

Compounded Vulnerability: The Consequences of Immigration Detention for Institutional Attachment and System Avoidance in Mixed-Immigration-Status Families

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ABSTRACT

While an extensive body of literature has analyzed the spillover and intergenerational consequences of mass incarceration, fewer studies explore the consequences of a parallel system: mass immigration detention. Every year, Immigration and Customs Enforcement imprisons hundreds of thousands of noncitizens as they await adjudication on their deportation proceedings, sometimes for months or years at a time. Many detained individuals have lived in the United States for decades and have spouses and/or dependent children that rely on them. This analysis brings together research on immigrant families, mass incarceration, and system avoidance to examine the spillover consequences of immigration detention. Using a multigenerational and multi-perspective research design, we analyze 104 interviews conducted in California with detained parents, non-detained spouses/partners, and their school-age children, during and after detention. Findings suggest that members of these mixed-status families exhibit renewed or increased system avoidance and extensive distrust in U.S. law enforcement after the detention of a family member. These experiences are rooted in what we call *compounded vulnerability*—that is, both in the experience of parental/spousal confinement but also in their positionality as members of mixed-immigration-status families facing the possibility of deportation.

KEY WORDS

Immigration detention, mixed-status families, system avoidance, incarceration, compounded vulnerability

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INTRODUCTION

Recent estimates suggest that between 2011 and 2013 alone, half a million U.S. citizen children experienced the apprehension, detention, and deportation of at least one parent (Capps et al. 2015). Every year, Immigration and Customs Enforcement (ICE) imprisons hundreds of thousands of noncitizens as they await adjudication on their deportation proceedings, sometimes for months or years at a time. However, relatively few studies have examined the impacts of immigration detention on mixed-immigration-status (or mixed-status)¹ families (Brabeck and Xu 2010; Zayas et al. 2016; Golash-Boza 2019).² In contrast, there is a robust literature on mass incarceration under criminal law. This body of work documents a host of deleterious consequences of incarceration that spill over onto families and impact economic wellbeing, housing, family relationships, and educational and health outcomes (e.g., Wildeman 2009; Wakefield and Wildeman 2013; Travis, Western, and Redburn 2014; Foster and Hagan 2015; Haskins 2016; Arditti 2003; Comfort, Grinstead, McCartney, Bourgois & Knight 2005; Comfort 2007; Wildeman, Lee & Comfort 2013; and Turney 2015). Yet, the literature on incarceration has not examined outcomes for the family members of noncitizens who are detained by immigration authorities. This study aims to begin to fill these gaps by analyzing the spillover consequences of immigration detention.

We focus on whether family members experience new or renewed system avoidance behaviors following the detention of a loved one by immigration authorities. System avoidance generally refers to “the practice of individuals avoiding institutions that keep formal records (i.e. put them ‘in the system’) and therefore heighten the risk of surveillance and apprehension by legal authorities” (Brayne 2014: 368). Research has shown that individuals who have had direct contact with the criminal justice system often go to great lengths to avoid surveilling institutions

including the justice system, medical institutions, labor market institutions, and even educational institutions (Goffman 2009; Brayne 2014; Haskins & Jacobsen 2017). However, there is inconclusive evidence about whether system avoidance spills over onto adult significant others of those with criminal justice system contact (Haskins & Jacobsen 2017). Furthermore, there is very little empirical work on the question of whether system/institutional avoidance may also be *intergenerational*.

We address these questions—of spillover and intergenerational impacts of detention— by bridging the literatures on system avoidance and immigrant families. It is well known that immigrants with vulnerable legal statuses—especially undocumented immigrants—are wary of surveilling institutions. Indeed, research has documented system avoidance behaviors among undocumented immigrant adults *and* undocumented children (Nuñez & Heyman 2007; Menjívar and Abrego 2012; Jefferies 2014; Patler 2018). There is also evidence that deportation fear spills over onto U.S. citizen children and other family members of undocumented immigrants (Dreby 2015, Enriquez 2015). Less clear is whether parental detention may trigger or exacerbate system avoidance behaviors among the spouses and children of immigrants in mixed-status families. We analyze these questions herein.

This study draws from a unique set of 104 multigenerational and multi-perspective in-depth interviews conducted in California with three distinct groups of individuals impacted by immigration detention: detained parents, their non-detained spouses/partners with whom they share children, and those children. We use these interviews to explore both adults' and children's attachment to surveilling institutions during and in the aftermath of detention. Our findings suggest that both non-detained spouses and children of detained immigrants express new or renewed system avoidance behaviors during and following the detention of their loved one. Prior

to detention, spouses often have regular contact with records-keeping institutions such as social services agencies, hospitals and clinics, and their children's schools. Children—the majority of whom are U.S. citizens—are most commonly in contact with educational institutions. After the detention of a spouse, non-detained spouses begin to avoid—or further avoid—accessing much needed housing and food assistance, medical care, and further interaction with the criminal justice system. Children also begin to change their behavior vis-à-vis educational institutions: They disengage from school and purposefully avoid seeking school-based academic and psychological support. Children also experience feelings of distrust, betrayal, and disillusionment in the U.S. legal system that shifts their daily routines and aspirations for the future, setting the groundwork for future system avoidance. In contrast, most families continue their involvement with religious organizations.

