ARE YOUR PAPERS IN ORDER?: RACIAL PROFILING, VIGILANTES, AND "AMERICA'S TOUGHEST SHERIFF"

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I. INTRODUCTION

Recent anti-immigrant legislation proposed in Arizona suggests strong nativism sentiment demanding more draconian measures against non-citizens residing illegally in the United States, particularly towards immigrants of color.[1] The use of military language in describing immigration raids conducted by homeland security,[2] along with a growing number of nativist extremist groups,[3] set the backdrop for some anti-immigrant groups to claim the existence of a Mexican invasion in the United States.[4] Numerous immigration scholars have commented on the significance of costumes and props used by the Minutemen that reinforce the existence of an invasion—military fatigues, binoculars, bulletproof vests, walkie-talkies, and guns.[5] Likewise, the use of federal agents armed with rifles and wearing bulletproof vests to raid homes, work sites, and shopping malls also suggests that immigration is a threat to national security. Furthermore, creating the visible barrier of a wall between Mexico and the United States is an extremely significant political symbol. The large number of deportations conducted in recent years creates an economic, political, and social environment that legitimizes

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[1] *See* 2010 Ariz. Sess. Laws 113.

[2] *See generally* U.S. IMMIGR. & CUSTOMS ENFORCEMENT (Jan. 21, 2011), http://www.ice.gov/index.htm (describing ICE National Fugitive Operations Campaign, Operation Return to Sender, and Operation Endgame).

[3] *See, e.g.*, WE HATE GRINGOS, http://www.WeHateGringos.com (last visited August 27, 2007) (on file with author) (a popular website which argued that the United States was being invaded by Mexico); *see also* Heidi Beirich et al., S. Poverty L. Ctr., *The Nativists: Profiles of 20 Anti-Immigrant Leaders*, 129 INTELLIGENCE REP. (2008), *available at* http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2008/spring/the-nativists?page=0,4 (quoting Michelle Dallacroce's discussion of a Mexican invasion).

[4] *See* Mary Romero, *"Go After the Women": Mothers Against Illegal Aliens' Campaign Against Mexican Immigrant Women and Their Children*, 83 IND. L.J. 1355, 1387-88 (2008).

[5] *See generally*, Leo R. Chavez, *Spectacle in the Desert: The Minuteman Project on the US-Mexico Border*, *in* GLOBAL VIGILANTES 25 (David Pratten & Atreyee Sen eds., 2008); ROXANNE LYNN DOTY, THE LAW INTO THEIR OWN HANDS: IMMIGRATION AND THE POLITICS OF EXCEPTIONALISM (2009).

white[6] nativist anti-immigration vigilantism and blurs the distinctions between hate groups and groups expressing patriotism.[7]

This article examines the political spectacles and symbolic politics that normalize human and civil rights violations and legitimize racism toward immigrants. Substantive changes to Homeland Security legislation provided a foundation for state and local anti-immigrant ordinances, increased use of surveillance and racial profiling, and unlawful breaking and entering into private residences, as well as other violations of the Fourth Amendment.[8] Various legislative actions, the enforcement of immigration law, and a distorted belief in immigrant criminality have not only established Arizona as ground zero in the immigration debate, but have also legitimized vigilante activity.[9]

This article examines the influence of legislation on law enforcement practices and the camaraderie with white nativist anti-immigration vigilantism. While immigration law enforcement is taking place on a national level, special attention will be given to Arizona because of the state's reputation as "ground zero" in the immigration debate. The article begins with a discussion of the effect that symbolic politics and spectacles have on the construction of the belief that immigration poses a threat. It then turns to a brief overview of the significant reorganization of immigration policy and law enforcement that took place with the establishment of the Department of Homeland Security. Finally, it discusses the immigration law enforcement spectacle by focusing on strategies and practices of the Maricopa Sheriff Department and the legitimation of vigilante activities, which are examined by focusing on the acts of anti-immigrant organizations during protests against raids.

II. Construction of the Immigration Threat

Critical immigration scholars have found the Foucauldian concepts of "spectacle" and "surveillance" ideal for analyzing the U.S.-Mexico border

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[6] Non-Hispanic white.

[7] *See Immigrants Targeted: Extremist Rhetoric Moves into the Mainstream*, Anti-Defamation League (2007), http://www.adl.org/civil_rights/anti_immigrant/Immigrants%20Targeted%20UPDATE_2008.pdf [hereinafter *Immigrants Targeted*].

[8] *See* Teresa Miller, *Blurring the Boundaries Between Immigration and Crime Control After September 11th*, 25 B.C. Third World L.J. 81 (2005); Reyes v. Alcantar, (N.D. Cal. filed Apr. 26, 2007), *available at* http://www.aclunc.org/cases/closed_cases/asset_upload_file318_8052.pdf; *ACLU of N. Cal. v. U.S. ICE*, Case No. CV-08-2744 (N.D. Cal. filed June 2, 2008), *available at* http://www.aclunc.org/news/press_releases/asset_upload_file497_7193.pdf.

[9] *See* Michelle Ye Hee Lee, *Arizona Immigration Law Makes State Ground Zero for Activism*, Ariz. Republic, June 19, 2010, *available at* http://www.azcentral.com/arizonarepublic/local/articles/2010/06/19/20100619arizona-immigration-law-rally-hotspot.html#ixzz1Aqqz2xpC.

and immigration.[10] For instance, Leo Chavez describes the Minutemen project as a "spectacle in the desert" to highlight the way that their activity (entertainment) intended to represent patriotism. The Minutemen's, as well as the Border Patrol's, vast military equipment acts as an institutional eye. This surveillance is also apparent in immigration enforcement concentrated in low-income communities of color. Murray Edelman's theories of symbolic politics and political spectacles are also useful in examining the significance of the political spectacle that fuels highly emotional anti-immigration campaigns.[11] The significance of examining the political engagement of anti-immigrant groups identifying as patriots and the increased immigration legislation is captured in Edelman's statement that "systematic research suggest[s] that the most cherished forms of popular participation in government are largely symbolic"[12] political performances.

In addition, symbolic politics and political spectacles obscure the real consequences and costs of draconian immigration policies. Political spectacles allow for racial profiling and violence against Latinos to be condoned as unavoidable collateral damage stemming from the need to maintain a secure nation.[13] Immigration raids were modified to use equipment, strategies, and armed military forces similar to those used in major drug raids.[14] The public demonstration of having armed federal agents with rifles and bulletproof vests raid homes, work sites, and shopping malls reinforces the views of those that support the implementation of harsher immigrant laws and an increase in funding and resources for immigration enforcement. These tactics create the misconception that the government is responding to a major nationwide threat and provide the type of public performance central to Foucault's notion of the spectacle.

Immigration scholars have noted the inflated metaphors used to describe migration from Mexico as a crisis.[15] Politicians promoting an anti-immigration position frequently use carefully selected sound bites contain-

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[10] *See e.g.*, Renato Rosaldo, *Cultural Citizenship, Inequality, and Multiculturalism, in* LATINO CULTURAL CITIZENSHIP: CLAIMING IDENTITY, SPACE, AND RIGHTS 27, 32 (William V. Flores & Rina Benmayor eds., 2004) ("The U.S.-Mexico border has become theater, and border theater has become social violence. Actual violence has become inseparable from symbolic ritual on the border—crossings, invasions, lines of defense, high-tech surveillance, and more."); Chavez, *supra* note 5.

[11] *See* MURRAY EDELMAN, CONSTRUCTING THE POLITICAL SPECTACLE 4 (1988).

[12] *Id.*

[13] *See* Kevin R. Johnson, *September 11 and Mexican Immigrants: Collateral Damage Comes Home*, 52 DEPAUL L. REV. 849, 853-54 (2002-2003).

