

LEGAL BORDERS, RACIAL/ETHNIC BOUNDARIES:
OPERATION STREAMLINE AND IDENTITY PROCESSES ON THE US-MÉXICO
BORDER

by

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DEDICATION

To all who migrate in search of a brighter future.

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ABSTRACT

How do individuals navigate situations in which their work-role identity is put in competition with social identities of race/ethnicity, nationality, or citizenship/generational status? This research uses a controversial criminal court procedure (Operation Streamline) as an optimal setting to understand the strategies employed by lawyers and judges who manage such delicate identity processes. I examine how legal professionals assign salience to their various identities while developing a perspective of competing identity management that builds on and further integrates prior sociological research on identity.

In particular, Latino/a judges and lawyers who participate in Operation Streamline (OSL) take on a specific work-related *role identity* that entails assisting in the conviction and sentencing of border-crossers with whom they share one *social identity*—race/ethnicity—but do not share another social identity—citizenship. I systematically assess identity management strategies used by lawyers and judges to manage these multiple competing identities while seeking to comprehend under what circumstances these identities affect legal professionals' job-related interactions.

In this dissertation, I demonstrate that Latino/a lawyers and judges involved with OSL manage their potentially competing social and role identities differently than non-Latino/as whose social identities do not compete with their role identities, demonstrating variation between racial/ethnic social identities. I also find that some Latino/a lawyers and judges (those with higher racial/ethnic social identity salience) involved with OSL manage their potentially competing social and role identities differently than other

Latino/a lawyers and judges (those with higher racial/ethnic social identity salience), demonstrating variation within racial/ethnic social identity based on the social identity of citizenship/generational status. Finally, I demonstrate that situationality is a factor in identity management because a shared social identity with defendants seems to be useful in the daily work of Latino/a lawyers and judges, but often detrimental in how they are perceived by outsiders such as activists and the media.

From this case, we can take the findings and begin to create an outline for a new theory of competing identity management, integrating prior literatures on social and role identities. I have been able to elaborate mechanisms of some identity management processes while also developing grounded hypotheses on which to base future research. My research also contributes to improving how the criminal justice system deals with sensitive racial/ethnic issues surrounding immigration crimes and *en masse* proceedings such as OSL. Because proposed “comprehensive immigration reform” includes expanding programs like OSL, my research to understand the broader effects of the program on legal professionals is especially important not only to social scientists but to society at large. The fact that there is a difference in identity management strategies for Latino/a and non-Latino/a respondents helps demonstrate there is in fact an underlying racial tension present in Operation Streamline.

CHAPTER 1: INTRODUCTORY OVERVIEW

A round-faced, Latino/a male, who cannot be over thirty, escorts me into the Hon. William D. Browning Special Proceedings Courtroom. He is wearing the required indigo windbreaker with “U.S. MARSHAL” printed on the back in large, silver, sans-serif font. As he opens the double doors, I am struck by a wave of body odor masked with the stringent smell of alcohol-based hand sanitizer. He motions to the rows of hard wooden benches on the south side of the room. I see another Marshal on the far side of the bar separating me from the rest of the courtroom. He is also young, but white, with a classic military crop and he is more interested in his smart phone than the sixty-eight men and two women in hand cuffs and foot shackles who sit on the North side of the courtroom. Sixteen of the as-yet-unbathed border-crossers are seated in what looks like would be a jury box in another courtroom, while the other fifty-two Latino/as are on the same wooden benches at the opposite side of the viewing gallery. The two Latina defendants are separated and sit on a center bench that is on the other side of the bar. I am told later that because their processing is separate from the men’s, the women are required to sit in this different part of the courtroom. All seventy defendants are in the same clothes that they crossed in—many wear shirts that feature American brands such as Miller Light, Hollister, Puma, Nike. They have not showered, brushed their hair, or in many cases, even called their families since their detainment within the last 48 hours. I count eleven other men and three women who mill about in suits between the front and back of the bar. They are a diverse group: from thirty-somethings to a man who looks feeble with age; white, black, Latino/a. Many are in side conversations with one another, often laughing or checking their phones. The gruff, overweight, Hispanic judge who enters along with me from the front of the courtroom looks to be in his early sixties and calls order to the court. The attorneys find a table to sit at or sit in the center rows behind the bar. In a fast mumble, the judge begins to discuss the ins-and-outs of why we are all here today: “Operation Streamline”. (Fieldnotes April 17, 2013)

Statement of the Problem

How do individuals navigate situations in which their work-role identity is put in competition with social identities of race/ethnicity, nationality, or citizenship/generational status? This research uses a controversial criminal court procedure as an optimal setting to understand the strategies employed by lawyers and judges who manage such delicate identity processes. I examine how legal professionals assign salience to their various identities while developing a perspective of competing identity management that builds on and further integrates prior sociological research on identity.

The research setting for this study revolves around Operation Streamline (OSL), a “zero-tolerance” immigration policy designed to increase the criminal prosecution of undocumented border-crossers. This policy replaced the traditional “catch-and-release” strategy employed by Border Patrol, in which apprehended crossers were voluntarily returned or deported through civil immigration proceedings. To deal with the surge in criminal cases since OSL’s implementation in 2008, the Tucson Federal District Court has initiated a “streamlined” legal hearing that combines what regularly involves 3-5 court appearances for large groups of defendants. Consequently, every weekday, in the span of 30 minutes to 3.5 hours, up to 75 undocumented border-crossers—primarily Latino men from México—are charged with federal misdemeanors and sentenced to 30-180 days in prison, generally to be followed by formal deportation in civil court as well. The unique *en masse* nature of Operation Streamline as a criminal immigration proceeding as well as its compression of the legal process has created controversy, with many immigrant-rights groups criticizing those involved and calling for an end to the program.

This contentious policy provides a site for observing heightened identity management among judges and lawyers. In particular, Latino/a judges and lawyers who participate in OSL take on a specific work-related *role identity* that entails assisting in the conviction and sentencing of border-crossers with whom they share one *social identity*—race/ethnicity—but do not share another social identity—citizenship. I systematically assess identity management strategies used by lawyers and judges to manage these multiple competing identities while seeking to comprehend under what circumstances these identities affect legal professionals’ job-related interactions.

The multiple and potentially competing identities of OSL lawyers and judges span two sociological conceptions of identity: role identity and social identity. Role identity is a form of personal identity that often specifically focuses on work roles (S. Stryker 1980). Social identities, on the other hand, are defined as socially recognized groups, statuses, and categories, such as race/ethnicity, citizenship/generational status or nationality, and gender (Tajfel 1981). In accordance with calls made to integrate these two areas (S. Stryker & Burke 2000), the research elaborated here will be an attempt to bridge the gap between these two theories by investigating competing identity management in a highly contentious case. Because both theories of role identity and social identity are presumed to explain identity management strategies (as will be detailed in Chapter 2 on prior literature), the problem of competing identity management arises in situations such as OSL where role identity and social identity theories lead to different predicted identity management strategies for these attorneys and judges.

I also utilize and expand other identity research concepts such as negotiated identifications, assigned vs. asserted identities, and impression management to recognize and categorize various identity management strategies between competing social and role identities. Use of these different mechanisms of competing identity management will help elucidate how competing social and role identities affect how attorneys and judges see their work and do their work in OSL. I explore how attorneys and judges with potentially competing social and role identities (in this case, Latino/a attorneys and judges involved with OSL) use different strategies to manage these identities. By examining differences both between and within social identity groups (Latino/as and non-Latino/as) of OSL attorneys and judges, as well as exploring the situationality of both social and role

identities, my resultant perspective of competing identity management attempts to contribute broadly to future research on identity, as it is generalizable to many other research settings that include competing social and role identities.

Broadly speaking, this study asks the following research questions:

- 1) Do Latino/a lawyers and judges involved with OSL manage their potentially competing identities differently than non-Latino/as whose social identities do not compete with their role identities?
- 2) Under what circumstances is a shared social identity with defendants detrimental or useful in the work role of these Latino/a lawyers and judges?

To investigate how Latino/a legal professionals manage their identities in OSL differently than non-Latino/a professionals and how this might affect their work, I employ a qualitative research design. I use strategic narrative (R. Stryker 1996) to analyze legal documents, media reports, and activist publications as well as ethnographic observations of courtroom proceedings in Tucson, and interviews with defense attorneys and magistrate judges (both Latino/a and non-Latino/a) that include an embedded quasi-experiment. A qualitative design, where respondents use their own words to describe their experiences while also having work behavior observed, is ideal for exploring different identity mechanisms and strategies of competing identity management and examining how different types of identities (social and role) become more relevant and influential and under what circumstances. Strategic narrative (R. Stryker 1996) is an iterative method that uses existing theory to shape expectations for analysis and then systematically incorporates empirical results in order to adjust and develop new

theoretical understandings. The exact methodology used will be discussed further in Chapter 3.

It should be noted that throughout this research, I use several terms that have contested definitions. As in previous work (Anderson & Finch 2014), I use the term *Latino/a* to describe “a diverse group of peoples with origins from countries in Central America, South America, and other traditionally ‘Hispanic’ or Spanish-speaking countries” (526), including Mexico. Research has shown the majority of people lumped into this group prefer to identify themselves by country-of-origin (Pew Hispanic Center 2012), but with the majority of my respondents being of Mexican origin (as is typical of Arizona demographics (Pew Hispanic Center 2010)), I fear such specific descriptions would threaten confidentiality in addition to being rhetorically complicated. However, I later examine variation within this group in detail (Chapter 5), as scholars are increasingly encouraged to examine critical within group differences of pan-ethnic labels (Jiménez 2010).

I also refer to this shared social identity of Latino/a as a racial/ethnic group membership, though “race” was the preferred term used by respondents in interviews. Social scientists suggest that Latino/as who are easily identifiable to outsiders based on darker skin or other phenotypic markers, as well as cultural and language distinctions, are more subject to identity ascription (Lee and Bean 2007) and are thus becoming more racialized (Frank, Akresh, and Lu 2010). My findings support current literature on the racialization of Latino/as who previously have been seen primarily as an ethnic group (Bonilla-Silva 1997; Itzigsohn and Dore-Cabral 2000; Omi and Winant 1986; Roth 2009; Cobas, Duany and Feagin 2009). I thus also use race as shorthand for Latino/as, my

social identity category of interest, despite the more complicated nature of the terms overall.

I use the term *undocumented border-crosser* to refer to those who have attempted to enter the U.S. without permission or proper legal documents. This term, in addition to labels such as “unauthorized” or “without legal status,” is more accurate and more socially acceptable than some of the terms commonly used by many of my respondents “illegal immigrant,” “illegal alien,” or “criminal alien” (Weiner 2013). The majority of defendants going through Operation Streamline proceedings become legally categorized as “criminal aliens,” but “undocumented border-crossers” is a more humane and academically accepted term than the federal legal vocabulary of “alien,” a dated and tired term.

Finally, the terms surrounding generational status can be ambiguous in many literatures and there is much debate as to appropriate labels (Rumbaut 2004). In line with recent literature that calls for clearer distinctions, I consistently use the following definitions to describe generational variation in my research respondents: “naturalized/migrated themselves later in life”: this population migrated to the U.S. after the age of twelve and consequently “always have a point of reference in the countries they left behind” (Portes and Rumbaut 2001:17). Many consider this the true “first-generation” but I use this more specific term in order to differentiate from what I call “1.5-generation.” 1.5-generation are those technically deemed first generation (they were not born in the U.S.) but who migrated at an age earlier than twelve—that is, those who did not necessarily chose to leave their home country, but were migrated by an adult. This group is linked to the classically defined “second-generation,” or those children of

immigrants who “grow up American... their common point of reference is life in this country” (Portes and Rumbaut 2001:17). In my analysis, 1.5- and second-generation groups displayed similar identity management strategies while naturalized/migrated themselves later in life migrants more closely aligned with the “third-generation-plus.” This least ambiguous term of third-generation-plus refers to those with migrant roots (e.g. most Americans) who no longer associate themselves with a foreign nationality. Taking into account the constantly evolving generationally related language used by immigration scholars, I also use these four terms regularly in this work based on my respondents’ descriptions of themselves and distinctions that became relevant in strategic analysis.

Additionally, pseudonyms have been used for all respondents who are discussed and quoted below. Material that was publically accessed (such a media reports where my respondents were named by their real names) have been disguised or edited to protect anonymity and confidentiality of my particular respondents. In addition, some details of quotes have been minimally edited or omitted to preserve confidentiality as well. These changes are noted with square brackets, [], while extra-textual information, such as respondent’s hand motions or accents have been noted with braces {}.

The Case of OSL

Criminal Immigration Prosecutions

In 2005, the Department of Homeland Security and the Department of Justice came together to develop and enforce a “zero-tolerance” criminal immigration policy called Operation Streamline (OSL). Instead of allowing the majority of those caught entering the United States without proper documentation to be voluntarily repatriated or

to be tried in civil proceedings and then deported, Operation Streamline standardized the criminal prosecution of undocumented border-crossers under United States Criminal Code, Title 8, Subsection 1325: Improper Entry by Alien (commonly called “illegal entry”) and Subsection 1326: Reentry of Removed aliens (commonly referred to as “illegal re-entry”).

Though these criminal laws have been “on the books” since 1952, Operation Streamline represents an attempt started under the then President George W. Bush’s Administration to criminalize *all* undocumented border-crossers and has led to a surge in U.S. prosecutions. For example, in 2012, immigration-related offenses—such as illegal entry or reentry after removal—accounted for 40.6% of all federal criminal cases in the US—up from just 13.4% the previous decade in 2002 (US Attorney's Office 2012; 2002). Between 2000 and 2010, federal prosecutions for petty immigration-related offenses increased by over 330% (Lydgate 2010).

These staggering numbers, along with the continued large volume of undocumented border crossers apprehended by the Border Patrol, necessitated that courts who participated in OSL adjust their usual procedures and start *en masse*, group proceedings that combine several court appearances for defendants. These controversial procedures have since become common practice in many border-adjacent court districts in the Southwest. Commonly criticized as “assembly-line” justice (Lydgate 2010), large groups of migrants in courtrooms across the nation go through a compressed procedure with just one day spent at the courthouse. The program began in Del Rio Texas, but now eight of the eleven federal court districts along the U.S.-México Border have some version of Operation Streamline in place. The Alpine District in Texas and both districts

in California have opted out, with California's U.S. Attorney at the time, Carol Lam, citing the need to pursue "high impact cases" and not "low level narcotics and immigration crimes." (Moore 2009).

Since the implementation of OSL, the Border Patrol's "Tucson Sector" has frequently had the highest number of migrant apprehensions in the country and often has the highest number of immigrant defendants charged with petty misdemeanors (U.S. Department of Justice 2010), making it an excellent location to study OSL. The Arizona Denial Prosecution Initiative, the state of Arizona's name for its modified version of Operation Streamline, began in Tucson in January of 2008. To deal with the surge of border-crossing defendants created by OSL, the Tucson Federal District Court implemented a "streamlined" legal hearing that *combines* what regularly includes 3-5 court appearances (initial appearance, preliminary hearing, detention hearing, change-of-plea proceeding, sentencing) into one court appearance (lasting less than a half-day) for not just a single defendant but for a large *group* of defendants (up to 70 people).

The seventy-person-per-day proceeding described above occurs at 1:30 pm five days a week, Monday-Friday, at the Evo A. DeConcini U.S. Courthouse located in downtown Tucson. That is to say, every weekday in Tucson, seventy undocumented border-crossers—primarily Latino men from México—are convicted of federal misdemeanors and given sentences between 30 and 180 days in jail as part of Operation Streamline. As of March 2013, over 73,000 people had been processed through Operation Streamline in Tucson alone (Trevizo 2013). Personally, I observed over 4,200 defendants prosecuted and sentenced in 18 months of fieldwork, from April 2013-September of 2014.

The unique *en masse* or group nature of OSL proceedings dramatically increases the number of people prosecuted and has made it the target of many immigrant-rights activist groups. In Tucson, before the start of OSL in 2008, defendants charged with violations of 1325 and 1326 were processed through federal court in much the same manner as all defendants who violated federal laws; namely, one individual at a time who was allowed several court appearances over weeks or months. However, OSL has created an entirely different process for those charged with sub-sections 1325 and 1326—the combination of what could be five court appearances into just one *en masse* hearing with seventy defendants present. This has made the procedure extremely controversial, with critics calling it “assembly-line justice,” (Lydgate 2010) “an inferior standard of due process,” (Grassroots Leadership 2010) and “a bastardization of the American legal system” (End Operation Streamline Coalition Activist, Fieldnotes August 25, 2014).

Historical Context

The above-described criticisms of OSL have caused some changes in the proceeding over time. To explore these changes, I employ a limited archeological revisit of the program in Tucson. Burawoy (2009) suggests that an archeological revisit is defined as the process of using multiple sources of past data, such as published accounts, archives, or interviews, “to compare the present with the past” and explore “the constructed nature of historical narrative” (133-134). While 2005 might not seem like the distant past, Operation Streamline, in fact, has undergone numerous changes in its eleven-year history. Even in the eight years it has been implemented in Tucson, there have been many changes, including both minor and major modifications.

Despite being initially touted as a “zero tolerance” policy, in Tucson, the program was faced with constraints about how many migrants to prosecute and what types of migrants to target. In 2010, it was estimated that there were between 400-600 illegal entries each day in the Tucson Sector (Gambino 2010) and OSL was originally designed in Tucson to prosecute only 100 defendants a day. However, the program started with 70 defendants a day due to constraints in personnel, physical holding spaces, and budgets and has yet to grow beyond this initial number. Still, there is constant talk of expansion. For example, in June of 2013, the immigration reform bill that passed the Senate and stalled in the House called for expanding the capacity of OSL in Tucson to 210 defendants a day. The idea of any increase has been dismissed as impossible by almost all of my respondents, who insist that processing 70 defendants per day is already pushing the limits of the system. Thus, instead of being truly “zero-tolerance,” the program is only able to prosecute between 10% and 40% of crossers who are detained in the Tucson Sector, demonstrating 60-90% tolerance.

Operation Streamline hoped to achieve both general and specific deterrence (Stafford & Warr 1993). By punishing offenders who were caught, the program sought to deter these specific individuals from coming back again personally, but also hoped that word would spread of the program and others generally would not even attempt to cross, knowing incarceration was a serious possible consequence. Operation Streamline became a central part of the Border Patrol’s “Consequence Delivery System” where the agency no longer emphasized voluntary returns and instead focused on three punishment outcomes: Formal Removals (either before a judge through the civil immigration system or using Expedited Removals); Remote Repatriation (returning migrants to different ports

of entry from where they were apprehended; this includes the Alien Transfer Exit Program (ATEP) and the Mexican Interior Repatriation Program (MIRP)); and Criminal Charges (including Operation Streamline, which accounted for 45% of immigration related prosecutions occurring from 2005-2012 (Seghetti 2014)).

In an attempt to maximize specific deterrence, the program also began with an emphasis on prosecuting first-time crossers—that is, those apprehended by the Border Patrol for the first time were selected by agents to go through OSL. This caused an especially great outcry from activist groups, but supporters of the program suggested that this was the most effective deterrence strategy by punishing crossers immediately and thereby preventing others from even their first attempt to cross the border illegally. After a change of leadership in the United States Attorney’s Office for the District of Arizona in 2013, the program shifted its focus to migrants who had prior criminal convictions in the U.S.—commonly referred to in legal parlance as “criminal aliens.” Often times, though, these defendants’ prior convictions are other 1325 illegal entry violations they had formerly received through OSL. Thus, there are now many repeat offenders going through OSL, calling into question the effectiveness of its “deterrence-focused” mission. Numerous critiques have been lodged, including from the Tucson Federal Public Defenders office, questioning the program’s effectiveness at deterrence as well as its exorbitant cost (McCombs 2007b; Buentello et al, 2010; Lydgate 2010; Grassroots Leadership 2012).

In addition to changing the target populations who go through OSL, the daily ins-and-outs of the proceeding have changed as well. The original proceedings in early 2008 were less scripted than when I completed my observation. Earlier in the history of the

proceeding, both attorneys and judges had more autonomy over the defense and sentencing. Attorneys were able to argue for sentence variations based on mitigating circumstances and judges were in charge of delivering sentences—often giving time-served to first time offenders. As the program progressed and became more and more standardized and “streamlined,” these unscripted portions fell away. The proceeding I regularly observed was done almost exclusively through the use of Change of Plea Agreements, in which government prosecutors used very specific “equations” to stipulate sentencing. Judges became figureheads who merely assured defendants understood the plea they were entering instead of deciding sentences. Average sentences now range between 30 and 180 days.

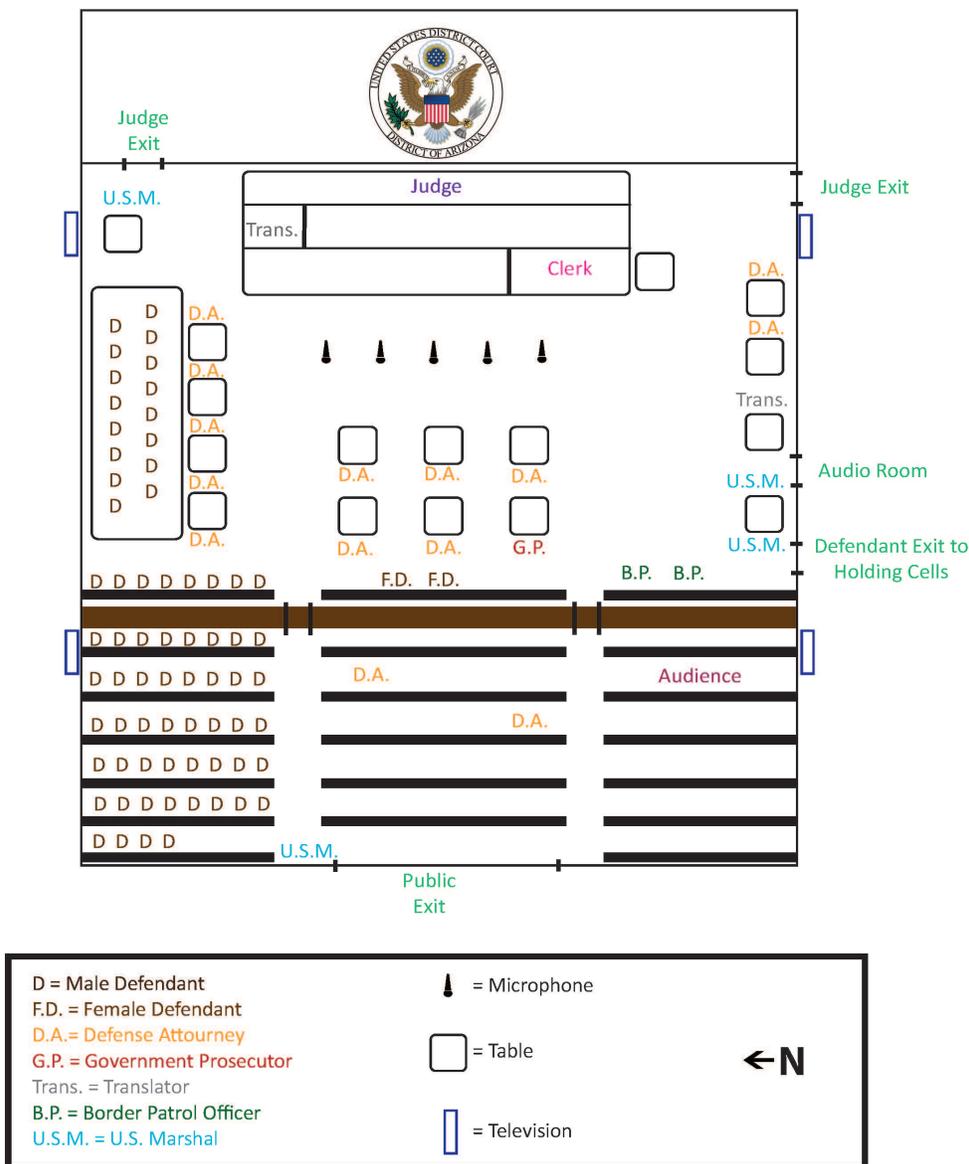
Based on my fieldwork talking to attorneys and judges, the “equation” used to provide sentencing for defendants is in the hands of the prosecutors and is continually evolving, but generally, lower sentences mean less prior immigration and criminal history. One respondent told me, “30 days always means the only thing they have is one prior deportation, no criminal history. It *always* means that. That’s the one thing you can guess” (Mickey, non-Latino, CJA). Generally, this sentence is doubled (60 days) if the defendant went through one of the Remote Repatriation Programs mentioned above (ATEP or MIRP). Beyond these clear-cut distinctions, each case is handled based on specific priors (adding 15-30 days for certain misdemeanors; more time for felonies, etc.) and days are added until defendants max out at 180.

One thing that has remained constant is that the public OSL proceeding held daily at the Evo A. DeConcini Federal Courthouse in downtown Tucson has always been visually quite startling. As Hector, a Latino CJA Attorney described it, Operation

Streamline has the most “distressing optics” of any U.S. courtroom, especially for those without prior court experience—which includes most observers (activists and others).

The following figure shows the layout of the courtroom during the proceeding as it most regularly occurred during my fieldwork

Figure 1.1: Operation Streamline Courtroom Layout



All seventy defendants are seated on the North side of the William D. Browning Special Proceedings Courtroom on the second floor of the building. Watched closely by

numerous Border Patrol agents and U.S. Marshals, the mostly male defendants spill out from the jury box into the North-side gallery. Female defendants sit separately in the center bench in front of the bar. All defendants are wearing the same clothes as when they were apprehended. They have not showered or changed, as the prosecution is required to have them appear in court within 48 hours for Probable Cause Presentations. As with all defendants in the federal courthouse, the migrant defendants all wear numerous chains: wrist manacles, leg irons, and belly chains. These restraints clink and clang loudly as the defendants are brought in front of the judge in groups of 5-8 and speak into microphones. Almost every external media source and activist publication mentions the use of chains as a particularly distressing aspect of the program.

The 12-15 defense attorneys who have been assigned to the defendants are scattered throughout the courtroom and often seem distracted or indifferent—checking their phones, reading papers, and making almost no contact with defendants until formal proceedings begin and their particular clients are called before the judge. One attorney respondent explained:

“They [activists] complain about attorneys sometimes filling out a paper while somebody else is being brought up front for their sentencing. Well, guess what? That individual who is sitting back there, doing paperwork has nothing to do with that case that is before the judge at that time. There is no reason why that attorney should be wasting his or her time paying attention to something that has nothing to do with them. Now, when my client is up front, when I have to go up, then my full attention is to my client and the court.” (Solomón, Latino, CJA)

Current proceedings also vary based on the different judges who are presiding. Due to the oddity of en masse proceedings—and although much of the organization and structure are standardized and standardization increased over time—there is no singular script for judges to follow. For example, in my fieldwork in September of 2013, one

judge asked each defendant only two “yes/no” questions before sentencing them. In the subsequent week, a different judge on OSL duty asked defendants twenty-five questions, some open-ended or requiring longer responses, some individually and some in groups. This variation is meaningful because perceptions of the process diverge based on which judge is presiding. There have also been several Ninth Circuit Court of Appeals rulings on how such proceedings can be carried out. These issues of judicial variation and procedural justice are explored in depth in another work (Finch In Preparation).

This variation in the program overtime and across judges has often been overlooked by the media and by activist groups. These critics regularly fail to grasp some of the more nuanced legal aspects of the proceedings and often do not understand the nature of these changes over time. Much of the activist criticism of the program is outdated, based on its initial setup rather than the evolved change-of-plea version of the program.

In addition, these activist groups have also chosen tactics that focus not on larger systematic concerns of criminal immigration patterns but instead target the individuals involved in the OSL program. That is, activists have primarily emphasized their problems with the individual lawyers and judges who participate in OSL in Tucson, instead of using other possible tactics that would have broader systemic focus (such as concerns around the bureaucratization of the legal system or the criminalization of immigration as a form of social control). While some activists have written letters to higher-level officials, such as U.S. Attorney General Eric Holder, or have held protests to attract national media attention, the majority of activist group activities have chosen to focus on the individual legal professionals involved in Operation Streamline as the main targets of

their social movement tactics. As demonstrated below, external critique of OSL (from both activists and the media) have focused on the legal professionals involved and have created the very heightened sense of identity work done by the lawyers and judges, which is the main topic of this research.

OSL as a Case of Competing Identity Management

Role Identities

Dear Operation Streamline Lawyer,

I am writing because I think you care as much as I do about justice for defendants who appear in court. Operation Streamline was invented purely for the mass prosecution of immigrants as criminals. This fast-track system is wrong and must be stopped. I ask you to resign your participation in this court proceeding that that [sic] has huge costs for our country in terms of violated constitutional principles and millions of dollars a year in court and prison costs. I urge you to resign from your participation in Operation Streamline, and to encourage your colleagues to join you.

Thank you.

[Member of the End Operation Streamline Coalition]

(E-mail Correspondence in Fieldnotes February 19, 2014)

Most of the attorneys and judges who worked in Operation Streamline during my fieldwork period received the above e-mail message asking them to resign—sometimes receiving this same text with a different signature up to 40 times in one day. This e-mail was part of an online petition campaign headed by the End Streamline Coalition—a group of activists mainly formed from members of several other immigrants’ right groups (Coalición de Derechos Humanos; No More Deaths/No Más Muertes; Tucson Samaritans; Humane Borders; etc.) with the expressed mission of stopping Streamline proceedings in Tucson. Every time the online petition received an electronic signature, this e-mail was sent to a list of attorneys (and to all Tucson magistrate judges) that activists had compiled based on who they knew worked in Operation Streamline.

In asking attorneys and judges to recuse themselves due to the problematic nature of OSL, this e-mail emphasizes caring about “justice for defendants” as an essential role expectation for legal professionals involved in OSL. Labeling the program a “fast-track” system that “violated constitutional principles” plays up the legally problematic aspects of the program, as well as simply calling it “wrong” and expensive. Thus, the legally-pointed critiques would signal to attorneys that their professional role identities as ethical attorneys are being questioned.

The call upon the behavioral expectations of these attorneys and judges presents the issue of role strain (defined in depth in Chapter 2 and explored with respondents in Chapter 4). Essentially, all attorneys and judges involved in OSL are faced with role strain, or the inconsistent behavioral expectations of their professional role, in this case to complete the daily needed work of OSL through enactment of formal-rational or procedural justice but also to actually provide their defendants with substantive-rational or reasonable justice (Weber 1978). These two poles of justice are known in previous literature to create role strain for attorneys and judges in other situations (Olson and Dzur 2003). In this particular case, the distinction between formal justice (a status-neutral enactment of the legal system) and substantive justice (which interprets the law using extra-legal norms and values) is central to the role strain felt by attorneys and judges involved in OSL (Lempert & Sanders 1986, R. Stryker 2007). Operation Streamline currently complies with formal justice requirements, but most outsiders (and many insiders) see it as lacking substantive justice. Emphasizing this lack of substantive justice and its subsequent role strain is the basis by which activists interrogate the role identities and role-related behavioral expectations of OSL attorneys and judges. Additionally, I will

later argue that social identities complicate this role strain (see Chapters 5 and 6).

The same issue of role strain applies to judges who received the above e-mail as well as other requests to resign their post. For example, one letter from the End Streamline Coalition provided to me by a respondent claims in bold lettering: “It is a fundamental responsibility of every judge and magistrate to refuse to participate in any proceeding that does not comport with constitutional, ethical, or due process principles.” Use of the term “responsibility” clearly connotes a role expectation of substantive justice that is being violated by OSL judges in the eyes of these activists.

Other attorneys involved in Streamline were targeted through a different online campaign. A few members of the End Streamline Coalition, acting autonomously without the full support of the group, set up “StreamlineLawyers.com.” This website, which is no longer actively maintained, listed the names of about 35 OSL CJA Panel Attorneys under the caption: “Can you trust them to defend you?” These lawyers’ names were posted amid accusations of breaking the Arizona Rules of Professional Conduct and violating the “principles of the law” as well as providing a link where viewers could file a complaint with the American Bar Association against these attorneys. Clearly, the professional role identity of these attorneys was being challenged through issues of trust, but also by activists attempting to critique attorneys by using attorneys’ own professional organizations against them, and by mobilizing attorneys’ code of ethical conduct. An opening page from the website questioning the constitutionality of OSL lawyers’ work is seen in Figure 1.2 below.

Figure 1.2: StreamlineLawyers.com Screenshot



As a part of this same activist campaign, one specific attorney was targeted as the subject of a flyer that was circulated in downtown Tucson on several occasions. This particularly personal attack called out the attorney for continuing to work in “Operation Streamline, where money is more important than justice” (See Figure 1.3 below).

Figure 1.3: Flyer Targeting OSL Attorney

Warning!

Public service information regarding dangerous legal practices

Streamline Lawyers allow their clients to be "treated like cattle at a stockyard"
Carmen Hernandez, National Association of Criminal Defense Lawyers

Streamline Lawyers take shortcuts in a process that "destroys families every day"
Judge Brack, US District Court

Streamline Lawyers are "throwing out the Constitution"
Kathleen Walker, American Immigration Lawyers Association

The National Association of Criminal Defense Lawyers advises lawyers to refuse to participate in Operation Streamline.

But [REDACTED] still works for Operation Streamline, where money is more important than justice.



Can you trust him to defend you?

www.streamlinelawyers.com

Through such targeted campaigning, activist groups who oppose Operation Streamline have used the numerous tactics described above, as well as others, in an effort to end the program by attempting to convince lawyers and judges involved to resign. These mass resignations would have the hypothetical effect of ending the program because there would be no attorneys or judges who would volunteer to complete the proceedings.

With these tactics, the activist groups are also highlighting legal professionals' role identities. Questioning the work role of those involved in Operation Streamline—asking if they are ethical, professional, and trustworthy—highlights the public's role expectations for these defense attorneys and magistrate judges. As expected when I began my research and as will be demonstrated through the findings, these tactics have caused those involved OSL to engage in extra identity management in consideration of what it means to fulfill their work role in OSL.

Social Identities

In addition to the challenges posed to professional identities (as well as policy concerns questioning the ethics, cost, and effectiveness of the program), the activist groups and media coverage of OSL also question the racialized nature of the proceedings. This brings in the additional potential for social identity expectations to compete with role identity expectations. Some media coverage broadly looks at racialized patterns in prosecutions. For example, McNeil (2013) quotes an attorney who quit doing OSL proceedings because “they are not doing Streamline on anyone else but Mexican citizens. It is shocking and it is appalling and it is disgusting. Underlying it is xenophobia and

racism and disregard of rights of people that fit a general description” (2). While making a “separate but unequal” comparison between how OSL and Jim Crow laws treat specific racial groups, McNeil’s article brings to the forefront the racial component underlying Operation Streamline. In practice, OSL is indeed a specialized program designed for Spanish-speaking defendants violating sub-sections 1325 and 1326, though there is no nationality requirement in OSL. As will be discussed in depth in Chapter 4, many attorneys and judges are quick to explain that the *en masse* prosecution of non-citizens who all happen to be non-white is merely a by-product of living close to the U.S.-Mexico border.

Similarly, beyond just the role attorneys are expected to perform, some media coverage asks if particular attorneys (those who have different social identities—i.e. Latino/as) should be held to additional behavioral standards. That is, they ask if Latino/a attorneys should demand even higher levels of justice because of their shared social identity with crossers. This interaction demonstrates the necessity of this research to examine the competing identity management of one’s role and one’s social identity, specifically if one is a Latino/a attorney involved in a potentially racialized immigration proceeding.

An article by Blumenthal (2010) highlights the potential problems that Latino/a attorneys specifically face being involved in Operation Streamline. The author describes two public defenders who lead him through his visit to Streamline—one an outspoken activist who works for Pima County and the other a federal public defender who feels enormously fraught about her own participation in OSL. The author emphasizes that these two guides “were the only Latinas in the room not in chains” as he observed the

proceeding (Blumenthal 2010:5). He provides the federal public defender's personal immigration history—that she is a second generation Mexican-American—and he emphasizes her distress at “watching an entire class of people get stripped of their constitutional rights” (Blumenthal 2010:6). Again, the issue of the race/ethnicity of defendants is central, but is also linked to the race/ethnicity of the attorneys involved. This article and others like it suggest that one way social and role identities compete is that they intensify role identity behavioral expectations for Latino/a attorneys more than for non-Latino/a attorneys. That is, role expectations (especially substantive justice) are more stringent for some attorneys (Latino/as) than others based on their potentially competing social identities.

