

Brutal Borders? Examining the Treatment of Deportees During Arrest and Detention

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Abstract

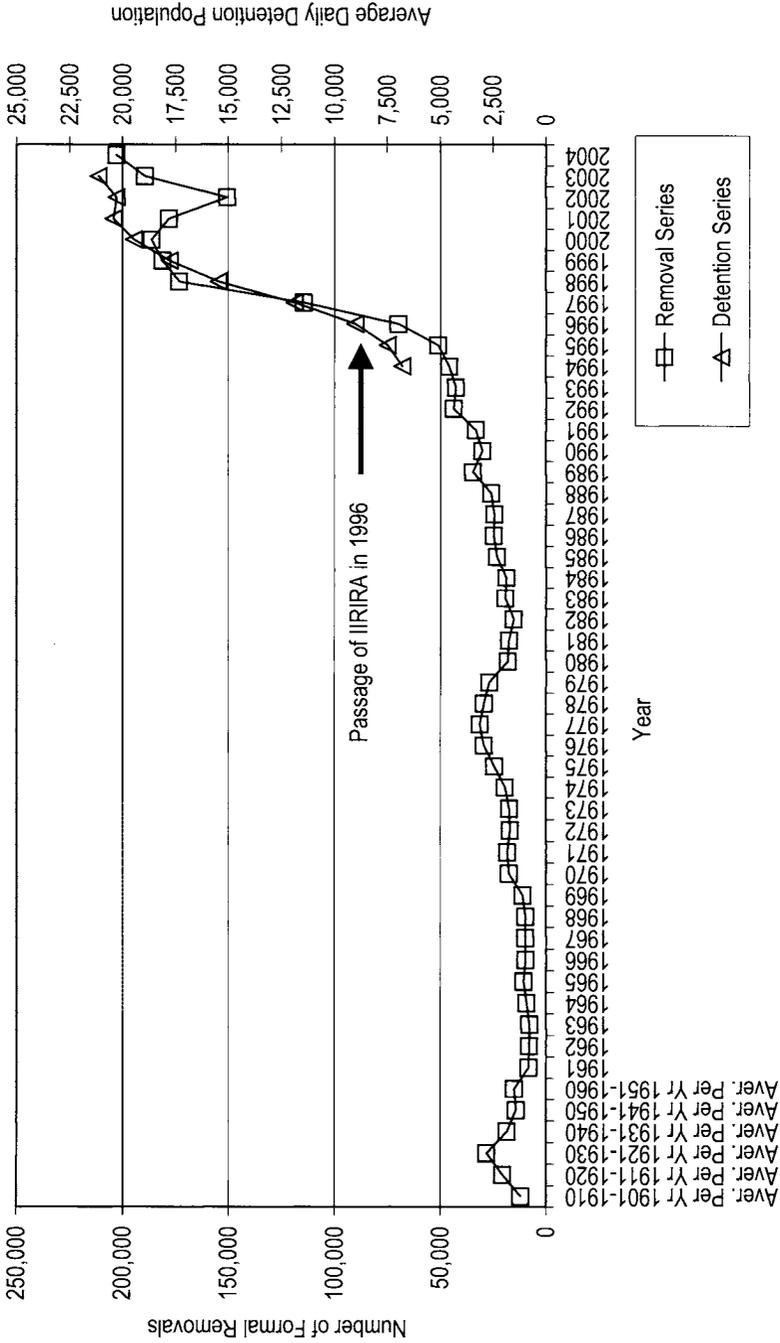
Recent legislation has produced a dramatic rise in the detention and removal of immigrants from the United States. Drawing on interviews with a random sample of Salvadoran deportees, we examine treatment during arrest and detention. Our findings indicate: (1) deportees are often subject to verbal harassment, procedural failings and use of force; (2) force tends to be excessive; (3) force is more common against deportees than citizens; (4) situational contingencies and organizational actors influence force, but ecological settings do not.

Departing from immigration policies of the previous three decades that granted immigrants increasing rights and privileges, the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) strengthened the enforcement arm of the Immigration and Naturalization Service (INS) giving it broad authority to arrest, detain and remove immigrants.¹ The 1996 Anti-Terrorism and Effective Death Penalty Act (AEDPA) and the 2001 USA PATRIOT Act further elevated the power of federal agencies to detain and remove immigrants, but limited judicial review of the process. The result has been a staggering increase in detentions and removals despite a constant rate of immigration.² As Figure 1 demonstrates, the average daily detention population rose from 9,011 in FY 1996 to 21,133 in FY 2003; annual removals accelerated from 69,680 in FY 1996 to 202,842 in FY 2004.