We argue that the system avoidance behaviors of family members of detained immigrants are rooted in *compounded vulnerability*. Compounded vulnerability refers to the experiences of children and adults who are subject to the disadvantages of having a confined parent or spouse, while simultaneously being vulnerable to the uncertainties of the immigration legal process which can lead to permanent family separation via deportation. Taken together, our results provide some of the first evidence of spillover and intergenerational system avoidance and mistrust among spouses and children of detained individuals. We show that the experience of having a parent or spouse detained, combined with vulnerabilities of individual and family immigrant legal status, may be impacting immigrant households and communities much more severely and extensively than previously understood. These findings are especially relevant in the current political context in which immigration laws are becoming increasingly punitive and mandatory and indefinite immigration detention is ever more commonplace.³

THEORETICAL, EMPIRICAL, AND LEGAL BACKGROUND

System avoidance and mistrust

It is common for individuals with prior criminal justice system contact to be less likely to participate in surveilling institutions (Goffman 2009; Brayne 2014), even when they or others stand to benefit from them. The goal of system avoidance behavior is to avoid re-apprehension and re-imprisonment. Survey research shows that people who have been stopped by police, arrested, convicted, or incarcerated are less likely to interact with records-keeping institutions including hospitals, banks, workplaces, and even schools, compared to people without criminal justice system contact (Brayne 2014). In contrast, criminal justice system contact does not appear to decrease participation in religious organizations, as these institutions are not perceived as potential ports of state surveillance (Brayne 2014). Ethnographic research shows that previously incarcerated individuals go out of their way to avoid further interaction with the justice system, even when doing so could help them—for example, calling the police after one is robbed (Goffman 2009). They may also avoid accessing services—such as much-needed medical care—for which they or others are eligible (Goffman 2009).

Schools are an example of records-keeping institutions that entire families interact with. Recent research by Haskins and Jacobsen using data from the Fragile Families and Childhood Wellbeing Study (hereafter “Fragile Families”) shows that fathers with histories of incarceration are less involved in their children’s schools and school-based activities, relative to those fathers without histories of incarceration (Haskins and Jacobsen 2017). Haskins and Jacobsen also test whether mothers who are partners or former partners of individuals with histories of incarceration also change their behavior vis-à-vis schools, but find inconclusive evidence of

spillover system avoidance. In addition, the question of whether children themselves engage in system avoidance as a result of parental confinement remains unanswered. However, understanding these questions is critical given the key role that institutions play in shaping life chances and mobility.

As another legally vulnerable community, noncitizens—especially those who are undocumented or hold liminal legal statuses (Menjívar 2006)—also avoid surveilling institutions. Indeed, there is an established body of migration research documenting extensive avoidance of surveilling institutions and “chilling effects”⁴ of heightened immigration law enforcement. For instance, research has demonstrated that Latino immigrants are less likely to report crimes than U.S.-born Latinos (Menjívar et al 2018) and undocumented immigrants change their daily routines—e.g. taking different driving routes—to avoid interactions with law enforcement (Núñez and Heyman 2007). Immigrants are often fearful of interacting with government institutions: Survey research finds that parents detained by immigration authorities receive far fewer visits from undocumented children than parents of U.S. citizens, likely due to undocumented children’s fears of “entering the belly of the beast” (Patler and Branic 2017: 24). What is more, there is strong evidence that U.S.-citizen members of mixed-status families also engage in system avoidance behavior even though they not directly subject to detention or deportation: Research has documented reductions in qualified Medicaid enrollment, healthcare-seeking, and accessing service-providing institutions among U.S. citizens who may share households with noncitizens (Pedraza, Cruz Nichols and LeBrón 2017; Watson 2014). The detention of a family member could instigate or exacerbate system avoidance behaviors.

Fear of immigration law enforcement can in turn lead mixed-status families to become less trusting of the government, which could lead to further system avoidance. For example,

Cruz Nichols and co-authors find that Latinos who live in areas with more intensive immigration policing are less likely to trust the government as a source of health information (Cruz Nichols, LeBrón, and Pedraza 2018). Institutional trust and legitimacy are critical to understanding system avoidance. Individual and community perceptions of procedural justice—that is, the fairness of processes used by those in positions of authority to reach specific outcomes—underscores this relationship. The more members of the public believe they are treated fairly and respectfully throughout their interaction with police, the courts, etc., the more likely they are to trust in the system and ascribe legitimacy to it (Tyler 2003, 2007). Moreover, the way in which people understand the law influences not only their interaction with the legal system, but also other institutions (e.g., schools, hospitals, etc.), and can lead to less compliance with, use of, or trust in such systems (Moore 1997). Lack of trust in government institutions may lead to current or future system avoidance behaviors.

The Spillover Consequences of Imprisonment

Compounded vulnerability describes the experience of having a confined parent or spouse while also being subject to the uncertainties of the immigration legal processes that can ultimately result in deportation and permanent family separation. We begin by explaining the first component of compounded vulnerability—the imprisonment of a family member—and how that could lead to system avoidance. To do so, we draw from literature on the collateral consequences of incarceration under criminal law. Many families experience substantial upheaval after a loved one is incarcerated, leading to significant collateral and intergenerational consequences (e.g. Hagan and Foster 2012; Wakefield and Wildeman 2013; Turney 2014; Turney and Haskins 2014; Wildeman and Turney 2014; Foster and Hagan 2015). The

incarceration of a partner/spouse can yield a loss of material resources (e.g., food, clothing, transportation, housing) that threaten economic survival during incarceration. Expenses related to confinement (e.g., visitation, phone calls, commissary, legal costs, etc.) increase these demands. Research has shown that spousal incarceration can lead to periods of homelessness, food insecurity, and emotional instability for non-incarcerated spouses and their children (Turney 2011; Wildeman 2014; Turney 2015). Scholars have also documented declining mental and physical health among mothers who share children with men behind bars (Fishman 1988a, Girshick 1996, Braman 2004; Wildeman et al. 2013). It is reasonable to expect that when faced with such challenges, system-impacted individuals and their family members might do everything in their power to avoid having to go through these experiences again. System avoidance may be one of those strategies.

