

# Bordering on Criminal:

The Routine Abuse of Migrants in the  
Removal System



## Part II: Possessions Taken and Not Returned

by Daniel E. Martínez, Jeremy Slack, and Josiah Heyman

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## **THE ROUTINE ABUSE OF MIGRANTS IN THE REMOVAL SYSTEM**

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## **ABOUT THE AUTHORS**

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**Jeremy Slack** is a Doctoral Candidate in the School of Geography and Development at the University of Arizona and holds an M.A. in Latin American Studies, also from the University of Arizona. He is currently conducting research and field work in northeastern Mexico assisted by a grant from the Drugs, Security and Democracy Fellowship Program administered by the Social Science Research Council and the Universidad de Los Andes in cooperation with, and with funds provided by, the Open Society Foundations and the International Development Research Centre, Ottawa, Canada. Slack is also one of three co-principal investigators of the *Migrant Border Crossing Study*. He has published on issues relating to violence, migration, drug trafficking, and the criminalization of migration. Slack will be finishing his dissertation in 2014.

## About This Series

*This is the second in a series of three reports we will be releasing that highlight findings from the second wave of the Migrant Border Crossing Study (MBCS). Wave II of the MBCS, currently housed in the Center for Latin American Studies at the University of Arizona and the Department of Sociology at George Washington University, is a binational, multi-institution study of 1,110 randomly selected, recently repatriated migrants<sup>1</sup> surveyed in six Mexican cities between 2009 and 2012 (see [las.arizona.edu/mbc](http://las.arizona.edu/mbc) for the full report and methodology).*

*This report focuses on the issue of repatriated migrants' belongings being taken and not returned by U.S. authorities. Overall, we find that the taking of belongings and the failure to return them is not a random, sporadic occurrence, but a systematic practice. One indication of this is that just over one-third of deportees report having belongings taken and not returned. Perhaps one of the most alarming findings is that, among deportees who were carrying Mexican identification cards, 1 out of every 4 had their card taken and not returned. The taking of possessions, particularly identity documents, can have serious consequences and is an expression of how dysfunctional the deportation system is. Our study finds that migrants processed through Operation Streamline, or held in detention for a week or longer, are most likely to have their possessions taken and not returned.*

## Introduction

Non-governmental organizations and immigrant rights' groups have raised concerns about the mistreatment of unauthorized migrants while in U.S. custody. Unauthorized migrants report experiencing physical and verbal mistreatment by U.S. authorities and are often compelled to sign documents by U.S. authorities that they do not fully comprehend. Upon arrival in Mexico, repatriated migrants frequently find themselves in danger, wandering the streets of unfamiliar border towns trying to decide their next move. This report explores issues related to what possessions have been taken away and not returned to deportees by U.S. authorities. These belongings are an important source of protection, be it in the form of money to help them buy a bus ticket home, identifying documents that allow them to receive a wire transfer, a cell phone with emergency contacts, or even a change of clothes for extra warmth during cold winter nights. Moreover, the decision to remain in Mexico or cross back into the United States may hinge upon the resources available to migrants.

While some Mexican government aid is available to deportees in Mexico while near the border, most deportees can only expect a safe place to stay for a couple of nights and a few meals at church-run or privately operated migrant shelters, or a discounted bus ticket home from Grupos Beta,<sup>2</sup> which is often still too expensive. Without money or identifying documents, the option of taking a bus south becomes at least as difficult as crossing back into the United States. Moreover, without access to money, deportees become vulnerable to extortion from people who offer to receive a transfer in their name with the hope that they will hand over the cash once transferred. Others are deceived into accepting short-term employment or offers of safe passage to the United States from people who may in fact be involved with human smuggling, trafficking, or kidnapping operations. This is particularly problematic in the border cities most affected by organized crime, especially in northeastern Mexico.

