



ORIGINAL ARTICLE

Tradeoffs and Spillovers in U.S. Criminal Immigration Enforcement

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ABSTRACT

This study examines the unintended consequences of federal criminal prosecution of immigration offenses on incarceration for other crimes. Drawing on bureaucratic politics theory, we argue that routinized procedures and resource constraints may lead to tradeoffs and spillover effects as immigration enforcement increases. Using federal sentencing data from 2001 to 2019, we find evidence of spillover but not tradeoff; increased immigration enforcement is associated with more incarcerations for firearms and narcotics offenses among Latino lawful permanent residents and unauthorized foreign nationals, with stronger effects for the latter group. These “diagonal” and “within group” spillover effects are not sensitive to local U.S. Attorney ideology, suggesting they stem from more mechanistic processes rather than individual preferences. The cumulative impact of these spillover effects is substantial, yielding thousands of additional incarcerations. Our findings have implications for understanding policy implementation and bureaucratic behavior and identify unintended consequences that exacerbate existing racial disparities in the criminal justice system, even absent explicit discriminatory intent.

摘要

本研究分析了“联邦刑事起诉移民犯罪”对其他犯罪监禁造成的意外结果。基于官僚政治理论，我们论证，随着移民执法力度的加大，常规化程序和资源限制可能会导致得失和溢出效应。通过使用2001年至2019年的联邦量刑数据，我们发现了溢出效应，但没有得失效应；移民执法力度的加大与“拉丁裔合法永久居民”和“未经授权的外国人”因枪支和毒品犯罪入狱数量的增加相关，且对后者的影响更为显著。这些“对角线”和“群体内”溢出效应不受美国地方检察官意识形态的影响，这表明其源于更机械化的过程，而非个人偏好。这些溢出效应的累积影响巨大，导致额外的数千人被监禁。我们的研究结果对理解政策实施和官僚行为具有重要启示，并识别了一系列意外的结果，这些结果加剧了刑事司法系统中现有的种族差异，即使在没有明确歧视意图的情况下也是如此。

RESUMEN

Este estudio examina las consecuencias imprevistas del procesamiento penal federal por delitos migratorios en el encarcelamiento por otros delitos. Basándonos en la teoría de la política burocrática, argumentamos que los procedimientos rutinarios y las limitaciones de recursos pueden generar compensaciones y efectos indirectos a medida que aumenta la aplicación de la ley migratoria. Utilizando datos federales sobre sentencias de 2001 a 2019, encontramos evidencia de efectos indirectos, pero no de compensación; un mayor cumplimiento de la ley migratoria se asocia con un mayor número de encarcelamientos por delitos relacionados con armas de fuego y narcóticos entre los residentes permanentes legales latinos y los extranjeros no autorizados, con efectos más fuertes para estos

últimos. Estos efectos indirectos “diagonales” e “intragrupales” no son sensibles a la ideología del fiscal federal local, lo que sugiere que se derivan de procesos más mecánicos que de preferencias individuales. El impacto acumulativo de estos efectos indirectos es sustancial, resultando en miles de encarcelamientos adicionales. Nuestros hallazgos tienen implicaciones para comprender la implementación de políticas y el comportamiento burocrático, e identifican consecuencias imprevistas que exacerbaban las disparidades raciales existentes en el sistema de justicia penal, incluso en ausencia de una intención discriminatoria explícita.

Although immigration policy has become increasingly punitive, with federal criminal prosecution of immigration crimes at an all-time high, the consequences of this phenomenon are underexamined (Eagly 2010). Migration control relies heavily on the criminal justice system, which has effectively shifted from its traditional moorings into an immigration-enforcement tool that secondarily includes some classic criminal offenses. For example, at the federal level, in 2018 the number of arrests of Mexican citizens exceeded the number of arrests of U.S. citizens; from 1998 to 2018, there was a 713% growth in immigration cases as compared to just under 85% for other offenses; and illegal entry prosecutions¹ have ballooned more than 2000% over the last two decades. The vast majority of criminal immigration prosecutions are for illegal entry or reentry.

Indeed, the most contentious immigration policy issue is dealing with unauthorized foreign nationals in the United States (Martin and Orrenius 2022). One debated means of reducing unauthorized immigration is to raise the cost of illegal entry to discourage future migrants, using such mechanisms as constructing border walls and increasing the number of immigration enforcement agents (Martin and Orrenius 2022). Criminal prosecution of foreign nationals for these offenses is a key policy instrument in this effort, defining illegal entry and reentry as crimes and focusing on the removal of noncitizens identified as “criminal aliens” (Stumpf 2006). Criminal justice tools such as the policing, arrest, prosecution, conviction, and imprisonment of foreign nationals have become routine mechanisms for controlling immigration (Eagly 2013).

Scholars, policymakers, and advocates have raised concern that increased use of the criminal justice system to prosecute illegal immigration will have negative policy effects. Some warn that such efforts “strain the capabilities of the law enforcement system beyond its breaking point” (Buentello et al. 2010, 8), and expend precious resources, causing more serious cases, such as firearms and fraud to take a back seat to lesser, weaker immigration misdemeanor cases (Former U.S. Attorneys 2018). Recent government reports support these concerns, as federal prosecutors have stated that, as they spend more time on these cases, they tend to have less time to devote to other issue areas that take months or years of work to build (US GAO 2019).

Others warn that the emphasis on enforcement efforts against unauthorized foreign nationals has significant spillover effects for Latinos of various citizenship statuses—including lawful permanent residents (LPRs) and U.S. citizens.² Attention is focused on consequences for Latinos because about 72% of all unauthorized foreign nationals living in the U.S. came from countries in Latin America (Passel and Krogstad 2024) and the group is often cast as a “Latino threat” (Tichenor 2002). This narrative portrays Latinos as an “invading force” incapable of integrating into the American way of life and conspiring to reconquer the southwestern United States (Chavez 2013). The idea persists despite the broad array

of research showing supposed links between immigration and increases in crime to be unfounded (Ousey and Kubrin 2018). While immigration advocates have tried to separate LPRs from unauthorized foreign nationals in policy debates (Tichenor 2002), legislators repeatedly fail to distinguish between the two when discussing immigration reform (Reyes 2012, citing Rep. Patsy Mink). Asserted impacts range from reduced trust in government to fear of accessing healthcare, with the effects felt most strongly among the Latino community (Rocha et al. 2015; Watson 2014).

Scholars also suggest that, due to this approach, the criminal justice system marginalizes and disadvantages members of Latino communities (Armenta and Vega 2017). As the U.S. imprisons a greater percentage of its population than any other country (Fair and Walmsley 2021)—and African Americans and Hispanics are more likely to be among those incarcerated—these potential outcomes merit examination.³ What is the impact of this policy intervention on scarce resources and existing disparities in incarceration? Such effects are of interest not only to those who study immigration and Latino politics but also to those seeking to understand the role of unintended consequences in the implementation of public policies more broadly (e.g., Campbell 1994; Mettler and Soss 2004; Peters et al. 2013; Hall 2014).

We address this question, examining unintended consequences of the increasing use of the federal criminal justice system to enforce immigration law. We view the federal criminal justice organizations as one single institution, a “criminal justice bureaucracy” that includes prosecuting attorneys, judges and other actors (Nicholson-Crotty and Meier 2003, 120). We draw on the bureaucratic politics literature to understand how regular patterns of behavior, prompted by the enforcement of immigration policy, can strain resources and amplify disparities in incarceration (Allison 1971). In short, due to resource constraints, these actors make tradeoffs that reflect their standard operating procedures and focus on the latter leads them to overlook the broader implications of their actions. Our results suggest that, while external pressure, internal power struggles, and the professional ambitions and preferences of key actors matter (Miller and Curry 2019), routines and policy spillovers can have profound impacts on Latino lawful permanent residents regardless of who is in office. In addition, we find that unauthorized foreign nationals are subject to what we call within-unit spillovers, meaning that incarcerations for non-immigration crimes also increase substantially for this group.