Despite journalistic accounts and human rights investigations (Amnesty International 2003, Catholic Legal Immigration Network 2000), no research project has systematically examined how deportees are treated during arrest and detention (but see Phillips, Rodriguez and Hagan 2002). This gap in the literature exists despite a long tradition of scholarship on police officers' use of force against citizens during arrest (Sherman 1980, Riksheim and Chermak 1993), and a more limited scholarship on corrections officers' use of force against citizens during detention (Marquart 1986). Because immigrants do not have the rights of citizens and are often apprehended and detained in remote locations, the potential for mistreatment is substantial. Our research begins to fill the gap, focusing on five questions: How often are deportees subject to verbal harassment and procedural failings during arrest and detention? How often are deportees subject to the use

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Figure 1. Temporal Rise in Formal Removals (1901-2004) and Detentions (1994-2003)



Note: Removal data from Yearbook of Immigration Statistics (2004, Table 40). Detention data from Congressional Research Service.

of force during arrest and detention? If force is used, does it tend to be justified or excessive? Is the use of force during arrest more common against deportees than citizens? What are the predictors of force during arrest and detention?

To answer these questions, we collaborated with a program in El Salvador called “Bienvenido a Casa” (BAC), meaning “Welcome Home.” BAC is a consortium of local organizations coordinated through Catholic Relief Services that attempts to facilitate the resettlement of Salvadoran deportees. During the planning stages of our research, BAC was preparing to host job placement meetings for deportees. Upon learning about our proposed research, the director of BAC offered to have BAC representatives interview a random sample of the deportees who attended job placement meetings. (All deportees were eligible to be interviewed regardless of legal status at the time of arrest.) Our collaboration resulted in 300 interviews with deportees and represents the closest approximation of a random sample of deportees that has ever been collected.

Research on the Use of Force Against U.S. Citizens

Our research focuses on the use of force against deportees because the parallel literature on citizens provides a point of departure and comparison, but we also consider verbal harassment and procedural failings despite the absence of comparable literature. This broadened approach allows an exploration of the total deportation experience.

Though scholars have long investigated the use of force against U.S. citizens (Sherman 1980, Riksheim and Chermak 1993), and are beginning to explore the topic of crime and immigration (Hagan and Palloni 1999, Martinez 2002), the intersection of both streams – the use of force against deportees – remains uncharted. The following review of research on force against citizens provides a comparative context for examining force against deportees.

Research on the use of force against citizens has proceeded along divergent paths. The literature on police officers’ use of force during arrest is voluminous, and tends to use quantitative methods to estimate rates and causal predictors. (For reviews see Sherman 1980, Riksheim and Chermak 1993.) The literature on corrections officers’ use of force during detention is sparse and relies on qualitative methods to describe the guard subculture (Marquart 1986). Because we are interested in rates and causal predictors, we draw on insights regarding the use of force against citizens during arrest and extend those insights to the use of force against deportees during both arrest and detention.

Research on the use of force against citizens during arrest can be divided into three categories: situational, organizational and ecological.³ Situational research considers police-citizen interactions. This line of inquiry consistently reports that the suspect’s demeanor is critical: being drunk and resisting arrest increase the chance of force (cf. Friedrich 1980; Worden 1995, 1996; Engel et al. 2000). However, the role of other situational factors is not settled. The police seem to be more apt to use force against young suspects, but the relationship disappears after controlling for confounders (Friedrich 1980, Riksheim and Chermak 1993). Findings regarding the impact of gender on force are equally mixed (compare Friedrich 1980, Sherman 1980, Griswold and Massey 1985). Disagreement also

reigns regarding the influence of location. Most argue that arrests made out of public view increase the specter of force (Reiss 1968, Sherman 1980), but others maintain that location does not matter (Friedrich 1980). Still others suggest that a small number of officers commit brutal acts of force out of public view, but that routine force tends to be spontaneous and public (Fyfe 1996). To incorporate the situational approach, we consider the traditional elements of the interaction mentioned here and elements that are specific to deportation. Are deportees who are detained for a long period of time more likely to experience force? Are deportees who have access to legal counsel during detention less likely to experience force?

