

# BOOK REVIEW

## IMMIGRATION LAW’S FOOT SOLDIERS

Bordering on Indifference: Immigration Agents Negotiating Race and Morality

By Irene I. Vega. Princeton, NJ: Princeton University Press, 2025.

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*Stephen Lee\**

*Historically, we have known little about the law enforcement actors who oversee a punitive deportation machine. Slowly, this is changing. Using the insights from Professor Irene Vega’s groundbreaking book on immigration enforcement agents and officers, this Book Review makes three points. First, these agents and officers utilize a range of strategies to justify morally ambiguous job duties, and at least a part of the moral ambiguity comes from a misalignment between the agents’ training (which focuses on the threat and use of force against dangerous transnational criminals) and the day-to-day realities of the job (which involve a mostly compliant and non-threatening population of migrants). Second, the agents’ strategies serve to legitimate punitive enforcement policies by denigrating migrants while simultaneously undermining other immigration-related programs that do not advance inherently punitive goals. Vega’s book highlights an enduring dilemma within the immigration bureaucracy—finding ways to coordinate and reconcile the agency missions of foot soldiers and bureaucrats given their distinct skill sets and public reputations—while also providing new insights on areas for further study. Third and finally, the book offers especially poignant insights on the Trump Administration’s decision to treat every immigration challenge as an enforcement problem to be addressed by the bureaucracy’s foot soldiers.*

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\* Associate Dean for Faculty Research and Development and Professor of Law, University of California, Irvine. For helpful comments, I am grateful to Sameer Ashar, Swethaa Ballakrishnen, Annie Lai, and Ari Ezra Waldman. I am also grateful to Irene Vega for writing a book from which I have learned so much. Please send comments and questions to [slee@law.uci.edu](mailto:slee@law.uci.edu).

## INTRODUCTION

In 2026, during the second year of the second Trump presidency, many popular accounts have understandably focused on “purges” unfolding within major agencies responsible for protecting the environment, the rights of workers, and the health and openness of financial markets.<sup>1</sup> This Book Review tells another, complementary story, one that highlights on the agencies that are thriving—namely, those tasked with enforcing our nation’s immigration laws. When voters went to the polls in 2024, Congress had already devoted more resources to enforcing immigration laws than all other federal law enforcement programs combined.<sup>2</sup> As soon as President Donald Trump returned to office, he redirected even more resources towards the Department of Homeland Security (DHS), the cabinet-level agency that oversees the actions of the U.S. Border Patrol and

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1. See Madeleine Ngo & Brad Plumer, *Layoffs Expand at Federal Agencies, Part of Trump Purge*, N.Y. Times (Feb. 14, 2025), <https://www.nytimes.com/2025/02/14/us/politics/energy-department-layoffs.html> (on file with the *Columbia Law Review*) (describing a purge of federal employees at agencies such as the Environmental Protection Agency); see also Katanga Johnson & Weihua Li, *Trump Cuts Thousands of Wall Street Cops While Markets Swing*, Bloomberg (May 7, 2025), <https://www.bloomberg.com/news/articles/2025-05-07/trump-s-layoffs-cut-more-than-2-300-from-us-bank-and-markets-regulators?sref=zNmRQ0gk> (on file with the *Columbia Law Review*) (describing layoffs at financial regulatory agencies such as the Securities and Exchange Commission and the Federal Deposit Insurance Corporation); Michael Sainato, *Panic as US Federal Workers Scramble to Find Out if They’ve Been Fired: ‘I Don’t Have Email Access’*, The Guardian (Oct. 15, 2025), <https://www.theguardian.com/us-news/2025/oct/15/trump-federal-workers-layoffs> [<https://perma.cc/HWB5-9C9B>] (describing layoffs at the Departments of Education and Labor).

2. See Doris Meissner & Julia Gelatt, *Migration Pol’y Inst., Eight Key U.S. Immigration Policy Issues: State of Play and Unanswered Questions 3* (2019), [https://www.migrationpolicy.org/sites/default/files/publications/ImmigrationIssues2019\\_Final\\_WEB.pdf](https://www.migrationpolicy.org/sites/default/files/publications/ImmigrationIssues2019_Final_WEB.pdf) [<https://perma.cc/F9BF-CKVE>] (describing 2018 congressional appropriations for immigration enforcement agencies). The resources allocated to Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)—the agency in which the Border Patrol is housed—far outweigh those given to U.S. Citizenship and Immigration Services (USCIS) and other agencies with mission orientations that are ministerial or at least not inherently punitive. Lawmakers and regulators often use the enforcement–benefits distinction to differentiate between the missions of these agencies even though the line separating the two can be blurry in practice. See Stephen Lee, *Administrative Violence in Immigration Law*, 66 *Ariz. L. Rev.* 739, 749–54 (2024) [hereinafter Lee, *Administrative Violence*]. While ICE’s annual budget hovers around \$8 billion, USCIS’s annual budget peaked at \$855 million. Compare DHS, *U.S. Immigration and Customs Enforcement Budget Overview: Fiscal Year 2023 Congressional Justification 7* (2022), [https://www.dhs.gov/sites/default/files/2022-03/U.S.%20Immigration%20and%20Customs%20Enforcement\\_Remediated.pdf](https://www.dhs.gov/sites/default/files/2022-03/U.S.%20Immigration%20and%20Customs%20Enforcement_Remediated.pdf) [<https://perma.cc/N2TF-9L3B>], with DHS, *U.S. Citizenship and Immigration Services Budget Overview: Fiscal Year 2024 Congressional Justification 4* (2023), [https://www.dhs.gov/sites/default/files/2023-03/U.S.%20CITIZENSHIP%20AND%20IMMIGRATION%20SERVICES\\_Remediated.pdf](https://www.dhs.gov/sites/default/files/2023-03/U.S.%20CITIZENSHIP%20AND%20IMMIGRATION%20SERVICES_Remediated.pdf) [<https://perma.cc/67NP-7AN5>] [hereinafter DHS 2024 Budget Overview].

of Immigration and Customs Enforcement (ICE).<sup>3</sup> Congress then amplified this effort by passing an appropriations bill—the One Big Beautiful Bill Act (OBBBA)—that included a massive influx of funding for these agencies.<sup>4</sup> Understandably, this influx of resources has put many migrant communities and advocates on edge and has generated fear that this funding will exacerbate the most harmful and violent elements of current immigration enforcement policies.<sup>5</sup>

Agents and officials tasked with enforcing immigration laws are sometimes derisively called “foot soldiers,” evoking the use and threat of force under law associated with the military or the police.<sup>6</sup> Many legal and sociolegal scholars have noted the quasi-militarism and culture of violence that animates immigration enforcement. Mostly, though, existing scholarship has developed these insights at a distance, providing limited insights on the trajectory and experience of those who join the ranks of immigration enforcement agencies.<sup>7</sup> Enter Professor Irene I. Vega and her groundbreaking book, *Bordering on Indifference: Immigration Agents Negotiating Race and Morality*,<sup>8</sup> which provides an in-depth examination of

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3. See Proclamation No. 10886, 90 Fed. Reg. 8327 (Jan. 29, 2025) (providing the text of the executive order titled “Declaring a National Emergency at the Southern Border of the United States,” issued on January 20, 2025).

4. See One Big Beautiful Bill Act, Pub. L. No. 119-21, §§ 90001–90007, 100001–100018, 100051–100057, 139 Stat. 72, 357–61, 364–85, 385–94 (2025) (codified in scattered titles of the U.S.C.).

5. See Rosa Barrientos-Ferrer, Ben Greenho & Silva Mathema, Congressional Republicans’ One Big Beautiful Bill Act Creates an Unaccountable Slush Fund for the Trump Administration’s Deportation Force, Ctr. for Am. Progress (Sep. 19, 2025), <https://www.americanprogress.org/article/congressional-republicans-one-big-beautiful-bill-act-creates-an-unaccountable-slush-fund-for-the-trump-administrations-deportation-force/> (on file with the *Columbia Law Review*) (arguing that the One Big Beautiful Bill Act’s massive expansion of the federal government’s deportation capacity will “further escalate the Trump [A]dministration’s unprecedented and indiscriminate deportation agenda”); see also Thomas S. Dee & Mark Murphy, How Strict Immigration Enforcement Harms Schoolchildren, Policy Brief, Stanford Inst. for Econ. Pol’y Rsch. (2018), <https://drive.google.com/file/d/1nCLo-2j0yQ0xneBSpRgJ4cttPZtErAcN/view> (on file with the *Columbia Law Review*) (describing the negative effects of ICE partnerships with local law enforcement on children, such as drops in school enrollment rates).

6. See, e.g., Samantha Michaels, Trump’s Deportation Machine Has Diverted Some 42,000 Crime Fighters From Other Tasks, Mother Jones (Oct. 2, 2025), <https://www.motherjones.com/politics/2025/10/trump-ice-deportation-local-state-federal-police-assisting-287g/> [<https://perma.cc/U2NW-FTG7>] (“President Donald Trump’s deportation army is growing by the day, and a shocking number of its foot soldiers don’t even work for US Immigration and Customs Enforcement (ICE).”).

7. Vega is, of course, not the first scholar to have relied on interview data provided by political appointees and other government officials who come and go as administrations (and political priorities) turn over. See Jennifer M. Chacón, Susan Bibler Coutin & Stephen Lee, Legal Phantoms: Executive Action and the Haunting Failures of Immigration Law 4 (2024); Stephen Lee & Sameer M. Ashar, DACA, Government Lawyers, and the Public Interest, 87 *Fordham L. Rev.* 1879, 1880–81 (2019).

8. Irene I. Vega, *Bordering on Indifference: Immigration Agents Negotiating Race and Morality* (2025) [hereinafter Vega, *Bordering on Indifference*].

why a diverse cross section of Americans become immigration foot soldiers and how they make sense of their job and responsibilities. Agencies engaging in politically divisive work like the Border Patrol and ICE have little to gain by opening their doors to scholars and journalists.<sup>9</sup> As a result, scholars often have to pivot and redesign studies on the fly when best laid plans fail to yield access to bureaucratic institutions. And yet, Professor Vega recounts how she showed up to the Border Patrol sector headquarters near the U.S.–Mexico border in Arizona in July 2014, approached a woman sitting behind a “large, thick glass partition,” and offered this casual introduction: “I’m a graduate student, and I want to talk to Border Patrol agents about their job. Is there someone who can help me?”<sup>10</sup> From this modest exchange, Vega gained access to some of the most cloistered agencies in the federal government, interviewing ninety agents engaged in enforcement work within both the Border Patrol and ICE. It is hard to overstate the novelty of this dataset.<sup>11</sup>

The descriptive clarity provided by *Bordering on Indifference* makes the book necessary reading for all students and scholars of immigration law, especially in an era when enforcement agencies shape so much of immigration policy. The book provides many important insights on the agencies most directly responsible for enforcing immigration policies—about the heavily Latino presence among the agency workforce and the false promise of racial representation as a cure for harmful policies;<sup>12</sup> about how many agents end up in immigration agencies as a “plan B” in life;<sup>13</sup> and about how many border communities resent but also rely on the carceral-like economy.<sup>14</sup> Tellingly, many of Vega’s interviewees remarked on how

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9. See Memorandum from Donald J. Trump, President to the Sec’y of Def., Att’y Gen., and Sec’y of Homeland Sec. (June 7, 2025), <https://www.whitehouse.gov/presidential-actions/2025/06/departament-of-defense-security-for-the-protection-of-department-of-homeland-security-functions/> [<https://perma.cc/GPH2-F8VH>] (calling the National Guard to protect ICE personnel in response to protests). In deflecting criticisms that agencies like ICE engaged in rogue activity during the Obama Administration, some high-level officials described such agencies as “quasi-paramilitary organizations.” See Chacón et al., *supra* note 7, at 72. This is a problem that many social scientists face in reaching “organizational elites.” See Kevin J. Delaney, *Methodological Dilemmas and Opportunities in Interviewing Organizational Elites*, 1 *Socio. Compass* 208, 210 (2007).

10. Vega, *Bordering on Indifference*, *supra* note 8, at 155–56.

11. More commonly, scholars who focus on immigration officials report difficulties in convincing officials to sit for formal interviews. See Dylan Farrell-Bryan, *Agency Entrenchment: Sociological Legitimacy in a Politically Contested Occupation*, 49 *Law & Soc. Inquiry* 2523, 2529 (2024) (noting the need to broaden the pool of interviewees to include former ICE attorneys once agency management cut off access to current ICE attorneys); see also Asad L. Asad, *Engage and Evade: How Latino Immigrant Families Manage Surveillance in Everyday Life 195–222* (2023) (describing a methodology that relied on informal engagement with immigration judges because of their refusal to sit for formal interviews).

12. See Vega, *Bordering on Indifference*, *supra* note 8, at 140 (“[Latina/o agents] are not dissenting or reforming the immigration system; they are sustaining it and even lending the system the legitimacy that comes from having a ‘racially representative’ workforce.”).

13. *Id.* at 29–35.