[14] *See* James D. Kremer et al., *Severing A Lifeline: The Neglect of Citizen Children in America's Immigration Enforcement Policy*, DORSEY & WHITNEY LLP, (2009), http://www.dorsey.com/files/upload/DorseyProBono_SeveringLifeline_ReportOnly_web.pdf.

[15] *See generally* LEO R. CHAVEZ, COVERING IMMIGRATION: POPULAR IMAGES AND THE POLITICS OF THE NATION (2001); LEO R. CHAVEZ, THE LATINO THREAT: CONSTRUCTING IMMIGRANTS, CITIZENS, AND THE NATION (2008) [hereinafter THE LATINO THREAT]; OTTO SANTA ANA, BROWN TIDE RISING: METAPHORS OF LATINOS IN CONTEMPORARY AMERICAN PUBLIC DISCOURSE (2002); KENT A. ONO & JOHN M. SLOOP, SHIFTING BORDERS: RHETORIC, IMMIGRATION, AND CALIFORNIA'S PROPOSITION 187 (2002).

ing metaphors to highlight the "alien," "foreign," and "inferior" characteristics of non-citizens.[16] Symbolic language and spectacles clearly overstate that immigration poses a national threat. News agencies and news coverage of raids refer to the undocumented immigrants in non-human terms such as "net of 56 captured" or "rounded-up."[17] The titles given to programs also capture the imagination (e.g., Operation Return to Sender, Office of Detention and Removal Operations, National Fugitive Operations Program, Agreements of Cooperation in Communities to Enhance Safety and Security, and Operation Gatekeeper). Describing raids as the result of investigations of violent crimes, human smuggling, gang/organized crime, sexual-related offenses, narcotics smuggling, and money laundering adds to the drama. The chronic use of anti-immigration terms by the mainstream media and elected officials "serve[s] simply to evoke a conditioned uncritical response . . . and [a] mentally restful one for their audiences."[18] A common word used in both immigrant activism and anti-immigration campaigns is "patriotism," where becoming actively involved becomes a patriotic act. Edelman reminds us that "dictionary meanings are operationally close to irrelevant" and the context reveals the intended use of the term.[19] Not surprisingly, these group demonstrations display numerous U.S. flags, highlight leaders' veteran records, and appropriate recognized icons such as Rosie the Riveter.[20] Anti-immigrant politicians and law enforcement officers are publicly seen as leaders because they are identified as standing up to the threat posed by immigration. In contrast, persons opposing anti-immigrant policies and law enforcement practices are seen as enemies of the state.

Nevertheless, in addition to being part of the spectacle, both anti-immigrant and immigrant advocate demonstrators are also symbols of democratic participation. As Mary Lee Smith points out, "the illusion of democracy provides a cover for a few people backstage to negotiate real benefits for themselves."[21] In her study of the political spectacle in education issues, Smith notes that "[w]ords and numbers appear precise and rational; yet depend entirely on context and interpretation."[22] Smith's observation is espe-

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[16] *See Immigrants Targeted*, *supra* note 7; Ted Robbins, *The Man Behind Arizona's Toughest Immigrant Laws*, NAT'L PUB. RADIO (Mar. 12, 2008), http://www.npr.org/templates/story/story.php?storyId=88125098 (discussing Arizona State Rep. Russel Pearce's recognition of the differences between citizens and Mexicans in Phoenix and his expression of dissatisfaction with the presence of Mexican culture in part because he attributes crime to the presence of Mexicans).

[17] *See, e.g., Iowa Immigration Raid is Largest in U.S. History*, DES MOINES REG., May 13, 2008, *available at* http://www.azcentral.com/news/articles/2008/05/13/20080513iowaraid.html (describing the similarities in raids by using the following phrase "last year netted 361 arrests").

[18] *See* EDELMAN, *supra* note 11, at 124.

[19] *Id.* at 139.

[20] *See* Romero, *supra* note 4, at 1373-74.

[21] MARY LEE SMITH, POLITICAL SPECTACLE AND THE FATE OF AMERICAN SCHOOLS 26 (2004).

[22] *Id.* at 12.

cially relevant when analyzing immigration arrests—particularly the arrests of violent criminal immigrants. Since for immigrants the category of a felony includes minor offenses, reporting arrests without specific data of violent offenders is misleading. Statistics are extremely useful in creating fear and the perception of an imminent threat.[23] The less accurate the data, the more reasonable the phrase "crime suppression sweeps" sounds. Furthermore, deportation reports conceal the number of people stopped and detained in each raid and the reasons officers give to establish "probable cause" and "reasonableness" for citizenship inspection. Research on the Chandler Roundup in 1997 found that race and class were the major characteristics used by local police and sanctioned by border patrol agents in order to justify their numerous raids.[24]

By claiming that immigrants pose a cultural, security, and economic threat, anti-immigrant discourse tends to use an ideology of white injury and casts white middle-class citizens as the victims.[25] The injuries claimed by white citizens include the erosion of public education, high unemployment and crime rates, gang and drug problems, insufficient health care, reverse discrimination, and the subordination of English and "white" culture.[26] By defining U.S. citizens as white, the notion of protecting the homeland through immigration regulation becomes an emotionally charged concept. Blaming-the-victim strategies successfully shift responsibility away from U.S. political and economic policies south of the border and place it on non-citizens employed as day- or low-wage laborers. Discourse based on white injury is a symbolic device that uses ambiguous meanings and emotional narratives to arouse strong xenophobic feelings. Accurate facts and context can thus be ignored.[27]

The U.S. government has a long immigration history of responding to the ideology of white injury and creating fear by scapegoating migrants for social problems.[28] Government response is a strong show of force that produces a political spectacle—with law enforcement agents as actors and the public as spectators. Since Operation Wetback, immigration raids have been used as a way to respond to unemployment and a sluggish economy. National and local immigration raids and sweeps are staged to demonstrate that

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[23] *See* Jean Comaroff & John Comaroff, *Figuring Crime: Quantifacts and the Production of the Un/Real*, 18 PUB. CULTURE 209 (2006).

[24] Chandler Roundup refers to the immigration raid in July 1997 in Chandler, Arizona. The five day raid made national news because the Chandler Police Department engaged in a joint operation with the Border Patrol. The raid resulted in an investigation concerning racial profiling by the Attorney General and an internal investigation the following summer. *See* Mary Romero, *Racial Profiling and Immigration Law Enforcement: Rounding Up of Usual Suspects in the Latino Community*, 32 CRITICAL SOC. 447 (2006).

[25] *See generally* Lisa Marie Cacho, *'The People of California are Suffering': The Ideology of White Injury in Discourses of Immigration*, 4 CULTURAL VALUES 389 (2000).

[26] *See generally*, THE LATINO THREAT, *supra* note 15.

[27] *See* DEBORAH STONE, POLICY PARADOX: THE ART OF POLITICAL DECISION MAKING 158 (2d ed. 1997).

[28] *See generally* Cacho, *supra*, note 25.

government action is being taken to protect its citizens and regain jobs and benefits. Using work-places and Latino communities as political stages produces drama. Law enforcement officers arrive with menacing props and costumes and chase individuals marked as immigrants without regard to their personal safety or consequences to their families. More recently, the spectacle includes immigration raids on homes that resemble tactics used by SWAT-teams in the War on Drugs.[29] The most recent expansion of the spectacle, which brings the entertainment closer to spectators, allows city, county, and state law enforcement agents to conduct raids and sweeps under 287(g) agreements.