This research is important for several reasons. This study speaks to broader questions about the impact of bureaucracy on the policy gap between intentions and outcomes (Allison 1971). We examine policy consequences beyond the often-cited immigration policy gap between restrictive public opinion or goals and liberal outcomes. The impact we study, incarceration, also has political importance. Scholars urge policymakers to recognize

the profoundly political nature of crime control strategies, as they “both reflect and direct the distribution of power in society” (Gottschalk 2008, 251). Heavy policing in immigrant neighborhoods can push migrants on the path to prison, an important consideration for those studying immigrant incorporation (Golash-Boza 2015, 96). Variations in imprisonment reflect not only statutory and regulatory changes but the daily, commonplace decisions of police, prosecutors, and judges (Enns 2014, citing Davey 1998, 92; Schneider 2006, 459). In addition, disparities in punishment based on ethnicity should concern policymakers. The long-term implications are troubling, as incarceration increases the probability of disenfranchisement, further marginalizing disadvantaged minorities.

This paper proceeds as follows. First, we develop our theoretical framework. We argue that boundedly rational individuals in the connected immigration and criminal justice bureaucracies, following standard operating procedures, will neglect the implications of the tradeoffs they make and the unintended consequences of their actions. Due to the Latino threat narrative and related phenomena, the impact will be felt most strongly in the Latino community. Next, we explain our methodological strategy for identifying the ways in which efforts to stop illegal immigration may affect incarceration outcomes. There, we set forth a series of hypotheses and describe the data we use to test them. We draw data from several sources, including the U.S. Sentencing Commission, to test the impact of criminal immigration enforcement on incarcerations of unauthorized foreign nationals, Latino LPRs, and U.S. citizens, non-Latino whites, and blacks for immigration and non-immigration crimes from 2001 to 2019. Finally, we discuss our findings and their implications for future research.

1 | Immigration Enforcement Program

We begin by detailing the immigration enforcement program, which we argue is a driving force behind incarceration outcomes. For our purposes, the “immigration enforcement program” is a set of related policies rather than an actual government program. We conceptualize criminal immigration enforcement as cumulative, aggregate policymaking by multiple national level officials. First, through statutes, Congress defines the bases for the use of the criminal justice system to enforce immigration policy. Although Congress has criminalized illegal entry and reentry in various forms in the past, the actual risk of prosecution was historically very small because it was not a priority and was therefore left to the discretion of border patrol agents and the U.S. Attorney (USA) (Keller 2012).

In the 1980s, Congress began to increasingly subject acts associated with migration to criminal penalties and to make criminal sanctions for such behaviors more severe (Chacón 2009). Congress criminalized acts such as the hiring of unauthorized foreign workers, the use of false documents to avoid employer sanctions, and marriage fraud.⁴ Such laws not only target foreign nationals but discourage U.S. citizens from assisting them (Medina 1997). In the Anti-Drug Abuse Act of 1988 (§ 7345), criminal sentences for illegal entry were increased. In addition, the Violent Crime Control and Law Enforcement Act of 1994 criminalized reentry after the commission of three or more

enumerated misdemeanors. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) made drastic changes to immigration law, creating new crimes for a variety of activities by foreign nationals—such as knowingly making false claims to citizenship and fleeing from an immigration checkpoint by exceeding the speed limit—and enhancing penalties for alien smuggling. The Antiterrorism and Effective Death Penalty Act (AEDPA) (1996) expanded the criminal grounds for deportation, further increasing the punitive linking of immigration and crime control.

These measures took place in the context of a perceived crisis of crime in American cities, prompting a “get tough” outlook on drugs and crime that restrictionists linked to immigration (Tosh 2023, 28; Miller 2003). The Reagan-era War on Crime worsened a prison bed shortage, pushing Congress to expand criminal deportations to free up prison space and laying the foundation for the INS (now ICE) Criminal Alien Program (CAP) in 1988 (Macias-Rojas 2016). CAP focuses on the identification, arrest, and removal of incarcerated foreign nationals at federal, state, and local levels.⁵ Taken together, these changes provided the mechanism for increases in charging for immigration violations; between 1992 and 2012, the percentage of all federal offenders sentenced for unlawful reentry rose from 2% to 26%.⁶

Prosecutions for such immigration offenses skyrocketed after the September 11, 2001, terrorist attacks, climbing steadily to the top of the list of federal criminal prosecutions regardless of changes in presidential administrations (Chacón 2009). As has historically been the case, once the legislation passed, Congress paid relatively little attention to these immigration enforcement details (Miller et al. 2020; Stobb et al. 2023). The Obama and Bush administrations prosecuted illegal entries relatively infrequently, but in different periods would increase the use of this tool in an effort to reduce illegal immigration, making exceptions for families and asylum seekers (Kandel 2021). Trump’s 2018 “Zero-Tolerance” policy, which directed the Department of Justice (DOJ) to prosecute 100% of foreign nationals apprehended crossing the U.S. border illegally, rejected this past practice and was heavily criticized for it; the Biden administration officially ended the policy in 2021 (Kandel 2021).

Since at least the early 2000s, federal prosecution data has consistently shown that illegal entry and reentry dominate immigration enforcement priorities and constitute the overwhelming majority of migration-related criminal cases (e.g., Light et al. 2014; U.S. Department of Justice 2025; American Immigration Council 2021; U.S. Department of Justice 2019). The former is a misdemeanor that penalizes entering or attempting to enter the United States in a manner that avoids examination by an immigration officer or employs false or misleading information. Convicted individuals face a fine or imprisonment for up to 6 months for the first offense, and up to 2 years imprisonment for subsequent offenses. Illegal reentry is a felony committed by not only illegally reentering or attempting to reenter, but by simply being found in the U.S. after being denied admission or ordered removed. The sentence is up to 2 years but can be increased if the individual has been convicted of certain crimes. For example, if a conviction for re-entry follows three or more misdemeanors involving drugs or crimes against the person,

the individual is subject to fine and/or imprisonment of up to 10 years. Individuals with previous convictions for an aggravated felony face fine and/or imprisonment for up to 20 years.⁷ The aggravated felony is a broad category that includes not only serious crimes such as federal drug trafficking and illicit trafficking of certain firearms, but more minor offenses including counterfeiting, bribery, petty larceny, gambling offenses, and transporting an unauthorized foreign national into the United States (Tosh 2023).

When Congress increased criminalization of and sanctions for these acts several decades ago, as discussed in detail above, migration crimes were reconceived as a method for deterring and incapacitating individuals likely to commit crimes; in short, the DOJ used preventative detention to incapacitate allegedly dangerous people (Keller 2012). In increasing the statutory maximum for illegal re-entry, one senator emphasized the usefulness of the provisions for targeting alien drug traffickers considering illegal entry into the United States (Keller 2012). Individuals with felony records are most likely to be prosecuted for these immigration crimes in federal district court (Bak 2008). The actors in the immigration enforcement regime proceed from the premise that the prosecution of migration offenses helps control crime in general (Morales 2014). Thus, there is in some sense the expectation or even hope that immigration prosecutions will produce a spillover benefit of addressing “migrant crime,” despite a lack of evidence that removal of immigrants reduces crime (Miles and Cox 2014). This convergence of immigration and criminal law, referred to as “cimmigration,” justifies the expulsion of those deemed criminally alien (Stumpf 2006). It is a global phenomenon that, in the United States, has focused surveillance, detention, and removal on one marginalized group in particular—Latinos (Menjívar et al. 2018).

