no discretion at all. There is no bond. You will be deported, these various things and that is very, very frustrating to the clients because I mean objectively it’s not fair. … [B]ecause judges is just like, “I have no discretion and I believe you and I think this is super sad and this is a perversion of the way that the law should be and if it was ever up to me you could stay but the law says you got to go.”

No interviewee’s experience demonstrates confirmation bias better than Diego. Diego is the college-educated entrepreneur from El Salvador who launched Nashville’s first food truck. He is very dedicated to his church and has somewhat of a mission there assisting undocumented immigrants maneuver their new lives in the U.S. He described attending court hearings with undocumented immigrants:

[I]f you go to downtown … to the courthouse, it made me think about it. I went maybe five times … helping people you know and I see ninety percent Hispanic people paying tickets, ninety percent Hispanic! There are maybe seven percent black and five percent maybe four percent white. When you’re not from here we don’t know the law or sometimes it’s a business, you know, with Hispanics. We have to investigate police-people here. How the tendency is to give tickets to Hispanics. It’s an issue here because if you go to the court downtown every day, you see. You can see a lot of Hispanic people in court. … I remember I went the first time maybe five years ago. This system was a little slow and now it’s fast because more people are paying tickets. … I think they make the system very efficient, pay here, sign here you know and get out. [B]ring down the first hundred people. It’s Hispanics, you know, seven black and the three Americans. “Did you drive;” …. “Yes.” … Get out, next hundred, you know, another 80 Hispanic people [are brought in].

Diego went on to say the court conducted the process in Spanish and when asked if it gave the appearance of discrimination he responded, “That’s exactly what was happening. … simple as that, they persecuted Hispanic people.” In fact, what Diego was
observing was typical traffic court on days when an interpreter was scheduled for Spanish-speaking defendants. A local criminal judge explained the process:

In the event we have someone who was not identified as needing [an interpreter], we try to set all of the Hispanic people together on the same day. Now they are not the only ones on the docket, but we try to put all them together because we have to share an interpreter with [another court]. But let’s just say that somebody came in and they were that individual that spoke English the entire time and they’re not on that docket. In the coming on another day, we will absolutely need [an interpreter] and if they say yes, we will continue their case to the date the [interpreter is] here.

This is very different scenario than the Hispanic defendants’ perceptions. Their perception becomes their reality and they simply see police and courts as biased against Hispanics.

Officers with the El Protector Program are aware that the undocumented Hispanic community perceives the system as biased against them. One of the goals of the El Protector Program is to reassure this community that this is not the case in order to get them engaged in the process. An officer with the program explained this mission:

It doesn’t make a difference if it’s a Hispanic or an African-American, a Caucasian, or Asian, or Middle Eastern, we need to treat everyone as human beings because that’s the purpose of why we took the oath and we wear this uniform every day is to give the people the respect and to give them the service equally. It doesn’t make a difference … their religion, their gender, or their race. We have to treat them the same. So I make sure of that and I let the community know as well that we are not here because they are Hispanic … we have to help them no matter what, if undocumented or documented we have to treat everyone equally. So we try to educate them … that, you know, race … it doesn’t exist here. You know, and if the department sees that somebody has been violated, it takes, you know, the department takes care of that immediately.

The following theme developed from the qualitative data:

Theme 1: Believing they will be discriminated against bars undocumented immigrants from accessing the legal system. Undocumented Hispanic immigrants believe the legal system is biased against them.
To confirm the theme of perceived discrimination by the legal system, I developed and included in the survey a ten-item “perceived discrimination” scale to gauge the level of perceived discrimination this population has in relation to the legal system. Survey items 17-26 comprised this scale. For each item, respondents could elect from the following responses: strongly disagree (coded as 1), somewhat disagree (coded as 2), neither agree or disagree (coded as 3), somewhat agree (coded as 4), or strongly agree (coded as 5). A higher score would indicate greater perception of discrimination by the legal system and a lower score indicates lesser perception of discrimination by the legal system.

The perceived discrimination scale’s reliability was assessed for internal consistency and its validity assessed through its factor structure. Internal reliability was high with a Cronbach’s α of .943. A factor analysis (principal axis factoring) using all ten items and direct oblimin rotation was conducted, which resulted in a one-factor solution. The Kaiser-Meyer-Olkin measure of sampling adequacy was .91 and Bartlett’s test of sphericity was significant \[ \chi^2 (45) = 2425.24, p < .001 \], which indicated that the sample was adequate for factor analysis. One factor with eigenvalues greater than 1 was extracted. This factor (eigenvalue = 6.26) explained 66% of the variance. Factor loadings ranged from .748 to .832. The overall scale resulted are reported in the table that follows.
Table 42: Undocumented Hispanics’ Perceived Discrimination by the Legal System

<table>
<thead>
<tr>
<th>Scale Item</th>
<th>N</th>
<th>Mean Score</th>
<th>SD</th>
</tr>
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<tbody>
<tr>
<td>17. I believe all the judges here treat all Hispanics unjustly.</td>
<td>286</td>
<td>2.73</td>
<td>1.306</td>
</tr>
<tr>
<td>18. I believe all the judges here treat all undocumented Hispanics unjustly.</td>
<td>286</td>
<td>2.92</td>
<td>1.460</td>
</tr>
<tr>
<td>19. The police here target Hispanics unjustly.</td>
<td>286</td>
<td>2.90</td>
<td>1.347</td>
</tr>
<tr>
<td>20. Government officials here would not want to help me because I am Hispanic.</td>
<td>286</td>
<td>2.89</td>
<td>1.359</td>
</tr>
<tr>
<td>21. The judges here impose higher fines on Hispanics than whites.</td>
<td>286</td>
<td>2.59</td>
<td>1.334</td>
</tr>
<tr>
<td>22. The judges here impose higher jail sentences on Hispanics than whites.</td>
<td>286</td>
<td>2.82</td>
<td>1.437</td>
</tr>
<tr>
<td>23. The police here target undocumented Hispanics unjustly.</td>
<td>286</td>
<td>2.97</td>
<td>1.403</td>
</tr>
<tr>
<td>24. Government officials here would not want to help me because I am undocumented.</td>
<td>286</td>
<td>2.93</td>
<td>1.396</td>
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<tr>
<td>25. The judges here would impose a higher fine on me because I am undocumented.</td>
<td>286</td>
<td>2.65</td>
<td>1.350</td>
</tr>
<tr>
<td>26. The judges here would impose a higher jail sentence on me because I am undocumented.</td>
<td>286</td>
<td>2.78</td>
<td>1.421</td>
</tr>
</tbody>
</table>

While the scale was both reliable and valid, it did not lend significant support to the theme, “Undocumented Hispanic immigrants believe the legal system is biased against them.” The perceived discrimination scales overall mean of 2.82 (N = 321, SD = 1.09943) was below the scales midpoint of 3 indicating that the overall level of perceived discrimination among this population is lower than the qualitative data revealed. Comparing the scale’s data to the qualitative data it was surprising that a larger number of respondents did not have stronger convictions about the presence of discrimination in the U.S. legal system.

These results are not wholly inconsistent with my qualitative findings though. While I expected the scale’s overall score to demonstrate greater perceived discrimination, the components of the scale may provide better data. Responses to the
individual survey items provide insight into this phenomenon separate from each items’ role in the scale. Therefore, I have charted and analysed each items’ descriptive statistics in the tables that follow.

**Table 43: Survey Item 17: I believe all the judges here treat all Hispanics unjustly.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
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<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>78</td>
<td>23.4</td>
<td>24.3</td>
<td>24.3</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>66</td>
<td>19.8</td>
<td>19.8</td>
<td>44.9</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>76</td>
<td>22.8</td>
<td>23.7</td>
<td>68.5</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>70</td>
<td>21.0</td>
<td>21.8</td>
<td>90.3</td>
</tr>
<tr>
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<td>321</td>
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<td></td>
</tr>
<tr>
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<td>13</td>
<td>3.9</td>
<td></td>
<td></td>
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<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>2.72</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.72 is below the item’s midpoint of 3 with 41.5% of respondents either somewhat agreeing or totally agreeing with the statement, “I believe all the judges here treat all Hispanics unjustly,” and 44.9% of respondents either somewhat disagreeing or totally disagreeing with it. Most informative of this item’s data is that 55.1% of respondents were unable to disagree with the statement at any level. This is consistent with my qualitative findings that a significant portion of this population believes that U.S. judges are biased against them because of their Hispanic ethnicity.
Table 44: Survey Item 18: I believe all the judges here treat all undocumented Hispanics unjustly.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>67</td>
<td>20.1</td>
<td>21.2</td>
<td>21.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>55</td>
<td>16.5</td>
<td>17.4</td>
<td>38.6</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>71</td>
<td>21.3</td>
<td>22.5</td>
<td>61.1</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>84</td>
<td>25.1</td>
<td>26.6</td>
<td>87.7</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>39</td>
<td>11.7</td>
<td>12.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total Missing</td>
<td>18</td>
<td>5.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>2.91</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.91 is below the item’s midpoint of 3 with 38.9% of respondents either somewhat agreeing or totally agreeing with the statement, “I believe all the judges here treat all undocumented Hispanics unjustly,” and 59.8% of respondents either somewhat disagreeing or totally disagreeing with it. Most enlightening of this item’s data is that 40.2% of respondents were unable to disagree with the statement at any level. This is consistent with my qualitative findings that a significant portion of this population believes that U.S. judges are biased against them because of their legal status as well as their Hispanic ethnicity.
**Table 45**: Survey Item 21: The judges here impose higher fines on Hispanics than whites.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>83</td>
<td>24.9</td>
<td>26.0</td>
<td></td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>47</td>
<td>14.1</td>
<td>14.7</td>
<td></td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>83</td>
<td>24.9</td>
<td>26.0</td>
<td></td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>50</td>
<td>15.0</td>
<td>15.7</td>
<td></td>
</tr>
<tr>
<td>Totally Agree</td>
<td>56</td>
<td>16.8</td>
<td>17.6</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>319</td>
<td>95.5</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>15</td>
<td>4.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mean Score: 2.84

This item’s mean score of 2.84 is below the item’s midpoint of 3 with 33.3% of respondents either somewhat agreeing or totally agreeing with the statement, “The judges here impose higher fines on Hispanics than whites,” and 40.7% of respondents either somewhat disagreeing or totally disagreeing with it. This item’s responses demonstrate a slight variation from the previous items’ data. In item 17, 9.7% of respondents strongly agreed that judges treat Hispanics “unjustly,” and in item 18, 12.3% strongly agree that judges treat undocumented Hispanics “unjustly.” In item 21, 17.6% strongly agreed that judges assessed higher fines on Hispanics than whites. This is consistent with my qualitative data. Many in the undocumented community believe it is a regular practice for judges to assess higher fines on Hispanics.
Table 46: Survey Item 22: The judges here impose higher jail sentences on Hispanics than whites.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Totally Disagree</td>
<td>72</td>
<td>21.6</td>
<td>22.2</td>
<td>22.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>42</td>
<td>12.6</td>
<td>13.0</td>
<td>35.2</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>88</td>
<td>26.3</td>
<td>27.2</td>
<td>62.3</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>61</td>
<td>18.3</td>
<td>18.8</td>
<td>81.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>61</td>
<td>18.3</td>
<td>18.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total Missing</td>
<td>10</td>
<td>2.0</td>
<td></td>
<td></td>
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<tr>
<td>Total</td>
<td>334</td>
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<tr>
<td>Mean Score</td>
<td></td>
<td></td>
<td>2.99</td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.99 is slightly below the item’s midpoint of 3 with 37.6% of respondents either somewhat agreeing or totally agreeing with the statement, “The judges here impose higher jail sentences on Hispanics than whites,” and 35.2% of respondents either somewhat disagreeing or totally disagreeing with it. This item’s responses also demonstrate a slight variation from the previous items’ data. In item 17, 9.7% of respondents strongly agreed that judges treat Hispanics “unjustly,” and in item 18, 12.3% strongly agree that judges treat undocumented Hispanics “unjustly.” In item 21, 18.8% strongly agreed that judges impose higher jail sentences on Hispanics than whites. This finding is also consistent with my qualitative data. Many in this community are convinced that biased judges impose higher fines and jail sentences on Hispanics.
Table 47: Survey Item 25: The judges here would impose a higher fine on me because I am undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
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<tbody>
<tr>
<td>Valid</td>
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<td></td>
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<tr>
<td>Totally Disagree</td>
<td>88</td>
<td>26.3</td>
<td>27.2</td>
<td>27.2</td>
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<tr>
<td>Somewhat Disagree</td>
<td>43</td>
<td>12.9</td>
<td>13.3</td>
<td>40.4</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>86</td>
<td>25.7</td>
<td>26.5</td>
<td>67.0</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>58</td>
<td>17.4</td>
<td>17.9</td>
<td>84.9</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>49</td>
<td>14.7</td>
<td>15.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>324</td>
<td>97.0</td>
<td>100.0</td>
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<tr>
<td>Missing</td>
<td>10</td>
<td>3.0</td>
<td></td>
<td></td>
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<tr>
<td>Total</td>
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<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.81 is below the item’s midpoint of 3 with 33.0% of respondents either somewhat agreeing or totally agreeing with the statement, “The judges here would impose a higher fine on me because I am undocumented,” and 40.5% of respondents either somewhat disagreeing or totally disagreeing with it. This item is more specific than previous items. Most revealing from this item’s data is 15.1% of respondents totally agreed with the statement and only 27.2% totally disagreeing with it. This means that 72.8% of respondents were unable to resolutely reject the statement supporting the proposition of perceived bias by the legal system.
Table 48: Survey Item 26: The judges here would impose a higher jail sentence on me because I am undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
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<td>Valid</td>
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<td>Somewhat Disagree</td>
<td>47</td>
<td>14.1</td>
<td>14.5</td>
<td>39.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>71</td>
<td>21.3</td>
<td>21.9</td>
<td>61.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>64</td>
<td>19.2</td>
<td>19.8</td>
<td>81.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>61</td>
<td>18.3</td>
<td>18.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
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<td>97.0</td>
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<td></td>
</tr>
<tr>
<td>Missing</td>
<td>10</td>
<td>3.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.93 is also slightly below the item’s midpoint of 3 with 38.6% of respondents either somewhat agreeing or totally agreeing with the statement, “The judges here would impose a higher jail sentence on me because I am undocumented,” and 39.5% of respondents either somewhat disagreeing or totally disagreeing with it. Most informative of this item’s data is that 18.8% of respondents believe they would receive longer jail sentences than others due to their legal status.

Table 49: Survey Item 19: The police here target Hispanics unjustly.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>71</td>
<td>21.3</td>
<td>22.3</td>
<td>22.3</td>
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<td>80</td>
<td>24.0</td>
<td>25.2</td>
<td>64.8</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>70</td>
<td>21.0</td>
<td>22.0</td>
<td>86.8</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>42</td>
<td>12.6</td>
<td>13.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>318</td>
<td>95.2</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>16</td>
<td>4.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mean Score 2.86
This item’s mean score of 2.86 is below the item’s midpoint of 3 with 35.2% of respondents either somewhat agreeing or totally agreeing with the statement, “The police here target Hispanics unjustly,” and 39.6% of respondents either somewhat disagreeing or totally disagreeing with it. Only 22.3% of respondents strongly disagreed with the statement meaning 77.7% of respondents were unable to decisively reject the statement.

**Table 50:** Survey Item 23: The police here target undocumented Hispanics unjustly.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
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<td>Totally Disagree</td>
<td>73</td>
<td>21.9</td>
<td>22.7</td>
<td>22.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>55</td>
<td>16.5</td>
<td>17.1</td>
<td>39.8</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>76</td>
<td>22.8</td>
<td>23.6</td>
<td>63.4</td>
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<td>67</td>
<td>20.1</td>
<td>20.8</td>
<td>84.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>51</td>
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<td>Total</td>
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<td></td>
</tr>
<tr>
<td>Missing</td>
<td>12</td>
<td>3.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Mean Score</strong></td>
<td><strong>2.90</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.90 is below the item’s midpoint of 3 with 36.6% of respondents either somewhat agreeing or totally agreeing with the statement, “The police here target undocumented Hispanics unjustly,” and 39.8% of respondents either somewhat disagreeing or totally disagreeing with it. Only 22.7% of respondents strongly disagreed with the statement meaning 77.3% of respondents were unable to reject the statement outright.
Table 51: Survey Item 20: Government officials here would not want to help me because I am Hispanic.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>91</td>
<td>27.2</td>
<td>28.7</td>
<td>28.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>65</td>
<td>19.5</td>
<td>20.5</td>
<td>49.2</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>75</td>
<td>22.5</td>
<td>23.7</td>
<td>72.9</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>56</td>
<td>16.8</td>
<td>17.7</td>
<td>90.5</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>30</td>
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<td>9.5</td>
<td>100.0</td>
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<tr>
<td>Total</td>
<td>317</td>
<td>94.9</td>
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<td></td>
</tr>
<tr>
<td>Missing</td>
<td>17</td>
<td>5.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mean Score 2.59

This item’s mean score of 2.59 is below the item’s midpoint of 3 with only 27.2% of respondents either somewhat agreeing or totally agreeing with the statement, “Government officials here would not want to help me because I am Hispanic,” and 49.2% of respondents either somewhat disagreeing or totally disagreeing with it. Most enlightening of this item’s data is that 72.8% of respondents were unable to agree with the statement at any level.

Table 52: Survey Item 24: Government officials here would not want to help me because I am undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>90</td>
<td>26.9</td>
<td>27.7</td>
<td>27.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>58</td>
<td>17.4</td>
<td>17.8</td>
<td>45.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>86</td>
<td>25.7</td>
<td>26.5</td>
<td>72.0</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>56</td>
<td>16.8</td>
<td>17.2</td>
<td>89.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>35</td>
<td>10.5</td>
<td>10.8</td>
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<tr>
<td>Total</td>
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<td></td>
</tr>
<tr>
<td>Missing</td>
<td>9</td>
<td>2.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
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<td></td>
</tr>
</tbody>
</table>

Mean Score 2.66
This item’s mean score of 2.66 is below the item’s midpoint of 3 with only 28.0% of respondents either somewhat agreeing or totally agreeing with the statement, “Government officials here would not want to help me because I am undocumented,” and 45.5% of respondents either somewhat disagreeing or totally disagreeing with it. Most enlightening of this item’s data is that 72.8% of respondents were unable to agree with the statement at any level.

These survey items confirm that a significant portion of this population believe the legal system is biased towards them due to ethnicity and legal status. While the data is not as strong as I expected from my qualitative data, it still lends support to the perceived discrimination theme. Overall, the qualitative and quantitative data confirm that perceived discrimination by the legal system is a component part barring their access to the legal system.
Chapter IX

Unawareness of Legal Rights

The unawareness of their legal rights in the United State as a barrier to the legal system was another major theme emerging from the qualitative data. A legal right is any benefit, entitlement, power, or duty derived from statutes, regulations, and judicial precedent.1 A director of a local NGO who in part focuses on educating the Hispanic community about their legal rights explained her experience with the undocumented Hispanic community:

They don’t know that if they’re arrested, they have the same rights as a U.S. citizen because they’re on our land. So they have just the basic knowledge of what the police can and cannot do. … Forty percent of our calls were coming for legal advice. As simple as, “they put the wrong name on my birth certification, how do I change it?” to divorce because they got married in Mexico, how do they get a divorce here or, you know. And a lot of it is, you know, deportation or immigration papers.

U.S. law is not wholly inconsistent with the laws of Latin American countries, but significant differences do exist. In addition to some legal rights not being cognizable in their native legal systems, many immigrants come from socio-economic statuses in their native countries that did not expose them to these laws or regular enforcement. Once they enter the U.S., they become immediately endowed with a litany of new rights.

Immigrants in general learn of customs, laws, and enforcement patterns as they acclimate to the receiving nation’s culture. Barkun refers to this process of social learning of the law and legal structures as legal socialization.2 Due to their social exclusion,

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Nashville’s undocumented immigrants’ legal socialization is disrupted. Nashville’s undocumented Hispanic immigrants tend to cloister within Nashville’s Hispanic enclave, thus limiting their acclimation to the host society. Social contacts are limited to those they trust and interaction with legal authorities is avoided.

Ultimately, they forgo their legal rights simply because they are unaware of them, thus creating a de facto barrier to their use of the legal system. Additionally, without legal socialization, they are unaware of their duties under U.S. law, which may vary from their legal duties in their native countries. Even when these legal duties are the same, frequently they are not subject to regular enforcement in their native countries. This leads many to unwittingly become entangled in the criminal legal system.

Unawareness of legal rights can have a cascading effect on undocumented immigrants leaving them and their families in legal quagmires. The legal director of a Nashville NGO relayed a recent meeting he had with an undocumented family trying to obtain various government benefits and the barriers they encountered:

A father was deported three years ago. He had a new-born. The father cannot come and take care of the children. Now, they are on food stamps. They [the children] cannot get a passport to travel because the father disappeared to where no one knows. They have problems with school, getting benefits and stuff. Then now [the mother] wants to get married, but the divorce is going to take a long process and resources … and so on and so on. So, it’s like, this is just one thing that could go, you know, wrong. It could be about taxes [or anything].

The term legal awareness is used here, which is different from legal knowledge. Legal knowledge implies “a theoretical or practical understanding of a subject.”

“Awareness occurs when an individual is sufficiently informed about a subject for

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4 *Id.* The literature also refers to this concept as “legal consciousness” and “legal literacy.”
him/her to be conscious of its existence and its broad subject matter.”  Legal awareness only requires that an individual only has “some idea” or “has heard” of the legal right."

On a continuum, those with the greatest legal awareness, or legal knowledge, would be lawyers who are educated in the law. On the other extreme of the continuum are lay people in a state of legal unawareness. A minimum level of legal awareness is necessary “to make critical judgments about the substance of the law, the legal process, and available legal resources and to effectively utilize the legal system.” Most Americans do not have legal knowledge, but have some level of legal awareness as a result of their legal socialization. However, like the undocumented community, many Americans lack sufficient legal awareness to identify legal rights and induce the necessary processes to protect them.

Legal awareness is crucial in protecting one’s legal rights. Those in a state of legal unawareness do not have the knowledge necessary to know a legal right exists and engage the legal system to protect the right. Recognition of the claim is vital to disputing the claim within the legal system. Felstiner, et. al., termed this early stage of asserting one’s legal rights as “naming, blaming and claiming.”

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8 ABA Commission on Public Understanding about the Law, Legal Literacy Survey Summary, AM. BAR ASSOC. (1989).
This first step is “naming” or “saying to one’s self that a particular experience has been injurious.”\textsuperscript{11} Simply put, without legal awareness there is no comprehension that your legal rights have been violated or that you violated a legal duty. The second step is “blaming” and “occurs when a person attributes an injury to the fault of another individual or social entity.”\textsuperscript{12} The final step is “claiming” and “occurs when someone with a [claim] voices it to the person or entity believed to be responsible and asks for some remedy.”\textsuperscript{13} Legal unawareness disrupts the ability to name, blame, and claim when one’s legal rights are violated, thus creating a barrier to the legal system.

The qualitative data revealed three distinct but intertwined themes. First, undocumented immigrants are unaware of U.S. laws that may criminalize or enforce criminal penalties differently than their native legal systems. This type of legal unawareness unwittingly leads them to commit crimes in the U.S. Many interviewees explained that crimes such as intimate partner violence (IPV), consuming alcohol in public, and driving infractions were either not illegal or not enforced in their native countries.

Secondly, being unaware of U.S. substantive law, they lack the ability to enforce civil remedies available to them. Typical narratives centered on issues such as the unawareness of workers’ compensation coverage, the right to overtime pay, and tenant's rights. Thirdly, they are unaware of the various constitutional protections available to them once they enter the U.S. Narratives along this perspective demonstrated an

\textsuperscript{11} Id. at 635.
\textsuperscript{12} Id.
\textsuperscript{13} Id.
ignorance of the protections from unreasonable stops by law enforcement, warrantless searches, and the right to remain silent when questioned by the authorities.

First, many interviewees spoke of how they or other undocumented immigrants become entangled in the U.S. legal system because they are unaware of U.S. substantive law and enforcement patterns in the U.S. This is not a barrier to their use of the legal system as much as it is a catalyst forcing them into the system where they must exercise their rights. The NGO legal director quoted above, relayed his recent experience with undocumented immigrants who unwittingly violated the law because they are ignorant of substantive law or assume the law is not enforced as was the case in their native countries. This lack of knowledge, he explained, recently resulted in the arrest of several undocumented male immigrants in the Nashville’s Hispanic enclave after a prostitution sting by the Nashville police. Many of these arrestees turned to the NGO seeking advice and assistance. He explained why he viewed these arrestees also as victims of the crime:

At the same time, that’s another victim of a system that he doesn’t understand. He has no clue how this works. You would never in your life have an officer offering you sex in the street [in their native countries]. Never. So, at least I am assuming that this woman doesn’t have the decency to be offering him sex for money, you know. How in the world is this going to be an officer? It is illegal … prostitution in many countries, but it’s not enforced. So, I say at least I receive like three to four people that fell in the same exact place and even I can tell you the address in there. I know that there is an officer always in there.

He also discussed a friend’s case who was just cited for fishing without a license on Nashville’s Cumberland River that borders the immigrant’s backyard. “[I]n Tennessee, you have to show you have a legal residence, or you can’t get a fishing license. I did not know that until about a week ago.” When asked if a fishing license was needed in his native country, he responded, “No. You know, I don’t think … you could
hunt, you’d do everything like freely. It’s like a common theme, you know. It’s like you
go to the lake. Who in the world is going to be caught up on you? … And again, they
were in their backyard. They were not even like, okay, in the river, you know, in the
Cumberland River, [but] in their backyard.”

Many interviewees described how they, significant others, and friends became
entangled in the criminal process due to IPV. The literature documents that rates of IPV
are greater among Hispanics in general due to cultural differences.14 Diego, the
Salvadorian food truck entrepreneur, explained why IPV is a common problem with
undocumented Hispanic immigrants:

It is cultural, but in El Salvador, Mexico, in parts of South America,
especially Central America, you aren’t a good husband if you don’t hit
your wife. It’s sad, but it’s the way they grow families because they drink
too much and you know, violence. When they come here, it’s against the
law. It’s very serious. … They know is illegal. [But] over there is the
same. You go to police over there. You say, “My husband, he hit me” and
it’s like “no, “because you are the wife, it’s accepted, and it is part of the
culture. But now, because Americans, they push a lot into human rights,
now it is more difficult over there. Over there it is tougher to do that now.
The women get protected, and the kids get protected.

The pastor of a Nashville Hispanic congregation described IPV as a “test” for
immigrant men who were unaware of its illegality in the U.S. and also unaware that IPV
crimes are strictly enforced in the U.S.

They also learn that domestic violence is not tolerated here, whereas in
other Hispanic countries its very common, almost accepted. Men have to
adhere to those laws. Women, the Hispanic wives, are more empowered
here and they don’t put up with it here. … [But] the only time that they’re
concerned about learning about the law, is when they are in trouble with
the law, like when they get a ticket or something wrong in their lives.
They ask around for people who have had the same experience. There
isn’t any initiative to understand their rights.