14. *Id.* at 144–45.

they don't often encounter the dangerous "criminal aliens" nested within transnational organizations that they were trained to target and combat.<sup>15</sup> Instead, they note that much of the job involves encounters with mere "economic" migrants or asylum seekers, an almost universally compliant and nonthreatening population.<sup>16</sup> These qualitative insights largely track, and provide much needed texture to, the quantitative trends that emerged during the same time period.<sup>17</sup>

Beyond its nuanced account of immigration agencies as viable employment options for racially marginalized and minoritized communities, *Bordering on Indifference* also provides important insights on the relationship between bureaucracies and violence, and more specifically, on how bureaucratic norms and practices obfuscate agency violence. Like many public officials empowered to use force and engaged in "dirty work"—work that is both "denounced and respected"—immigration enforcement agents and officers find ways to "construct a positive professional identity."<sup>18</sup> In Vega's account, these foot soldiers employ a range of strategies to reduce the stigma of working for these agencies, including assuming the worst about otherwise seemingly nonthreatening migrants, taking steps to be "caring" in apprehending and detaining migrants, and embracing an attitude of "disinterested professionalism" which prioritizes systemic norms of neutrality over the equities of any individual case.<sup>19</sup> All of these strategies aim to reduce stigma, legitimate broadly punitive immigration policies, and denigrate the targets of these regulatory efforts.

As a study of bureaucratic governance, *Bordering on Indifference* frequently compares federal immigration enforcement actors to the police, who are the most obvious government actors at the local level empowered to use and threaten force. In advancing her argument that ICE and the Border Patrol ought to be understood in bureaucratic terms, Vega interrogates the nominal commitments of administrative law—for example, making decisions based on technical expertise, an ostensible commitment to rationality, and a concern with legitimacy in the public's eye—and shows

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15. *Id.* at 65–67.

16. *Id.* at 53, 56–65.

17. Vega conducted her interviews towards the end of the Obama Administration. Then, from the years 2016 to 2018, the percentage of immigrants in detention with serious criminal convictions declined while the percentage of those with no convictions increased. See ICE Focus Shifts Away From Detaining Serious Criminals, TRAC Immigration (June 25, 2019), <https://tracreports.org/immigration/reports/564/> [<https://perma.cc/89S5-T6LL>]. This is a trend that continued during the first and second Trump Administrations. See ICE Detains Fewer Immigrants With Serious Criminal Convictions Under Trump Administration, TRAC Immigration (Dec. 6, 2019), <https://tracreports.org/immigration/reports/585/> [<https://perma.cc/VX6V-Z954>]; see also Muzaffar Chishti & Valerie Lacarte, U.S. Immigrant Detention Grows to Record Heights Under Trump Administration, Migration Pol'y Inst. (Oct. 29, 2025), <https://www.migrationpolicy.org/article/trump-immigrant-detention> (on file with the *Columbia Law Review*).

18. See Vega, *Bordering on Indifference*, *supra* note 8, at 116–17, 182.

19. *Id.* at 76.

how these sturdy values quietly reinscribe racial identity and racialized harms. For this reason, framing the Border Patrol and ICE as federal agencies plagued by the same sorts of bureaucratic pathologies associated with the local police makes complete sense. It makes all the more sense when considering the degree to which federal immigration law relies on local criminal law officials.<sup>20</sup> In this way, *Bordering on Indifference* illustrates how bureaucratic rules and practices make it hard to identify and remedy racialized harms caused by law enforcement actors from the federal government all the way down. But this undersells what the book can teach us about bureaucratic governance. ICE and Border Patrol officers work within a broader federal ecosystem of agencies all charged with different immigration-related duties, many of which have nothing to do with the use or threat of force (such as visa adjudications or labor certifications). For this reason, this Book Review focuses less on what Vega's book can teach us about what ICE officers and Border Patrol agents have in common with police officers but rather what we can learn about how immigration law's foot soldiers relate to and affect other parts of the federal immigration bureaucracy.

While some agencies, like the Border Patrol and ICE, use or threaten force in administering immigration laws, other agency actors like U.S. Citizenship and Immigration Services (USCIS) officers, immigration judges, and consular officers engage in bureaucratic work such as reviewing paperwork, conducting interviews, granting visas, and adjudicating waiver applications far from the field or the streets.<sup>21</sup> Roughly speaking, these two ends of the spectrum of agency power—which I have elsewhere described in terms of direct and administrative forms of violence<sup>22</sup>—operate along pathways either committed to enforcing immigration laws or allocating immigration benefits. On the enforcement side, agencies like ICE and the Border Patrol are tasked with arresting, detaining, and removing migrants. On the benefits side, USCIS and other agencies, consulate offices, and, to a certain extent, immigration judges adjudicate applications for relief. The efforts by ICE officers and Border Patrol agents to achieve legitimacy through their unrelenting enforcement of immigration laws destabilizes the other agencies focused on allocating benefits. The threat of deportation exerts a gravitational force on other immigration agencies, putting them in the position of withdrawing and pulling away as lines demarcating authority get blurred or disappear. Managing migration challenges

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20. See Emily Ryo, Jennifer M. Chacón & Cecilia Menjívar, *Criminalization of Immigration*, Russell Sage Found. J. Soc. Scis., Oct. 2025, at 282, 283 (“Under this system, state and local law enforcement actors and institutions have come to play a central and ever-expanding role in policing and incarcerating immigrants in service of federal detention and deportation policies.”).

21. See Lee, *Administrative Violence*, supra note 2, at 741–42 (describing the work of administrative bureaucratic actors, such as USCIS, as largely adjudicatory and benefits-related).

22. *Id.* at 743–54.

through enforcement policies not only leads to punitive and often demeaning regulatory outcomes, it also undermines other parts of the administrative state charged with addressing migration in different ways.

This dynamic has only worsened during President Trump's second Administration. Since 9/11, foot soldiers and bureaucrats have operated within their respective spheres in carrying out their immigration duties, but this commitment to separation of functions has mostly disappeared. Agents who work on the benefits side of the enforcement–benefits distinction are increasingly tasked with enforcement-oriented duties. DHS, for example, has empowered USCIS to issue Notice-to-Appeal documents (NTAs), which are the immigration enforcement equivalent to a charging document or indictment issued by prosecutors in the criminal context.<sup>23</sup> Indeed, this Administration's approach seems to be aimed at removing any hurdles to reassignment and redirecting other agency actors to support enforcement efforts, including (for example) tasking military lawyers to serve as immigration judges at the border.<sup>24</sup> Within the broader immigration bureaucracy, foot soldiers are the paradigmatic immigration actor exerting outsized influence over immigration policy.

Part I summarizes the core, sociological contribution of Vega's book, which is its focus on how immigration enforcement officers exercise far-reaching legal and punitive authority against a vulnerable population that does not appear to be dangerous or deserving of such punishment. Because existing laws fail to satisfactorily address agent and officer concerns about the legitimacy of their actions, Vega describes the moral economies in which these actors grapple with and attempt to justify their power. Part II focuses on a set of insights that are less expressly developed but nevertheless animate much of the book, namely the mismatch or misalignment that immigration officers see between their training and the day-to-day realities of their jobs. While these agency actors were recruited, trained, and acculturated to focus on dangerous, transnational criminals, the reality has been that many of the migrants they encounter in the field often resemble economic migrants who pose no obvious danger. This misalignment motif, which appears throughout the book, clarifies how the broader immigration system makes it hard—if not impossible—to mean-

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23. Ordinarily, such documents must originate within ICE, but this is not the case under the Trump Administration. See USCIS, DHS, PM-602-0187, *Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens (2025)*, [https://www.uscis.gov/sites/default/files/document/policy-alerts/NTA\\_Policy\\_FINAL\\_2.28.25\\_FINAL.pdf](https://www.uscis.gov/sites/default/files/document/policy-alerts/NTA_Policy_FINAL_2.28.25_FINAL.pdf) [<https://perma.cc/T9LX-6J35>].

24. *Detailing Attorneys to the Department of Justice to Serve as Immigration Judges and Special Assistant United States Attorneys*, 49 Op. O.L.C., slip op. at 1 (Oct. 23, 2025) (“[W]e advised that the Secretary may send, and the Attorney General may receive, personnel, including military personnel, to serve on detail as temporary immigration judges . . . .”); see also Ximena Bustillo, *Military Lawyers Called Up to Relieve a Shortfall in Immigration Judges*, NPR (Sep. 2, 2025), <https://www.npr.org/2025/09/02/g-s1-86691/military-lawyers-immigration-judges-jag> [<https://perma.cc/RGT3-QT7D>].

ingfully use enforcement policies to achieve just or humane enforcement outcomes.

Part III then considers how Vega's account broadens understandings about the meaning and reach of bureaucratic governance strategies that rely on the threat and use of force. Concerned by the absence of legal constraints on agency violence, critics of immigration enforcement often argue that such actions are lawful but illegitimate acts. The various strategies utilized by the interviewees in Vega's book ultimately legitimate punitive enforcement policies by denigrating migrants. At the same time, these enforcement policies and the violence for which they are responsible exert a gravitational force over the rest of the immigration bureaucracy, distorting and arguably corrupting other agency missions. Finally, Part IV considers how the agency dynamics highlighted in *Bordering on Indifference* can yield insights on immigration enforcement under the second Trump Administration.

### I. MORAL ECONOMIES

*Bordering on Indifference* is a book about some of the most powerful and controversial agencies within the federal government: ICE and the Border Patrol. It highlights and interrogates the voices and experiences of the people who work in them—what they gain by working at the agencies and what the agencies gain in return by hiring them.<sup>25</sup> As Vega highlights, working for a government agency opens up stable employment opportunities for Latinx residents in rural border towns without many prospects for upward mobility.<sup>26</sup> In turn, hiring such residents bolsters the ability of government agencies to claim legitimacy because they are employing a diverse workforce that roughly resembles the populations they target and manage.<sup>27</sup> Ostensibly, this is a mutually beneficial relationship, but as the book shows, the benefits do not run neatly in both directions. The path to upward mobility goes through a workplace embedded within a carceral economy that poses some difficult moral questions to officers and agents.

The book opens with Vega's first meeting with a Border Patrol officer, Marcos Payan, a Latinx officer whose own family members "had entered the United States without documentation," similar to members of the border community he is charged with policing.<sup>28</sup> Vega describes Payan as

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25. Vega, *Bordering on Indifference*, supra note 8, at 4–5.

26. *Id.* at 30–32. Structural racism and persistent disparities in employment rates constrain labor market opportunities for these Latinx residents. Rose Khattar, Jessica Vela & Lorena Roque, *Latino Workers Continue to Experience a Shortage of Good Jobs*, Ctr. for Am. Progress (July 18, 2022), <https://www.americanprogress.org/article/latino-workers-continue-to-experience-a-shortage-of-good-jobs/> (on file with the *Columbia Law Review*).

27. See *id.* at 10 ("As representatives of the immigration state, all agents are engaged in this incessant project of legitimation, but the pull toward justification is especially pronounced for Latina/o agents, who deal with layered legitimacy deficits.").

28. *Id.* at 1–4.

a reluctant interview subject and as someone whose ambivalence remains suspended between two contradictory impulses: pride born of a family history including prior generations of undocumented migration and significant economic security and social standing provided by a job that aims to stop undocumented migration.<sup>29</sup> Noting that a significant percentage of immigration enforcement agents identify as Latinx, Professor Vega observes that many agents engage in work that is “marked by in-betweenness—they are state agents by profession, but also embodiments of the United States’ main target as Latinas/os.”<sup>30</sup> Many of Vega’s interviewees found that navigating this in-betweenness meant having to explain away this stigma and “moral taint” to their friends, to their families, and even to themselves.<sup>31</sup>

While the dishonorable legacies and present-day activities of the Border Patrol and ICE certainly justify such hostility and suspicion,<sup>32</sup> the pre-government lives of agents—especially Latinx agents—demonstrate the complexities of rendering moral judgment on their career paths. Noting that many of these agents grew up in “border towns where poverty and unemployment rates are high and education rates are low,” Vega describes this recruitment process as a kind of “browning of the immigration enforcement bureaucracy.”<sup>33</sup> She astutely observes that “the federal government’s fixation with *controlling the southern border* generates paradoxical combinations of threat and opportunity in border towns through the Southwest, and it has created an ‘enclave’ of Hispanic employment in the coercive arm of the immigration state.”<sup>34</sup> Government jobs are good jobs that offer career stability and long-term benefits,<sup>35</sup> and a job with the Border Patrol is one of the few that does not require a degree from a four-year college.<sup>36</sup>

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29. *Id.* at 2.

30. *Id.* at 7.

31. See *id.* at 117–18.

32. See Kelly Lytle Hernandez, *Migra! A History of the U.S. Border Patrol 9–10* (2010) (discussing how the operations of the U.S. Border Patrol evolved and came to be defined by racial inequity, disenfranchisement, and the deprivation of rights and protections based on immigration status).

33. Vega, *Bordering on Indifference*, *supra* note 8, at 29.

34. *Id.* (quoting Edward Flores, Jillian Medeiros & Harry P. Pachon, Tomás Rivera Pol’y Inst., *Equal Employment Opportunity or Enclave Employment?: A Critique of the GAO Report on Hispanic Employment in Federal Agencies* (2007), <https://web.archive.org/web/20151014010249/http://trpi.org/wp-content/uploads/archives/gao.pdf> (on file with the *Columbia Law Review*)).