In practice, these prosecutions are driven by national immigration priorities and procedures. In a sense, we see a merger of the immigration and criminal justice bureaucracies. The majority of federal immigration criminal defendants are arrested by the Department of Homeland Security’s (DHS) immigration and customs enforcement officers, and when they are eligible for bail, they are not released due to DHS immigration detainers. Numerous procedures are employed to move these cases quickly through the system. For example, individuals are charged with both misdemeanor illegal entry and more serious offenses and then given the option of pleading guilty to the lesser charge in a magistrate court (without the right to trial by jury or grand jury indictment). As a result, federal prosecutors and judges spend less time on these cases, from the time of filing to case completion, than for any other category of crime. In some cases, border patrol officers represent the government in court (Eagly 2010).⁸

Empirical evidence suggests that national immigration enforcement priorities drive prosecutions for migration offenses. In the border districts, the number of prosecutions of illegal immigration offenses is significantly influenced by federal agency resources dedicated to capturing immigration offenders, particularly the number of Border Patrol agents and Assistant U.S. Attorneys (AUSAs) (Bak 2008). Other important factors include the number of beds available from the U.S. Marshal to house those awaiting trial, and of key personnel including public defenders and ICE agents—factors varying over time with

presidential administrations.⁹ Indeed, immigration law scholars assert that the agency’s choice to refer a case for criminal prosecution is the *de facto* decision, as the prosecutor rarely declines the case (Eagly 2010, 1334). This conclusion is supported by recent findings that the level of attention presidents devote to immigration issues in their rhetoric impacts the percent of immigration filings in a district (Miller and Curry 2019). As we detail in the next section, we theorize that, by making criminal immigration enforcement an integral part of the deportation machine, national actors set in motion a process with unintended consequences beyond the target population.

2 | Impact of Criminal Immigration Enforcement

Scholars have demonstrated that immigration policy has numerous effects beyond its intended goals. Much of this research points to the outsized impact on Latinos. The effect stems in part from the fact that, when immigration control is debated in national rhetoric, it is often discussed in the context of managing threats posed by migrants from Mexico and other Latin American countries. This Latino Threat Narrative posits that Latinos are different from previous immigrant groups because they are unwilling or incapable of integration into American society, linguistically and socially, and represents them as “illegal aliens” and “alien-citizens” regardless of their immigration or citizenship status (Chavez 2013, 4, 7). Politicians use this language, and the media constructs an imagined community that is threatened by a Latino invasion, a story based in part on Latinos’ long history of living in and migrating to the United States (Chavez 2013). As noted above, these connections persist despite findings that, when immigration and crime are significantly related, the relationship is negative (Ousey and Kubrin 2018). Latinos are also seen as an internal threat to the national community because their presence escalates intergroup competition over social and economic resources and political influence, and this perception influences attitudes toward immigration and related policies (Pickett 2016). Therefore, in considering potential spillover effects of criminal immigration enforcement policies, we pay particular attention to the impact on Latino LPRs and U.S. citizens.

Immigration policy influences the political behavior of the target population, migrants, in several ways. Evidence suggests that Latino foreign nationals are aware of their state’s immigration policy (Ybarra et al. 2019), and that enforcement affects their levels of trust in government, participation, and turnout (Rocha et al. 2015; Barretto et al. 2009; Zepeda-Millán 2014; White 2016). Fear of deportation leads foreign nationals, particularly those who are Latino, to be less likely to use public services, including healthcare and education, and to engage with the police (Pedraza and Osorio 2017; Toomey et al. 2014; Watson 2014; Rhodes et al. 2015; Muchow and Amuedo-Dorantes 2020). The latter stems in part from the often-invisible connections between local law enforcement and ICE, which can be conceptualized as a spectrum of communication, collaboration, and financial exchanges (Arriaga 2023).¹⁰

Studies also find that immigration enforcement has spillover effects on the behavior and attitudes of Latino U.S. citizens, decreasing levels of trust in government, making them less likely

to see a health care provider when immigration issues are mentioned, and more likely to doubt the security of any information shared with health care providers if they know someone who has been deported (Rocha et al. 2015; Pedraza et al. 2017). Caution concerning the criminal justice system is also documented among Latino U.S. citizens, as they are less likely to engage with the police if immigration issues are mentioned, a finding authors suggest is rooted in concern that racist policy logics fuel an enforcement approach based on identifying those suspected of being unauthorized (Pedraza and Osorio 2017). Numerous studies explore the idea that Latino citizens view themselves as a racialized group and feel a sense of immigrant-linked fate (Gutierrez et al. 2019). This perception is stronger where immigration enforcement is high (Maltby et al. 2020). Studies also find that Latino foreign nationals in a lawful status are less inclined than U.S. Citizen Latinos to report crime to the police (Menjívar, Simmons, et al. 2018). Enforcement has been linked to psychological distress among Latinos with and without lawful status (Quiroga et al. 2014).

We view the impact of enforcement efforts against unauthorized foreign nationals on lawful permanent residents as policy spillover because LPRs are a legally distinct group historically thought of as “Americans in waiting” or future citizens with “presumed equality” (Motomura 2006, 9). Although this idea has faded in prominence, LPRs are still thought of as distinct in that they made an agreement with the U.S. to be allowed to remain as long as they meet the terms of their admission and have earned equality through the ties they formed here (Motomura 2006). As Motomura notes, these three views of LPRs are not mutually exclusive (2006). Unlike illegal entrants or unauthorized foreign nationals, LPRs are not ordinarily subject to deportation unless they have committed a removable offense or engaged in misconduct in the admissions process.¹¹ Immigration law favors LPRs in many ways, including a shorter residency requirement for eligibility for certain relief from removal, access to waivers for minor crimes, more robust due process protections, unrestricted work authorization, the right to sponsor relatives to come to the United States, and access to federal public benefits and subsidized healthcare (Legomsky and Thronson 2018). The Supreme Court has recognized that LPRs have a special constitutional status due to their legal admission and the ties they develop through permanent residence (*Landon v. Plascencia* 1982).

Policymakers and advocates also distinguish between LPRs and the unauthorized foreign nationals who are the target of illegal entry/reentry prosecutions. After the passage of the Immigration and Nationality Act of 1965, political struggles over the regulation of alien admissions and rights were compartmentalized into three distinct realms: (1) legal immigration; (2) illegal immigration; and (3) asylum (Tichenor 2002, 221). In 1981, the influential Select Commission on Immigration and Refugee Policy (SCRIP) Report advanced a policy paradigm in which legal immigration was framed as a positive force in American life that reflected the national interest, but illegal immigration was a serious problem that had an adverse impact on American society (Tichenor 2002, 251). As Tichenor (2002) notes, this distinction influenced the approach of congressional immigration reform in 1986 and 1990, supported the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996,

and had the lasting effect of decoupling these two migratory streams in national politics. For example, at the 2024 Republican National Convention, numerous politicians contrasted lawful immigrants and unauthorized foreign nationals, vowing to deport the latter group because they are “dangerous” and lack respect for the rule of law (Shabad 2024). Yet it is difficult to clearly separate the two groups on the ground. Policy analysts have questioned legislation making sharp distinctions between the two classes for many years (e.g., Skerry 1996). In reality, unauthorized foreign nationals and those with lawful status tend to live in the same communities; indeed, 70% of households with unauthorized individuals also contain lawful permanent residents and/or U.S. citizens (Passel and Krogstad 2024).

Therefore, we examine the potential impact of criminal immigration enforcement on Latino LPRs and Latino U.S. Citizens, focusing on the potential for it to exacerbate existing racial disparities in federal incarceration. Prior research indicates that the increased prosecution and punishment of noncitizens may explain much of the increase in Latino-white disparities in incarceration, exacerbating the significance of Latino ethnicity for criminal punishment (Light 2014). Results concerning both the federal and state criminal justice systems support the argument that Latino offenders are punished more severely than whites and may be the most disadvantaged group in sentencing (Light et al. 2023; Light 2014, citing Doerner and Demuth 2009; Steffensmeier and Demuth 2001; Albonetti 1997; LaFree 1985). The punishment disadvantages for foreign nationals are most pronounced for Latinos (Koo et al. 2022). These disparities in incarceration are likely one basis for Latino fears of engagement with the criminal justice system as enforcement against unauthorized foreign nationals increases. Our research also builds on prior findings that Latino citizens are more likely to be arrested when local police join forces with immigration authorities (Armenta and Alvarez 2017). In addition, our theory is consistent with media reports that Immigration and Customs Enforcement has mistakenly arrested Latino U.S. Citizens, believing them to be unauthorized foreign nationals (e.g., Peralta 2016; Rubin and St. John 2017; Thomsen 2018; BBC 2019; Rosenberg 2019).

