BUREAUCRACIES’ ROLE IN FAMILY REUNIFICATION IN AN ERA OF DEPORTATION: THE CASE OF THE CAROLINAS

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ABSTRACT

Alyssa Peavey: Bureaucracies’ Role in Family Reunification in an Era of Deportation: The Case of the Carolinas
(Under the direction of Jacqueline Hagan)

Migration and family scholars have discussed family separation as a consequence of the U.S. deportation regime, but they have scarcely addressed how these families can be reunified. My research integrates the literatures on immigrant families, the sending state, and bureaucracies to analyze the role of a Mexican consulate in developing and participating in binational networks in order to reunify families separated by deportation. I also investigate the role of institutional gatekeepers and brokers in facilitating or inhibiting reunification. I draw on a sample of Mexican consular files pertaining to child custody cases involving the detention or deportation of a parent, as well as interviews with consular staff and other advocates. I find that consular staff can serve as brokers, helping to overcome the many barriers to reunification by connecting, orienting, and educating various actors. However, caseworkers in the consulate and child welfare agencies may also act as gatekeepers inhibiting reunification.
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INTRODUCTION

In 2012, local and national news outlets covered the case of Felipe Montes, an unauthorized immigrant living in rural North Carolina who was deported to Mexico in 2010 after receiving tickets for driving without a license. Since his U.S. citizen wife suffered substance abuse and mental health issues and was unable to care for their three children, the local Child Protective Services (CPS) placed them in foster care. A CPS attorney and the court-appointed guardian of the children recommended in a custody hearing that Montes’s parental rights be terminated because they believed the children would have better lives in the United States. Fortunately for Montes, the Mexican consulate in Raleigh secured legal counsel, helped him obtain a visa to visit his children, and mediated between social services agencies in Mexico and the United States to conduct a home study and ensure that the children would be well-taken care of in Mexico. Two years later, a judge in North Carolina finally awarded Montes custody and the consulate helped make the arrangements for him to be reunited with his children in Mexico.

The Montes case is not an isolated one. With the increased number of deportations in recent years, many families have undergone forced separations (Dreby 2015; Hagan, Eschbach, and Rodriguez 2008). If a migrant family’s child is in CPS custody, reunification may become even more difficult due to the inability or unwillingness of some child welfare workers to work with detained or deported parents (Wessler 2011). Since Mexicans account for slightly more than half of the estimated 11.1 million unauthorized migrants in the United States, they are particularly likely to suffer these consequences of the deportation regime (Passel and Cohn 2016). The Mexican state has responded by increasing its institutional capacity and outreach
abroad in order to reunify families. Mexico’s Ministry of Foreign Affairs (Secretaría de Relaciones Exteriores, SRE) now manages the world’s largest consular network in another country, with 50 consulates in the United States. This extensive consular network, working together with SRE offices throughout Mexico, can help reunify families and protect Mexican parents’ rights by mediating between institutions and individuals in the United States and Mexico. Typical consular actions may include a search for a detained or deported parent, consulting with an attorney in the United States about the remedies available to the Mexican parent or child, communicating with CPS on behalf of a parent or other family member in Mexico, working with child welfare agencies in both the United States and Mexico to ensure that the child would have a safe home environment in Mexico, and arranging for the child to be sent to Mexico. As demonstrated by the Montes case, these tasks may be made more difficult if CPS workers fail to cooperate.

Migration and family scholars have extensively discussed family separation as a consequence of the U.S. deportation regime, but they have scarcely addressed how these families can be reunified and parental rights protected. Moreover, the role of the sending state in reunification has almost entirely been ignored since migration scholars tend to focus solely on the receiving state when discussing migrant incorporation and rights. However, a few scholars are now beginning to acknowledge that institutions in both the sending and receiving countries can provide protection, and consulates may collaborate with other actors in the host state to resolve claims (Levitt, Viterna, Mueller, and Lloyd 2016; Bada and Gleeson 2015; Weissman, Hagan, Martinez-Schuldt, and Peavey 2017). I build on this work, integrating the literatures on family and the sending state and also drawing on the literature on bureaucracies in order to
analyze the role of a Mexican consulate in reunifying families separated by U.S. immigration enforcement.