35. See Jon D. Michaels, *An Enduring, Evolving Separation of Powers*, 115 *Colum. L. Rev.* 515, 540–47 (2015).

36. See Vega, *Bordering on Indifference*, *supra* note 8, at 32 (“Immigration enforcement jobs are some of the highest paying in the region and are accessible to those without a college education.”). This is an especially important consideration in light of the discrimination that Latinx workers face in U.S. labor markets. See Lisa Catanzarite & Lindsey Trimble, *Latinos in the United States Labor Market*, in *Latinas/os in the United States: Changing the Face of América* 149, 154–62 (Havidán Rodríguez, Rogelio Sáenz & Cecilia Menjivar eds.,

Professor Vega's account highlights the structural (and also racializing) challenges in border town labor markets that make a job in immigration agencies an attractive option in the first place.<sup>37</sup>

*Bordering on Indifference* illustrates how agents themselves struggle with questions about the legitimacy of immigration enforcement. Professor Vega explains that these agents deploy a range of strategies to manage the tension that arises within the "moral economy" of immigration enforcement.<sup>38</sup> Broadly speaking, she notes that agents tended to do one of three things. First, her interviewees sometimes deployed a strategy of "*manufactured ambiguity*," which helps agents cope with the guilt of enforcing harsh and unforgiving laws against seemingly harmless migrants.<sup>39</sup> By creating in their minds the possibility of nefarious motives and back stories, agents can rationalize their enforcement duties as a necessary evil to protect broader society against invisible threats which they are uniquely equipped to thwart. Second, Vega refers to agents internalizing a narrative of "*caring control*," in which Latinx agents and officers tap into their cultural competencies—Spanish fluency, immigrant family backgrounds—to connect with their enforcement targets<sup>40</sup> as "humane and culturally competent agents who improve the qualitative character of migrants' custodial experience."<sup>41</sup> Third and finally, agents engage in "*disinterested professionalism*," which turns the attention away from agent autonomy and discretion and instead focuses on systemic norms and consequences.<sup>42</sup> Even though enforcing laws against migrants can sometimes create moral angst, agents push these feelings to one side in the name of ensuring "neutrality and consistency across cases."<sup>43</sup>

These descriptive frames usefully explain how Latinx agents navigate the "moral economy of immigration control."<sup>44</sup> As Vega tells it, indifference is a strategy that agents use to manage the day-to-day challenges of this work, which allows the agents to ignore or reject their "common humanity."<sup>45</sup> At the same time, approaching the work of immigration enforcement with indifference allows these agents to maintain an acceptable "moral

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2008) (highlighting several factors contributing to anti-Latinx discrimination in the American workforce, including skill mismatch and segregation).

37. Vega, *Bordering on Indifference*, supra note 8, at 144–45 (noting how "carceral institutions" like the U.S. immigration enforcement system address "the immediate material needs of the people who are experiencing state violence"); see also Mitchell Ferman & Manny Fernandez, *In the Rio Grande Valley, the Border Patrol Is the 'Go-To Job'*, N.Y. Times (Apr. 14, 2019), <https://www.nytimes.com/2019/04/14/us/border-patrol-recruit-texas.html> (on file with the *Columbia Law Review*).

38. Vega, *Bordering on Indifference*, supra note 8, at 5.

39. *Id.* at 25.

40. *Id.* at 25, 92–93.

41. *Id.* at 25.

42. *Id.* at 92–93.

43. *Id.* at 25.

44. *Id.* at 5.

45. *Id.*

sense of self”<sup>46</sup> as members of the same or similar communities as those they are charged with policing. As Vega puts it more directly: “To be a federal immigration enforcement agent is to be a compulsory participant in what is a highly racialized, politically contentious, and moral debate about how the United States manages undocumented migration.”<sup>47</sup>

*Bordering on Indifference* also explores how agencies as bureaucratic organizations benefit from the work of Latinx immigration agents. As Vega observes, “Agents are ambassadors for the state’s legitimation efforts, but they are also a critical audience, as they too must believe in their own moral authority as enforcers of the borders and boundaries that divide the globe.”<sup>48</sup> She argues that hiring Latinx agents is a part of an effort to legitimate the politically divisive and morally fraught goals of immigration enforcement policies: “As representatives of the immigration state, all agents are engaged in this incessant project of legitimation, but the pull toward justification is especially pronounced for Latina/o agents, who deal with layered legitimacy deficits.”<sup>49</sup> This dynamic can create professional tensions, cutting against the rosy public-facing depiction of DHS, which “is touted as a diversity leader in the federal government because of its prolific hiring of Hispanics into agencies like the [Border Patrol] and ICE.”<sup>50</sup> This oversimplified version of DHS’s diversity “success story” obfuscates the pathways—which Vega terms “drifting, military-to-policing, and serving”—that agents of different racial groups followed into the immigration bureaucracy. Vega explains: “Agents who drifted into the profession are mostly Mexican Americans who grew up on the border, the aspiring and military pathways are the most diverse, and only White agents said they came into immigration work to serve their country.”<sup>51</sup> She describes these Latinx agents as struggling against a “legitimacy deficit,” but this nuanced and disaggregated insight on the pre-DHS lives of agents reveals other deficits shaping their career prospects as well: those measured in racial, economic, and political terms.<sup>52</sup>

In critiquing the legitimation-through-diversification narrative, Vega draws primarily from a broader literature that focuses not on other parts

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46. *Id.*

47. *Id.* at 9.

48. *Id.* at 132 (citing Irene I. Vega, *Empathy, Morality, and Criminality: The Legitimation Narratives of U.S. Border Patrol Agents*, 44 *J. Ethnic & Migration Stud.* 2544 (2018)).

49. *Id.* at 10.

50. *Id.* at 8.

51. *Id.* at 25.

52. Vega gathered her interview data during the second Obama and first Trump Administrations. Today, under the second Trump Administration, DHS is unlikely to tout the diversity of the agency. Instead, it is actively engaging in a social media campaign centered around white nationalist imagery. See Jasmine Garsd, *DHS Calls for Defending American Culture. That Leaves Some Latinos Rattled*, NPR (Oct. 29, 2025), <https://www.npr.org/2025/10/29/nx-s1-5564025/defend-american-culture-dhs-pledge-leaves-some-latinos-rattled> [<https://perma.cc/WRN4-6WSA>] (exploring DHS’s rhetoric regarding defending “American culture” and its reception among Latinx groups).

of the federal administrative state, but rather on a distinctly local set of bureaucracies, namely the police. She expressly (and rightly) rejects the idea that a racially and ethnically diverse ICE and Border Patrol can make those agencies more effective and less controversial by virtue of employing a workforce that resembles the communities being policed.<sup>53</sup> Vega flatly rejects this argument, noting that “Latina/o agents’ presence in the US Border Patrol and ICE does not disrupt these organizations’ status quo; it legitimizes it.”<sup>54</sup> Importantly, she goes on to emphasize that the Latinx agents she interviewed “are not dissenting or reforming the immigration system; they are sustaining it and even lending the system the legitimacy that comes from having a ‘racially representative’ workforce.”<sup>55</sup> In crude terms, the agent–agency relationship is a mutually beneficial one: The agents gain a path to upwards mobility while the agency can soften its image as the institutional embodiment of racialized violence.

## II. MISALIGNMENT

Throughout *Bordering on Indifference*, Vega highlights the mismatch between the training that agents and officers receive and the day-to-day realities of their jobs.<sup>56</sup> Noting the “gap between their professional mission and their bureaucratic function,” Vega observes that “agents want to punish criminality when what they are doing is processing illegality in a punishing way.”<sup>57</sup> Many of the officers whose stories Vega recounts expressed confusion and frustration over the limited numbers of truly dangerous people they encountered while carrying out their duties.<sup>58</sup> For many of the officers, dangerous migrants just didn’t exist—at least not in significant numbers. Vega observes: “[T]he gap between the fact and fiction of the work was most obvious when, after hours of patrolling the border in highly militaristic ways, [Border Patrol officers] encountered not the treacherous ‘bad guys’ but mostly compliant migrants.”<sup>59</sup>

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53. For a thoughtful assessment of this position, see generally David Alan Sklansky, *Not Your Father’s Police Department: Making Sense of the New Demographics of Law Enforcement*, 96 *J. Crim. L. & Criminology* 1209 (2006) [hereinafter Sklansky, *Not Your Father’s Police*].

54. Vega, *Bordering on Indifference*, supra note 8, at 139.

55. *Id.* at 140.

56. See *id.* at 72 (noting the “mismatch between [the agents’] training and the character of their day-to-day routines”).

57. *Id.*

58. See *id.* at 66.

59. *Id.* at 63. This comports with my own findings based on interviews of high-level political officials during that same period. See, e.g., Lee & Ashar, supra note 7, at 1892 (describing how top officials and immigration advocates expressed concerns that individuals with no or minor criminal history were being pursued for removal). Additionally, DHS specifically targeted individuals for immigration-related crimes such as reentry after deportation. See, e.g., *id.* (quoting a senior official explaining that the targeting of immigrants who reentered the United States illegally was problematic).

Vega situates her data within a broader legal and political system that treats immigration as a crime and security issue. In particular, she details the different ways that lawmakers prioritized the threat of drug traffickers and then terrorists in the 1980s and 1990s. 1996 proved to be a critical junction when Congress vastly expanded the criminal grounds of removal, and then 2001 emerged as another flashpoint after the 9/11 attacks, which prompted a massive reorganization through the Homeland Security Act of 2002.<sup>60</sup> This reorganization caused the immigration bureaucracy to split functions so that “enforcement” and “benefits” functions would no longer be carried out by the same agency. As Vega notes, her data speaks directly to the branches of the immigration state focused on enforcement: ICE and the Border Patrol.<sup>61</sup>

In shifting toward a focus on neutralizing criminals and would-be terrorists, immigration laws and policies narrowed the framework through which the public understood, and regulated parties experienced, the administration of these laws. For one thing, agencies began rolling out policies that facilitated information gathering and sharing.<sup>62</sup> No longer relegated to administrative silos, federal officials freely communicated with officials in state and local agencies, making available biometric information of noncitizens detained and screened in the criminal system.<sup>63</sup> These changes both pulled police into the enterprise of immigration enforcement (whether they wanted it or not) and created the basic infrastructure for normalizing surveillance tactics (at least when noncitizen activities were involved). In this paradigm of immigration enforcement, every noncitizen that immigration officials encounter presents the potential threat of being a terrorist or dangerous criminal. Indeed, in the post-9/11 era, information-sharing has been the norm among different federal agencies especially as it relates to immigration-related adjudication,<sup>64</sup> though these stakeholders and some agencies have objected to or resisted this norm.<sup>65</sup> As a result, ICE and Border Patrol officials operate within a

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60. See Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified in scattered titles of the U.S.C.).

61. See Vega, *Bordering on Indifference*, supra note 8, at 18–19.

62. See Jennifer M. Chacón, *The Criminalization of Immigration*, Oxford Rsch. Encyc.: Criminology & Crim. Just. (Jan. 22, 2021), <https://oxfordre.com/criminology/display/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-333> (on file with the *Columbia Law Review*) (describing the information sharing between federal, state, and local government officials).

63. See *id.* (detailing how federal programs mandated information sharing from state and local governments to ICE regarding noncitizens in detention).

64. See Bijal Shah, *Uncovering Coordinated Interagency Adjudication*, 128 Harv. L. Rev. 805, 820–21 (2015) (explaining that agencies engaging in factfinding for other agencies is not limited to the context of immigration regulation).

65. Agencies with labor and employment enforcement mandates have been especially active, at least during Democratic administrations, in shielding information in their possession that might lead to adverse immigration consequences for their beneficiaries. See

political ecosystem that encourages them to draw from multiple information streams to make sense of the enforcement targets they pursue and detain.<sup>66</sup>

This structural reality provides important context for Vega's data. Many of her interviewees struggled to make sense of the relative absence of noncitizens with a truly dangerous criminal profile, and some even tried to soften the most punitive elements of their duties.<sup>67</sup> But the integrated nature of the immigration and criminal law bureaucracies encourages agents and officers to trust records and files, not their eyes and ears. Again, in a post-1996 world, regulatory approaches treated criminal records as a category of "super" data with dispositive explanatory power in the immigration process. The Homeland Security Act's structural commitment to information sharing combined with the 1996 expansion of criminal grounds for removal ensured that immigration officers would have at their disposal an abundance of information from which they could ascertain whether a noncitizen posed a threat. In the face of doubt and uncertainty about a migrant's moral character or history of violating the law, agents and officers could always find *something* in the migrant's past to justify and rationalize a swift detention and removal outcome.

The information overload presented by these changes in law helps explain some of the moral justifications offered by the officers in Vega's book. Officers who "manufacture ambiguity" in mentally processing the stories migrants share embody this dynamic precisely.<sup>68</sup> ICE was created in 2003<sup>69</sup> amid broad changes to information sharing.<sup>70</sup> In 2008, ICE translated this impulse into data-driven programs like Secure Communities, which instructed officers to cross-check migrants with criminal databases

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Cazorla v. Koch Foods of Miss., LLC, 838 F.3d 540, 546 (5th Cir. 2016) (reviewing an Obama-era agency's noncompliance with discovery requests pertaining to records that would have revealed the "immigration status of any claimants who applied for U visas, as well as that of their families"). During the Trump Administration, agencies in possession of similar information have implemented policies that more freely share it. See *Centro de Trabajadores Unidos v. Bessent*, No. 25-CV-0677 (DLF), 2025 WL 1380420, at \*1 (D.D.C. May 12, 2025) (describing a complaint that alleged the IRS had been contemplating the unlawful sharing of information with DHS to facilitate the location of "illegal immigrants").

66. See Dara Kay Cohen, Mariano-Florentino Cuéllar, and Barry R. Weingast, *Crisis Bureaucracy: Homeland Security and the Political Design of Legal Mandates*, 59 *Stan. L. Rev.* 673, 731–732 (2006).

67. Vega, *Bordering on Indifference*, *supra* note 8, at 98–113 (describing how immigration officials try to deny or minimize the suffering their actions cause).

68. *Id.* at 53 (emphasis omitted).

69. History of ICE, ICE, <https://www.ice.gov/history> [<https://perma.cc/RSE6-JURN>] (last updated Dec. 19, 2025) (noting that ICE was created pursuant to the Homeland Security Act, which was passed in 2002).