For children, parental incarceration also poses significant threats to educational success and institutional attachment. When a parent is incarcerated under criminal law, children are more likely to experience academic failure, special education placement, and grade retention as compared to their peers without incarcerated parents (Haskins 2014; Turney and Haskins 2014; Haskins et al. 2018). In addition, children with an incarcerated parent have been shown to suffer from teacher stigma as educators rank children of the incarcerated as less competent and with more behavioral problems than the other students (Dallaire et al., 2010; Wildeman et al. 2017). What's more, qualitative research suggests that children of the incarcerated may also suffer stigma from their peers and be the targets of teasing or bullying when the nature of their parent's absence is discovered (Bosewell and Wedge 2002). It is possible that such experiences could leave children less trusting of educational institutions and therefore more likely to engage in system avoidance behaviors.

Immigration Detention and System Avoidance

The vulnerability of families dealing with the imprisonment of a loved one may be compounded in mixed-status families experiencing immigration detention given the uncertainties inherent in immigration law proceedings. This, we argue, could lead to new or renewed system avoidance behaviors. During Fiscal Year 2015, ICE detained almost 368,000 adult noncitizens (Transactional Records Access Clearinghouse 2016). Though the immigration detention and criminal incarceration systems can be characterized by similar physical environments with similarly punitive characteristics (Longazel et al. 2016; Patler, Sacha, and Branich 2018), several important distinctions remain. Most importantly, because immigration law violations are adjudicated under civil law and not criminal law, detention is not legally considered a sentence or a punishment, but rather an administrative holding process for noncitizens awaiting deportation. This civil law definition means detainees are unable to access many basic constitutional protections available to individuals experiencing other types of formal sanctioning. For instance, there are no constitutional limits on the length of detention; detained individuals who are subject to mandatory detention can be held indefinitely during the adjudication of their removal proceedings. In 2013, approximately 10,000 people were detained by ICE for six months or longer (Transactional Records Access Clearinghouse 2013). In 2015, a study by the Mexican government found that over 15% of Mexican nationals deported from the interior of the United States were detained for more than one year prior to deportation, and nearly half of those individuals were held for more than three years (Bermudez 2015). Importantly, and distinct from incarceration under criminal law (except in the case of pre-trial detention), the time spent in detention is not a sentence, but rather a result of the length of the appeals process. The lack of clear constitutional protections generates substantial uncertainty in the process of immigration

detention that can leave families vulnerable to collateral consequences for extended and indefinite periods of time (Hasselberg 2016, Golash-Boza 2019).

Another key feature of immigration detention, of course, is that it very often leads to deportation. To be sure, the fear of permanent family separation can lead to fear and distress within immigrant families, even in the absence of detention (Dreby 2015; Enriquez 2015). However, these fears are realized when a loved one is detained as the threat of deportation takes shape and becomes a tangible possibility. Throughout the process of parental immigration detention, spouses and children can experience prolonged periods of uncertainty and anticipatory stress (Pearlin and Bierman 2013) in which they experience distress related to what the future may hold for them. Because there are no constitutional limits on the length of detention, family members do not know if or when they will see their loved one again. Detained immigrants can be transferred between, or deported from, detention facilities, often in the middle of the night and with no notice, causing “psychological trauma...[to] family members [that] cannot be fully captured” (Human Rights Watch 2009: 79; see also Golash-Boza 2019). What’s more, non-detained family members are virtually powerless in this situation: there is no legal mechanism by which children’s experiences are considered as a legal basis for stopping a parent’s deportation, except when the deportation would result in “exceptional and extremely unusual hardship”⁵ to the child (Thronson 2006). This uncertainty can lead to high levels of distress and severely infringe upon the family’s ability to plan for the future (Chaudry 2011; Capps et al. 2015; Golash-Boza 2019). Furthermore, under immigration law, deportation is possible even when the individual has lived in the United States for long periods of time or committed minor crimes that, under criminal law, might not even result in jail time. As such, detained individuals and their families may express frustration, fear, or anger that the “punishment” does not fit the “crime”

(Reiter and Coutin 2017; Patler 2018; Golash-Boza 2019), which can lead to mistrust in the judicial system more broadly.

Family members may suffer severe psychological and economic consequences when a loved one is detained. Gulbas et al. (2016) found that U.S. citizen children affected by parental deportation reported a greater burden of stressors in their lives—including financial struggles and stressed relationships with parents—which led to higher indications of depressive symptoms. Zayas et al. (2015) found that children whose parents have been detained or deported may be more likely to experience attention deficits, anxiety disorders, depressive symptoms, and emotional disorders (see also Brabeck and Xu 2010). We advance the literature on spillover effects by arguing that compounded vulnerability can lead children and non-detained spouses to avoid or further avoid interacting with surveilling institutions.

METHODOLOGY

We draw from 104 multigenerational and multi-perspective in-depth interviews with detained immigrants and their spouses/partners and children. The goal of this study was to understand the intergenerational collateral consequences of immigration detention. In total, we interviewed 42 families for this study. Figure 1 and Table 1 illustrate the breakdown of respondents. Consistent with what we know about detention and deportation in general, most detained parents were Latino males, while most spouses/partners were Latina women (Golash-Boza and Hondagneu-Sotelo 2013). All but one detained parent had a criminal record, which had triggered their interaction with ICE (31 of 42 respondents were transferred into ICE custody directly from jail and another 10 were apprehended later). While most detained parents were

undocumented (70 percent), another 30 percent had some kind of legal status at the time of their apprehension by ICE. Spouses/partners were diverse in their legal status backgrounds: 49 percent were U.S. citizens (by birth or naturalization), 17 percent were documented non-citizens, and 34 percent were undocumented. In contrast, all but four of the children interviewed for the study were U.S. citizens. Most children were between 11 and 18 years old, but we interviewed children as old as 30 as necessary.