With 34% of all respondents reporting that at least one of their belongings was taken and not returned during their most recent apprehension, it is clear that this is a systematic problem. In this report we demonstrate that there are specific parts of the processing and detention experience that increase the rate at which possessions are lost or taken and not returned. From the moment of apprehension until deportation, unauthorized migrants pass through a complex process often involving multiple agencies and court systems, as well as local, state, federal, and for-profit detention centers. Data from the Migrant Border Crossing Study (MBCS) show that being tried through Operation Streamline—a mass federal immigration trial system further discussed below—or being detained for longer periods of time results in higher rates of lost possessions. We conclude that this problem stems from a lack of inter-agency standardization and cooperation, particularly between Customs and Border Protection (CBP), the U.S. Department of Justice’s Federal Bureau of Prisons, and the Department of Corrections (DOC). Greater coordination and cooperation is necessary to deal with the special needs of deportees, which in turn will help to create a more secure border not only for deportees, but also for residents on both sides of the border.

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*Socorro is a 56-year-old grandmother from the Mexican state of Puebla who has U.S.-citizen family members. She last tried crossing the border near Agua Prieta, Sonora, where she paid a coyote \$3,000 to guide her. She was on her way to Phoenix, Arizona, where she had lived the past 10 years, to resume working in a restaurant kitchen. After traveling on foot through the hills of Cochise County with several other people, the group was picked up by a van and began making its way to Phoenix. However, the van was stopped by the U.S. Border Patrol and everyone apprehended. Socorro was sent to Tucson, Arizona, tried through Operation Streamline, and sentenced to 60 days in a detention facility. During the course of her encounter with U.S. authorities, her purse, Mexican identification card, son’s identification card, glasses, MXP \$2,500, USD \$20, clothing, and medication were all taken from her and not returned before she was deported to Nogales, Sonora. (Interviewed on January 28, 2010.)*

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## Operation Streamline

Aside from being one of the most controversial aspects of current immigration enforcement, stemming from questions regarding a lack of due process and prosecutorial independence,<sup>3</sup> being processed through Operation Streamline is one of the processes most associated with having one's possessions taken and not returned. Table 1 illustrates that 57% of migrants who were processed through Operation Streamline report having a possession taken and not returned, compared to just 23% of those processed through other means such as a lateral repatriation, a voluntary repatriation, or Secure Communities.

**Table 1. Comparison between people processed through *Operation Streamline* and those processed through other means<sup>1</sup>**

<b>Variable</b>	<b><i>Operation Streamline</i> (39% of sample)</b>	<b>Other Removal Program (61% of sample)</b>	<b>Difference</b>
Possessions taken and not returned	57%	23%	34%***

1.) Excludes people who crossed, were apprehended, and deported in sectors not practicing *Operation Streamline*

N = 877

Note: \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001 indicate the difference is statistically significant

Source: *Migrant Border Crossing Study, Wave II*

Operation Streamline, which is currently operational in all but three Border Patrol sectors, is characterized by mass federal immigration trials. The aim of Operation Streamline is to charge and convict first-time crossers of “unauthorized entry” (a misdemeanor under 8 U.S.C. § 1325) and repeated crossers of “unauthorized re-entry” (a felony charge under 8 U.S.C. § 1326) in an attempt to reduce future unauthorized crossing attempts.<sup>4</sup> Unauthorized entry can carry a six-month sentence in an immigration detention facility. However, “if the defendant’s prior removal occurred after a felony conviction, the maximum possible penalty under 8 U.S.C. § 1326 is 10 years in prison. If the prior removal occurred after an aggravated felony conviction as defined by 8 U.S.C. § 1101(a)(43), the penalty can be up to 20 years.”<sup>5</sup> The rate at which unauthorized migrants are processed through Operation Streamline varies across sectors, with some sectors, including Tucson and Del Rio, processing more than others. The proposed and amended Senate immigration bill (S. 744), which has been stalled in the House of Representatives, would expand removals similar to those carried out in Operation Streamline to all Border Patrol sectors, and triple the number of people processed through the program in the Tucson Sector from 70 per day to 210.<sup>6</sup>

Furthermore, as noted in table 2, migrants who report being detained for a period of one week or longer also report having possessions taken and not returned at a higher rate (53%) than those detained for less than a week (22%).