70. See Anne Joseph O'Connell, *The Architecture of Smart Intelligence: Structuring and Overseeing Agencies in the Post-9/11 World*, 94 *Calif. L. Rev.* 1655, 1656–57 (2006) (discussing the post-9/11 shift within agencies to centralized intelligence).

to use prior convictions in assessing a migrant's danger to society.<sup>71</sup> Building out an infrastructure designed to target "criminal aliens" comports with the messaging that agents and officers received in their recruitment and training. As Vega explains, critical parts of the academies used for training Border Patrol and ICE officers emphasize the "physical, tactical, and firearms training" agents undergo to prepare them to face potentially dangerous scenarios including "active shooters and riot control."<sup>72</sup> This throughline running from the Homeland Security Act down to training academies fosters a work culture in which officers embraced the attitude "that migrants are inscrutable until their fingerprints are run through their databases."<sup>73</sup> The gap between the agents' training and the day-to-day realities of the job created a tension that could be described as one of mission mismatch or misalignment. In this way, these insights about the degree to which officers embrace data collection and harbor suspicions about even seemingly nonthreatening migrants make Vega's study a unique contribution.

The idea of mission mismatch or misalignment appears throughout the book, but it mostly forms the background of Vega's interview data. Instead, she foregrounds the reactions and rationales her interviewees produced when faced with the tension between their training and their day-to-day reality. This kind of dissonance prompted some officers to deny their own roles in the broader process of separating families and to minimize the discretionary authority they enjoy.<sup>74</sup> The strategy of minimizing discretion might be a response to negative public attention<sup>75</sup> and a way to create distance between themselves and the criticism, a dynamic that also can appear in other parts of the immigration system devoted to non-coercive duties like allocating benefits.<sup>76</sup> Vega devotes an entire chapter to

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71. See David K. Hausman, *The Unexamined Law of Deportation*, 110 *Geo. L.J.* 973, 990 (2022) ("[T]he Secure Communities program . . . integrates Federal Bureau of Investigation (FBI) and ICE databases: whenever a county jail takes fingerprints, those fingerprints are transmitted to the FBI, and the FBI automatically shares the information with ICE, which in turn performs database checks to determine whether the person is potentially deportable."); Inés Valdez, Mat Coleman & Amna Akbar, *Missing in Action: Practice, Paralegality, and the Nature of Immigration Enforcement*, 21 *Citizenship Stud.* 547, 548 (2017) (describing the impacts of these policies, including that "nearly 3 million U.S. residents have been identified as deportable and/or inadmissible as a result of contact with local and state law enforcement agencies").

72. Vega, *Bordering on Indifference*, supra note 8, at 55 (internal quotation marks omitted).

73. *Id.* at 67.

74. See *id.* at 99–100 ("It is common for street-level bureaucrats to limit their responsibility for unfavorable outcomes by denying discretion and imposing certain restrictions on their own power.").

75. See *id.* at 109 (describing an immigration agent's negative feelings towards the media's depiction of ICE).

76. See Lucas Guttentag, *Reflections on Bureaucratic Barriers to Immigration Reform*, *Regul. Rev.* (Dec. 24, 2019), <https://www.theregreview.org/2019/12/24/guttentag>.

the practice of officers denying responsibility for their role in thwarting the efforts of migrants to enter or remain in the United States.<sup>77</sup> Using interview excerpts in which officers complain about supervisors, blame the parents of unaccompanied minors, or minimize the suffering that follows from their enforcement actions, Vega highlights what is unique about immigration officers as bureaucratic actors.<sup>78</sup> While noting that the “obstinate bureaucrat” who “use[s] rules and regulations to distance themselves from work actions” is a common trope and figure, she explains that immigration officers are different because of the “particularly coercive and morally ambiguous” nature of their jobs.<sup>79</sup>

The training and messaging that agents and officers receive send them into the field equipped with only a particular set of tools—associated with immigration enforcement—which they must then use to address a broad array of ill-matched issues. Even when officers approach migrants with an eye towards humanitarian relief, the tools at their disposal are unsuited to the realization of this goal. Enforcement-oriented skills can generally be manipulated only in terms of intensity. They can be dialed up or down, but they do only one thing: threaten or bring down the use of force through apprehension, detention, and removal. The “caring control” approach to immigration enforcement most clearly illustrates the limitations of this skillset.<sup>80</sup> The officers described in *Bordering on Indifference* often drew distinctions between dangerous criminals and “noncriminal, economic migrants who deserved humanitarianism” for whom agents reserved a “light touch” in processing them through the deportation machine.<sup>81</sup> As Vega shows, the idea of a “light touch” in a carceral setting—such as when officers and agents joke with detainees as a way of forging a personal connection—is a contradictory, if not indefensible, characterization of enforcement work.<sup>82</sup> One officer proudly recounted how he makes detainees laugh to maintain “a good rapport” with the migrants—a notion that Vega acknowledges is almost “farcical.”<sup>83</sup>

These examples illustrate how actions by individual agents function to inwardly legitimize the immigration system as presently constructed without outwardly actualizing a meaningfully compassionate approach to managing migration. Vega herself expresses deep skepticism that existing immigration structures can accommodate or implement humanitarian

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reflections-bureaucratic-barriers-immigration/ [https://perma.cc/2JUT-VAL6] (explaining how public servants resist discretion as a means to minimize blame).

77. See Vega, *Bordering on Indifference*, supra note 8, at 95–113.

78. See id. at 98.

79. Id. at 100.

80. See id. at 76.

81. Id. at 83.

82. See id. at 144–45 (“The enduring danger of any type of reform, but particularly reformist reforms, is that the very solutions that purport to improve the system leave its core untouched.”).

83. See id. at 82 (quoting David Bustos, Agent, U.S. Border Patrol).

goals.<sup>84</sup> Human-centric enforcement frames like “caring control” simply cannot disrupt the broader system. The notion of “a humane immigration system is oxymoronic.”<sup>85</sup> Structure and context determine the extent and existence of what state actors deem to be acts of kindness. In this way, Vega’s observations mirror similar insights about the presence of law enforcement in other settings associated with humanitarian goals such as emergency rooms and hospitals more generally. In the absence of clear guidelines, state actors like police can manipulate ambiguities in the allocation of authority in care settings where enforcement targets are most vulnerable—physically, emotionally, and psychologically.<sup>86</sup> The same goes for information about students gathered by teachers and other school officials, which can be gathered and manipulated for punitive purposes by the police.<sup>87</sup>

Vega expresses similar degrees of skepticism towards arguments that the roughly representative racial demographics of core immigration enforcement agencies provide legitimacy to agency policy objectives and actions. The impulse to diversify the agent workforce operates as a kind of crude attempt to head off criticisms of a different type of mismatch, one measured in terms of demographic representation. By recruiting and training a workforce that superficially resembles the population it manages, ICE and the Border Patrol can insulate itself against criticisms that it is furthering a White Christian Nationalist vision.<sup>88</sup> The ostensible increase in legitimacy stems not just from cosmetic changes to the workforce but, as noted earlier, to the social and economic mobility that government jobs provide.<sup>89</sup> Vega rightly expresses skepticism of any potentially transformative impact of these changes, emphasizing that agent actions in further-

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84. See *id.* at 141–44 (expressing concern that immigration systems provide structural obstacles to humanitarian goals).

85. *Id.* at 144.

86. See Ji Seon Song, *Cops in Scrubs*, 48 *Florida St. L. Rev.* 861, 887–88 (2021) (describing how the legal framework “tacitly allow[s]” medical professionals and law enforcement to coordinate, without regard to the impact on patient privacy); Ji Seon Song, *Policing the Emergency Room*, 134 *Harv. L. Rev.* 2646, 2664 (2021) (describing how police “engage in intrusive searches, seizures, and interrogations” in emergency rooms and arguing that this “takes advantage of the medical vulnerability of emergency room patients”).

87. See Fanna Gamal, *The Private Life of Education*, 75 *Stan. L. Rev.* 1315, 1332–33 (2023) (“[S]tudents experience privacy violations . . . [and] the outcome of these privacy violations is often increased vulnerability for students along the lines of gender, race, class, and disability.”).

88. Public views of ICE are also shaped by religion and race. One study found that distrust of ICE was lowest among white Christian groups. See Diana Orcés, *Most Americans Distrust U.S. Immigration and Customs Enforcement (ICE) and Believe Federal Funding Increases Have Gone Too Far*, *Pub. Religion Rsch. Inst.* (Feb. 3, 2026), <https://prii.org/spotlight/most-americans-distrust-u-s-immigration-and-customs-enforcement-ice-and-believe-federal-funding-increases-have-gone-too-far/> [<https://perma.cc/JBD6-J4XV>].

89. See *supra* text accompanying notes 26–27. Professor David Sklansky has noted that similar types of arguments have been made to justify and defend the diversification of the police force. See Sklansky, *Not Your Father’s Police*, *supra* note 53, at 1228.

ance of “caring control” take place “within a context of systemic violence and discrimination. Therefore, far from evidence of change in the U.S. immigration bureaucracy, caring control is a window into the bureaucratic and cultural processes that sustain indifference in racialized organizations, regardless of what their workforces look like.”<sup>90</sup> One of her core arguments is that enforcement agencies stand apart from other agencies in terms of the coercive nature of their functions, making it hard to take seriously agents’ explanations that they are “simply following directions” when confronted with difficult moral questions.<sup>91</sup> Even when officials want to soften the blow of carrying out their duties—a dynamic that emerged for many of Vega’s interview subjects—the narrowness and the inherently punitive nature of their enforcement-focused mission and skillset prevent them from meaningfully doing so.

### III. FOOT SOLDIERS AMID BUREAUCRATS

Vega is not the first scholar to study agency bureaucrats in the immigration system, but the field is sparsely populated. Most obviously, she builds on a cluster of articles produced by anthropologist Josiah Heyman during the 1990s and early 2000s. Heyman uses a concept of “thought-work” to “reveal organizational power” in the context of the Immigration and Naturalization Service (INS), the predecessor to DHS.<sup>92</sup> Heyman notes that studying agencies like INS is important because it reveals the “[t]echniques of power” such bureaucrats use in “their relationships with the persons they attempt to control.”<sup>93</sup> Like Vega, Heyman explored the tensions gripping Mexican American immigration officers who were charged with enforcing laws against migrants who belong or might be mistaken as belonging to the same racial group.<sup>94</sup> Professor Kitty Calavita’s book, *Inside the State*—another notable contribution to the study of immigration bureaucracies—also focuses on the INS but trains its attention on

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90. Vega, *Bordering on Indifference*, supra note 8, at 94 (citing Victor Ray, *A Theory of Racialized Organizations*, 48 *Am. Socio. Rev.* 26 (2019)).

91. *Id.* at 95–105.

92. Josiah McC. Heyman, *Putting Power in the Anthropology of Bureaucracy: The Immigration and Naturalization Service at the Mexico–United States Border*, 36 *Current Anthropology* 261, 261 (1995).

93. See *id.* at 262 (“Power makes context stick, and bureaucracies are the preeminent technology of power in the contemporary world.”). Heyman approaches these institutions as an anthropologist, drawing from sociological traditions and “law and society” methodologies. For example, Heyman engages heavily with Michael Lipsky’s concept of street-level bureaucracy, a classic in the law and society tradition. *Id.* at 264 (citing Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services* (1980)).

94. See Josiah McC. Heyman, *U.S. Immigration Officers of Mexican Ancestry as Mexican Americans, Citizens, and Immigration Police*, 43 *Current Anthropology* 479, 479 (2002) (explaining that “Mexican Americans historically have been treated as a separate ‘race’ in [the border] region, blurring the line between [officers of Mexican ancestry] and people in Mexico” as the former enforce U.S. immigration law against the latter).

agency policies and practices during the middle of the twentieth century.<sup>95</sup> Specifically, Calavita studied the ascent and demise of the notorious Bracero Program, which created a temporary labor migration system to serve farms in the United States.<sup>96</sup>

Both Heyman's and Calavita's scholarship provide helpful insights into agency culture and practices and how front-line bureaucrats can normalize the vulnerability of migrants navigating the immigration system, but *Bordering on Indifference* stands apart in at least one important respect: It compiles a dataset from a post-1996 period.<sup>97</sup> The book offers special insights into how the enforcement branches within the immigration bureaucracy make sense of the broadly punitive laws that serve to empower them to use and threaten force. Not surprisingly, then, throughout her analysis, Vega frequently references policing: as involving analogous institutions facing similar questions of legitimacy, as a description of what ICE officers and Border Patrol agents do, and as an example of the kinds of career aspirations her interviewees had before turning to immigration enforcement.<sup>98</sup> For her, the police are a noun, a verb, and a data point.

Exploring the connections between immigration law's foot soldiers and the police makes sense given that concerns with race and racial inequality motivate many of the book's broader ambitions. For this reason, Vega is skeptical of bureaucracy as a mode of governance, frequently referencing how an agency's ostensible commitment to rationality and expertise can obfuscate deeper, racializing harms. Tellingly, she describes her book as "less a case study of representative bureaucracy and more a cautionary tale for those who uncritically conflate institutional diversity with organizational change, especially in policing."<sup>99</sup> It is precisely the bureaucratic trappings of agencies like ICE and Border Patrol—and more broadly the police and other law enforcement agencies—that normalize and reinforce the vulnerability of migrants. Vega questions the value of these agencies' "technical rationality," which she argues "can mollify moral instincts and thwart social group commitments."<sup>100</sup> She further notes how "social distance created by bureaucratic culture is especially pronounced in law enforcement organizations, like the USBP and ICE, where the archetypal

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95. See generally Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S. (1992)* (explaining how the INS controlled the largest foreign worker program in U.S. history in the 1940s).