--Table 1 about here--

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Recruitment took place in several stages. The first group of interviewees included 42 detained parents. Each of these individuals had been held by ICE for six months or longer. Detained parents were interviewed in person while they were detained in four detention facilities in California.⁶ We then interviewed a current or former spouse/partner. These individuals were required to have had some sort of relationship or consistent communication with the detained parent before his/her detention in order to track changes in families' experiences resulting from the detained parent's absence. Finally, we interviewed at least one child from each family.⁷

We employed separate instruments for the detained parent, spouse/partner, and child/youth interviews. The interview guides were built from existing studies of the educational, health, financial and other impacts of parental criminal incarceration and adapted to the immigration detention context. We aimed to capture multiple areas of life in order to gauge how families' experiences may have been impacted by parental detention. Our aim was to triangulate the child and parents' understandings of the parental detention experience. Detained parents responded to a structured questionnaire, adapted from the Boston Reentry Study (Western et al. 2015) that measured pre-detention experiences, legal history and immigration background, work

experiences, and family background. Respondents answered a series of questions about each child for whom they were a biological parent or parental figure, including any challenges those children were facing during the detention process. The spouse/partner protocol covered a variety of topics regarding economic and housing stability, as well as impressions of the impacts of parental detention on each child. This protocol drew in part from the Boston Reentry Study Proxy Survey. Finally, the child instrument contained mostly original questions, but also drew on items from the year nine child follow-up wave of the Fragile Families Study. Questions schemes were adjusted as necessary for older vs. younger children (e.g., whether or not respondents were in school, working, living at home, etc.). We conducted the interviews in English or Spanish, depending on the respondent's preference. The interviews ranged from forty minutes to over 2.5 hours for children, and between one to five hours for adults. Adults received a \$40 gift card and children received a \$20 gift card for their participation. Each family also received a resource packet with information about housing, legal, and food assistance programs.

After each interview, we wrote extensive field notes containing detailed ethnographic observations about the respondent and the interview, as well as a summary of the main themes that emerged during the interview. All interviews were audio recorded and transcribed. We then used Dedoose software to code and analyze the field notes and interview transcripts for each respondent. Broadly, we used flexible coding procedures, as outlined by Deterding and Waters (2018), to complete three rounds of coding. During the first wave, we created a set of open codes based on the literature on parental incarceration as well as the literature on families impacted by immigration law enforcement. As themes emerged from our first wave of coding, we created additional codes to capture these patterns. A final wave of selective coding allowed us to isolate specific instances of institutional attachment and system avoidance and mistrust. To ensure

intercoder reliability, all transcripts were coded by at least two research team members and reviewed on a weekly basis.

FINDINGS

The purpose of our study was to uncover how immigration detention impacts the lives of children and spouses closely tied to noncitizens who are apprehended and held in the custody of immigration authorities. Our findings provide some of the first evidence of spillover and intergenerational system avoidance and mistrust among spouses and children of detained individuals. Our results reveal that the compounded vulnerability of simultaneously experiencing the confinement of a loved one, while also being subject to the uncertainties of the immigration legal processes, can lead non-detained family members to exhibit system avoidance. That is, family members either began avoiding or further limited interactions with records-keeping institutions. However, we find that system avoidance behaviors are exhibited differently for children compared to adults due to the types of institutions they engage with on a regular basis. Consistent with the system avoidance literature, we find little change related to participation in church-based activities among spouses or children.

“Spillover” System Avoidance: Avoidance Behaviors Among Non-Detained Spouses

We find that spousal immigration detention can lead non-detained spouses to engage in new or renewed system avoidance behaviors. On one hand, spouses, who often share precarious legal statuses with their detained partners, worried about their own possible detention or the re-detention of their partner after initial contact with immigration enforcement occurs. Yet even in cases where the non-detained spouses hold legal documentation or are U.S. citizens themselves,

they still feared accessing services to which they and their children are entitled to (e.g., legal, medical, social services, etc.) due to fear of further exposing the family to immigration law enforcement.

Perhaps the most common pattern of avoidance displayed by spouses was in relation to the criminal justice and legal systems. Our findings indicate that spouses, regardless of their own legal status (i.e., legal permanent resident, etc.), adopt strategies to avoid interacting with the justice system to a greater degree than before their partner's apprehension. In particular, spouses described system avoidance behavior in visitation patterns. Although visitation can be an important contributor to family cohesion while a loved one is detained (Bales and Mears 2008), many undocumented non-detained spouses made the difficult decision not to visit their husbands throughout the entire detention period due to fear of being detained themselves. Sofia, a 42-year-old spouse and mother of three, clearly expressed these concerns: "I was afraid to visit him because I thought they were going to ask me for my papers and I thought they would [arrest] me if they found out I didn't have any." Likewise, Azucena, a 33-year-old mother of four, stated:

In the eight months that my husband was detained, we never visited him. I felt scared because of my immigration status. I said, 'what if they don't let me leave?'

I also worried about my oldest son because he also doesn't have papers. I said to myself, 'it's not just going to be me, it could also affect him.' It's very difficult.