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On a lighter note, several interviewees became entangled with Nashville’s local police and codes enforcement by maintaining livestock at their homes. Santiago, the 50-year-old Salvadoran construction worker, provided a typical narrative. While at Nashville’s large monthly flea market, he encountered a vendor selling chickens and roosters. The roosters’ crowing reminded him of his childhood in El Salvador, so he purchased one. He allowed the rooster to roam freely at his home in a densely populated subdivision in Nashville, thus prompting multiple complaints from his neighbors to the police and codes enforcement. Santiago, who was normally at work, was unaware of the problem.

Finally, on a Sunday afternoon, he observed an officer chasing the rooster into his backyard where he roosted. It was then that he learned of the many complaints and that several officers, as well as the Nashville’s animal control officers, had attempted to catch the rooster to no avail. It was on this occasion that the police learned it was Santiago’s rooster and issued him a citation. Santiago was bewildered by the illegality of maintaining a rooster at his home in this manner, but also that his neighbors did not appreciate “the rooster’s beautiful singing.” When asked how he resolved the issue, he responded, “We ate him.”

Nashville and several of its satellite communities permit residents to maintain hens on their residential premises, but one must secure a permit, maintain them on their property in suitable coops, and may not breed them. Roosters are not permitted. A municipal judge at a satellite community said that keeping of livestock, particularly chickens, was a common violation among the undocumented community. The judge believed most violators were undocumented immigrants based on the judge’s knowledge
of the local community and their lack of English proficiency. On the interview date, the judge had just dismissed a livestock violation because the defendant had resolved the issue. That defendant “took care of it once he realized that his chickens could not run loose in the neighborhood. He built himself a fence.”

The second theme to arise from the qualitative data was that unawareness of U.S. substantive law barred undocumented immigrants from asserting their legal rights. Many interviewees either expressed or displayed an unawareness of civil legal remedies available to them concerning such matters as workers’ compensation, unemployment benefits, and tenant rights.

Abril and Sofía’s comments in this context were typical of the interviewees. Abril, the homemaker from Vera Cruz, explained her knowledge of U.S. law. “I don’t have a bright understanding of the laws, like a broad [understanding], I don’t know them all, but the transit [driving] laws and the worker laws, those are things that I do understand and abide by.” When asked if she had ever seen a workplace poster advising her of her rights as an employee, she responded, “I have never worked in a place that has had posters with that sort of thing.”

Sofía, the 21-year-old born in Mexico City, had no knowledge of her employee rights such as overtime, workers’ compensation, and mandatory breaks. Sofía, who lives in one of Nashville’s satellite cities, is bright, articulate, and is fluent in both English and Spanish. Although she was undocumented, her linguistic skills placed her in great demand by employers. Her previous employers knew she was undocumented and always paid her in cash. She felt like they used her legal status to their advantage. She has since secured a DACA permit and a driver’s license, but was fearful of losing that status after
Mr. Trump’s election. Her employers never provided written notice of her rights as an employee and she never saw the ubiquitous posters normally displayed at worksites. Her mother, who also is undocumented, had a limited understanding of these rights as well. Her mother was concerned that Sofia was not given legally required rest and lunch breaks by her employers.

When asked the greatest obstacle the undocumented community encountered in asserting her rights, Sofia responded, “The lack of knowledge is one thing that I do see.” When asked where she would go to get information about her civil and criminal rights, she responded, “I would probably go to the police station. … I honestly would not know other than to go to the police department.” Sofia elaborated:

Yes, a lot of people go to the police station. They go there for a lot of things because they don’t know who else to go to. There’s a police station in every town and everyone knows where the police station is. Whenever they have a legal issue that’s where they go because they’re familiar with it. A lot of these non-profit organizations, they don’t do a whole lot of advertising because they want to use their money toward their actual work. … I had a friend who had a visa, but she didn’t know if she was allowed to go out of the country to visit her grandparents. So, she went to the police station. The police station personnel told her that they did not know whether she could or not and did not have any means of referring her to anyone else. I think whoever the receptionist is at the police station would have no knowledge of the legalities of the letter or where to send people to, so they don’t have any knowledge of the immigration system, so they will just tell folks to look it up online.

An informal interview with a former police officer from Sofia’s community confirmed her statements. This jurisdiction routinely has Hispanics and others come to the police station seeking advice about civil issues and their rights. The officer on duty was referred to as the “house mouse” and was responsible for meeting and discussing issues with them. Personally, he tried to assist them with advice or a referral to someone
that could, but some of the officers just dismissed them. The officer had come to believe that seeking advice from the local police station was typical in their native countries.

Since gaining her DACA permit, Sofia was able to work legally in the U.S. and her salary increased accordingly. She currently worked for an automobile insurance company as a telephone interpreter. This multi-state insurer exposed Sofia to her various legal rights as an employee. She also learned in this job that her automobile insurance would pay injured parties’ medical bills, as well as for property damage suffered in automobile accidents. She went on to describe her previous lack of knowledge:

[P]rior to this job I did not know that if you had medical bills from an automobile accident that was someone else’s fault that you could get that from them. I did not know that. I thought if you got hurt it was just your problem. I remember at work when I got my first phone call; a client asked to speak to somebody about his medical bills. I asked, “Who do I refer this guy to, the initial claims adjuster?” I remember asking if we pay for those medical bills. The lady who was training me said, “Yes, we pay for that.” So, prior to this job I didn’t have that knowledge and if I had been in an accident, I probably would not have reported it because I did not know.

Exposure to this new employment environment and her documented brother-in-law’s work-related injury led her to believe that undocumented immigrants might be eligible for workers’ compensation coverage if injured at work. Sofia previously believed that undocumented immigrants were not entitled to workers’ compensation coverage based on her experience with her undocumented aunt’s work related injury. Her aunt’s employer denied any coverage for her work injury to her leg even though
Tennessee workers’ compensation statute covers employees regardless of immigration status.\(^\text{15}\)

Ultimately, her aunt was unable to continue working and returned to Mexico seeking medical treatment. When asked if she now thought that aunt was entitled to benefits under Tennessee’s workers compensation program, Sofia responded, “Under the law, I don’t know. … Yes, now I think she could have, but back then [my aunt] just thought I really need this job and that’s what it was. When asked what changed her opinion she explained:

I guess my brother-in-law. He does have documentation, and he got injured on the job while working at Nissan. He got paid days off and worker’s comp. He received all these benefits. That made me realize that the compensation was not because of the legal status, but due to the injury.

Sofia’s narrative is typical of undocumented immigrants who do not have exposure or access to information concerning their civil remedies. Sofia’s perceptions changed once she was exposed to the information at her new job and her brother-in-law’s workers’ compensation claim. As discussed earlier, this is the process of legal socialization. Many, if not most, undocumented immigrants either never gain this exposure or only do so after living in the U.S. for many years.

Sofia went on to tell a very emotional story of being sexually molested by a youth pastor at her family’s former church when she was child. She feared reporting the crime because of her family’s legal status and the pastor’s threats to report them. When she

reported it to the police, her family learned that Sofia’s complaint was the second allegation by a minor and the church was aware of the youth pastor’s conduct. The pastor had since fled the country and was believed to be living in South America. Church leadership ultimately asked her and her family not to return to the church because of her complaints, even though they knew them to be true.

When asked if she thought that she could have collected damages from the church, Sofia responded, “I think I could sue them for kicking me out.” When asked specifically about suing the church for her molestation, she responded, “No, I do not know … they did have knowledge about it … but I could sue them for kicking me out.” Neither Sofia nor her family sought legal advice concerning her molestation. It was interesting to hear Sofia’s belief that she could sue for being expelled from the congregation but not for the pastor’s molestation. Especially since her family learned from the local police that hers was the second such complaint about the pastor and church leadership had knowledge of his conduct.

Other narratives where like Santiago’s, the Salvadoran construction worker. He told about a severe work related injury when he fell off a ladder and twisted his foot. He was unable to work for six to nine months and his medical bills were between $2,000 and $3,000. He received very limited medical treatment on the day of his injury because as he said, “I went to the hospital to get the help, they noticed right away that I did not have insurance and gave me a quick checkup and a bag of ice and sent me home.” He explained what happened when he asked his employer to pay the bills:
The boss could’ve covered that, but he lied and said he didn’t have any coverage for that, so I had to pay for that and I’m still paying on the bills. … I talked to him, but he’s a difficult guy. When he saw that I could not make money for him, he just told me to go away.

When asked if he thought there was insurance to pay for his injury he responded, “I have no idea. … There probably is such a system, but I don’t know what it is. That’s why I’m paying because they just told me to do that.” When asked about the use of safety equipment at work he explained that it was normally not used on his work sites because it slowed progress. When asked what happened with inspectors showed up, he responded, “When the inspector shows up, everyone knows what they’re supposed to be doing. We put on all the safety equipment and everything, but once he leaves everybody takes it back off.”

Many interviewees spoke of their own or fellow immigrants’ work-related injuries and the dire consequence it brought them. Most were unaware of the availability of workers’ compensation coverage for injuries regardless of their immigration status. Only a few of the interviewees had seen the ubiquitous posters found in employers’ breakrooms advising of workers’ rights. A few of the interviewees had coincidently seen these posters since they were employed cleaning commercial spaces such as offices and retail stores. The posters were intended for the regular employees of the business and not for the immigrants’ benefit. Interviewees stated they were either unable to read the posters because they were not in Spanish or if they were able to read the posters, they did not believe the protections applied to them.

Many interviewees provided narratives like Sebastian, the 50-year-old Honduran landscaper, who has worked outdoors since arriving in the U.S. He had never seen such
posters or received any other information about workers’ rights. He had little understanding of what workers’ compensation was or provided and he was unaware of any such system in his native Honduras. He relayed the story he heard from an undocumented co-worker:

About a year ago, I heard of someone who was injured on the job. They were loading a piano and his back cracked. His employer offered him a $1,000 to compensate for that. […] He hired a lawyer, but the lawyer was very greedy. He settled the case, but took most of the money. The fellow that was injured only received $7,000, which was not enough to cover all of the things that he needed.

Sebastian’s story likely describes a workers’ compensation claim that the employer attempted to settle informally. From my previous experience as a workers’ compensation attorney, I know employers will attempt to handle claims in this manner to avoid filing claims with their workers’ compensation carrier. The injured employee knew enough to seek counsel from a lawyer who filed a claim, but believed his lawyer acted improperly. It was enlightening that Sebastian was unable to describe this as a workers’ compensation case. He understood the circumstances to simply be a lawsuit against the employer.

When I asked Gabriela, the college educated Mexican schoolteacher, if she understands her rights in the U.S., she responded, “Not entirely. I did not really know the law.” When asked how she would go about learning her rights, she responded, “I don’t know.” Gabriela’s sister suffered a work-related injury and asked her employer for workers’ compensation coverage. The employer paid some of her medical bills directly but “her bosses told her that since she did not have a Social Security number that there was nothing they could do to help her, so she did not file claim.” Gabriela saw the lack of a social security number as the main impediment to obtaining worker's compensation
benefits, although she was aware of a friend who had recovered benefits without a social security number. She relayed her story:

I think the employer would try to settle out with him so you wouldn’t have to take them to court, but if you have a Social Security number, I think you would just take them to court and get much more than you would otherwise. I think the employer would say let’s go ahead and settle this. You’re not going to get much anyway. … A friend of mine, her husband was injured when he was working in construction. He injured his back. The case went on for five years. That’s how long it took for him to get to get his worker’s comp, but he did end up getting worker’s comp even though he did not have a Social Security number.

When asked if he could collect workers’ compensation benefits if he was injured at work, Julian, the construction worker from Hidalgo, Mexico, explained his understanding:

I don't think so because they want to take care of it like at the time, so they don't have to go through that, so they don't lose money. They don't want to lose money. Probably they would just pay you a day. Some of them they just pay you a day, but not a week. I saw one guy that fell from like six feet. He just fell and the foreman that was there he said sit down and take a moment and then he went back to work again. He didn't see anything wrong or take care of him, like send him to some place to check him out, so he just kept on working, but no climbing on the walls.

Julian’s Guatemalan wife Manuela told of her employer’s failure to pay her overtime wages:

Manuela: There were other undocumented Hispanics that didn't get paid their overtime, but nobody said or did anything about it. They would say that it was better that they at least get paid some of the hours. They got paid their full check just not the overtime, other than not getting anything at all.

Julian: I don't know why they wouldn't because she would work more than 80 hours they are paid biweekly, every two weeks. I don't know, I say why? She said, "I don't know why, we cannot argue with him because he will fire us."

Joaquin, 59-year-old plumber from Chiapas, Mexico, was typical in this belief that the rights of undocumented immigrants are restricted. As he said, “I understand that
they have, that people who are documented have more rights like unemployment. If I were to be unemployed and have my children to feed and my [wife] and my home to maintain, I knew that I would have to immediately find a different job.”

One of my more interesting observations during my research concerned Santiago and Mariana’s threatened eviction from their home. Santiago’s extended family lived in a rental home on the fringe of Nashville’s Hispanic enclave for more than eight years on a month-to-month lease. Without warning, their landlord sold the house to an investor who immediately sent a letter on the third of the month advising them to vacate the premises in five business days. This has become a common problem for many in the Nashville’s undocumented Hispanic community fueled by Nashville’s soaring economy and rising home prices. An executive with a Nashville NGO focused on immigrant rights explained the organization’s efforts to disseminate information concerning tenant rights:

So we do a lot of presentations around sort of know your rights with police or tenants’ rights and different things like that. … [I]t’s a lot of tenant rights issues that people are facing both their – apartments are not being maintained or discriminatory evictions and then just as everybody in Nashville sort of feeling the pinch of affordable housing.

In Santiago’s case, the investor’s letter violated Tennessee’s Landlord and Tenant Act that requires month-to-month tenants be given a full rental term’s notice to vacate the premises. Unaware they had any legal rights; the family was panicked when they contacted me. Since the investor sent his letter after the first of the current month, the family was entitled to stay in the home for the remainder of that month and all of the following month. Instead of five days to vacate the premises, they were entitled to nearly two months’ notice to vacate the home. With my assistance, they were able to write the
investor a letter asserting their rights under Tennessee law. With this additional time, they were able to purchase a home.

As this legal issue unfolded, I had the opportunity to observe how many factors come together and bar their use of the legal system. The primary bar was unawareness that Tennessee law protected them as month-to-month tenants. However, the fear of deportation, language skills, access to legal services, unawareness of legal process, etc. all acted in unison to bar them from asserting their rights. It was fortuitous that I met the family during my research and could offer them very simple legal advice that changed the outcome of their legal issue.

The last theme to arise from the qualitative data was that undocumented immigrants are unaware of the multitude of constitutional protections available to them once they enter the U.S. For many, their native country’s legal system never exposed them to anything similar. An officer with Nashville’s El Protector Program was familiar with this type of legal unawareness. He went on to summarize his efforts at educating the undocumented community:

You know the system and they don’t. They don’t know what rights they have. They think that just because they’re in this country undocumented they don’t have any type of constitutional rights. … [I] do an educational presentation, but they have to answer the questions as well. So, at the end of the presentation I tell them who can tell me what’s the drinking level that I could take you to jail and eat some bologna sandwich? You know and I make a joke out of it. … So, you see them all raising their hands and giving me different questions. You know, and not only DUIs, also traffic, also seatbelt, also child passengers, also the ages of who, you know what ages people can have relationship or why not to have a relationship. What age a child can sit in the front seat or not sit in the front seat. How many seconds can someone stay at the stop sign if there are any seconds to be stopped.
The pastor of a Nashville Hispanic congregation also has observed this type of unawareness. He saw this as a major barrier the undocumented community encountered in utilizing the legal system. He explained his experience:

Lack of knowledge many times, so that’s when they start calling the pastors or the preachers and saying, “Ok, we have a problem. Where do we go from here?” … They … most of the people that don’t have any type of legal status … as a resident or a citizen, they don’t talk about my rights, because they realize they don’t have any rights, they have taken something. But they know that everybody has some kind of human rights. … They feel that the judicial system in the United States is superior that any other place where they’ve been because they see that people of power can get in trouble and go through the judicial system, which it probably wouldn’t happen at [their] home of origin.

Lucia and Isabellla, the mother and daughter from Oaxaca, emotionally told the story of what they perceived as harassment by the U.S. Marshals. The U.S. Marshals were looking for Isabella’s uncle, but they never knew why. He had lived with them in Nashville for a short time many years earlier, but they had lost contact with him and believed he was back in Mexico. On three occasions they returned home from work to find their home ransacked but nothing was missing but some family photographs. They were so convinced that it was the U.S. Marshals, that they began leaving the door unlocked so they would not damage it further. When asked how they knew for sure it was the U.S. Marshals, they explained:

They found a picture of grandma. The U.S. Marshals said, “We should get to this lady. [showing a picture of the grandmother taken from their home]. She could tell us where he’s at.” How do they know about my grandma? They got upset because they thought that the oldest lady of the family would tell them where he was.
When I asked Lucia if she understood her constitutional rights in the U.S., she responded:

I just dedicated myself to work. I don’t take time to research the laws. I don’t know my rights. … I was in my own world. I was with my little girl. I didn’t know I’d go through all that. We were afraid. We didn’t know what was going on. We didn’t know if he’d done something bad. … Now we know the laws from people telling us. An immigration lawyer told us that he didn’t have the right to do that!

When Isabella was asked if she understood her constitutional rights, she responded:

I was very afraid. I lacked the knowledge of the law and how it all worked. Currently I understand that they do not [have the right to enter the home]. I based my information about how the laws work on movies. I understand that is wrong. I am now afraid, even when I’m driving down the street, and see a cop car, I want to hide, or “you’re deported!”

When asked if a police officer had a right to search their car without their consent, Manuela explained, “I feel that they might have the right to do that if they have suspicion of something dangerous being in the car like drugs.” Carlos, said, “They might have the right in … if they would ask the owner of the vehicle, if it’s ok for them to, but I’m not sure if they do or do not have the right.” Julian responded, “The same, if we are suspicious, they can, yeah.”

The overarching theme to arise from the qualitative data is that unawareness of legal rights bars undocumented immigrants from utilizing the legal system. Producing quantitative data to support this theme would be a significant undertaking beyond the scope of this work. Studies similar in scope and scale to my efforts have generated quantitative survey data that adds depth to qualitative findings. That was my goal here.

While the quantitative finding are not generalizable, they do support my qualitative finding and provide additional insight into the level of unawareness of legal rights within

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the undocumented community. Relevant to this theme, the following items were included in the survey:

**Table 53: Survey Item 62: I know my rights in the U.S.**

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</tbody>
</table>

Respondents could respond to this item by selecting true, false, or I do not know. As the table above shows, 42.7% of respondents believed the statement, “I know my rights in the U.S.” was true for them. The remaining 57.3 percent believed the statement to be false (15.5%) or they did not know (41.8%). A slight majority of 57.3% either responded false or did not know. This item’s data are consistent with my qualitative findings, but I expected a higher percentage of respondents to find the statement false. It is important to note that this item does not measure the respondents’ knowledge of their legal rights, but their beliefs about their knowledge. I included this item for comparison with the following three items that focus on specific constitutional rights. I formulated the following items because I expect U.S. residents to have at least basic legal awareness of these fundamental rights. Additionally, many immigrants discussed similar scenarios as those presented in these items during my field research. Again, respondents could respond to these items by selecting true, false, or I do not know.
Table 54: Survey Item 68: The law requires me to talk to the police if they are investigating a crime even if I don’t want to.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>True</td>
<td>93</td>
<td>27.8</td>
<td>29.6</td>
<td>29.6</td>
</tr>
<tr>
<td>False</td>
<td>92</td>
<td>27.5</td>
<td>29.3</td>
<td>58.9</td>
</tr>
<tr>
<td>Do not know</td>
<td>129</td>
<td>38.6</td>
<td>41.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>20</td>
<td>6.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Fifth Amendment to the U.S. Constitution affords residents of the U.S. the right to remain silent when questioned by law enforcement. This statement is false and I expect the vast majority of U.S. residents would be aware of this right. However, as the table above shows, only 29.3% of the undocumented respondents believed the statement, “The law requires me to talk to the police if they are investigating a crime even if I don’t want to” was false. Nearly the same percentage of respondents believed the statement to be true (29.3%) and the largest percentage (41.1%) did not know the answer. The majority of respondents (70.4%) were unable to answer this item correctly. Contrast this finding to the data from the previous item (62) where 42.7% of the respondents claimed to know their rights in the U.S., but only 29.6% knew their right to remain silent. This item’s data is consistent with my qualitative findings in two ways. First, it demonstrates that many in the undocumented community do not know of their basic rights in the U.S. Second, as with language skills, it demonstrates that many may tend to overestimate their knowledge of U.S. law.
Table 55: Survey Item 63: A police officer can stop me just because he thinks I am undocumented.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Valid</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>True</td>
<td>56</td>
<td>16.8</td>
<td>17.7</td>
<td>17.7</td>
</tr>
<tr>
<td>False</td>
<td>192</td>
<td>57.5</td>
<td>60.6</td>
<td>78.2</td>
</tr>
<tr>
<td>Do not know</td>
<td>69</td>
<td>21.8</td>
<td>21.8</td>
<td>100.0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>317</td>
<td>94.9</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td><strong>Missing</strong></td>
<td>17</td>
<td>5.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Fourth Amendment to the U.S. Constitution prohibits law enforcement from detaining a person without probable cause of criminal conduct. An officer stopping an immigrant just because he “thinks” the immigrant is undocumented would violate the Fourth Amendment. This item is false and 60.6% of respondents correctly determined the statement, “A police officer can stop me just because he thinks I am undocumented” to be false. Remaining respondents believed the statement to be true (17.7%) or did not know (21.8%). That 39.5% of respondents were unable to identify this item as false indicates that a significant portion of this population is unaware of their legal rights in the U.S. This is consistent with my qualitative data indicating that many undocumented immigrants are in a state of legal unawareness.

It also is consistent with my qualitative findings that they do undergo legal socialization for matter of great importance to them. Contrast this item's data with the data from the previous two items (62 & 63) where 42.7% said they knew their U.S. rights and 29.3% knew their Fifth Amendment rights, but 60.6% knew their Fourth Amendment described in this item. During my field research, immigrants frequently discussed this very issue. Immigrants I encountered were aware the police could not stop them just
because they might be undocumented. Awareness of this legal right is crucial to their day-to-day existence and becomes an issue in their limited legal socialization.

**Table 56:** Survey Item 64: A police officer can search my car without any reason even if I don’t want him to.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>True</td>
<td>124</td>
<td>37.1</td>
<td>38.8</td>
<td>38.8</td>
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<tr>
<td>False</td>
<td>121</td>
<td>36.2</td>
<td>37.8</td>
<td>76.6</td>
</tr>
<tr>
<td>Do not know</td>
<td>75</td>
<td>22.5</td>
<td>23.4</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>320</td>
<td>95.8</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>14</td>
<td>4.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The Fourth Amendment to the U.S. Constitution also prohibits searches without probable cause. A vehicle search with no reason would clearly violate the Fourth Amendment.

This item is false and I would expect the vast majority of U.S. residents to know it is false. Only 37.8% of respondents knew the statement, “A police officer can search my car without any reason even if I don’t want him to” to be false. A slightly higher percent, 38.8%, believed the statement to be true and 23.4% did not know. That 61.2% of respondents were unable to identify this as a false statement is consistent with my qualitative data that many in this community are in a state of legal unawareness.

Comparing this item’s data to the previous items’ data, we see that 42.7% of respondents believe they know their rights in the U.S. However, only 29.3% were able to identify their Fifth Amendment right to remain silent and only 37.8% were able to identify their Fourth Amendment right not to have their vehicle searched. While 60.6% were able to identify their Fourth Amendment right from warrantless searches. These data reasonably indicate: 1) a significant percentage of respondents are in a state of legal
unawareness, 2) some respondents overestimate their legal awareness, and 3) respondents attain some level of legal socialization on matters of importance to them. While they are not generalizable findings, they do offer some insight into the level of legal awareness of this community and support my qualitative findings.

I included the last item to gain a better understanding of the respondents’ knowledge of substantive law. I chose age of consent as the issue for this item because both immigrants and key informant routinely raised it as a concern during my field research. Many mentioned statutory rape as an unintentional legal violation that entangled undocumented males. Additionally, I expect most Tennessee residents to know the age of consent for a female to engage in sexual conduct with an adult male to be 18.17 Respondents could select from the possible answers of 15, 16, 17, 18, or I do not know.

**Table 57:** Survey Item 69: Tennessee law requires a young lady to be at least this old to engage in sexual intercourse.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid 15</td>
<td>2</td>
<td>.6</td>
<td>.6</td>
<td>.6</td>
</tr>
<tr>
<td>Valid 16</td>
<td>2</td>
<td>.6</td>
<td>.6</td>
<td>1.3</td>
</tr>
<tr>
<td>Valid 17</td>
<td>3</td>
<td>.9</td>
<td>1.0</td>
<td>2.2</td>
</tr>
<tr>
<td>Valid 18</td>
<td>106</td>
<td>34.0</td>
<td>34.0</td>
<td>36.2</td>
</tr>
<tr>
<td>Valid Do not know</td>
<td>199</td>
<td>63.8</td>
<td>63.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total Missing</td>
<td>22</td>
<td>6.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

As the table above shows, only 34.0% correctly identified 18 as the legal age of consent in Tennessee. More telling from this item’s data is that 63.8% of respondents did not know the answer. This lends support to my qualitative findings. However, I did not

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17 Tennessee provides an exception in its statutory rape statute for sexual penetration between minors or a minor of at least fifteen and another not more than five years senior. Tenn. Code. Ann. § 39-13-506.
expect such a high percentage of “do not know” responses. Undocumented immigrants that do not know the age of consent risk unwittingly violating the law and the victims and their families may be unaware a crime was committed. This legal unawareness of this and many other crimes becomes a *de facto* barrier to the legal system. Overall, the qualitative and quantitative data confirmed that legal unawareness acts as a barrier to the undocumented Hispanic community’s utilization of the U.S. legal system.
Chapter X

Unawareness of the U.S. Legal System’s Processes and Structure

Another significant theme emerging from the qualitative data was a lack of understanding of the structure and processes of the U.S. legal system. Many interviewees explicitly stated that they did not understand the legal system and would not know how to maneuver a legal matter through it. While this barrier is similar to the unawareness of substantive law previously discussed, it is not the same.

Immigrants may forgo substantive rights simply because they are not cognizant of the law. The unawareness of the legal system’s processes and structure forces them to make decisions of a legal nature on a non-rational basis. It is axiomatic that one does not know what one does not know. This results in non-decisions or irrational decisions based on intuition and emotion. Game theory\(^1\) and decision theory\(^2\) offer some guidance, but only on the point that knowledge is crucial to rational decision-making. The literature in the preceding chapter also has some applicability here.