96. See *id.* at 1–4.

97. For a more recent dataset, see Farrell-Bryan, *supra* note 11, at 2529–33 (describing and analyzing a dataset compiled from interviews with ICE attorneys at the Office of the Principal Legal Advisor in 2020 and 2021). This class of agents tends to follow a different life trajectory than those at the heart of Vega's study.

98. See Vega, *Bordering on Indifference*, *supra* note 8, at 138 (summarizing research on diversification efforts among police); *id.* at 27 (describing the topic of Latinx officers "policing" their own); *id.* at 37 (quoting an ICE officer who "always wanted to be a police officer" (quoting Carter Grayson, Officer, ICE)).

99. *Id.* at 9.

100. *Id.* at 12.

*client* is constructed as an undeserving, immoral ‘bad guy.’<sup>101</sup> Indeed, one reading of *Bordering on Indifference* is as a case study of foot soldiers acting as bureaucrats.

At the same time, ICE agents and Border Patrol officers are not the only government actors involved in the administration of immigration laws. This book proves important not just for what it illustrates about the relationship between immigration foot soldiers and other law enforcement actors but also for the insights it offers about how ICE and Border Patrol might interact with other federal agencies charged with a less punitive mandate. Other agencies in the same immigration ecosystem adjudicate applications for visas, employment-authorization documents, and other immigration-related benefits. Using *Bordering on Indifference* to think through how foot soldiers work *amid* bureaucracies highlights a constellation of agencies charged with immigration duties divided between two different types of work: *enforcement* duties, which involve arresting, detaining, and deporting migrants, and *benefits* duties, which refers to the adjudication of visas, waivers, and travel documents. These duties evoke starkly different images of agency officials. Those enforcing immigration laws are the foot soldiers of the system. They move through the streets or drive unmarked cars in search of surreptitious entrants. Those adjudicating benefits are the bureaucrats of the system. They work in offices, review records, and interact with migrant applicants on a less frequent basis. This difference in terminology—between foot soldiers on the one hand and bureaucrats on the other—roughly tracks the distinction between enforcement and benefits functions, which governs the allocation of power in core immigration agencies.<sup>102</sup>

Legal scholars might find some of the vocabulary of *Bordering on Indifference* jarring, in particular, Vega’s use of the term “street-level bureaucrat” to describe immigration enforcement actors.<sup>103</sup> Some of this has to do with the difference between sociology and law. Referring to ICE and border patrol officials as “bureaucrats” is consistent with common sociological practice to treat all government officials as a part of a bureaucracy charged with carrying out discretionary and negotiable mandates

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101. *Id.* (quoting Steve Herbert, *Morality in Law Enforcement: Chasing “Bad Guys” With the Los Angeles Police Department*, 30 *Law & Soc. Rev.* 799, 802 (1996)).

102. It does not track the distinction perfectly. USCIS, for example, adjudicates applications for immigration benefits that are allocated within the United States. See *Providing Immigration Benefits & Information*, DHS, <https://www.dhs.gov/providing-immigration-benefits-information> [<https://perma.cc/3CXU-SMNC>] (last updated Oct. 14, 2022) (“The Department of Homeland Security, through [USCIS], provides immigration benefits to people who are entitled to stay in the U.S. on a temporary or permanent basis.”). USCIS refers to its employees as “officers” even though their functions reflect bureaucratic responsibilities. See, e.g., *Exploring Asylum Officer Careers*, USCIS, <https://www.uscis.gov/exploring-asylum-officer-careers> [<https://perma.cc/U9XX-336S>] (last updated Feb. 6, 2025) (“Asylum Officers interview [noncitizens] to determine if they meet the U.S. legal definition of a ‘refugee’ and are eligible for asylum status.”).

103. Vega, *Bordering on Indifference*, *supra* note 8, at 12.

stemming from law.<sup>104</sup> In the realm of legal scholarship, the term bureaucrat is not usually associated with government officials who are authorized to threaten or use force and engage in state-sanctioned violence. For many legal scholars, the difference between the power to detain and deport, on the one hand, and the power to adjudicate applications and “push papers” on the other, is analytically significant.<sup>105</sup> In the policing context, officers and departments sometimes understand police violence in terms of a “use-of-force continuum,” a concept that provides limited guidance for officers interested in determining when the use of force crosses over from necessary and legitimate to violent and inexcusable.<sup>106</sup> In the immigration context, a similar idea animates the relationship between enforcement and benefits policies, in which immigration officials employ a “deservingness” continuum to determine whether migrants should be granted benefits or subjected to deportation.<sup>107</sup>

Vega makes clear that while some of her interviewees expressed misgivings about the nature of their work, such ambivalence did not prevent them from embracing their law enforcement duties. If anything, she describes many interviewees digging into their missions in response to public misgivings about immigration enforcement. She argues that her interviewees “are invested in being seen as legitimate, as having the moral authority to arrest, detain, and deport immigrants who fall outside the law.”<sup>108</sup> She goes on to explain that this commitment reveals “an unspoken assumption: agents believe there is an inverse relationship between their and migrants’ morality. If migrants are the good guys, then agents must be the bad guys, and that would be untenable as a matter of professional philosophy.”<sup>109</sup>

This organizational investment in morally degrading migrants not only fosters an us-against-the-world agency culture, it also can disrupt the mission-effectiveness of other parts of the immigration bureaucracy

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104. See Farrell-Bryan, *supra* note 11, at 2528 (“While we have a growing knowledge about how field enforcement agents think about the work they do, less is known about the self-legitimacy strategies of prosecutorial bureaucrats who wield coercive force as a function of their occupations.”); Lipsky, *supra* note 93, at 3 (“Public service workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work are called *street-level bureaucrats* . . .”).

105. Identities like “officer” or “agent” connote the power to engage in justified violence. Instead, scholars usually, perhaps unreflectively, refer to this class of government officials as merely agents (such as Border Patrol agents) or as officers (such as Customs and Border Protection officers). See also Angélica Cházaro, *The End of Deportation*, 68 *UCLA L. Rev.* 1040, 1073 (2021) (describing immigration judges, as well as officials in CBP and ICE, as “violence workers”).

106. See David Alan Sklansky, *A Pattern of Violence: How the Law Classifies Crimes and What It Means for Justice* 106–107 (2021).

107. See Sébastien Chauvin & Blanca Garcés-Mascareñas, *Becoming Less Illegal: Deservingness Frames and Undocumented Migrant Incorporation*, 8 *Soc. Compass* 422, 426–28 (2014) (describing the concept of “deservingness”).

108. Vega, *Bordering on Indifference*, *supra* note 8, at 131.

109. *Id.*

through its unique (and uniquely destabilizing) power to use and threaten force. Administrative law doctrine and commentary routinely cite expertise as a reason to empower or defer to agencies, but Vega's book highlights the limits of that kind of rationale in the context of immigration law. Rather than displaying expertise, enforcement policies and practices reassert power, a kind of performance of sovereignty in which power "is always a tentative and unstable project whose efficacy and legitimacy depend on repeated performances of violence and a 'will to rule.'"<sup>110</sup> Scholars in critical theory have identified this dynamic within the police.<sup>111</sup> Vega attempts to draw similar sorts of lessons in the immigration context from a sociological vantage point. Legal scholars are not far behind in this inquiry. Indeed, in recent years, legal scholars have questioned whether and how much courts ought to defer to agencies carrying out immigration duties on this basis.<sup>112</sup>

It is worth reemphasizing the extent to which the ability to use and threaten force against migrants undermines other agencies within the immigration bureaucracy. ICE's and the Border Patrol's enforcement duties draw from a broadly punitive set of laws, which operate as a kind of administrative singularity—an invisible but infinitely dense source of law that threatens to suck in everything around it. The power to deport ordinary migrants exerts such a destabilizing gravitational force that during the Biden Administration—which embraced many of the same policies as the Obama Administration—some agents within Homeland Security Investigations (HSI) pushed to formally separate the agency component from Enforcement and Removal Operations (ERO), which oversees apprehension, detention, and deportation.<sup>113</sup> The officials featured in

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110. See Thomas Blom Hansen & Finn Stepputat, Introduction to *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World* 1, 3 (Thomas Blom Hansen & Finn Stepputat eds., 2005). They further explain:

These performances can be spectacular and public, secret and menacing, and also can appear as scientific/technical rationalities of management and punishment of bodies. Although the meanings and forms of such performances of sovereignty always are historically specific, they are, however, always constructing their public authority through a capacity for visiting violence on human bodies.

Id.

111. See, e.g., Micol Seigel, *Violence Work: State Power and the Limits of Police* 9 (2018) (noting that "the violence of the police is often latent or withheld, but it is functional precisely because it is suspended").

112. Legal scholars Shoba Wadhia and Christopher Walker, for example, argued against the application of *Chevron* deference to legal interpretations in the immigration context. Shoba Sivaprasad Wadhia & Christopher J. Walker, *The Case Against Chevron Deference in Immigration Adjudication*, 70 *Duke L.J.* 1197, 1201–03 (2021); see also Emily R. Chertoff & Jessica Bulman-Pozen, *The Administrative State's Second Face*, 100 *NYU L. Rev.* 727, 729–30 (2025).

113. See Maria Sacchetti & Nick Miroff, *Agents With Homeland Security Investigations Push to Break Away From ICE, Saying Negative Reputation Hurts Their Work*, *Wash. Post*

*Bordering on Indifference* worked within ERO,<sup>114</sup> and they noted that the stigma of being associated with deportation goals makes it harder for them to conduct investigations in immigrant-friendly jurisdictions.<sup>115</sup> HSI agents raised a similar concern during the first Trump Administration.<sup>116</sup> In a letter to then-Homeland Security Secretary Kirstjen Nielsen, the HSI agents argued that ICE's two branches have distinct, and at times incompatible, missions: "The disparate functions performed by ERO and HSI often cause confusion among the public, the press, other law enforcement agencies and lawmakers because the two missions are not well understood and are erroneously combined."<sup>117</sup> While ERO routinely apprehends and removes a population of people who violate basic immigration laws but pose no real public safety threat,<sup>118</sup> HSI argued that it undertakes truly dangerous missions against "transnational criminal

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(Dec. 29, 2021), [https://www.washingtonpost.com/national-security/hsi-ice-split/2021/12/28/85dc6c66-61ad-11ec-8ce3-9454d0b46d42\\_story.html](https://www.washingtonpost.com/national-security/hsi-ice-split/2021/12/28/85dc6c66-61ad-11ec-8ce3-9454d0b46d42_story.html) (on file with the *Columbia Law Review*). ERO's webpage provides: "As part of its critical mission, ERO manages all aspects of the immigration enforcement process, including the identification, arrest, detention and removal of aliens who are subject to removal or are unlawfully present in the U.S." Enforcement and Removal Operations, ICE, <https://www.ice.gov/about-ice/ero#> [<https://perma.cc/J8G5-AKVP>] (last visited Oct. 14, 2025). By contrast, HSI's webpage unambiguously mentions its criminal law enforcement focus: "At HSI, we protect what matters most—our country, our people and our future. What makes us unique is the global nature of the crimes we investigate and the broad legal authorities available to us to combat them." Who We Are, ICE, <https://www.ice.gov/about-ice/hsi#> [<https://perma.cc/WUZ6-DFFL>] (last visited Oct. 14, 2025) [hereinafter HSI, Who We Are].

114. See Vega, *Bordering on Indifference*, supra note 8, at 24.

115. See id. at 118.

116. See Nick Miroff, *Seeking a Split From ICE, Some Agents Say Trump's Immigration Crackdown Hurts Investigations and Morale*, Wash. Post (June 28, 2018), [https://www.washingtonpost.com/world/national-security/seeking-split-from-ice-agents-say-trumps-immigration-crackdown-hurts-investigations-morale/2018/06/28/7bb6995e-7ada-11e8-8df3-007495a78738\\_story.html](https://www.washingtonpost.com/world/national-security/seeking-split-from-ice-agents-say-trumps-immigration-crackdown-hurts-investigations-morale/2018/06/28/7bb6995e-7ada-11e8-8df3-007495a78738_story.html) (on file with the *Columbia Law Review*) (describing how the reputation of ICE's transnational criminal investigations branch is marred by the agency's more divisive immigration arrests and deportations branch); Sacchetti & Miroff, supra note 113 ("[HSI agents] say their affiliation with ICE's immigration enforcement role is endangering their personal safety, stifling their partnerships with other agencies and scaring away crime victims . . ."); see also Nick Miroff, *Trump Loves ICE. Its Workforce Has Never Been So Miserable.*, The Atlantic (July 10, 2025), <https://www.theatlantic.com/politics/archive/2025/07/trump-ice-morale-immigration/683477/> (on file with the *Columbia Law Review*) [hereinafter Miroff, *Trump Loves ICE*] (describing how ICE agents in the Trump Administration have faced longer hours and have received pressure from supervisors to shift their focus from criminal investigations to civil immigration enforcement).

117. See Letter from David Shaw et al., Special Agents in Charge, Homeland Sec. Investigations, ICE, to Kirstjen Nielsen, Sec'y, DHS 4 (c. June 2018), <https://www.documentcloud.org/documents/4562896-FILE-3286/> (on file with the *Columbia Law Review*) [hereinafter HSI, Nielsen Letter].