For many families, these fears were externally validated. Throughout her husband Nicholas's two-year detention, Luciana a 37-year-old mother of four, was advised by Nicholas' lawyer against interacting with the criminal justice system in any way, including via visitation. She recalled: "I would drive my children with their grandmother and I would wait in the parking

lot while they went inside to visit.” Many families felt that visitation was a sacrifice they had to make in order to avoid the loss (via detention) of yet another family member.

Legal system avoidance was also displayed by non-detained spouses who were not undocumented. Spouses with more secure legal statuses (e.g., legal permanent residents, U.S. citizens, etc.) reported increased fear of interacting with law enforcement officials that began after their spouse’s experience with detention. Antonia, a 44-year-old legal permanent resident and mother of three, described the following incident:

I was driving once, and two cop cars pulled behind us and turned on their siren. I thought they were gonna [pull us over] and I freaked out...I completely blacked out. My husband [who had been released from detention after 24 months] was like, ‘what’s wrong?’ And I just started crying...I completely [freaked out] because I felt...afraid...that they were going to pull me over.

Enduring familial separation had so deeply impacted Antonia that she became frightful of any encounter with law enforcement. “I don’t owe them anything,” she said, recognizing that she had not broken the law and was herself a lawful permanent resident, yet the mere thought of directly exposing herself and her husband to law enforcement terrified her. As a consequence of her husband’s detention, Antonia adopted a hyperawareness of police and feared that any level of interaction with law enforcement would compromise her family’s safety and unity.

Family members also developed new strategies to limit encounters with law enforcement in their daily routines. Fernanda, a 34-year-old mother of two, explained that her husband had become fearful of being out of the house following his detention and subsequent release on bond—and so had she: “he’s afraid to be out in the street because of everything that has happened, and I’m much more at ease when I see that he’s home from work and safe.” She

further described how the familial activities she and her husband previously enjoyed ceased after his detention due to fear of potential interactions with law enforcement: “It’s not like before, we’re much more afraid now. We don’t really go out.” The fear of re-apprehension was palpable among the families we spoke with. Ariel, a 49 year-old father who was detained for seven months, revealed that even after his release on bond, he stopped going out with his family to do activities, for fear of running into law enforcement:

I’m kind of scared whenever I see the police. I only drive if I have to go to work.

I’d rather stay home than be outside because...it’s just...I don’t feel safe anymore.

I’d rather stay home ... It’s not like before where I said, let’s go here, let’s go there, let’s go to the park, let’s go to the movies. I don’t feel comfortable with that anymore. That changed when I got out. I don’t feel safe. That’s how I feel now.

Spouses also avoided accessing much-needed public benefits, which can be critical resources for families experiencing such extensive financial disadvantage. In addition to losing a primary source of income due to detention, families accrue costs due to bonds, lawyer fees, and other legal fees during detention. However, despite the financial burdens they face, many spouses made the difficult decision not to access public forms of financial support. Throughout her husband’s two-year detention, 44-year-old mother of three Antonia decided not to seek reprieve from social programs such as Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF). She explained: “I don’t [get food stamps or any government assistance]. It’s just my income. And for the simple fact that I don’t want them to hold that against us. I don’t want [the government] to say ‘instead of helping the country you’re taking from it.’” Sentiments such as Antonia’s were common; many families believed that

applying for these programs could negatively impact their spouses' immigration case or potential future cases.

This same fear of exacerbating the detained spouse's case often bled into avoidance of other extremely dire necessities for families. Some families felt so concerned about negative interactions with law enforcement that they did not pursue even much-needed and potentially life-saving services. Sofia was a stomach cancer survivor and had been declared in remission prior to her husband Mateo's apprehension by ICE. However, during Mateo's time in detention, Sofia began to experience severe stomach pains and expressed concern that her cancer may have returned. Sofia reluctantly revealed that she had decided not to go to the doctor due to fear that utilizing healthcare resources might somehow further expose her family's legal vulnerability to law enforcement.⁸

Importantly, however, families did not express fear of continued participation in church activities (outside of general concerns about being "out on the street" and therefore subject to potential run-ins with police), suggesting that system avoidance may be specific to institutions and activities that individuals perceive as records-keeping/surveilling institutions (Brayne 2014). For instance, Azucena kept her children enrolled in a free sports program at the local church so they would have continuity in their routine and "distract themselves" from the distress of their father's detention. The family also continued to receive other types of support from the church. Azucena's two oldest children, Carlos Jr. (age 14) and Jonathan (age 11), described going to the church's foodbank:

When it looked like we didn't have much to eat, there's food banks my mom took us to [at church]... They gave us bread, they gave us vegetables. Salads, milk, and

meat. They had clothes too... We went for Christmas...they served us food...They had a Christmas dinner there and a movie...They would give us one free present.

Intergenerational System Avoidance and compounded vulnerability: Institutional Detachment of Children

Among the families in our study, the apprehension of a parent often exacerbated children's existing fears of deportation and permanent familial separation or led to new fears. As with their parents, some children developed strategies to avoid interacting with the legal system altogether. For example, fourteen-year-old Carlos Jr. described how his father's detention caused him to worry given his own undocumented status:

[While my dad was detained] I felt sort of insecure. As a matter of fact, some [ICE] officers were said to be roaming this area, knocking on people's door and arresting illegal immigrants...So our aunt informed us, and we decided we're going to look through the door's [peephole] before opening it to make sure who's there.