Interviewees revealed that many in the undocumented community are either uninformed or misinformed about how the legal system functions. When a Nashville immigration and criminal defense attorney who works almost exclusively with the undocumented Hispanic community was asked if they understood the legal process, the attorney explained:

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Not at all. I mean obviously it depends on how long you have been here, and what your education level is. But I would say as a whole my clients don't understand the kind of the basic constitutional rights that you have here—that you have the right to a jury, that the judge doesn't just make up his mind and decide just what is going to happen, that you can't bribe your way out of stuff, and even if you did something you don't have to say you did it. You initially say you are not guilty until you figure it out. The right to remain silent they don't get. They feel that if they did something wrong they should say they did it wrong and you know, beg for mercy from the judge. The adversarial system doesn't seem to be something they understand at all. Take this book [by Public Defender’s Office] which explains the basics of the … here is the plea, here is a preliminary hearing, like here’s where all these things are. They have it in Spanish and they are all over [the Public Defender’s] office, so they've done a really good job. … The ‘jury thing’ is just a very foreign concept and very few cases go to a jury anyway, but kind of always having that hanging out there as a possibility is something that just doesn't really seem to get through to people. … [T]hey really have a hard time understanding when I say you got arrested for DUI and you're going to be deported. They just don't, many of them just don't even understand, how can I be deported? I’ve been here since I was three [years old]? I don't know anybody in Mexico. It’s just like a foreign concept.

Another well-respected Nashville criminal defense attorney who also routinely represents undocumented Hispanic immigrants explained his perception of their understanding of the legal process:

To be honest I don’t think they comprehend it, but at the same time I’ve had many Anglo-Saxon Americans that truly … that I represented in 30 years … that didn’t understand the criminal procedure. Yeah, you can tell them, “Your case is going to a grand jury.” And I don’t know they understand the difference between a grand jury versus a jury of 12 peers that’s going to hear the facts of their case. They’d go, “What’s the grand jury?” And I go, “Well, those are people who are going to review the evidence to see if you should be indicted.” And they go, “What’s an indictment?” So, you know, it’s not just Hispanics. There’s a lot of people short of attorneys that don’t understand criminal procedure. And there’s a lot of people that don’t understand the criminal justice system here either.

When asked if they understand family law issues like custody and child support he responded, “Absolutely not.” He went on to describe an incident with a current
undocumented Hispanic client and the client’s misunderstanding about an order of protection:

[A]s a matter of fact … her boyfriend, just giving an example, back last October … her and her boyfriend got into an argument and she called the police. Police came to the house and the police wrote down an incident report and gave it to her. Apparently, they communicated to her, and they said, “You need to go get an order of protection. Kind of keep him away.” Well she’s carried around this in her pocket for six months, this incident report, thinking she had an order of protection.

An experienced court interpreter explained the difficulties the undocumented community encounter in being in a court for the first time:

You bring people into court for the first time, DUI, driving on suspended, whatever it may be and they’ve never been in court before, and do they understand you have a right to a preliminary hearing or you could bond your case over? Or a continuance or whatever it may be? It’s vocabulary that’s not common even in English, but the vocabulary I use is the same as you would use in court in a Spanish-speaking court, and people are like, “What is that?” And they’ll ask the judge, “What is a preliminary hearing?”

When a Nashville Public Defender was asked if her undocumented clients understood the legal system, she responded, “they have no idea what's going on.” She went on to explain the difficulties the Public Defender’s office had in representing undocumented Hispanic clients and gaining their trust:

Most of them don't understand the public defender system. … So I mean it is very common that my Latino clients ask me how much money they owe me and I always tell them a very high amount. Or if they are incarcerated clients that I'm appointed to, it is extra hard to make them understand that I am not working with the [District Attorney] so I am not an employee of the [District Attorney].

As with the other identified barriers, unawareness of the legal system’s processes and structure is not unique to the undocumented community. But with the undocumented it is enhanced by a myriad of factors, such as the lack of personal and vicarious legal
experience, their native legal cultures, lower educational attainment, and lack of English proficiency. While it is expected that many Americans do not understand the legal system’s complexities, many in the undocumented community demonstrated complete unawareness of some of the very basic processes and structures of the system.

Typical interviewee comments were like Manuela’s, the 30-year-old Guatemalan homemaker, who relayed her uncertainty of what to do when burglars robbed the family’s home:

So the first time, I was hesitant to call [911] because then I knew that 911 would be the number for emergencies, but I didn’t feel that that was really an emergency, and that they were going to ask me a lot of information, and plus the thief had already left ....

Manuela feared she and her family would be in legal trouble for calling 911 for a non-emergency situation and it might expose their legal status.

Many comments were like Julian’s, the 30-year-old construction worker from Hidalgo, Mexico, who was asked who he would call if a neighbor was throwing trash on his lawn or permitting weeds to grow on his lot. Julian responded simply, “I wouldn’t know who to call.”

It was clear that many interviewees did not understand the U.S. legal system, but also lacked familiarity with other basic government services such as animal control, building codes, and zoning enforcement. Nashville’s building and codes enforcement agency had charged several of the interviewees with zoning violations ranging from an excessive number of occupants in their home to parking issues. Several interviewees told humorous stories of keeping chickens and roosters at their homes as they did in their birth country only to have their neighbors report them to the police and zoning enforcement.
Key informants working with the undocumented community told of the difficulty in explaining the more complex legal issues to members of the undocumented community. These are matters that frequently require explanation to anyone who becomes entangled in the U.S. legal system, but due to factors unique to the undocumented community, it is difficult for them to comprehend.

A Nashville area judge described their lack of understanding and the frustration the judge observed when issuing domestic violence warrants. These are incidents when the victim comes to the court seeking an order of protection, and the police did not observe the alleged abuse or respond to the incident. The judge explained:

[They’ll say], “I don’t understand why the police department will give me a warrant.” Well, it’s because it’s a misdemeanor and you are bringing the charges and the police may not feel that there is sufficient proof, but you can [bring the charges]. That frustration knows no language barrier.

This is a common scenario with domestic violence and the protocol is for the court to issue the perpetrator’s warrant in the victim’s name. The judge described the difficulty in explaining this legal subtlety to the undocumented community. Many would simply abandon the process in frustration with no protection from their abusers.

A Spanish-speaking officer in one of Nashville’s satellite communities, who serves as a liaison with the undocumented community, described an ongoing problem with orders of protection:
We need to make sure that they are aware of what they are legally allowed
to do, even what they are not allowed to do … [they think] if I just pay the
courts $25.00 then I can have contact with him again, because with bond
conditions, you are not allowed to interact with that person. They thought
that if they pay the court $25.00 [bond fee] they can talk to him again. The
understanding is that you paid the $25.00 to guarantee you get another
chance before the judge … for the judge to make a determination. So there
is misconception as far as that goes. Obviously I have heard that and I
have different understanding and concern for that, but being in Mexico
myself, I have seen that before in Mexico, but not around here.

The officer went on to describe how this lack of understanding led to prohibited contact
with the complainant and violation of the order of protection. In turn, this leads to the
arrest of the undocumented immigrant and instigation of deportation proceedings. The
process is foreign to them and the officer, who is fluent in Spanish, found it difficult to
explain the issue to them.

Few of the interviewees received information about the legal system after entering
the U.S. Joaquin, a 59-year-old plumber from Chiapas, Mexico, described his experience
of accessing information concerning the legal system that was characteristic of the
undocumented community. Joaquin is familiar with workplace posters advising who to
call and report employment related issues because colleagues have told him what they
say. However, he has never seen such a poster in Spanish and he cannot read English. He
explained his past experience:

I have seen some posters at work sites and other sites but I can't read
English so I wouldn't understand them. … In my current job I have not
seen any posters in Spanish, but what I do know is that I have health
insurance and life insurance through the job. And I understand that that's
something that the government is pushing the company to do to give to
their workers. I understand that if I were to get injured and died on the
way to work or at the work site that my Mia will be able to receive some
compensation for that. I also have health insurance and I understand if I
am injured, I could be paid for that.
A Nashville attorney and advocate for the undocumented community conveyed a story of learning that a state agency charged with overseeing employment rights, including worker’s compensation, was providing inaccurate information about undocumented immigrants’ rights to employers:

I found that actually ... the people that are supposed to know that, the Tennessee Department of Labor and Workforce Development or whoever it is ... that they are, didn't realize that some of [these laws] covered undocumented people. So, we had a big discussion about that. I don't think a whole lot of people knew.

These narratives are typical of the many I heard during my field research with the undocumented community. To gauge how undocumented immigrants perceive their understanding of the legal system, the following two general items and two specific items were included in the survey.

**Table 58:** Survey Item 38: I know enough to understand the legal process without assistance.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>149</td>
<td>44.6</td>
<td>47.2</td>
<td>47.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>67</td>
<td>20.1</td>
<td>21.2</td>
<td>68.4</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>53</td>
<td>15.9</td>
<td>16.8</td>
<td>85.1</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>16</td>
<td>4.8</td>
<td>5.1</td>
<td>90.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>31</td>
<td>9.3</td>
<td>9.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
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<td>94.6</td>
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<td></td>
</tr>
<tr>
<td>Missing</td>
<td>18</td>
<td>5.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.03 is below the item’s midpoint of 3, with 68.4% of respondents either somewhat disagreeing or totally disagreeing with the statement, “I know enough to understand the legal process without assistance,” and only 14.9%
respondents either somewhat agreeing or totally agreeing with it. This is consistent with
the qualitative data and supports the notion that unawareness of the legal system’s
processes and structure bars its use by the undocumented community.

**Table 59:** Survey Item 61: I understand how the U.S. justice system works.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>True</td>
<td>74</td>
<td>22.2%</td>
<td>23.3%</td>
<td>23.3%</td>
</tr>
<tr>
<td>False</td>
<td>36</td>
<td>20.8%</td>
<td>11.4%</td>
<td>34.7%</td>
</tr>
<tr>
<td>Do not know</td>
<td>207</td>
<td>62.0%</td>
<td>65.3%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Total</td>
<td>317</td>
<td>94.9%</td>
<td>100.0%</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>17</td>
<td>5.1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Respondents’ options for answering this item included true, false, or I do not know. As
the table above shows, only 22.2% of respondents indicated that the statement, “I
understand how the U.S. justice system works,” was true. The vast majority, 76.7%,
either responded false or did not know. This also is consistent with the qualitative data
and supports the notion that unawareness of the legal system’s processes and structure is
a barrier for the undocumented community.

I intended the next two survey items to gauge the respondents’ knowledge of legal
procedures. Arguably, many Americans would be uninformed about legal procedural
rules. The statements in these two survey items concern procedures that are likely widely
known to depart from the U.S. legal system’s procedures, thus making them clearly false.
I cannot confirm this assumption without a comparison group, but the survey items still
provides at least partial insight into the undocumented community’s unawareness of the
legal system’s processes.
Table 60: Survey Item 66: If I am charged with a crime, I must bring my own interpreter to court.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
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<td>True</td>
<td>116</td>
<td>34.7</td>
<td>36.5</td>
</tr>
<tr>
<td></td>
<td>False</td>
<td>119</td>
<td>35.6</td>
<td>73.9</td>
</tr>
<tr>
<td></td>
<td>Do not know</td>
<td>83</td>
<td>24.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td>16</td>
<td>4.8</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>318</td>
<td>95.2</td>
<td>100.0</td>
</tr>
</tbody>
</table>

As the table above shows, only 37.4% of respondents found the statement, “If I am charged with a crime, I must bring my own interpreter to court,” to be false. Most revealing about this item’s data is that 62.6% of respondents were unable to label this statement as false. In fact, nearly an equal portion, 36.5%, believed the statement to be true, and the balance, 26.1%, did not know.

Table 61: Survey Item 67: If I bring a lawsuit and lose, I must pay the judge’s fee directly to him.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>True</td>
<td>41</td>
<td>12.3</td>
<td>13.1</td>
</tr>
<tr>
<td></td>
<td>False</td>
<td>136</td>
<td>40.7</td>
<td>56.4</td>
</tr>
<tr>
<td></td>
<td>Do not know</td>
<td>137</td>
<td>41.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td></td>
<td>20</td>
<td>6.0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>334</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

This item deviates from the norm of the U.S. legal system more so than the prior item. A slightly higher percentage, 43.3%, properly labeled the statement, “If I bring a lawsuit and lose, I must pay the judge’s fee directly to him,” as false. Still, 13.1% of respondents believed the statement to be true and 43.6 simply did not know.
In addition to the assortment of general misunderstandings about the U.S. legal system, interviewees identified three distinct areas where unawareness bars their utilization of the legal system. I discuss these in the order of their significance. First, and foremost, is the hiring of notaries for legal services based on a mistaken belief that American notaries have the same role as a Notario Publico in their native countries. Second, they retain unscrupulous and incompetent lawyers who worsen their circumstances. Lastly, they lack an understanding of local, state, and federal actors in immigration enforcement. The overarching impact with each of these issues is that undocumented immigrants do not understand the legal systems structure and processes well enough to protect themselves or assert their rights, in effect making these barriers to the legal system.

Notarios Publicos:

Of these specific issues, the greatest constant harm to the undocumented community comes from notary publics who hold themselves out as Notario Publicos in the undocumented community. Being uninformed about the U.S. legal system, undocumented immigrants do not know that the position of Notario Publico does not exist in the U.S. legal system. This problem is not unique to Nashville, but exists in Hispanic communities throughout the U.S.\(^3\) American notaries in Hispanic communities typically run commercial storefront operations known as multi-servicos that offer a variety of services such as tax preparation and selling insurance. Some notaries prey on

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undocumented immigrants by holding themselves out as Notarios Publicos, a quasi-government position held by lawyers with specialized training in many Spanish-speaking countries.

The two positions only share a similar name and some historical roots. In comparison, a Mexican Notario Publico must be Mexican by birth, between the ages of 25 and 60, be of good reputation, be licensed as an attorney, have studied under a Notario Publico for six months, and have passed a written exam. A Mexican Notario Publico serves in a quasi-judicial role and can issue judicial opinions, serve as a mediator, serve as an arbitrator, and carry out a variety of legal duties.  

In the U.S., almost anyone who pays the application fee and posts the requisite bond can become a notary. No special skill, training, education, or testing is required. Additionally, an American notary’s scope of practice is very limited and in fact, most are relegated to authenticating signatures. Aside from their similar names and historic relationship, they serve extremely different roles in Latin and American law.

![Figure 11: Signage at a Nashville Multi-Servicos.](image_url)

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Experiences like Sebastian’s, the 47-year-old Honduran landscaper, were characteristic of the problem with notaries. He first consulted a notary about legalizing his immigration status. He was aware that Notarios Publicos in his native Honduras held an official position within the judicial system. When asked if he thought that was the same in the U.S. he responded, “Yes. I don’t know to what extent. I know they have an official seal and I understand that is important.”

The notary assisted him with filing out an application for temporary protective status (T.P.S.) and ultimately referred him to an associated attorney who filed an application for asylum. Sebastian went to the referred lawyer because of her association with the notary. He felt in the long term this would be most beneficial to him. After paying the notary and lawyer in excess of $4,000, he recently learned that he had little chance of securing T.P.S. or asylum. He thinks the pair took advantage of him.

Sebastian was correct. Under existing immigration rules, he had little hope of securing T.P.S. or asylum in the U.S. Unfortunately, Sebastian learned after the fact that some Nashville NGOs would have advised him on immigration options free of charge. He was angry over the situation during the interview. Oddly, when asked if he understood the U.S. legal system, he responded, “Yes. I understand it.”

Gabriela, the former Mexican schoolteacher, believes that notaries in the U.S. hold the same office as Notarios Publicos in her native Mexico. She used the services of a Notario Publico in Mexico concerning an inheritance issue. In the U.S., she paid a notary to draft a paper and notarize her signature for her daughter’s care while on a school related trip. She relayed her understanding of Notarios Publicos in Mexico:
If an individual executes a will, they need a *Notario* to make it official. That’s one of the jobs they do. I also understand that there is a period of time that the paper is valid or legal. I also understand that if you’re going to buy land and you’re unable to be there, but you can send the *Notario* there on your behalf for them. *Notarios* have the authority to do that and it would still be legal, but I never had to do that.

A Nashville immigration and criminal defense attorney representing predominately Hispanic clients explained her firm’s experience with notaries in the Hispanic community:

I mean, absolutely. It’s horrible. There’s somebody at [the District Attorney’s] office, who works on notaries. I mean, like all the time, like that's everything and you know there's somebody at the State [Attorney General] that's doing that. … Yeah, they're evil. We have to undo all their work all the time.

The Tennessee Attorney General prosecuted some notaries for unauthorized practice of law and violations of the Tennessee Consumer Protection Act. An Assistant Attorney General involved in the prosecutions explained how Hispanic notaries deceived members of the undocumented community:

When you have someone like Martha Salazar, she ran *Comunidad Hispana*, we were getting a lot of complaints. There were several complaints against her. So it came to the attention of this office and we … under the Consumer Protection Act, we’re able to issue a request for consumer protection information, which lets us investigate. So that’s basically like discovery and permits us to take her deposition. … We had just a lot of evidence of unauthorized practice of law. She was not an attorney; she didn’t hire any attorneys, but was performing legal work. She was doing immigration cases. … And I just think that, you know, these notaries are really good at selling themselves as being caring and, you know, benefactors of their communities. They really do a good sell on that … so I just think there’s a trust element there that’s misplaced.

The Attorney General’s efforts slowed down the work of notaries in the Nashville community, but as the Assistant Attorney General noted, it is not a winnable battle.
You know, how I think about it? This is sad, but to me it reminds me of a game of whack-a-mole. You knock one down and another one pops up. They are just everywhere, and when you have an underprivileged community that doesn’t necessarily have the same access to legal services, unfortunately there’s always going to be people who prey upon that. … [The Attorney General’s office] brought this issue out to the public’s attention a bit. I went on the news a few times for a couple of these cases. So, you know, there was some attention to it and I do feel that it’s almost like there’s a good side and a bad side. The good side is that it was getting noticed what was happening. The community was becoming more aware of it. The flipside of that is that the notaries were getting more savvy about how to operate these schemes without advertising, so obviously so they can fly under the radar a lit bit more. … I used to write ... I made up several pamphlets with information about notaries [versus Notario Publicos]. And I went to a lot of events around town that were centered on the Hispanic community and passed them out and talked to people.

The Assistant Attorney General went on to explain that in addition to immigration issues, many undocumented immigrants hired them to resolve family law issues such as child custody:

Yeah, and I used to practice family law so I’m familiar with how specific parenting plans, the marital dissolution agreements and all of that have to be and have to get approved by court. And these would just be little documents that she would draw up on her own that were not valid whatsoever and people were relying on them to deal with their custody arrangement and they would not know that they didn’t have anything. They didn’t actually have a legally binding agreement at all. They can’t get a passport without the other parent’s consent and there are just things that would turn into a mess, but they wouldn’t necessarily realize it at the time until down the road. … I saw some of that in the juvenile court. …They were “paralegals” … people who were paralegals and were going in and representing people.

The Assistant Attorney General went on to describe how notaries attended hearings with clients under the pretense of being an English-speaking friend:

Yeah, you see some of that especially in the notary context where they’ll act like they’re a translator, but they’re really not there to translate. They’re giving legal advice, but because nobody else speaks the language in the courtroom, they don’t pick up on what’s going on. … I do think that is happening. But catching them is the hard part.
To gauge how widespread the confusion is between U.S. notaries and *Notario Publicos*, the following item was included in the survey.

**Table 62**: Survey Item 65: *Notarios Publicos* have the same authority in the U.S. as they have in my birth country.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td>True</td>
<td>74</td>
<td>22.2</td>
<td>23.3</td>
</tr>
<tr>
<td></td>
<td>False</td>
<td>36</td>
<td>20.8</td>
<td>11.4</td>
</tr>
<tr>
<td></td>
<td>Do not know</td>
<td>207</td>
<td>62.0</td>
<td>65.3</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>317</td>
<td>94.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>17</td>
<td></td>
<td>5.1</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td></td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Respondents could respond to this item by selecting true, false, or I do not know. As the table above shows, only 11.4% of respondents knew the statement, “*Notario Publicos* have the same authority in the U.S. as they have in my birth country,” was false. This means that the vast majority, 88.6%, either responded true or did not know. This item’s data are consistent with my qualitative findings, but I expected a higher percentage of respondents to know this statement was false. The fact that 88.6% were unable to do so reflects how significant this issue is within the undocumented community.

**Unscrupulous Lawyers:**

The second specific barrier for undocumented immigrants is retaining unscrupulous and incompetent lawyers. These are undocumented immigrants seeking legal advice, and as most people would, they turn to lawyers for assistance. Several interviewees hired immigration attorneys who accomplished nothing for them, at least by their measure. Many felt the attorneys simply took advantage of them because of their legal status, and due to their immigration status, they had no recourse.
In addition to the undocumented interviewees, several key informants spoke of attorneys taking advantage of the undocumented community. This was a continuing theme with the undocumented community. This also is not an issue necessarily unique to the undocumented community, but unlike their native counterparts, they are much more vulnerable. Their native counterparts are better able to detect a lawyer’s transgressions based on their personal and vicarious legal experiences and their broader social group offering advice. The undocumented do not have access to this information and must rely solely on the lawyer for guidance. Additionally, unlike their native counterparts, legal status keeps the undocumented from seeking recourse against the lawyer, thus making them easy prey.

A Nashville based attorney with offices throughout the region explained that it was not just a lack of legal competency for these lawyers. In his words, some were just “criminally corrupt” and prey on this population because they have no recourse. He knew of attorneys accepting fees and they either never filed any process on behalf of the client or filed the minimum with no genuine intention of representing the client. He gave the name of an attorney recently disciplined by the Tennessee Board of Professional Responsibility and named two others that had their licenses suspended. He estimated that nearly one-half of his Hispanic clients sought assistance with immigration issues from notaries before coming to his office.
Figure 12: Advertisement in the July 4, 2016, edition of a Nashville Hispanic Newspaper “La Campana” offering free legal services. A Google search revealed the telephone number in the ad was “La Campana’s” advertising department.

As with Sebastian’s matter, several interviewees spoke of notaries referring them to immigration and family law attorneys with whom they associated. A Nashville Public Defender explained her perception of how and why immigration attorneys and notaries are able to take advantage of the undocumented community:

Definitely with immigration lawyers, not even necessarily notaries, but I feel like Nashville has some great immigration lawyers and we have some bottom feeders and so some immigration lawyers prey on the Latinos. […] So they really went after that community because that community would usually pay in cash, that community is known for being pretty good about actually paying and they're pretty reliable about paying money they owe and they don't know what's good representation or because they don't understand what's going on. So there was a long period of time and actually several of those people got disbarred, but some of the worst practitioners were really focusing on that community and as far as I'm concerned taking advantage of them.

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5 In English, the ad states, “Do you need a FREE ATTORNEY? If you have suffered a traffic accident, suffered injuries or have injuries that still hurt or have caused you loss of money in hospital bills and they won’t pay you, call us, we can help you get a good compensation in $$$$. IT IS COMPLETELY FOR FREE, YOU ONLY PAY US IF YOU OBTAIN $$. 615.XXX.XXXX, If I’m not here, you can leave a message in SPANISH.”
A Nashville immigration and criminal defense attorney explained seeing uninformed attorneys relay inaccurate information to their clients on criminal charges that resulted in deportation issues:

They've [attorneys] that have been appointed or somebody hired them because, again, they were $500, you know, whatever, and they'll go, "Oh, yeah, no, it's okay. Just ... you're just going to do an under advisement plea to that prostitution charge, you'll do the John school and you'll be fine.” And I’m like cringing … like wanting to jump out of my chair … because prostitution is a really big charge for a client. And under advisement, which entering, you know, admitting guilt, then they don't enter it and they dismiss it upon completion of whatever this exact same thing for immigration court is then if you would've plead and done the full sentence. Doesn't make any difference [under immigration law], but they just tell them "Oh, you'll be fine. Immigration won't catch you. I don’t think they're deporting for something like this.” Or, “so long as it's misdemeanors, it's okay.” None of that's true.

A well-respected Nashville immigration attorney described how some unqualified and unscrupulous attorneys were able to prey on undocumented Hispanic immigrants who did not understand the legal process and the chances of gaining permanent status:

Submitting [an immigration application] with lies in it, submitting stuff with criminal stuff that they've no idea and understanding what it is, misadvising people, not getting stuff on the deadlines, blowing the deadlines, and the deadlines are then toast and there's nothing you can do. They’re horrible. There are a lot of them and they're really bad and we call them bottom feeders. They’re really, really, really bad. … It's really common and I think a lot of the problem with it is people don't have a lot of money, so they don't want to pay the most expensive [immigration] lawyer, which I get, and like we tend to be kind of at the top of the food chain, price wise and so, a lot of people can't afford us, which I get. But then, you start going to cheaper lawyers and then, you know, not surprisingly, you get what you paid for. And so, a lot of times I think the lawyers don't have any experience or they're really, really, really overwhelmed because they take on ... I mean ... I know one lawyer that says I’ll take any case for $500, you know, regardless of how complicated it is.

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6 The attorney is describing post-trial diversion under Tennessee law. Post-trial diversion allows a defendant to enter a conditional guilty plea and complete probation. If the probation terms are satisfied, then the court dismisses the charges and there is no conviction.
But there's also a lot of them that will say, "It's $1,500 but if you actually want to do the next thing, it's going to be another $3,500" ... and you have to keep paying and paying. The way we try to do it, is we say "Here are all the steps we think you're going to need to get from point A to point B. And we're just going to charge you one step at a time, because if this falls apart at any point, you shouldn't have to pay for the rest of this." You know so, step A costs you this, step B costs you this and we kind of go from there. There's a couple [attorneys] that I know that have active drug and alcohol problems. I mean at least, I don't know that, that's what the rumour is. And then they just keep charging them and charging them, and they don't ... some of them don't even speak Spanish, and then how can you be an immigration lawyer?

Another highly respected Nashville immigration attorney observed the same issues with attorneys and recently discussed the problem with an official at the immigration court in Memphis that has jurisdiction over Nashville. He described his observations:

In Immigration Court, one of the greatest problems he saw was that upwards to 80%, according to [an official] at Memphis immigration court, are not represented by counsel and missfile documents. ... That was a real problem for [immigrants]. They are in criminal, juvenile and civil cases. They were unaware that pleading guilty to a domestic violence, any drug related offense and a DUI were grounds for deportation. Frequently they hire lawyers who do not know or don’t inquire into their legal status and will enter a guilty plea on those charges or similar charges that will trigger a deportation proceeding.

**Legal System’s Structure:**

Lastly, many undocumented immigrants described or demonstrated a lack of understanding of the U.S.’ system of federal government. This is most prevalent with the distinction between local, state, and federal enforcement of immigration laws. As discussed earlier, this lack of understanding is intertwined with the fear of deportation and creates a barrier to utilizing the U.S. legal system.
Many see the police as one entity and believe local and state officers are able to deport them. Nashville’s participation in the 287(g) program discussed earlier certainly blurred these lines. This creates a barrier for the undocumented community who forgo engaging the system due to their fear of deportation. Claudia, the Honduran mother who was reluctant to call police when a man was caught molesting her daughter, discussed in the introduction of this work provides a shocking, but not uncommon example of this phenomenon. Nashville’s police and its various NGOs have worked to educate and convince the undocumented community of the distinction, but it has been difficult.