Our focus is on the impact of the merging of the immigration and criminal justice bureaucracies discussed above. We therefore examine the result of the behavior of a large organization, rather than that of a single individual. Through this lens, action is organizational output, and organizational activity is programmed, in the sense that behavior is the enactment of pre-established routines (Allison 1971, 81). Standard operating procedures that facilitate coordination, the rules of thumb that are grounded in the incentive structure and norms of the organization, will be key determinants of outcomes (Allison 1971, 83). The organization constructs the psychological environment of choice, which is the “unifying element that fits a whole sequence of momentary choices into a consistent pattern” (Simon 1957, 80). Organizational mechanisms direct attention, establish information, and cause day-to-day decisions to conform with the values and methods used to attain them (Simon 1957, 96).

In organizations like the connected immigration and federal criminal justice bureaucracies, constraints on the use of resources lead managers to be risk averse and to make sure operators follow standard operating procedures to stay within

constraints (Wilson 1989, 133). As boundedly rational individuals, operators will consider only those factors most closely connected to the decision they must make, rather than the indirect effects of their actions (Simon 1957). To avoid uncertainty in decision making, they may rely on past experiences, stereotypes, and prejudices that link social categories to attributions of particular traits and behaviors, finding the satisfactory rather than optimal solution (Albonetti 1991). The Latino Threat Narrative could have an important impact through this mechanism. Focusing on the achievement of specified performance levels, bureaucrats can neglect the implications of the tradeoffs they make among competing goals and be more concerned with following the rules and remaining within resource constraints than with assessing unintended consequences (Allison 1971; Wilson 1989). In short, they value means over ends (Wilson 1989).

Examining the criminal justice bureaucracy, we see numerous examples of such standard operating procedures and specified performance levels. U.S. Attorney's Offices, a key part of the organization, are constrained by national prosecution priorities. Detailed memos and manuals specify their proscribed behavior, and they must often follow a centralized approval process (Barkow 2011, 569). Detailed procedures are listed in the DOJ's U.S. Attorneys' Manual for determining which charges to file in a case, normally choosing the most serious offense but considering other factors such as proportionality, public safety, deterrence, and rehabilitation (Section 9–27.300). Supervising attorneys must review charging and plea agreement decisions, and prosecutors must provide a detailed memo identifying the charging options and explaining the decision made (see, e.g., Brown and Bunnell 2006).

Each U.S. Attorney's Office must provide written guidance describing its internal indictment review process. The manual also requires that all deportable criminal aliens are removed unless extraordinary circumstances exist, and that the written approval of a USA or a designated supervisory AUSA be obtained for any exception to this policy (Section 9–27.300). An Attorney General memo tells federal prosecutors that they can agree to recommend a one or two level downward departure from the applicable sentencing range in return for an immigrant's concession of deportability and promise to accept a final order of deportation (Section 9–73.520). In addition, the U.S. Attorneys' Manual instructs federal prosecutors to consult with the main office of the DOJ on over 200 types of decisions (Beale 2009, 402; Barkow 2011).

If USAs fail to follow such standard operating procedures or meet specified goals, they can lose their jobs (e.g., Miller and Curry 2018). Accountability is relatively easy to obtain in this environment, as reporting requirements capture data about plea rates and sentencing trends in each office, and an inspection team known as the EARS periodically reviews the readily available statistical metrics (Miller and Curry 2019). Immigration, narcotics and firearms cases are among the most closely overseen areas (Miller and Curry 2019). For example, several USAs were fired during the George W. Bush administration for being resistant to administration priorities. The firing of Carol Lam, a former USA for the Southern District of California, illustrates the importance of resource constraints, routine procedures, and specified performance levels. The primary reason

for her dismissal appears to be dissatisfaction with her prosecution numbers in firearms and immigration cases (Miller and Curry 2019). Lam objected to the focus on numbers, arguing that she emphasized quality over quantity: "When you take on more difficult investigations, the number of prosecutions might not be as high, but you have a larger impact on crime in the community" (Moran and Soto 2007). She contended that, facing finite resources, she focused on obtaining longer sentences for the more important players in criminal operations. In justifying Lam's firing to the House Judiciary Committee, the Associate Deputy Attorney General pointed to her case statistics (Miller and Curry 2019, citing House Judiciary Committee 2007). Lam decried the administration's neglect of the significance of the prosecutions and the "one-dimensional view of law enforcement," contending that, "When you bring one indictment of ten people, you get only one statistic. Or if you prosecute, say, a corrupt border patrol agent who is letting hundreds of aliens come through in exchange for a bribe, you get only one statistic" (Driscoll 2007).

We expect that, in this routinized and closely monitored environment, bureaucrats are likely to neglect the implications of the tradeoffs they make among competing goals, and policy spillovers from criminal immigration enforcement may occur. Tradeoffs involve situations in which limited resources force decision makers to prioritize one enforcement priority over another. This mechanism assumes that resources do not increase commensurate with policy changes. Our data suggest that this is the case (see Figure 1). When immigration enforcement increases, the courtroom workhours logged by AUSAs decline. Some caution is warranted here since we are using a proxy for resources (workhours),¹² but the trend is clear. This means a tradeoff is a possibility.

Hypothesis 1 (Tradeoff). *If there is an increase in criminal immigration enforcement, there will be a decrease in enforcement in other areas of law.*

If this mechanism is in play, we should see a negative and statistically significant effect for our measure of immigration enforcement on incarceration for non-immigration crimes. Specifically, AUSAs should divert effort from more complex cases, such as white-collar cases, to handle more less complex immigration cases (for a more thorough discussion of issue-area complexity, see Miller and Curry 2019, 69–73).

Hypothesis 2 (Tradeoff). *An increase in immigration enforcement should be correlated with a decrease in white-collar enforcement.*

Spillover involves a type of "bonus" to the intended policy implementation. That bonus could be positive or negative. Here, because we are talking about law enforcement, from the perspective of the target populations this is a negative spillover. Any spillover effects are likely the result of fixed costs for prosecution. In other words, once an individual is in custody for a potential immigration violation, the costs of charging them with something more serious are trivial, particularly in narcotics and firearms cases, as these cases tend to prove themselves (i.e., if thing is present, then the case is mostly made). This leads to the first simple spillover hypothesis.

Hypothesis 3 (Spillover). *As immigration enforcement increases, there will be an increase in enforcement of other types of cases.*

If this is the case, we should see positive effects for our immigration enforcement variable. Within the spillover mechanisms there are different potential sub-mechanisms. Spillovers can be categorized into three basic categories, listed below (Francetic et al. 2022).

Using this typology (see Table 1) and applying it to our question, we generate the following additional hypotheses related to spillover:

Hypothesis 4 (Spillover—Within Unit). *As immigration enforcement increases, enforcement for other types of cases for the unauthorized foreign national subgroup will increase.*

Evidence for a within-unit spillover occurs when our measure of immigration enforcement is positive and statistically significant for unauthorized foreign nationals in areas of law other than immigration. Put differently, this is the group targeted by the intervention, but with an unintended effect (i.e., one outside immigration).

Based on the literature discussed above, we expect that diagonal spillover will affect Latino LPRs and Latino U.S. Citizens. There are several possible mechanisms for this result, such as increased arrests of Latinos because ICE suspects they are unauthorized

foreign nationals. With our data, we are not able to test the mechanism directly. We examine whether the spillover exists, an important question that speaks directly to debates in immigration, Latino politics, and policy studies literatures (Filindra and Manatschal 2020; Filindra and Goodman 2019; Cruz Nichols et al. 2018; Rocha et al. 2015). Any evidence for increased enforcement against other groups in areas of law other than immigration is diagonal in nature. Our focus in investigating this diagonal spillover is the impact on Latino LPRs and Latino U.S. citizens.