**Table 2. Comparison between people detained *ONE WEEK OR LONGER* compared to detained less than a week**

<b>Variable</b>	<b>Detained (39% of sample)</b>	<b>Not detained (61% of sample)</b>	<b>Difference</b>
Possessions taken and not returned	53%	22%	31%***

N = 1,093

Note: \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001 indicate the difference is statistically significant

Source: *Migrant Border Crossing Study, Wave II*

We find that the transfer of migrants between law-enforcement agencies that have different policies, standards, and practices for handling possessions is the most likely explanation for these striking differences, as the types of possessions allowed to follow a detainee vary between organizations. For example, the U.S. Marshalls operate according to policies regarding possessions set forth by the U.S. Department of Justice’s Federal Bureau of Prisons, while the U.S. Border Patrol has a completely different set of policies and procedures. Because people routinely pass into the custody of the U.S. Marshalls during Operation Streamline, this may account for a large portion of the disparity. In a similar vein, being transferred to or held by a state’s Department of Corrections may result in having possessions discarded that have not been claimed within 30 days after a migrant has left the facility. This is a highly problematic policy that disproportionately affects unauthorized migrants because, unlike U.S.-citizen inmates, most unauthorized migrants do not have social contacts near the border who can claim their possessions on their behalf. The problem of people being deported without their possessions will likely be exacerbated if pending immigration legislation is enacted in its current form unless clear policies are outlined to ensure that people can feasibly retrieve their belongings.

### **Possessions Taken and Not Returned**

As noted in table 3, 34% of MBCS respondents report having at least one of their possessions taken and not returned prior to being repatriated to Mexico. This figure excludes mentions of perishable items such as food and water that migrants may have been traveling with before being apprehended by U.S. authorities (roughly 2%).<sup>7</sup> While some people report being allowed to eat and drink their remaining provisions upon apprehension, others have them thrown away. This is an important difference for those who have been rationing their food for several days while crossing the border. Among the 34% of those reporting having possessions taken and not returned, 31% specifically mention clothes or luggage, which causes problems for people deported during the winter, when some regions of the border experience frequent temperatures below freezing. Among those who have belongings taken and not returned, 21% of deportees report losing a cell phone, which is often the only way to communicate with friends or family. One in five also notes that they have money taken and not returned, with an average of \$55 per person. This is an especially problematic occurrence because it is hard to determine whether or not loss of money is due to systemic issues or individual-level negligence by U.S. authorities. Deportees often express skepticism that their possessions, especially new cell phones and cash, were truly discarded. The combination of a lack of oversight and the

frequency of lost belongings creates the appearance of corruption, if not conditions that are rife for exploitation.

Finally, 70% of all MBCS respondents reported that they were traveling with Mexican identifying documents. Among those, 26% indicate that they had those documents taken and not returned prior to deportation. This is by far the most important item one can lose while in U.S. custody. Widespread extortion and harassment by Mexican officials has been linked to lack of identification. One cannot receive a wire transfer, get a job, board an airplane, or access certain state services without official documents. Moreover, standard procedures for recuperating or getting duplicates of these documents are varied, but often require individuals to return to the state where they were born, which may be hundreds of miles away. Mexican and U.S. officials must work together to ensure that people retain documents and can replace those that are lost.

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*Miguel is a 41-year-old male from the Mexican State of Puebla. In 2011 he made his first attempt at crossing the border near Sonoyta, Sonora. Although he had never lived or worked in the United States, he was on his way to New York, where he planned on working for a couple of years before returning to Puebla. After traveling through the desert for four days, he was apprehended by the U.S. Border Patrol, processed through Operation Streamline in the Tucson Sector, and sent to a Corrections Corporation of America (CCA) detention facility in Florence, Arizona. During the course of his processing and detention, Miguel had his Mexican identification card, medication, and the little money he had all taken and not returned. Miguel spent two months in detention and was deported to Juárez, Chihuahua—a city with one of the highest homicide rates in Mexico. (Interviewed on July 12, 2011.)*

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**Table 3. Possession taken and not returned by US authorities, by type (includes multiple mentions)**

<b>Percent who had one of the following items taken and not returned</b>	<b>34%</b>
Specific mentions among those who had items taken and not returned:	
<i>Clothes / Backpack</i>	31%
<i>Cell phone</i>	21%
<i>Money</i>	20%
Median amount lost (US dollars)	\$55
<i>Wallet / Purse</i>	15%
<i>Jewelry</i>	11%
<i>Medicine</i>	5%
<i>Credit / Debit Card</i>	2%
<b>Percent who were carrying identifying Mexican documents</b>	<b>70%</b>
<i>Among those who had identifying documents, rate at which they were taken and not returned</i>	26%

1.) N = 1,092

Moreover, there appear to be significant differences in these rates between U.S. Border Patrol sectors. In particular, people crossing into and being repatriated or deported from the El Paso Sector report having possessions taken and not returned at a much higher rate than anywhere else (table 4). This is largely due to increased use of Operation Streamline and longer periods of detention for migrants in this sector. In both of these cases, migrants are much more likely to be in the custody of different agencies, such as the U.S. Marshalls or local law enforcement. Nevertheless, it is clear that certain sectors have a much better record than others. Therefore, it is important to focus on best practices to produce some standardization among the agencies that take custody of migrants and their personal belongings.