My analysis primarily uses Mexican consular case files, and I also draw on interviews with relevant actors and my observations while serving as an intern at the Mexican Consulate in Raleigh in 2011. Along with a research team consisting of a sociology professor, a law professor, and another sociology graduate student, I have exclusive access to a Mexican government database of the claims filed at all of the Mexican consulates’ Departments of Protection and Legal Affairs since 2010. I utilize a purposive sample of 55 of these claims, identifying and analyzing all child custody cases involving the detention or deportation of a parent opened at the consulate in Raleigh, North Carolina between January 1, 2010 and December 31, 2014. The Raleigh consulate was founded in 2000 and has jurisdiction over the new immigrant destinations of North and South Carolina. Since the consulate was still relatively new in 2010, and institutions in the Carolinas also had little practice engaging with migrants and their sending states, it is possible to see the development of institutional networks and linkages during the study period. Together with the case files, I will use my interviews conducted with consular staff in 2012 and 2016 and a family attorney in 2016 to investigate the following questions:

1. How do immigration enforcement and migrant family involvement with the child welfare system lead to the opening of binational custody cases at a Mexican consulate?

2. How does the Mexican state, through its consular network, collaborate with and facilitate linkages between institutions and individuals in Mexico and the United States in order to reunify families?

3. What role do institutional gatekeepers and brokers play in facilitating or inhibiting family reunification?
This paper is organized as follows: First, I review the literature relevant to family separation as a consequence of U.S. immigration enforcement, as well as the literature on the involvement of the sending state and networks in protecting migrants. I also discuss the scholarship on bureaucracies as it relates to migrant family reunification. I then provide a contextual overview of the Mexican consulate in Raleigh and describe variations within the consulate’s jurisdiction of North and South Carolina. Next, I discuss my data sources and methodological approach and review some of the notable characteristics of my sample cases. I then turn to my findings and discuss the origins of the cases in my sample, including how the families became separated and the importance of family members’ citizenship and gender. I analyze the role of the consulate and personal, local, and state-level networks in reunifying families and linkages between each level. Finally, I analyze the role of bureaucratic gatekeepers and brokers, particularly at the consulate and CPS, in either inhibiting or facilitating family reunification.
LITERATURE REVIEW

Immigration Enforcement and Family Separation

Family reunification has been a cornerstone of U.S. immigration policy since the Immigration and Nationality Act of 1952 established a preference system favoring the immigration of family members of U.S. citizens (Hawthorne 2007). However, the 1986 Immigration Reform and Control Act (IRCA), which included provisions for increased immigration enforcement, ushered in a new era of immigration restriction that has increasingly led to long-term or permanent family separations and the creation of mixed-status families. Between 1993 and 1996, the U.S. government removed an average of 52,000 migrants per year, but that average increased to 213,000 per year between 1996 and 2011 (Berger Cardoso et al. 2014). Mexicans, who have been socially and legally constructed as “illegal aliens,” now comprise about half of the unauthorized immigrant population but the majority of removals (Ngai 2004, De Genova 2005, Passel and Cohn 2015, ICE 2016). As a consequence, Mexican migrant families are disproportionately likely to experience family separation due to U.S. immigration enforcement actions.

When deported, many parents leave behind family in the United States. During Obama’s administration, approximately 600,000 children were separated from one or both parents due to aggressive enforcement policies (Brettell 2016). Many more families live in fear of this possibility. Due to U.S. immigration policies that mean that unauthorized migrants have few pathways to legalization, mixed-status households have become commonplace (Dreby 2015). Approximately 16.6 million people are in families with at least one unauthorized immigrant, and
at least 9 million of these families include a U.S. citizen child and unauthorized parent (Taylor et al. 2011). Once an unauthorized family member is placed in deportation proceedings, there is generally little than can be done to stop the deportation, and a legal return to the U.S. is unlikely (Boehm 2017).