III. State Establishment of Draconian Immigration Legislation and Enforcement

At the federal level, several significant changes contributed to constructing the immigration threat as a matter of national security. Immigration and terrorism policy became consolidated after the Oklahoma Bombing that "fueled passage of a new summary exclusion procedure in 1996 by which a noncitizen could be barred admission into the country at the port of entry by an INS officer without judicial review" and broadened the definition of "aggravated felony which subjects an immigrant to deportation (without judicial review) and mandatory detention."[30] Placing immigration under the Department of Homeland Security (DHS) provided the basis for nativist groups to argue that all immigrants are criminals and should be addressed with the same aggressive law enforcement aimed at terrorists, drug dealers, and human smugglers. When DHS combined immigration and criminal law enforcement, counterterrorism rhetoric was used as one in the same. Connecting the War on Terror and the War on Drugs provided a smooth transition into a campaign against narco-terrorism in 2002. Raids, detention, deportation, and surveillance of non-citizens all became the concern of counterterrorism legislation, which included USA PATRIOT Act, the Homeland Security Act (HSA), and the Enhanced Border Security and Visa Entry Reform Act (EBSVERA).

With little media attention, DHS released a report[31] that outlined a ten-year deportation plan. DHS' news release announced raids aimed at "crimi-

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[29] *See* Bess Chiu et al., Cardozo Immigr. J. Clinic, Constitution on ICE: A Report on Immigration Home Raid Operations (2009), *available at* http://www.cardozo.yu.edu/uploadedFiles/Cardozo/Profiles/immigrationlaw-741/IJC_ICE-Home-Raid-Report%20Updated.pdf; James D. Kremer et al., Severing A Lifeline: The Neglect of Citizen Children in America's Immigration Enforcement Policy (Katherine Fennelly et al. eds., 2009), *available at* http://www.dorsey.com/files/upload/DorseyProBono_SeveringLifeline_ReportOnly_web.pdf.

[30] Johnson, *supra* note 13.

[31] U.S. Dep't of Homeland Sec., ENDGAME Office of Detention and Removal Strategic Plan 2003 – 2012 (2003), *available at* http://www.yuricareport.com/Civil%20Rights/Endgame.pdf.

nal illegal aliens," equating immigration law enforcement with crime control.[32] The mission of the Office of Detention and Removal (DRO) emphasizes public safety and national security, which lends to ignoring or minimizing the collateral damage to families and communities.

After setting into motion a major enforcement operation targeting street gangs in 2005, Operation Community Shield,[33] DHS announced another immigration operation that mobilized local, state, and federal law enforcement agents. Calling the operation, Return to Sender,[34] the Immigration and Customs Enforcement (ICE) framed the massive immigration raids across the nation as an effort to deport criminal aliens and to crack down on the criminal infrastructure associated with illegal immigration. Across the country, human rights activists, and immigration advocates characterized the operation as a campaign of terror and intimidation involving raids of private residences (usually late at night or in the early dawn) without warrants in the search of undocumented immigrants.[35] Not surprisingly, Operation Return to Sender was publicized as a law enforcement campaign against drug trafficking.[36] As a result of these changes, low-income communities of color, particularly Mexican-American communities, have become the collateral damage of the federal government's response to the September 11th attacks.[37] A few months prior to announcing Operation Return to Sender, DHS awarded a $385 million contingency contract to Halliburton's subsidiary KBR to build detention camps.[38]

Arizona experienced an increase in immigration as a consequence of immigration policy that militarized the border and closed off much of California. "Arizona's foreign-born population grew by more than 200 percent between 1990 and 2004, to a total of 830,900 persons" of which, an estimated 500,000 are unauthorized.[39] Between 1990 and 2005, Arizona experienced a twenty-fold increase of deaths resulting from the "funnel effect"

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[32] Press Release, U.S. Immigr. & Customs Enforcement, ICE Arrests 47 in Operation Targeting Criminal Aliens and Immigration Fugitives (Feb. 16, 2011), *available at* http://www.ice.gov/news/releases/1102/110216columbus.htm (the actual number of criminals arrested includes persons residing or working in the U.S. illegally).

[33] U.S. IMMIGR. & CUSTOMS ENFORCEMENT, FACT SHEET: OPERATION COMMUNITY SHIELD (Oct. 1, 2008), http://www.ice.gov/news/library/factsheets/community-shield.htm.

[34] U.S. IMMIGR. & CUSTOMS ENFORCEMENT, ICE FISCAL YEAR 2006 ANNUAL REPORT (2006), http://www.ice.gov/doclib/news/library/reports/annual-report/2006annual-report.pdf.

[35] Nina Bernstein, *Immigration Raids Single Out Hispanics, Lawsuit Says*, N.Y. TIMES, September 21, 2007, at B3; Jesse McKinley, *San Francisco Bay Area Reacts Angrily to Series of Immigration Raids*, N.Y. TIMES, April 28, 2007, at A14.

[36] Tom Lochner, *Testimonials Illustrate ICE Raids: ACLU Files Request for Information "Return to Sender" Operation*, CONTRA COSTA TIMES, March 9, 2007, at F4.

[37] Kevin Johnson & Bernard Trujillo, *Immigration Reform, National Security After September 11, and the Future of North American Integration*, 91 MINN. L. REV. 1369 (2007).

[38] Peter Dale Scott, *Homeland Security Contracts for Vast New Detention Camps*, NEW AM. MEDIA, Jan. 31, 2006, *available at* http://www.projectcensored.org/top-stories/articles/14-homeland-security-contracts-kbr-to-build-detention-centers-in-the-us/.

[39] JUDITH GANS, U. OF ARIZ., IMMIGRANTS IN ARIZONA, FISCAL AND ECONOMIC IMPACTS 61 (2007), *available at* http://udallcenter.arizona.edu/immigration/publications/impactofimmigrants08.pdf.

created by militarization operations that forced migrants to cross the desolate and isolated Sonoran desert.[40] The "funnel effect" has also attracted the rise in vigilante groups, such as the Minutemen and the American Border Patrol group with direct links to white supremacist organizations.[41] These activities are legitimized by local policing efforts, such as the shift of Sheriff Joe Arpaio's volunteer Posse to immigration law enforcement and away from "deadbeat" dads.[42] Ignoring reports of human rights violations, President Bush moved forward with his plan to place 3,100 agents in the Tucson sector in 2008 and to build a national force of 14,000 border patrol agents.[43] Then Governor Napolitano of Arizona supported enforcement measures by requesting the deployment of National Guard units to the border.[44]

The gates were open for local law enforcement to engage in immigration control when ICE established the 287(g) Program that targeted "criminal illegal aliens."[45] In 2005 Janet Napolitano, negotiated Arizona's initial 287(g) agreements – the first in the nation that "deputized state prison guards to perform civil deportation duties."[46] She later signed a second agreement with ICE to deputize street and highway police in the state's Department of Public Safety.[47]

Shortly afterwards, the Arizona Legislature passed a human smuggling law.[48] An overzealous Maricopa County attorney issued "a legal opinion charging that the victims of trafficking were conspirators in the crime" that

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[40] RAQUEL RUBIO-GOLDSMITH ET AL., BINATIONAL MIGRATION INST., THE 'FUNNEL EFFECT' AND RECOVERED BODIES OF UNAUTHORIZED MIGRANTS PROCESSED BY THE PIMA COUNTY OFFICE OF THE MEDICAL EXAMINER, 1990-2005 (2006), http://www.gatekeeperproductions.com/Resources/Crisis%20at%20the%20Border%20Deaths.pdf.

[41] Associated Press, *Militia With Neo-Nazi Ties Patrols Arizona Desert*, N.Y. TIMES, July 18, 2010, *available at* www.nytimes.com/2010/07/18/us/18militia.html; Rogelio Saenz, *Latinos, Whites, and the Shifting Demography of Arizona*, POPULATION REFERENCE BUREAU, Sept. 3, 2010, *available at* http://prb.org/Articles/2010/usarizonalatinos.aspx.

[42] Deborah Stocks, *Valley 'Deadbeat' Dads and Moms Picked up by Sheriff's Deputies Father's Day Weekend*, ABC15 (June 19, 2010), http://www.abc15.com/dpp/news/region_phoenix_metro/central_phoenix/valley-%27deadbeat%27-dads-and-moms-picked-up-by-sheriff%27s-deputies-father%27s-day-weekend.