118. This observation underlies approaches to immigration enforcement grounded in principles of priority setting amid resource scarcity. See Chacón et al., supra note 7, at 62–66.

organizations that facilitate cross border crimes impacting our communities and national security.”<sup>119</sup>

Part of the reason HSI wants to separate from ICE is because of the public disapproval and divisiveness of aggressive enforcement policies.<sup>120</sup> Student protests of immigration enforcement actions drove HSI agents from college campuses, making it hard to recruit and train future agents.<sup>121</sup> And the nature of HSI’s mission makes it harder to show the public what it does and the purpose it serves. HSI holds itself out as a legacy of the U.S. Customs Service, which was established in 1789, primarily to manage and regulate the imposition of tariffs on imported goods.<sup>122</sup> But it also regulates borders as it concerns the transportation or smuggling of people like trafficking victims.<sup>123</sup> In a way, the agency struggles to explain its mission to the public. Unlike ERO—which can point to easily quantifiable metrics for evaluating success such as the number of noncitizens detained and removed—HSI must work with a more challenging set of metrics.<sup>124</sup> From time to time, HSI can demonstrate its competence

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119. HSI, Nielsen Letter, *supra* note 117, at 4; see also Jason Buch, ICE Criminal Investigators Ask to Be Distanced From Detentions, Deportations in Letter to Kirstjen Nielsen, *Tex. Observer* (June 27, 2018), <https://www.texasobserver.org/ice-hsi-letter-kirstjen-nielsen-criminal-civil-deportation-zero-tolerance/> [<https://perma.cc/SU3W-9AD3>] (describing the letter from HSI agents and their desire to be distanced from the work of ERO).

120. See Kari Hong, 10 Reasons Why Congress Should Defund ICE’s Deportation Force, 43 *N.Y.U. Rev. L. & Soc. Change: Harbinger* 40, 47–49 (2019), [https://socialchangenyu.com/wp-content/uploads/2019/03/Kari-Hong\\_-RLSC-The-Harbinger\\_43.pdf](https://socialchangenyu.com/wp-content/uploads/2019/03/Kari-Hong_-RLSC-The-Harbinger_43.pdf) [<https://perma.cc/TC98-LMH2>] (arguing that the ERO’s aggressive enforcement practices interfere with HSI’s ability to prosecute criminal enterprises).

121. See Sacchetti & Miroff, *supra* note 113 (describing an HSI report complaining that the agency’s affiliation with ICE damages its relationship with universities).

122. The agency both generates revenue for the federal government and serves a law enforcement function of screening for drugs, weapons, and other prohibited items. See HSI, *Who We Are*, *supra* note 113 (“The story of Homeland Security Investigations (HSI) begins in 1789, when Congress established the U.S. Customs Service.”); see also Act of July 31, 1789, ch. 5, § 1, 1 Stat. 29 (repealed 1790) (requiring the creation of the U.S. Customs Services to collect tariffs).

123. See Annie Smith, *The Underprosecution of Labor Trafficking*, 72 *S.C. L. Rev.* 477, 494–95 (2020) (naming HSI as one of several agencies responsible for combatting human trafficking); Paul Ingram, *Top ICE Agents Seek to Split Agency, Separate Investigations From Deportations*, *Tucson Sentinel* (June 29, 2018), [https://www.tucsonsentinel.com/local/report/062918\\_ice\\_letter/top-ice-agents-seek-split-agency-separate-investigations-from-deportations/](https://www.tucsonsentinel.com/local/report/062918_ice_letter/top-ice-agents-seek-split-agency-separate-investigations-from-deportations/) (on file with the *Columbia Law Review*) (referencing HSI’s role in combatting human trafficking).

124. For example, in evaluating whether HSI has effectively accomplished its “drug control” goals, the agency relies on, among other things, the percentage of time agents devote to these tasks. See Off. of the Inspector Gen., DHS, *OIG-19-30, Review of U.S. Immigration and Customs Enforcement’s Fiscal Year 2018 Drug Control Performance Summary Report 1–2* (2019), <https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-30-Mar19.pdf> [<https://perma.cc/BV4F-CQX6>]. While such metrics might be helpful for internal tracking purposes, they are much less useful as a basis for showing the public that the agency is succeeding in its effort to combat drug trafficking.

through splashy and large-scale arrests, but such victories are resource intensive and take time.<sup>125</sup>

The HSI-ERO rift fits into a longer history of lawmakers and regulators searching for a suitable home for immigration enforcement power. Historically, that power has wandered between different cabinet-level departments—including the Departments of Commerce, Labor, and Justice—each of which housed a broad array of immigration-related powers.<sup>126</sup> When Congress created DHS and reorganized the immigration system into a bifurcated model—that is, separating the enforcement and benefits functions—the thought was that no single agency would be saddled with the burden of balancing exclusionary and inclusionary mandates thereby minimizing risks of conflicts of interest.<sup>127</sup> Splitting agency duties in this way—so the argument went—would help overcome problems of immigration enforcement policies that exert a gravitational force over other programs.<sup>128</sup> For obvious reasons, migrants and their families are harder to find during moments of intensified immigration enforcement.<sup>129</sup> For administrative programs that required the cooperation of migrant communities—for example, those addressing labor exploitation—cordoning off immigration enforcement could help other agencies present clean hands when reaching out with their regulations.<sup>130</sup> Indiscriminate and aggressive immigration enforcement tactics can undermine the successful operation of other regulatory goals related to labor and employment rights, education, commercial and consumer activities, as well as most of the machinery of governance, judicial decision-making, and access to courthouses. For this reason, different organs of government, society, and the

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125. For example, HSI investigated and arrested the rapper and mogul Sean “Diddy” Combs for alleged sex trafficking, which led to a long, drawn-out process including trial. See N.Y. Times, *The Sean Combs Trial: Timeline of the Testimony* (July 2, 2025), <https://www.nytimes.com/article/sean-diddy-combs-trial-timeline-testimony.html> (on file with the *Columbia Law Review*) (describing the seven-week trial of Sean Combs); see also Julia Jacobs, *Why Is Sean Combs the Subject of a Homeland Security Investigation?*, N.Y. Times (Mar. 30, 2024), <https://www.nytimes.com/2024/03/30/arts/music/sean-combs-diddy-dhs-sex-trafficking.html> (on file with the *Columbia Law Review*) (last updated Apr. 2, 2024).

126. See Stephen Lee, *Monitoring Immigration Enforcement*, 53 *Ariz. L. Rev.* 1089, 1110–13 (2011) (describing immigration as a paradigmatic example of how agencies with “difficulties reconciling multiple enforcement responsibilities” are often split and reorganized).

127. See *id.* at 1111.

128. *Id.* at 1110–12.

129. See Leticia M. Saucedo, *Immigration Enforcement Versus Employment Law Enforcement: The Case for Integrated Protections in the Immigrant Workplace*, 38 *Fordham Urb. L.J.* 303, 308 (2010) (describing how increased immigration enforcement causes immigrant employees to avoid reporting violations of employment and labor laws).

130. See, e.g., Jayesh M. Rathod, *Immigrant Labor and the Occupational Safety and Health Regime*, 33 *N.Y.U. Rev. L. & Soc. Change* 479, 496–98 (2009) (explaining, for example, how workplace injury reporting requires participatory reporting from the public).

economy have tried to extract themselves from the machinery of immigration enforcement.<sup>131</sup>

The tension between ERO and HSI also highlights how *Bordering on Indifference* might inspire further empirical examination of the immigration bureaucracy. For one thing, employees within each subcomponent of ICE enjoy different workplace protections. ERO is unionized, while HSI is not.<sup>132</sup> Public employee unions feature only in passing in Vega's book, leaving open many questions about political organizing, wrangling, and strategizing on the part of the rank-and-file immigration officers. A recent contribution by Professor Nicholas Handler shows that some of the most prominent examples of bureaucratic resistance within immigration agencies during the Obama era were generated and deployed by leaders within federal employee unions.<sup>133</sup> Federal employee union leaders like Chris Crane, who was President of the National Immigration and Customs Enforcement Council (NICC), and Brandon Judd, then the head of the Border Patrol Council, used a mix of lobbying, labor advocacy, and litigation to draw attention to their causes and gain access to the White House.<sup>134</sup> Vega singles out these unions as advocating for "extreme" views on immigration enforcement in ways that obfuscate the variation in attitudes among the rank-and-file agents.<sup>135</sup> The omnipresent tone-setting role of police unions in the local law enforcement context prompts the question of whether federal employee unions serve a similar function in the immigration agency context. In the policing context, unions can often frustrate the process of holding officers accountable for unlawful behavior

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131. The emergence of sanctuary cities exemplifies this dynamic. See Pratheepan Gulasekaram, Rick Su & Rose Cuison Villazor, *Anti-Sanctuary and Immigration Localism*, 119 *Colum. L. Rev.* 837, 841 (2019) (describing how sanctuary cities implement policies to limit cooperation with immigration enforcement).

132. See HSI, Nielsen Letter, *supra* note 117, at 3.

133. See Nicholas Handler, *Separation of Powers by Contract: How Collective Bargaining Reshapes Presidential Power*, 99 *N.Y.U. L. Rev.* 45, 97–98 (2024) (explaining how, as ICE and U.S. Customs and Border Control (CBP) became more politically active, they began to more aggressively push their own policy objectives within DHS, most notably through prominent opposition to President Obama's Deferred Action for Childhood Arrival (DACA) program).

134. See, e.g., Paul Ingram, BP Union Head, Babeu Accuse Feds of 'Lack of Enforcement' at Border, *Tucson Sentinel* (Mar. 8, 2016), [https://www.tucsonsentinel.com/local/report/030816\\_bp\\_babeu/bp-union-head-babeu-accuse-feds-lack-enforcement-border/](https://www.tucsonsentinel.com/local/report/030816_bp_babeu/bp-union-head-babeu-accuse-feds-lack-enforcement-border/) (on file with the *Columbia Law Review*) (reporting on National Border Patrol Council President Brandon Judd using a public press event with local officials to pressure federal policymakers); see also Handler, *supra* note 133, at 97–100 (describing how the National ICE Council, led by President Chris Crane, turned to "lobbying, advocacy, and impact litigation" to advance policy objectives). Both Crane and Judd have since emerged as influential figures within the Trump Administration. For example, President Trump nominated Judd to serve as U.S. Ambassador to Chile. See Judd, Brandon – Republic of Chile, March 17, 2025 – Certificate of Competency, Report for the S. Comm. on Foreign Rels., U.S. Dep't of State (Mar. 17, 2025), <https://www.state.gov/judd-brandon-republic-of-chile-march-2025> [<https://perma.cc/3QDY-FVFH>].

135. See Vega, *Bordering on Indifference*, *supra* note 8, at 148.

because of union leaders' strong self-identification with being advocates for police officers.<sup>136</sup> Vega's account invites questions about whether union representatives understood their duties as elected advocates in similar terms vis-à-vis Border Patrol agents and ICE officers. Vega's framing of agents engaging in disinterested professionalism paints a picture of a body that sees itself as "simply" following instructions from supervisors, but the important question remains whether and how unions negotiate or cultivate some of this culture of compliance. Relatedly, HSI presents an interesting agency case study precisely because it is not represented by a union.<sup>137</sup>

The rift between ERO and HSI also invites further examination of the kinds of paradigms or ideas guiding reform discussions. Splitting ICE into further subcomponents implicitly concedes the legitimacy of both ERO and HSI missions. This is typical of the "liberal" approaches championed by the Obama and Biden Administrations, which facilitated carceralism even while temporarily protecting politically favorable groups of migrants through programs like DACA—a policy that did not ultimately lead to a meaningful path towards a more compassionate immigration system. Further, the version of HSI presented by its agents in their letter to Secretary Nielson—that HSI is operating at a healthy distance from core immigration enforcement actions—seems overstated if not just flat out wrong. For example, HSI has provided ERO with access to some of its databases in pursuing immigration enforcement goals.<sup>138</sup> And the two subunits within ICE obviously share a budget and oversight from the ICE director and senior leadership.<sup>139</sup> Again, one of the core insights offered by *Bordering on Indifference* is the ways that agents found justifications for separating themselves from the morally ambiguous and coercive nature of

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136. See Catherine L. Fisk & L. Song Richardson, *Police Unions*, 85 *Geo. Wash. L. Rev.* 712, 746 (2017) (noting that "police unions see their mission as protecting the interests of police officers, including protecting officers from discipline"); Stephen Rushin, *Police Union Contracts*, 66 *Duke L.J.* 1191, 1239 (2017) ("[P]olice union contracts sometimes establish problematic internal disciplinary procedures that serve as barriers to accountability.").

137. Although HSI employees are not represented by unions, they can seek support from the HSI Association, a nonprofit organization that serves current and former HSI employees. See About Us, HSI Ass'n, <https://hsiassoc.org/about-us/> [<https://perma.cc/5E9Y-ZZ3S>] (last visited Feb. 22, 2026).

138. Mary Pat Dwyer & Rachel Levinson-Waldman, Brennan Ctr. for Just., *A Realignment for Homeland Security Investigations* 5 (2023), [https://www.brennancenter.org/media/11356/download/2023\\_05\\_Homeland\\_Security\\_Investigations.pdf?inline=1](https://www.brennancenter.org/media/11356/download/2023_05_Homeland_Security_Investigations.pdf?inline=1) [<https://perma.cc/K8XM-HLSC>].