Hypothesis 5 (Spillover—Diagonal). *As immigration enforcement increases, criminal immigration enforcement against Latino LPRs in other areas of law increases.*

Evidence for a general spillover occurs when our measure of immigration enforcement is positive and statistically significant for groups who are not unauthorized foreign nationals in areas of law other than immigration. To estimate the extent of spillover as precisely as possible we analyze several different demographic groups. A focus on unauthorized foreign nationals is obvious, given that they are the target of the increased use of criminal law to enforce immigration rules. Spillover is most likely in groups that are close to the target group. Here we conceptualize that as Latinos because, as we have noted, over 70% of all unauthorized foreign nationals in the U.S. came from countries in Latin America (Passel and

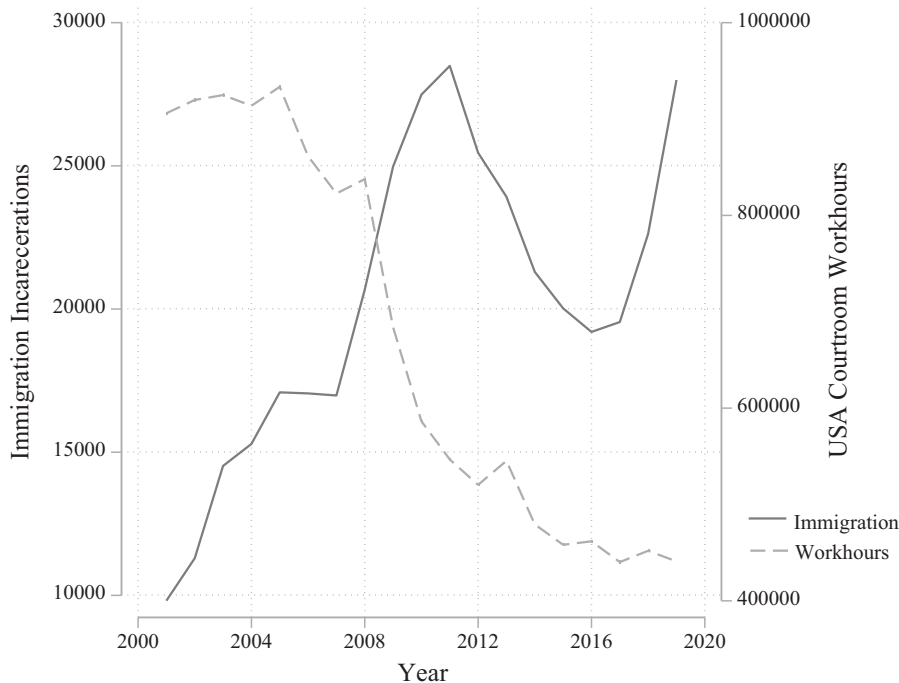


FIGURE 1 | Immigration incarceration and Attorney workhours.

TABLE 1 | Types of spillover.

Unit affected	Type of effect	
	Intended by the intervention	Not-intended by the intervention
Targeted by intervention	Main effect	Within-unit spillover
Not targeted by intervention	Between-unit spillover	Diagonal spillover

Krogstad 2024). We recognize that not all parts of the Latino population in America are likely to be equally affected. More specifically, we believe that Latinos who are LPRs are more likely to experience spillover than are Latino citizens. In addition, we include analyses of Blacks and non-Latino whites, the great majority of whom are U.S. citizens. This leads to a final hypothesis:

Hypothesis 6 (Spillover—Diagonal, Latino-Specific). *As immigration enforcement increases, criminal immigration enforcement against Latino LPRs will be greater than against Latino citizens.*

While our focus is on the existence of tradeoffs and spillovers, we recognize that prior studies indicate the importance of the behavior and political preferences of key bureaucrats. USAs are likely to play a crucial role, as the chief federal prosecutors in a district with a duty to implement the president's agenda. The personal preferences of a bureaucrat can influence their decisions (Wilson 1989). Thus, conservative USAs, who generally lean toward stricter enforcement of criminal law and preferences for "law and order" (Smith et al. 2011; Baum 2017; Feldman 2013, 595), should favor incarceration. Liberals tend to prefer rehabilitation to imprisonment, as they focus on the offenders' socioeconomic constraints and limited opportunities, rather than personal choice and accountability as conservatives tend to do (Yates and Fording 2005). We test the possibility that the impact of criminal immigration enforcement is contingent on USA ideology below. However, as discussed above, standard operating procedures and performance requirements may mute the impact of boundedly rational bureaucrats' personal preferences (Simon 1957). Therefore, we are agnostic as to the result. Indeed, if the USA ideology does not mediate the effect of increased immigration enforcement, this would provide further support for our theory that mechanistic processes lead to tradeoffs and/or spillover.

Decision making by USAs is not completely without restraint. Scholars employ principal-agent theory to understand their behavior, viewing USAs as bureaucratic actors with significant discretion who are accountable to multiple political principals, namely the president and Congress (Boldt and Boyd 2018; Miller and Curry 2019). These principals can exercise control by selecting USAs with similar preferences, monitoring their filing and sentencing records, sanctioning them through firing or failing to reappoint, reducing their budgets, and influencing their career prospects (Boldt and Boyd citing Scott 2007; Miller and Curry 2019). Yet principals face an informational asymmetry that undermines monitoring efforts and leaves their agents with significant discretion to pursue their own preferences and goals (Wood and Waterman 1994; Moe 1984). In addition, to please their principals, USAs must be successful principals themselves, as they oversee an office of career AUSAs (Miller and Curry citing Mitnick and Backoff 1984; Gordon and Huber 2009).

Evidence indicates that USAs attend to the priorities of both the president and Congress in filing and sentencing decisions (Boldt and Boyd 2018; Miller and Curry 2019). The political preferences of the president and Congress, and the level of attention these actors give to certain crimes, significantly affect whether

a USA decides to prosecute, the percentage of filings per issue in a district, and the length of sentences for various crimes (Boldt and Boyd 2018; Miller and Curry 2019). The local context for charging decisions, measured as the level of punitiveness in their jurisdiction, also matters for charging decisions (Boldt and Boyd 2018), as does USA ideology for sentencing for narcotics, immigration, and weapons crimes (Miller and Curry 2019). Across all aspects of a USA's work, presidential preferences tend to influence decision making, suggesting a role for the executive in incarceration rates (e.g., Whitford 2002). We therefore control for the influence of USA's principals and the local context in our analysis.

3 | Data and Methods

We draw data for our analyses from several sources, with the U.S. Sentencing Commission's (USSC) annual "Monitoring of Federal Criminal Sentences" series serving as our primary dataset. This dataset, archived with ICPSR, contains a wealth of information about criminal sentences in each federal judicial district. Our analysis covers the period 2001–2019. We begin in 2001 because, as immigration policy scholars have noted, immigration, particularly from Mexico, has become a focus of policymakers since the terrorist attacks on September 11, 2001 (Bak 2008). We use the USSC data to construct our dependent variables and chief independent variable in the analyses that follow. We counted the number of individuals in each district-per-year who were sentenced to prison in that year for immigration, narcotics, firearms, and white-collar crimes—together, these categories represent the vast majority (about 75% of all cases) of annual criminal offenses handled by United States Attorneys' Offices. To be clear about our analytical approach: Our dependent variables are the counts of incarcerations for narcotics, firearms, and white-collar crimes in each district-year. Immigration incarcerations serve exclusively as our independent variable of interest and are not used as a dependent variable in any of our models. This approach allows us to test whether an increase in immigration enforcement effort—measured by immigration incarcerations—leads to either a decrease in enforcement in other areas (tradeoff) or an increase in enforcement in other areas (spillover).

Appendix S1 contains additional information about the specific variables within the USSC we use to create these dependent variables. We log these measures when they are included in the right-hand side of our regression equations to account for non-normality and the likelihood that increasing numbers of these cases will ultimately lead to diminishing returns. Our main independent variable, enforcement effort for immigration, is measured by logging the number of incarcerations for immigration offenses in each district-year. We measure tradeoff and spillover here by assessing the extent to which immigration incarcerations either increase prosecutions in another area of law (spillover) or decrease them (tradeoff).