These media mentions of race/ethnicity coincide with much of the activist conversation I heard while at Operation Streamline proceedings. Many anti-Streamline activists suggest that the problematic *en masse* and compressed proceeding of OSL are allowed to happen because of systematic racism within the broader criminal justice system (and in larger society). One particularly outspoken activist who regularly attends OSL as a witness for her socially active church explained to me how the “railroading” of defendants through Streamline should be of concern to all citizens: “How long before these unconstitutional practices move from the mostly-Mexican and all-brown population of these immigration proceedings to all U.S. citizens? Hardly any time at all, I am guessing” (Fieldnotes November 14, 2014). Her projection matches increasingly documented trends such as federal increases in plea agreements (Wright 2005) and use of other rapid resolution proceedings that are similar in structure to Operation Streamline (Perschbacher and Bassett 2004).

As seen in several of the above examples, these issues surrounding the social identity of race/ethnicity heavily overlap with the social identity of citizenship/generational status as well. McNeil's piece emphasizes the racism inherent in targeting "Mexican citizens" as a group. The above-quoted activist emphasizes that OSL represents a boundary between the problematic treatment of noncitizens and its potential threat to citizens. Other media reports also emphasize how citizenship/generational status is used as a social identity group in addition to race. One article lumps the problematic nature of OSL proceedings together with other instances of "illegal policing and civil rights abuses" that are tolerated because they are specifically being carried out against "immigrants and noncitizens" (Editorial Board of *The New York Times* 2013). Thus, the coverage of Operation Streamline also highlights the potentially competing social identity of citizenship/generational status as a relevant factor in determining attorneys and judges identity management strategies. That is, Latino/a attorneys and judges who share a racial/ethnic social identity with defendants do not share the social identity of noncitizen with their defendants, which some Latino/a attorneys and judges specifically use to distance themselves from their defendants.

Given the controversy Operation Streamline in Tucson has created among activists and in the media, there is evidence of increased scrutiny of the attorneys and judges involved in OSL proceedings. This scrutiny comes both from invoking expectations for professional conduct—representing role identity—as well as from highlighting the potentially racialized nature of the proceedings, given the predominantly Latino/a defendant population and their relevant citizenship/generational status. Thus, Operation Streamline serves as a case where participants must carefully manage

potentially competing identities—the social identities of race/ethnicity and citizenship/generational status as well as the role identities of their legal profession. This case, then, represents an excellent location to explore the ways attorneys and judges manage their potentially competing identities, specifically examining how groups with different social identities within similarly strained role identities manage challenges to these various identities. I will argue that while all OSL attorneys and judges are subject to role strain from not living up to proscribed norms of substantive justice, the social identity of Latino/a intensifies this strain because they share this identity with defendants. Some attorneys and judges (those naturalized/migrated themselves later in life and those who had been in the U.S. from the third-generation-plus) also specifically argue that their social identity of being a citizen is what differentiates them from their defendants and decreases their sense of role strain.

Summary of Expectations and Organization of Chapters

This dissertation is comprised of seven chapters. After the statement of the problem, the case study details included here in Chapter 1 have provided the empirical foundation for exploring the perspective of competing identity management in OSL. Chapter 2 presents relevant prior literature on identity and develops the initial expectations about competing identity management between social and role identities. With such an abundance of identity literature, some theorists have begun to question identity's analytical utility as a concept (Brubaker & Cooper 2000). Thus, in the first part of Chapter 2, I systematize and prioritize prior conceptions of identity—drawing from social psychological and cultural models and outline potential identity management

strategies. In the second part of Chapter 2, I provide a summary of key expectations pulled from this literature to begin outlining a perspective of competing identity management as an “umbrella” perspective to integrate prior work—most heavily drawing from S. Stryker’s (1980) role identity and Tajfel’s (1981) social identity.

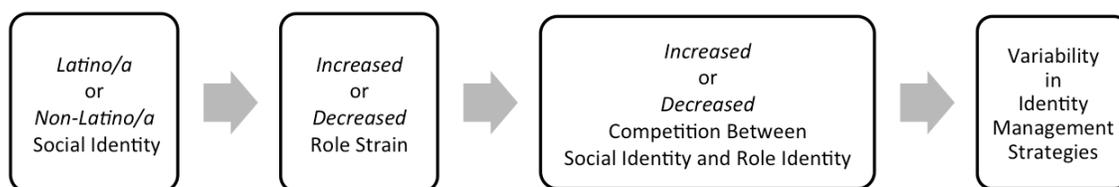
Chapter 3 describes the research design, the various qualitative data sources, and the method of analysis (strategic narrative) used for this dissertation. The multi-source triangulation of data consisted of documents/textual data from legal documents, media reports, and activist publications; ethnographic observations of courtroom proceedings; and interviews with an embedded quasi-experiment. I also discuss the analytical method of strategic narrative (R. Stryker 1996) and explain its unique importance for the analysis done here.

Chapters 4, 5, and 6 present the substantive claims of the dissertation—demonstrating the empirical foundations for a perspective of competing identity management. First, in Chapter 4, I highlight the variation in role strain, social and role identity competition, and identity management strategies between Latino/a and non-Latino/a attorneys and judges who participate in OSL proceedings. I expected and did find that Latino/a attorneys and judges use certain, distinct types of identity management strategies to manage their competing identities of being Latino/a (social identity) and being involved in OSL (role identity). I use role strain as a mechanism to explain this variation in identity management by racial/ethnic social identity. While all attorneys and judges in OSL experienced some role strain, Latino/a respondents—who are presumed by outsiders (media/activists) to show solidarity and care more about substantive justice for undocumented border crossers because of their shared social identity—experienced more

strain. I expected and found that Latino/a attorney and judges demonstrated more concerns about substantive justice in OSL (thus, showing role strain) because they share a racial/ethnic social identity with defendants. This in turn resulted in increased competition between their social identity and the substantive justice pole of their role identity. Distinct identity management strategies are the further result of this role strain and competition between social and role identity. The following model in Figure 1.4 demonstrates these key expectations and findings for Chapter 4.

Figure 1.4: Identity Management Variation Between Latino/as And Non-Latino/as

CHAPTER 4: “YOU MIGHT THINK IT’S UNJUST, BUT IT’S PERFECTLY LEGAL” — VARIATION BETWEEN LATINO/A AND NON-LATINO/A ATTORNEYS AND JUDGES IN OSL



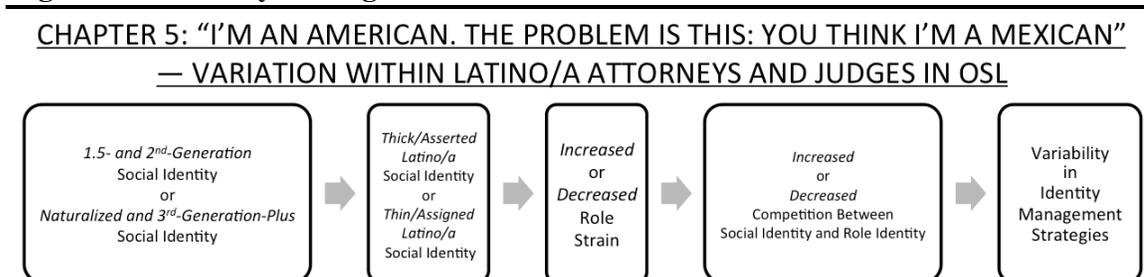
Next, in Chapter 5, I examine the variation within the groups of Latino/a attorneys and judges who participate in OSL. Pan-ethnic assumptions about Latino/as have contributed to a lack of distinction in prior literature about the importance of citizenship, identity within this racial/ethnic social identity group. I address this issue in an examination of how attorneys’ and judges’ generational status affects the salience of their racial/ethnic social identity and in turn their role strain, identity competition, and identity management strategies.

Based on the relative importance of citizenship in the legal context, I expected to and did find that naturalized citizens (those who migrated themselves later in life) were more likely to differentiate themselves from the undocumented border crossers they defend because of their recent Americanized status. Similarly, respondents of the third-

generation-plus—who are distanced from the actual immigration experience—also want to differentiate themselves from defendants. These naturalized/migrated themselves later in life and third-generation-plus citizenship/generational status social identities thus result in a thin/assigned sense of Latino/a social identity—that is, a less salient racial/ethnic social identity. In turn, their thin and assigned racial/ethnic social identities decrease their role strain and their subsequent competition between social and role identities as well as influencing their identity management strategies.

In contrast, I expected to and did find that 1.5- and second-generation Latino/as who have a more immediate connection to the struggle of migrants while still holding a solid Americanized frame of reference have more salient, thicker, and asserted racial/ethnic social identities of Latino/a. This in turn leads to more role strain and more competition between social and role identities, necessitating identity management strategies different from those deployed by those Latino/as who were naturalized/migrated themselves later in life and those who have been in the U.S. from the third-generation-plus. The following model in Figure 1.5 demonstrates the key expectations and findings for Chapter 5.

Figure 1.5: Identity Management Within Latino/as



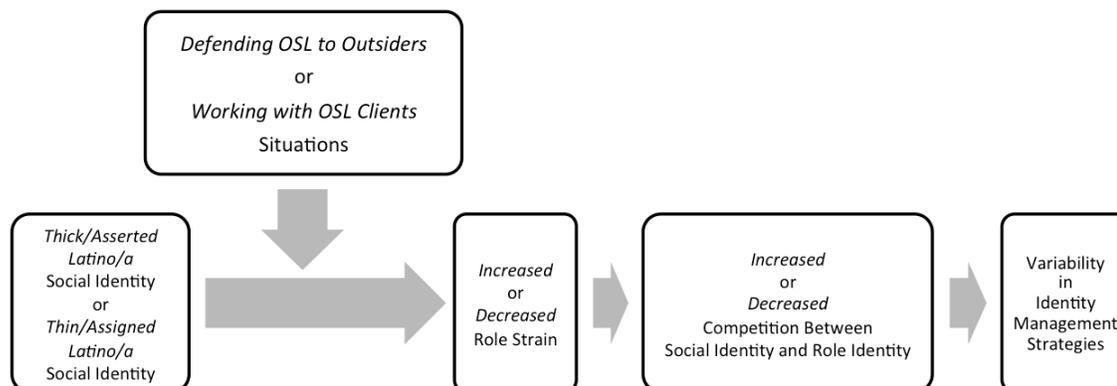
I also look at gender in Chapter 5. However, this social identity became relevant not because of prior expectations based on theory, but during the course of the fieldwork

itself. Through interviews with respondents and field observations, it became clear that although the social identity of gender initially had not been part of the project, it could not be ignored when it came time for strategic analysis. Thus, gender is not included in the model above, but is still discussed in Chapter 5 based on the patterns that presented themselves in the data. This is consistent with the analytic technique of strategic narrative, which, similar to Burawoy's (2009) extended case method, draws on prior theory to focus and form expectations for the analysis, but also facilitates new, empirically grounded insights and ideas (R. Stryker 1996).

Then, in Chapter 6, I begin to explore the situationality of social and role identities. By situationality, I mean how objective circumstances or certain situational conditions change respondents' social identity salience, experiences of role strain, social and role identity competition, and identity management strategies. This integration and expansion of S. Stryker's (1980) situationality of role identity helps recognize circumstances in which certain types of both social and role identities are highlighted or downplayed. Specifically, I investigated two different situations: 1) times when Latino/a attorneys and judges have to defend their work in OSL to outsider critiques from activists and the media, and 2) when Latino/a attorneys and judges have to talk about their daily work interactions with OSL clients. I expected to find that only thick/asserted Latino/a legal professionals would vary in their identity management strategies based on these two situational contexts. The following model in Figure 1.6 demonstrates these key expectations; however, the relationship between situationality and identity management turned out to be much more complex than anticipated.

Figure 1.6: Situationality of Identity Management

CHAPTER 6: “THERE IS NO DIFFERENCE BETWEEN YOU AND ME” — SITUATIONALITY OF SOCIAL
AND ROLE IDENTITIES



While I include here initial results that do demonstrate the importance of situationality on identity management for Latino/a attorneys and judges in the OSL context, the specific mechanisms by which situationality works are still unclear based on the current analysis. That is to say, situationality genuinely seems to matter in identity management—and I provide examples of attorneys and judges discussing its importance and demonstrating identity management in specific contexts—but the exact influences of situationality on social and role identities cannot be teased out using my current coding scheme. Instead of a full summary of findings, then, I specify a few potential possibilities about how situationality interacts with social identity salience, role strain, social and role identity competition, and identity management strategies and provide an outline of a solid analytic agenda to make more solid assertions about findings and mechanisms after further investigation.

Finally, in Chapter 7, I first provide a summary of the main findings on competing identity management in the case of OSL and then discuss potential generalization of these findings to more broadly demonstrate the framework and basic tenets of the perspective of competing identity management. Next, I turn towards more applied contributions,

exploring how the findings from this dissertation can contribute to helping those in the field of OSL better manage identities in ways that might improve their own well-being, their job performance, and their promotion of substantive justice, specifically as their identities are critiqued by outsiders. Finally, I discuss the limitations of this particular project while looking to future directions of how to continue to build my perspective of competing identity management into a full theory, and one that is applicable to situations beyond OSL.

CHAPTER 2: DEVELOPING A PERSPECTIVE OF COMPETING IDENTITY MANAGEMENT

Prior Identity Literature

In researching attorneys' and judges' identity management in Operation Streamline, I build on an integrative framework of identity research from social psychology and the sociology of culture to develop a perspective of competing identity management. Using an integrated methodology (detailed in Chapter 3) for observing and analyzing identity management strategies, I highlight mechanisms by which competing social and role identities are managed as well as specific situations and other factors that influence these identities.

Identity is a core construct in sociological social psychology and there have been a variety of works that theorize how identities affect personal interaction (Owens 2003). Most centrally, I integrate the traditions of *role identity*—a structural symbolic interactionist strain of identity theory originally developed by S. Stryker (1980) and expanded by Snow (with Anderson 1987; with McAdam 2000), with *social identity theory*—a categorical view of identity developed by Tajfel (1981; 1982). Furthermore, I integrate two cultural approaches to identity (Cornell & Hartman 1998 and Glaeser 2000) dealing with nationality/citizenship and race/ethnicity with the above social psychological views. I then use Goffman's (1959; 1967) work on impression management and interaction rituals as an additional way to examine the enactment of identity. Table 2.1 below presents a summary of this literature.

Table 2.1: Overview of Identity Literature

Author	Theory/ Approach	Concepts Used	Observable Mechanisms	Application to OSL
S. Stryker 1980; McCall & Simmons 1966	Role Identity Theory: Structural Symbolic Interactionism	Role; Role Strain; Salience; Situationality	Behavioral Expectations; Commitment; Role Playing v. Role Making; Psychological Compartmentalization; Bargaining; Withdrawal	“Lawyer” or “Judge” Work Role (Defined in opposition to “defendants” or “border-crossers”)
Snow & Anderson 1987; Snow & McAdam 2000	Role Identity Theory: Processual/ Negotiated Symbolic Interactionism	----	Distancing; Embracement; Fictive Story Telling; Identity Construction; Identity Avowal; Identity Amplification; Identity Consolidation; Identity Extension; Identity Transformation	Lawyers’ and Judges’ use of “Identity Work”
Tajfel 1981; 1982; Tajfel & Turner 1986	Social Identity Theory	Social Identities	Demonstration of Group/Category Membership; In-group Similarities; Out-group Differences; In-group Preference; Out-group Discrimination	Racial/Ethnic Identity; National/ Citizenship Identity
Cornell & Hartman 1998	Social Constructionism Approach	----	Thick v. Thin Identities; Assigned v. Asserted Identities	Occupational Construction Site of Identity
Glaeser 2000	Analytical Theory of Identity Construction	Negotiated Identifications; Non- Negotiated Identifications	Identifications with Spaces, Times, Other People, Beliefs, Ideas, Morals, or Values	Lawyers’ and Judges’ Identifications
Goffman 1959; 1967	Presentation of Self; Interaction Rituals	Presentation of Self; Interaction Rituals	Impression Management; Deference & Demeanor	Lawyers’ and Judges’ Interaction Rituals

It should also be noted that some prior literature on identity, specifically identity theory as developed by Burke & Stets (2009), suggests the distinction between social and role identities is merely analytic. Burke & Stets argue that role, social, and personal identities all operate in the same way according to identity theory's principles of perceptual control. As will be demonstrated in my own analysis, the unique social and role identities in Operation Streamline bring up different management strategies in my respondents, suggesting the same perceptual control process may not apply to these distinct social and role identities. Additionally, my research is qualitative in nature and does not conform to the specific operationalization and hypotheses-testing specifications used in the identity control literature. As such, I do not explicitly compare my perspective of competing identities with the more cybernetic and internal identity control process theorized by Burke and Stets in this dissertation. In subsequent works, which will be less exploratory, I will compare my own findings with the control processes described in identity theory.

Structural Symbolic Interactionism: Role Identity and Identity Processes

S. Stryker (1980; 1987) developed a structuralist view of symbolic interactionism that relies heavily on role theory. Roles are defined as relatively stable parts of social structure that individuals play out and that come replete with behavioral expectations. Though social behavior is never fully determined by these roles, much of individuals' social interaction is based on the behavior expectations associated with given roles. S. Stryker suggests that roles can simply be "played"—following expected behaviors closely—or they can also be "made"—stretched or manipulated (S. Stryker 1980:55).

The social structures in which roles are embedded influence to what degree freedom is allowed in role making.

The average person holds numerous role identities, typically organized in terms of salience and role commitment. Salience and commitment can vary situationally as the role identity at hand is “called-up” by structural circumstances (S. Stryker 1980:61). This situationality can also affect issues of role conflict (which can occur when contrary expectations are imposed on an individual who holds a variety of roles) as well as role strain (where individuals work to fulfill multiple conflicting role obligations within a role). Both role conflict and role strain can result in withdrawal from certain roles or variance in commitment and salience to reduce conflict and strain (S. Stryker and Macke 1978; Thoits 1983; 1986; Jackson, Thoits, and Taylor 1995). Additional ways S. Stryker briefly mentions to reduce role strain include psychological compartmentalization and bargaining (S. Stryker 1980).

I apply S. Stryker’s framework to the setting of Operation Streamline as follows. One’s occupation or work has frequently been theorized as an often-salient role in social interaction (S. Stryker 1980; S. Stryker and Serpe 1994; Jackson, Thoits, and Taylor 1995; S. Stryker & Burke 2000). Thus, the role identity of “lawyer” or “judge” is expected to be highly salient in the OSL proceedings that I observe at the federal courthouse and during interviews. This role is defined partially in contrast to “defendants” or “border crossers”—those who enter the country without proper documentation (“illegally”) and whom lawyers and judges are tasked with defending and/or presiding over plea agreements and sentencing.

Defendants, lawyers, and judges in the OSL criminal hearings all have typical role behaviors, norms, obligations, and expectations in their interaction with one another. These counterpart roles provide certain behavioral expectations: defense attorneys and judges are figures of authority sent to defend and/or preside over offenders. The roles of lawyer and judge are also embedded in a larger criminal justice system, a bureaucratic structure that potentially might not allow for much role “making.” This lack of structural control may result in role strain if one has difficulties being involved in such a controversial proceeding as OSL.

Here, I focus on role strain within the professional role of being an attorney or judge in the context of Operation Streamline. As described earlier, the role of attorney calls up expectations for two potentially straining obligations: enacting proscribed formal justice but also promoting substantive justice (R. Stryker 2007). For OSL attorneys and judges, role strain results from trying to comply with both poles of justice as part of role expectations. Because Operation Streamline has been subject to so much outsider criticism that it lacks substantive justice, attorney and judges involved in OSL are subject to higher levels of role strain between these two poles of formal and substantive justice.

This strain can be reduced by a number of management strategies discussed by S. Stryker (1980): withdrawal from the role creating the strain; variation in commitment to role-related behavioral interactions; diminishing /denying the importance of one or another aspect of the role causing strain (psychological compartmentalization) or/and by enhancing the importance of one or another aspect of the role causing strain (bargaining).

Additionally, the “lawyer” or “judge” role, with its given behavioral expectations, has the potential to compete with particular categorical social identities as discussed

below. This suggests that competition between social and role identities may require distinct identity management processes. In short, mechanisms such as withdrawal, commitment, psychological compartmentalization, and bargaining also may be examples of identity management strategies between competing social and role identities. Note that they are also strategies for dealing with roles that conflict with other roles, but that is not central to this dissertation.

In order to theorize additional processes of identity management, I turn to the work of David Snow. This work adds processual symbolic interaction and negotiated symbolic interaction to S. Stryker's structural symbolic interaction-based role identity theory. Snow and Anderson (1987; 1993), in observing the homeless, examined the various ways people "make" their role identities through processes of role identity construction and avowal. They examine patterns of distancing (when people verbally detach themselves from certain roles, attachments, or institutions), embracement (when people verbally affirm and accept given roles, associations, or ideologies), and fictive story telling (when individuals explain their own past, present, or future through embellishment or fantasizing). I suggest these mechanisms may be used not only to make roles, as Snow and Anderson suggest, but also to deal with role strain and competing social and role identities.

Similarly, Snow and McAdam (2000) discuss identity processes often present in social movement activities, including: amplification (the strengthening of an existing identity to support action); consolidation (combining two prior identities that appeared incompatible into a new identity that supports action); extension (expanding an existing identity to be congruent with action); and transformation (the distinct conversion or

alteration of existing identity into a new, different identity in order to support action). I look specifically for the various types of identity processes explicated by Snow and colleagues in my examination of lawyers and judges in the OSL context. Processes of distancing, embracement, fictive story telling, amplification, consolidation, extension, and transformation may provide ethnographically observable instances of identity work to explain lawyer and judge behavior.

Social Identity Theory

Another branch of identity theory—social identity theory—exists in parallel to S. Stryker’s role identity theory. Social identity theory as developed by Tajfel (1981; 1982) examines the effect of categorical group membership on individuals’ identity and suggests that social identities are “cognitive tools” that individuals can use to divide, organize, and classify the social environment (Owens 2003). These social identities are theorized to improve self-esteem by emphasizing the value of members of certain in-groups categorically. In contrast to S. Stryker’s role identity theory, which requires interaction (specifically structural symbolic interaction), Tajfel sought to explain large-scale, inter-group conflict via categorical identities.

However, Tajfel’s categorical social identity theory has been applied to smaller, interactive groups as well (Hogg et al. 2004). Social identities can be based on minimal group membership criteria or on long-standing national or ethnic divides (Tajfel 1970). In moving from mere categorization to processes of social action, this theory suggests that “motivational processes affect, and are affected by, group, intergroup, and societal processes, to make people behave and think about themselves and others in ways that are

generally characteristics of groups and specifically shaped by the social context” (Hogg and Williams 2000:81). Thus, membership in a larger group can create in an individual a social identity that can help explain the behavior of that individual.

Additionally, once groups are formed, instances of demonstrating one’s membership in a group often occur. These demonstrations of categorical membership are shown through a variety of in-group and out-group distinctions. Members of an in-group will share common markers (in-group similarities) while other do not share these markers (out-group difference). Additionally, once membership is marked, individuals will likely show loyalty, preference, and favoritism towards those in their group and show bias, discrimination, and negativity toward those out of their group.

In my research setting, I suggest that several social identities dramatically impact the work of lawyers and judges who take part in Operation Streamline proceedings. Despite sharing similar role identities, lawyers and judges vary in terms of their social identities. Specifically, I examine both racial/ethnic and citizenship/generational status social identities. As the above social identity theory suggests, these categorically based identities vary in value in given situations. This variation in value links directly with S. Stryker’s conception of role salience as well as role strain. Given the larger societal meaning of legal work surrounding criminal immigration proceedings, I anticipate finding that U.S. citizenship is a highly valued social identity among lawyers and judges. I also examine the impact of sub-categories of this identity: naturalized/naturalized/migrated themselves later in life citizens versus 1.5-, second-, or third-plus generation citizens. Based on prior literature on the importance of within group variation

of Latino/as, this variation in citizenship/generational status may hold more or less value in the Operation Streamline context.

I expect to find that Latino/a social identity would be less valued than citizenship/generational status in the OSL setting, because the former is frequently shared with the “defendants” or “border crossers” that lawyers and judges deal with in their everyday work. In holding the role identity of “lawyer” or “judge,” individuals most likely seek to distinguish themselves from the roles of “defendant” or “border crossers,” whereas the shared social identity of “Latino/a” minimizes this distinction.

Contrastingly, however, lawyers and judges who share the Latino/a social identity with defendants may instead emphasize how highly valued this social identity is in their ability to build rapport and work with defendants. Latino/a attorneys and judges may use their shared social identity to build rapport as a management strategy to decrease role strain by emphasizing they can better effect substantive justice by understanding border crossers and explaining the situation to them better.

The process of dealing with this identity competition between role identity as a lawyer or judge and social identity as a Latino/a and U.S. citizen forms the basis for my study. My perspective of competing identity management, described below and developed throughout, helps specify different varieties of identity management strategies or the need for less management altogether as well as an exploration of under what circumstances certain competing identities are emphasized or de-emphasized.

Cultural Theories of Racial/Ethnic and National/Citizenship Identity

In addition to the social psychological literature on identity, the sociology of culture provides theoretical insights into identity processes as well. More specifically, the approaches I include in this framework speak to the processes around social identities of racial/ethnic and national/citizenship identity construction. Cornell and Hartman (1998) suggest that racial/ethnic identity is based on the interaction between the larger circumstances a given racial/ethnic group faces (historic, economic, political, cultural, etc.) and the actions of the individual group members engaging in identity construction within these constraints. Cornell and Hartman develop a constructionist approach to racial and ethnic identity, grounded in two axes: “thick v. thin” (how much one’s racial/ethnic identity organizes one’s life) and “assigned v. asserted” (to what degree do external versus internal forces create and maintain racial/ethnic identity).

In terms of Operation Streamline, a constructionist view of racial/ethnic identity adds to the social identity of “Latino/a” because we can examine to what degree a lawyer or judge thinks of their racial/ethnic identity as thick or thin or as assigned or asserted. For example, some lawyers and judges may have “thick” racial/ethnic identities, which will be more in competition with their role identity as a lawyer or judge who assists in the conviction of defendants of that same racial/ethnic identity than an attorney with a “thin” racial ethnic identity. Other respondents may see their racial/ethnic identity as asserted and feel that they have sufficient control over how it changes their work-related behavior, as opposed to those who feel their race/ethnicity is assigned and have little control over the behavioral expectations. In this way, Cornell and Hartman provide an additional lens

through which to view lawyers' and judges' actions as meaningful parts of their own social identity construction via identity management strategies.

In combination with prior work on role identity, I expect to find that Latino/as with thick and asserted identities have to employ particular types of identity management strategies compared to their thick/assigned counterparts to deal with higher levels of role strain and subsequent competing identities. In contrast, Latino/as with thin and assigned social identity are likely to experience less role strain within professional role and thus less competition between social and role identity, resulting in alternative types of identity management compared to their thick/asserted counterparts.

In an ethnographic study of police officers' national identities following the fall of the Berlin Wall, Glaeser (2000) asserts that social interaction and practice form a "processual understanding of identity formation and change" (Glaeser 2000:x). This work builds on symbolic interactionist traditions by analyzing "processes of identification", which occur by making connections (which he calls identifications) with spaces, time, other people, beliefs, ideas, morals, values, etc. as they relate to national identities. These identifications are the building blocks of identity and, when put together, an idea of the self is built. However, these identifications are subject to change over time. Despite the suggestion of freedom in identity formation, which allows people to give meaning to the world around them, there also exists "non-negotiated identifications" that "are typically inscribed in policies, rules, regulations, and of course the law, but also in customs and traditions" (Glaeser 2000: 92). Glaeser's approach enriches our understanding of structural opportunity and constraint by emphasizing links with spaces, time, other

people, etc. This theoretical model also focuses squarely on observing patterns of negotiated links to particular spaces, time, people, etc. as a key management strategy.

This study of Operation Streamline will integrate Glaeser's approach by observing how lawyers and judges use the identity management strategy of negotiated identifications to manage their own competing social and role identities. I assume the non-negotiated association with the law will be consistent across all attorneys and judges, but their negotiated identifications may vary based on their racial/ethnic social identities of Latino/a and non-Latino/a. Thus, Glaeser's terminology of these negotiated identifications provides additional identity management strategies that may be used to cope with role strain and with social and role identity competition. For example, some lawyers and judges (Latino/a or non-Latino/a) may make strong negotiated identifications (an identity management strategy) with certain spaces, time, other people, beliefs, ideas, morals, values, etc. By looking for the different negotiated identifications that lawyers and judges make, I further develop a sense of how these legal professionals manage their various identities and which identities hold more salience in certain circumstances.

Goffman's Presentation of Self and Interaction Rituals

Bringing together culture and social psychology, Goffman (1959) suggests that as people take on different roles, they struggle to manage the impressions of themselves that they are displaying to others. Like actors in a play, these individuals are presenting themselves to an audience in a way that is consistent with emphasizing a given role identity. However, Goffman's work need not apply only to role identities; it is just as likely that enacting social identities, such as race/ethnicity or citizenship//generational

status, have performance related consequences. Goffman's descriptions of social behavior as interaction rituals (1967) provide behavioral evidence of identity processes. Social rules of conduct create structural constraints of situations. Thus, impression management itself is a potential identity management strategy especially related to situationality and job performance, but also potentially to social identities.

In Goffman's perspective, inequality comes into play through symmetrical and asymmetrical relationships between individuals who demonstrate deference—respect, obligation, or duty that an inferior owes to a superior—and demeanor—a behavioral signal that suggests whether or not one is owed deference. Thus, deference and demeanor are also identity management strategies entwined to situationality. This ties directly to S. Stryker's identity theory and structural symbolic interactionism in that Goffman suggests that the social structure and setting encourages particular behavior based on roles, though again, there is no reason to assume this strategy does not also apply to social identities.

To study the degree to which lawyers or judges' competing social and role identities affect their identity management strategies in the case of OSL, I examine individual lawyers and judge's identity work using the ideas of Goffman. For example, in the lawyer role, if one wants to advertise the salience of his/her citizenship/generational status identity over his/her racial/ethnic identity, one would behave in a way that gives the impression he/she values social actors with his/her same citizenship/generational status over other actors that may share his/her same racial/ethnic identity. Similarly, processes of deference and demeanor were observed in the identity work of lawyers and judges. The manner of treating their fellow lawyers and judges, with whom they share certain social and role identities, showed different patterns of deference and demeanor

when compared to the manner of treating a “defendant” who is in an inferior role. This behavior provided certain clear hints into the valuing of social and role identities.

Key Expectations in Building a Perspective of Competing Identity Management

The controversy surrounding Operation Streamline creates an extra level of scrutiny both in the realm of professional role identity as well as calling up relevant social identities of race/ethnicity and citizenship/generational status for attorneys and judges involved. Thus, there should be difficulties for these attorneys and judges in managing their various, potentially competing identities. All attorneys and judges will likely feel some role strain just within the role between the poles of formal and substantive justice and thus have some need for identity management strategies. For Latino/a attorneys and judges in particular, however, there should be systematically increased role strain, leading to competition between their professional roles and their social identities—and even between various social identities, such as race/ethnicity and citizenship/generational status. Using the above literatures, I have developed a conceptual framework to explain the conditions under which potential role strain and competing social and role identities arise and I have suggested mechanisms (identity management strategies) through which the attorneys and judges will work through these strained and competing identities in order to remain involved in OSL.

The perspective of competing identity management uses a very basic definition of identity: one’s various conceptions and expressions of self. This is sufficiently broad to incorporate the various types of identities explicated above—most centrally social and role identities. Using this definition, I suggest that there are different ways in which OSL

legal professionals might experience identity strains or competitions, express their unease, and manage their various identities invoked by being involved in the program.

First, there should be some instances of role strain for most attorneys and judges involved, regardless of social identities. They have all been educated (indoctrinated) and socialized into the legal profession with its various behavioral expectations and many aspects of OSL might be inconsistent with some of these common role expectations for attorneys and judges. I analyze this role strain through the inconsistent poles of formal justice v. substantive justice. The many questions about due process, constitutionality, Rule 11, etc. that activists and the media have directed at OSL are likely to make lawyers feel the need to justify how these proceedings do, in fact, meet appropriate role behavior regarding both formal or substantive justice. Using instances of role making and playing; psychological compartmentalization (S. Stryker 1980); identity extension (Snow & Anderson 1987); fictive story telling (Snow & McAdam 2000); and negotiated identifications (Glaser 2000), I expect all attorneys and judges to engage in identity work that justifies their participation in OSL based on its formal justice pole and not the substantive justice reservations they may have about these proceedings.

In looking at experiences of strain within their roles, there may be different intensities of strain between different groups of attorneys and judges who have different social identities. That is, social and role identity competition is increased for Latino/as because of intensified role strain. Issues of race and immigration are intricately tied, especially in the instance of the U.S. and Mexico (Waters and Eschbach 1995; Massey et al. 2002; Lee and Bean. 2004; Calavita 2007). Thus, controversial proceedings such as OSL in Tucson, which in its application focuses on a specific racial/ethnic group, are

bound to produce racial/ethnic tensions, especially in a state like Arizona with a racially charged climate. The highly racially charged environment has been particularly evident in the past eight years with the enactment several state laws against immigrants (such as S.B. 1070), and banning the teaching of Mexican American Studies in the Tucson Unified School District in H.B. 2281. Thus, those in the work role of attorney or judge (which are defined in opposition to the defendants or undocumented border-crossers) who also share a racial/ethnic identity with this population may feel extra role strain or increased scrutiny in their identity management because they feel more pulled to the substantive justice pole of their role identity.

Given these potentially competing identities highlighted by the contentious nature of OSL, I expect to find that Latino/a legal professionals will experience more role strain based on their racial/ethnic *social identity*, whereas non-Latino/a attorneys and judges do not need to downplay these social identities to avoid role strain. This may result in tactics of downplaying social identity cues, such as variation in how they demonstrate racial/ethnic categorical membership.

A perspective of competing identity management, then, predicts that Latino/a attorneys and judges will use more and different types of identity management strategies to deal with role strain and resultant social and role identity competition than non-Latino/a attorneys and judges (later detailed in Chapter 4). That is, there is an assumed variation in identity management strategies because Latino/as have to negotiate both standard role strain and the competition between the role's formal justice pole and their categorical identity calling out for substantive justice for their defendants with whom they share a racial/ethnic social identity.

Given the broadness of a social identity group such as race/ethnicity, however, there are bound to be variations in identity management strategies within this group, perhaps based on other social identity categories (as discussed in Chapter 5). Thus, I expect that some Latino/a legal professionals will downplay their racial/ethnic social identity and emphasize their more valued social identity as U.S. Citizen (which they do not share with defendants). This will bring forth different (or perhaps just fewer) identity management strategies. Those who are naturalized citizens who migrated themselves later in life (as opposed to born citizens) should be especially likely to differentiate themselves from defendants because they were so recently non-citizens. I expect that this differentiation will take the form of a thin and assigned racial/ethnic social identity for recent migrants. However, born citizens in the 1.5- and second-generation may experience more sympathy for defendants and exhibit more role strain given their close understanding of the immigration experience through their parents, which will contrastingly result in thick and asserted Latino/a social identity. Third-generation-plus Latino/as will likely feel the least connection to defendants and experience the least amount of role strain because they identify more strongly as long-time Americans who do not necessarily feel strain to assure Latino/a defendants are provided substantive justice. Thus, third-generation-plus Latino/as will also have thin and assigned Latino/a social identities.