Organizational approaches examine a police department's culture, policies and structure. For our purposes, the size of police departments is relevant. Departments that are large and bureaucratic produce more force, but not more excessive force (Worden 1995, 1996). It appears that supervisors in large departments cannot adequately mentor front-line officers, while supervisors in small departments can do so and, in the process, pass on tips for avoiding force (Worden 1995, 1996). To incorporate the organizational approach, we focus on the logic of the training argument. Are federal authorities who are trained to work with deportees, specifically U.S. Border Patrol officers and federal detention personnel, less likely to use force during arrest and detention than local authorities, specifically police officers and jail personnel, who have little or no such training?

Ecological approaches consider the distribution of force across geographical space. For our purposes, the threat hypothesis is relevant. Derived from the conflict perspective, the threat hypothesis suggests that authorities use the criminal justice apparatus to control concentrations of minorities who are seen as a threat to the social order (Turk 1969). Indeed, research suggests that as the percentage of minorities in an area increases so too does the size of the police force (Jacobs 1979), police budget expenditures (Jackson and Carroll 1981), the arrest rate (Liska et al. 1985), police use of deadly force (Jacobs and O'Brien 1998), and police use of excessive force (Holmes 2000). To incorporate the ecological approach, we examine whether deportees who are arrested and detained in areas with high concentrations of immigrants are more likely to experience force. Specifically, are deportees who are arrested and detained in the border states of Arizona, California, New Mexico and Texas more likely to experience force than those arrested elsewhere?

Methods

Data Collection

To understand the data collection process, it is important to understand the deportation process.⁴ Salvadoran deportees are flown from the United States to San Salvador, the capital of El Salvador. After the plane arrives, a Salvadoran official boards and offers the deportees a chance to participate in BAC. Most deportees agree to participate after the official explains that BAC is a Catholic Relief Services program that supports the resettlement of deportees through the coordination of

local social service organizations. During the airport meeting, BAC representatives provide: (1) counseling to help deportees manage the trauma of being returned; (2) information to help deportees get home (phone numbers, bus routes); and (3) information to help the deportee after he or she arrives home (local social service organizations). BAC representatives also conduct an interview with deportees to collect demographic and contact information. From the inception of the program in February 1999 through March 2002, BAC representatives interviewed 10,876 deportees (84 percent of the deportees returned to El Salvador during the time period).

Finding a job is often the most urgent need for deportees. But high rates of joblessness, coupled with the stigma of being deported, present substantial obstacles to resettlement (Rodriguez and Hagan 2004). In response, BAC created a program to help deportees find jobs or transition to better jobs. To launch the program, BAC sent information postcards to all former BAC participants. The postcard described the program and invited deportees to attend meetings scheduled across the nation.

Serendipitously, BAC representatives were poised to begin the job placement meetings in the spring of 2002 when we approached them about our research. The director of BAC, Luis Perdomo, offered to collaborate. Following a discussion of our need for rigorous data collection and BAC's need for expeditious job placement meetings, the director offered to have BAC representatives conduct face-to-face interviews with every third person who attended a job placement meeting. In summer 2002, the authors traveled to El Salvador to train the interviewers who then conducted 300 interviews across the 11 Salvadoran departments (states) during a six-month period, from June 2002 to December 2002.

Profile of Respondents

Table 1 profiles the respondents. The deportees were overwhelmingly young men: 95 percent are male with a median age of 29. Most of the deportees resided in the United States without authorization (51 percent were unauthorized migrants deported for an immigration violation; 16 percent were unauthorized migrants deported for a crime), but some of the deportees were legal residents (8 percent were legal residents deported for an immigration violation; 26 percent were legal residents deported for a crime). Before being deported, 58 percent of the respondents spent four months or less in detention, but 30 percent were detained for a year or more.

Table 1 also demonstrates that the deportees were often established residents, evident in settlement, work and familial histories. The median amount of time spent in the United States prior to deportation was eight years. The deportees developed strong work and familial ties during this period: 78 percent were in the U.S. labor force at the time of deportation, and 79 percent left family members in the United States. Moreover, 52 percent left a spouse or child in the United States. Given such strong ties, it should not be surprising that 38 percent of the respondents plan to return to the United States.