An officer with Nashville’s El Protector Program explained his perception of this phenomenon and the difficulty educating the undocumented community about the differences between various law enforcement agencies and their roles in the community:

Well, they see [law enforcement] as one, out of 100% of that is undocumented I would say maybe 60% of them don't see us as a whole. Why? Because a lot of these people come to this country and they're very low educated, so for them to be able to go to school and everything their parents had to find funds to be able to put them through school. So they’re not well educated. Some of them are, you know, graduated, others only went up to second grade, third grade, fourth grade, whatever the case is so they assume that we are all one. But then when I go out there and educate them. If it’s community outreach or through the radio shows we let them know that we are separate, we’re a local agency that’s here to serve and protect because we’re the community police. … And then ICE is something federal. We don’t get involved in their activities, we don’t do anything that has to do with deportation or anything because that’s on them. We are too busy trying to protect and serve to make sure your community, your family and everybody else in it, is safe. … [Many] have a difficult time understanding that the sheriff’s department here doesn't have any power … no arrest power whatsoever. … Right, so they think that this, been to other counties. The sheriff is the sheriff. They are the police, and they have rights to arrest you, they have rights to take you to jail, but then the state told them that the sheriff here has the same power.
He went on to explain the El Protector Program’s outreach efforts to connect with the community:

So we've been doing the [Nashville Latin America Festival] for already for the past eight years, and for the first time we did it we had an attendees of 800 to 900 people approximately. Now there's 7,000 to 8,000 people, so people are on the scene and when we do these events, we bring out specialized units to show them the equipment that we have, show them that we're here to interact with them. We bring out 911, which is the emergency communication center. We bring them out to educate them that when they call 911 or [the non-emergency number] you’re not talking to a police officer. You’re talking to an agent or your talking to a personnel there that is receiving the calls and they are the ones that are responsible to pass the calls to us. That we will know what level we need to respond to these calls. A lot of them are taught that it was police all the time, so we had to bring them on. We bring domestic violence to all my events so that's why they think it's me but in reality, I bring them out there to interact with the community, to educate the community about domestic violence.

Gabriela, the former Mexican schoolteacher, recognizes the distinction between local police and federal immigration enforcement. She went on to explain that many in the undocumented community were unaware of this difference, “Yes, they think that the police officer has the authority to deport people. The officer can just ask you where your papers are and has the authority to deport you himself. … Yes, they think the police are immigration.”

These misconceptions are not limited to law enforcement. Isabella, the 50-year-old undocumented Mexican restaurant worker, is convinced that a Nashville juvenile court judge was responsible for having her minor son deported even though he complied with the juvenile court’s orders. She explained her experience with the juvenile court:
Supposedly, there was nothing on his record, because he had gone to all these [Juvenile Court] court dates and was taking care of everything, but one day when I was at work, immigration came and got him. I don’t know how or why they got him. He had attended all of his [Juvenile Court] court dates, had gone to drivers education class. So I got him a lawyer, and the lawyer told him he should just go back to Mexico. The lawyer didn’t help as he didn’t tell us why [Immigration] had come to look for him. So I just paid to send him on back to Mexico. My son left six months before he was to graduate from high school.

Sara is the 25-year-old Salvadorian migrant who came to the U.S. to keep her 8-year-old son from being forced into a Salvadorian gang. She was pregnant when she crossed the border and ICE stopped her. Due to her pregnancy, ICE did not detain her and she gave birth to another son a short time later in Nashville. As instructed, she contacted and met with ICE once she arrived in Nashville. She came to the interview with the papers ICE provided her at the border and in Nashville. She hoped that being forthright and cooperating with ICE would stop her deportation. Clearly she did not understand the process because her paperwork reflected that deportation proceeding had already begun.

Sara’s experience only worsened while in the U.S. During a routine infant exam of her newborn, the child’s doctor noticed some skin discoloration he believed to be bruising. X-rays of the area revealed a potential fracture. The physician reported this as required by Tennessee law, leading to an investigation by DCS.

A DCS worker accompanied by a Nashville police officer came to the hospital to investigate the doctor’s report. Sara speaks no English and the DCS workers and officers did not speak Spanish. Eventually, hospital staff summoned a Spanish-speaking employee who interpreted for Sara. The DCS worker and officer interviewed Sara and summarily took custody of the infant and left the hospital. Before Sara could return home another DCS employee went to her parent’s house with a Nashville police officer and
removed Sara’s 8-year-old son. Sara and her family had little understanding of DCS’ role versus criminal charges. During a later interview, Sara described her confusion:

Whenever they took the baby, I didn’t know because the doctors didn’t tell me about the [potential] fracture. They just called DCS and DCS took the child. But I didn’t know what was happening when they took the baby. When they took the oldest of them … they didn’t let me know that they took the oldest [child] because they thought he might be in danger as well. I don’t think that [DCS] was helpful.

The incident terrified Sara and her family, all of whom are undocumented. Initially, the family believed that Sara was charged criminally for injuring the infant. They also feared that the babysitter, who is also undocumented, would be charged with a crime. It was not until that evening when the family met with me that they understood the legal process Sara was entangled in. It was clear they had no understanding of the process and really did not know what had happened with the children.

The following morning, Sara and her pastor went to the juvenile court and requested the appointment of an attorney. The juvenile court responded immediately and appointed an attorney, albeit with limited Spanish proficiency. Eventually, Sara’s church collected money from its congregation and hired a private attorney to represent her. When asked to describe her understanding of the juvenile court proceedings she explained:

Right now, there is not much I can say about the court because there is kind of a pause in the case. There is no proof against me. There’s no proof against the other people [babysitter] that were found guilty, and there is so I can’t be found guilty, but that can’t prove that I am not guilty as well. So that everything is kind of paused in the case so I don’t know what my lawyer is doing about that. So I can’t tell if he’s doing a good job or not because everything is just paused.
After additional review of the infant’s x-rays, DCS determined that the area in question showed congenital abnormalities and both children were returned to Sara. A member of Sara’s Hispanic church explained the problem with Sara’s case:

Their problem is they didn't know that. That if the child appeared to be abused, even if it was some medical condition, that they had to be very careful about that. Because the government could take their kids away. When our children were born, we knew that because the doctor told us, but they didn't know that because the mother of the child who is currently going through that situation, she is just getting here so she didn't know that. So now they have to go through all this when it could have been prevented if they were just told. … Another way that I think that should happen is to have somebody that understands the law to have some sort of class, some sort of organization that is willing to teach people what their rights are. I wanted to open up business, a construction business but I thought that only if you had a social security number you could do that. But through conversing with a friend, a fellow worker, I learned that you could do that if you have a W7. So there are ways that people can advance, but they need to be more aware of what their rights are.

Carlos, the 50-year-old construction worker from Hidalgo, Mexico, is typical of interviewees who are unable to distinguish between various law enforcement agencies. The Nashville Police Department arrested him for DUI. The Davidson County Sheriff’s Department held him in jail pending his trial. While incarcerated, he came to the attention of ICE and had a hold placed on him with the Davidson County Sheriff. He pled guilty to the DUI and was to pay various fines and costs to the Nashville court. After serving his DUI sentence, the sheriff merely changed its records to show he was being held on the ICE hold. He agreed to voluntary depart the U.S. and returned to Mexico to get out of jail. A few years later, he returned to Nashville and was stopped for a traffic infraction by Nashville police. He never paid his DUI fines and costs and was arrested on a bench
warrant and held without bond. I interviewed him shortly after he was released from jail
and he told his story:

When I met with the judge in court the judge asked me why I had not paid
the fine. And I said that "I did not pay it because I was in ...you guys sent
me straight to Mexico after I was released. You guys sent me straight to
Mexico so there's no way I could've paid the fine." And the judge asked,
"Well, you could've paid monthly, you know, and just sent it by mail." And I said "I don't know the address. How would I've been able to send it?

Carlos’ 46-year-old brother Juan likewise did not understand the difference
between the criminal process and immigration.

Juan: Sometimes they’re right. Sometimes they’re not right. I’m talking
about it like that because my brothers...well, one of my brothers is in jail
right now. And I think it wasn’t that fair because he just came in [to the
U.S.]. He didn’t go to Mexico, but they’re sending him back to Mexico.
Like eight years ago, he was just parking. He wasn’t drunk. He was
coming back to the house to get his … he went to the bar to drive some
people … he forgot his driver’s license. He was coming back to the house
to get his driver’s license in the wallet, but he didn’t make it to the house
because he got stopped. So the police didn’t believe him he didn’t have no
driver’s license. So they took him back to jail and sent him to Mexico. I
don’t know … I don’t know if they tested him for the influence of the
alcohol or something. But they called it like DUI and they sent that to
Mexico. Like three or four weeks after they send him to Mexico, they sent
me a letter to the house. It said there, you have to pay some fee, and so I
called back to the phone numbers that was on the paper and I’ve told the
lady or who answered me. I said, “How do you expect my brother to pay
back this money if you guys sent him to Mexico?” They said, “Well, he
can pay that money when he comes back.” He doesn’t have the paper.
How can he come back? Like he came back the first time? My brother
tried to come back, but he couldn’t make it so he’s staying over there for
eight years. … And then when he came back finally. ... He got caught over
here by a police officer because the guy was … like in a … this ticket to
jail. The judge told him he violated probation, but he never got a probation
because they sent him back to Mexico.

These are the types of narratives the El Protector Program must try to change in
order to gain cooperation from the undocumented community. As previously discussed,
this has been a difficult task for the program, especially in light of the Davidson County
Sheriff’s Department’s previous participation in the 287(g) program. President Trump’s anti-immigrant actions and rhetoric have only worsened the situation. In fact, Mr. Trump’s election appears to have erased the El Protector Program’s gains and eroded any willingness for this community to interact with law enforcement.

The qualitative data clearly developed a theme that undocumented Hispanics did not understand the processes and structure of the U.S. legal system. This unawareness becomes a de facto barrier to utilizing the legal system. Survey data further supported this theme with many respondents acknowledging their lack of comprehension of the legal system’s processes and structures. A majority of respondents were unable to identify and reject what should be obviously erroneous procedures.

The data indicated that three specific areas of confusion affected this community’s use of the U.S. legal system. These are the lack of understanding about notaries, hiring unscrupulous attorneys, and not comprehending the differences between local, state, and federal official. By far the greatest concern is mistakenly believing that American notaries are Notarios Publicos and can provide them legal advice and services. The data confirmed that this confusion is still widespread in the undocumented community even in light of efforts by the local and state government to advise them otherwise. Overall, the qualitative and quantitative data confirmed that unawareness of the legal system’s processes and structures is a component part barring their use of the legal system.
Chapter XI

Lack of Community Empowerment

Many interviewees described their isolation from the greater Nashville community and how this lack of belonging barred their use of the legal system. Their testimonies described how their immigration status stopped them from controlling their own destinies and left them voiceless in the greater community. Manuela’s, the 30-year-old homemaker from Guatemala, comments on this theme were typical. She described her feeling about belonging to the Nashville community:

It is hard for us to feel like we’re part of the community because we know we’re not from here, or sooner or later we’re going to have to leave. … I think now that my daughter [is] in school they do care about us because in school they have programs […] they have somebody come and speak about being a parent and how they can get involved in their child’s education and their child’s future, and that’s something that the state pays for, and it’s for Hispanic people.

Manuela, like so many of the interviewees, does not engage in social activities outside her church and has limited non-Hispanic personal relationships. In fact, the overwhelming majority of undocumented Hispanics I interviewed limit their social relationships to other Hispanics and specifically to undocumented Hispanics. Nashville’s large Hispanic population, both documented and undocumented, as well as its Hispanic enclave, make it easy to live an isolated life disconnected from the greater Nashville community.

Juana, the 30-year-old Mexican accountant turned painter in the U.S., exemplified this feeling of isolation. The anti-immigrant rhetoric during the 2016 presidential
campaign made her feel that she should not be in the U.S. and that she had done something wrong by migrating. Isabella and Lucia, the mother and daughter restaurant workers from Mexico City discussed how they felt helpless when treated harshly by a U.S. Marshal when they were unable to provide him information about a relative. They were harassed at work, their home illegally entered, their possessions taken, and the U.S. Marshal ultimately arrested them and turned them over to ICE for deportation. They described their feeling of powerlessness in dealing with the system:

Isabella: No, I felt powerless and had no voice. But now that I'm more informed, I learned that they [U.S. Marshals] were wrong. I was scared.

Lucia: We felt like we weren’t well informed. We never had any troubles with immigration or police. The psychological torture with our house being ransacked, and being harassed at our job was a big issue. This was the first time we’d ever gone through that.

Santiago, the 50-year-old Salvadorian construction worker, described his family’s isolated lifestyle. They only listen to local Hispanic radio and occasionally read local Hispanic newspapers distributed free at Hispanic retail locations. Santiago watches the local weather in the morning only because it affects his construction employment. They are not engaged in any social activities other than those sponsored by their church. Santiago summed up their isolated lifestyle: “No, we go from work to church and church to work. That’s all.”

In addition to the physical isolation, many described feeling mentally isolated from their friends and relatives back home and their native culture. They not only fail to connect with the receiving culture, but become disconnected from their sending culture as well, leaving them unrooted in either. Many expressed sadness over losing their identities and becoming “others” in the U.S. As noted by the director of a Nashville
NGO, American culture strips them of their national identities and relabels them “Hispanic” or “Latino.” He explained the change once they migrate:

We were not Latinos or Hispanics until we showed up here. Before we were Costa Ricans or Mexicans or Colombians or whatever. And within that population [Hispanics] … within that population … there are different levels or certainly different nationalities.

While among this community, one senses a need to hold on to their native culture.

Common complaints were about children refusing to speak Spanish and rejecting native culture for “Americanization” and Americans who assumed they were all of Mexican descent.

These interviewees are describing a lack of empowerment that is necessary to assert their rights through legal processes. This lack of community empowerment in a legal context was a clear theme in the qualitative data. Various disciplines use the term "empowerment" with no consistent definition of what it means. As used here, empowerment is “the process of increasing personal, interpersonal, or political power so that individuals, families, and communities can take action to improve their situations.”

This chapter focuses on the lack of group or community empowerment.

Community empowerment “is the expansion of assets and capabilities of [marginalized] people to participate in, negotiate with, influence, control, and hold accountable institutions that affect their lives.” Personal or individual level empowerment is discussed in the subsequent chapter of this work under the banner legal self-efficacy.

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“Empowerment theory suggests that changes in beliefs and attitudes contribute to the participation of individuals in social change and assumes individuals will work for the collective good if they develop a sense of critical consciousness.”

The literature identifies three psychological processes essential for the development of a critical conscience. These include: 1) a bond to a group with shared experiences and concerns, a preference for that group’s culture and norms, and feelings of a shared fate, 2) an understanding of the differential status and power of groups within the larger society. For marginalized groups, this leads to feelings of relative deprivation, power discontent, and blaming the system for the group’s problems, and 3) a self and collective efficacy to change the situation.

Through community empowerment, marginalized people can improve various aspects of their lives, including better governance and increased access to justice. Much of the literature in the realm addresses community empowerment in developing nations and is studied and funded by the World Bank. To synthesize the various definitions of community empowerment and measure its effect, the World Bank has identified four elements necessary to empower marginalized communities. These four elements are: 1) access to information, 2) inclusion and participation, 3) accountability, and 4) local organizational capacity.

Access to information means the flow of information from residents to government and from government to residents. Informed residents “are better equipped to

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3 Gutierrez, supra note 1, at 229.
4 Gutierrez, supra note 1, at 230.
5 World Bank, supra note 2, at 12.
6 World Bank, supra note 2, at 8 – 9.
take advantage of opportunities, access services, exercise their rights, negotiate effectively, and hold [government and nongovernment] actors accountable.”

Inclusion and participation empowers communities by treating marginalized “people as co-producers, with authority and control over decisions and resources devolved to the lowest appropriate level.” Inclusion and participation ensures that the government spends its limited resources based on the knowledge and priorities of the community. Accountability allows the marginalized community to hold public and private sector actors “answerable for their policies and actions that affect the well-being” of the community. Lastly, local organizational capacity “refers to the ability of people to work together, organize themselves, and mobilize resources to solve problems of common interest.”

Figure 13: A march in Nashville hosted by the nonprofit Workers’ Dignity to bring attention to wage theft from undocumented Hispanic immigrants.

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7 World Bank, supra note 2, at 8.
8 Id.
9 Id.
10 Id.
11 World Bank supra note 2, at 9.
I found no literature specific to how empowerment improves access to justice for undocumented Hispanic immigrants. However, there is a significant body of literature on legal community empowerment principally addressing third world development. In this context, legal empowerment is defined as “the process of systemic change through which [marginalized people] are protected and enabled to use the law to advance their rights and their interests.” “Legal empowerment promotes a participatory approach to development and recognizes the importance of engaging civil society and community-based organizations to ensure that the poor and the marginalized have identity and voice.”

The lack of participation by the Hispanic community in general and specifically the undocumented community has not gone unnoticed. A Hispanic Nashville city council member described his frustrations with Nashville’s Hispanic population and particularly its undocumented community. He migrated from Latin America because of government corruption and a dictatorship. His understanding of why Hispanic immigrants in general do not endeavor to exert a political voice is enlightening:

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11 Laura Goodwin & Vivek Maru, What do We Know about Legal Empowerment? Mapping the Evidence, 9 HAGUE J. ON THE RULE OF LAW 157 (2017) (Goodwin and Maru noted that there were 199 studies on the impact of legal empowerment found in the literature.).
12 LEGAL EMPOWERMENT WORKING PAPERS, WHAT IS LEGAL EMPOWERMENT, AN INTRODUCTION, 4 (S. Golub, ed.) (2010).
13 Id. at 5 (quoting the U.N. Secretary-General’s 2009 report the U.N. General Assembly).
They come from, where I come from, if you call your elected official in Latin America you won’t get anything, and it may make things worse because now the guy knows he can hit you and tell you give me money or I’ll make your life miserable, so you really want to be under the radar. So, I think people learn that, you know, where they are coming from, the best thing when dealing with the government is that they don’t know you exist. … It is a different culture. … At the end of the day, remember you’ve got to compare however bad it is here … it’s never as bad as where they come from. … It’s like for an immigrant that grew up in a shanty town with open sewage running next to their house … however, it is here, it can never be as bad as that … or like for when a guy is walking down the street and a police officer would beat him up and steal his money. You know, I know it doesn’t sound good, but I think that’s probably why people have a higher tolerance to these first world problems we have here.

His life experience in his home country motivated him to enter politics, in part to give a voice to the Hispanic immigrant community by empowering them. He went on to add:

I look at this way … if you could make people feel like this in their home by empowering them by letting them have some ownership of the city, maybe they will be more participatory. They will get more involved, but what we do as a society is we tell them you’re not one of us and then we get mad when they behave like they are not one of us. People do that all the time. […] I’m like … because we force them to act that way. We treat them so badly that they need to have a little bit of a sense of home. They create these little communities. These little restaurants where they can meet with friends and feel safer. … I wanted to empower people. […] I think that the key to integration is when people feel this is my home, this is my city. … When I got elected the first time I wanted to be a bridge with the Latino community.
But what I found is I would go and try to engage with them and it just didn’t work. I mean, I just couldn’t. I could have a conversation and leave and that was that. So, what I started doing to reach out, I started doing weddings and I’m the only one who can do weddings in Spanish, civil ones in Spanish, so since getting elected I’ve done like 300 weddings. … And it helps me to get in front of people, so I do the weddings and before I actually start a wedding I give them a little civics class. “This is how the city works. I’m a council member. This is my district. This is what I can deal with. This is my phone number and my e-mail. If you need anything call me. […] They never call me. … So, from time to time you will see one of them come into the council and talk to us, but it’s very rare to see anybody. … No, not beyond the fact that they like it and they told their friends, so I do more weddings, but what I really had hoped didn’t happen. It is like I told you before. They just don’t … don’t. I find it funny when the right-wingers talk about Latinos wanting to get free stuff: … They don’t want to get anything. They just want to be left alone. … They ask me to go give a speech at a school or to be a mentor in the schools. They ask me and I do many things, and nothing works.

One of the Councilman’s political goals was to have Nashville issue an identification card since Tennessee stopped issuing drivers’ licenses to undocumented residents. A Nashville issued ID would alleviate the myriad of problems previously discussed, but would also root the undocumented in the greater community.

A city ID or metro ID because a state won’t do a driver’s license, but I think if we were to do a metro ID where people could go and get that ID, that lets them use the library, lets them have some type of an identification. It would be a buy in and it would be a way for them to have something that helps them say, “I’m a Nashvillian,” and then if they could use it to get some services if they needed to maybe with that ID. […] so that’s kind of what I was trying to do with that ID and if we could find a way for people to have some ownership, then I think that might be the way to go.

A criminal court judge in a Nashville satellite community was also aware of the lack of participation by the city’s large undocumented Hispanic population in local governance. The judge routinely encounters Hispanics at Wal-Mart, Hispanic

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14 See Chapter VII on Structural Barriers.
restaurants, and when summoned to the judge’s court. But the judge explained their noted absence when the city hosted open houses focused on the law at municipal facilities:

[We] had a night out against crime recently with the police department and had an open house from 5 to 8. My courtroom was open. … They did all sorts of things all over the police department and I don’t remember seeing any Hispanic people. … This is the second time since I’ve been here. I have one on Law Day. [Law Day is] just something that the American Bar Association celebrates one-day a year. … Different courts do different things. This year it was the Magna Carta. I had a high school mock trial team come in and do a mock criminal trial. Then we had another open house for lawyers to come in and set up tables and meet with people and do some pro bono work. … You know, I don’t remember seeing any [Hispanics]. Not really. I wonder if it’s because this is perceived as the law and maybe they’re trying to avoid it.

The need to address this community’s lack of empowerment was more salient among key informant interviewees. Nashville is home to many Hispanic focused NGOs and some that cater significantly to the undocumented Hispanic community. These NGOs seek to empower these sub-communities through various ways. I interviewed the executive director of one Nashville NGO, who described the organization’s role in the community:

We [are] teaching the Latino community about being proud of where they’re from and who they are with dance, music, food, and culture. … Because, one, there is a void. There’s nowhere for the Latinos to congregate or to call a place home. And, two, [the NGO’s founder] knew the reach. So right now, with the [NGO], what we have to offer as a nonprofit is we have the reach of the community because we do have our sister [radio] stations. … We know that our undocumented community is strong here based on just statistics, our school and based on the level of education.

This NGO has a core focus of empowering undocumented immigrants by educating them on their legal rights. The NGO employs a Hispanic legal director who was educated in the law at universities in Nicaragua and the U.S. His perceptions of why
the undocumented do not become rooted in the greater community and shun the political
and legal processes were informative. He explained his theory:

It’s like in the beginning, [the undocumented] don’t want to … even as me
being a resident and with papers and everything, we plan to go back [to
our native countries]. So, that keeps you from creating strong roots in the
beginning in your new community. So, why would I want to get involved
in how justice works, how this functions, how democracy would make my
life easier, how this or that. And the more it kept me away.

The legal director went on to explain the NGO’s mission and role of empowering the
undocumented community:

[The non-profit’s mission is] civil and political rights, economics, cultural
and environmental. ... we identify needs as owning house, tax preparation,
trainings, but also for example, modernizing their accessibility for
Internet, faster Internet, and knowledge on computers because this is the
way things move, you know, and make them understand that even we’re
going to have something called Lati-tech, which is about technology. But
that also empowers and educates little ones on environmental things like
we don’t throw away this kind of garbage. If we can identify the code in
the back, tell your father because they may not know that this sign means
that this is recyclable. … In the end, it is, as I said, a comprehensive
integration with the community.

I also interviewed the co-founder of another Nashville NGO. This NGO focuses
on empowering the Hispanic community in general, but provides a significant level of
assistance to the undocumented Hispanic community. He described the NGO’s mission:

If you look at [our] mission, it is all about empowerment … it’s about
helping families realize their aspirations for economic advancement.
You’re part of a network, whatever that may be. Then, if you become a
social being because … what used to happen, what happens … this
[undocumented] community is very isolated. They work their asses off all
week and on Sundays go to church. They go home because that’s all they
know, and so to the extent that you become more comfortable being a
member of this community then, you know socially, you are going to
belong and you’re going to be a more active contributor to what goes on in
society. By that I mean like contributing at all levels and going and
volunteering at your local church or school or favorite non-profit and
you’re going to serve on a board of commissions.
He explained that government officials recognized the NGO as a representative of the Hispanic community, including its large undocumented community. This recognition empowered these sub-communities and gave them a new political voice. He described how this affected local political culture:

I think that because we're there now and we have grown, and we are a well-respected organization and group; I think that we have the opportunity to be at the table in other important conversations going on around the city that allows us to take a really more active role. So, we are people who call on the Director of Schools search that’s coming, I mean. … We have a voice … we're at the table with the mayor’s office and with corporations. I mean, it’s like people in Nashville, especially Nashville. … [W]e shifted the conversation the rhetoric and the tone of how we talk about the immigrant population and overall, we think it is that people see the immigrant population as an asset to the city ... that yeah … well there are some challenges, but there’s opportunities … the role of the city how do we better integrate these people because our city needs them. They contribute to the cultural vitality and the economic vitality of the city, and it’s in the best interest of the city that we're asking them … they are at the table and they are at the table participating.

Illustrative of this NGO’s empowerment mission is its program seeking to empower Hispanic parents to become engaged in their children’s educational process.

He explained that it was necessary to educate the parents because the U.S.’ educational system was very different from their birth nations’ systems:

[Mexican immigrants] come from a society that is very hierarchical … very authoritarian and has very defined gender roles … I mean the teacher, the pastor, the priest, the policeman -- all figures of authority where you’re not supposed to challenge where you look down. [NGO’s education program teaches] you have a say in your kid's … in not only the right, you have an obligation to have a say and to be actively involved in your child’s education. Being part of PTA and going to the meetings and asking questions and volunteering and doing. … That’s part of the mental model of parents and the people have a need to be taught to be empowered. … We find that women are keys to accomplishing all this work that we do. Once you empower them, they take the bull by the horns.
When asked if he felt the NGO was reaching all the undocumented community, he responded:

It’s very difficult to reach them and to get in touch with them and to do so we probably don’t. We probably aren’t reaching them, but we learn about them … we’re reaching [them if] they have kids, they’re going to school, they’re driving. … We do a lot of education on radio, radio shows, we are at like soccer tournaments and we’re out their bringing our message and all that what with kind of quantified on our reports. I don’t know the number [served] 12,000 people that are touched. Which is a small, you know … it’s what? 15% of [the Hispanic] population.

I also interviewed the co-executive director of a NGO focused on immigrant and refugee rights. At the time of the interview, approximately 60% of the NGO’s clientele was Hispanic. The NGO’s mission is to empower the undocumented immigrant community through a philosophy of self-empowerment. She explained the NGO’s empowerment model:

We help people apply for citizenship if they’re eligible. We do English classes but really have a … more of an empowerment model for service delivery and we will use it to connect people to leadership development and community building opportunities. … and different strategies around civic engagement in addition to policy advocacy doing voter registration and voter mobilization work and so yeah, we … at 13 years, we are organized across the state, probably in about 16 cities right now. [We teach] digital literacy, as well as the English language. So, all our students have access to tablets through the course of the class. They learn email and different things like that and then we have a sort of community education and leadership training. Our theory is that we don’t want to treat direct services as sort of a transaction. … I think the difference would be doing it for them versus giving them the tools to do it themselves and sort of trying to really … we see with each referral or each thing that we’re doing how are we kind of training the community to do it themselves, right? So that they can sort of pay it forward and build the capacity within the communities. … So, for people to not only learn English, but to gain confidence to advocate for themselves on their worksite or in the court system or wherever they might be, but really, we look at … at some of the services we provide as kind of a pipeline to civic engagement.
She went on to explain how the NGO attempted to reach the Hispanic community:

We do a lot through Spanish language media. Faith institutions of course are important, but also informal organizations like soccer clubs. We do a lot of partnerships with the consulates and so … the consulates will provide information such as … around different things that are happening or outreach for our services there. … We do door to door work, canvassing around issues where we talk to folks at their homes. … We had a program called the Democracy Fellows and it was people going and knocking on doors of registered immigrant voters, making sure they knew the election dates and the polling sites and that – that they were going out to vote. […] we’re doing some work around affordable housing right now and so we’re talking in apartment complexes where we know – that there have been reports of evictions or other things and talking to people there. … So, it’s a lot of tenant rights issues that people are facing both their – apartments are not being maintained or discriminatory evictions and then just as everybody in Nashville sort of feeling the pinch of affordable housing. … A lot of rural communities are just definitely under-resourced. But there’s not Spanish language radio station in a lot of these places. There are no Spanish language papers. So, a lot more is sort of word of mouth and for communities that are either living in fear of deportation or just really taking advantage of them … all the ways that you know about.