When parents were released on bond, children expressed anticipatory stress that their parents could still be reapprehended or deported "at any moment." Smaller children were reported to cry inconsolably, wake with night terrors, and cling to their remaining parents. Children of all ages reported loss of appetite or over-eating, self-isolation, trouble sleeping or being unable to get out of bed, headaches, stomach pain, and dizziness. Lorena was detained for nearly two years (22 months). During her interview, Lorena's son, David, a 15 year-old with DACA status, sat next to her on the couch. As Lorena described her strategy of "always being ready" in case she was reapprehended, David grasped his mother's hands tightly and then buried his head in own his hands:

On the news, everything you see, they say that they [ICE]...can show up at any time for any little thing, by law...And this is what makes me...I get up early and the first thing I do is take a shower, get dressed so I'm ready. I always carry my purse with everything in it. I have an envelope where I put everything...my birth certificate, my most important papers...No matter what happens, this has to be with me...It's living like I have to be prepared to leave at any second.

In addition to avoidance of law enforcement, children's expressions of system avoidance occurred mostly within the education system, the institutions that are most prevalent in their lives. The most common forms of system avoidance among the children in our study included avoiding or rejecting resources (e.g., school counseling) and/or isolating themselves to avoid authority figures and even friends. These experiences were rooted in three key mechanisms: fear of exposing family members in vulnerable legal statuses, concerns about stigmatization, and mistrust and cynicism in government institutions more broadly.

The fear of making a bad situation worse extended into behaviors at school. Many children described concerns that talking to teachers about a parent's detention might trigger the detention or deportation of other legally vulnerable family members. For example, eleven-year old Jonathan described his fear about his older brother, Carlos Jr.: "because he doesn't have papers. If he went [to detention], he wouldn't be able to come back and then it would [just] be me and my little brother." He went on to describe that he learned how to fry an egg "just in case" his parents and older brother were deported, and he suddenly had to take on responsibility for his seven-year-old brother and infant sister. Jonathan therefore decided it was too risky to tell any adults outside of his family about what was happening.

Most children refrained from telling any adults at school about the parental detention. They worried that by discussing their parent's detention they might worsen their parent's case or place them or other family members at risk of apprehension. Carlos Jr., told us that he purposefully isolated himself from teachers and peers at his school. He described spending most of his recesses sitting alone at the edge of the soccer field, ignoring friends and teachers who approached him to ask what was wrong. He shared his desire to avoid being placed in the uncomfortable or potentially dangerous situation of having to talk about his father's detention. This was new behavior for Carlos, Jr., who himself is undocumented. While he reported being relatively open about his status to his teachers prior to his father's detention, now he was closed off and afraid of what repercussions might ensue.

Felipe, who was 16 years old and in high school at the time of his father's apprehension, also described not seeking school-based support around his father's detention because he was worried about exacerbating the family's current legal troubles. He recalled:

I didn't want [to cause] a problem. I didn't trust [my teachers] and I was afraid of what [they would do]. Are they gonna talk to me one-on-one or are they gonna make me talk with a counselor or someone I don't know? I didn't want any problems. I was a little bit worried. What are they gonna think? What are they gonna say?

Felipe described how the uncertainty of his teachers' reactions prevented him from seeking them out as a source of social and emotional support. He also mentioned that "therapy for students" was available, but said, "*it was [offered through] the school, so I didn't trust it.* The reason I didn't tell them is because I thought in my mind, 'is my mom gonna be okay...is she not?'" (emphasis added). Felipe worried about exposing the family's secret about his father's detention and he also feared that sharing this personal piece of information might expose the family to

further legal troubles. These examples highlight how children perceive schools as places that will either exacerbate or worsen their family's situation of both imprisonment and legal vulnerability, rather than as spaces where they can receive support.

Some children also described schools as places where they could be stigmatized by peers because of their parent's detention. Daisy, 11 years old, from Los Angeles, explained that students are sometimes bullied at school for "little things" and she feared that if other students found out about her parent's detention she might be a victim of bullying. Twenty year-old Cassandra also worried about stigma—specifically that her father might be deemed a "felon" by others and that she herself might be ostracized for it. Even when children knew about other kids whose parents had been incarcerated under criminal law, they feared that the added layer of detainment by immigration authorities would be cause for peer ridicule. Jonathan, 11 years old, told us that he had a friend whose father had been in jail, but he didn't talk to that friend about his own father because, "my situation is very different." In cases where peers found out about parental immigration detention, children would try to justify it. Twenty-seven-year-old Andres recalled, "I told my friends that my dad's in jail, but it's not because he's a bad person, it is that he's an immigrant, he got deported, and came back." For Andres, it was critical to try to justify his father's detention.

Parental immigration detention also led to extensive mistrust in the legal system. Natalia was 17 when her stepfather, Angel, was detained. Angel had been at work when ICE agents showed up with an arrest warrant for his co-worker; when Angel couldn't prove legal residency, they arrested him as well. Natalia described how the indefinite nature of his detention made her stop trusting the immigration legal system altogether: "I stopped trusting... I felt like [the process] took so long, honestly, that's when I started being like, aw man, they're just idiots,

they're racist idiots. I started being more judgmental.” The seemingly spontaneous arrests, coupled with the uncertainties of the immigration legal process, left many families in disarray and negatively influenced their perceptions of, and trust in, the justice system.

Other child respondents conveyed that their frustration with the immigration system stemmed from feeling like their voices were not heard in the legal process. Ximena's father was detained when she was 21 years old and she then became the primary caregiver for her three siblings—the youngest of which was nine at the time. Ximena described character letters she and her siblings wrote to the immigration judge to endorse her father's claim to stay in the United States:

I even wrote in detail what was going on with the youngest one, and it just did not seem like they cared. I believe the judge made a comment at one point, saying that basically we're all adults and that we can care for ourselves. For myself, yeah that's fine. But my younger brother had all these problems with school, he's dropped out, and he's been diagnosed with a mood disorder...but they just didn't care about that.