139. See DHS, *FY 2025 Budget in Brief* 33–38 (2024), [https://www.dhs.gov/sites/default/files/2024-04/2024\\_0311\\_fy\\_2025\\_budget\\_in\\_brief.pdf](https://www.dhs.gov/sites/default/files/2024-04/2024_0311_fy_2025_budget_in_brief.pdf) [<https://perma.cc/94CP-2R9W>] (showing that ICE requests its yearly budget without distinguishing between ERO and HSI operations); DHS, *2024 Budget Overview*, supra note 2, at 3–6 (showing a combined budget justification for ICE as a whole).

their work.<sup>140</sup> Vega's insights on misalignment can continue to push this conversation in the right direction. Those thinking about abolition and the role it has in advancing the goals of democracy focus on issues of budgets and resource allocation as means for moving away from policing and punishment.<sup>141</sup> Further examining the internal structures and divisions of immigration enforcement agencies can shed light on how basic administrative choices made at different levels of leadership shape internal understandings of the ideas raised in Vega's book. It would be helpful to disaggregate officials to better understand whether and how assessments of agency legitimacy vary with levels of seniority.

#### IV. AN ARMY OF FOOT SOLDIERS

*Bordering on Indifference* analyzes data gathered primarily during the Obama Administration—from the summer of 2014 to the winter of 2016.<sup>142</sup> Some of the interviews took place during the first few months of the Trump Administration, but on balance, the book has the most to say about moral economies of immigration enforcement during a period in which political leaders attempted to incorporate human consequences into their policies—at least as a matter of lip service if not in practice. At the time of this Book Review's publication, President Trump has unleashed a historically punitive range of immigration policies during his second term. The number of immigrants subject to detention has grown rapidly,<sup>143</sup> and aggressive enforcement tactics including roving patrols, some of which resulted in immigration officers killing both enforcement targets and protesters, have set many communities on edge.<sup>144</sup> One of the broader takeaways of *Bordering on Indifference* is that immigration enforcement officers use a range of strategies to legitimate their work by denigrating the migrants they detain and deport. This final Part considers how this

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140. See Vega, *Bordering on Indifference*, supra note 8, at 100 (“It is common for street-level bureaucrats to limit their responsibility for un-favorable outcomes by denying discretion and imposing certain restrictions on their own power. . . . In this way, immigration agents . . . use rules and regulations to distance themselves from work actions when those actions bring them criticism from the public.”).

141. See Allegra M. McLeod, *Envisioning Abolition Democracy*, 132 *Harv. L. Rev.* 1613, 1634–35 (2019).

142. See Vega, *Bordering on Indifference*, supra note 8, at 21.

143. See, e.g., Chishti & Lacarte, supra note 17 (reporting that ICE detainees increased from 39,000 in January 2025 to a record 61,000 by late August 2025); Camilo Montoya-Galvez, *ICE's Detainee Population Reaches New Record High of 73,000, as Crackdown Widens*, CBS News (Jan. 16, 2026), <https://www.cbsnews.com/news/ices-detainee-population-record-high-of-73000/> [<https://perma.cc/CXH3-WSG2>] (reporting that, in January 2026, “[t]he number of detainees in U.S. Immigration and Customs Enforcement custody ha[d] reached a new record high, surpassing 70,000 for the first time in the deportation agency’s 23-year history”).

144. See Kurt Streeter, *How Alex Pretti's Death Became a National Tipping Point*, N.Y. Times (Feb. 1, 2026), <https://www.nytimes.com/2026/02/01/us/alex-pretti-minneapolis.html> (on file with the *Columbia Law Review*).

insight might shape our understandings of the administration of immigration laws now that the federal bureaucracy has been reoriented around an exacerbated anti-immigrant impulse.

Those who defend the legitimacy of immigration enforcement agencies routinely cite resource limitations.<sup>145</sup> If only there were more agents, detention centers, and immigration judges, the government could do more to get rid of dangerous and noncompliant migrants, or so the thinking goes. When Congress passed the OBBBA in 2025, it agreed to send \$46.6 billion to border infrastructure.<sup>146</sup> To put that figure in context, in 2016, then-candidate Donald Trump campaigned on the promise that he would make Mexico pay to build a wall at the U.S.–Mexico border,<sup>147</sup> at one point proposing to compel Mexico to pay a one-time sum of \$5–10 billion.<sup>148</sup> Once in office during his first Administration, President Trump pressed a divided Congress to allocate \$5.7 billion for the border, settling for much less than that at \$1.375 billion after tense negotiations and a government shutdown.<sup>149</sup> Congress just passed a law allocating more than thirty-three times the amount that was allocated in 2019.<sup>150</sup> This bill shows the effectiveness (and harm) of using the specter of the dangerous “criminal

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145. See, e.g., Removal of Aliens From the United States in Recent Years: Hearing Before the Subcomm. on Immigr. & the Nat'l Int. of the S. Comm. on the Judiciary, 114th Cong. 6 (2016) (statement of Thomas Homan, Exec. Assoc. Dir., Enf't & Removal Operations, ICE), <https://www.judiciary.senate.gov/imo/media/doc/05-19-16%20Homan%20Testimony.pdf> [<https://perma.cc/4ENN-TJXP>] (“In general, more time, personnel, and resources are required to complete the removal process for nationals from Central America and other noncontiguous countries when compared to Mexican nationals apprehended at the border.”).

146. One Big Beautiful Bill Act, Pub. L. No. 119-21, § 90001, 139 Stat. 72, 357–58 (2025).

147. Donald Trump: Mexico Will Pay for Wall, “100%”, BBC News (Sep. 1, 2016), <https://www.bbc.com/news/election-us-2016-37241284> [<https://perma.cc/BV9B-TUKM>].

148. See Rebecca Shabad, Donald Trump Explains How He Would Force Mexico to Pay for Border Wall, CBS News (Apr. 5, 2016), <https://www.cbsnews.com/news/donald-trump-explains-how-he-would-force-mexico-to-pay-for-border-wall/> [<https://perma.cc/BDM8-C4XB>] (“It’s an easy decision for Mexico: make a one-time payment of \$5–10 billion to ensure that \$24 billion continues to flow into their country year after year’ . . . .” (quoting Press Release, Donald J. Trump Presidential Campaign, Compelling Mexico to Pay for the Wall (Apr. 5, 2016), <https://www.presidency.ucsb.edu/documents/trump-campaign-press-release-donald-j-trump-compelling-mexico-pay-for-the-wall> [<https://perma.cc/CXP3-9AZC>])).

149. See Peter Baker & Maggie Haberman, Trump Puts Best Face on Border Deal, as Aides Try to Assuage an Angry Right, N.Y. Times (Feb. 13, 2019), <https://www.nytimes.com/2019/02/13/us/politics/deal-government-shutdown.html> (on file with the *Columbia Law Review*) (highlighting a final agreement of \$1.375 billion for fencing along the border); Shannon Van Sant, Border Security Funding Talks Stalled, Government Shutdown Looms, NPR (Feb. 10, 2019), <https://www.npr.org/2019/02/10/693135144/border-security-funding-talks-stalled-government-shutdown-looms> [<https://perma.cc/V289-5N4S>] (anticipating a potential government shutdown amid ongoing disagreement over funding for President Trump’s border wall).

150. See Baker & Haberman, *supra* note 149.

alien” to drum up political support for funding, thereby propping up a large carceral economy.<sup>151</sup>

The OBBBA is going to create an army of foot soldiers for immigration enforcement. \$8 billion has been earmarked for hiring, training, and retaining U.S. Border Patrol and U.S. Customs and Border Protection (CBP) personnel with the possibility of signing bonuses and other recruitment incentives.<sup>152</sup> The bill also allocates \$3.3 billion for the Executive Office for Immigration Review (EOIR), which houses immigration judges,<sup>153</sup> and devotes \$29.9 billion for hiring, training, and retaining ICE officers.<sup>154</sup> It further makes available \$45 billion for addressing “detention capacity.”<sup>155</sup>

The OBBBA will also further undermine programs historically grounded in inclusive principles. For example, the new law imposes fees on those applying for asylum and employment authorization documents<sup>156</sup> and does not permit fee waivers.<sup>157</sup> The bill similarly imposes fees to those seeking relief and an Employment Authorization Document (EAD) under Temporary Protected Status (TPS) and parole,<sup>158</sup> operating as a further deterrent to those seeking relief. This extends and distorts the model used

151. See Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* 11 (2007) (arguing that American political institutions have been reorganized around the fear of violent crime, normalizing new forms of state power).

152. The bill devotes \$4.1 billion to hiring and training new Border Patrol officers and an additional \$2 billion to retention efforts like performance bonuses. One Big Beautiful Bill Act, Pub. L. No. 119-21, § 90002(a)(1)–(2), 139 Stat. 72, 358 (2025). The bill also makes available \$5.9 billion for repairing and acquiring vehicles and improving facilities. See *id.* § 90002(a)(3)–(4). The bill separates and makes available \$2 billion for hiring and training CBP personnel and funding related enforcement activities. See *id.* § 100051.

153. See *id.* § 100054 (allocating \$3.3 billion for hiring EOIR judges and support staff, combating drug trafficking, prosecuting immigration matters, and other related purposes).

154. See *id.* § 100052 (appropriating \$29.9 billion for hiring and training ICE officers and for other purposes that support “enforcement and removal operations,” including transportation, information technology, facility upgrades, and fleet modernization).

155. *Id.* § 90003(a).

156. See *id.* §§ 100002(a)–(b), 100003(a). For example, the statute sets a \$100 filing fee for asylum applicants, which can be increased by the Secretary of Homeland Security or Attorney General by rule. See *id.* § 100002(b)(1)–(2). Parolees must pay a \$1000 filing fee, which can similarly be adjusted by the DHS Secretary. See *id.* § 100004(c)(1)–(2). The statute increased the filing fee for temporary protected status (TPS) from \$50 to \$500. See *id.* § 100006(2). Asylum seekers who apply for employment authorization documents (EAD) will have to pay \$550, an amount that can be altered by the Secretary by rule. See *id.* § 100003(a)(2)(A)–(B). A similar fee structure governs EAD applications filed by other noncitizens with temporary statuses. See *id.* § 100003(b)(2)(A)–(B), (c)(2)(A)–(B) (defining similar fee structure for both parolees and recipients of temporary protected status seeking EAD).

157. *Id.* §§ 100002(e), 100003(a)(5), (b)(5), (c)(5). For those seeking parole, exceptions to the fee requirement may be available on a case-by-case basis for medical-related emergencies or equitable reasons related to the illness or death of family members. *Id.* § 100004(b).

158. *Id.* §§ 10003(b)(1)–(2), (c)(1)–(2), 100004(a), (c).

with Deferred Action for Childhood Arrivals (DACA),<sup>159</sup> a signature program of the Obama Administration. The bill increases fees for many programs offering relief or stability against removal as well as for other basic procedural rules related to appeals and motions to reopen.<sup>160</sup> These fees help fund agency components that adjudicate asylum applications.<sup>161</sup> But these increases also distort the program by extracting financial payments from vulnerable cross-sections of the population. Unlike Dreamers, who have employable skills, applicants within the other categories for temporary relief do not necessarily enjoy comparable leverage within labor markets. Some estimates suggest that the increased fee structure will raise more than one billion dollars over the next decade and up to nine billion dollars counting remittances, which are heavily driven by immigrant earnings.<sup>162</sup>

During the second Trump Administration, immigration agents have fanned out into society, showing up at worksites,<sup>163</sup> schools,<sup>164</sup> court-

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159. Renew Your DACA as Early as Possible, DHS (May 13, 2024), <https://www.dhs.gov/archive/news/2024/05/13/renew-your-daca-early-possible> [<https://perma.cc/LHG3-JRYH>] (detailing filing fees for renewing DACA, including a \$520 paper filing fee and a \$470 online filing fee).

160. For example, the bill also increases fees for those seeking adjustment of status, cancellation of removal, suspension of deportation, or a waiver of inadmissibility, which many noncitizens secure before leaving the country for consular interviews. One Big Beautiful Bill Act §§ 100013(a), (b), (c), (h), (j). The bill also increases fees for those appealing initial adjudications and for those who are ordered removed and subsequently arrested by ICE. Id. §§ 100013, 100016(a), (b)(1).

161. Half of the fees that are collected will be devoted to the EOIR, which houses immigration judges, and DHS, which houses USCIS. Id. § 100002(d).

162. See Michelle Hackman & Jack Gillum, How Immigrants Will Help Fund Trump's Tax Cuts, *Wall St. J.* (July 4, 2025), <https://www.wsj.com/politics/policy/trump-big-beautiful-bill-immigrants-a991470e?gaa> (on file with the *Columbia Law Review*).

163. See Marianne LeVine, Lauren Kaori Gurley & Aaron Schaffer, ICE Is Arresting Migrants in Worksite Raids. Employers Are Largely Escaping Charges., *Wash. Post* (June 30, 2025), <https://www.washingtonpost.com/immigration/2025/06/30/ice-raids-arrests-workers-companies/> (on file with the *Columbia Law Review*) (“The raids immigration officers are conducting have largely targeted small businesses such as car washes.”).

164. See Howard Blume, Agents Detain Student at Gunpoint Near School; Safe Zones to Be Expanded Around LAUSD Campuses, *L.A. Times* (Aug. 11, 2025), <https://www.latimes.com/california/story/2025-08-11/lausd-bass-pledge-back-to-school-protections-immigrant-families> (on file with the *Columbia Law Review*) (describing immigration raids occurring outside of schools in Los Angeles).

houses,<sup>165</sup> and on the streets.<sup>166</sup> The agents sometimes wield guns and often, if not always, wear masks, making it difficult to identify them.<sup>167</sup> Workplace raids reflect a kind of crisis governance meant to capture the public's attention and seem to justify the funding that lawmakers insisted was necessary. Advocates of immigration enforcement often focus on the lack of resources. In justifying the reassignment of U.S. Marshalls and other DOJ officials who have traditionally worked outside of immigration enforcement to carry out workplace raids, then-acting Secretary of Homeland Security Benamine Huffman noted, "For decades, efforts to find and apprehend illegal aliens have not been given proper resources. This is a major step in fixing that problem."<sup>168</sup> Although this influx of resources will give enforcement-oriented policymakers a chance to prove their point, it does not change the underlying empirical reality that the level of criminality and dangerous criminal behavior within immigrant communities remains very low.