[43] *Militarizing the Border: Bush Calls For 6,000 National Guard Troops to Deploy to U.S.-Mexican Border*, DEMOCRACY NOW (May 16, 2006), http://www.democracynow.org/2006/5/16/militarizing_the_border_bush_calls_for.

[44] Randal C. Archibold, *Arizona Governor Signs Tough Bill on Hiring Illegal Immigrants*, N.Y. TIMES, July 3, 2007, *available at* http://www.nytimes.com/2007/07/03/us/03arizona.html.

[45] U.S. IMMIGR. & CUSTOMS ENFORCEMENT, FACT SHEET: UPDATED FACTS ON ICE'S 287(G) PROGRAM, http://www.ice.gov/news/library/factsheets/287g-reform.htm ("By working together, local and federal officers can better identify and remove criminal aliens – which is a tremendous benefit to public safety"); *see also* AARTI SHAHANI & JUDITH GREENE, LOCAL DEMOCRACY ON ICE: WHY STATE AND LOCAL GOVERNMENTS HAVE NO BUSINESS IN FEDERAL IMMIGRATION LAW ENFORCEMENT (2009), *available at* http://www.justicestrategies.org/sites/default/files/JS-Democracy-On-Ice.pdf.

[46] SHAHANI & GREENE, *supra* note 45, at 23.

[47] *Id.*

[48] Associate Press, *Court: Immigrants Subject to Smuggling Law* (July 17, 2008), *available at* http://www.azcentral.com/news/articles/2008/07/17/20080717immig-smuggling0717-ON.html.

broadened the possible population of "criminal illegal aliens."[49] Consequently, immigrants arrested for being in the United States illegally might also be charged with smuggling.[50] To further worsen the situation for immigrants, Proposition 100, passed in November 2006, eliminated bail rights for immigrants.[51]

IV. IMMIGRATION ENFORCEMENT AS SPECTACLE

Federal, state, and local governments are increasing militarized and punitive approaches toward immigrants, particularly the working poor. The violation of human rights of immigrants and civil rights of Latino citizens is a common feature in urban and rural areas across the country.[52] However, the most egregious violations are exemplified by Sheriff Joe Arpaio's immigration law enforcement.[53] Throughout his law enforcement tenure, he has aggressively sought media attention and used every opportunity to politically shock the public.[54] Arpaio is probably the most interviewed public figure in the Phoenix area and the most recognizable because of his frequent media coverage. He has been reelected four times to his position and gets large crowds at his book signing events.

Arpaio successfully represents himself via the media as an extremely competent law enforcement agent who is tough on crime. He establishes himself as a leader in immigration law enforcement by willingly engaging in police action that has been questioned by others as a violation of human and civil rights.[55] Popular media bolsters his legitimacy as an immigration expert by interviewing him regularly for his viewpoint on border issues. He consistently represents himself as a government official willing to take action when city council members are unwilling to do so. This representation further enhances his image as a strong leader. In addition, so as to maintain his image as a constant feature for the public, Arpaio also ensures that his officers receive ongoing media coverage.

Arpaio first made international news for his human rights violations by establishing a tent prison in the Arizona desert, banning coffee and cooked

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[49] SHAHANI & GREENE, *supra* note 45, at 24.

[50] Complaint, We are Am. Coal. of Ariz. v. Maricopa Cnty. Bd. of Supervisors, 2007 WL 2775134 (D. Ariz. Nov. 21, 2006) (No. Civ 06-2816 PHX RCB), *available at* http://www.centerforhumanrights.org/11-21-06FINALConspiracyComplaint.pdf.

[51] Faye Bowers, *No Bail for Illegal Immigrants?*, CHRISTIAN SCI. MONITOR, May 22, 2007, *available at* http://www.csmonitor.com/2007/0522/p02s01-usju.html.

[52] *See generally* SHAHANI & GREENE, *supra* note 45.

[53] *Fact Sheet: Sheriff Joe Arpaio's Notorious Record*, AMERICA'S VOICE, http://americasvoiceonline.org/page/-/resources/sheriffjoe.pdf (last visited Apr. 2, 2011).

[54] *See generally* Ted Robbins, *'America's Toughest Sheriff' Takes on Immigration*, NAT'L PUB. RADIO (Mar. 10, 2008), http://www.npr.org/templates/story/story.php?storyId=88002493.

[55] Catherine Holland, *Arpaio's Immigration Sweep to Continue Today*, AZFAMILY.COM (Mar. 18, 2010), http://www.azfamily.com/news/local/Arpaio-reportedly-planning-crime-suppression-sweep-this-week-88423392.html.

meals, and reestablishing chain gangs.[56] As the anti-immigrant sentiment intensified in Arizona, Arpaio's first move toward gaining center stage in the national immigration spectacle was offering jail rooms to detain immigrants and obtaining funding to establish a county-wide immigration law enforcement program.[57] Arpaio signed the controversial 287(g) agreements between Maricopa County and ICE which allowed him to cross-train sheriff deputies as immigration enforcement. A 2007 ICE press release described the 287(g) program granted to Maricopa County as follows:

> Under the program, the deputies will complete the processing of any *criminal aliens* and prepare the document to place those aliens in deportation hearings. . . . Like ICE officers, these cross-trained MCSO personnel will have the authority to determine whether or not an individual is an illegal alien and can be placed in immigration removal proceedings.[58]

ICE granted Maricopa County "the most robust 287(g) contract in the country."[59] In September 2006, the Law Enforcement Agency Response (LEAR) program began in Arizona, and ICE agreed to provide "a more comprehensive response" when officers encounter suspected illegal aliens.[60] The Phoenix DRO field office director, Katrina S. Kane, claimed that "[o]ne of ICE's top enforcement priorities is to improve public safety in Arizona communities. . . . By focusing our resources on programs that identify criminal aliens for removal from the United States, we are succeeding in our mission to keep foreign-born criminals off the streets in Arizona."[61]

After ICE expanded Arpaio's power to engage in random street raids under the 287(g) program, a series of raids were unleashed on Latino communities throughout Maricopa County.[62] Unfortunately, Arpaio's rampant racial profiling campaign has not been hampered by local police chiefs' and city council members' disapproval of his activities, the indictments for civil rights abuses, or law suits resulting from his actions. While Arpaio's history of human rights violations expands across his five terms in office, his immigration law enforcement under 287(g) agreements demonstrates the link between creating a public spectacle and legitimizing hate-groups and anti-immigration campaigns.

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[56] Jacques Billeaud, *Protests, Grand Jury Challenge Sheriff Joe Arpaio*, SEATTLE TIMES, Feb. 27, 2010, *available at* http://seattletimes.nwsource.com/html/nationworld/2011212774_apusembattledsheriffjoe.html.

[57] *See Arpaio Offers Deal To Jailed Illegal Immigrants*, KPHO.COM (May 13, 2010), http://www.kpho.com/news/23547948/detail.html; DOTY, *supra* note 5.

[58] SHAHANI & GREENE, *supra* note 45, at 82.

[59] *Id.* at 24.

[60] ICE reports record number of deportations in Arizona. 2008 removals increased by more than 5,500 over similar period in 2007. Press Release, U.S. Immigr. & Customs Enforcement (July 21, 2008), http://www.ice.gov/news/releases/0807/080721phoenix.htm.

[61] *Id.*

[62] Daniel Gonzalez, *Arpaio Keeps Heat on Migrants, Sheriff Lauds Success of Crackdown; Critics Fear Profiling, Intimidation*, ARIZ. REPUBLIC, Oct. 17, 2007, *available at* http://www.azcentral.com/arizonarepublic/news/articles/1017arpaioimmigration1017.html.