However, while some children stated firmly that they stopped trusting the criminal justice and immigration systems, others expressed a desire to change the system from within. When asked about their future career goals, many mentioned hoping to pursue a career in law enforcement, criminal justice or the immigration system itself, as a way to make sure no other children would have to suffer as they have. For example, 13-year old Julieta explained how her father's detention motivated her to become an immigration lawyer:

Interviewer: Can you tell me more about that what made you want to [be a lawyer]?

Julieta: Um...because back then what I used to go through. Like when I was little. I was only eight when I lost my house and everything happened and so every time I'll visit [my

dad] in the [detention facility], facing the window, not being able to hug or anything... it kind of made me be like, if this is what I'm going through maybe—who knows—I could do this later on in life...[help] people who are in the situation like me.”

DISCUSSION

While immigration detention is not a new phenomenon, the rate at which noncitizens are apprehended in the interior of the country, held in detention, and at risk of deportation has significantly increased in recent years and requires much deeper investigation. Although scholarship on the consequences of immigration enforcement continues to develop, few studies have examined the experiences of immigrants and their families as they go through the process of contact with the immigration system. Our research provides an analysis of some of the experiences mixed-status families undergo when a loved one is confined in immigration detention facilities for long periods of time. Our study draws parallels between the spillover and intergenerational collateral consequences of incarceration while also distinguishing the unique features of the immigration legal system. Moreover, we advance the concept of compounded vulnerability to describe the simultaneous experience of parental incarceration combined with the uncertainty of immigration legal processes that can result in permanent family separation via deportation.

Our project generates at least four contributions to the literatures on system avoidance, immigration law enforcement, and parental incarceration. First, our research seeks to answer an important question posed by the research on system avoidance (e.g. Brayne 2014; Haskins and Jacobsen 2017): whether this behavior spills over onto non-detained family members. Our

findings provide some of the first evidence of spillover system avoidance onto spouses, regardless of their own legal status and protections. Our results also provide evidence of intergenerational system avoidance among children. For some families, these sentiments and actions are new and for others they are enhanced. We find that spouses of detained individuals begin to avoid—or further avoid—interactions with law enforcement officials and institutions, as well as with much needed public services during and after the detention period. Children also begin to express fear, avoidance, and mistrust of the law and legal authorities. Children further express system avoidance behaviors within school settings, which can lead to social isolation and lack of access to support.

Second, our findings underscore several mechanisms behind this spillover and intergenerational system avoidance behavior among spouses and children. Spouses and children fear for the apprehension of *non-detained* family members in vulnerable legal statuses. They also express concerns that involvement in formal records-keeping institutions will damage the family's uncertain legal future. For children, concerns about stigmatization surrounding their mixed-status families' vulnerable legal status also play into decisions to avoid seeking school-based help and support. Our results also provide evidence that compounded vulnerability can lead to mistrust laws and legal authorities. Because people's understandings of the role of law influences not only their interactions with the legal system, but also with other institutions (Moore 1997), then the mistrust in the government that families develop during the process of detention could lead to future system avoidance behavior. Our findings therefore indicate that policies aimed at noncitizens may have short- and long-lasting consequences for families' institutional attachment and trust in the law and legal authorities.

Third, and relatedly, this study helps to bridge two bodies of literature that have developed in relative isolation from one another—the literature on chilling effects of immigration enforcement and the literature on system avoidance—yet describe a very similar phenomenon: avoidance and mistrust among legally vulnerable populations. Our results provide additional evidence of the chilling effects of ramped up immigration law enforcement that can lead immigrants and their families to avoid or mistrust government institutions tasked with providing necessary services to this population (Nuñez & Heyman 2007; Menjívar and Abrego 2012; Jefferies 2014; Patler 2018). This is the case even when individuals are U.S. citizens and therefore not directly vulnerable to deportation (Watson 2014; Pedraza, Cruz Nichols and LeBrón 2017; Cruz Nichols, LeBrón and Pedraza 2018).

The fourth contribution of our study is empirical: while there is significant evidence of the spillover impacts of incarceration under criminal law, there is far less research on the children of individuals detained by immigration authorities (for exceptions, see Brabeck and Xu 2010, Zayas et al. 2015, Golash-Boza 2019). Our findings reveal that having a family member detained by immigration authorities may generate similar disadvantages to those faced by citizen families experiencing the incarceration under criminal law (Foster and Hagan 2007; Arditti 2012; Haskins et al. 2018). However, as our concept of compounded vulnerability suggests, the lives of mixed-status family members may be additionally interrupted by uncertainty about the future and the possibility of permanent family separation. Our study therefore places under theoretical and empirical scrutiny the legal premise that immigration detention is a non-punitive administrative process. Although immigration detention centers resemble jails in their characteristics and operation, immigration law is administrative and therefore legally construed as a non-punitive administrative mechanism. As a result, detained immigrants lack many of the constitutional

protections available under criminal law, including the right to a court-appointed attorney or constitutional protections against indefinite detention. Our study exposes the compounded vulnerabilities experienced by the spouses and children of detained individuals.