Mothers and fathers experience the effects of the deportation regime differently. Men are much more likely to be the targets of deportation for a variety of reasons, including the criminalization of men of color and their presence in more visible locations (Golash-Boza and Hondagneu-Sotelo 2013; Hagan, Eschbach, and Rodriguez 2008). In the wake of these deportations, it is typically left to women to try to reunite the family. However, these reunifications can be challenging, and women may lose touch with their partners if they are unable to overcome the financial and logistic barriers to reunification (Dreby 2015, Schmalzbauer 2014).

Reunification becomes even more complicated if CPS is involved, and without the intervention of the sending state, reunification may become impossible. Although child welfare agencies are required to make efforts to reunite children with their own families, and courts are expected to apply the “best interest of the child” standard in determining custody regardless of the parents’ immigration status, this may not happen in practice (Thronson 2008, Abrams and Piacenti 2014). In an Applied Research Center (ARC) report, Wessler (2011) found that at least 5,100 children were in foster care in 2011 following the detention or deportation of their parents. The ARC report identified many barriers to reunification, including child welfare agencies’ lack of understanding of immigration enforcement and biases against reuniting children with relatives who are undocumented or in another country, attorneys’ and child welfare agencies’ difficulty in maintaining contact with detained or deported parents, and parents’ lack of access to legal
representation and inability to attend a dependency court hearing or comply with a child welfare case plan while detained. However, the sending state can address these barriers, mediating between institutions and individuals in both the sending and receiving states.

The growing body of literature on family and legality has documented many of the consequences of U.S. immigration enforcement for migrant families, but the proposed solutions are lacking. Most family and migration scholars close their works with an argument for family-friendly migration policies in the United States, but while such change is much-needed, it seems unlikely that any reform will completely end forced family separations anytime soon.

Furthermore, the unauthorized parents who face a possible separation from their children lack the power to negotiate with the receiving state due to their legal status. However, there is another entity that can protect migrant families; scholars have failed to note that since these families have ties to both the receiving and sending states, both can have a role to play in their reunification.

*The Mexican Sending State and Networks*

Mexico now extensively engages with its emigrants. Through the Departments of Protection and Legal Affairs of 80 embassies and 66 consulates worldwide, the Mexican government has provided many types of protection services to over 700,000 claimants since 2010. Protection of emigrants has long been an accepted function of consulates. The 1963 Vienna Convention on Consular Relations gives states the right to protect their citizens abroad through consular activities. However, the small but growing field of sending state engagement with emigrants has paid relatively little attention to consular protection, and the safeguarding of migrant family rights has been almost entirely ignored.

The lack of attention given to sending state engagement, and particularly protection, may be due to the tendency to focus on either immigrants and the receiving state or emigrants and the
sending state, as well as the relatively recent growth in this area (Waldinger 2015). Mexico and other sending states historically engaged little with their emigrants. However, in the past few decades, they have been motivated to reach out to their emigrants and provide protection services for a variety of reasons, including their own political and economic benefit, as well as in response to host country policies (Levitt and de la Dehesa 2003, Rosenblum 2004, FitzGerald 2008).

Mexico now provides a variety of services to its emigrants, though there has so far been little published regarding specific consular activities and the extent to which they can protect migrant rights. An exception to this is Bada and Gleeson’s (2014) examination of Mexican consulates’ efforts to protect the labor rights of immigrant workers in the United States. Bada and Gleeson analyzed the creation of a Labor Rights Week, finding that immigrant civil society spurred the Mexican government to act and that the strength of local networks affected the extent to which the consulates were able to have an impact. In addition, Weissman et al. (2017) provide an overview of Mexican consulates’ efforts in the areas of labor, family, and human rights in the Ralegh, El Paso, and San Francisco consular jurisdictions. Other scholars have also mentioned the role of the sending state in providing labor protections and social protections in the areas of healthcare, education, and old-age care (Levitt et al. 2016, Delano 2010). While consular activities related to family reunification have not been studied in-depth, the ARC found that reunification with deported parents only occurred in cases in which a foreign consulate was involved (Wessler 2011).