In addition, we compiled this same information in each category for five subpopulations of theoretical interest in our data: Unauthorized foreign nationals; Latino LPRs; Latino citizens; Non-Latino Whites; and Blacks. Although we do not have theories about how immigration enforcement will affect whites and

Blacks, we include them here for completeness. Further, an implication of the spillover approach is that the more distant the individual is from the target of enforcement, the less likely or more attenuated the spillover effect should be. Therefore, using the white and Black categories allows for a sort of placebo test, in that we should not see effects for immigration enforcement in these two demographic groups.

Our other independent variable of theoretical interest is the ideology of the USAs who are the primary conduit through which the priorities of Main Justice are funneled (Miller and Curry 2019). To measure the *ideology of U.S. Attorneys*, whose appointments are imbued with strong norms of senatorial courtesy (Nelson and Ostrander 2016; Miller and Curry 2019), we average the ideology scores of the relevant Senators according to the method pioneered for judges on the U.S. Courts of Appeals by Giles et al. (2001), which we explain in the Appendix S1. These scores, which are drawn from NOMINATE scores (e.g., Poole and Rosenthal 1991) range from -1 to $+1$ with higher values signifying greater ideological conservatism. In instances where multiple USAs served in a single year, we utilize the ideological measure corresponding to the USA in place at the beginning of that calendar year.

In addition to the main variables of interest, we include a number of control variables in our models. Although results for these variables are illustrated solely in the Appendix S1, we mention them here for completeness. To measure *district court ideology*, we use Boyd's (2015) methodology to record the median ideology of active district court judges in each year. Boyd extends the logic of Giles et al. (2001) to the district court context, again utilizing NOMINATE scores of relevant actors in the confirmation process. As before, the scale ranges from -1 to $+1$, with higher values indicating more conservative judges. To account for presidential attention to immigration, we create a measure based on mentions of that issue area in the *Public Papers of the President* (e.g., Miller and Curry 2019; Whitford and Yates 2009). We count the paragraphs referencing immigration issues in the relevant volumes of the *Public Papers* to create the *presidential mentions* variable and describe the variable more completely in the Appendix S1.¹³ To account for presidential preferences, we include a dummy variable for years in which the president is a *Democrat*. Given our period of study, this is also an indicator for the presidency of Barack Obama. Similarly, we include a variable that accounts for control of Congress, with zero indicating Democratic control, one indicating mixed control, and two indicating Republican control.

We incorporate several additional variables as well. We rely on the FBI's Uniform Crime Reporting (UCR) Program to capture

state violent crime. In addition, we include an indicator variable for the period after the decision in *Booker v. U.S.* (2005), which made previously mandatory federal sentencing guidelines advisory. It is possible that prosecutorial priorities shifted after the *Great Recession*, particularly with respect to white-collar cases, so we include an indicator for district-years occurring after 2008. Because larger federal judicial districts may simply have more elasticity in terms of available crimes to prosecute, we include a logged measure of *district population*. Lastly, to control for increasing effort we include our measure of federal *attorney workhours*. This data comes from the *United States Attorneys' Annual Statistical Report*, published by the Justice Department, which provides yearly information on court-related work hours for each district.

Our unit of analysis throughout is the district-year. The sample size in all models is 1710, which is a complete panel for all 90 districts over the 19-year span of our study. Data in hand, we estimate a series of negative binomial models. We use this approach because our dependent variable is a count of incarcerations that is highly over-dispersed, as expected given differences across 94 judicial districts.¹⁴ To control for differences between the districts which do not vary over time, we include district-level fixed effects in all regressions. Finally, we cluster our standard errors by district to help account for the non-independence of errors across our repeated observations of a district over the time period of study.

4 | Results

In the interest of concision, we present only the results of theoretical note in the tables below. Full model specifications, including all control variables, are included in the Appendix S1. As a reminder, all the results presented here come from unconditional negative-binomial models with fixed effects for districts. Table 2 starts with our naïve regressions, which include only our logged measure of immigration prosecution effort and district-level fixed effects. In the naïve regressions, immigration effort tends to have the effect of increasing incarcerations in firearms and narcotics cases. Results are especially clear for unauthorized persons, although Latino LPRs, Latino Citizens, and Blacks all seem to experience some degree of spillover. These results provide tentative support for Hypotheses 4 and 5 (Spillover, Within-Unit and Diagonal). Interestingly, increasing immigration effort also increases firearms prosecutions for Blacks and seems to decrease narcotics prosecutions for whites. The latter would provide support for Hypothesis 1 (Tradeoff). As we will demonstrate, however, these results for Blacks, Latino citizens, and whites are not robust to the inclusion of control variables.¹⁵

TABLE 2 | Naïve regression results, immigration effort coefficients.

Naïve regs	All	Unauthorized	Latino LPR	Latino cit.	White	Black
Firearms	0.12 (0.01)**	0.48 (0.04)**	0.37 (0.08)**	0.12 (0.05)*	0.01 (0.02)	0.13 (0.02)**
Narcotics	0.04 (0.01)**	0.22 (0.02)**	-0.04 (0.04)	0.05 (0.02)*	-0.10 (0.02)**	0.01 (0.02)
White-Collar	0.01 (0.02)	0.24 (0.08)**	0.04 (0.10)	0.12 (0.07)	0.01 (0.02)	-0.03 (0.04)

* $p < 0.05$.

** $p < 0.01$ (two-tailed).

Our analysis proceeds in three stages. First, we present naïve models examining the basic relationship between immigration enforcement and incarceration across various demographic groups. Next, we introduce full models with controls to test our primary hypotheses about tradeoff (Hypotheses 1 and 2) and spillover (Hypotheses 3–6) effects. Finally, we examine whether USA ideology moderates these relationships.

The statistically significant results for Latino LPRs, citizens, and unauthorized foreign nationals are strong preliminary evidence in favor of the spillover mechanism. The lack of negative and statistically significant coefficients (excluding the non-robust one for whites in narcotics cases) suggests that the tradeoff is not operating as a mechanism in these cases. Finally, the fact that the only significant effects in white-collar cases are for unauthorized immigrants suggests that converting an immigration case into a white-collar case is considerably more difficult than doing so for other areas of law. We investigate this effect more thoroughly below.

Next, we turn to our fully specified models, which include the complete suite of control variables, district-level fixed effects, and standard errors clustered by district. Table 3 contains these results, again focused on the main independent variable of interest: The log of immigration incarcerations. Table 3 also includes the coefficients for our main political principal of interest: The USAs. As a reminder, the ideology measure for USAs is scaled so that higher scores indicate a more conservative USA. The following models test our hypotheses about tradeoff (Hypotheses 1 and 2) and spillover (Hypotheses 3–6) effects, allowing us to determine the extent to which immigration enforcement creates resource constraints (tradeoff) or extends enforcement to other crimes (spillover) for various demographic groups.

The results in Table 3 provide strong support for the spillover theoretical approach (Hypotheses 4–6; Within-Unit and Diagonal). In general, immigration incarceration has large and statistically significant positive effects on the incarceration rate of the unauthorized and Latino LPRs in firearms and narcotics cases. Further, the result for unauthorized foreign nationals in white-collar cases remains positive and statistically significant.

As with the naïve regressions, the positive and significant coefficients are strongly indicative of a spillover mechanism at work. The lack of significant negative coefficients rules out tradeoff as a reaction to increasing efforts to enforce immigration law using federal criminal law. Also, in general, USA ideology does not seem to matter much here, excepting firearms cases. More conservative USAs prosecute significantly more firearms cases than do liberal USAs, which is consistent with prior work on the USAs (Miller and Curry 2019). But it is important to note that these ideological effects apply mainly with respect to white and Black defendants. We revisit the role of USAs in more detail below.