However, while Latino/a legal professionals may often downplay their similarities to clients, under some circumstances they might mobilize them—for example to build rapport with clients. My perspective of competing identity management will begin to help specify the conditions under which these different strategies are employed to

manage strain within role as well as competing social and role identities (discussed in Chapter 6). Beyond just *why* and *how* these attorneys and judges demonstrate their identity management, my perspective of competing identity management also examines when these different management strategies become more and less relevant, expanding S. Stryker's ideas of situationality to include what respondents do with different audiences (for themselves and in situations involving different audiences/interlocutors or types of challenges) to manage role strain and social and role identity competition.

Given the amount of activism around Operation Streamline, I expect to find that attorneys and judges manage their identities differently with activist groups than in other situations. I also expect Latino/a attorneys and judges will experience more strain and pressure from these outside groups. In contrast to dealing with outsiders, attorneys and judges will use different identity management with their undocumented-crosser defendants as they try to build rapport and trust with this group.

I also expect Spanish language usage to be an indicator of social identity and in-group preference in addition to the other types of identity management strategies. For example, those who use Spanish more frequently will be more likely to have "thick" Latino/a identities (Cornell and Hartman 1998). Language usage has been shown as a cultural indicator of racial/ethnic categories (Dressler, Oths, and Gravelee 2005). Spanish language usage has also long been used as an indicator of acculturation (Vega and Gil 1998) and in specific studies on Latino/as, Spanish language preference has accounted for the majority of variance in most acculturation measures (Escobar and Vega 2000). Additionally, many states have adopted "English-Only" laws, which demonstrate the link between language usage and racial groups. Additionally, in the heightened racial context

of Arizona, where English was voted the official language in 2006, Spanish language usage has been shown to increase the potential racialization of Latino/as by outside groups—i.e. assigned social identity (Anderson & Finch, In preparation).

Based on the above predictions, I am able to examine empirically Operation Streamline as a case of competing identity management in order to better understand the variability of and conditions influencing identity management strategies. Using strategic narrative analysis (discussed in depth in Chapter 3), I began with these expectations and continued with grounded theory building within a spelled out theoretical terrain—identity management. While the above section conceptualizes many of the identity management strategies that may come into play based on prior identity literature, my later analysis then allows me to determine whether the conditions theorized for role strain and social and role identity competition *do* or *do not* or *do or do not in certain conditions* lead to role strain and social and role identity competition. Then, invoking the iterative quality of strategic narrative, patterns of strategies used and conditional influences become clear in examining these three areas: differences between Latino/a and non-Latino/a attorneys and judges in Chapter 4; variation within Latino/a attorneys and judges in Chapter 5; and the situations that affect identity management in Chapter 6. With the basic theoretical background that is then informed by empirical evidence, full development of my perspective on competing identity management will help to specify the competition between social identities and role identities. This then allows me to later build theoretical propositions about the conditions under which particular identity management strategies are adopted and further conceptualize what those strategies are in the Conclusion (Chapter 7). This in turn paves the way for future work to test, further generalize, and

expand the perspective of competing identity management into a fully developed theory.

CHAPTER 3: DESIGN, DATA COLLECTION, AND METHOD OF ANALYSIS

I used multiple data sources (legal documents, media reports, and activist publications; ethnographic observations; and interviews with an embedded quasi-experiment) to explore the identity processes involved in everyday experiences of lawyers and judges who participate in Operation Streamline proceedings. I analyze these data using strategic narrative, a systematic and theory-driven interpretive approach after the methodology elaborated by R. Stryker (1996). The various concepts and mechanisms in the elaborated theoretical framework in the preceding chapter (e.g., role identity, social identities of race/ethnicity and citizenship/nationality, identity construction, thick v. thin and assigned v. asserted identities; impression management, etc.) functioned as key sensitizing concepts and mechanisms that provided an initial set of coding categories to examine empirically the expectations I had developed about how and under what circumstances role strain and competing social and role identities are managed in OSL.

The three sources of data collected (documents/text, ethnographic fieldnotes, and interviews) were coded and analyzed interpretively through strategic narrative according to my perspective of competing identity management, while still allowing for the inductive creation of additional coding categories and sub-categories that in turn led to a more fully elaborated perspective of competing identity management. Through this kind of iterative “back and forth” between my starting sensitizing framework of concepts and mechanisms and my data, I was able to further classify the strategies of identity management used by respondents as well as the specific conditions under which strain and competing social and role identities became relevant to the work of OSL legal professionals. This allowed me to modify and build from a perspective of competing

identity management to offer further empirically grounded conclusions via strategic narrative analysis.

Research Design

My basic research design is a study of OSL as a strategic case (as explained in Chapter 1) to explore identity management strategies in a setting of role strain and competing social and role identities. Coming from a method of strategic narrative analysis and because my goal was to recognize and analyze previously un-explored strategies of negotiation between social and role identities, a qualitative design was particularly advantageous. The research strategies I used to collect data were threefold:

- 1) Documents/Textual Data (legal documents, media reports, and activist publications) that served as a collection of outsiders' perspectives on the identity of OSL lawyers and judges to contrast with their own descriptions and enactments;
- 2) Extensive ethnographic observations of lawyers and judges at the Evo A. DeConcini U.S. Courthouse in Tucson, Arizona; and
- 3) In-depth interviews of both Latino/a and non-Latino/a lawyers and judges that included an embedded quasi-experiment.

The use of several data sources allowed for more conclusive results and better understanding of identity-related issues in the Operation Streamline context. I will explain how/for what I used each data source below in the data collection section.

In designing my project, it was infeasible to conduct qualitative research in each of the eight federal court districts along the U.S.-México border that now have some

version of Operation Streamline in place. In addition to being practical, I limited my scope to the Tucson Sector, as defined by the U.S. Border Patrol, because it is one of the most substantively relevant locations to study OSL. This sector covers about 90,000 square miles of eastern Arizona, including 262 linear miles of the U.S.-México border, beginning at the east edge of Yuma County and extending to the Arizona-New Mexico state line. The most recent trends in border security (building fences in easily accessed land and increasing protection at urban crossings) have greatly increased the flow of migrants through the Tucson Sector. This phenomenon of moving the migrant stream from urban areas to the desert is known as the “Funnel Effect” (Rubio-Goldsmith et al. 2007). As the number of border crossers in this sector has increased, so too have the number of federal prosecutions for immigration-related crimes (U.S. Department of Justice 2010). In addition, recent Arizona legislation on immigration—such as the controversial S.B. 1070, dubbed the “show me your papers” law—has highlighted the racially charged undertones surrounding immigration in this area (Anderson and Finch 2014).

Focusing on OSL proceedings only in the Tucson sector also helped with access, depth of data collected, and completing the project in a timely manner. First, concentrating on OSL in Tucson facilitated ease of entry in attending legal proceedings and into the social circles of lawyers and judges. Second, limiting my data collection to Tucson allowed for thicker and more in-depth data collection on one specific site. This avoids a problem of “thin” data over a variety of sectors or district courts. Thin data would be particularly troublesome in developing a deep understanding of how multiple competing identities interact in particular settings. Third, concentrating on Tucson

allowed for enough in-depth information to adequately address the theoretical and empirical questions posed while not over extending available resources, including time and funding.

Data Collection

Documents/Textual Data

The first research component included the collection of scholarly, media, and activist coverage of OSL in Tucson (as well as in other locations). These external documents/textual data allowed me to investigate how external viewpoints—sometimes referred to as the source of reflected appraisals (Cooley 1902) or identity confirmation/disconfirmation (Burke and Stets 2009)—affect identity management strategies around role strain and competing social and role identities. That is, examining the broader discursive context of OSL both nationally and specifically in the Tucson community allows insight to how judges and lawyers manage their various identities in the face of identity attribution by others. Interviews with judges and lawyers revealed that they were very familiar with these external representations of OSL; interviewees shaped some of their responses to my questions around these critiques. These legal professionals often counterpoised themselves against activists' descriptions or corrected the media's conceptions of their work, allowing me to see which external attributions have been especially relevant (either positively or negatively) for respondents. In short, being familiar with the outsider perception of OSL allowed me better access to see how these external influences affected role strain and competition between social and role identities for legal professionals involved in the program.

Overall, the analysis of documents/textual data and views from outsider communities provide a unique look at Operation Streamline through the lenses of three outside communities: 1) legal scholars; 2) Tucson media outlets; and 3) humanitarian activist groups. While the Tucson media sources highlight historical changes of Operation Streamline, the legal resources and activist groups provide the strongest critiques and suggested improvements to the program. The activist groups also emphasize the racialized nature of immigration and specifically Operation Streamline, which relates to the social identities of lawyers and judges, while the legal documents highlight lawyer and judge work-role identities.

One extreme example of activists involves a group known as the “End Streamline Coalition.” This group’s actions have bordered on harassment—emailing OSL defense attorneys up to 40 times a day with the same letter outlining their complaints about the program. As described in previous chapters, these activists use the language of role identity to call forth two poles of justice that create role strain. Activists suggest that OSL is in violation of the role expectation of providing OSL defendants with substantive justice (as opposed to formal justice that attorneys and judges perform when participating in OSL). By calling upon their work roles (in the form of rules of conduct and professional responsibilities), these activists highlight the importance of identity assignment done by outsiders.

Similarly, other documents have questioned the racialized nature of OSL, suggesting that the “brown skin” of the defendants is what makes them more likely to go through an *en masse* proceeding (Langston-Daley 2011). One organization, “Grassroots Leadership,” wrote a report critiquing OSL and the broader criminal system by pointing

out that while (at the time) only 16% of the U.S. population is Latino/a, half of the prison population is now Latino/a (Grassroots Leadership 2012). While not specifically calling on the social identities of the lawyers and judges, these types of documents highlight the racialization of immigration proceedings, bringing the overlapping social identities of both race/ethnicity and citizenship/generational status into play in the OSL context.

Ethnographic Observations

Over 18 months of fieldwork, I observed 66 Operation Streamline procedures at the U.S. Courthouse in Tucson, seeing over 4,200 defendants processed, prosecuted and sentenced. In line with S. Stryker's structural view of role identity, observation of the lawyers and judges in the court setting provides insight into the meanings and behavioral guides for the role identity of these actors from a larger organizational and structural vantage point. This work setting allowed me to observe lawyers and judges in the company of a variety of other people—creating situational combinations of Latino/a lawyers and judges, non-Latino/a lawyers and judges, and numerous defendants/undocumented border crossers, highlighting various situations that affect identity management processes. This moves the data from the individual level to a more interactional basis where setting and situation influence how lawyers and judges deal with both role strain and potentially competing social and role identities.

My observations focus on recognizing and categorizing processes of identity management that occur for lawyers and judges on the job, specifically examining processes that highlight potential role strain and competing social and role identities. For example, instances of identity management strategies such as embracement, distancing,

amplification, consolidation, extension, and transformation were examined in work behavior *a la* strategic narrative analysis. The lawyers and judges (as well as U.S. Marshals) controlled the professional setting and I conducted unobtrusive observation. Due to external situational constraints—needing to complete their jobs as usual in a courtroom proceeding—lawyers and judges were not noticeably influenced by the presence of a researcher along with other audience members in the courtroom. Being in a comfortable and routine setting for lawyers and judges provided a more accurate representation of regular, routine behavior. Through these observations, I also built rapport with numerous lawyers and judges, and gained access to less superficial or managed impressions of on-the-job life in non-courtroom settings. For example, I joined participants in lunches, meetings, presentations, and other events that expanded my ethnographic observations.

The lawyers and judges I observed are both of Latino/a origin and of non-Latino/a origin, which provides comparative insight into identity-processes as they specifically implicate the social identities of race/ethnicity. Though all lawyers and judges might deal with professional role strain, Latino/a lawyers and judges are expected to be prone to more intense role strain based on their competing identities of race/ethnicity and citizenship. It is, however, important to have the comparison of both Latino/a and non-Latino/a respondents in order to make any claims of variation based on social identity. Chapter 4 begins with instances of role strain for both social identity groups and then explains how the addition of a competing social identity for Latino/a respondents intensifies this role strain.

As noted earlier, I use the term Latino/a to refer to a diverse group of people previously colonized by the Spanish—including people from any part of North, Central, or South America. I have asked about the various countries of origin of Latino/a lawyers and judges in my research and Latino/a respondents' backgrounds were mostly Mexican. However, analysis of the data reveal significant similarities in terms of identity management strategies with Mexican lawyers and judges compared to those from other national backgrounds such as Perú, Chile, or Guatemala. Instead, variation in citizenship/generational status based on immigration history (naturalized and born generational statuses) accounted for the bulk of within-group differences that will be discussed in the section on differences within Latino/a lawyers and judges in Chapter 5.

Additionally, the different circumstances under which attorneys and judges find themselves describing Operation Streamline also influence their identity management strategies. Being able to do courtroom observations of the legal proceedings as well as interactions around the proceeding allowed me to see this situational variation in identity management. Dealing with clients in their formal role, as opposed to dealing with outside observers before or after court, is a situational distinction that affects identity management as explored in Chapter 6.

Interviews with Embedded Quasi-Experiment

Finally, the project also included interviews with OSL lawyers and judges to examine conditions that lead to role strain and potentially competing social and role identities as well as to examine how respondents manage their various identities through identity management strategies. My ethnographic setting proved successful for recruiting

respondents for interviews as I continued to attend hearings on a weekly basis both to observe and to sustain my contact with lawyers and judges. I scheduled interviews with attorneys and judges soon after observations, in order to question lawyers and judges on specific incidents that may have occurred during the previous observations and to use this material to support or question my findings from observations. At the time of field observations, I informed participants of the general nature of my research about “OSL, everyday experiences, and identity.” I remained somewhat vague so as not to prime participants or make them defensive about racial/ethnic concerns. If pressed, I suggested that “identity” includes, but is not limited to, their work life, their citizenship/generational status, their gender, and their racial/ethnic status. Additionally, all lawyers and judges who decided to participate were informed of the minimal risks and benefits of participating in my research and made aware of how I intended to keep individual respondents’ data confidential. All interviewees signed an informed consent form, as approved by the University of Arizona’s Institutional Review Board.

Interview questions addressed attorneys’ and judges’ experiences in the OSL program and asked if their experiences had been shaped, influenced, or differentiated by any of their various role or social identities (see Appendix A for the full Interview Guide). Lawyers and judges provided open-ended responses and expressed their views in a secure space. In giving descriptions of their work, respondents articulated how they saw their professional role and how committed they were to it within the OSL context. They also discussed instances of role strain in their work. Additionally, they talked about their personal histories, often bringing up social identities in the process. Strategic narrative analysis of the interview data illuminated conditions for role strain and potentially

competing social and role identities as well as how these were managed. I included an embedded quasi-experiment to solicit talk of race/ethnicity, as well.

To serve as an embedded quasi-experiment, in every interview, I included a vignette about a hypothetical lawyer's handling of a belligerent OSL defendant. The vignette is identical in all interviews except for the treatment of the race/ethnicity of the hypothetical lawyer (who varied between the name of Manuel Martinez/Jason Johnson and the identity of Mexican/White), which was randomly assigned to different lawyers and judges. The race/ethnicity of the lawyer is mentioned twice in the vignette, once at the start through the lawyer's surname and once in conversation with a defendant (for the full vignette, see the Interview Guide in Appendix A). The interviewee was asked to evaluate the performance of the hypothetical lawyer in the vignette. This vignette came at the end of the interview and I did not specifically ask about racial or ethnic issues until this time unless the respondent had broached these issues on his/her own. After this vignette, I opened the conversation to racial/ethnic social identity issues. This was an excellent way of looking specifically at the importance of racial/ethnic identity and bringing it up with lawyers and judges in a casual and non-defensive way at the end of an interview and after I had established rapport.

The use of the randomly assigned vignette was originally intended as a way to manipulate race/ethnicity to check for the responses of lawyers and judges of all races/ethnicities to the racialized vignette. That is, because the lawyers' and judges' races/ethnicities cannot be manipulated as an experimental treatment, the use of the vignette was to help to examine any differences present when a lawyer of a certain race/ethnicity interacts with a defendant. However, due to the attorney and judge's

responses to this quasi-experiment, most did not really imagine themselves as the attorney in the vignette—i.e. representing self. Instead, respondents generally just talked about their own experiences with belligerent clients and this became a jumping off point for talk about the relevance of the social identity of race/ethnicity. Instead of examining an interaction between race/ethnicity of respondent and race/ethnicity of lawyer in the vignette, I use these discussions more broadly as a way to explore the relevance of race/ethnicity in attorneys' interactions with their own clients.

Interviews were primarily conducted in English; however, I also asked about individuals' acquisition and use of Spanish-language skills. I expect the use of Spanish to potentially be conflated with, or seen as a signal of, one's racial/ethnic identity (Roth 2012), but it is not a specific identity on its own. Due to its proximity to the U.S.-México border, there are a very large number of immigration-related cases and non-U.S. citizens processed through the Tucson Federal Court District. As such, to be a Federal Public Defender or a Criminal Justice Act Panel Attorney in the Tucson Federal Court District, every lawyer must pass a Spanish-language test. I am fluent in Spanish and have been able to use it as needed both in the field and in interviews. I ask all my interviewees how they learned Spanish and how they use Spanish on the job as a way of getting at what influence language plays in social identity and in competing identity management. Using Spanish was also a cue towards emphasizing a shared social identity with border-crosser defendants, but only in certain contexts, as elucidated in the findings (found in succeeding chapters, especially Chapter 6).

Overall, I interviewed 45 defense attorneys and seven magistrate judges with interviews lasting anywhere from 45 minutes to three-and-a-half hours. None of the

Special Assistant U.S. Attorneys (government prosecutors) would agree to interviews as they had specific directions from the Border Patrol to direct inquiries to the Public Information Office. However, my inability to interview representatives of this role has minimal bearing on the theoretical questions at hand, as none of the government prosecutors involved in Operation Streamline are Latino/a. Perhaps Latino/as self-select out of this role precisely because a perspective of competing identity management would suggest that role strain and competing social and role identities would be exacerbated for Latino/as in this role.

I was able to interview seven out of the eight judges who presided over OSL during my fieldwork. One judge retired at the end of 2013 and simply did not respond to multiple requests for an interview via e-mail or requests from other respondents I had interviewed. All other judges, including the replacement for the retired judge who began in 2014, participated in my study. The racial/ethnic and sex/gender breakdown of judges is shown in Table 3.1. Non-Latino/a males made up the majority of respondents, while each other category was represented only once. This lack of diversity in higher-level legal positions was interesting given the larger diversity that was present in the lawyers who practiced in OSL.

Table 3.1: Judge Interview Respondents by Race/Ethnicity and Sex/Gender

	Latino/a	Non-Latino/a	
Male	1 (14%)	4 (58%)	5 (71%)
Female	1 (14%)	1 (14%)	2 (29%)
	2 (29%)	5 (71%)	

The 45 attorneys interviewed were a more diverse group than the judges, partly based on the above-mentioned Spanish language requirement for OSL attorneys. Nationally, throughout 2006-2010, only 4.2% of lawyers, judges, magistrates, and other judicial workers were categorized as Hispanic or Latino/a, while Arizona has a slightly higher rate at 6.6% (U.S. Census Bureau 2014). The Tucson Metro Area has a 5.9% rate of Hispanic judicial workers. Strikingly, for my respondents involved in OSL, the breakdown was 64% Latino/a. This suggests that a larger proportion of Latino/a attorneys end up working in federal criminal defense generally and in Operation Streamline specifically. I believe this over-representation of Latino/a attorneys in OSL is because Latino/a lawyers have fewer alternatives for legal work and they are perhaps thought to have a competitive advantage for OSL work. Predictions based on my perspective of competing identity management would suggest that Latino/as should be less likely to want to work in OSL. However, though Latino/a attorneys may be less likely to want to do OSL because of anticipated role strains and competition between social and role identities, they are also more constrained in their choices because of their race/ethnic

social identity and they are valued in OSL for their language skills. The racial/ethnic and sex/gender breakdown of all lawyer respondents is shown in Table 3.2.

Table 3.2: Attorney Interview Respondents by Race/Ethnicity and Sex/Gender

	Latino/a	Non-Latino/a	
Male	19 (40%)	14 (33%)	33 (73%)
Female	10 (22%)	*2 (4%)	12 (27%)
	29 (64%)	16 (36%)	

*Smallest N represents all available respondents in category

The 45 attorneys interviewed represent approximately 70% of the panel defense attorneys who regularly participated in OSL and about 15% of the federal public defenders who participated in OSL regularly during my fieldwork period. Every panel defense attorney (that is, private attorneys who are contracted by the government to defend indigent clients) who was on the regular schedule for OSL during the 18 months of my fieldwork was asked to participate in at least two different formats (both face-to-face and either by e-mail or phone). Only four panel attorneys outright refused interview requests. Another 17 panel attorneys said they would be interested but after at least two attempts they failed to schedule interviews. Characteristics of all non-respondents are discussed below.

There are approximately 35 defense attorneys at the Federal Public Defenders (FPD) office in Tucson. The FPD's office, however, has long been reticent about participating in OSL and, as of 2014, sends only one attorney a week to participate. Thus,

98% of the attorneys who participate in OSL on a regular basis are panel attorneys. I was able to meet FPDs at the court infrequently (as they only attend Monday's procedures). To make up for this lack of interaction, I was able to send out a blanket e-mail request for interview participants to the entire FPD staff. Between this e-mail, which garnered some participation, and face-to-face requests, I interviewed a total of five public defenders. It should be noted that several CJA panel attorneys had previously been employed by the FPD's office and had been "let go" because of budgetary issues or retired over the years. Generally, responses from the Federal Public Defenders were fairly similar to CJA attorneys. Overall, by primarily making in-person face-to-face contact at court proceedings and having other lawyers and judges vouch for me, I minimized non-response bias.

There were attorneys who regularly participated in OSL that I was not able to interview. However, my main demographic variable of interest—race/ethnicity—was relatively consistent between respondents and non-respondents for CJA attorneys. I was not able to obtain demographic data on Federal Public Defenders. Table 3.3 below shows that the relative racial/ethnic and sex/gender categorical proportions of CJA attorneys who were on the OSL schedule during my fieldwork but did not participate in interviews is relatively similar to those who were interviewed. Latino/as represented 66% of non-respondents compared to the slightly lower 64% of respondents.

Table 3.3: Non-Respondent CJA Attorneys by Race/Ethnicity and Sex/Gender

	Latino/a	Non-Latino/a	
Male	11 (52%)	7 (33%)	18 (86%)
Female	3 (14%)	0	3 (14%)
	14 (66%)	7 (33%)	

Though I have no way of knowing if non-respondents experienced more or less role strain or potentially competing social and role identities about working for OSL, I can say that there does not seem to be a racial/ethnic pattern in those who did not participate compared to those who did. In any case, I am not attempting to generalize my findings to a population of broader OSL attorneys but instead I generalize to concepts and mechanisms in my perspective of competing identity management. Resulting empirically grounded theoretical propositions about variability in conditions and identity management processes due to role strain and potentially competing social and role identities must be tested in further research.

Method of Analysis: Strategic Narrative

This study examines identity processes in a natural setting, with the goal of constructing a thorough account of how and under what circumstances role strain and potentially competing social and role identities may cause variation in identity management strategies for lawyers and judges in their OSL work. Instead of explicitly testing one or more extant theories, I investigate how research participants manage the

problem of multiple identities in order to formulate an empirically grounded, broader perspective of competing identity management. This work, being the first of its kind in this setting, develops systematic interpretive assessment of the conditions that result in variations of role strain and potentially competing social and role identities as well as mechanisms that respondents use to manage role strain and potentially competing social and role identities. These assessments may then be used as beginning points for further interpretive research. They can also be used to help construct appropriate measures for future quantitative, hypothesis-testing research (see R. Stryker 1996).

The various qualitative data collected were analyzed according to the method of strategic narrative (R. Stryker 1996). Though initially designed for historical work, strategic narrative's analytic methodology—allowing for the “concurrent construction and mutual adjustment” of theory with empirical observations—is broadly appropriate for qualitative-interpretive analysis (R. Stryker 1996: 304). It requires the explicit and precise operationalization of concepts, measures, and coding techniques as they inform, but do not preclude, further theoretical development. The use of coding categories created based on prior theory and the creation of new categories/modifications of prior categories based on the empirical analysis allows for and operationalizes the idea of iterative mutual adjustment of theory and data and of theoretically informed and delimited field research.

I originally had informed expectations based on prior theories as outlined above, but this analysis differs from traditional, strict hypothesis testing in that I was also able to inductively find new identity management strategies and tactics that resulted in additional concept formation for my new perspective of competing identity management. This type of iterative analysis gives the benefits of qualitative analysis for new discovery without

being so open-ended as to be unsystematic or imprecise. Interestingly, Burawoy's extended case method (2009), though not so focused on precision in measurement, shares the same general philosophy about relation of theory and data as strategic narrative analysis.

Qualitative data analysis for documents/textual data (legal documents, media reports, and activist publications), ethnographic observations and interviews was a multi-step processes, as I iterated between new observations, inductive coding, and writing analytical memos—a standard approach in qualitative data analysis (Emerson, Fretz, & Shaw 2011). My preliminary results from observations and documents helped me further develop a coding scheme that branched out from various identity theories, mechanisms, concepts, and categories. This coding scheme was then applied and expanded to remaining fieldnotes, interview transcripts, and documents. Due to the large volume of documents, fieldnotes, and transcripts, I used computer aided qualitative data analysis software, ATLAS.ti. This program is able to facilitate iterative and inductive coding, as well as a plethora of other “epistemic orientations” (Abramson 2011) and thus represented an effective way for me to make analyses more systematic.

The issue of selection bias is present, but accounted for, in this work. That Latino/a lawyers and judges have already selected into a specific role may make any problems with role strain and competing identities less prevalent. In other words, despite the numeric over-representation of Latino/as, those who had even thicker racial/ethnic identities that would too seriously compete with their work role in OSL or cause too much role strain may have opted out of or withdrawn from participation in OSL. That I nonetheless observed role strain and identity competition in Latino/a judges and attorneys

who selected into OSL suggests this is a real phenomenon and that without selection processes, I would have observed greater rather than less role strain and identity competition between social and role identities. This selection bias, then, makes my work a more robust examination of a perspective of competing identity management because to the extent that role strain and identity competition between social and role identities is present in the group of Latino/as I studied, it has already survived one “opting-out” stage.

In terms of over-time reliability in analysis, as I further refined my coding scheme, I went back to the documents and observations I had coded previously and I recoded, applying the further developed coding scheme. As mentioned, while coding fieldnotes, interviews, legal documents, media reports, and activist publications I used a coding scheme that began with my theoretically derived sensitizing constructs but was further developed inductively based on my empirical data.

The validity of this research is further fortified by four factors. First, with respect to the issues of researcher bias, I was extremely reflective of my own social location as it influenced my interpretative inclinations. Though any researcher’s social location has influence on interpretation, I tried to be aware and prevent this type of bias. I kept numerous memos (examples available upon request) in which I detail any potential influences that my own social location may have had on the research at hand. Second, in terms of data depth and thickness, I was intensively involved in this research for a substantial time, and this allowed exposure to potentially competing explanations of behavior beyond perspectives emphasizing identity and identity management. Third, I use multiple data sources on social and role identities in Operation Streamline (documents/textual data, ethnographic field observations, and interviews with an

embedded quasi-experiment). I compared these potentially different means of looking at findings in a way that makes the overall results more accurate to the nuanced and complex research question at hand. Finally, it is relevant to validity to discuss the constraints of the field. My work follows in line with Becker (1970), who suggests “the presence in the observational situation of the very social constraints the sociologist ordinarily studies makes it difficult for the people he [sic] observes to tailor their behavior to what they think he might want or expect” (47). That is, there is no reason to expect that my presence at OSL proceedings hindered or changed any of the interactions that I was observing.

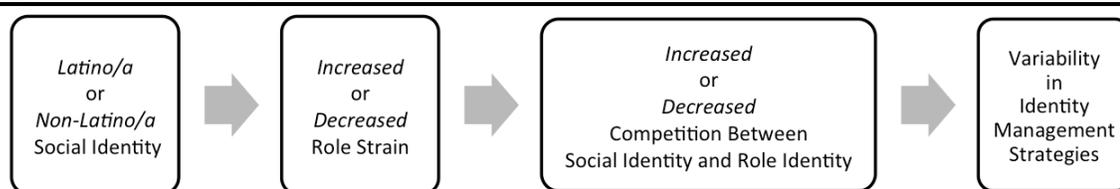
CHAPTER 4: “YOU MIGHT THINK IT’S UNJUST, BUT IT’S PERFECTLY LEGAL”
— VARIATION BETWEEN LATINO/A AND NON-LATINO/A ATTORNEYS AND
JUDGES IN OSL

Chapters 4, 5, and 6 of this dissertation represent three distinct analyses relating to my perspective of competing identity management. Chapter 4 looks at the issue of role strain for all attorneys and judges (both Latino/a and non-Latino/a) and examines subsequent identity management strategies as they systematically vary between racial/ethnic social identity groups, demonstrating competition between social and role identities. Chapter 5 then looks at within-group variation for Latino/a attorneys and judges via the effect of racial/ethnic social identity salience—that is either having a thick/asserted social identity or a thin/assigned social identity. An increased salience of social identity is expected to increase role strain, social and role identity competition, and affect subsequent identity management strategies. I also argue racial/ethnic social identity salience is influenced by another social identity that is relevant in OSL: citizenship/generational status. Chapter 5 also explores the influence of the social identity of gender on role strain, social and role identity competition, and subsequent identity management strategies. Chapter 6 then begins to explore how the various social and role identities of attorneys and judges in OSL come into play in different situational contexts. Chapter 7 then brings these analyses together to form an initial outline of the basic tenets for a full theory of competing identity management.

Chapter 4 presents the findings around my initial expectations, as summarized in Figure 4.1 below. As the reader will recall, I expected to find role strain variation

between Latino/a and non-Latino/a attorneys and judges who participate in OSL proceedings that also results in competing social and role identities. This strain and competition then results in variation of identity management strategies. In this chapter, I present analysis that shows Latino/a attorneys and judges more often describe role strain than non-Latino/a attorneys and judges. I define role strain as instances of respondents problematizing Operation Streamline—such as explaining that they do not personally like OSL despite continuing to participate. This demonstration of role strain results in increased competition between social and role identities that leads Latino/a attorneys and judges specifically to more frequently use identity management strategies compared to non-Latino/as, and, in some cases, to use different identity management strategies altogether.

Figure 4.1: Identity Management Variation Between Latino/as And Non-Latinos



In this chapter, I first explain the two poles of role strain experienced by almost all attorneys and judges in Operation Streamline—“substantive justice” versus “formal justice.” I then present data pertaining to the increased demonstration of strain specifically for Latino/a attorneys and judges. I go on to describe the identity management strategy of identity consolidation that is used by a majority of all respondents, but slightly more by Latino/a attorneys and judges. Next, I describe how role strain creates competition between social and role identities that then results in systematic variation in use of identity management strategies between Latino/a and non-Latino/a attorneys and judges.

To preview key findings from Chapter 4 in terms of social identity management strategies, I find that only Latino/a attorneys and judges feel competition between their race/ethnicity and their role based on the identity management strategy of in-group similarities. However, some non-Latino/a attorneys and judges recognized that their status as “gringos” (white, non-Hispanic Americans) might be problematic for clients. These non-Latino/a attorneys and judges used the identity management strategy of overt demonstration of out-group difference.

Other non-Latino/a attorneys and judges did not overtly demonstrate out-group difference, but instead used the identity management strategy of socially distancing themselves from their clients, or what social identity theorists would call out-group negativity. Still other non-Latino/a attorneys and judges had no recognition of social identities, which I describe as a distinct identity management strategy linked to white privilege. This sometimes hindered their job performance (as will be demonstrated more in depth in Chapter 6 on situationality).

In addition to demonstrating social identity management strategies, there was a racial/ethnic difference in terms of using various negotiated identifications as an identity management strategy. Negotiated identifications are identity management strategies pulled from the analytic identity theory of Glaeser (2000). These strategies most notably showed up in associations with times, places, and beliefs/ideas/values in this research case. Latino/a attorneys and judges were more likely to demonstrate certain temporal identifications (insufficient time with clients; more likely to compare OSL to pre-OSL calendars; and more likely to compare Operation Streamline now to how it was at the start of the program). In terms of geographic identifications, both Latino/a and non-

Latino/a attorneys and judges discussed the relevance of the northern border with Canada, but in markedly different ways. Finally, Latino/a legal professionals were more likely to use distressing metaphors and allusions to describe Operation Streamline and their clients, which I classify as a negotiated identification with certain beliefs/ideas/values. Use of consistent imagery in language is an identity management strategy that I argue expresses the higher levels of role strain and social and role identity competition experienced by Latino/as, given their propensity to use such language.

In terms of role identity management strategies, Latino/a attorneys and judges are also more likely than non-Latino/a attorneys and judges to use the management strategies of role-making/identity extension, psychological compartmentalization, and fictive story telling while non-Latino/as use role-playing more often. I give examples of each of these identity management strategies below.

Overall, in Chapter 4, the perspective of competing identity management is supported by the increased role strain and increased competition between social and role identities for Latino/a attorneys and judges that is also demonstrated in the systematic racial/ethnic variations of identity management strategies described.

Overall Role Strain for All Respondents

The majority of all attorneys and judges I interviewed, both Latino/a and non-Latino/a, had concerns about Operation Streamline at least when they began participating in the procedure. Only three out of 52 respondents were fully convinced that Operation Streamline was a successful program that should be expanded. Most respondents in some way problematized the procedure. Incidents where individuals described some sort of

personal disagreement with OSL that created a serious tension in their work were coded as role strain. One federal public defender describes this tension vividly:

How can we say that this [OSL] isn't violative of the constitution when we are specifically impacting a specific population of foreign nationals? It may not be a violation of due process because there's a neutrality in the law, but in it's application, it's illegal [...] it's an evolution of racism, but no one will call it racist, because on its face, the law is {gives air quotes} 'race neutral.' So, I mean, it's just disgusting. (Valentina, Latina, FPD)

This extreme level of concern is not the most common response, but there were numerous instances of attorneys and judges describing the problems surrounding OSL. I characterize this response as role strain, or “a felt difficulty in fulfilling role obligations” (S. Stryker 1980: 76). The most prominent issue for respondents around OSL was the issue of role strain between two factors: doing their job as an attorney or judge involved in OSL and actually feeling like OSL was the right thing to do. I describe these two “poles” of role obligations as substantive and formal justice below.

Substantive Justice Pole of Role Strain

Substantive justice involves interpreting the law using extra-legal norms and values. That is, substantive justice asks the question of whether the operation and impact of the law is consistent with producing what the person regards as just based on his/her ethics, morality, politics, etc. This role obligation requires a respondent to ask oneself: am I really serving what I feel is “true justice”? When describing their work and role in Operation Streamline, many attorneys and judges, both Latino/a and non-Latino/a, suggested they had substantive justice concerns about their daily job, creating role strain.

In one example, an attorney describes another attorney expressing his disdain for the process in open court as a way of demonstrating the strain felt by many participants:

“I remember one time [César, another attorney] was asked by the court -- I forget how it came up, he was talking to his client and I think it was [Judge Pine] who asked him, you know, “César, is everything okay?” And he said something like -- he said, “No, ma'am, everything's not okay. You know, there's about 75 people walking out of here in chains who really didn't do anything wrong. And so that distresses me.”

So I remember that distinctly. I felt that -- when he said that, I was like, “Yeah, that's kind of how I feel, too” you know? You got a bunch of people here in chains. They just want to come here and work. They have families, they're poor, and for probably largely political purposes they're swept up into this terrible proceeding. You know Eric Holder or whoever else won't put a stop to it, you know?” (Connor, Latino, CJA, emphasis added)

As seen in this quote, issues of substantive justice around Operation Streamline often are characterized by attorneys and judges disagreeing with illegal entry being crime—i.e. the defendants “didn't really do anything wrong.” In addition to thinking illegal entry should not even be a crime, other respondents described this strain towards substantive justice via other moral issues. Some were also upset that illegal entry was suddenly being enforced seemingly arbitrarily and that it was “just not fair” that some migrants were released while others went through various court proceedings. These issues of “right and wrong” and “fairness” are external norms used to evaluate the substantive justice of OSL. This use of external evaluation is also seen above in Valentina's quote above when she says the program is “disgusting” based on what she sees as its racist application. This lack of substantive justice these attorneys and judges describe then creates role strain for respondents when compared to the necessary formal justice they are required to carry out.