Sheriff Arpaio choreographed his use of the 287(g) agreement to target specific areas for citizenship inspection stops and for raids and sweeps. Given the lack of support from city council members and police chiefs in the country,[63] he made concerted efforts to demonstrate the need and urgency of these police actions. Arpaio set the police action in motion by providing the media and news reporters with adequate access and staged press releases. He constructed a media circus environment that called attention to his heavily militarized mobile command center. His excessive use of sheriff deputies in each operation, coupled with extravagant and highly visible vehicles, create a war-like zone.[64] He usually arrives with his fleet of Ford Econoline vans that are clearly marked in red lettering with the following: "HELP SHERIFF JOE ARPAIO FIGHT ILLEGAL IMMIGRATION & TRAFFICKING CALL 602.876.4145 WITH TIPS ON ILLEGAL ALIENS."[65] The Maricopa Sheriff and his Posse raided Latino neighborhoods armed with long barrel shotguns and, at times, tear gas. The military tactic appeared to target an imminent threat.[66] The massive show of weapons and police presence instills a sense of crisis.

Arpaio's highly visible operations enforce the notion that immigrants are not just criminals, but dangerous as well. To further highlight their criminal image, Arpaio staged a "perp walk"[67] of the shackled immigrants arrested during the raids through the streets of Phoenix.[68] Even though the goal was to allegedly promote his Fox Reality Channel television program, the march deceptively enhanced the image of arrested immigrants as

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[63] Jim Cross & Sandra Haros, *Arpaio Responds to Immigration Raid Criticism*, KTAR (Feb. 11, 2009), http://ktar.com/index.php?hlpage=3&nid=6&sid=1042657; *see also* Dan Nowicki, *Critics Call Arpaio Aggressive, Intimidating*, ARIZ. REPUBLIC, Aug. 23, 2009, *available at* http://www.azcentral.com/news/articles/2009/08/23/20090823arpaio0823.html.

[64] *See* Martin Bashir & Max Culhane, *'America's Toughest Sheriff' Unapologetic About Tactics, Inmate Treatment*, ABCNEWS (Dec. 14, 2009), http://abcnews.go.com/Nightline/sheriff-joe-arpaio-unapologetic-tactics-illegal-immigrant-crackdowns/story?id=9219341; *see also* Rock Stanton & Joe Bernick, *Arizona Sheriff Stirs Furor over Sweeps*, PEOPLE'S WORLD (May 3, 2008), http://peoplesworld.org/arizona-sheriff-stirs-furor-over-sweeps/ (discussing Arpaio conducting sweeps by setting up his traveling circus-like command center at a prominent parking lot near the area that is the target for his patrols, and once assembled, the sheriff meets officers and deputized posse members who then set out in patrol cars and look for any and all minor violations such as broken windshields or tail lamps to predicate a stop where they demand proof of citizenship or immigration status and typically make arrests).

[65] SHAHANI & GREENE, *supra* note 45, at 102; *see also* News Release, Maricopa Cnty. Sheriff's Office, *Arpaio Authorizes 24 Moving Billboards to Bolster Calls to Sheriff's Illegal Immigration Hotline* (Sept. 15, 2007), *available at* http://www.mcso.org/include/pr_pdf/s%20Mobile%20Illegal%20Immigration%20Billboards.pdf.

[66] *See* Craig Harris & JJ Hensley, *Hundreds Protest as Arizona's Immigration Law Takes Effect*, ARIZ. REPUBLIC, July 30, 2010, *available at* http://www.azcentral.com/arizonarepublic/news/articles/2010/07/30/20100730arizona-immigration-law-protest.html#ixzz10lpA2ynT.

[67] Arpaio called the media and staged a walk of immigrants arrested and dressed in pink issued uniforms to the county jail.

[68] Dan Weiss, *Sheriff Arpaio Chains Together Immigrants and Forces March*, IMAGINE 2050 (February 4, 2009), http://imagine2050.newcomm.org/2009/02/04/sheriff-arpaio-chains-together-immigrants-and-forces-march.

criminals rather than simply fathers and brothers working to support their families.[69]

During the spring of 2009, Arpaio incorporated another controversial symbol into the raid ritual by issuing protective gear kits, consisting of facemasks and gloves, to his deputies to use when encountering and arresting immigrants. After issuing a news release regarding the need to protect deputies and jail staff from the risk of swine flu exposure, he provided the media with visual images of law enforcement agents using surgical masks and gloves, which clearly conveyed an inaccurate message that immigrants pose a health threat to officers and citizens.[70] The fact that surgical masks do not combat the virus was unimportant since the only point of issuing protective gear kits was to continue to dramatize the threat of immigration. The news release attributed the presence of tuberculosis and chicken pox in jails to incarcerated immigrants. Using infectious diseases as one of the symbols to identify the threat that immigrants posed in the United States was a completely planned and staged event. Issuing the protective gear for dealing with "suspected illegal immigrants" marked all non-citizens, particularly Latinos, as a threat to public health. In fact, the use of black ski masks during raids in 2008 led a local newspaper to describe the event as "Sheriff Arpaio's Reign of Terror."[71]

A series of raids that became very controversial targeted the town of Guadalupe, an area consisting of one square mile between Tempe and Phoenix, Arizona. Originally founded by Yaqui Indians at the turn of the century, the town is now the home of both Yaqui and Mexican immigrants and Mexican American residents. Yaqui Indians have ancestral roots in Mexico, and Guadalupe has become one of the local residences of Mexican immigrant workers.[72] Unfortunately, as a small community, Guadalupe does not have its own police force and relies on the services of the Maricopa County Sheriff's Department. Masked and armed men stopped residents while driving or walking, and other victims were chased as they ran to their homes for refuge. Residents who protested the raids were targeted for special surveillance. After two days of raiding the mile radius of Guadalupe with 200 deputies and members of Arpaio's Posse, only nine immigrants were arrested for not hav-

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[69] Randy Cordova, *Sheriff Arpaio Gets 'Real'*, ARIZ. REPUBLIC, Nov. 18, 2008, *available at* http://www.azcentral.com/ent/tv/articles/2008/11/18/20081118sherifftv1120.html#ixzz1B25AnPPq.

[70] News Release, Maricopa Cnty. Sheriff's Office, *Arpaio Says Swine Flu Underscores Need for Illegal Immigration Enforcement* (Apr. 28, 2009), *available at* http://www.mcso.org/include/pr_pdf/Swine%20Flu.pdf.

[71] Michael Lacey, *Sheriff Joe Arpaio's Reign of Terror Becomes State Policy, Thanks to State Senator Russell Pearce and Governor Jan Brewer*, PHX. NEW TIMES, May 6, 2010, http://www.phoenixnewtimes.com/2010-05-06/news/sheriff-joe-arpaio-s-reign-of-terror-becomes-state-policy-thanks-to-state-senator-russell-pearce-and-governor-jan-brewer/; *see also* Paul Rubin, *New Times Owners Sue Sheriff Joe Arpaio, County Attorney Andy Thomas and Lawyer Dennis Wilenchik*, PHX. NEW TIMES, Apr. 28, 2008, *available at* http://blogs.phoenixnewtimes.com/valleyfever/2008/04/new_times_owners_to_sue_joe_an.php.

[72] *Town of Guadalupe*, http://www.guadalupeaz.org/ (last visited Apr. 2, 2011).

ing adequate documentation to be in the United States.[73] Reports from other families of Mexican ancestry also disclosed being stopped by armed men with black ski masks. Needless to say, this type of policing has terrorized low-income communities, particularly children and the elderly.