Table 1: Profile of Respondents (n = 300)

Characteristic	Minimum	Maximum	Median	S.D.	%
Age	17	62	29	8	
Sex					
Male					95
Female					5
Legal Status by Reason for Deportation¹					
Unauthorized, Immigration Violation					51
Unauthorized, Crime					16
Authorized, Immigration Violation					8
Authorized, Crime					26
Years in U.S. Prior to Deportation	0	31	8	8	
Employed in U.S. Prior to Deportation					
No					22
Yes					78
Family Remaining in U.S. Household					
No					21
Yes					79
Months in Detention					
Less than 1					4
1-2					34
3-4					20
5-6					7
7-11					6
12-23					7
24-35					8
36 or more					15
Prior Deportation from U.S.					
No					75
Yes					25
Plan to Return to U.S.					
No					62
Yes					38

¹ Authorized includes: citizen, legal permanent resident, work authorization, residence authorization, political asylum, visa and temporary protection status.

Dependent Variables: Force, Verbal Harassment and Procedural Failings

To measure the spectrum of force that can occur during arrest and detention, the instrument included indicators for the following forms: hit/punch, slap, kick, throw to the ground, shove, spray (pepper spray) and shoot (stun gun). The indicators were combined to examine whether the respondent reported some form of force.

It is also important to distinguish between justified and excessive force. Though the concept of excessive force is subjective, courts have applied a "reasonable officer" standard (Adams 1996, Klockars 1996). In the current research, the question of whether a reasonable officer would have used force turns on whether the deportee resisted arrest or resisted orders in detention.

For arrest, the instrument included two questions: "Did you try to run away during the arrest?" "Did you try to physically resist arrest?" Answering "yes" to either denotes resistance. For detention, the instrument included one question: "During detention, did you cooperate with officers or resist?" For both arrest and detention, resistance justifies force. But if the respondent did not resist then force is considered excessive. This distinction is a conservative application of the "reasonable officer" standard because all the forms of force outlined above would be excessive if the deportee did not resist, and some might be excessive if the deportee did resist.

To measure verbal harassment during arrest and detention, the instrument included indicators of racial slurs: "Did arresting officer(s) direct racial slurs at you?" "Did detention officers direct racial slurs at you?" To measure procedural failings during detention, the instrument included indicators of access to food, water and a phone: "Did the detention officer(s) fail to provide adequate food and water?" "Did the detention officer(s) fail to provide access to a phone?"

Independent Variables

Our multivariate models consider situational, organizational and ecological predictors of force during arrest and detention. Table 2 describes measurement strategies and descriptive statistics for the independent variables.

To explore the situational components of force, the arrest and detention models incorporate a similar, though not identical, set of dichotomous independent variables. The arrest model examines: age (the bottom quartile from 12 to 23 is distinguished to highlight the unique experiences of young deportees), sex, whether the respondent had been drinking at the time of arrest, whether the respondent resisted arrest, and whether the arrest occurred out of public view. The detention model examines: age, sex, whether the respondent had access to legal counsel during detention, and whether the respondent was detained for a long period of time (more than the median of three months).

To explore the organizational and ecological components of force, the arrest and detention models incorporate the same dichotomous independent variables. From an organizational perspective, both models examine whether the respondent was arrested/detained by local authorities or federal authorities. From an ecological perspective, both models examine whether the respondent was arrested/detained in a border state (Arizona, California, New Mexico and Texas) or non-border state.

Potential Limitations

The research has two potential limitations: validity and selection bias. Validity is a perennial concern in self-report data. Did the respondents exaggerate mistreatment to retaliate against the United States? Did the respondents conceal mistreatment for fear of retaliation from the United States? To reduce the chance of exaggeration, the instrument included closed-ended objective questions (e.g., "Did the officer kick you?") rather than open-ended subjective question (e.g., "How did the officer treat you?"). To reduce the chance of concealment, several

Table 2: Measurement and Descriptive Statistics for Independent Variables

	Response Values	Mean
Panel A: Arrest		
Situational		
Bottom Quartile of Age ¹	1 = yes (ages 12 to 23)	.26
Male	1 = yes	.95
Drinking	1 = yes	.18
Resist Arrest	1 = yes (run from officer or physically resist)	.09
Arrested Out of Public View	1 = yes	.27
Organizational		
Arrested by Police ²	1 = yes	.52
Ecological		
Arrested in Border State	1 = yes	.74
Panel B: Detention		
Situational		
Bottom Quartile of Age	see above	
Male	see above	
Legal Counsel in Detention	1 = yes	.52
Long Detention	1 = yes (> median of 3 months)	.48
Organizational		
Detained in INS Facility	1 = yes	.48
Ecological		
Detained in Border State	1 = yes	.73

¹ The bottom quartile of age (ages 12 to 23) is distinguished in order to illuminate the unique experiences of young immigrants. The middle 50 percent encompasses ages 24 to 33 and the top quartile encompasses ages 34 to 61. The mean age is 29.57.