Many of the interviewees at least had heard of one or more of Nashville’s NGOs and some were receiving services from them. Sofia, the 21-year-old college student from Mexico City who did not have health insurance, was attending a free health clinic hosted by a Nashville church when she learned about the DACA program from a Nashville NGO. The NGO assisted her and processed her DACA application free of charge. Once she acquired her DACA permit, she secured a driver’s license, quality employment at a fair wage, and enrolled in college, where she has excelled.

Juan Jose, the carpet-cleaning entrepreneur from Vera Cruz, was familiar with several Nashville NGOs and local outreach programs for the Hispanic community. One of the NGOs counseled him on how to purchase a home and the need to file a W-7 with the IRS. Manuela, the 30-year-old homemaker from Guatemala, learned of a Nashville
NGO offering the community counseling on education for their children through her child’s school. A Hispanic mother of another child told her about the program and drives her to the meetings.

It is clear Nashville’s Hispanic NGOs have empowered this community to some extent. However, reaching a population that frequently does not want to be reached is a difficult task. Many key informants were aware of the changes the NGOs had made. The Mexican pastor of a Hispanic congregation who is very active within the undocumented community described Nashville’s political changes and the attempts to empower the Hispanic community:

So, they would open doors to access to their [political] offices in government. So, some people would benefit from that and they become very connected with these types of people. So that’s empowerment. And, the fact that they would open their offices and access to them empowers the community at large and education, and you know. Kind of pay attention to this part of the community that is important, but you don’t hear a lot about it because you don’t have the spokespeople. Conexión America was one of the first to open and then others that … I brought in from Atlanta, the first lady that started servicing the Hispanic community across from this church building you know, with illegal status. But empowerment comes from when schools or the government will target some of the leaders of the Hispanic community and give them access to information or just to go to their doors to talk about problems in the Hispanic community. And they’ve been very open about that. For example, Plaza Mariachi is going to do that, but the mayor has already been there, a councilman has been there, you know. They see something that’s going to happen, they want to be there, and they want the Hispanic community to feel that we are important to the government. So, it’s very good plan, I cannot think of anybody or anything that has been negative about them.
A Nashville attorney and civil rights advocate explained her observations of the NGOs effectiveness over the years:

I think the people that seem to be more willing to kind of be a little bit more assertive and kind of be out there a little bit more tend to be the parents of teenagers or older kids that are US citizens. I think they probable do feel a little bit more empowered. … Back to 287(g), you know, kind of English only days. I did not feel like there’s a lot of empowerment at all. People were very fearful and now I think with DACA in particular, I feel like people are really, you’ve got not one more, you’ve got a lot of groups that are really standing up and saying no. You are not going to treat us this way because of who we are, and I think that has primarily led by the young kids. [A particular NGO is] all about empowerment. … they do campaigns for workers so, wage stuff. […]the employers pay, and I think it gives them, a) I think it really empowers the workers, b) I think it empowers everybody else who is watching and c) it also teaches myriads and all these various other companies that you better watch what contractors you’re hiring.

She went on to describe how the Obama Administration’s executive order on DACA had empowered the younger Hispanics:

I really feel like this presidential administration has really done a lot to … really to try to stability a lot of that stuff. […]I think systemically it has been this little piece here and this little piece there and this little piece here that they have kind of sprinkled out with the combination being we are only deporting people that are convicted of these kinds of crimes. […] I mean that really has because now people will go get their I-10, they will try to apply for a mortgage, they will try to do those things. I don't think they feel like they are going to be deported tomorrow. Before, people were afraid to leave their house.

The qualitative data demonstrated that those who lived in the U.S. longer, had minor children here, and belonged to a church were more likely to consider Nashville their home. I met many undocumented Hispanics that had lived in the Nashville area for 30 or more years. They owed homes, automobiles, and typical personal property. They had long-term and stable employment. Many had children and grandchildren born in the
U.S. who were U.S. citizens. Immigrants at this end of the spectrum were connected to Nashville and saw Nashville as their home. Gabriella, the 46-year-old schoolteacher from Guerrero, Mexico, explained that over time she began to feel like part of the Nashville community. After 14 years in the U.S., she finally thinks of Nashville as her home. She explained her perception of how undocumented Hispanics become connected to their new community:

When I first came here with my children, I understood that the children who were minors would be protected under the law. But for me, I did not feel like I would had the same amount of protection. I came with the hope that I would make more money and earn a better life for my family, but I did not think I would ever become part of the community. I understood that I would have to live secluded from other people because I was illegal. That was the mentality that I had ... that I would never be part of the community. I could go to community events, but I would never be part of the community. I think it is the same mentality [for all undocumented] that government is just not going to help them. ... As the undocumented community starts to become documented they begin to understand that they have more rights and the government is not just there for show. If you don’t have documentation, then you cannot ask for anything. The first thing that they ask you is, “I need a Social Security number or identification.” Even if you go to the food bank, they request a Social Security number. We went in March to get our fingerprinting done [to apply for a visa] and after doing that I did not feel as afraid as I used to, and now I feel like I have some right to ask for help. ... It is kind of like a scale. Those who have just arrived are not going to feel like part of the community. They do not know the way things work here, but as you build up your years and your background here, you begin to feel part of the community.

On the other end of the spectrum are those who have no connection to the U.S. other than their physical presence. On this end, I met several men at a day-laborer pick up location at the corner of Murfreesboro Road and Thompson Place just a few miles from downtown Nashville. I visited the location several days and befriended Julian, a Nashvillian of Puerto Rican decent who was retired from the U.S. Navy. He relocated to
Nashville to be near his daughter and lived within walking distance to the day-laborer pickup site. He said he had personal ministry of checking on the men who congregated at the site each morning looking for work. Eventually, Julian started coming to the site daily to interpret and negotiate for the day laborers. In turn, potential employers and sometimes workers would give him a small cash gratuity. These day laborers are typically single and travel to where work is available, although there were occasionally longer-term residents that came to the site looking for work. Most lived in apartments within walking distance from the site with as many as eight to ten sharing an apartment.

After getting to know Julian, I learned that there was a campsite in the woods less than a half mile away where 15-20 men at a time lived. It was the first stop for many new arrivals, who would eventually make friends and secure shared, permanent housing. However, some men had lived in the camp long-term and had no desire to seek accommodations that are more permanent. Some of the men work hard and secure “permanent” employment with local contractors and eventually settle in Nashville. However, the majority will return home once they have reached their monetary goals or move to another locale if better wages are available. Most had no knowledge or interest in Nashville. Various church ministries would come to them from time-to-time, but most relied on Julian for guidance.
Figure 14: Nashville’s day laborers wait for the chance to work.

Most undocumented Hispanics I encountered fell along this spectrum of connectedness to Nashville. Abril was typical. She is a 55-year-old housekeeper from Vera Cruz who has been in the U.S. for 14 years. She explained that she was familiar with two Mississippi NGOs that assisted undocumented Hispanics from her time living there, but she was unable to name any Nashville organizations:

There’s another organization called “Mira”\(^{15}\) which is translated as “look,” and they are another organization that helps undocumented immigrants and they charge a $20 initial fee for when you join the club. It’s kind of like a club organization and then everything else from then on, you only must pay every time you go to court, which is not a lot. And “[El] Pueblo”\(^{16}\) They’re a non-profit. The only time you must pay something is that you must pay a fee for an application that has to be sent to the government.

Then there were others like Joaquin and Mia, the married couple from Chiapas, Mexico who were unaware of any NGO that might provide them legal advice and guidance. They sought information on their rights from the Mexican Consulate when the staff came to Nashville, but with little success. Joaquin listens to Hispanic radio and was familiar with “El Protector,” and also a Nashville immigration attorney that spoke at


\(^{16}\) El Pueblo Immigration Legal Services, https://elpueblo-ms.org/about.
times during Joaquin’s lunch break. He and Mia had seen Spanish language posters at
various places advising how to report domestic abuse, but that was the only printed
material they recalled.

I discussed this issue with Sebastian, the Honduran landscaper. He was unaware
of any Nashville based NGOs that assisted the undocumented community. Sebastian
recounted that he had applied for refugee status to remain in the U.S. He paid his attorney
several thousand dollars and had since learned that he had little chance of success. He
now felt like the attorney took advantage of him. He sought counsel from his pastor just a
day before our interview and learned about a local NGO that would have advised him on
his immigration issue free of charge.

I just heard of Casa Azafran through the church pastor. He told me they
helped another member the church get documentation. That was just
recently. … Yes, I heard about that after I paid out all the money.

The following theme was developed from the qualitative data:

Theme 1: A lack of community empowerment is a barrier to accessing the legal system.
Community empowerment requires 1) access to information, 2) inclusion and
participation, 3) accountability, and 4) local organizational capacity.

To confirm my qualitative findings, I developed a 12-item community
empowerment scale that was part of the survey (items 49 through 60). Initial testing of
the scale (n = 50) supported the scale’s marginal reliability (Cronbach’s α = .717) and
confirmatory factor analysis indicated validity but very weakly. However, the final
sample (n = 309 – 314) failed to support the scale’s validity or reliability. This was not
surprising given the lack of agreement on what community empowerment is across the
various disciplines. These survey items (49-60) still provide helpful insight into the
phenomena particularly the criteria adopted by the World Bank as necessary to empower communities.

These four elements are: 1) access to information, 2) inclusion and participation, 3) accountability, and 4) local organizational capacity.\textsuperscript{17}

**Access to Information:**

Relevant to the requirement that community empowerment necessitates access to information; the following items were included in the survey:

**Table 63:** Survey Item 58: Legal advice about my rights is available to me either free or at reduced cost.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid Totally Disagree</td>
<td>51</td>
<td>15.3</td>
<td>16.2</td>
<td>16.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>34</td>
<td>10.2</td>
<td>10.8</td>
<td>27.1</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>92</td>
<td>27.5</td>
<td>29.3</td>
<td>56.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>70</td>
<td>21.0</td>
<td>22.3</td>
<td>78.7</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>67</td>
<td>20.1</td>
<td>21.3</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>20</td>
<td>6.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>3.22</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.22 is slightly above the item’s midpoint with 56.4% unable to agree on any level with the statement, “Legal advice about my rights is available to me either free or at reduced cost.” As discussed previously, there is a litany of NGOs in the Nashville area providing information to the undocumented community concerning their rights. These are in addition to various other private and governmental initiatives working to provide information to this community. This item’s data would indicate that more than one-half of this population is unaware of these initiatives.

\textsuperscript{17} World Bank, \textit{supra} note 2, at 8 – 9.
**Table 64:** Survey Item 54: I can access information about my legal rights without cost.

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>52</td>
<td>15.6</td>
<td>16.7</td>
<td>16.7</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>39</td>
<td>11.7</td>
<td>12.5</td>
<td>29.3</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>68</td>
<td>20.4</td>
<td>21.9</td>
<td>51.1</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>65</td>
<td>19.5</td>
<td>20.9</td>
<td>72.0</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>87</td>
<td>26.0</td>
<td>28.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>311</td>
<td>93.1</td>
<td></td>
<td>100.0</td>
</tr>
<tr>
<td>Missing</td>
<td>23</td>
<td>6.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>3.31</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.31 is slightly above the item’s midpoint of 3 with 51.1% of respondents unable to agree with the statement, “I can access information about my legal rights without cost” at any level. This indicates that slightly more than one-half of the undocumented community does not know of the availability of free information or is unaware of how to access this information concerning their legal rights. This item’s data is also consistent with my qualitative data concerning access to information. Responses to these two items support my qualitative findings that many in the undocumented community are unaware of sources of information concerning their legal rights.

**Community Inclusion and Participation:**

Relevant to the requirement that community empowerment necessitates inclusion and participation; the following items were included in the survey:
Table 65: Survey Item 49: When I leave the areas where I live and work I become fearful.

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>126</td>
<td>37.7</td>
<td>39.9</td>
<td>39.9</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>49</td>
<td>14.7</td>
<td>15.5</td>
<td>55.4</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>63</td>
<td>18.9</td>
<td>19.9</td>
<td>75.3</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>48</td>
<td>14.4</td>
<td>15.1</td>
<td>90.4</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>31</td>
<td>9.3</td>
<td>9.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>317</td>
<td>94.9</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.60 is above the item’s midpoint of 3 with 55.4% of respondents disagreeing with the statement, “When I leave the areas where I live and work I become fearful,” and 23.7% somewhat agreeing or totally agreeing with the statement. Most telling in this item’s data is that nearly a quarter of respondents do not feel safe traveling outside the areas where they live and work.

Table 66: Survey Item 57: I am accepted by Americans as part of the community.

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>55</td>
<td>16.5</td>
<td>17.5</td>
<td>17.5</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>45</td>
<td>13.5</td>
<td>14.3</td>
<td>31.7</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>103</td>
<td>30.8</td>
<td>32.7</td>
<td>64.4</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>76</td>
<td>22.8</td>
<td>24.1</td>
<td>88.6</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>36</td>
<td>10.8</td>
<td>11.4</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>315</td>
<td>94.3</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.98

| Missing                | 17        | 5.1     |               |                    |
| Total                  | 334       | 100.0   |               |                    |
| Mean Score             | 2.98      |         |               |                    |
This item’s mean score of 2.98 is slightly below the item’s midpoint of 3 with 34.5% of respondents either somewhat agreeing or totally agreeing with the statement, “I am accepted by Americans as part of the community,” and 31.8% somewhat disagreeing or totally disagreeing with it. Most informative of this item’s data is that 65.5% of respondents were unable to agree with the statement on any level and only 11.4% totally agreed with the statement. A reasonable interpretation of this item’s data is that 88.6% of respondents either question whether Americans accept them or believe they are not accepted.

**Table 67:** Survey Item 51: I now think of the U.S. as my home instead of my birth country.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>40</td>
<td>12.0</td>
<td>12.8</td>
<td>12.8</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>24</td>
<td>7.2</td>
<td>7.7</td>
<td>20.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>57</td>
<td>17.1</td>
<td>18.3</td>
<td>38.8</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>57</td>
<td>17.1</td>
<td>18.3</td>
<td>57.1</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>134</td>
<td>40.1</td>
<td>42.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>312</td>
<td>93.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>22</td>
<td>6.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 3.71 is above the item’s midpoint of 3 with 61.2% of respondents either somewhat agreeing or totally agreeing with the statement, “I now think of the U.S. as my home instead of my birth country,” and only 20.5% somewhat disagreeing or totally disagreeing with the statement. Comparing this item’s data with the previous item’s data 42.9% of respondents think of the U.S. as their home, but only 11.4% believe Americans accept them in that role. These three items are consistent with
my qualitative data and demonstrate that many in the undocumented community do not feel they are a part of or have a participatory role in the greater Nashville community.

**Political Accountability:**

Relevant to the requirement that community empowerment necessitates accountability; the following items were included in the survey:

**Table 68:** Survey Item 52: My opinions can influence decisions by local and state officials.

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>89</td>
<td>26.6</td>
<td>28.2</td>
<td>28.2</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>32</td>
<td>9.6</td>
<td>10.1</td>
<td>38.3</td>
</tr>
<tr>
<td>Neither Agree nor Disagree</td>
<td>100</td>
<td>29.6</td>
<td>31.6</td>
<td>69.9</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>45</td>
<td>13.5</td>
<td>14.2</td>
<td>84.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>50</td>
<td>15.0</td>
<td>15.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>316</td>
<td>94.6</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

Missing 18 5.4
Total 334 100.0

Mean Score 2.79

This item’s mean score of 2.79 is below the item’s midpoint of 3 with only 30% of respondents either somewhat agreeing or totally agreeing with the statement, “My opinions can influence decisions by local and state officials,” and 38.3% either somewhat disagreeing or totally disagreeing with the statement. Most telling from this item’s data is that 70% of respondents were unable to agree with the statement on any level.
Table 69: Survey Item 53: I would contact a local or state official if I needed assistance.

<table>
<thead>
<tr>
<th>Valid</th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally Disagree</td>
<td>25</td>
<td>7.5</td>
<td>7.9</td>
<td>7.9</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>25</td>
<td>7.5</td>
<td>7.9</td>
<td>15.8</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>47</td>
<td>14.1</td>
<td>14.8</td>
<td>30.6</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>77</td>
<td>23.1</td>
<td>24.3</td>
<td>54.9</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>143</td>
<td>42.8</td>
<td>45.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>317</td>
<td>94.9</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Missing 17 5.1
Total 334 100.0
Mean Score 3.91

This item’s mean score of 3.91 is above the item’s midpoint of 3 with 69.4% of respondents either somewhat agreeing or totally agreeing with the statement, “I would contact a local or state official if I needed assistance,” and only 15.8% of respondents either somewhat disagreeing or totally disagreeing with it. Most telling from this item’s data is that 84.2% of respondents were unable to disagree with the statement on any level. Comparing it to the previous item, 70% of respondents do not believe they could influence state or local officials, but nearly 70% would contact a state or local official for assistance.

This paradox can be explained by the data from item 46 of the survey that indicated that 75.3% of respondents trust American government officials. Consistent with my qualitative findings, this community trusts their local officials and would reach out for assistance from the police, animal control, building codes, etc., but did not believe

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18 Discussed in the Chapter VII on Cultural Barriers.
they as group they could influence policy decisions. This is likely because of their legal status and inability to vote.

**Table 70: Survey Item 55: Local officials are concerned about my rights.**

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>80</td>
<td>24.0</td>
<td>25.9</td>
<td>25.9</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>50</td>
<td>15.0</td>
<td>16.2</td>
<td>42.1</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>101</td>
<td>30.2</td>
<td>32.7</td>
<td>74.8</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>47</td>
<td>14.1</td>
<td>15.2</td>
<td>90.0</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>31</td>
<td>9.3</td>
<td>10.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>309</td>
<td>92.5</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>25</td>
<td>7.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
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<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td></td>
<td>2.67</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

This item’s mean score of 2.67 is below the item’s midpoint of 3 with only 25.2% of respondents either somewhat agreeing or totally agreeing with the statement, “Local officials are concerned about my rights,” and 42.1% of respondents either somewhat disagreeing or totally disagreeing with it. Most telling from this item’s data is that only 10% definitely believes those local officials are concerned with their rights. The findings from these three items are consistent with my qualitative data and support the conclusion that members of undocumented community do not believe they have the power to hold the government accountable.

**Organizational Capacity:**

Relevant to the requirement that community empowerment requires local organizational capacity; the following items were included in the survey:
Table 71: Survey Item 56: I know of individuals and organizations that have taken a leadership role in protecting the rights of undocumented Hispanics.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>67</td>
<td>20.1</td>
<td>21.3</td>
<td>21.3</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>30</td>
<td>9.0</td>
<td>9.6</td>
<td>30.9</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>82</td>
<td>24.6</td>
<td>26.1</td>
<td>57.0</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>63</td>
<td>18.9</td>
<td>20.1</td>
<td>77.1</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>72</td>
<td>21.6</td>
<td>22.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>20</td>
<td>6.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Mean Score 3.14

This item’s mean score of 3.14 is slightly above the item’s midpoint of 3 with 43% of respondents either somewhat agreeing or totally agreeing with the statement, “I know of individuals and organizations that have taken a leadership role in protecting the rights of undocumented Hispanics,” and 30.9% of respondents either somewhat disagreeing or totally disagreeing with it. Most telling from this item’s data is that only 22.9% totally agreed with the statement. Given the many NGOs, government entities, religious institutions, and private actors in Nashville that advocate for this community, these data are surprising. These are consistent with my qualitative data but only 22.9% of respondents totally agreeing with the statement was lower than expected. This shows that there is a significant portion of this population that Nashville’s many advocates are not reaching. This is likely attributable to their isolated lifestyles and structural barriers.
Table 72: Survey Item 50: I belong to social or community organizations other than my church.

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totally Disagree</td>
<td>154</td>
<td>46.1</td>
<td>49.0</td>
<td>49.0</td>
</tr>
<tr>
<td>Somewhat Disagree</td>
<td>39</td>
<td>11.7</td>
<td>12.4</td>
<td>61.5</td>
</tr>
<tr>
<td>Neither Agree or Disagree</td>
<td>59</td>
<td>17.7</td>
<td>18.8</td>
<td>80.3</td>
</tr>
<tr>
<td>Somewhat Agree</td>
<td>28</td>
<td>8.4</td>
<td>8.9</td>
<td>89.2</td>
</tr>
<tr>
<td>Totally Agree</td>
<td>34</td>
<td>10.2</td>
<td>10.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>314</td>
<td>94.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

| Missing              | 20        | 6.0     |               |                    |
| Total                | 334       | 100.0   |               |                    |

Mean Score 2.20

This item’s mean score of 2.20 is below the item’s midpoint of 3 with 19.7% of respondents either somewhat agreeing or totally agreeing with the statement, “I belong to social or community organizations other than my church,” and 61.4% of respondents either somewhat disagreeing or totally disagreeing with it. Respondents who belong to social organizations other than their church are likely to have moved in some degree from the typical isolated lifestyle. Church participation is not informative because it is a safe environment and is driven by religious convictions to some extent. Additionally, to organize locally one must be aware of entities in the community that are advocating for the undocumented community. These data does not demonstrate the social connectedness or knowledge to organize locally.

These quantitative data are consistent with my qualitative data and confirms my finding that Nashville’s undocumented Hispanic immigrants are not empowered at the community level to assert their rights. Undocumented immigrants fail to attain community empowerment due to a lack of access to information about their rights, their
lack of community inclusion and participation in local governance, the inability to hold local officials accountable, and a lack of awareness that hinders their capacity to organize at the local level. Without community empowerment, undocumented Hispanic immigrants do not seek to enforce their rights through the legal system in effect creating a barrier to its use. Overall, the qualitative and quantitative data confirmed that the lack of community empowerment is a component part barring their utilization of the legal system.
CHAPTER XII

Specific Legal Self-Efficacy

The qualitative data indicated that lack of self-confidence might function as a barrier to some undocumented Hispanic immigrants utilizing the legal system. This was not a strong theme within the undocumented immigrant interviews, but was stronger with the key informants who work closely with this community. When asked if they felt confident in their ability to contend with a legal issue and maneuver the legal process, most responded in the positive. The dialog with Julian, the 30-year-old construction worker from Hidalgo, Mexico and his wife Manuela, a 30-year-old homemaker from Guatemala, was typical.

Interviewer: Do you feel like you would be able to on your own make good decisions for yourself; hire a lawyer or get advice maybe from somebody else?

Manuela: I would hire a lawyer or somebody to help me out. … I would seek legal counsel if I was in this situation.

Julian: Yeah. I think I would [hire a lawyer] because they know more than I do and understand all that stuff. … So it's hard for us to have a family once you're undocumented you cannot do anything but get help from somebody else.

More informative on this topic were the key informant interviewees. Key informants work with the undocumented immigrants and are in a better position to observe and gauge this phenomenon. Additionally, key informants are objective in their assessments probably unlike the undocumented interviewees who would be forced to acknowledge a perceived deficiency in their capabilities. I had the opportunity to interview a longtime Nashville criminal defense and immigration attorney. This Spanish-
speaking attorney’s practice focuses on Hispanic clients and specifically undocumented Hispanics. Another key informant described this attorney’s firm as advocates for the undocumented community and “crusaders” for undocumented immigrant rights. The attorney explained his perceptions relevant to the self-efficacy of this community:

But there is a real lack of confidence in asserting their rights and going through the process. He thought that likely translated to an inability to assert their rights when they encounter the police. Like in his example, maybe they are changing a tire on the side of the road and the officer stops and enquires and asks to search their vehicle. They likely lack the confidence in themselves to say no.

A second Nashville immigration and criminal defense attorney was interviewed. Other key informants identified this prominent attorney as an advocate for Nashville’s undocumented Hispanic community. This Spanish-speaking attorney’s practice consists predominately of clients from the undocumented community. According to this attorney, confidence was the biggest concern. This attorney said that in his cases, it was frequent that the undocumented pooled their money to pay for legal services and it was not unusual for them to have money wired from Mexico to pay for the cost. However, they have a real lack of confidence in asserting their rights and going through the process. The attorney thought this lack of confidence translated to an inability to assert their rights when they encounter the police. For example, the attorney said, “Maybe there are changing a tire on the side of the road and the officer stops, enquires and asks to search their vehicle. They likely lack the confidence in themselves to say no.” When the attorney represents immigrants in criminal matters, the attorney spends a significant amount of time just preparing them for the hearing so they can get through the proceedings with

1 There is no transcript of this interview, as the attorney would not consent to an audio recording of the interview. I later created a memorandum of the interview from my notes.
some confidence. Otherwise, their instinct is to agree with whatever the judge, prosecutor, or their adversary says. In the attorney’s words, undocumented immigrants had a tendency to “bow down to them and agree with whatever they say.” It was this attorney’s perception that the undocumented find it difficult to assert their individual rights apart from their family’s rights or as a group. This was also my observations during my field research.

Many receive this group support from their churches and local NGOs. I heard several narratives of churches collecting donations to fund immigration and criminal defense cases. This support goes beyond monetary efforts. I had the opportunity to closely observe such a situation concerning a child abuse allegation levied against a new arrival from El Salvador. During a routine medical exam, the physician observed what he believed to be indications of physical abuse. The child was summarily taken into state custody and placed in a foster home. The mother was charged with neglect in juvenile court. The mother’s family were longtime members of a local Hispanic church. The congregation’s pastor described the church’s support for its undocumented congregants:

If the person that needs the help is like sister [child’s grandmother] is a faithful church-goer. She is very involved in the church. For her the church doesn’t hesitate to help. If it’s someone else who just comes here specifically to get help, there would be complications with that. For frequency is once or twice a year that there is this kind of need.

In this case, the church’s leadership arranged for another church family to keep the infant until the case was resolved getting the child out of foster care. Money was collect to fund the mother’s defense and an attorney connected to the church agreed to accept a reduced fee to handle the matter. Several members of the church attended each of the court hearings for moral support. Ultimately, the court declared the charges
unfounded and DCS returned the child to the mother. The level of support the young woman and her family received from the church was astounding, but not unusual for this church and other Hispanic churches I connected with during my field research.