Formal Justice Pole of Role Strain

In contrast to substantive justice, formal justice has to do with following legal rules in a status-neutral way. This type of justice moves away from personal opinions about the law (e.g. illegal entry being a criminal act) and instead focuses on following the

letter of the law as it is already in place. Formal justice also enforces rule following in legal proceedings as they currently exist. That is, because the Ninth-Circuit Court has formally stipulated that the current *en masse* proceeding for OSL will be allowed to continue, participating in the program meets the requirements for formal justice. Formal justice as a role obligation means that rules are followed without questioning whether they are “good” or “just” rules—both as they pertain to the content of the behavior being prosecuted (“Should illegal entry even be a criminal offense?”) and to the procedures used in the prosecution (“Is it right to have an *en masse* proceeding?”).

I often asked respondents about the “pros and cons” of Operation Streamline and sometimes phrased it as “likes and dislikes.” Here is one particularly coherent response to this question demonstrating the formal justice identity pole of role strain:

“Well, Operation Streamline is not a like or dislike situation. It's something that exists and something that has to be managed, and something that has to be done because it's the system in place. Some state courts -- not Operation Streamline, but state courts -- basically have similar processes but not as many people. Have you heard of that? So what they do is they arrest the person and they offer him the plea, and it's almost like flip-flops in state courts. It's the same thing so everybody's basically doing this.

*So as attorneys, you're basically forced to accept it, unless you fight it in terms of constitutional grounds or whatever. You know, Streamline has basically been approved but the Ninth Circuit at least twice. So now, you just kind of do your work -- **as lawyers, you work within the procedure set up by the Supreme Court, the state Supreme Court, Congress, and the legislatures. That's what we're forced to do and fight with what they're giving us within the system that exists.** (Salvador, Latino, CJA, emphasis added)*

Salvador suggests it's not his role to have opinions on the process, only to carry it out within the existing system. In other words, these are the rules as formally enunciated by legislation and validated by courts and as lawyers it is our job to follow the rules, as formal justice would demand. He also says if you want to fight the system, you can only

do so on constitutional grounds. He removes any extra-legal orientation from his judgment of the proceeding, demonstrating a very formal justice orientation.

Resultant Identity Management

Based on these demonstrations of role strain between the substantive justice pole and the formal justice pole of their role obligations as attorneys and judges, respondents would then have to justify their continued participation in Operation Streamline if they demonstrated any role strain. After demonstrating role strain, many attorneys and judges would participate in what I term identity management strategies. The remainder of this chapter is used to describe various identity management strategies and how they are used by specific groups of respondents. Specifically, I begin with exploring the identity management strategy used most often by all attorneys and judges to deal with strain (identity consolidation). Then, I explore the influence of social identities on other identity management strategies. I look at strategies used both by Latino/a respondents (demonstration of in-group similarities) and by non-Latino/a respondents (demonstration of out-group differences). Then, I look at types of identity management strategies used more often by some groups than others in terms of negotiated identifications. Finally, I explore other role-related identity management practices that were utilized more often by one group or another.

Identity Consolidation

Often times, discussion of the two poles of justice (substantive and formal) would occur in rapid succession, resulting in respondents giving seemingly contradictory

feelings about the program while justifying their continued participation in the program. This demonstration of role strain quickly would be followed up with an identity management strategy, most often, identity consolidation (Snow and McAdam 2000). This term suggests the blending of identities in order to justify action.

In another response to the “likes and dislikes” question, one attorney demonstrated his simultaneous dislike of the program while having no qualms about his own participation. He demonstrates strain through comparing “unjust” feelings (substantive justice) and “legal” definitions (formal justice), and then explains why he stays involved though consolidating those poles through his role identity of a defense attorney. This is the identity management strategy of identity consolidation at play:

*“I keep up with the controversy, but I don’t think there’s anything unethical about Streamline. One of the things I dislike about it is that I find these activists irritating. **They might--I mean it’s fine if you might think it’s unjust, but it’s perfectly legal.**”*

Streamline didn’t make it possible to process these people, you know? I had a guy this morning that had a conviction from 2001 in U.S. District Court and a magistrate judge got him for illegal entry, 1325. And Streamline’s only gone on since 2008 or something.

*They say we’re unethical because we’re doing it. There’s nothing unethical in what we’re doing. **It’s not unethical to represent or defend somebody who’s charged with a crime even if you don’t agree with the law.** It’s not unethical to represent them just because they’re not getting a good deal.*

I’ve done a lot of work in misdemeanor courts, in a regular civil court and these people are getting more attorney time, more attorney attention than a lot of people who go through Tucson city court. Occasionally, I’ve seen lawyers that I didn’t think were doing a good job but most of them are real thorough, so it’s fine, and it’s completely legal.

*I just think these groups are wrong headed. **I agree with their sentiments, but I’m not going to stop doing it.**” (Mickey, non-Latino, CJA, emphasis added)*

As demonstrated above, Mickey blends his substantively “just” conception of representing clients with his formal-legal sense of following legal procedure in order to

manage his identity and explain why he would continue working in Streamline if he still thinks the program is unjust.

The potential strain of formal versus substantive concerns often came up when I would ask attorneys and judges about their interactions with the activist groups. Many attorneys and judges involved in Operation Streamline would show their commonalities with activists by playing up their concern for the level of substantive justice being performed in the court proceedings, as Mickey does when he calls it unjust. However he has perfected the defense of Operation Streamline through a formal “legal” justification of the work that he does daily in Operation Streamline and redefined substantive justice as defending those accused of a crime. This prepared response seems to be due to the fact that these attorneys and judges have been asked numerous times by activists groups how they can participate in the program.

Attorneys and judges also *showed* this identity consolidation in their courtroom behavior in addition to discussing it in interviews. Many attorneys and judges would talk to activist groups or individuals at the courthouse and take lots of their time to describe details of the law and the proceedings to them. Additionally, some attorneys even brought in groups from schools or brought their family members to observe the proceeding. One attorney brought his niece to observe the proceeding as a way of “showing her the true face of the U.S. legal system” (Solomón, Latino, CJA). As I listened to him describe what she would be seeing, he seemed to know she would be upset, but he described the proceeding to her as “an important part of the U.S. legal system” that was different than what she might see on TV. In my fieldnotes, I have written: “warning her about seeing clients in chains, emphasizes legality and approval of Ninth Circuit” (Fieldnotes April 16,

2014). This justification of the program extends to a justification of his involvement via the identity management strategy of identity consolidation.

Another attorney had similar sentiments as she explained the proceeding to me:

*“Someone should tell them [activists] it’s not a terrible process. I know it’s not a great process. But it’s a legal process. And, especially the judges you’re going to talk to, they’ve probably told you that. They don’t really like it, but they do it because that’s their job. The lawyers in there, they don’t like it. **I know I don’t really like it, but they do it because it’s their job. And that’s the unfortunate thing. It’s not perfect, but it’s, it’s, it’s being cleared up and cleaned up and then for the attorneys who do their job to be attacked, I find it most disheartening.***

***Because we’re a system of laws.** And the people who are working there are the people who want to help, who **want to help the defendants.** Not everybody there is just for the money. But they really want to help. And, and, attacking them is, is just disheartening. It’s, it’s just, it’s counterproductive and, and kind of stupid. (Soledad, Latina, CJA, emphasis added)*

Soledad is engaged in the identity management strategy of identity consolidation by recognizing the substantive justice issues around OSL while using formal-legal justice and a desire to help defendants to explain their continued participation. This management work happens when attorneys and judges must justify their continued participation despite having personal dislike of the laws being enforced or the process by which it is carried out. As will be discussed in the next sections, this management strategy, the most common by far of them all, was used by both Latino/a and non-Latino/a attorneys and judges. However, Latino/a attorneys and judges tended to use this strategy just slightly more than non-Latino/a attorneys and judges, with 55% of all Latino/a respondents using identity consolidation and only 48% of non-Latino/a respondents using it. There are other identity management strategies detailed below that are more clearly patterned by race/ethnicity that further explain how attorneys and judges would manage their seemingly contradictory behavior.

Differences in Identity Management Strategies by Race/Ethnicity

In my analysis, a distinct pattern emerged where Latino/as expressed more distress and strain at being involved in OSL via an emphasis on the substantive justice pole. That is, they were more inclined to disagree over the level of substantive justice being served despite the legal, formal justice existing in Streamline.

This is not to say that all Latino/a attorneys and judges felt more role strain. There was variation based on other identities and situationally for all respondents, as will be discussed in Chapter 5 and 6. Nor is this to say that none of the non-Latino/a attorneys and judges felt role strain or felt connected to and concerned about clients. However, on average, the Latino/a attorney interviews showed higher coding for instances of role strain, supporting a perspective of competing identity management. In my qualitative coding scheme for role strain, 90% of Latino/a respondents mentioned role strain in their interview while only 43% of non-Latino/a respondents did so. I argue this higher instance of role strain in Latino/a attorneys and judges will lead to increased competition between their role identities as legal professionals and their social identity of race/ethnicity.

Demonstration of Racial/Ethnic Category Membership

Social identity theory holds that members of social groups/categories will engage in identity management via demonstrating their group membership and by showing preference for those in their group. However, in the case of OSL, shared social identities, such as race/ethnicity, are incongruent with role identities. That is, Latino/a attorneys and judges should show in-group preference to their Latino/a clients, but their role identity competes with their social identity. Because Latino/a respondents showed more role

strain than non-Latino/a respondents (90% v. 43%), it's relevant to explore how this strain influences competition between social and role identities. I argue in this section that role strain and competing social and role identities result in systematic variation in use of identity management strategies between Latino/a and non-Latino/a attorneys and judges in terms of how they demonstrate their categorical group membership.

Influences of Social Identity for Latino/as: Demonstration of
Group/Category Membership via In-Group Similarities

As expected, then, Latino/a attorneys and judges were able to describe in-group similarities between themselves and their Latino/a defendants, a connection that non-Latino/a attorneys and judges cannot explicitly demonstrate. In-group similarities were coded as when attorneys or judges suggested they could really understand defendants' actions because of a shared personal background (either via migration history, cultural and social references, or shared upbringing). In a striking example of announcing her in-group similarities Imelda says:

“I mean, I know why OSL is so hard. It's because I would probably do the same thing as my clients if I were any of them and leave Mexico. Honestly, I am just like them. Hearing their stories and not thinking of my parents, of my grandparents, I just can't help by think about my own family. And, and, I just -- it's heartbreaking.” (Imelda, Latina, CJA).

Clearly, her family background and shared national heritage leads Imelda to demonstrate her own similarities to her clients, both in terms of shared history and also in terms of potential behaviors.

Just because all Latino/a respondents share a social identity with clients, this does not mean that all Latino/a attorneys and judges demonstrated in-group similarities based

on race/ethnicity. However, 77% of Latino/a respondents discussed some way in which they shared similar social identities with the clients they were defending. This within-group variation will be discussed in Chapter 5, but for the intents of this chapter, the overall relevant patterns of variation based on racial/ethnic social identity was that the majority of Latino/a attorneys and judges demonstrated in-group similarities based on racial/ethnic social identity (77%) and also had higher rates of role strain and more substantive justice concerns than non-Latino/as (90% v. 43%).

Influences of Social Identity for Non-Latino/as: Demonstration of
Group/Category Membership via Out-Group Differences

Overall, Latino/a attorneys and judges tended to emphasize their shared racial/ethnic identity with defendants when discussing client interactions. This variation is explored more in Chapters 5 and 6. Here now, I will focus on how non-Latino/a attorneys and judges demonstrated their recognition that they did *not* share this categorical membership with clients. Non-Latino/a attorneys and judges were more likely to describe their out-group difference from clients either directly (i.e. “I’m just some gringo”) or through describing the culture shock these migrant defendants must have coming to the U.S. compared to defendants’ home conditions. This frequent talk about individual extreme poverty with distance and no recognition of systemic causes demonstrated a lack of shared social identity and instead showed strong out-group differences. Finally, some respondents did not even think about the social identity of race/ethnicity as a factor in OSL, which I argue is a unique version of out-group differences via the concept of white privilege.

Gringos

One way that non-Latino/as demonstrated their social identities was to recognize their out-group differences from themselves and clients based on their racial/ethnic category membership. I argue this is an identity management strategy that non-Latino/a attorneys and judges use to manage their social and role identities in Operation Streamline.

Some attorneys and judges would downplay their out-group difference, while others would immediately confront the issue with clients. For this identity management strategy, I coded obvious recognition of one's non-Latino/a social identity (most commonly white) with clients as overt demonstration of out-group differences.

Barney, a non-Latino/a CJA attorney, explained to me that emphasizing his gringo status was an important icebreaker when working with clients. After hearing the Jason Johnson vignette, he had this to say about using his out-group difference as an identity management strategy for dealing with difficult clients:

One of the things that I've learned is that sometimes people need to know they can trust you. Remember, we're seeing our clients for a very short period of time, in the scheme of things, and we're asking them to buy off on a 30- to 180-day plea offer. They don't know me from Adam. So the fact is that they have to be thinking, "This white boy is my lawyer?"

Now -- I usually break the ice with them and I tell them, look -- I'll say it in Spanish so you know: "Soy gringo. Tengo orejas gringo, boca gringo, y mente gringo, so por favor si usted no me entiendes cien por ciento, déjame un ratito y voy a cambiar mi proceso." What it says is, "I'm a white guy. I've got white ears. I've got a white mouth. I've got a white brain. So if you don't understand me 100 percent just stop me and we'll do it another way, okay?" So I tell them right up that I'm a white guy. I try to break the ice with it. It's the first thing I say with them. (Barney, non-Latino, CJA)

Barney specifically suggests his Spanish-language skills might be an issue (and frankly, they are) due to his racial/ethnic identity (for more on this, see Chapter 6), but he also

stresses the importance of acknowledging first and foremost this racial/ethnic difference between himself and his client. Other non-Latino/a attorneys demonstrate this same tendency:

For some of the white attorneys, I think -- you know, I have to kind of do something extra to show that I'm not the government, you know? Making sure they know like, "Oh, I'm a gringo walking in here but I'm your attorney and I work for you, not for them" and that kind of thing. So some of those obvious barriers to break down and then I can build up their trust. (Mickey, non-Latino, CJA)

This straightforward description is an acknowledgement of the known differences between racial/ethnic social identities, especially with an affiliation to the U.S. government. 24% of non-Latino/a attorneys and judges used this identity management strategy. Others demonstrated their out-group difference in less overt ways.

Social Distances

Some non-Latino/a attorneys and judges did take the time to explain how their racial/ethnic social identity distanced them from their clients while not necessarily directly addressing issues of racial/ethnic identity, but still alluding to out-group differences. Though distancing has been traditionally used as an identity management strategy for role identities (Snow and Anderson 1987), I coded non-overt references to non-Latino/a out-group differences as social distancing from clients. Generally, these social distancing strategies had a negative valence, such as describing poor conditions where clients were from and avoiding physical contact with clients. I found that 33% of non-Latino/a respondents used social distancing as an identity management strategy. This identity management strategy is consistent with social identity theory in that one would expect members of different group to distance themselves.

In the first example, a non-Latino/a attorney describes a client who came to the U.S. to help his wife:

This client was from the mountains in Chiapas somewhere, and he kept saying he came because his wife is sick. And then finally I'm like "What exactly is wrong with your wife?" And he said, "Es una bruja." And I was like, "What's that?" you know? I had to go ask someone else, it's like, she's possessed, like a witch [laughs]. He was going to come and save up enough money to go back to Chiapas and pay the witch doctor to go and do an exorcism for her.

Then I realized how much of a different world these guys who are from the hills in Mexico, heck, anywhere in Mexico, what a different world this must be for them. That's pretty insane.

So, yeah, there's a really interesting sort of clash of cultures so to speak: being, you know, in a very straight-laced bureaucratic legal courtroom and then thinking your wife is possessed [laughs]. She's probably just mentally ill, you know what I mean? She probably just needs some sort of medication or mood changer or something like that, you know. Some Xanax or something [laughs]. (Oliver, non-Latino, CJA)

While it may be reasonable to distance oneself from the thinking of one's wife being possessed, with the addition of "heck, anywhere in Mexico" this attorney demonstrates his lack of shared social identity not just with this client, but also with all clients from this social group. As he starts to generalize about the culture clash between court and his clients' experiences, he is covertly calling out the differences between himself and his clients as an identity management strategy.

Additionally, non-Latino/as had a tendency to describe the conditions in Mexico or other countries in very hyperbolic terms, demonstrating a lack of personal experience in the region. This displays social distance via class as well as race/ethnicity. However, many Latino/as had lived in or visited Mexico and had less of a stereotypical view of "people living in garbage dumps and in cardboard boxes" (Tiffany, non-Latina, CJA). While this was one way to demonstrate sympathy for clients, it was also a demonstration of social distance from the lives clients may lead.

I talk to people, some of them were turned out of their house and lived off of garbage cans since they were like eight years old, never had a day of school, have no idea how to write their name, that cannot look at person in the eye because they're -- they're gutter people. That's who comes through Streamline, gutter people. (Sheldon, non-Latino, CJA)

While the truth is that most OSL clients are very poor in the traditional U.S. sense, they are not really “gutter people” in that they were able to gather enough resources to attempt crossing into the U.S. However, this generalization and this presumption demonstrate the social distance many attorneys and judges feel from their clients, making it easier to manage their identity while participating in Operation Streamline.

In addition to describing social distances, non-Latino/a attorneys enacted this identity management strategy of social distancing in courtroom proceedings as well. In a set of fieldnotes from early January of 2014 until May of 2014, I began noting the physical interaction of attorneys with clients. Using a list of the attorneys for the day, I would watch for anytime the attorneys would make physical contact with a client and I would note the location and type. Types of physical contact included everything from shaking the client’s hand to removing their headset for them to patting them on the back. In a demonstration of physical distance from clients, which can symbolically represent social distance, non-Latino/a attorneys were less likely to touch their clients than Latino/a attorneys. In contrast, specifically as they were being ushered out of the courtroom, Latino/a attorneys were more likely to shake their clients’ hands and provide some kind of physical comfort such as a hand on the back or shoulder or a light squeeze of the forearm. 58% Latino/a attorneys (21 out of observed 36) who were observed more than once during this time would regularly engage in physical contact (that is, had more than three tallies of touch in one courtroom session) while only 37% (seven out of the

observed 19) non-Latino/a attorneys had more than three instances of touching a client in the court proceeding. While I collected these “tallies of touch” regularly for several months, not all attorneys were included in the tallies if they missed several of their regularly scheduled days. However, the overall pattern was quite clear—nearly two-thirds of the Latino/a attorneys (especially the women) regularly engaged in physical contact while only about a third of the non-Latino/a attorneys did so.

In addition to making tallies of physical contact in the early part of 2014, I also made tallies of attorneys’ use of hand sanitizer in the courtroom. I argue this is another behavioral demonstration of the social distancing identity management strategy. Non-Latino/a attorneys, while less likely to make physical contact with clients, were more likely to use the hand sanitizer after doing so. About 79% of non-Latino/a attorneys (15 of 19) used sanitizer at any time while in the courtroom, while only about 64% (23 of 36) of Latino/a attorneys did so. Thus, another behavior pattern that I argue symbolizes the identity management strategy of social distance is the use of hand sanitizer. There are numerous pumps of alcohol-based antibacterial sanitizer on the tables in the courtroom, as I described in one early fieldnote:

The smell in the room is now familiar to me. It is a mix of the sour smell of so many defendants, unwashed and in 3-day-old clothing with the cover of antibacterial hand sanitizer. Today I count and there is one 8-ish oz. bottle of hand sanitizer on each of the many small tables in the center of the courtroom. There are also three bigger (like 32 oz.?) pumps on the table right in front of the judge’s stand. Many of the translators who handle the headsets wear blue latex gloves, as do some of the BP [Border Patrol] agents. The translators wipe the headsets with some sort of bleach wipe as they receive them back from defendants. (Fieldnotes May 21, 2013)

The use of gloves and sanitizer is, of course, for hygienic purposes but has also been seen symbolically by the media as “echoing a long history of anti-immigrant disease hysteria”

(Cohen 2015). Thus, I argue differential touching and use of hand sanitizer emphasizes social distance and that there would be a racial breakdown in touching and the use of this hand sanitizer certainly emphasizes the importance of this identity management strategy in the courtroom.

No Recognition of Racial/Ethnic Social Identity

As seen above, some non-Latino/as understood and overtly described their social identity distance from clients while others recognized this distance in a less specified way. Still others suggested that social identities were not a factor or not something that ever came into play for them during OSL. These respondents, when specifically asked about the social identity of race/ethnicity said that it was not relevant or something they ever dealt with. While only 19% of non-Latino/a respondents used this identity management strategy, these respondents were exclusively white. The most extreme example:

INTERVIEWER: I wanted to ask if race and ethnicity has ever played a role for you in Streamline?

GAVIN: Like how -- like in like what way? How would that -- Because I'm a white guy and I'm going around and I'm representing Mexicans? I don't understand.

INTERVIEWER: Well, in the vignette, for example, the race of the attorney causing the client to be upset--

GAVIN: Well, well, I didn't even catch it. Where was it?

INTERVIEWER: Oh, so it says, he says, "You're just a Mexican guy on a power trip." So it's sort of subtle.

GAVIN: Oh, I didn't -- you know what ran through my head is, I'm not Mexican so this guy is nuts. That's what ran through my head. But I'm like, whatever. I've never had that issue. Yeah, I don't think that, well -- I don't know. I -- I don't know.

INTERVIEWER: That was one of the things when I was reading about Streamline, some activists were mentioning race as a factor. But if you haven't had any experience or that's not something that you're particularly aware of or that has struck you, I mean, that's -- that's you know, relevant, too.

GAVIN: Yeah. What did I -- I didn't even know that they were saying that or using it that way. Because I don't -- I didn't even notice that. I hadn't even thought about it. I think part of it might be just because I come -- I don't know, maybe. I don't know. I'll -- I feel comfortable in just about any environment. (Gavin, non-Latino, CJA).

In a textbook example of white privilege (Rothenberg 2011), Gavin has not even thought of the potentially racialized nature of the court or about his own work. He also expresses his comfort in any situation, emphasizing that it's not a problem for him while completely ignoring it might be something clients may experience.

Based on an exploration of identity management strategies around social identity demonstration, it is clear that there are racialized patterns at work in the case of Operation Streamline. While some attorneys and judges did not experience any indications of racialized differences in their work, there were still larger level patterns that demonstrated Latino/as and non-Latino/as did experience their work differently.

Negotiated Identifications

Negotiated identifications deal with how individuals use references to time, place, people, or beliefs/ideas/values as a way of emphasizing their own identities. I argue these identifications as defined by Glaeser (2000) are used as identity management strategies that vary based on social identity. Here, I focus on three aspects of how the social identity of Latino/as versus non-Latino/as affects temporal identifications in three different areas

(with clients, pre-OSL, Streamline 2.0); spatial identifications; and beliefs/ideas/values identifications in discourse via metaphors and allusions.

Time: Insufficient Time with Clients

Latino/as were more likely to think they did not have enough time to convey information to clients in the morning sessions than non-Latinos. 35% of Latino/a attorneys suggested they sometimes had to rush or often did not have enough time to tell clients everything they wanted to say while only 10% of non-Latino/a attorneys made similar complaints. In this vein, Latino/as were more likely to say they would show up right at 9:00 AM to assure they had as much time as possible with clients and they were more likely to describe staying until the last possible moment before noon to work with clients. These negative attitudes towards the amount of time spent with clients in OSL where usually padded with attorneys saying they got the “basics” out, but that there could have been more elaboration. Thus, I suggest negotiated identification around insufficient time with clients is an identity management strategy dealing with what is often perceived to be one of the more negative aspects of OSL (that the proceeding is rushed).

While there was variation within each group, one of the main factors that also affected time-use with clients was the amount of training the attorney had had in immigration law. Interestingly, though not surprising given the expectations of a perspective of competing identity management, Latino/as (16%) were more likely than non-Latino/as (5%) to have had a background in immigration law as well as in criminal defense, which made them feel more pressed for time with clients. Orlando explains this conundrum below:

Sometimes what I frankly don't have time to relay is the immigration possibilities down the road, to be able to express it fully in a way in which they understand and they also understand the impact, the consequence of that kind of thing. Not that they have many options, you know -- at the end of the day they tell us, you know, the immigration part of it, you don't really have to advise them on it.

Well, I don't take that position. I -- sometimes, but again, sometimes the problem is you just don't have enough time to lay out the entire scenario, immigration scenario that they're facing. But in some cases, laying out the scenario isn't going to do any good because you understand and they understand that it's a lifetime deportation. So that's what the balance is, for purposes of trying to advise some clients of certain points that will help them, and other clients not advising them on points that are not going to help them. (Orlando, Latino, CJA)

In contrast, a much larger percentage of non-Latino/as (90%) were not as concerned about the time spent with clients and, when pressed, would often explain the continuance process as a “pressure release valve” (Max, non-Latino, FPD). When I would ask respondents what they would change about the system, non-Latino/as were rarely concerned about time with clients. The quote below demonstrates these justifications:

JORDAN: Yeah, activists are like, “Why aren't you up there yelling about the Constitution? And why isn't the judge just saying what a brilliant argument that is. Dismissed. Everybody's free to go” and stuff like that. Well, no, it's just -- It's not like television.

*I think we get plenty of time. And I think to the extent that we wouldn't, that there's plenty of forgiveness as far as if you need more time. Prosecutors and judges are willing to continue these cases and stuff like that. You know, we have from 9:00 until noon in the morning to meet with them. **I've never run out of time. The fact is you just run out of stuff to talk about.** You've fully done your diligence on the case and that's it. As sad as it is, that's it. So as far as the process itself, no, I don't think I would change anything.*

But, like I said, as far as whether the process should exist at all or whether the laws that give rise to the process are flawed in themselves, that's a different discussion. You know what I mean? That's just not my job. (Jordan, non-Latino, CJA, emphasis added)

Other attorneys and judges also discussed the similarities of timing with non-Streamline cases, specifically those called “flip-flops,” which is a term that generally refers to plea bargains used in the federal court. These flip-flop proceedings are similar in

content to OSL, but take place over about a week and usually include at least two visits to court for defendants and additional time to consider the plea bargain. This comparison to flip-flops was also more frequently made by non-Latino/as (48%), though some Latino/as (16%) made it as well. In a telling example, Harry, who demonstrated almost no role strain at all, explains his reaction to activists by describing how Streamline is “the same” as every other case he takes:

They've sent me these emails from time to time -- about how I can end Operation Streamline, but they don't come after me. I don't have a practice, so I think I may be under their radar. This is all I do, Streamline and flip-flops. I just have my office out of my house. My biggest expenses are toner.

*I guess I don't really think much about it. I just, it doesn't affect the way I do the proceeding. **The other thing is it [Streamline] is pretty much the same work as flip-flops.** It's just that it has a name and so it gets targeted.*

*The flip-flop calendar is just like Streamline but they get a week of time served in after they initial them. When you get assigned a flip-flop, then you go out to the prison to talk to the person. **But I give the same exact talk to them in the prison. You have the same time, too,** and then you have a similar hearing like OSL. But it seems to me not to be that different from flip-flops. (Harry, non-Latino, CJA)*

Not only does Harry not “think about it much,” a telling sign of lacking any social identity management strategies, he does not draw a distinction between his OSL clients and his flip-flop clients in terms of the time he spends talking to them. Despite having minimal time constraints when visiting clients at the prison compared to the restricted time during OSL at the courthouse, he does not participate in any identity management around insufficient time with clients. In fact, later in his interview he said he has had so many clients he can barely remember any of them so he was sure he spent the same amount of time with them all.

Overall, then Latino/as were more concerned about potentially having insufficient time with clients in the morning than non-Latinos. These Latino/a respondents

demonstrated the identity management strategy of negotiated time identification because they had thought more about the issues, wanted to see the amount of time spent with clients changed or expanded, and were more concerned about the immigration repercussions of insufficient time than non-Latinos.

Time: OSL as Better than Pre-OSL Days

A second identity management strategy related to temporal identification made by respondents was comparing Streamline to the “petty calendar” that existed before Streamline’s implementation in 2008. Respondents described Streamline as “the lesser of two evils” (Austin, non-Latino, CJA) in comparison to how clients were treated before the program existed. While both Latino/a and non-Latino/a respondents described this comparison, Latino/a attorneys and judges (48%) were more likely to provide this justification for continued involvement in the program compared to non-Latino/as (24%). They emphasized the importance of how at least there is more time spent with clients now and they are slightly more private conversations than occurred before the start of OSL in 2008.

When Streamline first began in Tucson, a group of legal professionals in consultation with members of the Border Patrol and the Department of Homeland Security had several meetings to discuss how the program would be put into action in the district. Several of the more experienced attorneys and several judges who were involved in this process described these meetings during their interviews. Before the start of OSL, there were still prosecutions of 1325s and 1326s happening, but OSL was designed to

improve how clients were being treated. Héctor, an attorney who has worked with OSL since its inception, describes this time before Streamline in detail below:

Petties used to go on the 9:30 calendar, and I'm using the 9:30 calendar as a point of reference for today. I think it used to be at 9:15 or something like that, in the pre-OSL days. But what I remember is we'd be sitting around waiting for the 10:30 hearings and the petty calendar was going before us. Defendants that were on the petty calendar used to meet their lawyer from the Public Defender's office that morning. The panel attorneys were not asked to participate in that. They used to meet their lawyers in the Public Defender's office in the holding cells with a screen in between them and they were not provided a confidential setting to meet with their lawyer. They were brought in and the one lawyer talked to a group of three, four, five of them at a time.

*They didn't even all have seats in that room. There was two fixed seats to the concrete floor. If they gave me permission, I would take you into that room and show you what I'm talking about. But imagine anyone who was over 5'4" having to kind of lean down in order to see through the screen to be able to see the lawyer on the other side at 9:00 o'clock in the morning. They were given a quick rundown by their public defender about the cases and their rights. They weren't provided with a confidential meeting. And then shortly thereafter, they were pled out, in a group hearing, upstairs before the magistrate judge. Sometimes they would get 59, 60, sometimes even more days in jail after having such a cursory review of their case with their attorneys. **So my point of reference was that travesty. And I said, well, this is a hell of a lot better.***

Because at least they're getting one-on-one face time in a chair, at a desk, with a lawyer. Yeah, there's ambient noise and, yeah, if I really wanted to I could, you know, bend my ear and overhear what's going on at the table next to me. But, for the most part, that lawyer and that client are worried about their case and this client and this lawyer are worried about this case. So this is just a much more -- a much more professional setting -- definitely, it's not breaking the rules of confidentiality the way that the public defenders used to do it, and I just thought it was a much more quality experience that they had with their lawyer in the morning for 15 or 20 minutes before seeing the judge.

Now, in the afternoon session, you know, the numbers are roughly double what we used to have in the morning and, you know, I understood that that was the prosecution initiative at the time but, for me, I was less worried about the distressing optics of the afternoon session. I was just more concerned and happy to be there participating in something where defendants got a quality experience with their lawyer in the morning. (Héctor, Latino, CJA, emphasis added)

According to Héctor, the problems of time spent and confidentiality in the “pre-OSL” days were greater in comparison to Streamline. This, in his mind, is reason enough to be involved in OSL because clients are getting better attention than before the

implementation of OSL. Thus, he is using the identity management strategy of negotiated identification with times before OSL to justify his participation. Another Latino/a attorney describes the time before OSL similarly:

And there was always a petty calendar, and there was always a 1325/1326 procedure before Streamline. And it -- I mean, look, originally, these kinds of flip-flops were an awful lot worse than Streamline. You would have ten minutes, maybe, to meet with three or four people -- and you would be meeting with them in the courtroom, giving them a plea to sign and marching them up to the judge right then. No confidentiality, hardly and time, and that was -- that was deemed okay back then. Nobody complained about that.

Then Streamline came along, which was really an awful lot better than these previous flip-flops. But, it's sort of become the poster child of everything that's wrong with everything. You know, it's -- it's funny, but, okay. People don't know that Streamline is just the latest procedural iteration of enforcement of 1325 and 1326. I mean, it's not something that's really all that different than what was going on before, other than it's slightly more organized and set aside from the other courtrooms. And honestly, it's actually better in terms of time spent with clients. I mean, these flip-flops were going through in large numbers before, too. (Oscar, Latino, FPD)

Though he differs with Héctor in terms of the numbers of defendants being processed at each time, Oscar also confirms that Federal Public Defenders were working 1325 and 1326 cases before Streamline and under worse conditions. The negotiated identification with this time before Operation Streamline done by these Latino/a attorneys and judges suggests and identity management strategy that allows them to better justify their continued involvement with Streamline because it was better than what came before.

Time: Streamline 2.0 as an Improvement

In addition to the time before Operation Streamline, there have also been a few critical changes to the program over the years it has been in place in Tucson. Specifically, in 2013, the U.S. Attorney's Office switched the focus of the program away from prosecuting first-time crossers, the original targets of OSL, to focus instead on

prosecuting “criminal aliens,” or those crossers who already had a criminal record in the U.S. For ease and clarity, I have dubbed this switch to focusing on criminal aliens “Streamline 2.0.”

This change has led to a new justification for many Streamline attorneys and judges, because now people going through OSL could otherwise be facing felony charges. Thus, an additional identity management strategy was coded as negotiated identifications with the time since the changes of Streamline 2.0. In addition to more Latino/as attorneys and judges comparing their work to the Pre-OSL days, more Latino/as (45%) also discussed the changes in Streamline 2.0 as a positive reason to be involved in Streamline compared to non-Latino/as (14%). Many non-Latino/as also discussed this, but there was more emphasis on the positive deal and non-felony benefits for clients when Latino/as discussed this change. In contrast, non-Latino/as were more likely to discuss the issues of sentencing disparity that came to flip-flop clients with this change. Thus, instances of this behavior (negotiated identification with time since Streamline 2.0) were coded as an identity management strategy and were found to be used more frequently by Latino/as.

When I asked Vivian about her “likes and dislikes” she had this to say regarding the benefits her client are now getting in Streamline 2.0:

I would hope that no one says they really like it. But if this system is in place and if Operation Streamline is in place, I think I do a pretty good job of advising the clients, helping them. I make phone calls to their families. Help them get their property. Things that I think maybe another attorney might not do. So at least I can offer that to them.

But as far as liking the program, I mean, obviously I don't think anybody wants people to go to prison for immigration offenses. But now, which is different than when Streamline first started, there are those clients who are really benefiting. I have people who are going through the felony system who have less severe backgrounds than some of the people who are coming through Streamline

now. So on one end, they're getting a benefit and I do like that part about it. But it's always hard to see somebody with no real criminal history have another prior after Streamline. (Vivian, Latina, CJA)

Despite opening with her own extra efforts and then describing her own distaste for the program, Vivian also gives the added description of how Streamline may now actually be a better deal for clients than going through the regular system – at least if they were to be charged on just the felony offense. This justification represents this specific identity management strategy of negotiating her identification with the times since Streamline

2.0. Esteban also describes the process more in depth below with special attention to the immigration consequences of having a felony.

With that change, though, now we're finding that a lot of the ones that are in through Streamline have been here many times. And so, yeah, it's become a little different now, you know, the way of handling some -- well, most of these cases. We're dealing with a lot of people here that are getting the maximum sentences through Streamline, which --- well that's another benefit, I think, right now, that some people don't understand, is that a lot of individuals now have -- there's a huge benefit to going through Streamline.