Despite the variety of options the sending state has for protecting its emigrants, it may not always be willing or able to exercise these options due to concerns about sovereignty and the perceptions of host state nationals (FitzGerald 2008, Waldinger 2015). In addition, there is often
a significant power asymmetry between sending and receiving states that limits the extent to which the sending state is willing or able to advocate on behalf of its emigrants (Délano 2012). In order to circumvent the problems associated with direct, noticeable involvement of the sending state in host state affairs, the sending state, through its consular network, may work with other actors.

Delano (2010) found that in the areas of health and education, the Mexican state contributes to immigrant incorporation by connecting Mexicans in the United States to U.S. institutions and organizations. Levitt et al. (2016) note that social protections can be obtained through both the sending and receiving states, as well as the market, third sector actors such as NGOs, and individuals’ personal networks. Although Levitt et al. do not discuss family-related issues like child custody, these same actors and networks, with the exception of the market, are relevant to the family-based cases handled by Mexican consulates. In particular, personal networks are essential to locating family members for the purposes of reunification, but despite the prevalence of literature on social networks within migration scholarship, they have not been studied in this context.

Street-level Bureaucrats, Brokers, and Gatekeepers

Bureaucracies such as the Mexican consulates and CPS are not monolithic entities perfectly implementing state policies. As theorized by Lipsky (1980), street-level bureaucrats (SLBs), who are the frontline workers interacting with the public, have broad discretion in deciding who receives what services. These bureaucrats typically must cope with a lack of resources, and the manner in which they choose to cope can become the de-facto policy of the agency. Lipsky’s theory has been applied to a variety of government bureaucrats, including child welfare caseworkers and other groups that engage with the immigrant population, though it has
not yet been used at the intersection of child welfare and immigration. Below, I elaborate on the relevant research using this theory and also tie it to the concepts of brokers and gatekeepers.

Smith and Donovan (2003) used the SLB framework to explain the discrepancy between best practices and actual practices among child welfare caseworkers, arguing that the organizational context and pressures lead workers to find ways to compromise best practice standards. In particular, they found that although child welfare caseworkers are trained to engage parents and not just children, high caseloads and individual caseworkers’ low expectations of parents led them to deprioritize work with parents. Caseworkers described practices such as ignoring parents unless they initiated contact (Smith and Donovan 2003).

In the area of immigration, most research regarding SLBs has been related to bureaucratic incorporation, finding that local public services providers often have a more inclusive and responsive attitude toward immigrants than politicians (Lewis and Ramakrishnan 2007, Jones-Correa 2008, Marrow 2009). However, the bureaucratic incorporation literature does not address child welfare workers, and in the cases I analyze, the goal is typically reunification in the immigrant’s home country rather than incorporation in the host country.

The concepts of brokers and gatekeepers can further help understand the role that certain bureaucrats may play in binational custody cases. According to Marsden (1982: 202), brokerage is a process “by which intermediary actors facilitate transactions between other actors lacking access to or trust in one another.” Gould and Fernandez (1989) expanded on this concept of brokerage, arguing that exchanges between actors may differ depending on their subgroup affiliations and developing a typology of brokers. Two types of brokers relevant to my research include the “representative,” in which the broker is a member of the same subgroup as an individual who needs to interact with an outsider, and the “gatekeeper,” in which the broker
decides whether or not to allow an individual access to the broker’s subgroup (Gould and Fernandez 1989).