Nashville’s NGOs also provide support necessary for the undocumented to cope with legal issues. I had the opportunity to also interview the Co-Director of a Nashville NGO emphasizing immigration and legal rights for undocumented Tennessee residents. This NGO expends significant resources on outreach programs to educate undocumented residents about immigration issues, as well as legal rights concerning landlord/tenant issues, police practices, and educational rights. Much of this NGO’s work involves advocating for the undocumented. The Co-Director described a typical scenario for the NGO:

Let’s say for example there was a woman who was pulled over for speeding and just outside of Nashville and got taken to jail for not having a driver’s license, ended up in deportation proceedings and so we’re going to work with her to run that campaign to ask for prosecutorial discretion. She has four kids here. She has a family here. She has been here for more than a decade, so learning how to do that with her and also with the community of her peers that we organize with, building public support, telling her story in the media, and so not only was her deportation – she was allowed to stay but community saw that it was possible.

One key informant, an officer with the El Protector Program, outright rejected the notion that undocumented immigrants lack the self-confidence to deal with their legal issues. This is how he described his perception of the undocumented community:
You know, but for self-esteem I don’t think that’s an issue. Because they know they have a mission and their mission is to come to this country due to the fact that at their own country they couldn’t prosper they couldn’t succeed due to the fact that the corruption of their government and also their public service. So they come here…they come here for a better life, for better opportunities. You know, do they struggle? Yes, they struggle due to the fact that they don’t have the documents for them to get jobs like you or I are capable of doing. But they do find [jobs] okay and the thing is when they do find [jobs] sometimes other Hispanics will scare them by saying if you don’t give up your job I’m going to call immigration against you. So automatically they get scared, they give up the job and guess what they did that because that other person wanted your job.

This was consistent with the statements of another officer from a Nashville satellite jurisdiction. He noted that things had changed within this community since he began his career as the liaison with the local Hispanic community which he believes is predominately undocumented. Now he says, “They will say I don’t have to put up with this. I can call the police and he will go to jail.”

These officers’ perceptions are not necessarily inconsistent with those of the other key informants or my field research observations. This seeming incongruity likely results from a misunderstanding of the nuances between self-confidence, self-esteem, and self-efficacy. There was sufficient support in my qualitative data to warrant further investigation of how perceived self-efficacy affects the undocumented community’s use of the legal system. No literature exists concerning how self-efficacy affects undocumented Hispanic immigrants’ utilization of the U.S. legal system. Nor was any closely related literature found. However, the general literature on self-efficacy is informative, particularly Albert Bandura’s scholarship related to his Social Cognitive Theory.²

Bandura explains that self-efficacy, self-esteem, and self-confidence are distinct components of one’s self-concept. Self-efficacy is one’s perceived ability to complete certain tasks and exert influence over the circumstances in their lives. Self-efficacy is distinct from self-esteem, or one’s general feeling of self-worth, and self-confidence, the belief in one’s personal value and likelihood of success. Self-confidence is a combination of self-efficacy and self-esteem. People frequently confuse self-efficacy with self-confidence. Bandura explains the distinction as follows:

It should be noted that the construct of self-efficacy differs from the colloquial term "confidence." Confidence is a nondescript term that refers to strength of belief, but does not necessarily specify what the certainty is about. I can be supremely confident that I will fail at an endeavor. Perceived self-efficacy refers to belief in one's agentive capabilities, that one can produce given levels of attainment. A self-efficacy assessment, therefore, includes both an affirmation of a capability level and the strength of that belief. Confidence is a catchword rather than a construct embedded in a theoretical system.

When people have a strong perception of their self-efficacy, they see difficult problems as challenges to be mastered and not avoided. On the other hand, when an individual has a weak perception of their self-efficacy they see difficult problems as threatening and to be avoided. Those with weak self-efficacy tend to focus on the difficulties to be encountered, potential adverse outcomes, and their perceived shortcomings.

Bandura points to four contributing factors to a strong perception of self-efficacy. The strongest contributor is past experiences mastering difficult situations. When one has a history of overcoming obstacles, they develop a belief that by determination and

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4 Id. at 382.
5 Id.
resilience they can generally master other difficulties. Second to these personal experiences are the vicarious experiences of watching role models overcome or master personal difficulties. Bandura espouses that personal and vicarious mastering of difficulties are the most influential contributors to developing a strong perceived self-efficacy. Thirdly, Bandura points to a person’s physiological and emotional status as influencing one’s strong or weak perceived self-efficacy. Physical attributes such as stature as well as physical anomalies such as pain and chronic fatigue increases or decreases one’s perception of their abilities. Emotional disposition also can enhance or detract from one’s perceived self-efficacy. Positive emotional proclivities lead to stronger perception of self-efficacy and negative emotional proclivities lead to weaker perceptions of self-efficacy. Finally, according to Bandura, a much weaker influencer of perceived self-efficacy is verbal persuasion by others. Verbal persuasion amounts to encouragement to from other to pursue and master obstacles. However, this heightened sense of self-efficacy quickly diminishes when initial efforts fail.6

When these influences are strong and positive during one’s life experience they tend to develop strong general perceptions of self-efficacy. When these influences are weak or negative, an individual tends to develop weak general perceptions of self-efficacy. This general concept of self-efficacy influences how one responds to the broad assortment of difficult tasks in life. One’s general self-efficacy is a predictor of how individuals will deal with a variety of difficult task particularly when the tasks are non-specific.7 However, self-efficacy provides greater predictability when applied to specific

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6 Bandura, supra note 3.
situations or specific self-efficacy.\(^8\) Bandura cautions that “One cannot be all things, which would require mastery of every realm of human life. … the efficacy belief system is not a global trait but a differentiated set of self-beliefs linked to distinct realms of functioning.”\(^9\) In other words, domain and task specific self-efficacy of the “object of interest” is the true predictor of one’s perceived self-efficacy.\(^10\) The literature refers to this as specific self-efficacy.

Specific self-efficacy helps explain the El Protector officer’s confusion about undocumented immigrants’ “self-esteem.” He rejects the idea of them having low “self-esteem” because they were successful in their mission to migrate to the U.S. in violation of immigration law. It is typical for individual’s to have high self-efficacy in some domains but low self-efficacy in others. Undocumented immigrants may have a high self-efficacy to migrate to and work in the U.S., but a low self-efficacy to maneuver the U.S. legal system. The officer mistakenly generalized their self-efficacy for this domain (he refers to it as self-esteem) to all domains.

In its real world application, specific self-efficacy informs one’s belief in the likelihood of successfully dealing with specific tasks. Research shows that one’s perceived specific self-efficacy will determine whether one pursues a given task at all,\(^11\) the selection of strategies employed,\(^12\) and how long one is willing to persevere in

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\(^8\) Bandura, _supra_ note 3.
\(^10\) _Id._ at 308.
confronting the task. In terms relative to this research, the issue is the perceived self-
efficacy of undocumented Hispanic immigrants to instigate or defend legal actions. There
is a developing body of literature focusing on this topic but not related to the studied
demographic. Extant literature focuses on the use of law as a means of empowerment in
third-world and developing countries using the terms “legal self-efficacy” (LSE) and
“subjective legal empowerment (SLE)”14 This literature focuses on empowering the
individual as opposed to community empowerment discussed in the previous chapter.
This research shows that LSE15 can be measured using Bandura’s criteria for constructing
a specific self-efficacy scale.16

Following Bandura’s methodology, I developed an eight-point scale to measure
undocumented Hispanic immigrants’ LSE.17 I formulated the scale based on my
experience as an attorney and in consultation with other attorneys knowledgeable of this
topic. The LSE scale was included in the survey as items 27-34. Respondents were asked
to state their level of confidence in completing each task in the LSE scale. Respondents
rated their confidence in completing each task on an 11-point response scale. On the
response scale, 0 indicated “I cannot do it,” 5, the scales midpoint indicated “I probably
can do it,” and 10 indicated “I definitely can do it.” Higher scores would indicate a higher

15 For convenience, I use the term legal self-efficacy or LSE to refer to this concept.
17 Bandura, supra note 9.
level of specific self-efficacy in handling legal matters. The LSE scale’s results are summarized in the following table.

**Table 73**: Survey Items 27 – 34: Specific LSE Scale, Mean Score, and Standard Deviation for Each Item

<table>
<thead>
<tr>
<th>Scale Item</th>
<th>N</th>
<th>Mean Score</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>27. I have the confidence to claim my legal rights if somebody treats me unjustly.</td>
<td>303</td>
<td>7.42</td>
<td>2.923</td>
</tr>
<tr>
<td>28. I have the confidence to face a police officer that’s treating me unjustly.</td>
<td>303</td>
<td>6.34</td>
<td>3.510</td>
</tr>
<tr>
<td>29. I have the confidence to search for and hire a lawyer if a legal trouble happens.</td>
<td>303</td>
<td>8.52</td>
<td>2.379</td>
</tr>
<tr>
<td>30. I have the confidence to solve a legal trouble, if it happens.</td>
<td>303</td>
<td>7.62</td>
<td>2.882</td>
</tr>
<tr>
<td>31. I have the confidence to recollect precise information of my rights.</td>
<td>303</td>
<td>7.93</td>
<td>2.704</td>
</tr>
<tr>
<td>32. I have the confidence to talk with police officers, lawyers and judges.</td>
<td>303</td>
<td>7.51</td>
<td>2.963</td>
</tr>
<tr>
<td>33. I have the confidence to get help from others when dealing with a legal trouble.</td>
<td>303</td>
<td>7.73</td>
<td>2.704</td>
</tr>
<tr>
<td>34. I have the confidence to go to a court appointment.</td>
<td>303</td>
<td>7.67</td>
<td>2.772</td>
</tr>
</tbody>
</table>

The specific LSE scale’s reliability was assessed for internal consistency and its validity assessed through its factor structure. Internal reliability was high with a Cronbach’s α of .917. A factor analysis (principal axis factoring) using all eight items and direct oblimin rotation was conducted, which resulted in a one-factor solution. The Kaiser-Meyer-Olkin measure of sampling adequacy was .92 and Bartlett’s test of sphericity was significant [$ \chi^2 (28) = 1555.95, p < .001$], which indicated that the sample was adequate for factor analysis. One factor with eigenvalues greater than 1 was extracted. This factor (eigenvalue = 4.780) explained 60% of the variance. Factor loadings ranged from .647 to .868.
Table 74: Specific Legal Self-Efficacy Overall Scale Results

<table>
<thead>
<tr>
<th></th>
<th>Frequency</th>
<th>Percent</th>
<th>Valid Percent</th>
<th>Cumulative Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Valid</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Confidence</td>
<td>9</td>
<td>2.7</td>
<td>2.8</td>
<td>2.8</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>1.2</td>
<td>1.3</td>
<td>4.1</td>
</tr>
<tr>
<td>2</td>
<td>4</td>
<td>1.2</td>
<td>1.3</td>
<td>5.3</td>
</tr>
<tr>
<td>3</td>
<td>8</td>
<td>2.4</td>
<td>2.5</td>
<td>7.8</td>
</tr>
<tr>
<td>4</td>
<td>11</td>
<td>3.3</td>
<td>3.4</td>
<td>11.3</td>
</tr>
<tr>
<td>Somewhat Confident</td>
<td>62</td>
<td>18.6</td>
<td>19.4</td>
<td>30.6</td>
</tr>
<tr>
<td>6</td>
<td>12</td>
<td>3.6</td>
<td>3.8</td>
<td>34.4</td>
</tr>
<tr>
<td>7</td>
<td>19</td>
<td>5.7</td>
<td>5.9</td>
<td>40.3</td>
</tr>
<tr>
<td>8</td>
<td>21</td>
<td>6.3</td>
<td>6.6</td>
<td>46.9</td>
</tr>
<tr>
<td>9</td>
<td>23</td>
<td>6.9</td>
<td>7.2</td>
<td>54.1</td>
</tr>
<tr>
<td>Total Confidence</td>
<td>147</td>
<td>44.0</td>
<td>45.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>320</td>
<td>95.8</td>
<td>100.0</td>
<td></td>
</tr>
<tr>
<td>Missing</td>
<td>14</td>
<td>4.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>334</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean Score</td>
<td>7.56</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The mean for the overall scale was 7.56 (n = 303, SD 2.26) indicating a strong level of perceived LSE among the respondents. From my qualitative data I expected a much lower overall scale score. However, this finding is not completely inconsistent with my qualitative data. While many interviewees expressed high confidence in maneuvering a matter through the legal system, others expressed a low level of confidence. Of the respondents in the LSE scale, 15% scored below the scale’s midpoint of 5.

The qualitative data indicated that lower scores on the LSE scale may correlated to age, gender, number of years in the U.S., and educational attainment. A binomial logistic regression was performed to ascertain the effects of these variables on the likelihood that participants would score below 5 on the LSE scale. Four outliers were identified and removed from the analysis. The logistic regression model was statistically significant, X²(4) = 23.514, p < .0005. The model explained 15% (Nagelkerke R²) of the
variance in low LSE scale scores. Gender was the only statistically significant predictor variable as shown in the table that follows. Females were 2.28 time more likely than males to score below a 5 on the LSE scale. This is consistent with past research finding lower LSE scale scores for females compared to males.\textsuperscript{18}

Table 75: Logistic regression predicting LSE scale scores based on age, years in the U.S., Gender, and educational attainment.

<table>
<thead>
<tr>
<th>Predictor Variable</th>
<th>B</th>
<th>SE</th>
<th>Wald</th>
<th>df</th>
<th>p</th>
<th>Odds Ratio</th>
<th>Lower</th>
<th>Upper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>.003</td>
<td>.018</td>
<td>.028</td>
<td>1</td>
<td>.867</td>
<td>1.003</td>
<td>.968</td>
<td>1.039</td>
</tr>
<tr>
<td>Years in U.S.</td>
<td>.089</td>
<td>.056</td>
<td>2.536</td>
<td>1</td>
<td>.111</td>
<td>1.093</td>
<td>.980</td>
<td>1.218</td>
</tr>
<tr>
<td>Gender</td>
<td>.823</td>
<td>.355</td>
<td>5.371</td>
<td>1</td>
<td>.020</td>
<td>2.278</td>
<td>1.135</td>
<td>4.570</td>
</tr>
<tr>
<td>No Formal Educ.</td>
<td></td>
<td></td>
<td>13.30</td>
<td>6</td>
<td>.039</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Some Elementary</td>
<td>-.795</td>
<td>1.294</td>
<td>.377</td>
<td>1</td>
<td>.539</td>
<td>.452</td>
<td>.036</td>
<td>5.705</td>
</tr>
<tr>
<td>Completed Elem.</td>
<td>.012</td>
<td>.969</td>
<td>.000</td>
<td>1</td>
<td>.990</td>
<td>1.012</td>
<td>.151</td>
<td>6.764</td>
</tr>
<tr>
<td>Some H.S.</td>
<td>1.616</td>
<td>1.183</td>
<td>1.866</td>
<td>1</td>
<td>.172</td>
<td>5.031</td>
<td>.495</td>
<td>51.123</td>
</tr>
<tr>
<td>Completed H.S.</td>
<td>-.877</td>
<td>.658</td>
<td>1.777</td>
<td>1</td>
<td>.183</td>
<td>.416</td>
<td>.115</td>
<td>1.511</td>
</tr>
<tr>
<td>Some College</td>
<td>.338</td>
<td>.686</td>
<td>.243</td>
<td>1</td>
<td>.622</td>
<td>1.403</td>
<td>.366</td>
<td>5.379</td>
</tr>
<tr>
<td>Completed Coll.</td>
<td>-.765</td>
<td>.745</td>
<td>1.055</td>
<td>1</td>
<td>.304</td>
<td>.465</td>
<td>.108</td>
<td>2.004</td>
</tr>
<tr>
<td>Constant</td>
<td>.777</td>
<td>.879</td>
<td>.783</td>
<td>1</td>
<td>.376</td>
<td>2.176</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

These data confirm in part my qualitative findings that some members of Nashville’s undocumented community lack the LSE to successfully maneuver the legal system. I say the quantitative data supports my qualitative data in part because the overall level of LSE of the respondents was higher than I expected. For the 15% of respondents that reported a LSE below the midpoint of 5, LSE in effect becomes a mental barrier to asserting their rights within the legal system. As expected, females are more likely than males to perceive their LSE as low. However, the survey indicated that age, educational attainment, and number of years lived in the U.S. are not valid predictors of

\textsuperscript{18} Gramatiko, supra note 14.
LSE. Overall, the qualitative and quantitative data confirmed that the low LSE is a component part barring their utilization of the legal system.
CHAPTER XIII

Summary, Conclusions, and Recommendations

Summary:

The U.S. has a lengthy and complex immigration history with its southern neighbors. The U.S.’ long, unprotected border with Mexico traditionally permitted Mexicans and Americans to cross the border freely. In 1848, Mexico ceded nearly one-half of its territory to the U.S., which ended the Mexican-American War. Between 75,000 and 100,000 Mexicans living in the relinquished areas became U.S. citizens, which divided the Mexican families that traversed the border. After the Mexican-American War, Mexicans continued to cross the border to the ceded areas without restriction. Immigration patterns during this time were seasonal and temporary. Typically, Mexican men came to the U.S. to labor predominantly in agricultural jobs and returned to Mexico and their families once their work was completed.

At the end of the nineteenth century, Dictator Porfirio Diaz came to power in Mexico and implemented various policies to modernize the country. Diaz’s privatization of communal farming lands displaced rural Mexican farmers, forcing them to seek work for wages. The U.S.’ strong economy provided jobs and Diaz’s investment in the Mexican rail system provided direct access to Texas. Mexican migration under Diaz’s rule increased significantly and accelerated during the Mexican Revolution that sought to remove Diaz from power. By the end of the Mexican Revolution, migration to the U.S.
rivaled European migration of the late nineteenth century. By 1920, approximately 1.3 million Mexicans lived in the U.S. predominately in states bordering Mexico.

Xenophobia and nativism spurred on by the Great Depression caused anti-immigrant backlash in the U.S. Congress passed legislation making illegal entry into the U.S. a felony and an estimated two million Mexicans were forcibly repatriated, which strained the U.S.’ relationship with Mexico. This relationship deteriorated further when Mexican President Lazaro Cardenas expropriated American holdings in Mexico in 1938. World War II forced the U.S. to reverse its position when conscription caused it to suffer labor shortages. Mexico declared war on the Axis Powers and contributed to the war effort with the Braceros Program that supplied needed laborers to the U.S. The Braceros Program continued until 1964 when the U.S. unilaterally ended it due to public uproar over the living conditions and treatment of Mexican laborers. With no replacement guest worker program, the U.S. began an era of relying on undocumented Mexicans to meet its then annual need of 500,000 laborers. As time passed, the number of undocumented Mexican laborers in the U.S. steadily increased.

In the 1980s, unrest in Central America pushed migrants principally from El Salvador, Honduras, and Guatemala to the U.S. which added to the U.S.’ population of undocumented Hispanic immigrants. By 1989, the U.S.’ population of undocumented immigrants stood at 5.1 million. Prompted in part by economic crisis, anti-immigrant fervor swept the U.S.

In 1986, Congress passed the Immigration Reform and Control Act to curtail the influx of undocumented Hispanic immigrants. This legislation legalized over two million previously undocumented immigrants. This failed to quell Americans’ anti-immigrant
feelings and in 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act. This legislation in effect militarized the border and disrupted migration patterns, particularly for Mexicans who were no longer able to freely cross the border. New financial costs and the risk of capture and detention prompted immigrants to seek permanent settlement for entire families in the U.S.

By 2014, an estimated 11.2 million undocumented immigrants lived in the U.S., of which 9.1 million were of Hispanic descent. The U.S.’ militarization of the border also ended herd migration. Immigrants now relied on family and personal networks between the sending and the receiving locales to migrate.

Many of these networks included the 2.3 million Mexicans whose migration status was legalized by the Immigration Reform and Control Act of 1986. These newly “legalized” immigrants were long-term residents of the U.S. and were acclimated to American culture. They had no incentive to remain in border states competing with undocumented Hispanics for low-wage jobs. Many moved to America’s heartland, which created new gateway destinations for immigrants.

By 2013, Mexico became the top country of immigrant origin for 33 states. The South “pulled” immigrants from the border states with its economic growth and the border states “pushed” them away with anti-immigrant policies. Tennessee’s economic boom and Nashville’s need for construction workers brought an estimated 123,000 Hispanic immigrants to the city’s MSA.

Much of this population settled in a Hispanic enclave along Murfreesboro Road and Nolensville Road as it offered affordable housing. Once established, these legalized immigrants assisted undocumented immigrants in relocating to the U.S. Nashville
became a destination city for undocumented Hispanic immigrants and now has an estimated 43,000 to 44,000 residing in its MSA.

Undocumented Hispanic immigrants in the U.S. find themselves living in a highly legalistic culture particularly in comparison to their native countries. Without recourse through the U.S. legal system, undocumented immigrants are vulnerable to victimization. The literature demonstrates that undocumented immigrants suffer higher levels of civil victimization such as wage theft, denial of workers’ benefits, and substandard housing. Their illegal status also makes them easy prey for criminal victimization such as robbery and IPV. American society must ensure that all its members are treated justly regardless of immigration status.

In addition to the harm inflicted on the undocumented immigrants, American society is unable to punish perpetrators for their conduct and law enforcement is not able to adequately police some communities. Ultimately, greater American society may perceive these shortfalls as unjust governance eroding faith in governmental systems and beliefs that the government lacks legitimacy.

These concerns prompted this research. I sought to identify barriers keeping undocumented immigrants from utilizing the U.S. legal system in addition to the fear of deportation. Nashville’s undocumented population presented a good source of data. Nashville is not a sanctuary city, but it is considered friendly at this time to the undocumented community. Fear of deportation was not a significant concern when this research began in February 2015. However, as noted, the fear of deportation increased drastically with the election of U.S. President Donald Trump.
The philosophical approach to this research was interpretivist, which explains social reality as a shifting construct based on personal and social experience. The research paradigm is constructivists, which seeks to understand how individuals and communities give meaning to events not necessarily rooted in reality, but based on the individual and community’s perceptions of events. Individual experiences, community social interactions, and cultural and historical norms ground these perceptions. This paradigm is necessary because some of the barriers are not “real,” but merely perceived as “real” by the undocumented community.

I utilized a modified version of classical grounded theory to produce qualitative data principally from semi-structured individual interviews. From the qualitative data, I identified eight themes as barriers to this community utilizing the U.S. legal system. A survey instrument consisting of 69 items was prepared to add thickness to the research. I administered the survey to a non-random sample of 334 undocumented Hispanic immigrants living in Nashville. While not generalizable, the survey’s quantitative data helped support or reject themes that appeared in the qualitative data. These data as a whole indicated the eight prevalent barriers to be: 1) fear of deportation, 2) structural barriers, 3) cultural barriers, 4) perceived discrimination, 5) unawareness of legal rights, 6) unawareness of the U.S. legal system’s processes and structure, 7) lack of community empowerment, and 8) lack of specific legal self-efficacy.

To gauge the effect of the fear of deportation, I developed a seven-item “deportation threat dynamic” scale that was included in the survey. Reliability statistics (n = 306, M = 2.22, SD = 1.13, α = .88) and factor analysis (principal axis factoring) using all seven items and direct oblimin rotation was conducted, which resulted in a one-
factor solution. The scale’s mean score of 2.24 was below the scale’s midpoint of 3 indicating that the fear of deportation was not an absolute barrier to the respondents’ decision to utilizing the legal system. This quantitative data confirmed my qualitative data and findings.

From the qualitative data, I hypothesized that undocumented Hispanic immigrants are more likely to report crimes if the crime is deemed serious. This hypothesis was also supported by the survey data. A paired samples t-test using a bootstrap estimation approach with 1,000 samples was conducted to investigate the hypothesis that undocumented Hispanic immigrants are more likely to report crimes if their fear of deportation is low and the crime is deemed serious.

First, participants reported that they were more likely to report a crime if the crime they witnessed was a major crime like rape of a woman (M = 1.88, SD = 1.39) than if it was a minor crime like theft of $20 (M = 2.36, SD = 1.55) and this difference was significant, t (313) = 5.84, p = .001. Next, participants reported that they were more likely to report a crime if they were the victim of a major crime, such as a brutal assault (M = 1.90, SD = 1.45) than if they were the victim of a minor crime like theft of $20 (M = 2.35, SD = 1.58) and this difference was also significant, t (313) = 5.18, p = .001.

Two additional hypotheses were tested with the quantitative data. They were: 1) the fear of deportation will be lowest for those with longer residence in the U.S., higher levels of education, and have no minor children, and 2) the fear of deportation will be highest for those with shorter residence in the U.S., lower levels of education. The results of the regression indicated that both education level, (b = -.139, SE = .05, p = .007), and
years residing in the U.S., (b = -.06, SE = .02, p = .011), were significant predictors of deportation scale mean scores.

The average mean score among all participants was 3.05. For every 1-unit increase in education level, the deportation scale mean score dropped by .139. Additionally, for every year respondents resided in the U.S., the deportation scale mean scores dropped by .056. However, the number of minor children that a participant had living in the U.S. did not significantly predict the deportation scale mean scores (b = .08, SE = .05, p = .138).

As expected, the fear of deportation decreased the longer immigrants lived in the U.S. The fear of deportation also was lower for those who had higher levels of education. I anticipated that those with minor children living in the U.S. would have a heightened level of fear of deportation due to the risk to the family and children. However, the statistical analysis did not support this finding. Overall, the qualitative and quantitative data confirmed that the fear of deportation is a component part barring their utilization of the U.S. legal system, but is not an absolute barrier.

These data also exposed various structural barriers barring their utilization of the legal system. Structural barriers are barriers that exist “within the social world itself and not only within symbolic systems … objective structures independent of the consciousness and will of agents, which are capable of guiding and constraining their practices or their representations.”¹ The most commonly identified social barriers were legal status, language, educational attainment, and income.

Legal status as a structural barrier differs from the fear of deportation. It refers to laws and governmental policies intended to deny benefits to undocumented immigrants in the U.S. A litany of federal, state, and local laws exists in the U.S. aimed at denying various benefits to undocumented immigrants, thus affecting every aspect of their lives, including employment, housing, and education. Most salient to this research are laws and regulation restricting their access to free or low-cost legal services and driver’s licenses.

Language is also a venerable structural barrier for the undocumented across the legal system. Many speak little or no English. Some speak conversational English but lack adequate proficiency for complex discourse. Some speak English well, but are unable to read English. Some speak Spanish but are unable to read Spanish. When surveyed, only 23% unequivocally agreed with the statement, “I speak English well enough to communicate with officials, such as police officers and judges.” The majority of respondents (56%) were unable to agree with the statement on any level.

Key informants identified low levels of educational attainment as a structural barrier for undocumented Hispanic immigrants. Forty-nine percent of respondents had not completed the equivalent of high school, which is consistent with extant research finding 50% of all undocumented immigrants lacked the equivalent of a high school education. Income was also identified as a significant structural barrier. Most

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3 MIGRATION POLICY INSTITUTE, supra note 3. These percentages are for all undocumented immigrants in the U.S. and not just Hispanics.
undocumented immigrants are employed in low-wage jobs with limited opportunity for advancement due to their legal status.

Forty percent of respondents said hiring a lawyer would place some financial hardship on them and nearly the same percent (38.7%) said missing work to address a legal matter would place a financial hardship on them. Less than half of all respondents (48.9%) believed they could access free information about their legal rights. Only 43.6% thought that free or low cost legal advice was available to them.