Arpaio's most significant use of symbolic language is the constant reference to raids as "crime suppression sweeps," which creates the symbolic illusion of it eradicating crime rather than engaging in racial profiling or violating civil and human rights.[74] The public is notified that all persons arrested are criminals and are stopped for criminal behavior. By targeting neighborhoods with a high concentration of Latino and immigrant families, the link between crime and immigrants is reinforced in the public's mind. Reports on the number of persons arrested in "Crime Suppression Sweeps" are immediately released with little distinction between violent criminals and those arrested as a result of recent immigration changes.[75] The enormous budget Arpaio acquired through his collaboration with DHS strengthens his claims as an expert, which he uses as a defense against criticism and lawsuits. The spectacle aspect of his claim to competency and leadership in immigration law enforcement is based on his personality traits rather than his record. However, his claims to competency and leadership are not supported by the budget debts he has incurred, nor the lawsuits for which taxpayers have paid as a consequence of his actions as county sheriff.[76]

V. Legitimizing and Fueling Anti-Immigration Campaigns

Local, state, and national government participation in alarmist immigration rhetoric and laws embracing "alien immigrant," "criminal," and "terrorist" as one in the same, lend legitimacy to a range of anti-immigration activities conducted by civilians. The state's reference to immigrants as threats to national security has strengthened the position of anti-immigrant border vigilantes like the Minuteman Civil Defense Corps (MCDC). As the state shifts immigration policy to terrorism, MCDC, Mothers Against Illegal Aliens (MAIA), and other vigilante groups conceal their nativist and racist attacks against Latinos in the United States through a shield of patriotism.[77] Anti-immigrant vigilante groups continue to operate without much state interference and are sometimes encouraged or celebrated by public officials.[78]

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[73] Michael Lacey, *Are Your Papers in Order?*, Phx. New Times, March 19, 2009, *available at* http://www.phoenixnewtimes.com/2009-03-19/news/are-your-papers-in-order/.

[74] JJ Hensley, *Sheriff Joe Arpaio Announces 'Crime-Suppression Operation' for Phoenix*, Ariz. Republic, Apr. 28, 2010, *available at* http://www.azcentral.com/community/phoenix/articles/2010/04/28/20100428arpaio-illegal-immigration-roundup0428-ON.html#ixzz1B27dtOJc.

[75] Dennis Wagner, *Impact of Arpaio's Crime Sweeps is Unclear*, Ariz. Republic, Oct. 4, 2008, *available at* http://www.azcentral.com/news/articles/2008/10/04/20081004arpaio-sweeps1004.html.

[76] John Dickerson, *Inhumanity has a Price*, Phx. New Times, Dec. 20, 2007, *available at* http://www.phoenixnewtimes.com/2007-12-20/news/inhumanity-has-a-price/1/.

[77] Romero, *supra* note 4, at 1371-72.

[78] *See generally* Mike Davis & Justin Akers Chacón, No One is Illegal (2006).

Research on the rise of nativist movements points to the ways that "immigration" has become the new code word for "race."[79] Fear is generated by claiming that Spanish is becoming the dominant language or that there exists a "majority, non-white" population threatening our national culture and way of life.[80] Using metaphors, such as "immigrants swarming," "hordes of immigrants," "flood gates are open," or "reconquest of the Southwest" serves to dehumanize immigrants and reinforce the image of synonymy of the immigrant, terrorist and criminal.[81]

Arizona politicians and the law enforcement's enthusiastic response to the anti-immigration campaign's cry to arrest "criminal illegal aliens" created a safe haven for white supremacist movements in the state. Representative Russell Pearce, an active house representative who introduced draconian immigration propositions, received solid support from the White Knights of America and funding from the Federation for American Immigration Reform (FAIR).[82] The Southern Poverty Law Center, along with numerous civil rights organizations, tracked the increasing number of nativist extremist and hate groups targeting immigrants in Arizona. The list includes: American Border Patrol, Sierra Vista, American Freedom Riders, Federal Immigration Reform and Enforcement Coalition, Maricopa Patriots, MCDC (branches in Cochise County, Green Valley, Lake Havasu City, La Paz County, Phoenix, Prescott, and Tucson), Mohave County Minutemen, Patriots' Border Alliance, Riders Against Illegal Aliens, United for a Sovereign America, Warden Burns Mexican Flags, and Yuma Patriots. Many of these groups also have strong links to other anti-immigrant groups, such as Save Our State, Colorado Minutemen,[83] and California Coalition for Immigration Reform. Almost all of these groups have members in Maricopa County and are active supporters of Sheriff Arpaio.

The public show created by the Minutemen appearing in costumes – military fatigues, binoculars, bulletproof vests, walkie-talkies, and guns – in the Arizona desert has been noted by several immigration scholars.[84] However, a less common image are nativist extremist and hate groups who accompany Arpaio's command center when picketed by civil and human rights activists. Arpaio's supporters consist of members of the Minutemen, American Freedom Riders, and other anti-immigrant groups.[85] Many of the groups

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[79] *See generally* ETIENNE BALIBAR & IMMANUEL WALLERSTEIN, RACE, NATION, CLASS: AMBIGUOUS IDENTITIES (Chris Turner trans., Verso 1991).

[80] *See generally* The Latino Threat, *supra* note 15.

[81] *See* SANTA ANA, *supra* note 15.

[82] *See generally*, CTR. FOR NEW CMTY., SPECIAL REPORT: PROTECT ARIZONA NOW SELECTS WHITE SUPREMACIST LEADER TO CHAIR NATIONAL ADVISORY BOARD (2004), *available at* http://www.buildingdemocracy.org/reports/pan.pdf.

[83] *See generally* SOVEREIGNTY COLORADO, http://www.sovereigntycolorado.com/ (last visited Apr. 2, 2011).

[84] *See generally* CHAVEZ, *supra* note 15; DOTY, *supra* note 5.

[85] Scott Wong & Yvonne Wingett, *Discussion Focuses on Hate Groups in Arizona*, ARIZ. REPUBLIC, August 13, 2009, *available at* http://www.azcentral.com/arizonarepublic/local/articles/2009/08/13/20090813hategroups0813.html.

listed above participate in counter protests, carrying hate-filled banners and yelling racist slogans at the opposing protesters. In addition to carrying signs, some men visibly carry guns and ride motorbikes around protesters.[86] Unlike human rights activists, they appear to be less organized and do not keep a specified distance from the police or protestors. American Freedom Riders frequently arrive armed to demonstrations and physically intimidate human rights activists.[87] The presence of the police has not curtailed Arpaio's armed supporters from making threatening gestures. Armed American Freedom Riders ride their motorcycles circling activists. While human rights activists are at times arrested, Arpaio's supporters are never arrested.

Part of the choreography of the pickets is set up by assigning police officers or sheriffs to monitor the protestors. They create a border with barricades and officers' bodies standing facing the activists rather than observing Arpaio's supporters. Activists obtain permits to protest, are well organized and do not carry weapons. Nevertheless, they are the primary focus of the police gaze. Policing protestors symbolically marks activists as potential law-breakers and violent actors. Keeping activists under police surveillance condones the action of Arpaio's armed supporters and creates the appearance that activists are not law-abiding citizens. Finally, the mere presence of armed police officers to monitor the protesters labels all immigrants as dangerous and activists as unpatriotic.[88]

The primary strategy that anti-immigration groups use to avoid being identified as vigilantes by the media is the incorporation of patriotic visual imagery into their protests. The most common prop displayed by Arpaio's supporters is the U.S. flag.[89] Wearing or waving flags is frequently accompanied by supporters wearing red, white, and blue clothing. Even the American Freedom Riders arrive to the protests on their motorcycles wearing leather clothing with red, white, and blue patches. Signs and banners contribute additional symbols of patriotism. Banners and signs containing red, white, and blue background or lettering carry messages in support of Arpaio. Nativist patriotism not only appropriates anti-immigration as the sole patriotic stance on immigration but also defines citizenship as contingent on being a monolingual English speaker. Posters carry a range of the following phrases: "Be a patriot," "Protect your country from an invasion," "Enforce the Border," and "Speak English." Anyone genuinely concerned about the treatment of immigrants in the United States or the violation of human and civil rights in immigration law enforcement is designated as unpatriotic. Other strategies

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[86] *See, e.g.*, Dennis Gilman, *Minutemen with Guns Threaten Kids at the Peaceful Macehualli Center*, YOUTUBE (Feb. 7, 2009), http://www.youtube.com/watch?v=W_k_szqFAtY.