² Arresting authorities can be divided into three categories: police (46 percent), INS (48 percent), and a combination of police and INS (6 percent). Our measure indicates police involvement, and thus combines police and police-INS (52 percent). However, a “pure” police model produces the same substantive results.

procedures were used: respondents were guaranteed confidentiality; interviews were conducted after the job placement meeting in the privacy of the deportee’s home; the interviews were documented through notes to assuage the deportee’s potential fear of being tape-recorded; and the interviewers were former Salvadoran deportees who now work for BAC, providing the entrée needed to establish trust. Despite such precautions, exaggeration and concealment remain possible.

Selection bias is a perennial concern in multistage sampling procedures.⁵ Fortunately, the BAC airport census of more than 10,000 deportees enables a comparison of the deportee sample to the Salvadoran deportee population. (All possible comparisons are reported.) The similarities between the sample and the population are strong: both the sample and population are 95 percent male; 52 percent of the sample speaks English well, compared to 56 percent of the population; 43 percent of the sample was deported for a crime, compared to 36 percent of the population; 63 percent of the sample is 30 or younger, compared

to 61 percent of the population. Finally, 38 percent of the sample had been in the United States for more than 10 years, compared to 30 percent of the population. These comparable profiles increase our confidence that the sample is a reasonable representation of the population.⁶

Results

Table 3 describes verbal harassment and procedural failings during arrest and detention. The results paint a consistent picture of verbal harassment: 25 percent of the deportees reported racial slurs during arrest; 26 percent reported racial slurs during detention. Though it is impossible to determine if respondents exaggerated mistreatment, it is possible to calculate the number of deportees who claim to have been subject to racial slurs during *both* arrest and detention. The fact that most deportees (192 of 298) did not report racial slurs in either setting, coupled with the fact that arrest and detention are distinct settings with unrelated actors, suggests that if an unreasonable number of deportees report racial slurs in both settings then exaggeration is a concern. The 153 reported racial slurs (arrest: 76 of 299; detention: 77 of 298) are distributed as follows: 29 deportees reported a slur during arrest but not detention; 30 reported a slur during detention but not arrest; and 47 reported a slur during both. The proposition that 16 percent (47 of 298) of the deportees experienced racial slurs in both settings does not seem unreasonable. But because exaggeration remains possible, we offer minimum and maximum estimates of the percent of deportees who appear to have experienced a racial slur at some point in the deportation process, ranging from 20 percent (59 of 298) to 36 percent (106 of 298). Turning to procedural failings, Table 3 also indicates that a substantial number of deportees did not have access to basic resources in detention: 31 percent reported not being provided with adequate food and water; 45 percent reported not having access to a phone.

Table 3: Verbal Harassment and Procedural Failings During Arrest and Detention

	Percent Yes
Panel A: Arrest	
Verbal Harassment	
Did arresting officer(s) direct racial slurs at you?	25
Panel B: Detention	
Verbal Harassment	
Did detention officer(s) direct racial slurs at you?	26
Procedural Failings¹	
Did detention officer(s) fail to provide adequate food and water?	31
Did detention officer(s) fail to provide access to a phone?	45
Percent experiencing one or more procedural failings	61

¹ The original procedural questions were framed in a positive direction (e.g., “Did detention officer(s) provide adequate food and water?” Here, the questions were rephrased (and reverse coded) so that all responses could be described in a consistent manner using “percent yes.”