**Table 4. Possessions Taken by U.S. Authorities and Not Returned**

	<b>Percent</b>
<b>All Respondents</b>	<b>34%</b>
<i>By Sector of Crossing</i> <sup>1</sup>	
San Diego	26%
Tucson	31%
El Paso	85%
Laredo	3%
<i>By Sector of Deportation</i> <sup>2</sup>	
San Diego	38%
El Centro	16%
Tucson	35%
El Paso	65%
Laredo	21%
Mexico City (MIRP)	20%

1.) Excludes people who successfully arrived at their desired destination and limited to Sectors with at least 75 observations (N = 610). Associations are statistically significant beyond the 0.00 alpha-level. Respondents that had only food or water taken and not returned coded as "0".

2.) Limited to deportation areas with at least 75 observations (N = 1,036). Associations are statistically significant beyond the 0.00 alpha-level. Respondents that had only food or water taken and not returned coded as "0".

Source: *Migrant Border Crossing Study, Wave II*

## Conclusion

Data collected through the second wave of the MBCS among randomly selected, recently repatriated migrants demonstrate that the loss of personal possessions is a systemic problem resulting from lack of accountability and the transferring of deportees between law-enforcement agencies without uniform standards of conduct. The call to expand Operation Streamline to all Border Patrol sectors and to triple the number of people processed through the program in the Tucson Sector, as currently outlined in S. 744, would only increase the rate at which people have their belongings taken and not returned. Establishing a uniform set of policies and procedures for the handling and movement of possessions that is specific to immigration detainees, rather than to the institution that currently holds them in custody, would greatly improve the likelihood that detainees are returned to their home country along with their rightful belongings. Moreover, there should be clearer channels to recuperate lost possessions; specifically, a chain of custody that can easily be followed to help people retrieve their belongings. A combination of rules that apply to the unique situation of deportees and increased oversight and transparency will go a long way to creating a safer border, where people can make decisions about what to do next with as many options open to them as possible. Failure to address this problem would result in an unnecessary burden placed on repatriated migrants themselves and on border residents.

## Endnotes

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<sup>1</sup> For the purposes of this report, we use the terms “repatriation” and “deportation” interchangeably, referring to the physical act of removing someone from the country, as opposed to the legal distinction between a voluntary repatriation, which is a civil infraction, and a formal deportation, which may be either criminal or civil in nature.

<sup>2</sup> Grupos Beta is a Mexican Federal agency (part of the *Instituto Nacional de Migración*) that provides migrants with information about the dangers of crossing the border on their trajectories north. The agency also provides resources and aid upon repatriation, including food/water, medical attention, and discounted bus tickets to migrants’ communities of origin. See [http://www.inm.gob.mx/index.php/page/Grupo\\_Beta](http://www.inm.gob.mx/index.php/page/Grupo_Beta) for more information.

<sup>3</sup> Joanna Lydgate, *Assembly-Line Justice: A Review of Operation Streamline* (The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity, University of California, Berkeley Law School, January 2010).

<sup>4</sup> Ibid.

<sup>5</sup> Ibid, p. 3.

<sup>6</sup> *S. 744: Border Security, Economic Opportunity, and Immigration Modernization Act*, p. 82.

<sup>7</sup> Table 1 also provides the percentages for specific mentions of types of possessions. We must note that the percentages reported in table 1 for specific types of belongings, other than those for Mexican identifying documents (which was asked systematically through a closed-ended question) were constructed using open-ended responses, so they may include multiple mentions of possession types. Further, we did not systematically exclude people who were *not* traveling with any possessions other than the clothes on their backs. Given these considerations, our figures likely *underreport* the true numbers of specific types of belongings being taken and not returned.

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