Gould and Fernandez (1989) imply that the different types of brokers are distinct and that a subgroup affiliation is stable and unique. However, López-Sanders (2017) challenges this assumption, arguing in her work on healthcare navigators for undocumented immigrants that brokers can be simultaneously embedded in both of the subgroups that they are mediating between, a concept she names the “double-embedded-liaison.” Consular caseworkers are not as thoroughly embedded in two groups as the navigators López-Sanders discusses and thus do not work as double-embedded-liaisons, but I will argue that the type of brokerage they engage in can vary depending on the circumstances. I find that in the context of binational child custody cases, consular caseworkers can serve as either representative-brokers, representing the Mexican parent or family member to outside organizations such as CPS, or gatekeeper-brokers, facilitating or inhibiting access to other Mexican government institutions.

The concept of gatekeepers can also exist separately from that of brokers in the case that they are not serving as intermediaries between two groups but rather are simply inhibiting or facilitating access to an institution or the services or benefits it may provide. For example, in Gleeson’s (2016) discussion of the role of bureaucrats in immigrant labor claims, she found that government bureaucrats such as frontline agency staff, hearing officers, and administrative law judges are gatekeepers who are tasked with managing and adjudicating claims. These gatekeepers may determine whether or not a claim moves forward and ultimately whether or not the immigrant receives compensation. My work will demonstrate that CPS caseworkers similarly serve as gatekeepers, though the benefit in this case is child custody rather than compensation.
Most research on SLBs does not draw on the concepts of brokers and gatekeepers, and brokerage research typically does not engage SLB theory. López-Sanders’ (2017) work is an exception; although she primarily discusses navigators as brokers, she uses SLB theory to acknowledge the political context of healthcare access and consequences of formalization within brokers’ organizations. I will also use SLB theory to discuss the institutional context in which brokers and gatekeepers operate and ultimately either facilitate or inhibit family reunification.
CONTEXTUAL OVERVIEW: THE MEXICAN CONSULATE IN RALEIGH

The Mexican consulate in Raleigh, with jurisdiction over North and South Carolina, is an ideal location to study the development and importance of networks involved in resolving binational custody cases. Given the recency of migration to this area, the development of institutional supports for the migrant population is also recent and ongoing. The Carolinas are a new but maturing immigrant destination where the Latino population has grown dramatically since the late 1980s. Both Carolinas were among the top ten states with the fastest growing Latino population between 2000 and 2011; South Carolina’s Latino population grew by 154 percent during this time, while North Carolina’s Latino population grew by 120 percent (Brown and Lopez 2013). About 60 percent of the Latino population in each state is of Mexican origin, and the majority of the unauthorized population is also Mexican (Pew Hispanic Center 2014, Migration Policy Institute 2015).

In response to this population growth, the Mexican government established a consulate in Raleigh, North Carolina in November 2000. Much of the consulate’s work is related to documentation (issuing passports and consular IDs), but the consulate also provides several other services. The Department of Protection and Legal Affairs assists with a variety of issues, including repatriation of remains, labor claims, domestic violence, child support, and child custody. According to consular staff, nearly all of the individuals who use these services are undocumented migrants.

In order to help this population resolve their claims, the consulate often must collaborate with local institutions that have relatively little experience dealing with Spanish-speaking
newcomers. According to a consular staff member in 2012, working with local institutions was also challenging because they sometimes did not even know what a consulate is or have any idea of the services it could provide. Although it seems that the situation has improved following years of outreach by the consulate, there still may not be universal or even widespread understanding of the consulate’s role.

However, consular protection is important in North and South Carolina, both of which have experienced a backlash to their growing immigrant populations and have relatively limited organizational infrastructure to help migrants. Unlike more traditional destinations, new destinations have had little experience with immigration and ethnic diversity, and many natives in these areas react to the demographic changes with misunderstanding and even fear and hostility. Rapid demographic change, together with the fear of foreign terrorists that arose after 9/11, the failure of federal immigration reform, and the poor economy, have led to strong anti-immigrant sentiment and a push for anti-immigrant policies in new destinations like North Carolina (Gill 2010, Weissman et al. 2017). In addition, states with large conservative constituencies or a growing share of Latinos are more likely to pass anti-immigrant legislation (Gómez-Aguiñaga 2016; Ybarra, Sanchez, and Sanchez 2016), and both of the Carolinas fit this profile, though the conservative constituency in South Carolina is more dominant than in North Carolina. In 2011, South Carolina passed S.B. 20, a bill meant to make life for undocumented migrants in the state difficult. North Carolina considered, but ultimately did not pass, a similar bill. Both North and South Carolina joined the lawsuit to prevent the implementation of the Deferred Action for Parental Accountability (DAPA) program in 2014.
DATA, METHODS, AND SAMPLE CHARACTERISTICS