*Because there -- a lot of them have prior felonies, and so that bumps them up into different levels of incarceration and punishment. So we're talking about individuals that if -- they may get a maximum of eight months or six months through Streamline, but if they were to go through the regular process, we're looking about three years, four years, five years, six years, you know, in prison. **So it's a big benefit to some of these individuals.** And so they're more than happy to accept the 180 days.*

***Yeah, and you know, and another thing I think some people don't understand in that benefits too, is that you're leaving with a misdemeanor instead of the felony.** Some of the individuals that come across have families here that have kids that are from here -- that are born here. Yeah, most of them have kids -- and there's only certain individuals that can bring you here legally, or keep you here and make you a citizen, or whatever. And so children are one of them. They have to reach a certain age and you can also get it through spouses, parents and such, but you can't have a felony.*

I mean that's one of the things. So if they come through Streamline and they leave with a misdemeanor, you know, at least they now have that knowledge. I always tell them that if you come back again, you may not have that luxury of getting out with just a misdemeanor. And so it's worth their while to at least try to come through in a legal way with their family in 5 years, but I mean, it's hard. I

understand. I understand why they try this way. But I try to tell them what they are doing and that's all I can do. (Esteban, Latino, CJA, emphasis added)

In addition to explaining the different sentences Streamline 2.0 clients would otherwise be facing if they went through on felony charges, Esteban explains why the lack of a felony charge can have bearing on later immigration claims and criminal claims. Showing not only the higher level of concern with immigration issues, Esteban also shows that he is particularly understanding of the situation clients are in and recognizes that he can at least try to explain other options. Thus, it is in line with my perspective of competing identity management that more Latino/as would engage in this particular identity management strategy because they feel more strain of being involved in OSL due to their social identity shared with defendants.

Place: Oh, Canada

Another negotiated identification used by respondents was a reference to place, specifically the Canadian versus Mexican border with the U.S. This often came up when I would ask about the relevance of race/ethnicity to the Streamline process. Latino/as would use this comparison to explain that Canadians would likely be treated better than the primarily Mexican defendants in OSL and non-Latino/as would make the exact opposite case.

Six out of seven references to Canada by non-Latino/as were brought up in the race/ethnicity portion of the interviews to describe the fact that the program would treat all undocumented entrants the same, even if they were white. One judge, responding to the idea that activists have highlighted the racialized component to OSL gave the following response and hypothetical:

“That to me is the most ignorant kind of statement I can imagine. I mean there just aren’t a lot of German or Italian illegal aliens trying to get into the U.S. illegally. I would submit to you that if there was a problem with immigration in Canada, there would be the same kind of response and it would be white people that would be coming in. They would absolutely just transfer Streamline to those courts if that were the case.” (Judge Angle, non-Latino)

The judge goes on to describe the economic root of the problem, but denies that race or ethnicity has anything to do with Streamline. Barney—who was one of the three total attorneys out of all respondents who supported and defended OSL and wanted to expand the program—made the point that OSL-type programs *should* be everywhere, including Canada if they were needed:

There are a lot of things that the good folks who want to end Operation Streamline just don't get. So while I understand their heart, I just think that they're trying to put a death nail into Operation Streamline and, quite frankly, I think they should increase it.

I think every single person arrested -- caught in the country should go through Operation Streamline, wherever they are, no matter their race. Operation Streamline shouldn't be just here. If we need an Operation Streamline in Canada, to those Canadians that are coming across the border – {fakes Canadian accent} you know what I'm talking about, eh? You know those hosers? {end accent} You know, if that's what's going to be, great, but we should have Operation Streamline in not just Tucson, Arizona, or Yuma, or Texas. It should be in Florida, in Georgia, in Atlanta, in Canada. It should be everywhere. There should be this kind of streamline process to get people here illegally out of the country. They shouldn't be here, you know. We don't have an immigration problem. We just have an unwillingness to buck up our immigration process. (Barney, non-Latino, CJA).

In supporting not only Operation Streamline as it is currently in place, but suggesting it’s expansion to a truly zero-tolerance program, Barney suggests that Canadians should be treated the exact same way if they are going to come to the U.S. without documentation (even while not naming a single state that borders with Canada but instead naming Canada).

In contrast to these above non-Latino/a uses of negotiated identifications with the Canadian border, Latino/a attorneys and judges described the exact opposite reaction in comparing OSL to Canada, which I argue is precisely because these Latino/a attorneys' and judges' social identity has influenced their perception of the work they do and the program itself. In the example below, Imelda, while hesitant to call Streamline racist, suggests that if the population going through the program were white the defendants would be treated better.

INTERVIEWER: Do those kind of racial or ethnic tensions ever come up around Streamline in your experience?

IMELDA: I guess we don't have much to compare it to is the problem. There's not a bunch of whites-- a group of white people coming across. Maybe in Canada if there was a mass exit or influx of Canadian people coming across the border unfettered, maybe we'd have something to compare it to. But I guess we just don't,

I think it looks worse in Streamline because they're handcuffed and they're dirty because they just brought them in from the desert, they don't clean them up. Um, I don't want to say it's racial, but it's a bit inhumane why they would keep them in this warehouse for 2 days, no shower. It's this big ole cage with this bench, you know. And some of these people are in there for 3 days, if they unfortunately caught them on a Thursday afternoon. They can be in there and no showers and it looks like one of those things where they hose it down when they get a new group out. They hose it down and get a new group in.

*And in court, um, you know, it doesn't look great to have all these dark-skinned clients chained. I guess, I don't want to say racial, just because you don't have anything to compare it to, but it is inhumane. **My thinking, though, would be that if there was an influx of white Canadian people coming across the border, they would treat them better. Yah, I definitely think they would, so maybe that is a racial tension.** (Imelda, Latina, CJA)*

She describes the inhumane treatment of clients and, though she ends with an emphasis of what would be unequal treatment of “white Canadians” and “dark-skinned clients,” it takes Imelda following through with her own analogy to really describe the process as racialized. However, some Latino/a respondents were quick to say things like: “I don't know that any Canadian in his right mind would want to come into this country, but if he

did, he sure wouldn't be sent through something as awful as Streamline.” (Hugo, Latino, CJA). Thus, though only 10% of Latino/a respondents used the identity management strategy of negotiated identification with Canada, they all did so to describe OSL negatively with reference to Canada. In contrast, 33% of non-Latino/as used this identity management strategy and all but 1 respondent did so to suggest a positive comparison-- that is, white Canadian migrants and current OSL migrants would be treated the same.

Beliefs/Ideas/Values: Common Metaphors and Allusions

Sometimes strain was dealt with through negotiated identifications that were linked to commonly shared beliefs/ideas/values. Latino/a respondents were more empathetic to clients and to activists in their interviews as demonstrated by their increased role strain (90% v. 43%, as described earlier). To deal with strain, one identity management strategy used more often by Latino/a respondents (45%) than by non-Latino/a respondents (24%) was using metaphors and allusions in their descriptions of the OSL process and their perspectives on clients. Thus, I argue that this shared discourse is an example of negotiated identifications with certain beliefs/ideas/values. In this section, I describe the identity management strategy of negotiated identifications with certain beliefs/ideas/values that became apparent through the use of common metaphors and allusions.

The vivid use of metaphors more frequently used by Latino/a respondents is an identity management strategy that provides strong testament to the role strain experienced by Latino/a attorneys and judges. Prior literature on immigration related media coverage specifically has shown that “everyday metaphor...weaves the patterns of social relations

into natural language expression” (Santa Ana, 2002:19-20). Here is a collection of two sets of the most common metaphors that were used more often by Latino/a respondents than by non-Latino/a respondents:

Animal Metaphors

*It’s as if you’re trying to do something or trying to make a difference but it’s almost like trying to save **one fish in a huge oil spill**. (Estelle, Latina, CJA, emphasis added)*

*If you could just bring your clients in and meet with the judge and then move forward, you know, you’re done. It would take a lot less time and it wouldn’t be such a waste of time. But I understand there’s numbers so unfortunately, **it’s like a cattle call**. So I dislike, I dislike the fact that it takes a lot of patience to sit there and hear the same things over and over again all day. (Julio, Latino, CJA, emphasis added)*

*I dislike just the en masse proceeding -- just -- **it’s like leading sheep to the slaughterhouse**. I hate the lack of individuality or whatever. Of course, it would be impossible to do one person at a time. I mean, you’d be there a week or two. But I don’t like that at all. (Sabrina, Latina, CJA, emphasis added)*

*What would I change about Streamline? You know, number one, they should **stop treating them like animals**. They should let them take a shower. You know, a lot of these people have been in the -- I mean, how degrading is that? You know how many people -- I don’t want to talk to you because I haven’t brushed my teeth in four days or whatever. And you feel bad for them. And they’re like, sorry I smell so bad. I know, dude. You know, that’s fine. That’s what they need to change. They need to start treating them with more respect. And I think if they’re treated with more respect, they’re probably going to be less combative. (Andrew, Latino, CJA, emphasis added)*

Cog Metaphors

*Streamline is really just terribly sad and offensive. We’re just **a cog in this big machine** of locking people up.” (Soledad, Latina, CJA, emphasis added)*

*But I called them [the activists] back and I told them, you know, I understand what your goal is. And that’s fine, I am not against you on principle. But that’s not -- that’s not what we do. We don’t write laws. I would like to write laws, but they won’t let me. You know, so I -- **I’m a very low level cog in the system**, and I may agree with a lot of their ideas, and even, you know, and a lot of times I do agree with a lot of their ideas. But even some of my clients would prefer*

Streamline than the -- than the other options that are currently available. (Oscar, Latino, FPD, emphasis added)

*Sometimes you go in there, or I go in there, thinking “Okay I’m here as a lawyer” but you don’t feel like a lawyer. You kind of feel like a pawn for the government, you’re just there for show. I mean they probably would have made the discussion to take the plea on their own. It’s a safe guard to ensure that it’s not you know, they take this and their really not a citizen and it’s not just like someone said just sign here but that’s pretty much it. **Just a cog in the wheel.** (Santana, Latina, CJA, emphasis added)*

This pattern of a sense of lacking of control (being a cog) and the inhumane way clients were treated (like animals) was not only evidenced in interviews, but also was supported by behavioral observations. That is, Latino/a attorneys had markedly different client interactions in court proceedings. Specifically, as noted previously, they had more physical interactions with clients and used less hand sanitizer after working with clients, which also demonstrates their more humane nature by touching clients and not treating them as unclean.

Allusions to Human Rights Abuses

Another literary device used exclusively by Latino/a attorneys was to compare the problematic nature of Operation Streamline to other more egregious human rights abuses. Two common references were the Holocaust and Japanese Internment Camps.

Two Latino/a attorneys cited the Holocaust. One straight out suggested Operation Streamline was going to come out on “the wrong side of history, like the Holocaust or something.” (*Orlando, Latino, CJA*).

The other attorney who mentioned this allusion had a more complicated, two-part metaphor. He compared the entire practice of criminalizing migrants to Hitler’s

Germany, but suggested that the felony prosecutions were more serious than Streamline.

He compares Operation Streamline to the early deportation of Jews and felony convictions (only charging people with 1326) to death camps.

It is unconstitutional, but they're all unconstitutional, which takes me back to this premise: for people opposing Streamline, I would cite a parallel of Hitler's Germany. So, Streamline is unconstitutional, but the consequences are pretty light when you compare them to the felonies—both 1326 where people just walking in and are getting two, three, four years because of prior criminal history and in general—people doing life for drugs or assaults or other things. Felonies, obviously, are worse; Streamline is way down here [motions with one hand at eye level and one hand near table to demonstrate differences].

So, like I was saying, I would draw the parallel to Hitler's Germany. It was unconstitutional and oppressive for the Nazis to have been deporting Jews, but would you have been objecting to them being deported rather than being sent to the death camps? No, you'd be focusing on the worse consequence. Deporting's pretty bad, you know, you're leaving your homeland, you're leaving your house, your business, you've got to go build a house somewhere else, but you know what? You're alive. We ought to be protesting over here at the death camps, because here, these people are, you know, we're talking awful, worse consequence. So, no, I -- it is unconstitutional, but going into felony land is way worse than Streamline. They don't see that. (Craig, Latino, CJA).

Interestingly, instead of following one logical conclusion that he may be the metaphorical equivalent of an SS Officer, he uses this as a way to dismiss the activist critical focus on Operation Streamline. Without indicting himself, he simply tries to shift the focus away from the problems of Operation Streamline to the broader immigration system. This is an example of negotiated identifications with certain beliefs/ideas/values as an identity management strategy.

Another common allusion to an extreme human rights abuse incident used only by Latino/as was Japanese Internment Camps. Three Latino/a attorneys used this allusion.

The clearest one follows:

The fact of the matter is that this country, whether we like it or not, has these laws. And it has the right to protect its boundaries. The fact, though, that it is doing it in an immoral way is something that we need to discuss as a population

because we, as a population, need to be educated about how the constitution is being implemented. And we need to communicate with the administration, with our Congress people, and say, "No, we're not going to allow you to water down their rights." Would we allow another Japanese Internment?

I don't know if you listen to NPR but they were talking on Arizona Spotlight. They were talking about a guy who was interned at the Japanese internment camp here on the Catalina Mountains because he violated the curfew law. And I -- I don't see this as being any different. You know. And we have an obligation to bear witness, because in 20 years, or 30 years, or who knows, because now things take so little time, when we go back and we look at this, I don't want to say, what happened? Because it'll be gone in memory. So I see myself as a witness. (Valentina, Latina, FPD)

Again, emphasizing a substantive justice claim against OSL (immorality), Valentina suggests her role is to be a witness to a travesty similar to internment camps. Perhaps because she is a Federal Public Defender and is required to do Streamline (unlike volunteering to participate as a CJA attorney) she sees herself not as a guard at the camp, but a more neutral witness.

Varying Strategies of Role Identity Management

Another way Latino/a and non-Latino/a attorneys and judges differed was in their use of the various identity management strategies directly related to their role identity, especially those as developed by S. Stryker (1980), Snow and Anderson (1987), Snow and McAdam (2000), and others as explained in prior chapters. Latino/a attorneys and judges were more likely to use strategies of role-making/identity extension; psychological compartmentalization; and fictive story telling. Contrastingly, non-Latino/a attorneys and judges used fewer of these strategies and were more likely to use role-playing and identity avowal.

Role Making/Identity Extension v. Role Playing

Non-Latino/a attorneys and judges more often just “went through the motions” of their role in OSL, playing it out as directed. This identity management strategy was coded as role-playing. On the other hand, Latino/a attorneys and judges often had to do more identity management work in order to make their actual daily work during OSL fit into their conceptions of the role of “attorney” or “judge.” I coded this expansion of the “typical program” as role-making/identity extension. I argue the discrepancy in using the identity management strategies of role making/identity extension or role-playing is due to the initial salience of the Latino/a social identity for Latino/a respondents. Role playing, a more basic identity management strategy, was used by 52% of non-Latino/a respondents and only 32% of Latino/a respondents. Role making/identity extension, a more intensive identity management strategy, was almost reversed, with 55% of Latino/a respondents and only 24% of non-Latino/a respondents.

First, in an example of role-playing, Barney, a non-Latino/a attorney gives a description of his daily work with clients:

“My program is basically to explain it in the most simple, straightforward, uncomplicated way. I can give my little speech to people, my little presentation, if you will, in about ten minutes. It gives them enough time and I get my job done.

The other five or six minutes that I spend with them, I find out whether or not their parents were born in the United States, whether they were born in the United States, whether they had legal status to be here in the United States, if they have any claim for the right to be here. That's one of the first things I do when I talk to somebody.

So the first five or seven minutes is sort of, hey, how are you; how are you feeling; are those comfortable; tell me how that is, you know what I'm saying? Are you comfortable -- try to make a little rapport with them. So that's five to seven minutes. Then I gather needed information and then I spend ten minutes on my program. They sign it. The end. So it takes me about 20 to 25 minutes per client and that's what I do.” (Barney, non-Latino, CJA)

Barney's abbreviated version of what he does in the morning session with clients demonstrates that he has a very set routine that he then follows for each client. There is not much creativity or making beyond just "going through the motions" as Reynold another non-Latino/a CJA respondent described it. Similar to a comparison of OSL to Flip-flops made earlier by Harry, Jordan describes how much of his work is quite similar and very straightforward:

*You know, I think that might be one of like the things or the criticisms that you hear -- is that they're being railroaded, you're churning them through. If they had been processed normally and there was no Streamline, they would just be up at Florence [the nearest Federal Corrections Center]. And I would drive up there to meet them, and **I would spend the same amount of time with them, because, at some point, you run out of things to talk about, because it is very simple.** ...if they've been arrested for it, then they're guilty of the crime. And so it's actually, you know, despite the fact that they are facing significant jail time and it is hard on them, **it truly is a relatively simple thing in terms of the legal aspects.** And once you get the right facts out there, it doesn't -- well, there's not much more to talk about. (Jordan, non-Latino, CJA, emphasis added)*

In comparison to the identity management strategy of role playing and going through the motions as seen above, the identity management strategy of role making/identity extension involves trying to expand the typical agenda in a way that shows extra care towards clients in order to ease role strain. Role making/identity extension was coded as adding items to the "basic program" described by Barney above. The main item coded for this extra effort that was described by both Latino/a and non-Latino/a attorneys, but more often by Latino/a attorneys was calling families. Only 13% of non-Latino/a attorneys mentioned this practice, while 48% of Latino/a attorneys mentioned this activity. They also made special mention that it goes above their regular duties.

“And then, of course, if they have somebody here in the United States and say, where were you going? What were you going to do? Have you been to the court before? Is there somebody there I can call? If there is, I’ll call them right then and there. I did it with three of the clients today. And the third one, I’ll call Mexico when I get back to the office just to let them know that they’re okay.”

INTERVIEWER: Yeah, that’s really good to be able to let their families know.

SALVADOR: Yah, I think I’m the one that started it. But now I have seen several attorneys who are doing it. So that’s good. It’s not something we have to do, but you can see -- when you call and they’re able to listen. You can’t hand them the phone because of the Marshals, but it puts them at ease to know their family knows they’re OK.” (Salvador, CJA, Latino)

This additional effort put forth to call families was often used as a claim for both role making/identity extension as well. As seen above and in other cases, attorneys who made the call knew this was going above the traditional role. One Latino/a attorney explained that even though they don’t bill for that time, they call the families on their lunch break so that they can tell defendants in the afternoon session that the families know they are in custody.

This role making/identity extension expanded to court behavior as well as interview descriptions of their work. One specific example comes in the form of “stand ins.” Sometimes, attorneys would have other proceedings to participate in at the same time as OSL proceedings. For example, some would have 2:00 pm initial appearances up on the 5th or 6th floor of the court building while the OSL proceeding was happening. If this were the case, the attorney who had to step out would ask another attorney to fill in for him if his client got called up. The first time this happened I described it in my filed notes as such:

As I sat, the judge began to introduce himself to the court. One of the lawyers – Gavin – explained that he had another appearance at 2pm and would have to leave, but another lawyer – Logan – was going to be covering his cases for him here. The judge nodded and moved along. WHAT?! It strikes me as crazy that one

lawyer can literally just stand in for another in this proceeding. It is SO very scripted, rote, and mechanical that the actual lawyer doesn't even need to be there to "defend" his clients. This is an example of how non-personal Streamline is -- the lawyers seem to be merely placeholders. (Fieldnotes May 8, 2013)

While I only observed this behavior in my fieldnotes 8 times over the course of my visits, 6 of the eight people who had to leave were non-Latino/a attorneys. And while sometimes these conflicts were unavoidable based on court scheduling, many attorneys told me in their interviews they intentionally do not schedule other meetings on the day they have OSL, which demonstrates more commitment to the program. That is, I argue that having to leave OSL is not an absolute constraint, but a choice some attorneys would make. However, the ability for one attorney to simply "stand in" for another shows the prevalence of role-playing over role making/identity extension for the non-Latino/a attorneys who more often used stand-ins.

Psychological Compartmentalization

One specific role identity management strategy that was used exclusively by Latino/a attorneys and judges was psychological compartmentalization. Nineteen percent of the Latino/a attorneys and judges used this identity management strategy as a way of "boxing off" or "splitting up" their work at Streamline in order to cope or create emotional boundaries from the role strain they might experience at work. The strongest example directly used the term compartmentalize:

INTERVIEWER: Have you ever had any trouble with taking work home or--

*CESAR: No. No, I don't have any trouble. **I know how to compartmentalize. You just think about the task at hand.** And that's the way I do everything in my life. And I think men aren't as emotional as women. Women are more touchy-feely, really care, you know. I care, but not to the point where it affects me. I mean I have no control. I look at it this way, if it's something I did wrong that's causing,*

you know, harm to someone, that's something I'd worry about. But nothing I do here causes harm to anybody. I'm helping them. I'm the only one helping them. I mean, I can't control that they're going to get 180 days, you know, but I do hear some really sad stories and I can't do anything about it, you know, so I just let that go. (César, CJA, Latino, emphasis added)

In this example, César emphasizes the importance of staying within his role as an attorney and focusing on “the task at hand.” He describes this as a gender factor (which will be discussed more in depth in chapter 5) but also explains he has no control over what happens beyond his direct interaction with clients, so he will not think about his work role affecting his other identities beyond that scenario. I argue psychological compartmentalization is an identity management strategy used for dealing with role strain as well as competing social and role identities, given that none of the non-Latino/a respondents used this strategy.

Fictive Story Telling

Another identity management strategy that was used exclusively by Latino/as was the use of fictive story telling. As developed by Snow and Anderson (1987; 1993), one use of fictive story telling occurs when respondents use embellishment or hyperbole to explain how they got to where they are, or how they landed in their current identity. I suggest this kind of fictive story telling is an identity management strategy that is used exclusively by Latino/a respondents (though only 13%) for dealing with role strain as well as competing social and role identities they face in OSL.

My first interview question to respondents asked them to tell me how they ended up working in criminal defense and ultimately in Streamline. Latino/as were more likely to go into great detail about how they became attorneys and judges, whereas many of the

non-Latino/a respondents explained more matter-of-factly how they ended up in law school. In fact, many non-Latino/a attorneys used phrases like “flipped a coin” or “nothing else to do” when describing their career past. In contrast, many Latino/a respondents described their activist oriented past, the desire to help people, and other more reasoned causes for entering their career.

As might be expected in these career history “flashbacks,” there were examples of vivid story telling, which was then coded as fictive story telling *a la* Snow and Anderson (1987). Fictive story telling is an identity management strategy used to emphasize the importance of the current role a respondent holds, which minimizes role strain. A particularly telling racialized example is below.

Born and raised here in south Tucson. Flat-broke poor.

INTERVIEWER: So how did you decide that you wanted to go to law school?

MICAH: Well, you know, in Hispanic culture, the guy who wears the tie is somebody. Okay? So one day -- and so I knew lawyers wore ties, just for starters. But one day, I remember this so vividly, my dad worked for [an office], and I remember us being on vacation. We were at Disneyland and all the kids wanted to stay. And so my dad called and I remember him begging his boss to let us stay an extra three days, over the phone. And I said to myself, I am never, ever going to be put in that situation. So I figured a lawyer is the kind of guy that doesn't beg for vacation time, and of course, wears a tie {motions to his own tie on chest}. (Micah, Latino, CJA)

By first describing an ideal-type powerful lawyer with a tie, Micah then tells of his own past to allude to his career choices as a self-employed lawyer who does in fact wear ties, which for him symbolizes power and autonomy. This identity management strategy provides a description of how he has come into his role, but tellingly, it is prefaced with his social identity as part of a shared idea of status in Hispanic culture.

Summary

In line with a perspective of competing identity management, the salient social identity of race/ethnicity for Latino/a attorneys and judges was expected to create patterns in variation of how attorneys and judges manage both experiences of role strain and competition between their social and their work role identities in OSL. Indeed, as expected, Latino/a attorneys and judges (90%) expressed more role strain about being involved in OSL than non-Latino/as (43%) based on their shared social identities with defendants. These Latino/a legal professionals are pulled more heavily towards the substantive justice pole of their role identity, which causes them to engage in different identity management work than do non-Latino/as when justifying their participation in OSL.

In addition to Latino/a respondents expressing more role strain, there were also systematically patterned behaviors in terms of identity management strategies when examined between Latino/a and non-Latino/a respondents. Table 4.1 below provides a summary of the identity management strategies discussed in this chapter as they break down by racial/ethnic group.

Table 4.1: Identity Management Strategies by Racial/Ethnic Group

Strategy	Definition	Example	Group Using Strategy More	% Latino/a Using Strategy (N = 31)	% Non-Latino/a Using Strategy (N = 21)
<i>Dealing with Role Strain</i>					
Identity Consolidation	Recognizing the substantive justice issues around OSL while using formal-legal justice and a desire to help defendants to explain their continued participation	"You might think it's unjust, but it's perfectly legal [...] It's not unethical to represent or defend somebody who's charged with a crime."	Latino/as	55%	48%

<i>Influences of Social Identity</i>					
Demonstration of In-Group Similarities	Understanding defendants' actions because of a shared personal background (either via migration history, cultural and social references, or shared upbringing)	"Honestly, I am just like them."	Only Latino/as share Social Identities with Defendants	77%	----
Overt Demonstration of Out-Group Differences	Obvious recognition of one's non-Latino/a social identity	" <i>Soy gringo</i> [...] I'm a white guy. I've got white ears. I've got a white mouth. I've got a white brain."	Non-Latino/as do not share Social Identities with Defendants	----	24%
Social Distancing/Out-Group Negativity	Non-overt references to non-Latino/as out-group differences, specifically those that had a negative valence	"Then I realized how much of a different world [...] this must be for them."	Non-Latino/as do not share Social Identities with Defendants	----	33%
Social Distancing via White Privilege	Privileged lack of awareness around racial/ethnic social identities.	"I hadn't even thought about it."	Non-Latino/as do not share Social Identities with Defendants	----	19%
<i>Negotiated Identifications</i>					
Time: Insufficient Time with Clients	Negative attitudes towards the amount of time spent attorneys with clients in OSL	"Sometimes the problem is you just don't have enough time to lay out the entire scenario"	Latino/as more likely to say insufficient time	35%	10%
Time: OSL as Better than Pre-OSL Days	Comparing OSL to the "petty calendar" that existed before OSL's implementation in 2008 and deeming it better	"So my point of reference was that travesty. And I said, well, this is a hell of a lot better."	Latino/as more likely to use as justification	48%	24%
Time: Streamline 2.0 as an Improvement	Comparing OSL at the start (2008) to OSL since changes made in 2013 and deeming it an improvement	"But now, which is different than when Streamline first started, there are those clients who are really benefiting."	Latino/as more likely to use as justification	45%	14%
Place: Oh, Canada	Latino/as use comparison to explain that Canadians would be treated better than Mexicans ----- Non-Latino/as make opposite case	"My thinking, though, would be that if there was an influx of white Canadian people coming across the border, they would treat them better." - Latino/a ----- "I would submit to you that if there was a problem with immigration in Canada, there would be the same kind of response and it would be white people that would be coming in" - Non-Latino/a	Latino/as more likely to problematize ----- Non-Latino/as more likely to use as justification	10%	33%

Beliefs/Ideas/Values: Common Metaphors and Allusions	Animal Metaphors	"It's like a cattle call"			
	-----	-----			
	Cog Metaphors	"I'm a very low level cog in the system"	Latino/as	45%	24%
	-----	-----			
	Allusions to other Human Rights Abuses	Holocaust; Japanese Internment			

<i>Role Identity Management Strategies</i>					
Role Playing	Simply going through the motions of your daily work in OSL	"It truly is a relatively simple thing in terms of the legal aspects."	Non-Latino/as	32%	52%
Role Making/Identity Extension	Trying to expand the typical program of daily work in OSL to diminish role strain	Calling defendants' families	Latino/as	55%	24%
Psychological Compartmentalization	Separating work at OSL in order to cope with role strain	"I know how to compartmentalize. You just think about the task at hand."	Latino/as	19%	0%
Fictive Story Telling	Use of embellishment or hyperbole to explain how respondents got to where they are	"And I said to myself, I am never, ever going to be put in that situation"	Latino/as	13%	0%

To deal with role strain, Latino/as were more likely to use the identity management strategy of identity consolidation. In terms of social identity management strategies, a majority of Latino/as also explained in-group similarity to their clients, while many non-Latino/as demonstrated their out-group differences from clients. Some of these out-group differences were explicit, while others were more covert or some completely lacking in recognition, this is in line with prior work on the lack of recognition that whites have a race (Lewis 2004).

Latino/as also displayed specific patterns in negotiated identifications with time, place, and beliefs/ideas/values compared to non-Latinos. Latino/as were more likely to say they had insufficient time with clients and use identity management strategies of negotiated identifications with different historical times (Pre-OSL and Streamline 2.0) to justify their participation in OSL. Latino/as were also more likely to engage in identity

management strategies via negotiated identification with place by problematizing OSL with a hypothetical comparison to the Canadian border while non-Latino/as did the opposite. Finally, Latino/as were also more likely to engage in identity management strategies via negotiated identification with beliefs/ideas/values via metaphors that compared defendants to animals and themselves to cogs, as well as allusions of OSL to other human rights abuses such as the Holocaust and Japanese Internment Camps.

Latino/a role identity management work also focused on role making/identity extension, psychological compartmentalization, and fictive story telling, while non-Latino/a attorneys and judges were more likely to engage in the identity management strategy of role-playing.

Overall, the higher levels of role strain for Latino/as and these differential usages of identity management strategies based on racial/ethnic social identity supports my perspective of competing identity management because Latino/as were more likely to experience competition between their racial/ethnic social identity and their role identity as attorneys or judges. However, the story is not as simple as that, as will be explored via variation within the group of Latino/a attorneys and judges in Chapter 5.

CHAPTER 5: “I’M AN AMERICAN. THE PROBLEM IS THIS: YOU THINK I’M A MEXICAN” — VARIATION WITHIN LATINO/A ATTORNEYS AND JUDGES IN OSL

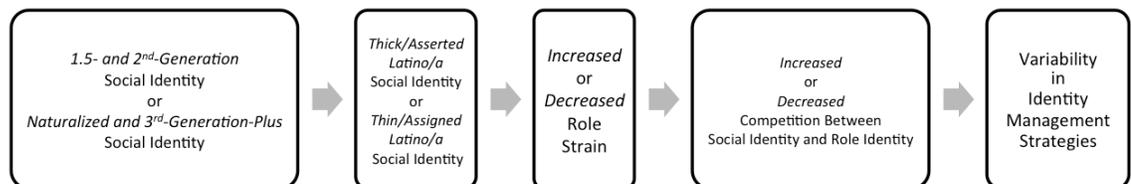
While there were certainly patterns of distinction between Latino/a and non-Latino/a attorneys and judges, as demonstrated in Chapter 4, there was also variation within these groups. In this chapter, I will discuss two other social identities that resulted in variation of identity management strategies within the Latino/a attorneys and judges: citizenship/generational status and gender.

Many scholars have called for increased research on variation within the pan-ethnic cluster of “Latinos” (Jimenez 2010; Ochoa 2004) based on other characteristics such as immigration status, language usage, class, etc. Findings about this group are often over-generalized by not only the public, but by scholars who lack sufficient data to make distinctions on various other demographic factors. Given the qualitative nature of this research, I am especially well positioned to explore variation within the social identity category of Latino/as.

This chapter presents the findings around my initial expectations summarized in Figure 5.1 below. Given that Operation Streamline is focused on citizenship as a legal qualifier, I expected Latino/a attorneys’ and judges’ identity management strategies to vary based on their own citizenship/generational background. Though all the attorneys and judges who practiced in Operation Streamline were U.S. citizens, there was quite a bit of diversity in citizenship/generational status. This diversity influenced how respondents thought about the salience of their racial/ethnic identity as well as

influencing their experiences of role strain, social and role identity competition, and use of identity management strategies.

Figure 5.1: Identity Management Within Latino/as



Latino/a attorneys and judges who came to the U.S. as young children or whose parents immigrated to the U.S. (defined here as 1.5- and second-generation) had “thicker” racial/ethnic social identities and were more likely to experience role strain and increased social and role identity competition. I argue this thicker identity for 1.5- and second-generation migrants is due to a close social proximity to migrants via one’s parents, but also a shared reference to the U.S. as “home” and a strong Americanized social identity. This understanding of the migrant experience combined with a solid U.S. upbringing increases 1.5- and second-generation respondents’ racial/ethnic social identity, levels of strain, subsequent competition between social and role identities, and their use of identity management strategies.

Contrastingly, those who were naturalized/migrated themselves later in life and those who have been in the U.S. from the third-generation-plus had thinner racial/ethnic identities and experienced less role strain. I argue this is because respondents who were naturalized/migrated themselves later in life are intentionally trying to distance themselves from their defendants and thus felt less strain and competition from their social and role identity. That is to say, immigrating later in life is associated with more conscious thinking about wanting to give up being Mexican in favor of being American. Additionally, those in the third-generation plus do not have personal experience with

parent's or their own migration and have always identified with the U.S. This group also distanced themselves from defendants because they wanted to be seen as fully Americanized. Thus, in line with the competing identity management perspective, those respondents who were naturalized/migrated themselves later in life and those from the third-generation-plus demonstrated fewer incidents of role strain and competition between their social and role identities due to this thin identity and then systematically varied in their use of identity management strategies.

The variation in identity management strategies between these two groups of Latino/a respondents (1.5- and second-generation and naturalized/migrated themselves later in life and third-generation-plus) bore a striking resemblance to the patterns seen between Latino/as and non-Latino/as in Chapter 4. The systemic patterns in using identity management strategies were the same between the compared groups for all strategies except for negotiated identifications with the time since Streamline 2.0 began.

In the second part of the chapter, I explore the influence of gender as a relevant social identity. Latina (female) attorneys and judges were more likely to demonstrate role strain and describe competition between their social and role identities than Latino (male) attorneys and judges (100% v. 86%). However, the exact relationship between gender and other social and role identities is not fully clear at this time, given that it was not initially hypothesized and I have a dearth of data for non-Latina female respondents, making comparisons with this group problematic. However, some patterns based on coding of gender did become clear in the analysis and are worthy of including here.

First, male attorneys and judges, both Latino and non-Latino, discussed worrying about female clients in what I argue is a form of benevolent sexism that increases role

strain for these particular male respondents. Second, female attorneys and judges were also more likely to sympathize with their migrant defendants than their male counterparts overall, resulting in extra issues of emotional management and increased role strain. Third, Latinas specifically—due to interactions between social identities of race/ethnicity and gender—were more likely to engage in conscientious impression management *a la* Goffman (1967) and had to work extra hard to establish authority and credibility with clients due to their gender. Finally, these Latina attorneys were also more likely to have an activist background and describe their role as attorneys with an intention of serving others and improving their life conditions, which increased their level of role strain.

Citizenship/Generational Status

Among Latino/a attorneys and judges, there were a variety of factors that contributed to their social identity of race/ethnicity. Though salience is often a term associated with role identities, I argue here that Latino/a respondents vary in the salience of their racial/ethnic social identity, which would in turn affect role strain, competition between social and role identities and use of identity management strategies. In order to further specify what I mean by the salience of the racial/ethnic social identity, I turn to the social constructionist point of view on racial/ethnic identities. Cornell and Hartmann (1998) use two axes to describe variation in racial/ethnic identity: “thick v. thin” (how much one’s racial/ethnic identity organizes one’s life) and “assigned v. asserted” (to what degree do external versus internal forces create and maintain racial/ethnic identity). Thus, we can think of Latino/a respondents as having variation in the salience of their social identity in terms of thick/asserted identities and thin/assigned identities.

Based on the relevance of citizenship in criminal immigration proceedings, it is likely that this social identity of citizenship/generational status has some influence on one's other social identities. Here, I argue that generational status influences the salience of racial/ethnic social identity via Cornell and Hartmann's two axes to create either thicker/asserted social identities or thinner/assigned social identities in Latino/a attorneys and judges. This then influences their role strain, sense of competition between identities, and resultant identity management strategies.

There was a great deal of variation in immigrant history among the attorneys and judges involved in Operation Streamline. On one hand, there were attorneys who called themselves "American-Mexicans" referring to the fact they lived on land that was annexed during the Treaty of Guadalupe-Hidalgo in 1848 or bought during the Gadsden in 1853 and were thus really "the first Americans" (Dean, Latino, CJA). On the other, there were migrants who had attended law school in Mexico or other foreign countries and had acquired U.S. citizenship within the last 10 years. A summary of the variation for attorneys and judges is seen in Table 5.1 below.