My research also identified cultural factors barring undocumented Hispanics use of the legal system. Culture consists of “information capable of affecting individuals’ behavior that they acquire from other members of their species through teaching, imitation, and other forms of social transmission.” Cultural barriers are organic to the individual or sub-group, unlike structural barriers which arise externally and are beyond their control. Dominant cultural barrier themes developed from these data include the legal culture in their native countries, traditional family and gender roles, and religiosity.

The qualitative data indicated that undocumented immigrants’ native legal cultures do not rely on formal processes to correct wrongs. They view their native legal systems as corrupt and not relevant to their lives. However, they do not view the U.S. legal system as corrupt and perceive U.S. government officials as trustworthy. Finally, many fear retaliation if they utilize the U.S. legal system likely resulting from experiences in their nations of origin. Various items were incorporated into the survey to further test these themes.

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Relative to legal culture, the majority of respondents (63.8%) believed Americans are too quick to go to court to correct wrongs. Fifty-eight percent of respondents believe the judges, police, and government officials in their birth country are corrupt. Contrary to the qualitative data, 27.1% of respondents rejected the notion that judges, police, and government officials in their birth nations were corrupt. Only 22.6% of respondents believed that their native countries’ governments were relevant to their lives. In contrast, only 16.6% of respondents believe the U.S. legal system is corrupt with the slight majority (50.6%) outright rejecting the notion.

Twenty-one percent (21%) of respondents said they do not trust American police officers, but somewhat inconsistent with my qualitative data, 47.1% stated they do trust them. Forty-seven percent of respondents trust American judges with only a quarter (25.3%) of respondents stating they distrust them. When asked if U.S. government officials can be trusted, 38.8% found them trustworthy while a quarter of respondents (24.7%) found them untrustworthy.

The majority of respondents (65.5%) said the fear of retaliation would not prevent them from reporting their criminal victimization. Nearly an equal percentage (63.7%) of respondents said the fear of retaliation would not prevent them from reporting a crime they witnessed. These quantitative findings are somewhat inconsistent with my qualitative data. From my qualitative data, I expected the fear of retaliation to be a stronger force in this community.

The qualitative data also showed that traditional family values and gender roles influenced undocumented immigrants from using the legal system. This is principally a concern for females in the context of IPV. A central tenet of Hispanic culture is
dedication to their nuclear and extended family or familismo. Familismo emphasizes
closeness, interconnectedness, loyalty, and solidarity with one’s family. It affects both
attitudinal and behavioral norms influencing how Hispanics view their responsibilities
and obligations to family.

Additionally, Hispanic culture embraces traditional gender roles for men and
women, especially among recent immigrants. Machismo necessitates Hispanic men be
tough and responsible and that Latinas serve traditional feminine roles of wife and
mother or Marianism. Sixty-eight percent of respondents rejected the statement, “The
police and courts should never become involved in a family dispute even if someone gets
injured.” What is more telling about this item’s data is that 32% were unable to reject the
statement. This is consistent with my qualitative data and extant literature indicating
many in this community are unwilling to report IPV.

Religiosity was another strong cultural barrier identified in the qualitative date.
The qualitative data and extant literature reveals that religion is very important in the
lives of Hispanics in general, and undocumented Hispanics rely on their religion to cope
with hardships. Religious coping is not as much a barrier to the legal system as it is an
alternative to using the legal system by “lumping” their hardships. Thirty-five percent of
respondents indicated they attended church weekly which is below the U.S.’ national
average of 45%. Only 14.5% reported never attending church services. Sixty-six percent
said their religion is very important to them with only 13.6% rejecting the notion. Nearly
one-half (48.9%) of respondents believed that only God controls their fate while 31.4%

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5 Gregory A. Smith, U.S. Public Becoming Less Religious, PEW RESEARCH CENTER (Nov. 2015).
rejected this view. These quantitative findings support my qualitative data indicating that many in this community remedy hardships with religious coping.

Real and perceived discrimination as a barrier to the legal system was another theme that developed from the qualitative data. Many undocumented interviewees spoke of their belief that the legal system would not treat them fairly due to their ethnicity, phenotype, or immigration status. These narratives were based on a mixture of personal and vicarious experiences with the U.S. legal system. This perception disincentivizes undocumented Hispanics from using the legal system. Many key informants also believed that actors within the legal system were biased against this community and provided examples of actual discriminatory conduct.

To further gauge the extent of these beliefs, I developed a 10-item perceived discrimination scale. While the scale was both reliable and valid, it did not lend significant support to the discrimination theme. The perceived discrimination scales overall mean of 2.82 (n = 321, SD = 1.09943, α = .943) was below the scales midpoint of 3 indicating that the overall level of perceived discrimination across this population is lower than the qualitative data revealed but not completely inconsistent with those findings. Examining the individual items shows that 31.5% of respondents believe that U.S. judges discriminate against Hispanics in general, and 38.9% believed U.S. judges discriminate against undocumented immigrants.

When asked if U.S. judges impose higher fines on Hispanics compared to non-whites, one-third (33.3%) of respondents believed they do, and 37.6% believe U.S. judges give Hispanics longer jail sentences than non-Hispanic whites. One-third (33%) of respondents said they expected that judges would impose a higher fine on them because
they are undocumented, and 38.6% expected that judges would give them a longer jail sentence because of their immigration status. Thirty-five percent of respondents believed police target Hispanic unfairly, and 36.6% believe police target undocumented Hispanics.

Dissecting the perceived discrimination scale reveals that approximately one-third of respondents believed the courts and law enforcement discriminate against undocumented Hispanics, and slightly more than a third of respondents expected to experience overt discrimination by the judicial system. This finding is consistent with the qualitative data and supports the finding that many undocumented Hispanic immigrants believe the legal system will treat them unfairly. This belief dissuades them from utilizing the legal system.

Unawareness of legal rights as a barrier to the legal system was another major theme to develop from the qualitative data. I define a legal right as any benefit, entitlement, power, or duty derived from statutes, regulations, and judicial precedent. This broad definition includes positive rights that can be asserted, as well as the negative duty to not violate the law. Unawareness of legal rights hinders one’s ability to “name, blame, and claim” their rights when harmed and can also lead to unintentional violation of legal duties. Many, if not most, of the undocumented interviewees articulated or demonstrated a complete unawareness of their legal rights in the U.S. Key informants affirmed that unawareness of legal rights worked to bar undocumented immigrants’ use of the U.S. legal system.

I included several items in the survey instrumental in helping validate my qualitative findings concerning unawareness of legal rights. Of the 314 respondents to

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complete this section, 42.7% said they knew their legal rights in the U.S. In contrast, 29.6% said they were legally required to speak to the police during a criminal investigation even if they did not want to. The Fifth Amendment right to remain silent is a hallmark of American jurisprudence. Comparing the data from these two items indicates that some portion of the 42.7% who said they knew their rights in the U.S. were overestimating their knowledge.

Sixty-one percent knew that a police officer could not stop them just on a hunch that they were undocumented. More revealing is that 39% of respondents did not know whether this was lawful police behavior. During my field research, immigrants frequently discussed this very issue. Most immigrants I encountered knew the police could not stop them just because they might be undocumented. Awareness of this legal right is crucial to their day-to-day exists and becomes an issue in their limited legal socialization. Only 37.8% knew the police could not search their vehicle without cause and over their objection while a slightly greater percentage of 38.8% believed this was lawful police behavior.

I chose age of consent as the topic of unawareness of substantive law because both immigrants and key informant routinely raised it as a concern during my field research. Many mentioned statutory rape as an unintentional legal violation that entangled undocumented males. Additionally, I expected most Tennessee residents to know the age of consent for a female to engage in sexual conduct with an adult male to be 18. Only 34% of respondents knew that 18 was Tennessee’s age of consent and 63.8% did not know the age. Much akin to proving a negative, it is difficult to gauge one’s unawareness of legal rights. These quantitative findings are not generalizable, but provide
additional insight to the phenomena. They are consistent and support my qualitative finding that legal unawareness functions as a barrier to the legal system.

Another major theme to develop from the qualitative data was that unawareness of legal processes and structure barred undocumented immigrants from using the legal system. This barrier is similar to unawareness of legal rights, but it is distinctively different. Immigrants may forgo legal rights because they are not cognizant of the law. However, unawareness of the legal system’s processes and structures forces them to make decisions of a legal nature on non-rational bases. This results in non-decisions or irrational decisions based on intuition and emotion creating a barrier to the legal system.

During my field research, undocumented interviewees expressed or demonstrated a general unawareness of legal processes including: 1) when it is appropriate to use 911, 2) judicial functions versus law enforcement’s, 3) the juvenile court’s role, 4) what an order of protection means, 5) the various processes to enforce employment rights, 6) their obligations under building and zoning ordinances, etc. I included several items in the survey instrument to further gauge their general unawareness of legal process.

Only 14.9% of respondents said they knew enough to understand the legal process without assistance. When asked if they understood the U.S. justice system, only 22.2% responded affirmatively. I included two items concerning provision of an interpreter in a criminal case and payment judge’s “fee” in a civil case. These items were intended to gauge specific unawareness. When asked, “If I am charged with a crime, I must bring my own interpreter to court,” only 37.4% knew this was false. When asked, “If I bring a lawsuit and lose, I must pay the judge’s fee directly to him,” only 43.3% knew this was
false. While these data do not support a generalized finding, they are consistent with my qualitative findings and provide insight into this phenomenon.

From the qualitative data, I identified three routine areas of unawareness affecting this community. These are the hiring of notaries for legal services based on a mistaken belief that American notaries have the same role as a Notario Publico in their native countries. Second, they retain unscrupulous and incompetent lawyers who worsen their circumstances. Lastly, they lack an understanding of local, state, and federal actors in immigration enforcement.

Unawareness of these areas is particularly harmful to the undocumented community. In these scenarios, they have identified or “named” a legal need and sought guidance from either a notary or unscrupulous lawyer. Trusting their chosen representative, they frequently do not realize their situation was worsened or they wasted valuable resources until it is too late. They face similar outcomes being unaware of the difference between federal, state, and local actors in immigration enforcement. Many chose to forgo benefits and entitlements distributed principally by local and state agencies that have no interest in their legal status.

Of these specific areas, by far the most significant barrier is the hiring of notaries. Various government agencies and NGOs have worked to educate the undocumented Hispanic community about the differences between American notaries and Notarios Publicos. The Tennessee Attorney General has prosecuted several notaries and Tennessee law now requires all notaries to disclose they are not lawyers in their advertisements. I wanted to gauge whether these efforts were successful. Respondents were asked if American notaries were the same as Notarios Publicos in their native countries.
Unfortunately, only 11.4% of respondents knew that they were not the same. Again, the results of this item do not support a generalized finding, but they are consistent with the qualitative finding and provide insight into this phenomenon.

Another major theme observed in the qualitative data was that the undocumented community lacks both personal and community empowerment, thus creating a barrier to the legal system. Many interviewees felt isolated from the greater Nashville community. They described how their immigration status kept them from controlling their own destinies and voiceless in the greater community. Key informants from several NGOs described how their organizations worked to empower Hispanic immigrants and undocumented Hispanic immigrants. A city councilman and a local criminal judge explained their efforts and disappointment with the lack of participation by the Hispanic community.

There is no standardized definition of empowerment among the various disciplines that use the term. For this project, I adopted Gutierrez’s definition that empowerment is “the process of increasing personal, interpersonal, or political power so that individuals, families, and communities can take action to improve their situations.”\(^7\)

Empowerment is not a single variable concept, but instead constructed from multiple variables and indicators. Unfortunately, there is no consensus in the literature of what underlying variables and indicators construct empowerment. I used criteria adopted by the World Bank because of its significant contribution to studying the concept and efforts empowering third world communities. The World Bank has identified four indicators underlying the empowerment of marginalized communities. These four indicators are: 1)

access to information, 2) inclusion and participation, 3) accountability, and 4) local organizational capacity.\textsuperscript{8}

Using the World Bank’s criteria, I developed a 12-item community empowerment scale to gauge the undocumented community’s level of empowerment. Initial testing of the scale (n = 50, \( \alpha = .717 \)) supported the scale’s marginal reliability and confirmatory factor analysis indicated validity, but very weakly. However, the final sample (n = 309 – 314) failed to support the scale’s validity or reliability. Although the scale as a whole was not helpful, its component items provide insight into this phenomenon at least according to the World Bank’s criteria.

Relevant to the criteria of accessing information, respondents were asked if legal advice was available to them either free or at reduced cost. Forty-three percent (43\%) of respondents agreed this information was available while 27\% rejected the notion. Forty-nine percent (49\%) of respondents agreed they could access information about their legal rights without cost, but 29.2\% disagreed. This result demonstrates that a portion of this community (27-29\%) lacks access to information.

Relevant to criteria of inclusion and participation, respondents were asked if they felt fearful when they leave areas where they live and work. Fifty-five percent (55.4\%) of respondents disagreed, but a quarter of respondents (24.9\%) have some level of fear. When asked if Americans accept them as part of the community, 31.7\% said no. Sixty-one percent (61\%) of respondents now see the U.S. as their home instead of their native countries, but 20.5\% do not. This result supports my qualitative findings that many in the undocumented community do not feel included in the community.

Relevant to the criteria of accountability, respondents were asked if their opinions could influence local and state officials. Thirty-eight percent (38%) of respondents said no. Sixteen percent (16%) said they would not contact a local or state official for assistance and 42.1% said local official are not concerned with their rights.

Relevant to the criteria of local organizational capacity, respondents were asked about local organizations and their participation. Only 43% of respondents knew of individuals or organizations that had taken a leadership role in protecting the rights of undocumented Hispanics. When asked if they belonged to social or community organizations other than their church, only 19.7% said they did.

These quantitative data are consistent with my qualitative data and supports my finding that Nashville’s undocumented Hispanic immigrants are not empowered at the community level according to the World Bank’s criteria. Without community empowerment, undocumented Hispanic immigrants do not seek to enforce their rights through the legal system in effect creating a barrier to its use.

The qualitative data also indicated that some undocumented immigrants have low self-confidence that may bar their utilizing the legal system. This theme developed more from key informant interviews than it did with the undocumented immigrant interviewees. Key informants were objective in their assessments probably unlike the undocumented interviewees who would be forced to acknowledge a perceived deficiency in their capabilities. Typical narratives were that undocumented immigrants would: 1) not question police authority, 2) agree with anything an opposing lawyer said in court, 3) not assert their rights alone but had to have group support, 4) agree with judge’s statements, and 5) find it difficult to testify during legal proceedings. In addition, every NGO I
encountered during my research had a mission of individual and community empowerment indicated that they observed a lack of individual empowerment within the undocumented community. This was a week theme in the qualitative data, but I found enough of a pattern to explore the matter further.

The theme arising from the qualitative data was that undocumented Hispanic immigrants lack specific self-efficacy to manage legal issues. Self-efficacy is one’s perceived ability to complete certain tasks and exert influence over the circumstances in their lives. Self-efficacy is distinct from self-esteem, or one’s general feeling of self-worth, and self-confidence, the belief in one’s personal value and likelihood of success. Self-confidence is a combination of self-efficacy and self-esteem. There is an emerging body of literature addressing the use of law as a means of individual empowerment in third-world and developing countries using the terms “legal self-efficacy” (LSE) and “subjective legal empowerment” (SLE). This body of literature is helpful to understanding this issue with Nashville’s undocumented Hispanics.

Using Bandura’s methodology,9 I developed an eight-item scale to measure undocumented Hispanic immigrants’ LSE. I formulated the scale items based on my experience as an attorney and in consultation with other attorneys knowledgeable of this topic. Respondents were asked to state their level of confidence in completing each task in the LSE scale. Respondents rated their confidence in completing each task on an 11-point response scale. On the response scale, 0 indicated “I cannot do it,” 5, the scales midpoint indicated “I probably can do it,” and 10 indicated “I definitely can do it.”

Higher scores would indicate a higher level of specific self-efficacy in handling legal matters.

The LSE scale’s reliability was assessed for internal consistency and its validity assessed through its factor structure. Internal reliability was high with a Cronbach’s α of .917. A factor analysis (principal axis factoring) using all eight items and direct oblimin rotation was conducted, which resulted in a one-factor solution. The Kaiser-Meyer-Olkin measure of sampling adequacy was .92 and Bartlett’s test of sphericity was significant [χ2 (28) = 1555.95, p < .001], which indicated that the sample was adequate for factor analysis. One factor with eigenvalues greater than 1 was extracted. This factor (eigenvalue = 4.780) explained 60% of the variance. Factor loadings ranged from .647 to .868.

The mean for the overall scale was 7.56 (n = 303, SD 2.26) indicating a strong level of perceived LSE among the survey pool. From my qualitative data I expected a much lower overall scale score. However, this finding is not completely inconsistent with my qualitative data. While many interviewees expressed high confidence in maneuvering a matter through the legal system, others expressed a low level of confidence. Of the respondents in the LSE scale, 15% scored below the scale’s midpoint of 5.

The qualitative data indicated that lower scores on the LSE scale may correlated to age, gender, number of years in the U.S., and educational attainment. A binomial logistic regression was performed to ascertain the effects of these variables on the likelihood that participants would score below 5 on the LSE scale. Four outliers were identified and removed from the analysis. The logistic regression model was statistically significant (X2(4) = 23.514, p < .0005). The model explained 15% (Nagelkerke R2) of
the variance in low LSE scale scores. Gender was the only statistically significant predictor \( (p < .02) \) variable. Females were 2.28 time more likely than males to score below 5 on the LSE scale. For the 15% of respondents that reported a LSE below the midpoint of 5, LSE in effect becomes a mental barrier to asserting their rights within the legal system. Overall, the qualitative and quantitative data confirmed that the low LSE is a component part of barring their utilization of the legal system.

**Conclusions and Recommendations:**

This research demonstrated that there is no definitive, single variable barrier undocumented Hispanic immigrants encounter in utilizing the U.S. legal system. Rather, the various identified barriers work in unison barring their use of the legal system. How great each factor’s influences the decision to avoid the legal system is dependent on the immigrant’s life experience, location, and time. For those living in friendly locales like Nashville, the fear of deportation may not be a major concern. Other factors such as perceived discrimination or unawareness of the law may take on greater roles in barring their access. The intersectionality of these malleable barriers bars their use of the legal system.

This research exposes a very complex problem with no simple remedy. Since the Braceros Program ended in 1964, the U.S. has adopted an implicit immigration policy of relying on illegal immigration to supply needed labor. This strategy provided U.S. businesses with cheap labor with a strong work ethic driven by fear of returning to their native countries. At the same time, many Americans see undocumented Hispanics as a threat to the U.S. and want them deported. In many ways, past efforts to quiet public
concerns has only worsened the public’s perception of the issue. What was once only a concern for those living in the border states is now a nationwide issue. It may be impossible to adopt policy that will satisfy these competing concerns. This is particularly true given the Trump administration’s immigration stance.

The Trump administration and the Tennessee Legislature have intentionally undermined Nashville’s efforts to reassure its undocumented population that they are safe from deportation. Fear of deportation is at a new level with the election of Mr. Trump and Tennessee law now requires local law enforcement agencies to cooperate with federal immigration enforcement. These policy changes have diminished the El Protector Program’s years of effort in the community discussed in Chapter V. That is not to say Nashville should abandon the El Protector Program, but only that the job is more difficult. Revision of the El Protector Program should start with the addition of more Hispanic officers.

When I completed my field research, there was only one officer in the program. This is not enough to connect the Nashville Police Department (NPD) with Nashville’s large and growing Hispanic population. El Protector needs to focus on educating the undocumented community about the NPD’s involvement in the immigration process. Specifically, that the Sheriff’s Office is obligated to notify ICE if an undocumented immigrant is arrested, what minor crimes mandate arrest, and how they can reduce the risk of arrest. This outreach must make them aware that witnessing a crime or being a crime victim will not prompt immigration issues. In fact, it may help them secure authorization to remain in the U.S. under various immigration laws.
The NPD must also look at training their officers on evenhanded enforcement. Unless directed otherwise by general orders, officers typically have the discretion to arrest an offender. If NPD has officers who arrest a higher percentage of Hispanics or undocumented Hispanics compared to non-Hispanic whites, it may be a failure of training or discriminatory conduct. Additionally, NPD needs to integrate further by hiring more officers of Hispanic decent and Spanish language skills outside its El Protector Program. Hispanic and Spanish speaking officers will not only serve as liaisons with the Hispanic and undocumented community, their presence can moderate any aversive racism that may exist within the NPD.

The same is true for Nashville’s courts, prosecutors, public defenders, city council, and the various municipal agencies tasked with enforcing local law. Many Hispanics and undocumented Hispanics believe that these institutions discriminate against them because of their ethnicity and/or immigration status. Not seeing Hispanics in these important roles only fosters this perceived discrimination. These institutions can reduce this perception by hiring Hispanic and Spanish-speaking employees. Additionally, integration of Hispanics in the workplace will address aversive and overt racism that may exist within these institutions. Nashville made some progress toward this goal on May 1, 2018, when Nashvillians elected Anna Escobar as the city’s first ever Hispanic judge.

Nashville’s Hispanic focused NGOs can effectively lead the effort in two ways. First, these NGOs have a political voice with Nashville’s left-leaning government and can push city policies that encourage integration. Second, they have grassroots access to the Hispanic community and can encourage Hispanics to seek these political roles. These strategies may conflict with campaign finance laws and nonprofit tax prohibitions. To
best address the political issues effectively, stakeholders could establish a local Hispanic political action committee to focus on local races. This is also the best way to empower the undocumented community that cannot vote, but can participate in the political process in other ways.

Stakeholders should provide information and education to address the other barriers identified such as unawareness of legal rights, unawareness of legal processes and structure, cultural barriers. Education must focus on legal rights and duties as well as cultural differences in the U.S. This is a primary goal of several of Nashville’s Hispanic focused NGOs. The difficulty is in reaching a population that wants to remain hidden. Not to be critical, but during my field research, I heard complaints from past and present NGOs staffers that some of the NGOs had grown so large that they lost their community focused mission. Some NGOs now expect the community to come to them instead of them going into the community. If this change has occurred, NGOs may miss the opportunity to support undocumented immigrants who may be distrustful and live isolated lives. I also noted that several of the NGOs had strong grassroots community programs. It is a difficult balance to achieve.

Personal contact is the preferred means of conveying information, but even if it were feasible, it would require substantial resources. Nashville offers free Spanish print, television and radio media. Several key informants estimated 10% of Nashville’s undocumented Hispanic immigrants were illiterate, and as the survey bore out, many have just an elementary education. Print media reaches some but not all immigrants. Television and Internet also have their limitations. Many do not have the free time to watch television or surf the web for information or even have internet access. I concluded
that local Hispanic radio is the most economical and effective way to reach this community. I encountered many who were aware of the El Protector Program because of scheduled radio broadcast. Many were knowledgeable of immigration law from attorney radio “infomercials.” At the same time, they could not identify any of the NGOs. The El Protector Program has capitalized on this media platform.

The NPD is another stakeholder that needs greater involvement in educating and informing this community. The NPD is a critical stakeholder in this effort. Without community participation, it cannot effectively police the undocumented community. The NPD is tasked with two missions within this community. First, it must ensure that victims and witnesses of criminal conduct come forward and participate in the process. Second, it must take steps to reduce crime by informing the undocumented community of their legal obligations. To do this, it must revise its El Protector Program and develop other strategies to inform and educate the undocumented community. Written information on an elementary reading level should be direct and to the point. The NPD can arrange distribution of these items at businesses, parks, and churches frequented by the undocumented community. The NPD can also publish this information in Nashville’s free Spanish language newspapers.

Limitations and Future Research:

My research was an extensive review of the issue, but there is a need for additional research. First, this research is limited to the undocumented Hispanic community in Nashville, Tennessee. This community may not be representative of other undocumented communities in the U.S. Additionally, this project suffers the typical
shortfalls of accessing a hidden population. During the qualitative prong of my field research, I attempted to locate a diverse sample from this community to minimize this effect. However, it is not known if my qualitative data is even representative of Nashville’s undocumented community as a whole. In addition, while my quantitative survey data supports my qualitative findings in general, it was not secured from a random sample. Therefore, these findings are not generalizable across the U.S.’ undocumented Hispanic population.

There is immense opportunity for additional research of this topic. Foremost is the opportunity to gauge the change within this community after the election of Donald Trump. Mr. Trump’s election changed the political landscape for the undocumented community and dimmed efforts to provide them access to the U.S. legal system. My informal interactions with the community after Mr. Trump’s election indicated that the fear of deportation is now a prime concern for many. Whether that effect is present in sanctuary cities and states is not clear. How it affects the undocumented in non-friendly locales is unclear. Even among Nashville’s undocumented community, I do not believe the fear of deportation is now a single variable barrier to the legal system. Undocumented Hispanics who are long-term residents of the U.S. have mastered the ability of staying unnoticed and have reverted to those learned skills in this new era. Long-term residents have observed anti-immigrant fervor wax and wane over time and expect it to decrease in short order. It would be informative to know this impact over time, location, and life experience. The “deportation fear dynamic” scale is a valuable tool to gauge this changeability and this research provides a benchmark for Nashville’s undocumented population.
Additionally, this research does not address barriers experienced by undocumented Hispanic immigrants in unfriendly locales pre or post Trump. Intuitively, the fear of deportation should be greater in these locations. I would also expect to find increased levels of perceived discrimination, a lack of outreach to educate the community, and hence, greater unawareness of legal rights, and lowered perceptions of personal and community empowerment. More research is needed to gauge the effects in these locales.

This research also provides a basis for larger scale future research, including the development of a survey instrument that can be administered on a larger, random scale to generate generalizable data. Generalizable findings can provide insight into undocumented Hispanics perceived barriers to the legal system, as well to other groups of undocumented immigrants in the U.S. and other nations.

Finally, there is always the need to gauge the effect of the recommended and other interventions that attempt to lower the undocumented communities’ bars to the legal system. Knowing the effectiveness of these interventions informs stakeholders of effective modalities that address these barriers. For example, it would be informative to know if the establishment of a Hispanic PAC increased the levels of personal and community empowerment within the undocumented community. Post intervention research could also measure the effect of legal education within the undocumented community.
APPENDIX

Information Sheet Provided to Interviewees in Spanish:

Estoy conduciendo un estudio para aprender sobre cuales circunstancias los inmigrantes indocumentados Hispanos usan el sistema de justicia para resolver disputas.

Si usted se presta para este estudio, se le van a ser preguntas sobre su experiencias y opiniones del sistema de justicia. Tomara aproximadamente 1 a 1.5 horas para completar las preguntas. El estudio se considera de mínimo peligro de daño. Eso se significa que el peligro de daño es igual del nivel que se encuentra todos los días. Se podrá sentir incómodo contestando algunas de las preguntas o hablando de experiencias del pasado. También se podrá sentir triste o enojado.

Los beneficios de este estudio no son claros; pero esperamos aprender sobre cuales circunstancias los inmigrantes indocumentados hispanos usan el sistema de justicia. Esta información puede ayudar a hacer cambios en el sistema. No hay beneficios directos para usted en este estudio. El investigador y La Universidad De Nevada, Reno tratará su identidad y información profesionammente y la protegerá al extenso que la ley probé. Usted no será personalmente identificado en reportes o publicaciones que resulten de este estudio.

Puede hacer preguntas sobre el estudios a cualquier hora. El correo electrónico de Steve Darnell es: sdarnell@nevada.unr.edu. También le puede llamar al (931) 801-7477.