Table 4 details the use of force during arrest and detention. For arrest, the most common forms of force are shoving the suspect and throwing the suspect to the ground. Incidents of officers hitting, punching, slapping and kicking suspects are less common, but do occur. In rare cases, officers use pepper gas or a stun gun to subdue suspects. Combining all forms, 20 percent of the deportees reported some form of force during arrest. Of the 58 force cases, eight were justified (resistance leads to force) and 49 were excessive (force despite no resistance).⁷ Of the 239 non-force cases, 219 involved routine arrests (no resistance or force) and 19 involved restraint on the part of the officer (no force despite resistance).⁸ Notably, excessive force is reported almost 2.5 times as often as restraint during arrest. Turning to the findings on detention, the most common form of force is shoving a deportee, but other forms – hit, punch, slap and throw to the ground – occur at almost the same rate. The use of pepper gas and stun guns remains rare. Combining all forms, 11 percent of the deportees reported some form of force during detention. Of the 34 force cases, two were justified and 32 were excessive. Of the 262 non-force cases, 252 involved routine detention and three involved restraint on the part of the officer.⁹ Here, too, excessive force dominates restraint.

In addition to specific patterns, Table 4 reveals a broad substantive theme: most force is excessive. Including both arrest and detention, 81 of the 92 force incidents occurred despite the deportees' claims not to have resisted arrest or detention officers' orders. Using the same approach to examine the question of potential exaggeration, the 81 excessive force incidents are distributed as follows: 30 deportees reported excessive force during arrest but not detention, 12 reported excessive force during detention but not arrest, and 19 reported excessive force during both.¹⁰ Thus, a minimum of 14 percent (42 of 298) of the deportees appear to have experienced excessive force at some point during the deportation process, compared to a maximum of 20 percent (61 of 298).

Our description of the treatment of deportees during arrest and detention leads to a logical question: How are deportees treated compared to U.S. citizens? Comparison data are available for arrest, but not detention. The Bureau of Justice Statistics' 2001 Police-Public Contact Survey (PPCS) provides the best available citizen self-report data on the use of force during arrest.¹¹ Conducted in 1999 as a supplement to the National Crime Victimization Survey (NCVS), the PPCS includes a random sample of more than 80,000 respondents. The PPCS defines police use of force during arrest as the threat of, or actual engagement in, one or more of the following behaviors: pushing or grabbing a citizen in a manner that does not inflict pain, pushing or grabbing a citizen in a manner that does inflict pain, kicking or hitting a citizen, spraying chemicals on a citizen, pointing a gun at a citizen, or ordering a police dog to subdue a citizen (BJS 2001:2). The PPCS unit of analysis can be disaggregated to "citizens involved in a crime," an appropriate comparison to deportees. The PPCS data indicate that 18 percent of citizens who had a contact with the police because of involvement in a crime reported force or the threat of force. To refine the comparison, 78 percent of the citizens' incidents escalated to actual force – rather than threats – so 14 percent of citizens reported actual force. Thus, deportees are about 1.5 times more likely

Table 4: Use of Force During Arrest and Detention

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Panel A: Arrest	
Forms of Force	Percent Yes
Did arresting officer(s) hit or punch you?	7
Did arresting officer(s) slap you?	6
Did arresting officer(s) kick you?	7
Did arresting officer(s) throw you to the ground?	12
Did arresting officer(s) shove you?	15
Did arresting officer(s) spray you (e.g. pepper spray)?	4
Did arresting officer(s) shoot you with a stun gun?	1
Number experiencing one or more forms of force	58
Percent experiencing one or more forms of force	20

	Number of Cases	Type	Definition	Number of Cases
Force	58	Justified ¹	Resistance leads to force	8
		Excessive	Force despite no resistance	49
		Missing on resist		1
No Force	239	Routine	No resistance or force	219
		Restraint	No force despite resistance	19
		Missing on resist		1
Missing on Force	3			

Panel B: Detention	
Forms of Force	Percent Yes
Did detention officer(s) hit or punch you?	7
Did detention officer(s) slap you?	7
Did detention officer(s) kick you?	5
Did detention officer(s) throw you to the ground?	7
Did detention officer(s) shove you?	9
Did detention officer(s) spray you (e.g. pepper spray)?	3
Did detention officer(s) shoot you with a stun gun?	2
Number experiencing one or more forms of force	34
Percent experiencing one or more forms of force	11

	Number of Cases	Type	Definition	Number of Cases
Force	34	Justified ¹	Resistance leads to force	2
		Excessive	Force despite no resistance	32
		Missing on resist		0
No Force	262	Routine	No resistance or force	252
		Restraint	No force despite resistance	3
		Missing on resist		7
Missing on Force	4			

¹ The opposite causal order is also possible: force leads to resistance. To give officers the benefit of the doubt, we code force as justified if resistance and force occur during the same incident.

than citizens to report actual force during arrest – 20 percent of deportees vs. 14 percent of citizens.