[87] S. Poverty L. Ctr., *Phoenix Day Labor Battle Heats Up*, 129 INTELLIGENCE REP. (2008), *available at* http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2008/spring/nativist-movement.

[88] Omadelle Nelson, *Protesters March Against Arpaio*, KPHO.COM (May 2, 2009), http://www.kpho.com/news/19353080/detail.html (Arpaio claiming protesters pose violence).

[89] *See, e.g.*, Mothers Against Illegal Aliens, *Pruitt's Protest Dec. 22*, METACAFE, (Dec. 23, 2007), http://www.metacafe.com/watch/1001079/pruitts_protest_dec_22/.

used by anti-immigration groups to appear as patriotic and mainstream are volunteering and contributing to political campaigns and inviting potential candidates and politicians to speak at their rallies. Sheriff Arpaio is a frequently invited speaker.

VI. Anti-Immigrant Discourse: The Case of Mothers Against Illegal Aliens/Amnesty

In January 2006, Michelle Dallacroce announced the formation of an Arizona-based women's anti-immigration group called Mothers Against Illegal Aliens (MAIA1).[90] At the beginning, constructing MAIA1's position as mothers in the anti-immigrant movement served as a useful strategy to conceal the group's racist nativism in its attacks against Mexican mothers and their children. Unfortunately, Dallacroce gained legitimacy among nativist politicians and mainstream media.[91] Positioning MAIA1's voice as unique among anti-immigrant campaigns, Dallacroce argued that her activism stemmed from her need to protect her children and family. Over the next two years, Dallacroce became the leading woman spokesperson at state and national anti-immigrant rallies and was frequently featured on Fox News coverage of the immigration debate.[92] Along with her followers, she was a familiar face at counter protests to the growing human rights activists calling attention to Sheriff Arpaio's immigration raids.[93]

Alongside the Minutemen and American Freedom Riders, MAIA1 actively supported Arpaio. By the time Dallacroce dissolved the first MAIA1 in 2008, the distance between her and other racist nativist anti-immigrant leaders had became apparent, and she was included in the list of growing hate groups tracked by the Southern Poverty Law Clinic.[94] In March 2010, Dallacroce emerged again, becoming the founder and director of Mothers Against Illegal Amnesty (MAIA2).[95] Her allegiance to Arpaio is much more apparent now that she is one of his volunteer Posse members.[96] Her writings, speeches and interviews are representative of the current racist nativist anti-immigration discourse in Arizona.

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[90] *See Immigrants Targeted, supra* note 7.

[91] *See, e.g.*, Al Knight, *Track 'Anchor Babies,'* Denver Post, September 11, 2002, *available at* http://www.theamericanresistance.com/articles/art2002sep11.html; Al Knight, *Change U.S. Law On Anchor Babies*, Denver Post, June 22, 2005, *available at* http://www.theamericanresistance.com/articles/art2005jun22.html.

[92] Mothers Against Illegal Aliens is now defunct, but Dallacroce created Mothers Against Illegal Amnesty in its place. Many of MAIA1's videos of interviews have been moved to MAIA2's website. Mothers Against Illegal Amnesty Blog, http://mothersagainstillegalamnesty.com/?page_id=339 (last visited Apr. 2, 2011).

[93] Mothers Against Illegal Aliens, *supra* note 89.

[94] Beirich et al., *supra* note 3.

[95] *See The "Mothers" are Back!*, Mothers Against Illegal Amnesty Blog (Mar. 30, 2010, 6:37 AM), http://mothersagainstillegalamnesty.com/?p=5.

[96] *Lou Ferrigno "Our Newest Deputy Sheriff!"*, Mothers Against Illegal Amnesty Blog, (June 7, 2010, 1:21 PM), http://mothersagainstillegalamnesty.com/?p=688.

MAIA2 seems to focus on four big claims against Mexican Immigrant mothers. MAIA2 considers Mexican Immigrant Mothers to be (1) breeders and (2) opportunists, looking for a way to remain in the United States. In addition, MAIA2 also views (3) white children as being the injured party in light of the flood of "amnesty babies" at school. Finally, MAIA2 perceives that this "invasion" is a threat to white political dominance.

Mothers who are U.S. citizens are constructed as women engaged in the lofty activity of motherhood and nation building; whereas, immigrant mothers are constructed as animals that breed. This racist distinction appears throughout MAIA2's website and interviews. While Dallacroce is a bit more cautious about making blatant nativist racist comments in interviews, the MAIA media coordinator is less inclined to censor her comments. In an interview with a *Phoenix News Times* reporter at a protest rally, she replied:

> When the government told Americans we had to go to zero population, we obeyed – let's don't talk about Mormons or Catholics – and now educated white people have maybe two kids. . . . But these illegals come here with their *Catholic culture*, and they have a bunch of babies and they can't afford them. *They're breeding like rabbits!* Then they go on food stamps and welfare, and Americans have to pay for that.[97]

Fortifying the image of Mexican immigrant women as breeders involves the consistent reference to "illegal alien females" and their U.S.-born children as "amnesty babies."[98] The group is careful not to use the terms "women" or "mothers" in referring to immigrants in any of their postings. MAIA2's deliberate classification of U.S.-born children of unauthorized immigrant women as "illegal alien anchor babies" or as "illegal alien infants" serves to remove this population from any protective category in which children are usually placed.

Second, MAIA2's foremost characterization of Mexican immigrant mothers is their immoral and opportunistic nature. Rather than raising a family, Mexican immigrant women are characterized as reproducing for self-promotion: "Illegal alien women are producing and utilizing children as hostages until demands for citizenship are met in the United States of America."[99] The idea is that they are solely coming to the United States to birth children who will be born U.S. citizens, so that the mothers will be more insulated from deportation.

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[97] Robert L. Pela, *Minutewomen,* PHX. NEW TIMES, Apr. 20, 2006, *available at* http://www.phoenixnewtimes.com/2006-04-20/news/minutewomen/.

[98] *See generally* MOTHERS AGAINST ILLEGAL AMNESTY BLOG, http://mothersagainstillegalamnesty.com; *see also* Priscilla Huang, *Anchor Babies, Over-Breeders, and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies*, 2 HARV. L. & POL'Y REV. 385 (2008).

[99] *Protest Outside Mexican Immigrant's Church Sanctuary*, ABC NEWS (Aug. 30, 2006), http://abclocal.go.com/wls/story?section=news/local&id=4513010.

A third theme is that the children of U.S. citizens are the real victims. In November 2007, MAIA2's website posted a claim that the children of U.S. citizens were being threatened by disease:

> . . . [M]any of these diseases are here and on the rise because of our OPEN AND INSECURE BORDER with Mexico and the fact that illegal Aliens [sic] are not subject to medical inspection or certification, as are legal applicants. With our children being exposed to and infected by the SUPERBUG in our schools, it should not be inconceivable that we are now being exposed and subjected to attacks by diseases which put our lives at risk because of learned bad behavior and unexceptable [sic] and prohibited cleaning practices which could kill us and our children while staying in any hotel or eating at any restaurant anywhere in America!!!!! The next time you eat in a restaurant or sleep in a hotel or motel . . . just remember to bring your own food, dishes, untensils [sic], glasses, towels, and maybe your own water. The person who cooked your meal or made you [sic] bed may very well be the one who picked your fruit and vegetables, [sic] yesterday . . . and we've heard the stories about what they do in the fields. . . . [H]aven't we?[100]

While this posting may appear as an extremist allegation, the same claim was used in the Spring of 2009 by the Maricopa County Sheriff's office. Sheriff Joe Arpaio issued protective gear kits to deputies consisting of facemasks and gloves to be used in their encounters with immigrants. Arpaio issued a press release that deputies and jail staff needed protection from swine flu exposure, tuberculosis, and chicken pox allegedly spread by immigrant detainees.[101]

Finally, MAIA2 also has a nativist fear that citizens of color might one day out-number white citizens. Southern Poverty Law Center reported Dallacroce as arguing at a Minuteman rally in Washington, D.C. that Mexicans were "outbreeding our mothers" and thus taking over the United States.[102]

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[100] *Immigrants Targeted, supra* note 7, at 13.