How big are the spillover effects we observe in Table 3? Table 4, panel A illustrates the effects of moving from low immigration enforcement effort (10th percentile of the data, about 7 immigration incarcerations) to high immigration effort (90th percentile of the data, about 214 immigration incarcerations). Ninety-five percent confidence intervals for these differences are in brackets in the table. For Latino LPRs there is an expected increase of firearms prosecutions of 3 per district, per year in the high immigration enforcement condition. There is a similar increase for unauthorized foreign nationals. The effects in narcotics cases appear more substantial, as 19 additional narcotics incarcerations will occur per district per year in a high immigration enforcement regime. The corresponding effect for unauthorized foreign nationals is 19 additional cases. Finally, we can see that the effect in white-collar cases for the unauthorized is quite small, at one additional case per year per district.

The results suggest that both within-unit spillover and diagonal spillover are occurring. As a reminder, within-unit spillover occurs when the initial targets of the intervention (here unauthorized foreign nationals) experience an impact outside the area of focus (here immigration cases). All-else-equal, it should be the case that this within-unit spillover is stronger than any diagonal spillover (here evidenced by any effects on the incarceration of Latino LPRs). Panel B of Table 4 shows the percentage increase over baseline incarcerations represented by the incarceration counts in Panel A. The major thing to take away from Panel B is the extent to which the intensity of increased enforcement is

TABLE 3 | Negative binomial regression results.

	All	Unauthorized	Latino LPR	Latino cit.	White	Black
<i>Firearms</i>						
Immig. Incar.	0.05 (0.03)	0.30 (0.05)**	0.27 (0.09)**	−0.02 (0.04)	0.04 (0.04)	0.02 (0.03)
USA Ideo.	0.17 (0.04)**	0.01 (0.07)	−0.20 (0.13)	0.01 (0.05)	0.15 (0.05)**	0.18 (0.05)**
<i>Narcotics</i>						
Immig. Incar.	0.03 (0.02)	0.17 (0.04)**	0.09 (0.04)*	−0.01 (0.02)	−0.00 (0.03)	0.01 (0.02)
USA Ideo.	−0.03 (0.03)	0.01 (0.05)	−0.06 (0.07)	−0.04 (0.04)	−0.02 (0.05)	−0.03 (0.04)
<i>White-Collar</i>						
Immig. Incar.	0.02 (0.02)	0.20 (0.10)*	0.04 (0.12)	0.07 (0.07)	0.02 (0.03)	0.00 (0.05)
USA Ideo.	0.04 (0.05)	0.03 (0.13)	0.18 (0.13)	0.23 (0.10)*	0.04 (0.05)	0.10 (0.08)

* $p < 0.05$.

** $p < 0.01$ (two-tailed).

much greater for unauthorized foreign nationals than it is for Latino LPRs. For example, although both Latino LPRs and unauthorized foreign nationals experience an increase in firearms incarcerations, this is a much larger increase for unauthorized foreign nationals (75% of baseline) compared to Latino LPRs (33% of baseline). A similar difference exists for narcotics cases (41% vs. 17%). This suggests that the within-unit spillover is much greater than the diagonal spillover.

The results presented in Panel A of Table 4 allow us to calculate the cumulative effects of high levels of immigration enforcement. Limiting ourselves only to those districts that experienced high immigration enforcement in a given year (again defined as being in the 90th percentile of enforcement, or about 214 immigration incarcerations) we calculate that the spillover for Latino LPRs is an additional 961 firearms incarcerations and an additional 8010 narcotics incarcerations over the time period of our study. For unauthorized foreign nationals, the corresponding numbers are 9612 additional firearms incarcerations and an additional 60,867 narcotics incarcerations.

Finally, to examine whether USA ideology moderates the spillover effects we have identified, we estimated a series of models in which we interact our logged immigration enforcement variable with USA ideology. Full model results are available in the Appendix S1. Table 5 displays the results of moving from a liberal USA (10th percentile of our conservatism measure) to a conservative USA (90th percentile). Each row in the table represents either a low immigration enforcement environment or

a high immigration enforcement environment (again defined as the 10th and 90th percentile of the immigration incarceration variable). Each cell in the table represents the difference in the number of cases subtracting liberal from conservative. To help with interpretation, we have highlighted significant differences.

A general lesson from the results in Table 5 is that, except in firearms cases and for Latino citizens in white-collar cases, the ideology of the USA does not appear to condition the nature of immigration enforcement spillovers. Firearms prosecutions appear to be different, in that we see that in low immigration scenarios, conservative USAs incarcerate about 18 more people than do liberal USAs. That difference shrinks to 6 more people in high immigration enforcement regimes. Importantly, however, these ideological differences do not affect enforcement against unauthorized foreign nationals. The difference in enforcement for Latino LPRs is significant in high immigration enforcement scenarios, but substantively the difference is small. The negative number suggests that liberal USAs pursue more of these cases than do conservative USAs. The larger overall difference we observe in firearms cases is driven by the differential treatment of whites and Blacks. In particular, in both the low and high immigration scenarios, we observe that conservative USAs pursue more firearms cases against Blacks than do liberal USAs. This is also true for whites in the low immigration scenario.

The small, but statistically significant difference for Latino citizens in white-collar cases is a bit of a curiosity. This could be capturing instances in which Latino citizens commit fraud

TABLE 4 | Substantive effects of immigration incarceration.

	Firearms	Narcotics	White-Collar
<i>Panel A</i>			
Unauthorized	3 [2, 4]	19 [12, 26]	1 [0.2, 2]
Latino LPR	0.3 [0.2, 0.5]	2.5 [0.2, 4.8]	—
<i>Panel B</i>			
Unauthorized	75%	41%	50%
Latino LPR	33%	17%	—

TABLE 5 | Immigration enforcement, USA interaction (Conserv.–Liberal).

	All	Unauthorized	Latino LPR	Latino cit.	White	Black
<i>Firearms</i>						
Low immig	18 [10, 26]	0 [−1, 1]	0 [−1, 1]	0 [−1, 1]	4 [2, 7]	8 [4, 13]
High immig	6 [1, 12]	0 [−1, 1]	−0.13 [−0.26, −0.01]	0 [−1, 1]	1 [−1, 3]	5 [1, 8]
<i>Narcotics</i>						
Low immig	10 [−12, 32]	3 [−2, 8]	−1 [−2, 1]	0 [−5, 5]	−2 [−7, 3]	−2 [−9, 4]
High immig	−14 [−33, 5]	−1 [−5, 3]	0 [−1, 1]	−2 [−6, 1]	0 [−4, 4]	−1 [−7, 5]
<i>White-collar</i>						
Low immig	1 [−1, 3]	0 [−0.1, 1]	0 [−1, 1]	0.6 [0.01, 1.2]	1 [−1, 3]	1 [−1, 1]
High immig	1 [−1, 2]	0 [−1, 1]	0 [−1, 1]	0.4 [0.1, 0.7]	0 [−1, 1]	1 [−1, 1]

to aid otherwise unauthorized foreign nationals, but the substantive effects here are quite small and could easily disappear with additional data. We do not wish to make too much of these findings.

In none of the other areas of law do we see that the spillover effect from increased immigration enforcement is conditioned on the ideology of the USA. This tells us that the spillovers we do observe are not likely driven by ideological differences among key implementing actors but are instead driven by an almost mechanistic process in which federal prosecutors charge the most serious crime they can prove.

5 | Discussion and Conclusion

In this paper, we identify significant spillover effects from increases in criminal immigration enforcement. Specifically, as immigration enforcement intensifies, we saw statistically significant increases in incarceration for firearms and narcotics offenses among both unauthorized foreign nationals and Latino lawful permanent residents. The practical impact of these results is striking: What we term “within-group spillover” is responsible for an additional 9612 firearms incarcerations and nearly 61,000 additional narcotics incarcerations in high-enforcement districts during the 2001–2019 period. As for Latino LPRs, the population impacted by “diagonal spillover,” this translates into more than 8000 narcotics and just short of 1000 firearms incarcerations.

Though there are exceptions, for the most part, we do not find evidence that USA ideology significantly conditions the nature of the spillover effects we observe. This, we have noted, suggests that the observed spillover is being driven less by prosecutorial preferences and more by systemic factors within the criminal justice bureaucracy. We recognize that, in this district-level analysis, we are not capturing the impact of ideology and threat perception at the individual level. This aggregation bias is one limitation of our study. At the same time, these findings, which align with our theoretical framework, emphasize the consequences of enduring organizational routines and standard operating procedures for shaping policy outcomes. Practically, this suggests that even when key bureaucratic actors in the system—USAs—change, the underlying mechanisms in which these spillover effects are rooted persist. At a more general level, it highlights the difficulty of transforming ingrained institutional practices and mindsets across various sectors of governance and policy execution.