This project involves complementary data sources. The primary data source is a purposive sample of 55 case files opened by the Mexican consulate in Raleigh between January 1, 2010 and December 31, 2014. Interviews with five relevant actors during and shortly after this study period allow for triangulation, corroborating the findings in the case files and providing answers to questions arising from the analysis of the files. I am analyzing both data sources with a directed content analysis approach and the case files with a narrative summary approach. My previous experience interning in the Raleigh consulate’s Department of Protection in 2011 and interviewing consular officials, community advocates and attorneys, and Mexican migrants for another project in 2012 helped in the development of my initial codes and interview questions and also facilitated access to one of the informants. IRB approval was obtained for the interviews and use of the case files.

Consulate Case Files

Beginning in January 2010, the Departments of Protection of all Mexican consulates began using a new online case management system. The research team was granted access to case files opened between January 1, 2010 and December 31, 2014, and I began by reading all 195 files assigned to the Raleigh consulate and designated as child custody cases during this time period. Since I am interested in how the deportation regime leads to family separation and the role of the sending state in reunifying families in these cases, I limited my analysis to the 55 case files I identified as involving the detention or deportation of at least one parent. Case files were sometimes opened for each child in a family, so the 55 files correspond to 44 separate families.
The amount and type of information included in the case files vary greatly, likely due to different case circumstances, inconsistent note-taking practices by Mexican officials, and the amount of information that a CPS caseworker was willing to share. Each of the 55 Spanish-language files begins with demographic and contact information for the person who is the subject of the case\(^1\) and sometimes also the person who notified the consulate\(^2\) about the case, but this information is not always complete. The files also include notes from consular staff and sometimes from their counterparts in government offices in Mexico. The notes typically address what the claimant is asking for, antecedents of the case, and subsequent actions taken, but many files have incomplete or missing information for one or more of these aspects. In addition, case notes sometimes end abruptly without any resolution mentioned; it is unclear in these cases if the consulate was unable to assist or if the caseworker simply failed to write notes. Sometimes the files also include copies of emails from people involved in the case (social workers, attorneys, and occasionally parents or other relatives). The files range from one page to 77 pages, though most are 5 to 15 pages.

I used a directed content analysis approach to analyze the 55 files, with initial codes informed by the literature and the knowledge gained from previous interviews and interning in the consulate’s Department of Protection in 2011. I developed additional, more interpretative codes, such as those related to gatekeepers and brokers, as I analyzed the case files and interviews and continued reading relevant literature. I coded the files in Atlas.ti, a software program designed to aid in qualitative analysis. I also wrote narrative summaries of each case,

\[^1\] For child custody cases, this is usually the child, but sometimes the caseworker entered the parent here.

\[^2\] This may be the parent, another family member, or CPS social worker. This person may have contacted the consulate directly or through another institution, as I will describe in more detail in the section on consular notifications.
describing the actors involved and creating a chronology of relevant events. Since the events and actions in the case files are often not described in chronological order or may be described more than once, narrative summaries resulted in data reduction and facilitated comparison across cases.