However, the true deportee-citizen force differential might be greater. Among citizens, 37 percent of the actual force incidents involved being pushed or grabbed in a manner that did not inflict pain (BJS 2001:25). If such incidents are excluded, then 9 percent of citizens reported force that inflicted pain. How does that compare to deportees? The question cannot be answered definitively because we did not ask the deportees about pain. But it seems reasonable to assume that the following forms of force in our data would inflict pain: being hit, punched, slapped, kicked, thrown to the ground, sprayed with pepper gas, or shot with a stun gun. The only form of force in our data that might not cause pain is being shoved. If our assumptions are granted, and shove incidents are excluded, then 16 percent of deportees reported force that inflicted pain (excluding all shove incidents creates a conservative estimate of the force differential because some shove incidents presumably did cause pain). Using this approach, deportees are almost twice as likely as citizens to report force during arrest that inflicts pain – 16 percent of deportees versus 9 percent of citizens.

Turning to the causal mechanisms that produce force, Table 5 presents odds ratios from the logistic regression of force during arrest/detention on situational, organizational and ecological predictors.

Table 5: Odds Ratios from the Logistic Regression of Force on Independent Variables

	Odds Ratio
Panel A: Arrest	
Situational	
Bottom Quartile of Age	2.29***
Male	.58
Drinking	.80
Resist Arrest	1.89
Arrested Out of Public View	.88
Organizational	
Arrested by Police	2.49***
Ecological	
Arrested in Border State	.96
(n)	(276)
Panel B: Detention	
Situational	
Bottom Quartile of Age	2.06*
Male	.47
Legal Counsel in Detention	.54
Long Detention	2.39**
Organizational	
Detained in INS Facility	.70
Ecological	
Detained in Border State	1.48
(n)	(266)

*p < .10 **p < .05 ***p < .01

Panel A examines arrest. Considering situational predictors, the age of the deportee has a strong influence on force: the odds of force are 2.3 times greater for deportees who are in the bottom quartile of the age distribution, compared to all other deportees (in contrast to prior research the relationship between age and force remains robust in the face of controls). The remaining situational components are non-significant. (Resistance is in the expected direction and comes closer to significance than the other situational factors.) Considering the organizational predictors, the results suggest that arresting authorities also shape force: the odds of force are 2.5 times greater for deportees who are arrested by local authorities rather than federal authorities. In fact, police use of force accounts for the entire deportee-citizen force differential during arrest, suggesting that federal authorities (such as the Border Patrol) are doing a better job than common criticisms would suggest.¹² Recall that 14 percent of citizens were subject to force at the hands of the police. Among deportees arrested by INS, 13 percent were subject to force – no different than citizens. Among deportees arrested by the police, 26 percent were subject to force – almost double the rate for citizens. Yet the police are not inherently more forceful than INS; police use the same rate of force against citizens as INS uses against deportees. So the police are only more forceful when dealing with deportees, a population the police are not sufficiently trained to handle. Finally, ecological influences – concentrations of immigrants in border states – do not shape force during arrest.¹³

Panel B examines detention. The situational components of detention are fateful. Consistent with the impact of age on force during arrest, being in the bottom quartile of the age distribution doubles the odds of force during detention. Exposure also matters: the odds of force are 2.4 times greater for deportees detained longer than the median of three months. Hiring legal counsel appears to reduce the odds of force. However the impact of legal counsel must be considered provisional because the p value of .13 does not reach the generous threshold of .10. Nonetheless, the difference is sufficient to warrant further investigation: 9 percent of deportees who had legal counsel experienced force during detention, compared to 15 percent of those who did not. The organizational and ecological components of detention are inconsequential. Although the police use more force than federal officers during arrest, jail personnel do not use more force than federal detention personnel. Consistent with the prior results regarding arrest, concentrations of immigrants in border states do not influence force during detention.

Conclusion

The recent passage of IIRIRA, AEDPA and the USA PATRIOT Act has produced a dramatic rise in the arrest, detention and removal of immigrants from the United States, while simultaneously limiting judicial review of the process. The sheer number of deportees who are now at risk of human rights and civil rights violations underscores the need to monitor treatment during arrest and detention. But policymakers have ignored the task in the wake of 9/11 as immigration issues are increasingly tied to national security concerns. Researchers have also remained silent. Criminologists continue to focus on the treatment of citizens at

the hands of criminal justice officials, and demographers continue to focus on other dimensions of the migration experience.