Table 5.1: Latino/a Respondents by Citizenship/Generational Status

Naturalized/ Migrated Themselves Later In Life	4 (13%)
1.5-Generation	7 (23%)
2nd-Generation	12 (39%)
3rd-Generation-Plus	8 (26%)
	31 (100%)

Based on this above mentioned citizenship/generational status variation, there was also a variation in the salience of racial/ethnic social identity for these attorneys and judges. Those who demonstrated thick and asserted racial/ethnic identities tended to be 1.5- and second-generation Latino/a attorneys and judges (that is, those who came to the U.S. as children or whose parents immigrated to the U.S.). Additionally, these 1.5- and second-generation Latino/a attorneys and judges when discussing clients and Streamline were more likely to express role strain—discussing the substantive justice problems inherent in Operation Streamline. One hundred percent of 1.5- and second-generation Latino/a attorneys and judges expressed some form of role strain compared with only 84% of those respondents who were naturalized/migrated themselves later in life or who were third-generation-plus. While 84% is still a high percentage, it represents a 16% decrease between groups. This increased role strain for 1.5- and second-generation Latino/a attorneys and judges also demonstrated an increased sense of competition between a salient racial/ethnic role identity and their work role, which made them more likely to sympathize with defendants and denounce OSL.

In contrast, Latino/a attorneys and judges who were naturalized/migrated themselves later in life or whose family had lived in the U.S. for many generations were more likely to display thinner and assigned racial/ethnic social identities. While one might expect recent immigrants to more closely identify with migrants, instead, they made special efforts to differentiate themselves and explain that they came over “the right way” or that they were different from the people going through OSL who broke the law. This also was relevant to their work, as this group was not especially concerned with issues of substantive justice and displayed less role strain than those in the 1.5- and

second-generation group (84% v. 100%). This demonstrates decreased competition between a less salient racial/ethnic social identity and their work role, resulting in identity management strategies where they were less sympathetic towards clients and were more likely to engage in distancing activities between themselves and migrants. In fact, the group of naturalized/migrated themselves later in life and third-generation-plus Latino/a respondents resembled the non-Latino/a respondents in their use of identity management strategies as seen in Chapter 4.

A summary of the differences between these two groups is provided in Table 5.2 below with full discussion in the following sections. Each generational group was tallied individually, but the similarities between naturalized/migrated themselves later in life and third-generation-plus respondents and 1.5- and second-generation respondents are clear from the percentages provided.

Table 5.2: Association of Social Identity Salience with Citizenship/Generational Status

Demonstration of Salience	Definition	Example	Group Using Most	% Naturalized (N=4)	% 1.5-Gen. (N=7)	% 2nd-Gen. (N=12)	% Third-Gen.-Plus (N=8)
Thick Identities	One's racial/ethnic identity strongly organizes one's life	"My dad came in the 50's to this country. And he would always remind us [...] that we were Mexican, that we were immigrants here. So that is really present in all I do."	1.5 and 2nd-Generation Latino/as	25%	71%	67%	25%
Asserted Identities	Internal forces create and maintain racial/ethnic identity	Volunteer full immigration history	1.5 and 2nd-Generation Latino/as	25%	71%	75%	23%
Thin Identities	One's racial/ethnic identity weakly organizes one's life	"I'm a Mexican, too, but I don't listen to Indian music; I don't dance to that type of music. I don't even know it. You know, it's like I'm a different type of Mexican."	Naturalized and 3rd-Generation-Plus Latino/as	50%	29%	33%	63%
Assigned Identities	External forces create and maintain racial/ethnic identity	"Yah, people say, 'Well, how can you do that?' like to me, as a judge, sentence these people to time. I look at them and I say, 'I'm an American. The problem is this: you think I'm a Mexican.'"	Naturalized and 3rd-Generation-Plus Latino/as	50%	29%	25%	50%

Thick and Asserted Identities for 1.5- and Second-Generation Migrants

Latino/a respondents in the 1.5- and second-generation were more likely to demonstrate thick and asserted social identities (See Table 5.2). Those respondents whose racial/ethnic identity more heavily organized their lives—thick identities—and who asserted their connection to this social identity as a Latino/a were more likely to express strain in being involved in Streamline and demonstrate orientation towards the substantive justice pole of role expectations. In fact, 100% of 1.5- and second-generation migrants expressed strain.

To demonstrate social identity salience through assertion, for example, many 1.5- and second-generation Latino/a attorneys and judges, when I asked if they were from Tucson originally, would immediately volunteer their full immigration history. I argue this demonstrates an internal assertion of social identity. Additionally, in these instances, respondents' social identity of citizenship/generational status was almost always intrinsically linked with their social identity of racial/ethnic identity. A strong example of this pattern follows:

INTERVIEWER: So, first I'd like to kind of start with a little bit about. Are you from Tucson originally?

SOLEDAD: Born and raised here. Public schools, public housing. Both parents are immigrants. I had some sense about responsibility because of that. How they didn't get a lot of benefits but they were here, and we were lucky they were here. I am a proud Chicana. I have a very long history of immigration activism in the law. And that, that's why I'm really sort of surprised that I'm here in this situation being challenged because of my work related to immigration. (Soledad, Latina, CJA)

Immediately volunteering one's generational status unprompted demonstrates a high degree of assertion – that is, internal forces being used to create and maintain one's racial/ethnic identity. Additionally, volunteering the identity of “proud Chicana” while giving her immigration history links together these two social identities.

Beyond simply describing one's generational status, other attorneys and judges described the thickness of this linking of immigration and ethnicity—that is, the degree to which being a migrant and a Latino/a influences and organizes one's life—including one's work in Operation Streamline. One attorney gives a particularly clear demonstration of thick social identity salience:

INTERVIEWER: Do racial/ethnic issues often arise for you in your work?

CARLITA: I was just thinking you know, my dad died about a year ago, but he used to always pray for the immigrants who were coming across the border. My dad came in the 50's to this country. And he would always remind us of how important our heritage was—that we were Mexican, that we were immigrants here. So that is really present in all I do.

One time one of my clients asked me “So are you here legally?” and I said “Yah. I’m lucky.” I mean I was born in this country, you know. It’s funny that they don’t know that, right? I mean maybe people get to be attorneys in Mexico without having to worry about citizenship, but that’s such an important thing in America. He was very proud of what I do, my dad, because these people need our help. I was lucky to be born here, so I feel compelled to help them. (Carlita, Latina, CJA)

Not only does this respondent explain that her racial/ethnic and immigration heritage organize her life (“present in all I do”), it influences how she interacts with clients (compassionately), and it affects how she thinks of the work she is doing (helping immigrants). I argue this is a demonstration of social identity salience via a thick social identity of both citizenship/generational status and racial/ethnic identity.

Pochos and DREAMers

Another example of demonstrating social identity salience that arose in a number of interviews (38%) with Latino/as with thicker, asserted identities is discussing the idea of being seen by others as a *poch/a*, especially for their role in Operation Streamline. *Poch/a* is Spanish slang used to describe a person of Mexican ancestry who was born/raised in the U.S. and is not familiar with Mexican culture or speaks broken Spanish. This term arose for Latino/a attorneys and judges who were younger, and of course, 1.5- or second-generation. To define this term and how it can be used as an identity indicator, the example below comes from an attorney when he describes how he attempts to connect with clients:

*And another way I do it is I say, "I know I'm not the same as you. **I've lived in Mexico and I've always called myself Mexican, but when I lived in Mexico, I realized I'm American. Or at least a Mexican-American.**"*

Depending on the client, I can even tell them, I say "You're a pocho." Which, well, a pocho means like a sellout kind of Mexican. I say this especially if it's someone whose lived here a long time—like a DREAMER. I'll say, "You're just like me. You're a pocho like me. You were raised here since a young age, and sending you back to Mexico is the real punishment, not the jail time. And I understand that. And I wish there was some way we could figure out way to make it not happen. And so let's go through and try and figure out how -- if there's anything that we can do." (Emiliano, Latino, CJA, emphasis added)

Similar to how some white attorneys and judges were aware of their race/ethnicity as a separator and recognized their status as “*gringos*,” 1.5- and second-generation Latino/a attorneys and judges would recognize their own social distance from clients by describing themselves as *pochos*. However, as Emiliano describes it above, this is also a way to connect to certain clients who may share this mixed nationality background and have a preference for living in the U.S. For these respondents, *pocho* is a shared variation of social identity they can use to relate to clients even though it is typically used to mean something negative like a sellout.

The concepts of *pochos* also links to the idea of DREAMers. DREAMers are a recent social category of Latino/a individuals who would be helped by the yet-to-be-passed Development, Relief, and Education for Alien Minors Act (DREAM) Act. Generally, this term is used to describe Latino/a youth who are not legal U.S. residents, were brought to the U.S. before the age of 16, have lived in the U.S. for five or more years, and have attended schools in the U.S. Their immigration status has become an issue in college admissions policies that often treat them as out-of-state residents, even if they graduated from an in-state high school, for the purpose of tuition and fees.

The category of DREAMers became particularly poignant when I would ask attorneys and judges about particularly sad or challenging cases. Most respondents of all racial/ethnic backgrounds and citizenship/generational identities agreed that DREAMers were the toughest cases to deal with, but 1.5- and second-generation Latino/as were more likely to bring up this category unprompted and describe them as particularly troubling cases. César explains why:

The other ones that are sad are the young people who were brought here by their parents. It's through no fault of their own, but now they have no home. They're like a man with no country. We don't let them stay here and they don't know anything about living in Mexico at all.

One client, well, when they hit 18 they're out of luck. I had a young client and both parents were hard working and they brought the family over illegally. And both parents had to struggle to make ends meet when they came to Arizona I guess, so he and his siblings—the kids grew up being taken care of by an older sister who ended up getting in a gang. By the time he's 18, well, he's got a juvenile rap sheet, but the first time he gets in trouble at 18, boom, deported. Then, of course, he can't come back for at least 5 years.

Those are really sad. Those to me are the saddest cases. Because they're just kids and now they've got a really rough life ahead of them. (César, Latino, CJA)

The especially difficult situation of DREAMers demonstrates a special affinity between 1.5- and second-generation Latino/as and their clients. Latino/a attorneys and judges, especially of the 1.5- and second-generation are more likely to personally identify with clients and see them as similar to them, invoking role strain and increased competition between social and role identities. Julio describes this close link below:

*When I first did Streamline, I really didn't like seeing the sea of humanity chained together. **These people are like my family. They're like my people.** I would have almost any of these people that are in Streamline as my neighbor. And if I had a flat tire, I'm sure they'd come over and help me. Okay. And it's like this sea of humanity just handcuffed together, like they are serial rapists or something like that. I do not like it. And I feel terrible that this is the rotten system we have in place for these people who could be my distant cousins or something. (Julio, Latino, CJA, emphasis added)*

After equating his clients to his family and neighbors, Julio goes on to discuss how badly he feels that the current Streamline system is what these clients face and that he feels personally bad about this. He describes the system as rotten, certainly a demonstration of it lacking substantive justice, and describes the competition between his identity as a Latino/a and how he feels about Streamline.

Thin and Assigned Identities for Naturalized Migrants and Third-Generation-Plus

Contrasting these thick, asserted 1.5- and second-generation Latino/a respondents are those Latino/a respondents who do not especially associate their work or their lives with their racial/ethnic social identity that they share with defendants. These naturalized/migrated themselves later in life and third-generation-plus respondents whose racial/ethnic identities are less salient demonstrated thin and assigned identities more often than 1.5- and second-generation Latino/a respondents (See Table 5.2). They often discussed how their social identity less heavily organized their lives—thinness—and how they were assigned a connection to defendants by outsiders. Overall, these naturalized/migrated themselves later in life and third-generation-plus respondents were less distressed about issues of substantive justice, showing less role strain, less competition between their social and role identity, and different uses of identity management strategies.

Thin identities are defined by lacking a life-orientation to one's racial/ethnic identity. In contrast to embracing an immigrant or Mexican identity, many Latino/a attorneys and judges did not think their race/ethnicity was especially relevant to their work and felt little strain. Compared to 100% of 1.5- and second-generation respondents,

only 84% of naturalized/migrated themselves later in life and third-generation plus respondents displayed strain. While this is still a majority of respondents there is a relevant 16% difference between groups. Naturalized/migrated themselves later in life and third-generation plus migrants also, then, distinguished themselves a great deal from their defendants who they did associate with a salient Latino/a immigrant identity.

Assigned identities are those that are put upon someone by external forces or circumstances. Naturalized/migrated themselves later in life respondents and third-generation-plus Latino/a attorneys and judges discuss the mistaken assumptions of others that they would have a special connection with clients who share one social identity (race/ethnicity) but not another (citizenship/generational status). One judge specifically emphasized his citizenship/generational status as an American when explaining critiques he receives about Streamline:

Yah, people say, 'Well, how can you do that?' like to me, as a judge, sentence these people to time. I look at them and I say, 'I'm an American. The problem is this: you think I'm a Mexican.'

There are people who look at you and say, 'Wait a minute, you should care about Mexicans' and it's like 'Wait a minute, No.' This is not class, this is not ethnic, it doesn't matter. This is justice. (Judge Ochoa, Latino)

Here the judge not only manages to distinguish himself from those who arrive in his courtroom based on citizenship, he also manages to discuss why the fact that he is an American devoted to justice has no bearing on the work he does in OSL in a demonstration of an assigned identity by outsiders.

In a similar vein, another attorney denies not only the relevance of his recent immigration identity, but also demonstrates his thin racial/ethnic identity and denies his otherwise assigned identity. Below is an extended example of a thin racial/ethnic social identity where other factors, such as class and cultural distinction, are used to set the

respondent apart from stereotypes of his race, as well as to deny the existence of any type of systematic racial components of his work.

INTERVIEWER: Another facet that some of these activist groups have focused on that I'm interested in your opinion on is this idea that some of Streamline is sort of racially motivated. Have you found any sort of racial tensions in any of the work that you do?

MATEO: No. [pause]

INTERVIEWER: So as someone who went to law school in another country and is Latino/a and is working in the U.S. legal system, has that ever been a challenge for you at all?

*MATEO: No. That's – there's a tendency to group -- when somebody invites me to a dinner even with Hispanic groups of people, what we get is a group of young people dancing like Indians, or like dancing to indigenous style music, you know? When I told my friend the other day, you know, **I'm a Mexican, too, but I don't listen to Indian music; I don't dance to that type of music. I don't even know it. You know, it's like I'm a different type of Mexican, and people often think that everybody's life is the same.***

INTERVIEWER: Yeah.

MATEO: So, some people see everything like it's racist, and La Raza and they say "We are like this, we like tacos and this type of music." But it's not true because there's lots of Mexicans like me that live in a different world. I didn't even notice about all of this stuff. So instead of focusing on that negativity, you know, just open your minds.

I don't know. I don't see any racist aspect. You can tell they don't -- how many Hispanic judges do we have? In Justice Court we have a bunch of Latinos. We have Hispanic judges in City Court, as well. The attorneys, most of them, are Hispanic. Most of the people working there are Hispanic, you know. I'm sure that, you know, sometimes you get people who are racist or whatever, but it's not the majority. It's an isolated type of personality problem.

Yeah, so I don't know. Now, in Mexico, the middle class is growing and that middle class is different. It's pretty much like U.S. kids. They like to, you know, go on Facebook and they listen to U.S. music that you see on TV and all the same trends. It demonstrates all these relations and exchange between the two countries.

But, you know, I get here, and then you go to a meeting and you see these people playing and dancing like 200 years ago and this costume from 200 years ago. Who cares? Like Grijalva, Raúl Grijalva [a local politician], acting like we're still in the Mexican Revolution of 1910, 1915. You don't belong to that war. He thinks everything is racist, everything is La Raza. It's like their little world.

And I disagree with that. And I'm not even that conservative. I'm just saying, you know, we're not all the same as these immigrants coming through Streamline. (Mateo, Latino, CJA, emphasis added)

By describing himself as “a different type of Mexican” and explaining, “people often think that everybody's life is the same,” he specifically denies the assigned racial/ethnic identity of others. He also creates a boundary between himself and those with thick Latino/a identities (“some people see everything like it’s racist, and *La Raza*”) as well as between himself and “these immigrants coming through Streamline.” As such, this example highlights how a naturalized migrant has a thinner/assigned racial/ethnic social identity resulting in less role strain.

While it might seem counter-intuitive that a recent immigrant would demonstrate thin versus thick ethnic identity relative to the immigrants in OSL, it seems their desire to be seen as a legal migrant (linked to being of a higher socio-economic status migrant in the case of Mateo) is more strongly salient than their racial/ethnic identity. Mateo also did not feel his social identity was in competition with the work he does in Streamline and emphasizes the socioeconomic class difference between himself and his clients, the vast majority of whom are from lower classes.

Another third-generation-plus respondent makes a similar case. He suggests that because he is so removed from the immigrant experience, he could never identify with his clients. This makes him completely unconcerned about the substantive justice that may or may not be happening in Streamline, and in fact, he was one of the few attorneys (three total) who thought Streamline was an effective deterrent and should be more widespread.

My great grandmother came from Mexico. So that's way back, way back. I mean, so it's a different -- you grow up in a different time. It's like Irish Americans and Italian Americans, you know, at the turn of the century, it was very different. They were just coming in, start of the 1880's, 1890s and they were living in their own neighborhoods. Didn't speak any English. Working in their neighborhood. You know, they were still -- it was an enclave. So their children are going to speak English. So if you think about the Italian mafia, those were the kids of immigrants or immigrants themselves whose primary language was Italian. And if you think about The Sopranos, for example, you know, or going back to The Godfather. So Al Pacino is meeting with somebody or other and he's trying to speak Italian. And so he finally just switches to English. Okay.

*So that's the progress -- that's been the history of the United States. So you have -- we don't know what this is all about. We're just like all the other immigrants to the United States whose families immigrated. **So we've become Americanized. We don't identify with them. I don't know about the other guys, but I would think most of them who just grew up in Tucson and were just another American -- the third-generation, the fourth-generation. I don't think they identify with these clients. I don't identify myself with those people. I don't identify myself with Mexicans.***

*I mean, you know, we had a big celebration in Tucson, Cinco de Mayo, right? They don't celebrate that in Mexico. That just became, I don't know, somebody started it and we all did it. Yeah, you know, independence in September, that's the Mexican celebration. **But the impact of immigration to the United States, you know, 12 million or so, has not affected the American Mexican in this country. And when I say American Mexican, I am saying it has not impacted us. I mean, that's a whole different culture. I could never identify with them. So it's a totally different life -- but it had no impact on me or people of my generation or the one before. Streamline is just a totally different group of individuals.** (Dean, Latino, CJA, emphasis added)*

Dean proposes Latino/a immigrants of later generations are assimilating in the same manner as Italians decades before them, suggesting a thin ethnic identity that is easily less relevant than the citizenship/generational status of American. He also says that not only does he not identify with his clients, he assumes other Latino/as do not either and that Streamline clients are a “totally different group.” Often times, this type of distancing identity work bore a striking resemblance to anti-immigrant sentiments.

Another naturalized immigrant attorney, after recounting his country-specific story, which cannot be shared to maintain confidentiality, told me “So we were actually

immigrants too, that came the right way, that waited our turn, not one of these OSL things.” (Sergio, Latino, CJA). This naturalized adult-migrant differentiates between OSL and “the right way” in order to create a strong boundary between himself and his clients who, implicitly, are doing it “the wrong way.”

As demonstrated by the naturalized/migrated themselves later in life respondents and third-generation-plus Latino/a respondents described here, the initial expectations of a competing identity management perspective were confirmed: both groups have a thinner/assigned racial/ethnic identity which results in less role strain, less competition between social and role identities and management strategies where they often differentiated themselves from the defendants they represent.

Differences in Identity Management Strategies by Citizenship/Generational Status

Respondents of the third-generation-plus had a thinner/assigned sense of Latino/a social identity—that is, less thick and asserted identities—that decreased respondent role strain and subsequent competition between social and role identities. This then resulted in identity management strategies of distancing themselves from recent-immigration experiences and their Streamline clients. This attitude is in contrast to the 1.5- and second-generation Latino/as who have a more immediate connection to the struggle of migrants while still being fully Americanized and thus feel compelled to explain the importance of the help they are offering defendants or the work they have done with immigration. This increased role strain then leads to more competition between social and role identities and subsequent variation in identity management strategies.

Table 5.3 below summarizes the variation in the use of identity management strategies by citizenship/generational status. Interestingly in all but one strategy, the pattern of group differences between 1.5- and second-generation Latino/a respondents and naturalized/migrated themselves later in life and third-generation-plus Latino/a respondents was the same as seen between Latino/a and non-Latino/a respondents. The only pattern to switch majorities was negotiated identification with time since the implementation of Streamline 2.0, though it also should be noted that the differences by group for role-playing is miniscule. However, the fact that naturalized/migrated themselves later in life and third-generation-plus Latino/a respondents more closely resembled non-Latino/as in their use of identity management strategies is telling in reference to their thin/assigned social identity salience.

Table 5.3: Identity Management Strategies by Citizenship/Generational Status

Strategy	Definition	Group Using Strategy More	% 1.5- and 2 nd -Gen. Using Strategy (N = 19)	% Naturalized and 3 rd -Gen.-Plus Using Strategy (N = 12)
<i>Dealing with Role Strain</i>				
Identity Consolidation	Recognizing the substantive justice issues around OSL while using formal-legal justice and a desire to help defendants to explain their continued participation	1.5 and 2nd-Generation Latino/as	74%	25%
<i>Influences of Social Identity</i>				
Demonstration of In-Group Similarities	Understanding defendants' actions because of a shared personal background (either via migration history, cultural and social references, or shared upbringing)	1.5 and 2nd-Generation Latino/as	79%	75%
<i>Negotiated Identifications</i>				
Time: Insufficient Time with Clients	Negative attitudes towards the amount of time spent attorneys with clients in OSL	1.5 and 2nd-Generation Latino/as more likely to say insufficient time	58%	0%

Time: OSL as Better than Pre-OSL Days	Comparing OSL to the “petty calendar” that existed before OSL’s implementation in 2008 and deeming it better	1.5 and 2nd-Generation Latino/as more likely to use as justification	53%	42%
Time: Streamline 2.0 as an Improvement	Comparing OSL at the start (2008) to OSL since changes made in 2013 and deeming it an improvement	Naturalized and 3rd-Generation-Plus Latino/as	37%	58%
Place: Oh, Canada	Latino/as use comparison to explain that Canadians would be treated better than Mexicans ----- Non-Latino/as make opposite case	1.5 and 2nd-Generation Latino/as more likely to problematize ----- Naturalized and 3rd-Generation-Plus Latino/as more likely to use as justification	5%	17%
Beliefs/Ideas/Values: Common Metaphors and Allusions	Animal Metaphors ----- Cog Metaphors ----- Allusions to other Human Rights Abuses	1.5 and 2nd-Generation Latino/as	53%	33%

<i>Role Identity Management Strategies</i>				
Role Playing	Simply going through the motions of your daily work in OSL	Naturalized and 3rd-Generation-Plus Latino/as	32%	33%
Role Making/Identity Extension	Trying to expand the typical program of daily work in OSL to diminish role strain	1.5 and 2nd-Generation Latino/as	58%	50%
Psychological Compartmentalization	Separating work at OSL in order to cope with role strain	1.5 and 2nd-Generation Latino/as	21%	17%
Fictive Story Telling	Use of embellishment or hyperbole to explain how respondents got to where they are	1.5 and 2nd-Generation Latino/as	16%	8%

Interestingly, these citizenship/generational status differences in identity management strategies also bore out in courtroom behavior. As noted in Chapter 4, for example, Latino/a attorneys were more likely to touch clients and less likely to use hand sanitizer. After learning the citizenship/generational status of all my respondents, a re-analysis of the “tallies of touch” showed that 1.5- and second-generation Latino/as with thicker/asserted identities were doing more of the physical contact with clients (63%) than Latino/as with thinner/assigned identities (46%). This same pattern also held for use

of hand sanitizer, however, the relative comparison was weak with 54% of naturalized/migrated themselves later in life and third-generation-plus attorneys and 51% of 1.5- and second-generation Latino/as with thicker/asserted identities using sanitizer.

The Influence of Gender

Throughout the course of my empirical investigations, I noted that the social identity of gender was a relevant influence in the daily lives and work of attorneys and judges in Operation Streamline. Though originally I had not hypothesized the effect of this social identity—having focused on race/ethnicity and citizenship/generational status—many respondents emphasized the importance of gender in a variety of ways. What I present in this section explores gender as a social identity relevant to the OSL context, but is less developed than other parts of the dissertation based on its wholly inductive nature. However, I do provide details on gender as it links with role strain, interacts with the social identity of race/ethnicity, and changes respondents' identity management strategies.

After hearing gender-focused responses from a few initial interviews with Latina attorneys, I specifically began looking for any potentially gendered patterns in my courtroom observations. While I had not originally anticipated the relevance of this social identity, as I began to observe with it in mind, a few things became apparent. Female attorneys were more likely to sit with other female attorneys both before the proceedings began in the hallway and during the proceedings in the courtroom. Also, I noted on one occasion an interaction between two female attorneys discussing gender and judicial behavior in the courtroom:

I noticed Estelle and Bridget having a side conversation about Judge Ochoa. Both of them seemed frustrated that they were not able to get his attention in order to enter their record statements. After he would dismiss clients, he'd just start calling the next round immediately, without letting attorneys make records of asylum claims, medical issues, judicial recommendations here or other special circumstances. Bridget said "He's just ignoring the ladies!" in a feigned sense of persecution, but I was not sure if it was actually a joke. (Fieldnotes September 13, 2013)

While many attorneys have complained about the speed at which Judge Ochoa conducts the proceedings, this is the first time it had been framed in a gendered way. While I doubt this was intentional on the judge's part, other research in the sociology of gender does show that women often have to make special efforts to assert themselves in professional conduct (Babcock and Laschever 2003). So, I began to explore other patterns around this social identity of gender.

In the following sections, I explore the influence of gender broadly as well as how this social identity influences role strain, interacts with other social and role identities, and influences management strategies.

First, I look at how male respondents, both Latino and non-Latino, demonstrated benevolent sexism towards their female OSL clients, resulting in higher levels of role strain in these instances (that is, worrying about substantive justice issues in OSL). This occurred through male attorneys or judges wanting to protect the female clients and suggesting that legal processes be changed for female clients. This occurred both through protective patriarchy and idealization and was linked to increased role strain.

Second, female respondents discussed emotional issues more frequently in their roles than male respondents. They discussed how they had more sympathy with all clients in general, and female clients who were mothers in particular because of over-identifying

with these clients. I also provide evidence of female respondents, especially judges, acting more sympathetically towards all clients.

Additionally, many female respondents, specifically Latinas, suggested they have to engage in extra identity management to assert their authority with clients. This took the form of impression management as an identity management strategy and other role extensions calling forth the gendered role of “mom” as another identity management strategy.

Finally, Latina respondents were also more likely to experience role strain about being involved in OSL because they had entered their role from activist backgrounds or with altruistic motivations. This discussion of “jaded” views on the legal system based on an activist background occurred almost exclusively among Latina attorneys, providing an interesting look at the interaction of racial/ethnic and gender social identities.

Male Respondents: Benevolent Sexism

Benevolent sexism is part of ambivalent sexism theory developed by Glick and Fiske (1997) and is defined as “subjectively positive attitudes toward women in traditional roles: protective paternalism, idealization of women, and desire for intimate relations” (119). I argue that in the case of Operation Streamline, many male attorneys and judges demonstrate protective paternalism and idealization of the female OSL clients. This demonstration was associated with higher levels of role strain because male respondents were more concerned about the substantive justice concerns and other problematic aspects of OSL as they applied to female clients.

In attending court proceedings, the presence of benevolent sexism via protective

paternalism became apparent on several occasions. One judge specifically always processed the female clients first, calling them out of order from what was on the courtroom calendar. When I interviewed this judge, he had this to say:

The other thing that I do different in Streamline is I do the women first so that they can transport them out of there because they get transported separately, so I figure they can get out of the building if I do them all at once.

INTERVIEWER: That makes a lot of sense.

JUDGE MOTT: So, you know, if I did the men first, it would take forever. But I do the women first at Streamline and at flip-flops I reverse and do the men first at flip-flops and the morning calendar I do the women last. And, again, because hopefully there's a morning bus going back to CCA so they can get the heck out of there. Things are very crowded on the second floor, so anything you do to get people out of the building is a good thing. Plus, with the women, they are kept separately, but I am not sure how much they can avoid being in close proximity to others being held, so I want them to get out as soon as possible. (Judge Mott, non-Latino)

Not only does the judge want women to be out of the building as soon as possible, he conducts all his hearings in a gender-segregated way because he wants to keep women out of the “close proximity” of other defendants being held. This interesting show of benevolent sexism—needing to make special protections for women—demonstrates how gender is a strong organizer of social experience in OSL.

As if to back up this judge's claim that women need to get out of the building, another male attorney explains that he works extra hard to make female clients feel comfortable in OSL. This is both through their experience in the courtroom and specifically in his daily, professional interactions with them. Thus, not only does he display protective paternalism, he more closely monitors his own behavior and describes working with female clients as more problematic, which I argue is a demonstration of role strain.

I'm acutely aware that those women can be subject to sexual harassment from these guys. They're sitting over here by the bar, especially if it's like the young, cute one that happens to be sitting close to the edge over there. And I think that the Marshals and the Border Patrol are tone deaf to that kind of stuff. So if I hear it or see it happening, I move the woman and I get the Marshals to move the guys. I just do something because I just don't like that. I don't feel comfortable with it.

These women, they're already coming from cultures where they're taught to be deferential and now they're going to have to sit here and speak up to a professional, especially if they get a male lawyer and they have to speak up and speak for themselves. It's a very scary thing. They're coming from a very deferential point of view. And then to be having that kind of, "Hey, chula" [beautiful] stuff coming at them, I don't like that at all.

Now they come and sit in my chair and they're looking at me like, you know, you've got the life that I'm starving for, literally starving for. And the class attributes can be kind of heartbreaking sometimes. I talk to these tiny, tiny women from the interior of Mexico that obviously are darker skinned and more Indian features than Spanish features, or from Guatemala or whatever, I mean, they barely make it up to here on me {motions to sternum}, you know. And I'm sitting there trying to say, "I'm here for you and, you know, I'm here to listen to you." They're looking down and they're ashamed, and the power structure is just -- it's not only heartbreaking but it's just -- it's just like, you know, I feel like I'm shouting at them. And when I ask them to speak up, you know, I feel like I'm scolding them.

So all of those things are really -- the women thing, it's flat. The guys, it's going to be a little more fluid and an easier situation. But I always just feel that that experience for the women is really, really tough and it makes it tough on me. (Sergio, Latino, CJA)

In addition to how this attorney explains his different treatment of female clients, I also noted on many occasions in the courtroom that this attorney and others would pay special attention to the well-being of their female clients as they helped them up to the stand more often or would confer with them more thoroughly if there were issues when they were answering the judge's questions. I argue this is an example of how benevolent sexism organizes many OSL interactions.

It should also be noted that this Latino attorney describes the deference he knows women give to males in authority, especially given their cultural background—i.e. *machismo*. This is an interesting interaction between Latino/a racial/ethnic social

identity and gender social identity that comes up again later for female attorneys dealing with male clients.

Yet another Latino attorney suggested he was very concerned about the way women were treated in the OSL proceedings. In fact, when I asked him what he would change about the program at all, he immediately discussed adding special treatment for female clients:

There's a part of this system, I guess, that I really don't like. I don't think it's fair to treat women the same as other crossers. To me, the way I look at it is women are in a way, way more vulnerable position. I did a case where these women were material witnesses and they were not able to talk about what happened to them and I was somehow, in interviewing them, I learned that they had been kidnapped and raped repeatedly for weeks before they actually made it into this country and became material witnesses and the government didn't know about it. The government didn't know about what their experience was. It was just through this weird set of questions that I asked them that the whole thing came up.

INTERVIEWER: Wow.

HUGO: And so, to me, it's obvious that women are exploited at the border, so I believe that women should be treated differently. I believe that they should somehow -- their own government doesn't do anything to protect them but they should somehow be escorted, taken -- something, I don't know -- away from the border. There should be some means to keep them from being harmed the way they are.

And it's not talked about. It doesn't come up in this setting, but I know that there's women that have been victimized coming through this program, through Streamline, through all of the courtrooms, and they can't talk about it and, even if they did, there's nothing we can do about it. But I would encourage women to be excluded from this and there to be some other means for them to be, you know, taken out of the country, punished, sure, however, but not continually exploited. (Hugo, Latino, CJA)

Interestingly, the gender-based exception that this attorney suggests (“I don't think it's fair to treat women the same”) is, as seen above, actually carried out by some of the judges, with women being treated slightly differently in the preceding. However, this attorney suggests an added level of exception in which they would not go through Streamline at

all and argues they should be treated differently in the entire legal system. This is a defining trait of benevolent sexism: “subjective affection as a form of prejudice” (Glick and Fiske 2011:533). The sympathy and recognition of women’s exploitation near the border is well intentioned (hence it is a *benevolent* form of sexism) and clearly causes emotional distress for attorneys and judges, but still results in differential treatment based on sex. Male attorneys’ and judges’ affection for female clients creates differential treatment. That is, instead of saying OSL in particular or the current legal system in general is a problematic for all defendants, these male respondents focus only on how women are treated poorly.

Finally, similar to Sergio’s description above that dealing with female clients is “tough on me,” male attorneys and judges displayed extra role strain with female clients based on idealization as well as protective patriarchy. Male respondents tended to recognize the difficulties these women had in crossing, and then also idealized what the female clients were attempting to do in crossing via gendered expectations of traditional female behavior. In an example of both benevolent sexism via idealization and more role strain with female clients, one male attorney said:

Women are -- I think, in my opinion, the women are particularly more heart-wrenching stories, because if you're a woman crossing that border that's so dangerous, your life has to be at a point that is -- is -- in my opinion, beyond comprehension, that most Americans can't ever comprehend that someone's going through that much that they put themselves through that, you know, just to work and, you know, provide for their family. (Jesús, Latino, CJA)

Through assuming all female clients are crossing to take care of their family (i.e. fulfilling a traditional female gender expectation), Jesús not only explains how heroic these female defendants are, but also explains that they are more heart-wrenching stories for him. I argue this is a specific example of role strain, where attorneys and judges are

especially concerned about substantive justice issues in OSL based on their assumptions about the extra level of suffering female defendants undergo in crossing.

Female Respondents: Emotional Boundaries with Clients

Female respondents demonstrated more emotional work and sympathy towards all clients than male respondents, not just female clients. However, they also had special sympathy for female clients, specifically in relation to the role identity of mother. Thus, female respondents were also more likely to describe instances of role strain overall based on the emotionality of their work. They were also more likely to cry when doing their work or describing clients in their interviews.

In courtroom proceedings, the two female judges tended to show some different interactions with clients based on their gender social identity. While a full description of judicial variation is underway in another analysis (Finch In Preparation), for the intents of this chapter, the female judges were more likely than the male judges to be patient, kind, and apologetic to clients. One female judge in particular, Judge Pine, would often take special care to make sure clients were comfortable. If a client became confused during questioning, she would say “Don’t worry, it’s fine. I don’t have a problem repeating the question for you” or other reassuring language (Fieldnotes October 15, 2015). In her interview, this judge explained she knew clients were scared, so the last thing she wanted to do was make them think she was “the bad guy who was going to yell at them.” (Judge Pine, non-Latina). This is perhaps a contrast of her mannerisms to those of another judge who was notoriously curt with defendants, but it also potentially represents a gendered pattern in judicial variation.

In interviews, female attorneys described their empathy for clients, but they also demonstrated it more clearly in courtroom interactions. For example, female attorneys were the most likely to make physical contact with defendants. In revisiting my “tallies of touch” analysis, I found that female attorneys (64%) were more likely to engage in physical contact than male attorneys (38%), demonstrating extra attachment and sympathy for clients as they hoped to comfort them through pats on the back or rubs of the shoulder, help them with taking off the translating headphones, or guide them with soft touches on the shoulder or back.