[101] JJ Hensley, *Deputies Wearing Gear to Protect Against Swine Flu*, ARIZ. REPUBLIC, April 28, 2009, *available at* http://www.azcentral.com/news/articles/2009/04/28/20090428mcsoswine0428-ON.html.

[102] David Holthouse, S. Poverty L. Ctr., *Free Radicals: The First Amendment Gets a Workout as Anti-immigrant Zealots, Neo-Nazis, Anarchists, Black Nationalists and Marine Cadets Collide,* 121 INTELLIGENCE REP. (2006), *available at* http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2006/spring/free-radicals.

VII. COLLATERAL DAMAGE

Reports issued by Human Rights Watch,[103] the National Council of La Raza (NCLR), and the Urban Institute[104] identify the collateral damage caused by mandatory deportations, including separating families and placing U.S. children at risk. Focusing on worksite raids, immigrant advocacy groups call attention to the consequences of deporting employed immigrant family members. The Urban Institute for NCLR issued a report, *Paying the Price: The Impact of Immigration Raids on America's Children*, based on three case studies—work-site raids in Massachusetts, Colorado, and Nebraska.[105] In the three cases studied, about 500 children were affected by the arrests of about 900 adults.[106] Changing immigration legislation away from family reunification in the United States and towards state propositions attacking immigrant families increases the existence of mixed status families.

Between 2002 and 2006, workplace arrests of undocumented immigrants increased more than sevenfold, usually removing the primary wage earners from the family—separating and fragmenting families.[107] Since the beginning of the detention and removal program, news accounts have reported an unusually high number of immigration raids targeting families. Reports of immigration law enforcement agents entering residences without warrants or unannounced (particularly at predawn) have increased over the last two years. NCLR and the Urban Institute found that, on average, one child is affected for every two adults arrested. Of these, the most severely impacted were infants, toddlers, and preschoolers who were U.S. citizens. Parents were detained without access to telephones to call family members and were frequently moved to out-of-state facilities. Parents who feared that their children would be taken into custody did not notify ICE about the whereabouts of their children. Conducting home raids further isolates children and increases the fear they experience. The report concluded that ICE has no guidelines for caring for the welfare of minor children in immigration sweeps.

The Human Rights Watch's report, *Forced Apart: Families Separated and Immigrants Harmed by United States Deportation Policy*, noted that:

> [T]hese policies do not target only undocumented immigrants – they apply to long-term lawful permanent residents (or green card holders) as well. When these members of the U.S. community are

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[103] HUM. RTS. WATCH, FORCED APART: FAMILIES SEPARATED AND IMMIGRANTS HARMED BY UNITED STATES DEPORTATION POLICY (2007), *available at* http://www.hrw.org/en/reports/2007/07/16/forced-apart-0.

[104] Randy Capps et al., *Paying the Price: The Impact of Immigration Raids on America's Children*, URB. INST. FOR NAT'L COUNCIL LA RAZA (2007), http://www.urban.org/UploadedPDF/411566_immigration_raids.pdf.

[105] *Id.*

[106] *Id.* at 2.

[107] *Id.* at 7.

> deported, their absence is felt because shops go out of business, entrepreneurs lose their business partners, tax revenues are lost, and, most tragically, U.S. citizen and lawful permanent resident children and spouses are forced to confront life without their fathers, mothers, children, husbands, or wives.[108]

In 2009, the Human Rights Watch issued another report, *Forced Apart (By the Numbers): Non-citizens Deported Mostly for Nonviolent Offenses.*[109] Analyzing ICE data over the last decade, it found that three quarters of non-citizens were deported after serving sentences for nonviolent and relatively minor offenses, such as the possession of drugs or traffic offenses. Draconian immigration laws passed in 1996 make family relationships and contributions to society irrelevant in deportation hearings.

Amnesty International's report, *Jailed Without Justice: Immigration Detention in the USA*, identified the increased immigration detention over the last decade.[110] The report focused on the long periods of detention that force individuals to drop their valid claims to stay in the country. Judicial reviews are not available to all individuals, nor are bonds affordable. ICE officers are given enormous discretion in determining who is released from detention and the conditions of the release (e.g., the amount of the bond to be posted). Consequently, an immigrant's experience is largely determined by where he or she is detained. Similarly, immigration judges have discretion to set the bond high or not release immigrants on bond. ICE officers and immigration judges' power of discretion creates inconsistency across states. Amnesty International found the mandatory detention system to be arbitrary and in violation of international law. Furthermore, many detention centers do not meet international human rights standards or the guidelines established by ICE.

VIII. Conclusion

Since the human rights of immigrants are not placed at the forefront of federal immigration policies and law enforcement, states are responding to nativist anti-immigrant campaigns by proposing their own statutes that increase human suffering. Immigration law enforcement is carried out as a spectacle to appease the growing nativism and anti-immigrant sentiment. Groups that might otherwise be labeled as vigilante groups wrap themselves around the U.S. flag and claim to be the only patriots and loyal citizens involved in the immigration debate. In this narrowly defined debate, immigrant advocates and human rights activists are closely watched by the police and treated as potential rioters. In the case of Sheriff Arpaio, his armed sup-

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[108] Hum. Rts. Watch, *supra* note 103, at 4.

[109] Hum. Rts. Watch, Forced Apart (By the Numbers): Non-citizens Deported Mostly for Nonviolent Offenses (2009), *available at* http://www.hrw.org/en/reports/2009/04/15/forced-apart-numbers-0.

[110] Amnesty Int'l, Jailed Without Justice: Immigration Detention in the USA (2009), *available at* http://www.amnestyusa.org/uploads/JailedWithoutJustice.pdf.

porters are graciously awarded liberties at protests which are not given to human right activists. Along with politicians like Russell Pearce, Sheriff Arpaio's interaction with nativist hate groups legitimizes the campaign against Mexicans and citizens of color. Hate speech becomes normalized as the media begins to use terms like "anchor baby." Media coverage of immigration law enforcement is inaccurate when reporting does not include civil and human rights violations occurring during immigration raids. Solely focusing on the number of immigrants apprehended contributes to the symbolic performance of immigration raids. Misleading reports further add to the symbolism when arrested immigrants are counted as "criminals," rather than accurately stipulating the number of workers arrested for residing in the United States without authorization.

The collateral damage of the current federal and local immigration law enforcement serves to relegate the working-class Latino citizens to an inferior position to Non-Hispanic whites. White supremacy is preserved by avoiding immigrant worker raids in middle and upper-middle class neighborhoods or shopping areas. The safety and personal convenience of whites is not violated by citizenship inspections as they are driving, shopping, or working. Their privileges are further reinforced by incorporating the ideology of white injury into the public immigration debate. Since studies disproving the myths of immigration are completely disregarded by political pundits and the media, immigrants continue to be blamed for a failing economy, lack of affordable heath care, and poorly funded public schools. The political spectacle of immigration law enforcement and state surveillance of immigrants continues to be a useful strategy in diverting public attention away from neglected social issues and decades of eroding public services. Instead, we need a realistic immigration policy that responds to a globalized economy.

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