Drawing on a random sample of Salvadoran deportees, our research indicates that substantial numbers of deportees are subject to force during arrest. Indeed, the rate of force against Salvadoran deportees is higher than the rate against U.S. citizens. Moreover, force tends to be excessive, occurring despite the absence of resistance. The most important predictors of force during arrest are age and arresting authorities; young deportees and those arrested by the police are more likely to be subject to force. The mistreatment of Salvadoran deportees continues in detention. Not only does the use of excessive force continue, albeit at a diminished pace, but numerous deportees did not have adequate food and water or access to a phone. Here, the most important predictors of force were the age of the deportee and the length of detention.

Criminologists and demographers should join forces to examine the treatment of deportees, considering, for example, whether the treatment of Salvadoran deportees is indicative of the treatment of all deportees or anomalous. Such scholarship could provide needed insights regarding the state's expanding use of removal as a form of social control; burgeoning detentions and removals demonstrate the power to regulate social membership through exclusion, including the exclusion of residents with established work and familial histories in the United States. Studies of deportation can also illuminate how state action shapes the social and demographic structures of local communities and institutional settings. Research on the treatment of deportees even has the potential to help ensure an equitable balance between protecting legitimate interests of national security and protecting the civil rights of deportees.

Notes

1. In 2003, INS was merged with the U.S. Customs Service to form the Bureau of Immigration and Customs Enforcement (BICE) and relocated to the Department of Homeland Security (DHS).
2. Approximately one million legal immigrants were admitted to the United States annually during the 1990s. Another 200,000-350,000 migrants arrived annually without authorization (DHS 2004).
3. A fourth category considers police officers' individual characteristics, such as education and marital status. Ideally, we would have collected data on the characteristics of each officer. But our inability to do so is not a fatal flaw. Despite conventional wisdom regarding "good cops" and "bad cops," the search for individual predictors of force remains elusive (Riksheim and Chermak 1993).
4. Information about BAC comes from organization documents and meetings with the Director.
5. Response rates varied across the two stages of the research: among deportees who were sent information postcards about the job placement meet-

ings, 55 percent attended a meeting; among deportees who were asked for an interview, 80 percent agreed.

6. Complete data regarding the comparison of the sample to the population can be obtained from the authors upon request.
7. One case is missing data on whether the deportee resisted arrest.
8. Again, one case is missing data on whether the deportee resisted arrest.
9. Here, seven cases are missing data on whether the deportee resisted orders during detention.
10. The distribution of excessive force incidents totals to 80 (30+12+19+19) rather than 81 because in 1 case the respondent experienced excessive force during detention, but it was impossible to determine whether he experienced excessive force during arrest (he did experience force during arrest, but he did not answer the question about whether he resisted arrest).
11. Other methodological strategies have also been used to estimate the rate of force against citizens during arrest, including observation and officer self-report. Neither approach provides a suitable comparison to deportee self-report data. Observation data are obtrusive and tend to focus on encounters rather than arrests. Officer self-reports focus on arrests, but officers and citizens often do not share the same interpretation of an event. Such differences tend to deflate the estimate of force against citizens, relative to citizen self-reports.
12. Part of the explanation might revolve around communication. The local police are less apt to have an officer at the scene of the arrest who speaks Spanish: according to the deportees, a Spanish speaking officer was present at 41 percent of local arrests compared to 73 percent of federal arrests. Moreover, the presence of a Spanish speaking officer appears to reduce the chance of force: in the presence of a Spanish speaking officer 16 percent of arrests escalated to force, but in the absence of a Spanish speaking officer 23 percent of arrests escalated to force (the effect of a Spanish speaking officer is in the expected direction but non-significant in multivariate models).
13. In an earlier project, we found that the police are more likely than INS to use force during arrest, but that the difference disappears after controlling for whether the deportee was arrested for a crime or an immigration violation (Phillips, Rodriguez, and Hagan 2002). Here, the police-INS difference does not disappear after controlling for the basis of the arrest (models available upon request). Nonetheless, we do not include the basis of the arrest in the current models because of substantial overlap between the basis of arrest and the arresting authority (police officers make most arrests for crimes and INS officers make most arrests for immigration violations).

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