La oficina de protección para las investigaciones he humanos de la Universidad de Reno Del estado de Nevada, supervisa todas las investigaciones conducidas por la universidad. Si tiene preguntas o preocupaciones sobre el estudio puede llamar a la oficina al (775) 327-2367.

Su participación en este estudio es completamente voluntaria. Puede parar a cualquier momento. Declinar a participar en el estudio o parar el estudio no tendrá un efecto negativo hacia usted.

Gracia por su Participación en este estudio!
Information Sheet Provided to Interviewees in English:

Information Sheet

I am conducting a research study to learn under what circumstances undocumented Hispanic immigrants (UHIs) will utilize the justice system to settle disputes.

If you volunteer to be in this study, you will be asked questions about your experience and perception of the justice system. It should take about 1 to 1.5 hours to complete the questions.

This study is considered to be of minimal risk of harm. This means the risk level is typical to those encountered during your daily activities. You may feel uncomfortable answering some of the questions or discussing past experiences may make you angry or sad.

Benefits of doing research are not definite; but we hope to learn under what circumstances UHIs will use the justice system. This information may be helpful in making changes to the system. There are no direct benefits to you in this study activity.

The researcher and the University of Nevada, Reno will treat your identity and the information we collect about you with professional standards of confidentiality and protect it to the extent allowed by law. **You will not be personally identified in any reports or publications that may result from this study.**

You may ask questions of the researcher at any time. Steve Darnell’s contact email address: sdarnell@nevada.unr.edu. You may also call him at 931-801-7477.

The University of Nevada, Reno Office of Human Research Protection oversees all human research conducted by University researchers. If you have questions or concerns about the conduct of the study, call this office at 775-327-2367.

Your participation in this study is completely voluntary. You may stop at any time. Declining to participate or stopping your participation will not have any negative effects on you.

Thank you for your participation in this study!
Survey as Administered:

Encuesta de acceso a la justicia para inmigrantes hispanos (latinos) indocumentados

Esta encuesta busca una mejor comprensión de cómo se sienten y entienden el sistema de justicia de los EEUU los inmigrantes hispanos (latinos) indocumentados. Esperamos que esta información se utilice para influenciar un cambio en el sistema. Debe saber que no hay un beneficio directo para usted por completar esta encuesta, pero se le proporcionará una tarjeta regalo de $10 de Wal-Mart por su tiempo. Puede completar la encuesta de 69 elementos en unos 20 minutos. La participación es voluntaria y puede saltarse cualquier pregunta o detenerse en cualquier momento. Rechazar la participación o detener su participación no tendrá ningún efecto negativo sobre usted.

No se necesita ninguna información de identificación tal como nombre, dirección o número de teléfono. Tampoco será identificado en ninguna publicación resultante de la encuesta.

Algunas de las preguntas pueden incomodarle, enfadarle o entristecerle, exponiéndole a un riesgo mínimo de daño tal como el que se encuentra en sus actividades diarias.

Si tiene preguntas puede contactar con el investigador, Steve Darnell, ya sea por correo electrónico a sdarnell@nevada.unr.edu o por teléfono en el 931-801-7477. La Universidad de Nevada, Reno – Oficina de Protección de Investigación Humana supervisa todas las investigaciones humanas llevadas a cabo por los investigadores de la Universidad. Si tiene preguntas o preocupaciones sobre esta encuesta puede llamar a la oficina al 775-327-2367.
Al contestar esta encuesta por favor seleccione la mejor respuesta a cada elemento y solamente una respuesta para cada elemento. Cuando utilizamos la palabra “aquí”, nos estamos refiriendo a los EEUU.

**Sección 1**

En esta sección queremos conocer algo de información sobre usted.

<table>
<thead>
<tr>
<th>Esta encuesta es solo para</th>
<th>5. ¿Es usted hombre o mujer?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personas en los EEUU sin</td>
<td>□ Hombre        □ Mujer</td>
</tr>
<tr>
<td>Documentación o con</td>
<td></td>
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<tr>
<td>Documentación vencida</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>1. ¿Qué edad tiene?</th>
<th>6. ¿Cuál es el número TOTAL de años que ha vivido en los EEUU?</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>□ 1 o menos           □ 6</td>
</tr>
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<td>□ 2                   □ 7</td>
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<td></td>
<td>□ 3                   □ 8</td>
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<td></td>
<td>□ 4                   □ 9</td>
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<td></td>
<td>□ 5                   □ 10 o más</td>
</tr>
</tbody>
</table>

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<tr>
<th>2. ¿En qué país nació?</th>
<th>7. ¿Cuál es su nivel de educación formal?</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ México</td>
<td>□ Ninguno</td>
</tr>
<tr>
<td>□ Nicaragua</td>
<td>□ Algo de primaria</td>
</tr>
<tr>
<td>□ Costa Rica</td>
<td>□ Primaria completa</td>
</tr>
<tr>
<td>□ Belice</td>
<td>□ Algo de preparatoria (secundaria)</td>
</tr>
<tr>
<td>□ Panamá</td>
<td>□ Preparatoria (secundaria) completa</td>
</tr>
<tr>
<td>□ Colombia</td>
<td>□ Algo de universidad</td>
</tr>
<tr>
<td>□ Guatemala</td>
<td>□ Universidad completa</td>
</tr>
<tr>
<td>□ Perú</td>
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<td>□ Venezuela</td>
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<td>□ Honduras</td>
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<td>□ Ecuador</td>
<td></td>
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<tr>
<td>□ Bolivia</td>
<td></td>
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<tr>
<td>□ El Salvador</td>
<td></td>
</tr>
<tr>
<td>□ Otro: ________________</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. ¿Cuál es su estado civil actual?</th>
<th>8. ¿Con qué frecuencia acude a los servicios de la iglesia?</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Casado viviendo juntos</td>
<td>□ Ocasionalmente</td>
</tr>
<tr>
<td>□ Casado viviendo separados</td>
<td>□ Semanalmente</td>
</tr>
<tr>
<td>□ Divorciado</td>
<td>□ Mensualmente</td>
</tr>
<tr>
<td>□ Soltero</td>
<td>□ Nunca</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. ¿Cuántos hijos menores de 19 años tiene viviendo en EEUU?</th>
<th>9. ¿Cuántos hijos menores de 19 años tiene <strong>NO</strong> viviendo en EEUU?</th>
</tr>
</thead>
<tbody>
<tr>
<td>□ 0            □ 1            □ 2            □ 3            □ 4 o más</td>
<td>□ 0            □ 1            □ 2            □ 3            □ 4 o más</td>
</tr>
</tbody>
</table>
En las siguientes preguntas, por favor marque sus respuestas con una X. Por ejemplo, si le gusta el helado, pero no es su postre preferido, puede escoger “Ni de acuerdo ni en desacuerdo” como su respuesta.

<table>
<thead>
<tr>
<th>¿Hasta qué punto está en desacuerdo o de acuerdo con las siguientes declaraciones?</th>
<th>Totalmente en desacuerdo</th>
<th>Algo en desacuerdo</th>
<th>Ni de acuerdo ni en desacuerdo</th>
<th>Algo de acuerdo</th>
<th>Totalmente de acuerdo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Me gusta el helado.</td>
<td>O</td>
<td>O</td>
<td>☒</td>
<td>O</td>
<td>O</td>
</tr>
</tbody>
</table>

### Sección 2

En esta sección queremos conocer su actitud acerca de los oficiales del gobierno en los EEUU y el riesgo de deportación.

<table>
<thead>
<tr>
<th>¿Hasta qué punto está en desacuerdo o de acuerdo con las siguientes declaraciones?</th>
<th>Totalmente en desacuerdo</th>
<th>Algo en desacuerdo</th>
<th>Ni de acuerdo ni en desacuerdo</th>
<th>Algo de acuerdo</th>
<th>Totalmente de acuerdo</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Si soy acusado de un crimen aquí, no acudiría a la cita del juzgado por miedo ser deportado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>11. Evito a los oficiales de policía aquí por miedo a ser deportado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>12. Si he sido testigo de un crimen menor aquí, como el robo de $20, no informaría a la policía porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>13. Si fuera la víctima de un crimen menor aquí, como el robo de $20, no informaría a la policía porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>14. Si he sido testigo de un crimen mayor aquí, como una violación a una mujer, no informaría a la policía porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>15. Si fuera víctima de un crimen mayor aquí, como un asalto brutal, no informaría a la policía porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>16. Evito a los oficiales del gobierno aquí por miedo a ser deportado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
</tbody>
</table>
Sección 3

En esta sección queremos saber si usted cree que el sistema judicial de EEUU trata de forma justa o injusta a los hispanos (latinos) indocumentados.

<table>
<thead>
<tr>
<th>¿Hasta qué punto está en desacuerdo o de acuerdo con las siguientes declaraciones?</th>
<th>Totalmente en desacuerdo</th>
<th>Algo en desacuerdo</th>
<th>Ni de acuerdo ni en desacuerdo</th>
<th>Algo de acuerdo</th>
<th>Totalmente de acuerdo</th>
</tr>
</thead>
<tbody>
<tr>
<td>17. Creo que los jueces aquí tratan a todos los hispanos injustamente.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>18. Creo que los jueces aquí tratan a los hispanos indocumentados injustamente.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>19. La policía tiene como objetivo a los hispanos de forma injusta.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>20. Los oficiales del Gobierno aquí no quieren ayudarme porque soy hispano.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>21. Los jueces aquí imponen multas más altas a los hispanos que a los blancos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>22. Los jueces aquí imponen a los hispanos mayores sentencias de cárcel que a los blancos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
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<tr>
<td>23. La policía tiene como objetivo a los hispanos indocumentados de forma injusta.</td>
<td>O</td>
<td>O</td>
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<td>O</td>
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<tr>
<td>24. Los oficiales del Gobierno aquí no quieren ayudarme porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
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<td>O</td>
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<tr>
<td>25. Los jueces aquí impondrían una multa más alta sobre mí porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
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<tr>
<td>26. Los jueces aquí impondrían una sentencia de cárcel mayor sobre mí porque estoy indocumentado.</td>
<td>O</td>
<td>O</td>
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**Sección 4**

En esta sección queremos conocer su nivel de confianza al tratar con un problema potencial que involucre el sistema judicial de EEUU. Para cada elemento por favor redondee el número que mejor describa su nivel de confianza para tratar con cada situación.

Por ejemplo, si le preguntamos “¿Cuánta confianza tiene en poder levantar una bolsa de 50 libras de harina?”, queremos que valore el nivel de confianza que tiene en si podría o no levantar la bolsa de harina. Si definitivamente sabe que es capaz de levantar la bolsa de harina, entonces su nivel de confianza sería “10”. Si sabe que definitivamente NO podría levantar la bolsa de harina, su nivel de confianza sería “0”. Si no está seguro, valore aproximadamente dónde piensa que podría ubicarse usted en una escala del “0” al “10”. Señale su respuesta con una X.

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<tbody>
<tr>
<td><strong>27. Tengo la confianza de afirmar mis derechos legales si alguien me trata injustamente.</strong></td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<td></td>
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<tr>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
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<tbody>
<tr>
<td><strong>28. Tengo la confianza de confrontar a un oficial de policía que me está tratando injustamente.</strong></td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<td>5</td>
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<tr>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
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<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>29. Tengo la confianza de buscar y contratar un abogado si surge un problema legal.</strong></td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>6</td>
<td>7</td>
<td>8</td>
<td>9</td>
<td>10</td>
<td></td>
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<tr>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
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</tr>
<tr>
<td>30. Tengo la confianza de resolver un problema legal, si surge.</td>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
<td></td>
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</tr>
<tr>
<td>31. Tengo la confianza de reunir información precisa sobre mis derechos.</td>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
<td></td>
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</tr>
<tr>
<td>32. Tengo la confianza de hablar con oficiales de policía, abogados y jueces.</td>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>33. Tengo la confianza de poder obtener ayuda de otros para tratar con un problema legal.</td>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34. Tengo la confianza de poder acudir a una audiencia en el juzgado.</td>
<td>No puedo hacerlo</td>
<td>Es probable que pueda hacerlo</td>
<td>Seguramente puedo hacerlo</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Sección 5

En esta sección queremos saber cómo percibe el papel del sistema judicial del EEUU y lo preparado que está para tratar con un asunto legal, si surgiera uno.

<table>
<thead>
<tr>
<th>¿Hasta qué punto está en desacuerdo o de acuerdo con las siguientes declaraciones?</th>
<th>Totalmente en desacuerdo</th>
<th>Algo en desacuerdo</th>
<th>Ni de acuerdo ni en desacuerdo</th>
<th>Algo de acuerdo</th>
<th>Totalmente de acuerdo</th>
</tr>
</thead>
<tbody>
<tr>
<td>35. Hablo inglés lo suficientemente bien para comunicarme con oficiales, tales como oficiales de policía y jueces.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>36. Pagar un abogado para manejar un problema legal no sería una dificultad para mí.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>37. Perder tiempo del trabajo para tratar con un problema legal no sería una dificultad para mí.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>38. Sé lo suficiente para entender el proceso legal sin ayuda.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>39. La policía y los juzgados nunca deberían verse involucrados en asuntos de familia, incluso si alguien sale herido.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>40. Los americanos quieren ir inmediatamente a juicio si se sienten tratados injustamente.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>41. El gobierno en mi país natal no ayuda a la gente como yo.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>42. Los jueces, oficiales de policía y oficiales del gobierno americano son corruptos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>43. En mi país natal los jueces, oficiales de policía y oficiales del gobierno no son corruptos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>44. Confío totalmente en los oficiales de policía americanos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>45. No confío en los jueces americanos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>46. Los oficiales del gobierno americano siempre son de confianza.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>47. Mi religión es muy importante para mí.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>48. No puedo controlar lo que me ocurre; está en manos de Dios.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
</tbody>
</table>
Sección 6

En esta sección queremos saber a qué grado se siente conectado y apoyado por la gran comunidad donde vive y trabaja.

<table>
<thead>
<tr>
<th>¿Hasta qué punto está en desacuerdo o de acuerdo con las siguientes declaraciones?</th>
<th>Totalmente en desacuerdo</th>
<th>Algo en desacuerdo</th>
<th>Ni de acuerdo ni en desacuerdo</th>
<th>Algo de acuerdo</th>
<th>Totalmente de acuerdo</th>
</tr>
</thead>
<tbody>
<tr>
<td>49. Cuando dejo las zonas donde vivo y trabajo me vuelvo asustadizo.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>50. Pertenezco a organizaciones sociales o comunitarias diferentes de mi iglesia.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>51. Ahora pienso en EEUU como mi hogar en lugar de mi país natal.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>52. Mis opiniones pueden influenciar las decisiones de oficiales locales y estatales aquí.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>53. Contactaría con un oficial local o estatal aquí si necesitara ayuda.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>54. Puedo acceder a información sobre mis derechos legales sin costo.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>55. Los oficiales locales están preocupados por mis derechos.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>56. Conozco a individuos y organizaciones que han tomado un papel de liderazgo en la protección de los hispanos indocumentados aquí.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>57. Soy aceptado por los americanos como parte de la comunidad.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>58. Consejos legales sobre mis derechos están disponibles para mí de forma gratuita o a bajo costo.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>59. Si fuera la víctima de un crimen, no informaría por miedo a las represalias.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
<tr>
<td>60. Si fuera testigo de un crimen, no informaría por miedo a las represalias.</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
<td>O</td>
</tr>
</tbody>
</table>
En esta sección queremos saber lo familiarizado que está con el sistema judicial de EEUU y sus derechos y la ley en EEUU.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>61. Entiendo cómo funciona el sistema judicial de EEUU.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>62. Conozco mis derechos en EEUU.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>63. Un oficial de policía puede detenerme y catearme sólo porque piensa que no tengo documentación.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>64. Un oficial de policía siempre puede revisar mi coche incluso aunque yo no quisiéra que lo hiciera.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>65. Los notarios públicos tienen la misma autoridad en EEUU que la que tienen en mi país natal.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>66. Si soy acusado de un crimen, debo llevar mi propio intérprete al juicio.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>67. Si hago una demanda judicial y pierdo, debo pagar las tarifas del juez directamente a él.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>68. La ley me obliga a hablar con la policía si están investigando un crimen aun si no quiero.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Verdadero</td>
<td>Falso</td>
</tr>
<tr>
<td>69. La ley de Tennessee obliga a que una chica joven tenga al menos esta edad para tener sexo.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>15</td>
<td>16</td>
</tr>
</tbody>
</table>

Gracias. Fin de la encuesta.
English Translation of Survey:

Access to Justice for Undocumented Hispanic (Latino) Immigrants Survey

This survey seeks a better understanding of how undocumented Hispanic (Latino) immigrants feel about and understand the U.S. justice system. Hopefully, this information will be used to influence change in the system. However, there is no direct benefit to you in completing this survey, but you will be provided a Wal-Mart gift card for your time. You can complete the 69 item survey in about 20 minutes. Participation is voluntary and you may skip any question or stop at any time. Declining to participate or stopping your participation will not have any negative effects on you.

No identifying information such as name, address, or phone number is needed. Nor will you be identified in any publication resulting from the survey.

Some of the questions may make you feel uncomfortable, angry, or sad exposing you to a minimal risk of harm such as you encounter in your daily activities.

If you have questions you can contact the researcher, Steve Darnell, by either e-mail at sdarnell@nevada.unr.edu or phone at 931-801-7477. The University of Nevada, Reno -- Office of Human Research Protection oversees all human research conducted by University researchers. If you have questions or concerns about this survey you can call the office at 775-327-2367.

In completing the survey, please select the best answer to each item and only one answer for each item.

Section 1

In this section, we want to know some information about you.

1. How old are you?
2. In what country were you born? Mexico, Belize, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, Colombia, Peru, Venezuela, Ecuador, Bolivia, Other.
3. What is your current marital status? Married living together, married living apart, divorced, never married.
4. How many children do you have under 19 years of age living in the U.S.?
5. Are you female or male? Male, Female
6. What is the TOTAL number of years you lived in the U.S.?
7. How much formal education do you have? none, some elementary, completed elementary, some high school, completed high school, some college, completed college, some graduate school, completed graduate school.
8. How often do you attend church services? Never, Occasionally, Monthly, Weekly
9. How many children do you have under 19 years of age NOT living in the U.S.
Section 2

In this section, we want to know about your attitude toward government officials in the U.S. To what extent do you disagree or agree with the following statements?

10. If I were charged with a crime here, I would not attend the court date because I fear it may lead to my deportation.

11. I avoid police officers here because I fear it may lead to my deportation.

12. If I witnessed a minor crime here, such as theft of $20, I would not report it to the police because I am undocumented.

13. If I was the victim of a minor crime here, such as theft of $20, I would not report it to police because I am undocumented.

14. If I witnessed a major crime here, such as rape of a woman, I would not report it to police because I am undocumented.

15. If I was a victim of a major crime here, such as a brutal assault, I would not report it to the police because I am undocumented.

16. I avoid government officials here because I fear it may lead to my deportation.

Section 3

In this section, we want to know if you think the U.S. justice system treats undocumented Hispanics (Latinos) fairly or unfairly. To what extent do you disagree or agree with the following statements?

17. I believe judges here treat ALL Hispanics unfairly.

18. I believe judges here treat undocumented Hispanics unfairly.

19. The police here unfairly target Hispanics.

20. Government officials here would not want to help me because I am Hispanic.

21. Judges here give Hispanics higher fines than whites.

22. Judges here give Hispanics longer jail sentences than whites.

23. The police here unfairly target undocumented Hispanics.

24. Government officials here would not want to help me because I am undocumented.

25. Judges here would give me a higher fine because I am undocumented.

26. Judges here would give me a longer jail sentence because I am undocumented.
Section 4

In this section, we want to know about your level of confidence in dealing with a potential problem involving the U.S. justice system. Please circle the number that best describes your level of confidence to deal with each situation.

For example, if we asked you, “How confident are you that you can lift a 50 pound bag of flour?” We want you to tell us how confident you are that you could lift or not lift the bag of flour. If you know definitely that you are able to lift the bag of flour then your level of confidence would be “10.” If you knew you definitely could not lift the bag of flour, your confidence level you be “1.” If you are unsure, we want to know where you think you would fall on a scale from “1” to “10.”

27. I have the confidence to assert my legal rights if someone wrongs me.
28. I have the confidence to confront a police officer who is treating me unfairly.
29. I have the confidence to seek out a police officer who is treating me unfairly.
30. I have the confidence to resolve a legal problem if one arises.
31. I have the confidence to seek out and hire a lawyer if a legal problem arises.
32. I have the confidence to gather accurate information about my rights.
33. I have the confidence to speak with police officers, lawyers, and judges.
34. I have the confidence to get help from others to deal with a legal problem.
35. I have the confidence to attend a hearing in court.

Section 5

In this section, we want to know how you perceive the role of the U.S. justice system and how prepared you are for dealing with a legal issue if one were to arise. To what extent do you disagree or agree with the following statement?

35. I speak English well enough to communicate with officials such as police officers and judges.
36. Paying a lawyer to handle my legal problem would not be a hardship to me.
37. Missing time from work to deal with a legal problem would not be a hardship to me.
38. I know enough to understand the legal process without assistance.
39. The police and courts should NEVER become involved in a family dispute even if someone gets injured.
40. Americans are too quick to go to court if they feel wronged.
41. The government in my birth country does not help people like me.
42. American judges, police officers, and government officials are corrupt.
43. In my birth country, judges, police officers, and government officials are not corrupt.
44. I fully trust American police officers.
45. I do not trust American judges.
46. Government officials in America can always be trusted.
47. My religion is very important to me.
48. I cannot control what happens to me; it’s in God’s hands.
Section 6

In this section, we want to know how well you feel connected to and supported by the greater community where you live and work. To what extent do you disagree or agree with the following statements?

49. When I leave the areas where I live and work I become fearful.
50. I belong to social or community organizations other than my church.
51. I now think of the U.S. as my home instead of my birth country.
52. My opinions can influence decisions by local and state officials.
53. I would contact a local or state official if I needed assistance.
54. I can access information about my legal rights without cost.
55. Local officials are concerned about my rights.
56. I know of individuals and organizations that have taken a leadership role in protecting the rights of undocumented Hispanics.
57. I am accepted by Americans as part of the community.
58. Legal advice about my rights is available to me either free or at reduced cost.
59. If I was the VICTIM of a crime, I would not report it because I fear retaliation.
60. If I WITNESSED a crime, I would not report it because I fear retaliation.

Section 7

In this section, we want to know how familiar you are with the U.S. justice system, your rights, and the law in the U.S.

61. I understand how the U.S. justice system works.
62. I know my rights in the U.S.
63. A police officer can stop me just because he thinks I am undocumented. T/F
64. A police officer can search my car without any reason even if I don’t want him to. T/F
65. Notarios Publicos have the same authority in the U.S. as they have in my birth country. T/F
66. If I am charged with a crime, I must bring my own interpreter to court. T/F
67. If I bring a lawsuit and lose, I must pay the judge’s fee directly to him. T/F
68. The law requires me to talk to the police if they are investigating a crime even if I don’t want to. T/F
69. Tennessee law requires a young lady to be at least this old to engage in sexual intercourse. 15/16/17/18
Initial Statistical Analyses:

Deportation Dynamic
Items 10-16:

<table>
<thead>
<tr>
<th>Reliability Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cronbach's Alpha</td>
</tr>
<tr>
<td>0.854</td>
</tr>
</tbody>
</table>

Perceived Discrimination
Items 17-26:

<table>
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<tr>
<th>Reliability Statistics</th>
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<tbody>
<tr>
<td>Cronbach's Alpha</td>
</tr>
<tr>
<td>0.890</td>
</tr>
</tbody>
</table>

Legal Self-Efficacy
Items 27-34:

<table>
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<th>Reliability Statistics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cronbach's Alpha</td>
</tr>
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</tr>
</tbody>
</table>
Empowerment

Items 49-60:

Reliability Statistics

<table>
<thead>
<tr>
<th>Cronbach's Alpha</th>
<th>N of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>.717</td>
<td>12</td>
</tr>
</tbody>
</table>

Confirmatory factor analysis (varimax rotation, number of factors = 4)

Total Variance Explained

<table>
<thead>
<tr>
<th>Component</th>
<th>Initial Eigenvalues</th>
<th>Extraction Sums of Squared Loadings</th>
<th>Rotation Sums of Squared Loadings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Total</td>
<td>% of Variance</td>
<td>%</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>% of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>% of</td>
<td></td>
</tr>
<tr>
<td>Discrimination</td>
<td>4.848</td>
<td>13.466</td>
<td>39.00</td>
</tr>
<tr>
<td>Empowerment</td>
<td>3.111</td>
<td>8.641</td>
<td>59.15</td>
</tr>
</tbody>
</table>

Extraction Method: Principal Component Analysis.
Factor loadings of 0.5 and higher are highlighted.

**Rotated Component Matrix**

<table>
<thead>
<tr>
<th>Component</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>v11</td>
<td>.772</td>
<td>-.016</td>
<td>.135</td>
<td>-.204</td>
</tr>
<tr>
<td>v10</td>
<td>.769</td>
<td>-.177</td>
<td>.198</td>
<td>-.299</td>
</tr>
<tr>
<td>v16</td>
<td>.766</td>
<td>.005</td>
<td>-.072</td>
<td>-.264</td>
</tr>
<tr>
<td>v12</td>
<td>.758</td>
<td>.040</td>
<td>-.130</td>
<td>-.045</td>
</tr>
<tr>
<td>v13</td>
<td>.748</td>
<td>-.029</td>
<td>-.041</td>
<td>-.433</td>
</tr>
<tr>
<td>v15</td>
<td>.666</td>
<td>-.289</td>
<td>-.143</td>
<td>-.054</td>
</tr>
<tr>
<td>v14</td>
<td>.659</td>
<td>-.220</td>
<td>-.200</td>
<td>-.042</td>
</tr>
<tr>
<td>v18</td>
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<td>-.013</td>
<td>.255</td>
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<td>.283</td>
<td>.345</td>
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<tr>
<td>v59</td>
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<td>.378</td>
<td>.051</td>
<td>-.181</td>
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<td>v49</td>
<td>-.481</td>
<td>.339</td>
<td>-.259</td>
<td>-.046</td>
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<tr>
<td>v17</td>
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<td>.005</td>
</tr>
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<td>v28</td>
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<tr>
<td>v33</td>
<td>-.235</td>
<td>.832</td>
<td>-.014</td>
<td>.020</td>
</tr>
<tr>
<td>v30</td>
<td>-.247</td>
<td>.825</td>
<td>-.077</td>
<td>.052</td>
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<tr>
<td>v34</td>
<td>-.396</td>
<td>.711</td>
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<td>.613</td>
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</tr>
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<td>v27</td>
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Extraction Method: Principal Component Analysis.

Rotation Method: Varimax with Kaiser Normalization.

a. Rotation converged in 6 iterations.
### Item-Total Statistics

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<th>Item</th>
<th>Scale Mean if Item Deleted</th>
<th>Scale Variance if Item Deleted</th>
<th>Corrected Item-Total Correlation</th>
<th>Cronbach's Alpha if Item Deleted</th>
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**Empowerment Scale**

(Deleting items 49, 55, 59, & 60)

### Reliability Statistics

<table>
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<th>Cronbach's Alpha</th>
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