Future research could help establish the generalizability of our findings. Although the Department of Homeland Security does not regularly release information about the individuals it detains, researchers should strive to study immigration detention in ways that could help develop population estimates of the collateral consequences of this system. Comparative research that can explore variation in children's and parents' demographic backgrounds would also be helpful. For example, the majority of detained parents were Latino fathers, which leaves underexplored ethnic and gender differences on the effects of parental/spousal detention. Future research could also explore the idea of compounded vulnerability in geographic settings outside California which may represent a different immigration law enforcement context. Additional in-depth and longitudinal research should also focus on the long-term outcomes of spillover and intergenerational system avoidance. Doing so could uncover whether, how and to what extent immigration detention is linked to inequality in immigrant communities across the United States.

CONCLUSION

The use of immigration detention has skyrocketed in recent decades and is poised to continue expanding (Golash-Boza and Hondagneu-Sotelo 2013; Patler and Golash-Boza 2017). While changes to U.S. immigration laws since 1996 have vastly expanded the categories of removable offenses and the use of mandatory and indefinite detention, Executive Orders signed in 2017 focused on the enforcement of these laws by prioritizing the apprehension not only of

noncitizens convicted of crimes, but of those charged with offenses (regardless of conviction), as well as those *suspected* of committing a chargeable offense, and any and all undocumented immigrants (The White House Office of the Press Secretary 2017). We are therefore likely to witness a dramatic upsurge of individuals at varying stages within the process of criminal incarceration, immigration detention, and deportation or release. Our findings underscore how immigration policy can produce and exacerbate inequalities for an expanding group of already disadvantaged individuals. These findings may be particularly relevant for understanding the experiences of mixed-status families in the current policy context.

Tables and Figures

Figure 1. Respondent Breakdown

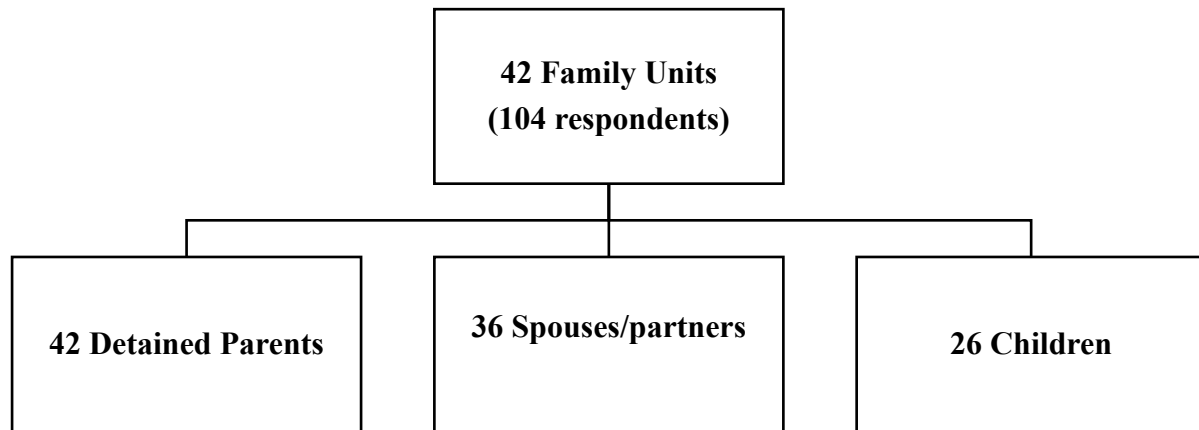


Table 1. Respondent Characteristics

	<u>Detained</u> <u>Parent</u>	<u>Non-</u> <u>detained</u> <u>Parent</u>	<u>Child</u>
Gender			
Male	0.93	0.11	0.46
Female	0.08	0.89	0.54
Has Criminal Record	0.98	N/A	N/A
Legal Status			
US citizen	-	0.49	0.88
Documented non-citizen	0.3	0.17	0.08
Undocumented	0.7	0.34	0.04
Age (range)	41 (20-69)	42 (20-64)	19 (11-34)
Self-Reported Ethnicity			
Hispanic/Latina/o	0.89	0.75	0.96
Other	0.11	0.25	0.04
N	42	36	26

Note: Not all values add to 1 due to rounding. Criminal offenses include things like drug offenses (n=21), DUI (n=18), and property offenses (n=6). Thirteen respondents had been convicted of violent offenses.

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NOTES

¹ These are households with at least one family member at risk of detention or deportation.

² Advocacy groups and journalists have focused on this topic; see for example the Marshall Project 2018; Chaudry et al. 2010.

³ In 2019, the average daily detained population has jumped to a record high of 45,890 individuals per day (The Marshall Project 2019). In a 5-4 decision in *Jennings v. Rodriguez* in February 2018, the Supreme Court held in *Jennings v. Rodriguez* that detained immigrants do not need to receive periodic bond hearings, thus allowing for indefinite detention. In March 2019, the Supreme Court ruled in *Nielsen v. Preap* that the government may mandatorily and indefinitely detain any immigrant with a criminal record at any time after they have been released from imprisonment.

⁴ We note that migration scholars have not used the term "system avoidance" to describe a similar phenomenon, likely due to disciplinary norms.

⁵ This level of hardship can usually be demonstrated only due to a child's extremely illness or physical disability, and even that option is disallowed when the child is not a U.S. citizen or the parent has been convicted of certain categories of crimes.

⁶ Detainees were initially recruited as part of a larger survey of class members of *Rodriguez v. Robbins*, class action litigation mandating bond hearings for most detainees held in the Central District of California for more than 180 days. The four facilities where they were housed represent the universe of facilities holding *Rodriguez* class members during the study.

⁷ Not all family units included a spouse/partner or children who were eligible to participate. For example, in some cases the children were too young and therefore fell outside of our sampling criteria.

⁸ In this case, the researchers helped link Sofia with a clinic that provides free or low-cost oncology services regardless of legal status.