Another gendered factor that came up frequently was motherhood, which will also come into play in the next section on female attorneys and authority. This mother role often intersected with other issues of race/ethnicity, too. A conglomeration of roles (motherhood, attorney) and social identities (gender, race/ethnicity) can be particularly challenging for many Latina attorneys and judges who have their own children. A Latina judge described the first few weeks she worked in Streamline as such:

So the people who would come before us were super sad. They were in terrible situations. They had never been through the criminal justice system; they were scared out of their mind. Not only had they never been through the criminal justice system, they had not even been through the immigration system so they were really, really super scared.

It was really hard on us too because when it's a petty offense you ask them if they want to say something because when it's a petty, the judge has the discretion to impose whatever sentence. Me, I was like time served all the time. I'm like that's my prerogative, that's what they're getting. And most judges kind of ended up there. They would do like ten days if you have one prior sentence, maybe 30 days and then eventually everybody started doing time served. This is the only place I can be lenient and give time served.

And over the years, the petties went away as you said, so people did not really speak up. You gave them the right to speak, but most of them didn't say anything because they knew they were going to get 75 days, not 180 days. But initially with the petties they all had something to say and it was so sad the reasons that they would come.

I actually had, well my daughter studied abroad in [Central American country]. So at one point, it was tough for me. I was thinking “Oh, my daughter’s gone in a third world country.” And I remember having this lady, this tiny little women from there talking about her circumstances in Streamline and I just started crying. I cried almost the whole proceeding because I’m just thinking, here my daughter is in, in [Central American country] being taken care of, being treated like a little princess by these people and here’s this lady coming here and we’re going to send her back and God knows what’s going to happen to her on her journey.

*So being involved in Streamline, it’s been very emotional. I haven’t lost it like that again, but I think it was the circumstances of my daughter being there and the lady just saying something that pushed me over the edge, so you know it’s really hard on the judges, too. Really hard. By Friday, we are just exhausted.
(Judge Darrell, Latina)*

Judge Darrell describes not only the emotional impact of working with clients, but also the personal connection she feels to clients based on her own family’s situation. Many female respondents tended to over-identify with their female clients’ reasons for coming. Interestingly, another attorney recalled this same day in court and how she had been affected.

Um, but one time, I was standing at the front. Judge Darrell was the judge. I don’t know if you knew about the time she started crying?

INTERVIEWER: Oh, no. I haven’t heard about that.

BRIDGET: Uh, well, she always gave them a chance to talk, and one of the people just -- it was a woman, and she just started talking and she explained to the judge, you know, just her situation, and the judge just lost it. And it was very hard for her to talk again, you know? She couldn’t talk, and she kept trying to talk and her voice would break up. And that was really hard and painful, I think, for all of us because it’s, like, it was hard to watch her and, you know, we all felt it, but we had the benefit of being able to just be quiet; she had to keep talking.

And then it happened to me one time, and fortunately, I wasn’t talking. But it was because I was standing there and I looked down at the kid next to me -- I think it was my client; I don’t know if it was my client even or the guy next to me, who was my colleague’s client. But he was a young kid; he was really young, and he had flip flops on and I don’t know if he crossed the desert in those flip flops or if they were issued by the government, but his feet were just all, like, he had cuts and blisters and bruises on his feet, and he had, like, young-looking feet, like a kid’s, like a young boy’s.

And I don't know why, but it was just, like, the sight of that was so horrible to me, it -- there's no way to explain why. It -- it was just this thing where something snapped, and I just thought how he had a mom who loved him and how, if she saw those feet, it would be so hard for her, and -- and I thought about my own son and his feet and I just had to walk out of the courtroom. Well, I waited until we were done up there and then, the Mexican Consulate at the time was a woman [Larissa] and she followed me out and she chatted with me for a bit and then I just went back in. But yeah, it's so painful, you know?

Sometimes there's nothing; it's just a sad, horrible case, and what I'll say to them is I'll call your family, you know, make sure your kids know that I saw you today and that you said hello to them and that you love them, and that's all you can do. It's not much, but it's -- that's it. (Bridget, Latina, CJA)

As demonstrated by these quotes, female attorneys and judges were more likely to sympathize with their migrant defendants overall than male respondents, but factors of motherhood and gender created extreme example. They were more likely to become emotionally involved and also to identify either with the clients and/or with the family of clients. Here, Estelle continues to discuss her challenge of staying engaged with clients while balancing her emotions:

*I see some of them and they look like they are in complete shock and you see some of the people break down—especially the women. **I check each day I start to figure out who I have and I'm like "Please don't let me have a female, please don't let me have a female." Because half the time anyway I'm going to break down in tears, but every time I'm going to have a female, it's crying.***

Because you know I'm a mom and I completely understand their situation. I know if I were in the same situation that they are I would do the exact same thing, hands down, you know? And so I completely understand and the only difference between them and I is that I was born on this side of the border and that's the part that really is difficult because as you're looking at somebody who you know is just like me. I've been there, there's been times where I've been like, well, where I didn't know if I was going to get food on the table and so I understand that desperation especially when you have a kid, it's like what am I going to do.

*So I see them and it's like **I'm looking into a mirror** and you know having, when they say you're going to be going away for a while for 30 days, from your kid, you know or from, you know, from your family or even you know the whole reason you decided to separate yourself was for their benefit, now you know it's not going to happen, I mean that's huge.*

And so having to have to keep that composure is difficult and then knowing that alright, you know, when I finish here and I'm going to get in my car,

*and I'm going to go home, I'm going to go get to see my son, you know we're going to go play video games and we're going to go hang out. And you know that while this poor woman has to go up to CCA for a month you know and that is, **I mean it can wear on you emotionally***

I see it almost as the same as like work with asylum victims and there's like that trauma that work with people, you know people who's been victims of trauma and sometimes get that secondary-trauma thing dealing with them. I mean I've had to deal with that before, but it's a little bit different because you can empathize to a certain extent but you've never been in that situation before but in this sense, I've been in a similar situation so I understand exactly how they are feeling and then I think a little bit more but I can't understand the males, I get why the males did it, but as a mom I know how difficult that decision has to be for a mother to leave her child so you know, I mean, I try to keep my mind as straight as possible by volunteering, and keep some of the people from getting into a similar situation um of getting deported or whatever rights or whatever I can and, you know, that's the only I can try to keep some sort of a balance, how to keep myself grounded and **remember why I got into it because last thing I want to do is be one of those attorneys that are just like "When's my next pay check?"**
(Estelle, Latina, CJA, emphasis added)

Like Bridget, quoted above thinking of her own son's feet when looking at her clients' feet, Estelle demonstrates an extra level of empathy through not only her race/ethnicity ("looking in a mirror") but also through knowing the difficulties of wanting to provide for one's children. She discusses this as secondary-trauma and also as a strategy to keep herself from becoming too detached from her clients.

In my future research on the importance of various social identities (gender, race/ethnicity, citizenship/generational status) in competition with various role identities (attorney, mother), I hope to specifically focus more attention on the influence of gender. In particular, the issue of emotions seems to be very much linked to gender social identity and could be explored using the growing literature surrounding identity and emotions (Stets 2009).

Latina Respondents: Authority and Gender

Latina attorneys in particular were quick to bring up the fact that their gender social identity was a factor in their work role with clients beyond just emotional concerns. Though I imagine authority issues would be present for all women attorneys (not just Latinas) based on the fact that it is less expected that women would be lawyers, the evidence of this trend is found primarily in Latina respondents in this study, though it should be noted that there were only three non-Latina female respondents interviewed. I suggest non-Latinas not referencing this concern might be due to the traditional patriarchal element of Mexican culture commonly referred to as “machismo” that Latinas would have to surmount additional barriers to be seen as competent and gain authority. Thus, gender identity management strategies in the next two sections demonstrate variation *within* the Latino/a group. The Latina attorneys and judges experienced more role strain than Latino attorneys and judges. This also resulted in more intense identity competition between social and role identities when discussing Operation Streamline because Latinas were also being challenged due to their additional social identity of gender.

Often even before discussing racial/ethnic identities, Latinas were forced to account for their gender as a potential barrier in their work with clients. That is, Latinas were more likely to spend time and give conscientious thought to “better playing” into their attorney role identity via commanding authority from clients. This meant Latinas were frequently making extra sure to exhibit the markers of professional authority, including appropriate dress and formal means of address.

For example, when I provided the vignette about a client getting upset, 60% of Latina attorneys brought up gender before they discussed any other factors that might cause tension with a client. As seen in the example below, when asked if clients had ever become belligerent, Valentina is quick to default to the issue to gender and authority:

Yah, no one has ever gotten that bad -- but also the other thing is that I'm a woman too. That's just my own observation, but I've been doing this for a while now. Culturally, there's kind of an automatic level of respect because you're a lawyer when you're a man. That is less with women. Some women attorneys may also get a little bit more challenged because of the fact that they're women. People who, either men or women, who are more casual and use the tú [familiar form of you] instead of the usted [formal form of you] may also have more problems and not be looked on as authoritatively, if their Spanish is the tú and not usted.

So I try to, I guess, know these things and use them appropriately. I mean, when I started out, I looked a lot younger {laughing} and there was a lot of -- I think there were some biases. People had a hard time, it was like, "You look like a kid." And I don't have that problem anymore. I'm old. But I still, as a woman, I feel sometimes it's possible that I have that lack of authority problem.

So I adjust as much as possible, using usted. And I dress as a lawyer. I don't -- some people wear jeans and then they'll go in the afternoon and they'll change when they're in court, or when they'll go meet their clients and even if they go to CCA, they'll dress in jeans. I never wear jeans. I always dress very professionally, carry my briefcase. I expect to be treated as a professional by them. So I expect -- I treat them that way. And I use those cultural norms that you would in those environments and a lot of men don't really have to do that. (Valentina, Latina, CJA)

First, Valentina discusses this potential cause of tension and then describes strategies she uses to avoid or diminish it, such as Goffman's classic impression management strategies around dress and props and language adjustments. Specifically, she uses the more formal language indicator of you, *usted*. In English, both *tú* and *usted* translate as "you" and there is no indication of formality or informality. However, using *usted* as opposed to *tú* in Spanish is the best way to show professional, formal respect via language. *Tú* is only used for family, children, or friends, while *usted* is the default for

elders, strangers, and authority figures. Thus, use of this more authoritative form of “you” can easily be seen as an indicator of deference in a similarly Goffmanian sense.

Other Latina attorneys and judges described this same kind of impression management challenge, though sometimes not until asked. Once the concept was vocalized though, these Latinas also showed similar identity management strategies:

INTERVIEWER: Does your identity as a female ever affect your interaction with clients?

SOLEDAD: Absolutely. I think there's a—I don't want to say an inherent sexism, but there really is, culturally. Culturally, they're not used to there being female lawyers. And, sometimes I think my manner is too much, uh, social worker not enough, you know, authority figure. That I -- that the clients sometimes think, “Well, you know, she's not really serious.”

Like today, I called a client's wife and she called me back, and she goes, “Are you the lawyer?” I said, “Yeah, I identified myself as a lawyer.” “Oh, okay.” So it's the female voice, and they didn't expect it, so, I think there's a little cultural thing about female role types. And to deal with it, I always give them my business card. And I tell them, I introduce myself, so I make a point to say I am an attorney and always be very professional. And that's why, well, a part of that is I always stand up, shake their hands, give them the card, and say “I'm an attorney.”

But every once in a while when I get a guy who says they don't believe me, it's like, “Okay let's talk. I'll try to get you a boy lawyer.” And he's, and then an older male lawyer will come and talk to this guy. And it usually works. They say, “She knows what she's talking about. You're foolish if you don't take this plea.” So, I think there's some, once in a while, some sexism that goes on with the clients. (Soledad, Latina, CJA)

In line with Valentina's experience, Soledad explains the importance of doing extra identity work to define her role as an attorney, with business cards, stating that fact, and sometimes having to get a male attorney to back her up in order to bolster her authority.

Additionally, as Valentina mentioned above, women's age can be a factor, too. Many female attorneys discussed taking on a motherly role identity with clients in order to garner their respect and create authority despite their gender social identity. I argue this is a role extension identity management strategy used specifically by Latina attorneys.

Unlike the use of motherhood as an emotional struggle in the prior section, here female attorneys try and convert what would otherwise be a gendered authority barrier into an advantage by extending their role to play “mom” and thereby mitigating competition between professional authority and gender expectations. In other words, playing “mom” gives these attorneys another source of authority based on their gender social identity.

Three Latina attorneys discussed this strategy in straightforward terms. One said from time to time she will “play the ‘*mijo* [my son] card’ so to speak” (Sabrina, Latina, CJA) in order to get clients attention. Another Latina more thoroughly described this process:

When I was young, because I was 24, 25 when I got started -- like I said, I went straight through. Most of my clients were older than I was. And a lot of these real macho, Mexican guys were like, “You're a woman, what do you know?” And you know, “Your husband lets you do this?” It's kind of like this bias. I'd say “First of all, I'm 25. I'm not married, okay?” And I'm like, “You know, this is my career and I went to law school for three years, so I certainly know more about the law than you.” And so when I was younger, it was much more of a problem because they just thought -- because I was young. I was young and I wasn't experienced. Now that I'm older, I think that my clients view me more as a mother figure, for the most part.

It's like, I find myself referring to my clients as “son” a lot because it turns out that I could be and they could be my kids several times over. They almost give you authority because it's like, “You know, I'm older and wiser and I know what's good for you.” Every once in a while you get into, you know, some people where you just can't make them listen -- but, you know, I don't know. The initial machismo, that's the kind of thing where you can choose to acknowledge that or you can just sort of blow right past it and not acknowledge it unless it becomes really a problem and then you -- if you have a real conflict with somebody, then you withdraw. (Leonora, Latina, CJA)

Similar to Sabrina, Leonora suggests that automatic authority is given to her when she refers to her clients as “son.” Intentionally making use of their gender to fulfill a certain position in the clients mind demonstrates the extra level of identity management that these Latina attorneys have to do.

Overall, then, in order to increase what is a lack of authority based on one's social identity as a female, Latina respondents in particular addressed the need to engage in identity management strategies of impression management via dress and language as well as role extension via motherly behavior.

Latina Respondents: Activist Background and Altruistic Motivations

Finally, the Latina attorneys were the group most likely to have an activist background and describe their desire to help others and make changes via a career in the law. 70% of Latina attorneys suggested they wanted to be attorneys because of altruistic reasons such as helping others or improving equality in society. This often was followed by discussion of how this notion "to change the world" had changed after actually practicing law. Nonetheless, these respondents continued to frame their work as attorneys towards positive social ends. I argue that both the racial/ethnic identity of Latina and the gender social identity of female influence this discussion of one's role expectations and subsequent strain.

In discussing her entry into the field of law, one young Latina attorney describes her journey from observing OSL to practicing law in Streamline:

All the lawyers in Tucson, we all know about it because there's a lot of activism around Streamline. Some of the attorneys were involved early on with trying to get it ruled unconstitutional, so a lot of the circles that I have been in and am still participating in with like the activist groups talking about it.

So I actually already knew about Streamline and had observed it as a law student 'cause I was really involved with immigration law clubs and you know different things going on so I went to it before. So I knew about it before even getting my actual certification or my bar card but I didn't, I guess I was a little torn about trying to become a part of it just because I was always on that side of, you know, being the activist who was saying "This is horrible," and "This is the worst thing ever," and "How could you do this?"

You know I was kind of like “I don’t know if I want to be a part of it because maybe I’m going to be rejected by all my activist friends.” So I guess it’s hard having to be a traitor and making them mad. It was almost like I went ahead and decided to work with ICE or Border Patrol or something.

But being able to get encouragement from other attorneys has helped. It’s like I know Streamline sucks. But at the same time if I’m not there, there’s other people who are just going to get passed through without thorough representation. At least my clients know these are your rights, this is what’s going on if you were to come back. And at least I listen to them about the immigration issues because a lot of attorneys don’t and that’s a big deal. You know we have people who come through there that have families that can maybe make them some kind of claim, so it’s like “Alright well let’s see what’s going on.” So that’s the only thing I can really help to do.

*And sometimes I worry, like “Am I turning into one of those lawyers that are just here for a paycheck?” -- the ones who really don’t care about the client? I’m not sure exactly how some of the attorney’s got like that, but **I don’t want to be one of those jaded attorneys versus the activist kind of go-getter type of person I am.** And so I think that’s something that I kind of struggle with especially in Streamline because it is depressing and also because, ‘cause I feel like I’m between a rock and a hard place in trying to help the clients because I obviously don’t want them to be there in the first place, you know? But apart from trying to review the record and as far as making sure they know their rights, and what the government has to offer, there’s not a lot to do. I’ve gotten some of them less time, you know, but yeah at least I still care and I still try.*

But like I said a lot of times I feel really torn because you know it doesn’t really seem right or like real justice, to me, in my opinion. And this is just my personal beliefs ‘cause you know I don’t really think personally that the government or the tax payers need to be spending all this money on this stuff and building more prisons as we’re shutting down schools. I mean to me it doesn’t really seem -- the cost not just to them necessarily but to us is so much higher than the benefit.

It’s like “Oh no, we’re going to have people coming in here just picking tomatoes randomly!” Most of -- a lot of them are just coming here to go work in agricultural jobs and to clean hotels or something landscaping, I mean you know it’s not like “God forbid we have somebody out there mowing lawns.”

*So, yah, **sometimes I feel like a traitor and you know it’s not how I like to see myself** so I struggle with that. So I try to do stuff for people who are at least here, so I do “Know your Rights” presentations and stuff like that at the Worker’s Center. And then I give free consultations and stuff like that and I try to tell them like “Look don’t do this—don’t do this or you’re going to get caught if you do” so that way they’re not in that situation. I want to grab them and tell them like “Stop doing this.” Like I hate the system and I don’t want to see you in the situation. I know you don’t deserve to be in jail. I understand that but this is what’s going to happen if you put yourself in this situation. And I don’t know what to do to make them stop but I can’t -- it’s not something that I can have any control over. (Estelle, Latina, CJA, emphasis added)*

When discussing her activist past and then aligning it with her attitude of “at least I care,” Estelle demonstrates her adjustment to helping the individuals involved despite still having reservations about the goal and intent of the program. This is a specific example of role strain brought on by her past experiences. She continues to assert that she is “the activist kind of go-getter type” instead of a “jaded” attorney, but certainly also identifies with the struggle to work within the system to affect positive change. In fact, she demonstrates that working outside of the system, doing community presentations is how she continues her work within the system.

Another example of activist background and altruistic motivation comes from one of the federal public defenders who explains why she became an attorney and how Streamline has changed that perception:

But you just hear these stories from clients and feel useless. It's not like I don't know these stories, and I had already done defense work before Streamline, but there, it's really like “All I'm here to do is to push a paper, and I'm not a real attorney,” so that's a first thing. It's like I became an attorney so I could change the world, and all I'm doing is having people sign the best agreement so that they can serve the least amount of time. Aren't I supposed to be fighting this shit? But then you fight and you're just being selfish, because they just want to get out of here. And then, you're like, I don't know if I even explained something well enough so that they remember because most of them are going to come back, you know? (Santana, Latina, FPD)

The level of role strain exemplified by asking if she is a “real” attorney is a strong example of how Santana feels she has not fulfilled what she thought she could do in changing the world. She suggests that fulfilling the formal justice requirements of her job (push paper, sign the plea) is not the true reason she became an attorney. This suggests she feels like her work is lacking in substantive justice, creating higher levels of role strain.

Summary

Beyond the initial assumption that motivated this research—that Latino/a attorneys and judges would experience Operation Streamline differently than non-Latino/as—there were other social identities such as citizenship/generational status and gender) that interacted with role strain, social and role identity competition, and identity management strategies. Thus, by looking at the salience of racial/ethnic social identities within the Latino/a respondents and examining its effects, my perspective of competing identity management has become more nuanced.

This chapter addresses the differences within the group of Latino/a attorneys and judges based on two other social identities: citizenship/generational status and gender. First, I use the theory of social construction of identity to describe variation in salience of racial/ethnic social identities for Latino/a respondents. Findings show that citizenship/generational status among Latino/a respondents influences racial/ethnic social identity salience. Two groups emerge: those respondents who are 1.5- and second-generation Latino/as who tend to have thicker racial/ethnic identities that they themselves assert and those naturalized/migrated themselves later in life and third-generation-plus respondents who tend to have thinner racial/ethnic identities that are assigned by others. These variations in citizenship/generational status change how thick/asserted or thin/assigned a respondent's racial/ethnic social identity is, which affects their subsequent level of role strain. 100% of 1.5- and second-generation Latino/as experienced role strain whereas only 84% of naturalized/migrated themselves later in life and third-generation-plus respondents did so. This increased experience of strain for 1.5- and second-generation Latino/as in turn affects the level of competition between their social and role

identities and affects their identity management strategies. Naturalized/migrated themselves later in life and third-generation-plus Latino/a respondents more closely resembled non-Latino/as in their use of identity management strategies while 1.5- and second-generation Latino/as mirrored the overall Latino/a patterns. I argue this is support for the perspective of competing identity management, because Latino/as who experienced more role strain had to engage in higher levels of identity management strategies than those who experienced less role strain.

Second, this chapter examines the “gendered” interactions throughout OSL and suggests this social identity also influences role strain, interacts with the social identity of race/ethnicity as well as role identities, and changes the use of identity management strategies for certain respondents. Men were more likely to express benevolent sexism towards female clients resulting in increased role strain. Women were more likely to discuss issues of emotional management with clients. Latinas in particular discussed additional identity management strategies to deal with authority issues with clients who assumed their gender diminished their competence in their role as an attorney. Finally, Latinas also demonstrated increased role strain about being involved in OSL based on having become attorneys with activist orientations in mind. While all Latinas did not directly attribute their increased strain or emotional involvement to gender or activist background, these were distinct factors that were coded more frequently for these Latina attorneys than for other groups.

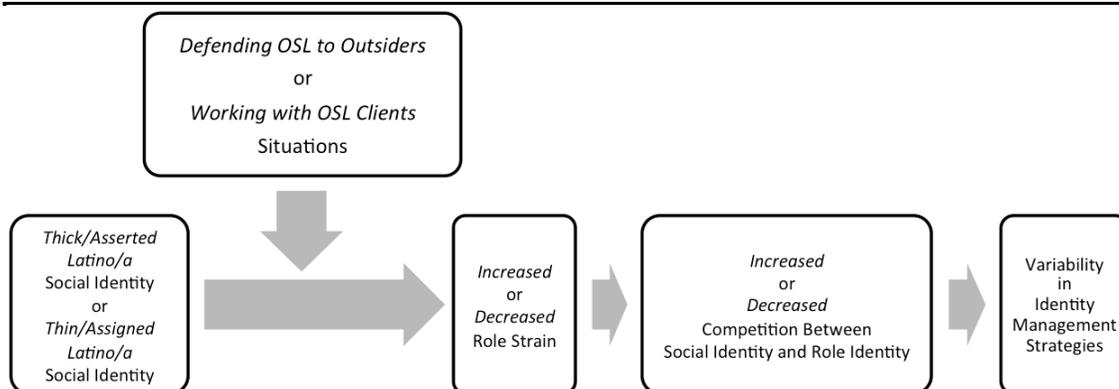
These patterns demonstrate that gender is in fact an important social identity in the OSL context and understandably would affect attorneys’ and judges’ identity management strategies. However, given the inductive nature of these findings and the

insufficiency of data on non-Latina women, stronger conclusions about the causal influence of gender present a productive avenue for future research.

CHAPTER 6: “THERE IS NO DIFFERENCE BETWEEN YOU AND ME” —
SITUATIONALITY OF SOCIAL AND ROLE IDENTITIES

Chapter 6 focuses on the argument that both social and role identities are situational. Situationality—as defined in role identity theory S. Stryker’s (1980)—is the “adjustment processes” in identities that are needed based on “responses to objective circumstances in which individuals and groups are embedded” (31). I argue this situationality applies not only to role identities, but also to social identities. I coded for two specific situations in which identity management for legal professionals in OSL took different forms: 1) talking to or about outsider critiques from activists/media and 2) interacting with or talking about interactions with clients in daily work. This chapter presents the findings around my initial expectations summarized in Figure 6.1 below; however, the findings about situationality and identity management did not map out so neatly as diagramed.

Figure 6.1: Situationality of Identity Management



In actuality, the relationship between situation and identity management was such that the coding scheme currently in place confounds the mechanisms at play. At this stage in analysis, I am confident to argue that situationality influences both social and role

identity management; however, the specific mechanism(s) by which it influences identity management is not clear in the current coding scheme. Because I coded occurrences of each of the two general situations above by respondent, I do not have coded information about the specific conditions of each situation. That is to say, I have a set of quotations for each of the two types of general situations (dealing with outsiders and dealing with clients) where respondents discuss situationality, but these instances are not themselves coded for their further exact conditions. As will be seen in the analysis below, particular factors about the situations (e.g., types of activists) affect respondents' identity management but the current coding does not allow for fine-grained analysis at this stage. Also, because of the expectations around social identity, I have not yet analyzed instances of situationality for non-Latino/as, but this additional analysis is also needed to clarify the exact process and identity mechanisms at play.

Further iterations of the coding scheme will continue to specify exactly what conditions of the situation result in variations specifically in social identity salience for Latino/as (thick/asserted Latino/a v. thin/assigned Latino/a) as well as, role strain, competition between social and role identities, and different identity management strategies for all respondents. In further research, I will code each situation with attention to the following potential mechanisms for both Latino/as and non-Latino/as: 1) What exactly happens to *both* racial/ethnic and citizenship/generational status social identities in each situation--is one played up and the other downplayed? Are they downplayed and played up together? Is there an interaction between the two? 2) Do situational conditions affect social identity salience or does one's pre-existing social identity salience affect the identity management within the situation? 3) What specific conditions of the situation

affect role strain? That is, what causes respondents to highlight substantive or formal justice in each instance of situationality? 4) What identity management strategies (as seen in Table 4.1 above) co-occur in each situation?

Additionally, instances of situationality also need to be coded for their *exact* conditions. That is, while I have occurrences of interactions currently coded as “with outsiders” or “with clients,” I need to further code these situations for instances of some factors that seem relevant to overall patterns in identity management. For example, in dealing with outsiders, how does an OSL respondent deal differently with liberal or conservative activists?

Without the above coding and additional rounds of analysis, I cannot know exactly how situationality affected respondents at this time. However, given my current coding, I can make the case that situation is relevant for both social and role identity despite not isolating the exact mechanisms and conditions. I present here some examples of patterns found in respondents’ dealings with situationality as relevant starting points for further analysis, though the prevalence and exact conditions leading to each pattern within different situations still needs to be teased out with more thorough coding. Thus, instead of giving a solid assertion of the exact process by which situationality matters, I provide examples that highlight the importance of situationality and then share two patterns of situationality in identity management.

Situationality Matters: Balancing Role Identity and Social Identity

The concept of situationality as developed by S. Stryker (1980) would suggest that any change in social circumstances could affect identity management strategies for

any of the attorneys and judges involved in Operation Streamline. However, the situationality that became most relevant in my analysis and that I focus on here (dealing with activists versus dealing with clients) was originally predicted to be most problematic for Latino/a respondents, especially for those with thick/asserted identities. That is, the particular situationality between *talking to/about activists and media* or *talking to/about clients* operates only for Latino/as because non-Latino/a attorneys and judges do not have a racial/ethnic social identity that they share with defendants and in turn competes with their role and necessitates differences in identity management strategies. Moreover, within the group of Latino/as, those with high levels of social identity salience—or thick/asserted identities—would be most likely to employ varied identity management strategies in the two types of situations because they more heavily experience role strain and social and role identity competition. Thus, the majority of my current analysis around situationality revolves around Latino/a attorneys and judges who participate in a difficult balancing act between their role identity and their social identity of race/ethnicity when discussing the different situations of working with clients and dealing with activists.

Hugo describes this struggle below:

*When I talk [to clients] about the sentence -- this is a time that gets difficult at times because when a person hears -- they're in this country because they have children who are starving, they have a wife who's pregnant, they have all of these factors going on and they're here to earn money and someone says to them, you're going to be in jail for 60 days it's really hard for them to hear that. **So, for me, it's really hard for me to explain that there's nothing I can do about that.***

*And sometimes it depends on what's going on, it depends on, I guess, a lot of things. **Sometimes I will hear out exactly what their story is and it will be so close to my family's and I will almost cry with them and then I will explain to them there's nothing I can do.***

Other times, I can't deal with that, so I just explain to them, please understand it's not that I don't care, it's not that I don't want to hear your story; the reality is that I can't do anything about your story.

And there's a prosecutor who's made this offer, he's reviewed your case and he's not interested in hearing what you have to say. What he's interested in is that the government gets the time that they think is appropriate. So it runs the full spectrum, depending on what's going on. But that's usually where the tears come in.

INTERVIEWER: Yeah, I mean that must be really hard. Do you have strategies that you use to try to, you know, keep yourself going? I imagine it can be really exhausting to do that even once or twice a week.

*HUGO: Yeah, I'm going to tell you that what's harder than that is getting up and leaving and seeing an audience full of really hostile people. They don't understand anything about what's going on. All they see is there's a bunch of people who are being ushered to jail. **They have no idea what role the attorney plays.** They just automatically assume that the attorney is somehow responsible for their pain, and it's like it's ludicrous and it's hard for me to deal with. **That's harder than the client's pain actually because it's like I'm doing my job to the absolute best that I can and I'm helping in the best way that I can in this really bad system and these people are rewarding me with frowns and total disgust is what it comes down to.***

I remember when we were able to argue, I was able to convince the judge - the government was asking 60 days; I was able to convince a judge that time served was appropriate, based on the clients' immigration history, criminal history etc. And I was walking out very proud of myself.

INTERVIEWER: Sure, totally.

HUGO: And I turned to see the gallery and it was like these people were looking at me like I was some P.O.S. [piece of shit], some piece of human waste -- and it's like, whoa. After all I felt I had done for this client. Anyway, so that, to me, is harder than just the client stuff. (Hugo, Latino, CJA, emphasis added)

In this example, Hugo discusses the complicated relationship he navigates between the situation of working with clients—which activates his racial/ethnic social identity (their stories are “so close to my family’s”) and his sense of role strain via substantive justice (crying, “it’s really hard for me to explain that there’s nothing I can do”)—and the situation of dealing with the critiques of activists, which activates his sense of role strain via formal justice (“They have no idea what role the attorney plays”).

There are several mechanisms at play here. In the first situation (with clients), it seems as if Hugo experiences severe social and role identity competition as well as role strain and the management strategy is to emphasize the formal justice pole for the client and for himself. For the second situation, though (with activists) he seems to experience even more severe role strain because the situation does not allow him to emphasize the formal justice pole of his role identity with the activists who are criticizing him. Dealing with role strain and the substantive justice critiques in the situation with activists, he says, is actually more trying than dealing with the sad stories of clients. This suggests that Hugo's inability to emphasize the formal justice pole of his role for activists overshadows social and role identity competition that he experiences in situations with clients.

In addition to Hugo's experience, other Latino/as also described instances of situationality and how they struggled to manage both their social and role identities depending on their audience. In the example below, Bridget explains her own mixed feelings and how she feels working in Streamline as a Latina puts her under extra scrutiny:

And so there's two things that could be said about recidivism in Streamline: one is if I was talking to, like, some of those people [activists] in that group that yelled at me, I would say: "Don't feel so sorry for all of these people because they know they shouldn't come; I told them last time they were here." And the other is: "This program really doesn't work, you know? You guys were right. Let's get rid of it, I hate it."

*And when I was talking to those activists, they did yell at me and they kind of make me jump through some hoops, you know, and honestly, to be honest, there's where I feel a little bit of a -- of a -- of a disadvantage being Latina, because I think that -- sometimes I wonder if that activist is like that with me just because I'm a Latina. I don't know. I don't know if they, you know, give me a little more trouble -- if **they feel like I should care more about defendants because of my background** but, I have to work a little harder, you know, answer a few more questions, justify myself more to them. (Bridget, Latina, CJA)*

First, Bridget discusses role strain in discussing recidivism in OSL. She emphasizes the

formal pole of role strain by acknowledging her own completion of her formal justice role duties *with clients* (“I told them last time they were here”). However, she then immediately juxtaposes this in her experience of agreeing *with activists* about substantive justice (“This program really doesn’t work, you know? You guys were right. Let’s get rid of it, I hate it”). Second, Bridget also suggests her need to downplay her social identity of Latina because it “disadvantages” her in her ability to deal with activists. In this example, the mechanisms at play seem to be that her Latina social identity makes it hard to deal with activists because they see her social identity as in competition with the substantive justice pole of her role identity which in turn increases the role strain she feels about both disagreeing and agreeing with activists.

Given the multiple potential mechanisms at play in the above two examples, further coding is needed to specify the exact interactions, moderating effects, and mediating effects between different situations (and specific conditions within each situation) and the various parts of identity management (social identity salience, role strain, social and role identity competition, and identity management strategies). Despite not being able to tease out the exact process, I can still argue situation is having an effect. I also can provide evidence for two different patterns that became apparent in each of the two situations I coded for (dealing with clients versus dealing with activists). However, each section also includes questions about how the situational factors interact with social and role identities to produce different processes of identity management.

The clearest interaction between situationality and social and role identities found in my current coding scheme is described in the first section on Latino/as dealing with clients. I call this section *Playing Up Cultural Similarities, Acknowledging Lack of*

Substantive Justice with Clients. This pattern arises when Latino/a respondents are discussing their daily work with clients. In this situation, they discuss how they both emphasize their social identity of race/ethnicity (that they shared with clients) and also acknowledge to clients that substantive justice is lacking (i.e. role strain) in order to develop rapport. However, some circumstances that influence the situation (i.e. one's citizenship/generation status) are revealed that were not systematically coded for in other examples, making theoretical generalizations problematic. Additionally in a subsection on language, I examine the use of Spanish, which sometimes functions as an example of playing up a social identity for Latino/as, but that also gets used by non-Latino/as in a variety of ways. Again, some patterns are presented in how respondents use Spanish-language proficiency to relate to clients, but systematic assertions are not made.

The second pattern between situationality and identity management is when respondents are faced with defending the program to outsiders such as activists and the media. I call this section *Downplaying Racial/Ethnic Social Identity, Focusing on Formal Justice and Citizenship/Generational Status with Outsiders.* Latino/a respondents in particular have to deal with defending the program carefully, as their social identity is perceived to affect their role strain and role identity by these outsiders. Latino/as, then, must once again balance their legal role and racial/ethnic social identity, but in a different manner than they do with clients. In situations dealing with activists, the pattern involves minimizing their racial/ethnic social identity while emphasizing formal justice in their role, and sometimes even bringing in the relevance of their citizenship/generational status social identity.

Playing Up Cultural Similarities and Acknowledging Lack of Substantive Justice with Clients

Many Latino/a attorneys suggest that their shared social identity with defendants is an excellent way to build rapport with clients and helps them establish trust in the short time they have to meet with clients. Thus, highlighting their social identity assists their role enactment. In this situation, then, Latino/a respondents play up their social identity, but they often also acknowledge a lack of substantive justice present in OSL. In the case of Hugo, above, for example, he suggests that defendant's stories are so close to his own family's he feels deep empathy with them, but then must tell them there is nothing he can do ("Sometimes I will hear out exactly what their story is and it will be so close to my family's and I will almost cry with them and then I will explain to them there's nothing I can do"). However, whether it is his thick/asserted social identity that leads to this strain or whether the situation is causing him to present a thick/asserted social identity is not known at this time.