Our findings also speak to ongoing debates about the unintended consequences of immigration policy and its impact on Latino communities. From a policy perspective, our results imply the need to pursue a more holistic approach to immigration enforcement. While those in national politics may try to separate the issues of illegal immigration from legal immigration, arguing for aggressive enforcement to stop the former while encouraging the latter, the policy choice of prosecuting illegal entry has implications for lawful permanent residents, and Latinos tend to bear the brunt of the negative consequences. This is particularly important because, as scholars have noted, discussion of the impact of immigration enforcement on lawful permanent residents is lacking (Lonegan 2007; Barillas 2014). Furthermore, as evidence suggests that noncitizens are more

likely to be imprisoned than U.S. citizens (Demuth 2002; Light et al. 2014), and Latinos are among the noncitizen groups with higher odds for this outcome (Koo et al. 2022), the potential for enforcement against illegal immigration to exacerbate existing disparities in incarceration rates demands attention. Indeed, our finding that immigration enforcement does not have a consistently significant impact on the incarceration of Latino U.S. citizens is consistent with this line of research. Moreover, these findings partially support the idea that increased immigration enforcement may be a veiled expression of Latino prejudice and a tool to control the Latino population in general (Hartman et al. 2014; Pickett 2016).¹⁶

It is also important to think about how this impact connects to other areas of immigration policy—specifically, the deportation of long-term lawful permanent residents. Our results suggest that an increase in primarily illegal entry/reentry prosecutions is associated with a greater number of LPRs receiving a prison sentence, particularly for narcotics crimes. Drug offenses have some of the harshest immigration consequences (Barillas 2014). Noncitizens are deportable for violation of a law related to a controlled substance, including simple possession of marijuana, unless it is less than 30g and for personal use.¹⁷ Even a conviction for the latter can make a lawful permanent resident inadmissible, and force them to seek a discretionary waiver.¹⁸ LPRs returning from a trip abroad or seeking to become a U.S. citizen may be shocked to find themselves facing removal for a years-old drug conviction (Lonegan 2007). Fear of removal can have ripple effects for the Latino community in other policy areas; for example, reducing their participation in federal safety net programs (Alsan and Yang 2022) and visits to the pediatric emergency department (Beniflah et al. 2013). Policymakers should be mindful of the spillover effects we have uncovered as they design and implement immigration policies and, as appropriate, consider strategies that can mitigate such unintended consequences.

Future research should look more closely at whether the localized environment of enforcement alters the general patterns we have uncovered here. For instance, what is the relationship of increased ICE presence in an area to the extent of enforcement spillover? In addition, we hope to undertake further work to understand more concretely the paths by which these spillovers occur. Our preliminary evidence suggests that these spillovers are not driven by ideology or partisanship, but rather by more routine processes. We would like to better understand which of these processes is most closely linked with the phenomenon we illustrate here. Combined with our findings in the present study, this research will add to ongoing scholarly discussion of the impact of routinized, inflexible street-level practice in public organizations (Lipsky 1980), demonstrating the insights it provides for immigration policy debates.

Conflicts of Interest

The authors declare no conflicts of interest.

Endnotes

¹ Illegal entry is used in this study to refer to entering the United States without inspection. Foreign nationals who physically present themselves for inspection, make no false claim to U.S. citizenship,

and are permitted to enter the *United States* (“waived through,” even if the inspecting officer asks no questions) have not made an entry without inspection (EWI) (*Matter of Areguillin* 1980; *Matter of Quilantan* 2010).

- ² We use the term lawful permanent residents to refer to foreign born individuals with legal permission to reside in the United States indefinitely [8 U.S.C. § 1101(a)(20)]. Immigration law allows individuals to obtain this status through several means, most commonly family ties, employment, and refugee status. Generally, LPRs can apply for U.S. Citizenship after 5 years in that status (Legomsky and Thronson 2018).
- ³ While we focus on the impact on the Latino population in the present research, we recognize that the number of Black immigrants in the U.S. has increased dramatically in recent decades (approximately 5 million foreign-born Black individuals live in the U.S., comprising 5.4% of the unauthorized population and 7.2% of the total non-citizen population), and that they made up 10.6% of all immigrants in removal proceedings between 2003 and 2015 (Morgan-Trostle et al. 2020). They are also more likely to have lengthier immigration detentions (Ghabra 2022). The unique and challenging situation of this population should be the subject of future research.
- ⁴ Immigration Reform and Control Act (IRCA) of 1986; Immigration Marriage Fraud Amendment of 1986 § 2(d).
- ⁵ <https://www.ice.gov/identify-and-arrest/criminal-alien-program>.
- ⁶ Law Enforcement Immigration Task Force, <https://leitf.org/2018/06/fact-sheet-immigrants-crime/>.
- ⁷ Illegal entry is described at 8 U.S.C. 1325 (2023). Illegal reentry is described at 8 U.S.C. § 1326(a) and (b). Aliens who obtain permission of the Attorney General to reenter, or can show they do not need such permission, are an exception. Prosecutions are subject to a five-year statute of limitations. U.S. citizenship is a complete defense to prosecution. 8 U.S.C. § 1326(a), 8 U.S.C. § 1101(a)(43)(B) and (C) details instances where sentences for illegal reentry can be increased upon the commission of certain crimes.
- ⁸ Time for immigration case processing was less than ten days, compared with over 250 for other crime categories (such as terrorism, weapons, white collar, and narcotics).
- ⁹ In addition, even if Border Patrol apprehends an individual, the final decision to prosecute is usually a result of flexible guidelines established by the U.S. Attorney’s office concerning a threshold number of previous immigration violations (i.e., entry/reentries) an individual must have committed (Bak 2008).
- ¹⁰ Arriaga notes examples such as “identification procedures and protocols pre-jail entry, technology usage, deputized staff, reimbursement funding, honoring of detainee or ICE hold requests additional intergovernmental agreements, participation in joint agency task forces, and special conditions for collaboration and communication” (17–18). Official programs can become invisible through “normalized enforcement practices and the subsequent *collective amnesia* of the program’s impetus” (83).
- ¹¹ 8 U.S.C. § 1227.
- ¹² For instance, running hundreds of migrants through pleas in groups would result in fewer needed workhours.
- ¹³ Although this data is normalized by Whitford and Yates, the data collection after 2016 makes this difficult as the entity that collected the data before 2016 stopped doing so. This makes counting the relevant number of pages in a volume incomparable across the 2016 divide. Although it is possible to make an estimate of the total number of available pages, such normalization does not change our conclusions regarding this variable and we think it simpler to use the non-normalized count of references to immigration by presidents.
- ¹⁴ In our analysis the number of districts is 90, as 4 districts in U.S. territories (like Guam) are not included.

- ¹⁵ As noted above, we do not investigate the effect on Black immigrants specifically, leaving this question for future research.
- ¹⁶ We thank the anonymous reviewer for this insight.
- ¹⁷ 8 USC 1227(a)(2)(B)(i). A controlled substance is defined in 21 USC § 802 as “a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V” of the federal Controlled Substances Act.
- ¹⁸ INA §212(h) waivers are available only to marijuana offenders who have committed a single offense involving simple possession of not more than 30g. The crime must have occurred more than 15 years ago, the admission must not be contrary to national safety and security, the person must have been rehabilitated; or, the person must be the spouse, parent, son or daughter of a U.S. citizen or a lawful permanent resident, and the denial of admission would result in extreme hardship to the relative. There is no “firearms” ground of inadmissibility, although a firearms offense could be categorized as a crime of moral turpitude (CIMT) and make someone inadmissible based on that ground.

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Supporting Information

Additional supporting information can be found online in the Supporting Information section.