This misalignment between the legal authority of agencies and the legal vulnerability of the target population shows that the OBBBA is unlikely to translate into better enforcement policies on the ground and will almost certainly make things worse. Rushing to spend down the funding, agencies like ICE and the Border Patrol have incentives to cut corners and streamline training, increasing the risk of mistaken arrests, deten-

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165. See Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. Times (June 12, 2025), <https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html> (on file with the *Columbia Law Review*) (explaining that ICE agents have arrested immigrants leaving hearings in courthouses); see also Memorandum from Caleb Vitello, Acting Dir., ICE, to all ICE Employees, Interim Guidance: Civil Immigration Enforcement Actions in or Near Courthouses 1 (Jan. 21, 2025), [https://www.ice.gov/doclib/foia/policy/11072.3\\_CivilImmEnfActionsCourthouses\\_01.21.2025.pdf](https://www.ice.gov/doclib/foia/policy/11072.3_CivilImmEnfActionsCourthouses_01.21.2025.pdf) [<https://perma.cc/JG8X-KHFG>] (rescinding Memorandum from Tae Johnson, Acting Dir., ICE & Troy Miller, Acting Comm'r, CBP to ICE & CBP, Civil Immigration Enforcement Actions in or Near Courthouses (Apr. 27, 2021)).

166. Currently, litigation is underway challenging the "roving patrols" conducted by immigration officers. See *Vasquez Perdomo v. Noem*, 148 F.4th 656, 664 (9th Cir. 2025) (discussing plaintiffs' allegations that immigration enforcement agents "detained individuals without reasonable suspicion, in violation of the Fourth Amendment[]" while on roving patrols).

167. Under federal regulations, ICE agents are required to identify themselves as immigration officers while executing an arrest. See 8 C.F.R. § 287.8(c)(2)(iii)(A) (2025). During the second Trump Administration, officers have begun wearing masks to conceal their identities. According to the ICE website, officers wear these masks to prevent doxing. See *Immigration Enforcement Frequently Asked Questions*, ICE, <https://www.ice.gov/immigration-enforcement-frequently-asked-questions> [<https://perma.cc/9ZZD-PXMS>] (last visited Oct. 15, 2025).

168. Ximena Bustillo & Chiara Eisner, *As Trump Shrinks Other Parts of Government, Immigration Task Forces Grow*, NPR (Mar. 4, 2025), <https://www.npr.org/2025/03/04/nx-s1-5311686/trump-immigration-task-force> [<https://perma.cc/3DVD-LVBU>] (internal quotation marks omitted) (quoting Benamine Huffman, Acting Sec'y, Dep't of Homeland Sec.).

tions, and removals.<sup>169</sup> Recent examples from the second Trump Administration like the “Alligator Alcatraz” state-run detention centers have exhibited—in the words of the Trump Administration—“growing pains.”<sup>170</sup> Similar government efforts to respond to manufactured crises like influxes of migrants reflect the willingness of agencies to take drastic measures like building “tent cit[ies]” to handle the overflow of migrants seeking asylum.<sup>171</sup> These programs are driving a need to hire new agents and officers on an impossible timeline.<sup>172</sup> During the first Trump Administration, a special report by the DHS Inspector General found that, from a human capital perspective, hiring 10,000 ICE officers would require a pool of 500,000 applicants, while hiring 5,000 border agents would require 750,000 applicants.<sup>173</sup> And the increase in hiring officers will not necessarily equate to a symmetrical increase in arrests of noncitizens with records of criminal activity or signs of dangerousness because ICE and the Border Patrol have shifted to arrest more immigrants regardless of their criminal activity.<sup>174</sup>

Journalistic accounts from the first year of the second Trump Administration have highlighted the degree to which morale has sunk among

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169. See Chacón et al., *supra* note 7, at 59–89 (discussing how ICE operationalized prosecutorial discretion through field office trainings and local implementation policies framed as increasing efficiency in the removal process, even as enforcement personnel continued to operate in a policelike, numbers-driven culture built around apprehensions and removals).

170. This is how the Trump Administration responded to allegations in a lawsuit by detainees detailing “unchecked spread of illness, flooding and a lack of food and of a place to bathe or clean their teeth.” See Mariah Timms & Victoria Albert, ‘Alligator Alcatraz’ Detainees Allege Disease, Flooding at Florida Facility, *Wall St. J.* (Aug. 13, 2025), <https://www.wsj.com/us-news/law/alligator-alcatraz-detainees-allege-disease-flooding-at-florida-facility-3080476b> (on file with the *Columbia Law Review*).

171. See Julián Aguilar, *The Government Is Putting Up More Tents to Hold Migrants, but Will It Be Enough?*, *Texas Trib.* (May 2, 2019), <https://www.texastribune.org/2019/05/02/new-border-holding-facilities-will-open-soon-migrant-surge-continues/> [<https://perma.cc/ER6F-L2D4>] (describing capacity issues in long-term detention centers and the construction of “two tent facilities” in Texas to process migrants and asylum seekers).

172. See Off. of Inspector Gen., DHS, *OIG-17-98-SR, Special Report: Challenges Facing DHS in Its Attempt to Hire 15,000 Border Patrol Agents and Immigration Officers* 13 & tbl.2 (2017), <https://www.oig.dhs.gov/sites/default/files/assets/2017/OIG-17-98-SR-Jul17.pdf> [<https://perma.cc/F66Q-2JHY>].

173. *Id.* Hiring issues have continued into the second Trump Administration. See John Pfaff, *Opinion, Trump’s Megabill Gives Billions to ICE—But Hiring 10,000 New Agents Won’t Be Easy*, *MS Now* (July 9, 2025), <https://www.yahoo.com/news/opinion-trump-megabill-gives-billions-100000155.html> [<https://perma.cc/EG5Y-EA6G?type=image>] (listing factors that will make it difficult for ICE to hire new agents, such as noncompetitive pay, decreased interest in law enforcement positions, and the weakened status of working as an ICE agent).

174. See David J. Bier, *65 Percent of People Taken by ICE Had No Convictions, 93 Percent No Violent Convictions*, *Cato Inst.* (June 20, 2025), <https://www.cato.org/blog/65-people-taken-ice-had-no-convictions-93-no-violent-convictions> [<https://perma.cc/V4FV-95GA?type=image>] (“New nonpublic data from Immigration and Customs Enforcement (ICE) indicate that the government is primarily detaining individuals with no criminal convictions of any kind.”).

immigration officers.<sup>175</sup> Notable accounts have reported that many immigration officers feel as if there is a mismatch between their training and the day-to-day demands of the job—all but confirming one of the core insights of *Bordering on Indifference*.<sup>176</sup> Some agents and officers have highlighted the “moral” consequences of “focusing on numbers over all else.”<sup>177</sup> Given that the typical timeline for recruiting, hiring, and training ICE officers is eighteen months,<sup>178</sup> political pressure to put the money into the field creates a risk that the agency will cut corners.<sup>179</sup> John Sandweg, former acting director of ICE during the Obama Administration, has described the Trump Administration’s approach to immigration enforcement as one that “has revved up the agency’s raid strategy, leading to broad and indiscriminate sweeps to maximize arrests—regardless of people’s criminal record.”<sup>180</sup> The new bill will allow ICE to use military personnel and hire contractors to help “prepare target lists and other administrative tasks.”<sup>181</sup>

#### CONCLUSION

More than two decades ago, Professor Gabriel “Jack” Chin drew attention to the role that immigration cases during the era of Chinese Exclusion played in the expansion of the administrative state and the development of administrative law doctrine.<sup>182</sup> As courts grappled with defining the outer boundaries of government power during the Progressive Era, they attempted to set limits on whether the government could admit and deport migrants during a racially exclusionary era.<sup>183</sup> Chin noted that administrative law, which is “often wrongly considered a technical and obscure discipline, was shaped in part by America’s struggle with race.”<sup>184</sup> A similar story could be told about the post-9/11 era and the fights over

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175. See, e.g., Ted Hesson, Tim Reid & Nicole Jeanine Johnson, *Inside ICE, Trump’s Migrant Crackdown Is Taking a Toll on Officers*, Reuters (Aug. 27, 2025), <https://www.reuters.com/legal/government/inside-ice-trumps-migrant-crackdown-is-taking-toll-officers-2025-08-27/> [https://perma.cc/75EW-MKED]; Miroff, *Trump Loves ICE*, supra note 116.

176. See Miroff, *Trump Loves ICE*, supra note 116 (“[M]any officers have spent their career doing work more akin to immigration case management: ensuring compliance with court orders, negotiating with attorneys, coordinating deportation logistics.”).

177. *Id.* (internal quotation marks omitted) (quoting Adam Boyd).

178. *Id.*

179. *Id.*

180. Riya Misra, *Why Is ICE So Aggressive Now? A Former ICE Chief Explains.*, Politico (Oct. 14, 2025), <https://www.politico.com/news/magazine/2025/10/14/former-ice-director-q-a-00603916> (on file with the *Columbia Law Review*).

181. Miroff, *Trump Loves ICE*, supra note 116.

182. See Gabriel J. Chin, *Regulating Race: Asian Exclusion and the Administrative State*, 37 Harv. C.R.-C.L. L. Rev. 1, 2–4 (2002) (exploring the development of the Asian Exclusion Laws alongside the expansion of the administrative state).

183. *Id.* at 16.

184. *Id.* at 3.

executive power to enforce immigration law through its discretionary authority.

Vega's book obviously has political salience and offers a set of critiques that could be deployed against the Trump Administration and those pushing far-reaching immigration enforcement policies among the political Right. *Bordering on Indifference* illustrates the costs of empowering foot soldiers to manage a mostly non-threatening and compliant population of migrants with only a narrow skill set grounded in the use of force. But this book can also challenge the political Left to abandon uncritically broad definitions of agency expertise and to articulate a more precise justification for agency power. For decades, the political Left has relied on an uneasy coalition of interest groups that pushed arguments emphasizing deference to agency experts who can lead with facts, science, and fidelity to the laws tasking them with solving major social problems.<sup>185</sup> But this vision of technocratic leadership and problem solving cannot easily account for the agencies charged with administering immigration laws. Some of this vision has to do with limited understandings of how immigration enforcement agencies work on the inside, which is a part of what makes *Bordering on Indifference* such a critical contribution.<sup>186</sup> Until now, the public has caught only glimpses of life as an immigration enforcement agent, mostly through FOIA requests<sup>187</sup> or interviews with the political appointees who supervise immigration bureaucrats. For this reason, *Bordering on Indifference* sheds important light on the machinery of our immigration system.

The book also has much to say about the machinery of government more generally. As alluded to earlier, most debates about the administrative state focus on the experiences of bureaucrats working within agencies that regulate the environment or financial markets. *Bordering on Indifference* gives us a chance to evaluate administrative law from a different vantage point. Unlike the EPA, the SEC, and other agencies familiar to administrative law scholars, immigration agencies do not typically govern through rulemaking or other regulatory strategies that invite public participation. Instead, the Border Patrol and ICE lean on more invasive and aggressive tools like surveillance, apprehension, detention, and of course removal—all of which advance a morally ambiguous regulatory project. *Bordering on*

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185. Those on the political left often supported the *Chevron* doctrine on the assumption that bureaucrats within certain agencies would be more likely to promote progressive policies than judges. But the same could be said about bureaucrats within agencies like ICE promoting more right-leaning restrictionist views during the Trump Administration. This tension made it hard for defenders of *Chevron* to embrace it across the regulatory state. See Ilya Somin, *Gorsuch Is Right About Chevron Deference*, Wash. Post (Mar. 25, 2017), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/03/25/gorsuch-is-right-about-chevron-deference/> (on file with the *Columbia Law Review*).

186. See *supra* note 112 and accompanying text.

187. See Susan Carroll, *Report: Feds Downplayed ICE Case Dismissals*, Houston Chron. (June 27, 2011), <https://www.chron.com/news/houston-texas/article/report-feds-downplayed-ice-case-dismissals-2080532.php> (on file with the *Columbia Law Review*).

*Indifference* helps us better understand how immigration agents make sense of these policies, which in turn helps us better assess the legitimacy of the agencies that enforce them. *Bordering on Indifference* highlights the relatively weak foundation upon which any arguments about legitimacy might be grounded. Vega notes the lack of specialized training required to carry out significant immigration duties. She also highlights the mismatch that agents experience between their training—which emphasizes a paramilitary-type boot camp focused on dangerous drug traffickers—and the day-to-day realities of enforcing immigration laws—which involves humanitarian duties like accounting for those seeking asylum amid dangerous conditions in the desert. Vega masterfully shows how these structural factors strain accounts of agency legitimacy, but, in addition, she details the ways that agents themselves attempt to graft a sense of legitimacy onto the job. In sum, the book highlights the relatively weak foundation upon which any arguments about the legitimacy of ICE and the Border Patrol might be established. Most surprising of all, *Bordering on Indifference* intimates that among those we might find questioning the legitimacy of the current immigration system are immigration law's foot soldiers themselves.