There are several other examples of Latino/a respondents emphasizing their social identities while also bringing up issues of role strain and substantive justice with clients. Again, they often link this to enhancing their role performance (building trust, making clients comfortable). Below is an example of referencing actual skin tone and linking it to culture and language:

*A lot of people that I represent -- there's not necessarily the assumption of like "You're a part of my people" per se but, um, **I think it helps because I am brown** and then they do think that I know more about their situation perhaps because they know I come from a Latino/a heritage, whatever they have in mind. You know*

maybe they're like "Okay well, I can understand and hear her a little bit better." I hope they feel a little bit more comfortable speaking to me knowing that there's perhaps a similar background and cultural connection

It's still a little bit different cause they don't really believe I'm one of them—I'm still "the other" but not like, you know the white guy kind of "let me sell you a car" type of attorney. I hope that they feel a little bit more comfortable or that I'm more approachable because I'm not completely different and it's not like I have no connection, even though I am helping them through this terrible system that I sort of represent. I try to let them know I'm there for them, not the system. (Estelle, Latina, CJA, emphasis added)

Estelle specifically hopes her skin tone, heritage, and shared culture with defendants will help relax clients, thus playing up her social identity in this situation. She admits, however, that she is still part of a terrible system and acknowledges that she has to let clients know she does not think substantive justice is being served.

In a similar vein, other attorneys use both their citizenship/generational status social identity and their racial/ethnic social identity as a way to demonstrate their proximity to their clients' situation. Here, Esteban explains that he is different from clients based on citizenship/generational status, but otherwise they are "the same"—referring to their shared racial/ethnic social identity.

I look at my clients and I see me. I tell them by the grace of God, I was born on this side of the line. There is no difference between you and me other than the fact that my family was here and I was born 60 miles north of the border. So I'll sit there and I'll tell them about my family history sometimes, because I think it's important for them to know that I do understand what they're saying, that it is unfair. (Esteban, Latino, CJA)

Esteban uses his own family history as a way to demonstrate his personal connection with clients via his social identity of race/ethnicity, but also describes his being born in the U.S. (citizenship/generational status) as only a trifling difference. It seems as though he is minimizing the meaning of the citizenship/generational status difference between himself and his client and instead highlighting their shared racial/ethnic social identity. The exact

interaction between two social identities of race/ethnicity and citizenship/generational status was not coded for each example of situationality, so the broader pattern must still be established, but the situation of dealing with clients does bring out variation in playing up these social identities. Emiliano also builds rapport by empathizing with their plight and suggesting that he does not find the process they are going through to be fair. This is then another way to demonstrate his trustworthiness in their case by acknowledging the lack of substantive justice in OSL.

Another attorney suggests she can use her shared heritage to help with sentencing in non-Streamline cases and also to make personal connections to OSL clients:

My heritage, um, might actually help. At least I can explain the reasons behind them coming you know, and I use that sometimes for sentencing at least with the flip-flops or regular felony dockets. I can say to a judge, when you're trying to explain why this person keeps coming over, you know what I mean? And the pattern of immigration matters over our history, um, depending on the judge.

I mean I talked about that in sentencing, but I also talk about that to my clients in Streamline. I like to tell them that the only thing that separates me from a Streamline client is that when my grandma crossed, you know, in the '20s she was able to pay some pesos and then she came here and had my dad. And, I mean, my dad was essentially, you know, the anchor baby. But, you know, now my family, we own companies, we're lawyers, we're whatever. You know, so it's, sort of like what the fuck?

INTERVIEWER: (laughs) Yeah.

*SANTANA: **The only thing that separates us is the fact that my grandma could come across just by paying a couple of pesos, you know, and that was it. And now the border's completely closed and you're talking about a group of people completely shut off. But, um, I'll talk to them and I'll compare that or, um, I don't know I can't give you like examples, it just depends on each scenario. But sometimes I think that yes, it helps. (Santana, Latina, CJA)***

Santana describes her own family history (her citizenship/generational status social identity) as a difference between her and clients, but frames it as an arbitrary historical fact that separates her from clients. She is again downplaying

citizenship/generational status and playing up a shared racial/ethnic social identity as a way to get clients to open up and to let them know she is on their side. She also acknowledges the absurdity of their situation and expresses her own dislike of OSL, leaning again towards the substantive justice pole of her their role.

In sum, when Latino/a respondents talk about situations dealing with clients, they play up the social identity that they share with clients (race/ethnicity) and sometimes downplay the social identity they do not share (citizenship/generational status). They also lean towards the substantive justice pole of their role to acknowledge the difficulties clients are experiencing in order to build trust. When Latino/a respondents emphasize their similarities to clients and then say OSL is “unfair” they are engaging in situationally specific identity management strategies, but the causal ordering of these instances merits further analysis and research in order to make strong theoretical assertions.

Spanish-Language Proficiency: Playing up a Social Identity?

I expected to find that a Latino/a respondent’s use of Spanish would be an indicator of a particularly salient (thick/asserted) racial/ethnic social identity that would be used to demonstrate a special connection with clients and build rapport. This was sometimes the case, as will be demonstrated below. The logical deduction from this pattern, though, would be that Spanish language usage could not be a social identity indicator for non-Latino/as, as they do not have a social identity that is linked to Spanish. However, I found that many non-Latino/as discussed how their use of Spanish was a resource that built rapport with clients, too. Thus, Spanish-language usage seems to fulfill multiple functions but these need to be further teased out with additional analyses.

Latino/a attorneys certainly described their Spanish skills as something that helped them relate to clients, more so than their non-Latino/a counterparts. Micah makes this distinction below when he describes his advantage over “second-language gringos” when working with clients:

INTERVIEWER: Has the fact that you have Hispanic heritage -- do you find that that helps you at all with clients?

MICAH: Yeah. Especially my last name and what it actually means [detail removed to protect confidentiality]. So I make a joke about [the meaning] and it starts the interview off with them laughing and it goes from there. If you can get these guys to crack a smile, they're putty in your hands. Yeah, so even if it's a rally bad pun, you've got to find what level they're at and meet them there.

*Also, native speakers can almost talk street Spanish, so they have an easier time. And I have an easier time than some of these second-language gringos because I've heard how the street Spanish is, and I can throw some of that in. **If you can get them to believe that there's no us and them, not you're the other but you're one of me, there's a lot of trust that's built up that way.** Being able to speak their language, as opposed to some of the guys that learned it in college or speak it very poorly, the guy's just like, what are you talking about? Yes, they're communicating, but **I found that the people that could speak the street-level Spanish have a much easier time.***

I also have a little bit of an advantage because -- I think it's my size, and I sound like I speak with authority. So they don't question me too much. (Micah, Latino, CJA, emphasis added)

As Micah suggests when he references “street-level Spanish,” some of the differentiation in Spanish skills the attorneys discussed related to “formal” versus “slang” use of Spanish. Micah suggests he can break down any barriers of “us and them” put up by his role as an attorney by communicating with clients beyond the formal requirements of his legal role, but in puns and dexterity of language that indicates their shared racial/ethnic social identity. Another Latino/a attorney discusses below this same distinction of slang/formal Spanish and being able to gain “street cred”:

Especially with the men I am able to use slang and expressions, some of which they would never expect a U.S. born person, whether he's Chicano or Caucasian to know. So I'm able to use the language and just get that smile and they say, 'All right, this dude's got some street cred here.' (Hector, Latino, CJA)

Hector, like Micah, suggests getting clients to laugh and smile and relax is achieved through their special use of language, which is also intertwined with social identities of being U.S.-born or Chicano. Solomón also agrees his native Spanish speaking skills allows him to “talk to them at their level”:

I believe that what helps me a lot is being able to, as a native Spanish speaker, sit down and talk to them at their level in their language and saying words that they can actually understand. I know sometimes if you're not a native speaker of the language and you learned the language late in life then your tools in the toolbox may be a little limited, but because I grew up speaking Spanish in the house, it helps me connect to them. (Solomón, Latino, CJA)

Solomón above implies his home life and upbringing help with his language and thus his rapport and Jesús below, explicitly links his Hispanic, Mexican heritage with the ability to throw out “proverbs, a swear word or two” in order to get them to trust him. After describing the Manuel Martínez vignette, he says the following:

*They're upset -- they're upset at the system. And when they first see us there, we are -- we are part of the system. So why would they want to trust us? Okay. **My way of approaching that is, because I'm Hispanic, I'm Mexican, I start throwing out either proverbs, a swear word or two or something like that -- to, you know, to show them I understand their language and their plight. Because I don't agree with this law. I mean, it's crazy to criminalize -- to criminalize just the entry. And I tell them, "I agree with you, man. We're working with a shitty law. But that's -- that's it."***

And then they start, and I try to be as courteous as I can to them, make sure they have water and, you know, just try to establish some rapport with them to show them that I'm not a blue pinstripe suit lawyer, just -- and then I show them what we're working with. I talk to them first about the charges, and then I say this is in writing. Then we go over the plea. And then I show them there's two promises. I show them the promise of -- of dismissing the felony and the promise of sentencing. And this -- these are your options. (Jesús, Latino, CJA, emphasis added)

Jesús, then, recognizes his ability to build rapport with clients based on language and slang as an indicator of their shared social identity (“So why would they want to trust us? Okay. My way of approaching that is, because I’m Hispanic, I’m Mexican”).

Additionally, as with the cultural indicators above, he adds emphasizing the lack of substantive justice and his distaste for OSL (calling the law “shitty” and telling clients he is on their side) especially drawing on a substantive version of justice. However, he then has to reason with clients and return to his formal justice duties and get them to understand the legal options despite the substantive injustice.

While I argue the above examples show that language is an indicator of racial/ethnic social identity for Latino/as, it is also relevant to note that non-Latino/as discuss their use of language as well. Some non-Latino/a attorneys who have very developed Spanish language skills are able to recognize a social identity difference, but they use their skills to try and minimize that distance:

I do have to make a special effort to build rapport with clients. They may just walk in and say, who’s this white guy? He’s not on my side. But to be honest, 95 percent of rapport is built with my Spanish. It’s, it’s something I’ve got going for me -- I get told by interpreters all the time, you’re one of the best Spanish speakers we’ve ever had over here. So I think that’s always helped carry weight versus any other differences between me and my clients. I really can speak their language. (Walter, non-Latino, CJA)

Here, Walter is emphasizing how Spanish facilitates his role duties with clients by building rapport, but it’s not through a shared social identity. Thus, there must be more to Spanish language than just social identity cues.

Some non-Latino/a attorneys realized that their minimal language skills created social distance with clients, again suggesting it might be an indicator of a social identity they do not share. Tiffany, a non-Latina who had to take the Spanish-Language test for

all federal defense attorneys twice, explains that her Spanish sometimes creates problems with clients:

Many of my colleagues speak much better Spanish than I do, so if I'm not absolutely sure what a client is saying, I'll call over one of my colleagues, like one who looks like a traditional Spanish-speaker. Often it's a Spanish language issue and my vocabulary isn't good enough to understand what's going on, or my comprehension. (Tiffany, non-Latina, CJA).

In explaining her lower proficiency in Spanish, she claims it is possible to “look like a traditional Spanish-speaker,” implicitly recognizing the social identity of race/ethnicity that is linked to the language skills that she lacks.

Overall, both Latino/a and non-Latino/a attorneys agree that Spanish language usage affects development of rapport with clients and can be linked to a Latino/a social identity. Many Latino/a attorneys highlight their native-Spanish speaking skills as a way to connect with clients, as a key part of the social identity as Latino/as, and in conjunction with demonstrating role strain (expressing their distaste or dislike for OSL on substantive justice grounds). However, some non-Latino/a attorneys also use Spanish to make up for lacking a shared social identity of Latino/a and tout their superior language skills as a way to make up for this. Overall, the specific condition(s) under which non-Latino/as discuss language and rapport is not known based on problems described above with the current coding scheme. Later analyses will more thoroughly code situations of dealing with clients surrounding language specifically for non-Latino/a respondents.

*Downplaying Racial/Ethnic Social Identity, Focusing on Formal Justice and
Citizenship/Generational Status with Outsiders*

In contrast to highlighting the importance of a shared racial/ethnic social identity in their client interactions, Latino/a respondents downplay this shared social identity in situations where they have to deal with outsiders such as the press activists. In these situations, they highlight their role by emphasizing the formal justice aspects of their work. They also sometimes highlight their citizenship/generational status with these outsiders to downplay their racial/ethnic social identity. In situations where they have to answer to outsiders, then, Latino/a respondents' identity management shows patterns of downplaying racial/ethnic social identity in favor of focusing on formal justice and citizenship/generational status with outsiders. However, it is unclear at this point if this also happens for non-Latino/as and what exactly the process is for this pattern. That is, what specific conditions of the situation when dealing with activists cause attorneys and judges to engage in these patterns? And are only Latino/a attorneys and judges experiencing more role strain based on competing social and role identities or does this situation affect role strain for all attorneys and judges, including non-Latinos?

Here, I only look at the situation for Latino/as. Because Latino/as share a social identity with clients, many activists assume this will make them more aware of concerns about substantive justice. These Latino/a respondents, then, often emphasize formal justice in defending themselves to OSL activists while downplaying their shared social identity with clients. That is to say, in situations where outsider critiques would call on Latino/a respondent's shared social identities with clients, they tend to downplay this social identity in favor of focusing on the formal justice aspects of their role. This often

results in Latino/a attorneys and judges discussing how much they dislike Operation Streamline in general, but then having to explain that outsiders do not understand their role—focusing on formal justice and what they can actually do for clients given their role limitations. This is recalled from both Hugo’s difficulty of not being able to give the formal justice explanation to activists and Bridget feeling like she faces more pressure from activists based on being Latina. Additionally, this situation of defending OSL to outsiders sometimes brings up another more situationally valued social identity for Latino/a respondents: citizenship/generational status.

I found that many Latino/a attorneys and judges, in defense of the program against activists, would downplay their social identity and instead focus on the formal justice aspects of their role. This often meant Latino/a attorneys and judges would become defensive in situations involving activists and emphasize that their role lacks the ability to broadly change Streamline. Leo below suggests he agrees with the activists’ stance, but not their actions and that he has stopped talking to certain outsider groups and especially the press about his work in Streamline:

I don't have a problem with the activists. I think they're doing the right thing, in the sense that they should be protesting something, but their actions are all wrong. They should be having a problem not with Streamline itself but just our immigration laws. And maybe this is a good way to call attention to what's going on with immigration, because you see a lot of people chained up together, but the problem I have is the twist where all of a sudden we, the defense lawyers, have become the target.

You can't win. You really can't. There's no way to win in this situation. So I've kind of come to terms with it. I used to talk -- and I know you know this -- I used to talk to everybody. I'm more cautious about it now. I'll talk to schools. I'll talk to groups where I know someone that's involved in the group -- but I don't want to talk to anyone from the press, because I think that they just start looking to sensationalize the situation. I'll definitely talk to high school or college students any time that they want to talk to me, and I'll go talk to them about it as much as they want. But I'm very wary of who brings them in. If they are with certain activist groups, I know that anything I say won't matter. And if they come in with

*[particular activist leader] I know I am just in for an earful of how **I am a traitor to my people** and how the whole system is morally corrupt.*

*But I feel bad for backing away because I think I am a good representative of Streamline. Honestly, for me, I have no problem with what I do every day. **I know I do the best I can for every one of my clients. But the change that really needs to happen is in the political aspect, not in the legal aspect with filing appeals and everything else.** In fact, appellate courts have already said that this is okay.*

*But I think that's a political choice. And as long as the political branches have decided that this is what's going to happen, you know, you're part of a legal system. That means that you're buying into the legitimacy of these decisions, even though you don't agree with them. **So I don't feel guilty from my -- I don't feel like I, you know, lower myself or I'm a traitor or anything like that participating in Streamline because I think it's a perfectly -- it's a perfectly legal process.** Whether it's politically smart or, you know, from a policy standpoint, which I guess are two different things. I don't, you know. I think it's highly stupid and I think it's a waste of money, but as long as they do it, you know, I can have my opinions as a U.S. citizen and take those with me when I vote, but it's not my job to walk away from these clients. (Leo, Latino, CJA, emphasis added)*

Despite his agreement with the activists about broader systematic problems with immigration—and even Streamline specifically (“it’s highly stupid”)—Leo says he is no longer willing to talk to certain groups because he wants to avoid the scrutiny they put him under based on his racial/ethnic social identity (“a traitor to my people”). This reaction to the racialized scrutiny of the activists then causes him to emphasize his completion of the formal justice aspects of his role of attorney and the limits he faces in that role (“I do the best I can for every one of my clients. But the change really needs to happen is in the political aspect, not in the legal aspect with filing appeals and everything else”).

Additionally, he mentioned his “opinions as a U.S. citizen,” highlighting his citizenship/generational status social identity over the racial/ethnic social identity that would subject him to more role strain. This emphasis on his citizenship/generational status social identity comes together with a key part of American ideology: separating

law and politics. He suggests he feels no guilt because the process is perfectly legal and has been approved by a higher court even if he agrees with the activists' opinions that the laws should not be there ("you're buying into the legitimacy of these decisions, even though you don't agree with them").

An additional example of both racial/ethnic and citizenship/generational status social identities competing with role identities, is provided by Emiliano below. He suggests he plays up the importance of the Sixth Amendment and the Criminal Justice Act of 1964 to defend what he does to activists, playing on his American identity and pride in the U.S. legal system over any shared beliefs with activists. However, this quote is complicated by his inclusion of conservative immigration groups as well as liberal activist groups. Thus, when I asked him about situations involving activists, he had this to say:

*I always got it from the conservative groups, "Why do you represent these criminals, these illegals? Why do you help these people out – **just because you're all Mexicans?**" And I tell them "I believe in the constitution of the United States." The thing that makes our country so much better than all the other countries in the world is the fact that we provide defense attorneys here, with CJA and the Sixth Amendment. You look at all these other countries and the legal systems are almost identical. Even look in Mexico, our legal system is almost identical to Mexico, except for two things, one thing is a legal thing that you wouldn't care about but the second thing is you don't have the right to a lawyer. So you don't have the right to a lawyer if you go to all these other countries and lawyers are there to protect people's rights in America. **And it doesn't matter if you're not an American or if you're Mexican, or if I'm Mexican, you still get these rights.** So to me, that's the most important part of what I do. Usually my biggest defense all the time against very conservative people who really don't understand the way this country works is that this is probably **the most American thing you can do** as a job and I'm very proud of it and I've always been very proud of being a CJA Panel attorney.*

The other thing, now though, is that I finally feel attacked by people who see the world the same way I do—people who I looked up to for a long time; lawyers who I learned a lot from when I was first starting out like [names removed]. And so that probably hurts more than anything. Somebody that sees the

world the same as you do attacks you for Streamline. Especially since I spent my whole time in school working on Chicano history and immigration stuff [...]

I remember telling [one activist attorney] that you're seeing the world through rose-colored glasses. That if I stood up in Streamline and said, "No, we're going to fight this," that it would make a difference. It wouldn't. It would just hurt my one client that's sitting in front of me. And you can't do that. We don't represent the whole societal issue here, we represent our client sitting in front of us and if we can't represent his interests than we have no business representing him, we need to get out of the case. What they want to see is what's fair, you know, and I tell them this law isn't fair. It's supposed to be, but it's not. (Emiliano, Latino, CJA, emphasis added).

In this situation of defending OSL to outsiders, Emiliano emphasizes the overruling importance of formal justice ("I believe in the constitution of the United States") over politics ("somebody that sees the world the same as you"), over his own dispositions ("this law isn't fair"), and especially over his social identity of a shared race/ethnicity with their clients ("It doesn't matter if...I'm Mexican"). Especially as a Latino/a attorney who is politically or morally on the side of liberal activists, Emiliano first demonstrates his general anti-Streamline, sympathizing with the cause of activists, but critiquing their strategies and emphasizing the limitations his role creates ("we don't represent the whole societal issue here, we represent our client sitting in front of us").

What this particular quote brings up that is not accounted for in this analysis is knowing what type of outsider the attorneys and judges are defending themselves against when they are in these situations. This condition was not coded in the original analysis and will need to be examined in future research. In the instance of conservatives, it is not so much formal law that the attorney mobilize but rather the role-specific professional ethics which tell the lawyer that the first duty is to defend the client within the boundaries of the law as is, not to take on the cause of changing the law and/or changing society. Thus, while we get a sense of the tensions Latino/a attorneys feel between representing

clients and pushing for systemic change, it is not possible with current coding and analysis to know what situational conditions cause which reactions from attorneys. Additionally, in dealing with outsiders, it could be that non-Latino/a attorneys and judges also have different strategies for dealing with strain between the formal and substantive poles of their role, but that group was not included in this analysis based on their lack of a shared social identity with clients.

In terms of observed interaction with activists at the courthouse, most all attorneys and judges, both Latino/a and non-Latino/a, tried to avoid such interactions. However, some attorneys and judges knew some of the activists personally and would be willing to interact with them in the court. Almost all of the observed interactions of attorneys and judges talking to activists at the courthouse took a very defensive position as lawyers worked to describe their limited role and the legality of the proceeding. They would provide many justifications in the presence of these activists and rarely would they discuss their own distaste or dislike of the program. My inductive coding revealed several different formal justifications. These are listed in their most basic form below:

- “I don’t make the laws, I just defend clients who are charged”
- “Streamline is better than the previous petty calendar”
- “Streamline is better now than it was at the start”
- “Streamline is better than a felony conviction”
- “Streamline is the same as Flip-Flops”
- “We get plenty of time with each client”
- “All 1325s and 1326s are essentially indefensible anyway”
- “Streamline is just one part of the larger broken legal/immigration system”

Which attorneys and judges use which justification with which activists, though, has not been sufficiently teased out in the current analysis. Given the prevalence of such justifications, however, it is certainly an area that merits later additional coding and analysis as outlined at the start of Chapter 6.

Summary

Chapter 6 demonstrates how situational factors influence role strain, perceived social and role identity competition, and management strategies, though the exact mechanisms are still under investigation. When discussing interactions with clients, Latino/a attorneys emphasize the importance of their shared cultural and language abilities with clients (playing up social identity), while explaining their own dislike of the legal system along with their clients (demonstrating role strain). In contrast, with activists, Latino/a attorneys and judges discuss how they focus on their work role or their citizenship/generational status social identity and downplay their racial/ethnic identity which outsiders use to force role strain and social and role identity competition upon them.

Thus, I argue that situationality applies to not only to one's work role but also, in an expansion of S. Stryker's (1980) concepts, situationality influences social identities such as race/ethnicity and citizenship/generational status (in this instance). This integration and expansion helps recognize circumstances in which certain types of social identities are highlighted or downplayed. However, the exact conditions of situations were not coded in this analysis and merit further investigation. While I present here some examples of patterns in Latino/a respondents' behaviors based on initial expectations that

situational differences in discussing OSL with outsiders versus discussing work with clients would result in variations of identity management strategies, I was not able to distinguish in what exact ways situationality is influencing role strain, social and role identity competition, and identity management strategies. There are instances of all three interacting in my data, but the exact conditions under which each occurs is more complex than originally anticipated and thus was not coded distinctly enough to allow for analysis at this time. Future research will explore the more specific conditions of each situation. Given the potential influence of situationality on identity management, it is certainly worth further analysis and indeed future studies to specifically identify what situational conditions and what identity factors create variation in identity management strategies.

CHAPTER 7: CONCLUSION

Summary of Findings

Operation Streamline, a controversial criminal immigration proceeding, provides a case study of competing social and role identities for Latino/a attorneys and judges who are involved in OSL. Based on the prior three substantive chapters, I answer my original research questions as follow:

1. Latino/a lawyers and judges involved with OSL **DO** manage their potentially competing social and role identities differently than non-Latino/as whose social identities do not compete with their role identities.
 - a. Some Latino/a lawyers and judges (those with higher racial/ethnic social identity salience) involved with OSL manage their potentially competing social and role identities differently than other Latino/a lawyers and judges (those with higher racial/ethnic social identity salience).
2. A shared social identity with defendants seems to be useful in the daily work of Latino/a lawyers and judges, but often detrimental in how they are perceived by outsiders.

Thus, my initial expectations on the importance of identity competition between social and role identities as they affect identity management strategies were generally correct, but many findings suggest more nuances than originally theorized. In sum, I have been able to elaborate mechanisms of some identity management processes while also

developing grounded hypotheses on which to base future research. These are outlined below.

Tenets of Competing Identity Management Theory

From this case, we can take the findings and begin to create an outline for a new theory of competing identity management, integrating prior literatures on social and role identities. Basic tenets that are consistent with findings in this research include:

1. Those with non-situationally valued social identities are more likely to experience higher levels of role strain resulting in competition between their social and role identities.
 - *[In this case, Latino/as experience more role strain based on formal versus substantive justice causing their racial/ethnic social identities to compete with their role identity of legal professional for OSL].*

2. Those with competing social and role identities vary in their use of identity management strategies compared to those without competing social and role identities.
 - *[In this case, Latino/as used certain identity management strategies more often than non-Latino/as as well as using some identity management strategies that non-Latino/as never had to use].*

- 2a. Those with situationally valued social identities do not have to engage as frequently in the following identity management

strategies compared to those with situationally non-valued social identities: identity consolidation; negotiated identifications with certain times or Beliefs/Ideas/Values; role-making/identity extension psychological compartmentalization and fictive story telling

- *[In this case, non-Latino/as did not have to engage in the above strategies as often as Latino/as].*

3. Varieties of social identities will interact to create variation in social identity salience, role strain, competition between social and role identities, and use of identity management strategies.

- *[In this case, the interaction of race/ethnicity and citizenship/generational status created variation in social identity salience for Latino/as, which affected role strain, competition between social and role identities, and use of identity management strategies.]*

4. Management of competing social and role identities is situationally dependent.

- *[In this case, respondents showed numerous patterns playing up or downplaying their various social identities in conjunction with emphasizing certain parts of their role based on talking to/about activists versus talking to/about clients.]*

With these generalized tenets, Competing Identity Management Theory can be transferred to and examined empirically in any social setting where identity competition is present. Continuations of this research program will more clearly define scope conditions and help integrate additional prior theories of identity, such as the perceptual control research project in identity theory (Burke and Stets 2009) and identity and emotions work by Stets (2005). A future research section is discussed below.

Broader Contributions and Best Practices

In applying these tenets of competing identity management to OSL, what can attorneys and judges do to decrease role strain, lessen identity competition, and serve clients better? Generally, respondents who were aware of their potentially competing identities had developed coping strategies compared to those who deny or are oblivious to potential role strain and role and social identity competition. For example, Latino/a attorneys and judges who highlighted their racial/ethnic social identity felt they could better relate to clients and more quickly develop rapport. Additionally, those who were able to employ more identity management strategies had an easier time discussing their personal unease about being involved in Operation Streamline and were thus better at thinking about what to improve not only for OSL specifically, but also criminal immigration proceedings in general.

As such, making attorneys and judges aware of these competing identities and helping them to see how some of the larger social systems of race/ethnicity, citizenship/generational status, and gender inform their work is a good start to helping them cope with role strain and opens up to them a variety of identity management

strategies. For example, in my interview with a Latino/a third-generation-plus respondent, Dean (quoted earlier as saying “I could never identify with them,” referring to Operation Streamline clients), he also denied any sort of racial element to Operation Streamline when I suggested it to him in our interview over lunch. After the proceeding that afternoon, he approached me and said:

I had another thought. I had a client once and I forget what we were talking about, but she was in Streamline and she made this comment about darker skin being subject to more prejudice. If you came from the South and you were darker than the rest of Mexico. And so today, after our talk, I started looking at the clients, like you said racially, and they are all darker. So if you look at any of the TV programs, any of the TV stations like Univision, they're all, well, they're mostly men and very light-skinned, fair skinned. And a lot of Mexicans in the north, along the border, are very light skinned.

And I thought, wow, this is really interesting, all the people today are darker, and they usually are in Streamline. So I think that's good for your observations. And you know a lot of things in Mexico, like who has wealth and who's in poverty, have a lot to do with who your ancestors were, like indigenous groups, or those south of Mexico City, are more dark complexions.

INTERVIEWER: Wow, that's a very interesting variation

DEAN: It hadn't really sunk in before, but I was there looking at these guys and I thought “None of them look like anybody I went to school with,” you know? Which is another thing about Arizona, about Tucson at least, how many of these lawyers or even most Hispanics here, how many of their ancestors were Mayan? So maybe there is, at least, ancestor-wise, a racial part about who is migrating and getting caught. (Dean, Latino, CJA)

Thus, recognition of potentially racialized variation, especially within the group of Latino/as based on skin tone, helped Dean to think more broadly about systematic racism (Feagin 2010; Cobas, Duany and Feagin 2009) as a potential contributor to inequality. Thus, helping those in the field of OSL (and others, for example, in law enforcement) to understand these larger factors and thus better manage identities might improve their own wellbeing and their promotion of substantive justice, specifically as outsiders critique their role identities causing strain. Because once role strain or social and role identity

competition are suggested to respondents, and they have to grapple with these issues—that is, they are called out by activist or media outsiders—those who are aware of certain identity management strategies and/or recognize problems of substantive justice are able to better perform their role to their best of their ability and even harness the power of their potentially competing social identities.

My research also contributes to improving how the criminal justice system deals with sensitive racial/ethnic issues surrounding immigration crimes and *en masse* proceedings such as OSL. Because proposed “comprehensive immigration reform” includes expanding programs like OSL, my research to understand the broader effects of the program on legal professionals is especially important not only to social scientists but to society at large. The fact that there is a difference in identity management strategies for Latino/a and non-Latino/a respondents helps demonstrate there is in fact an underlying racial tension present in Operation Streamline, and this racial tension also may be present in other related work such as with the Border Patrol.

Limitations

As in all research, this project was limited based on time, funding, and access. Theoretically, this dissertation represents but one case study of competing identity management and is thus limited in its causal scope. Indeed, as prior chapters have suggested, the full influences of gender and situation still need to be sorted out in the identity management process.

There are other theoretical limitations. For example, respondents did not demonstrate all of the potential identity management strategies outlined in Chapter 2 (e.g.

identity transformation). Perhaps the circumstances that would create the use of this identity management strategy were not present in this particular case, but that does not mean it would not serve as an identity management strategy to be integrated in later research.

Beyond just potential identity management strategies, certainly not all of the existing literatures on identity were included here. My later research will seek to continue to expand the theoretical contributions of my budding theory of competing identity management by comparing it with other literatures. For example, future work will integrate more thoroughly competing identity management as it relates to the research program in identity theory as developed by Burke and Stets (2009). Indeed, my findings relate to identity control processes given that many identity management strategies are in effect forms of identity control—specifications of the abstract general process in which inputs from outside either confirm or do not confirm existing identities. Typically, though, identity control research examines one identity at a time while competing identity management theory adds the absolute need to examine multiple competing identities at the same time because “confirming” one may well “disconfirm” another. That then implicates hierarchies of identity salience for both social and role identity and the importance of situationality in order to know which identities in which situations best predict the identity management strategies most likely to be used.

Empirically, this is a study of Operation Streamline in Tucson, Arizona, a specific and limited sector of this program. Other federal districts’ version of this program may have different contexts that effect identity management and I do not claim to know what occurs in other sectors. Additionally, even within the Tucson Sector, there were limits to

data collection surrounding Operation Streamline. For example, as discussed in Chapter 3, no government prosecutors were interviewed due to access issues and also because defense attorneys provide a stronger test of significant role strain and competing identity management. However, additional research including government prosecutors, or even other non-OSL attorneys both in Tucson and in other federal districts would be insightful.

Finally, this dissertation only focuses on the theoretical area of identity management within Operation Streamline. As cited in the text, there are other ongoing research projects using this same data that focus on other aspects of the program, such as judicial variation or systems of discipline and race/ethnicity in Operation Streamline. The analysis of the data collected will continue to provide insights in other theoretical areas in addition to the identity literature.

Future Directions: Competing Identity Management Beyond OSL

The contribution of seeking out the interaction and competition between social and role identities and their subsequent identity management processes is considerable, but more work is needed. Future steps in my research agenda include continuing to develop my theory of competing identity management in at least two ways: theoretically, including by further contextualization, and methodologically. By taking the above outlined tenets developed through my study of Operation Streamline to other contexts, my research program will continue to more clearly define scope conditions and help integrate prior theories of identity from the subfields of social psychology and culture. As the theory is applicable to any location where social and role identities are in competition,

examples of other locations include police stations, prisons, and other criminal justice settings. One specific agency I plan to research is the U.S. Border Patrol.

Additionally, methodologically, I hope to move forward in the theoretical development of competing identity management by moving beyond qualitative studies. In attempting larger-scale hypothesis testing of the above tenets, I will work on developing survey instruments and statistical analyses that may help with issues of generalizability and broader implications of competing identity management.

APPENDIX A: INTERVIEW GUIDE

This first section is questions about you and your background.

1. Tell me about the town/city that you grew up in.
2. What is your educational and legal background? --- high school, college, and law school?
3. How did you decide on your current law career [immigration lawyer, defense attorney, government prosecutor, federal judge]? --- how did you get interested in this path --- what do your friends/family think --- was this ever a difficult decision or a trying path to follow?
4. How did you learn Spanish [required for Operation Streamline defense attorneys]? --- what did you learn --- how useful has that been in your career --- how often do you use Spanish on the job now and in what contexts?

This section is about your specific work with Operation Streamline.

5. How often do you work on Operation Streamline? --- which days – how many day a week or weeks per year?
6. How did you become involved/hear about Streamline? --- what do you see as your role [public defender, panel attorney, government prosecutor, federal judge] in Operation Streamline?
7. What were your first experiences with Operation Streamline? --- what was it like on your first day --- were you prepared for the different kind of proceeding --- was it what you expected it to be ---- was it easier or harder than you thought it would be --- any really big learning experiences the first few times?
8. Please walk me through your day-to-day work with in Operation Streamline --- what is an average day on the job like for you --- what do you do to prepare --- what do you do each hour of the day --- during the proceedings --- what do you do after the proceedings --- any regular routine or is each day different --- is there anything you do every day?
9. What do you like and dislike about Operation Streamline? --- any outstanding experiences --- what is the best/worst part for you --- do you find it hard/rigorous – do you feel your legal background prepared you for your work with Operation Streamline?
10. What are some of the most outstanding experiences you have had? --- best or worst cases --- easiest/hardest cases --- what is the most difficult or challenging part of the job --- what is the best part of the job?
11. How does your job affect your home life? --- what does your family or friends think of your job --- have you ever had any conflicts about your job?

This section asks about my experience observing some of your work in the Operation Streamline Proceedings in the past months.

12. Was the time I spent [with you/today/on a given date] relatively representative of a typical day? --- if not, how did it differ --- what was special or unique?
13. [Any questions about specific INCIDENTS observed with this person]

Now I am going to ask you about a hypothetical situation on the job and what you think about it:

VIGNETTE: [Manuel Martínez/Jason Johnson] is a panel defense attorney. He is working with a client going through Operation Streamline. The client is a 25-year old male and a Mexican citizen who was apprehended two days prior and is going through proceedings today. As the lawyer begins to speak, the client becomes defensive and belligerent. The client refuses to answer questions asked by the attorney, saying: “C’mon, man, you are just a [Mexican/White] guy on a power trip, give me a break here.” The attorney explains his services are for the client’s benefit and, after some cajoling, the lawyer is able to establish that the client wishes to take the standard plea. The attorney sees the client through the rest of the procedure.

14. What do you think of this situation? --- has something like this ever happened to you --- what did you think of the lawyer’s reaction --- proper procedure --- what would you have done differently? [PROD ON RACE/ETHNICITY IF THEY DON’T GET THERE]

[Hopefully, a section on race/ethnicity]

15. Do racial/ethnic issues often arise for you at work? --- do other people bring up race/ethnicity --- when has it ever been a problem – do you have any specific examples of racial/ethnic tension?

16. What do you consider to be your race/ethnicity? --- do you prefer the term Latino/a or Hispanic or Mexican/Guatemalan/whatever country -- were you born in the U.S. or are you a naturalized citizen -- if you are naturalized, what is your country of origin?

17. How do you handle this personally? --- are you ever offended by what others say about race/ethnicity as it relates to Operation Streamline --- are you ever asked about race/ethnicity by others outside of work?

This concludes our interview

18. Is there anything else you want to add at all?

19. Are there other people involved in Operation Streamline who you think I should talk to or contact -- can you introduce me or provide me with their information?

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