Interviews

In addition to the case files, I analyzed three semi-structured interviews conducted in 2012 and six conducted in 2016. The 2012 interviews include one with Consul General Carlos Flores Vizcarra, who served from 2009 to 2013; one with the consular employee who was in charge of child custody cases at the time; and one with a consular employee who has worked at the consulate for approximately ten years and has been in charge of child custody cases since 2013. The 2016 interviews include three with the aforementioned employee currently in charge of custody cases, two with the consular official who served as the head of the Department of Protection between 2013 and 2016, and one with a local family attorney who has had a contract to work with the consulate’s legal assistance program (Programa de Asesoría Legal Externa, PALE) for about two years. I conducted and transcribed the 2012 interviews in Spanish, while the 2016 interviews were conducted by the research team in English and then transcribed by a transcription service. I performed a directed content analysis of the transcriptions and created a matrix with codes based on categories of information I expected to be important based on the literature, previous experience and interviews, and my concurrent analysis of the case files. Many of these categories corresponded with the interview questions, such as perceptions of the needs of the Mexican community, the consulate’s outreach efforts, and evolving relationships with local institutions. The interview data from both 2012 and 2016 allows me to see the change in the consulate’s outreach efforts and institutional linkages over time.
Sample Family Characteristics

While the missing data in the case files makes it difficult to develop a detailed profile of the families in the sample, most case files at least contain information about the countries of birth of the parents and children. Since I selected only files that involved a detained or deported parent, all files in my sample also note that at least one parent is detained or deported. This information is summarized in Table 1.

As Table 1 shows, the sample of 44 families includes a fairly large proportion of mothers who were born in the United States and are therefore U.S. citizens; about one third of families were formed by a U.S. citizen mother, detained or deported Mexican father, and U.S. citizen children. Nearly all of the fathers were Mexican, and given that none of the case files noted that they had any sort of legal status in the United States and most were detained or deported, is likely that all or nearly all who had lived in the United States were unauthorized migrants. On the other hand, about three-quarters of the children in the sample were born in the United States and therefore U.S. citizens, though four families included children born in both the United States and Mexico and four included only children born in Mexico. In several cases, it was unclear if more than one parent had been detained or deported, but of the 44 families in the sample, at least 13 included a mother and 36 included a father who was detained or deported. The following section will further discuss how these families’ involvement with U.S. immigration enforcement and child welfare may have led to the opening of their cases at the Mexican Consulate.
CASE ORIGINS

The 44 families in my sample are certainly not representative of all migrant families that are separated by U.S. immigration enforcement. Consular staff stated in interviews that they suspect that the vast majority of separated families do not request their assistance or otherwise come to their attention. Previous research found that the children of detained or deported parents are generally cared for by the remaining parent or other family (Capps et al. 2007, Chaudry et al. 2010). In line with Berger Cardoso et al.’s (2014) finding that the majority of Salvadoran deportees with dependent children in the U.S. planned to remigrate, deported Mexican parents may leave their children with family in the U.S. and then reunify with them through remigration. However, custody issues may arise if there is no one immediately available to care for the child following both parents’ or a single parent’s detention or if the child’s caretaker in the United States becomes unable or unwilling to continue caring for her. I find that in these cases, CPS often takes custody, and it may then be difficult for a deported parent or his family in Mexico to regain custody without the intervention of the consulate. I also find that gender (for parents) and nationality (for both parents and children) are important factors in their interactions with the U.S. immigration and child welfare systems.

Paths to Separation

CPS had physical and/or legal custody of a child in 38 out of the 44 families included in my sample. Wessler (2013) provides a useful typology for the paths of separation leading to children entering the child welfare system, summarized in Table 2 with examples from the cases files. The prevalence of the parallel path may reflect the fact that children of detained or deported
parents are generally cared for by the remaining parent or other family (Capps et al. 2007, Chaudry et al. 2010). In the parallel path cases in my sample, the detained or deported parent typically left the child with a family member who later became unable to care for the child. In nearly all of the parallel path cases, the deported parent was the father, who left his children with their mother until she became unable to care for them. The prevalence of deported fathers here, and in the overall sample, likely reflects the focus of the U.S. immigration enforcement regime on deporting men (Golash-Boza and Hondagneu Sotelo 2013; Hagan, Eschbach, and Rodriguez 2008; Bergoso et al. 2014).

Interestingly, the majority of parallel path cases, and at least one-third of the total sample, involved a Mexican father and U.S. citizen mother. In these cases, the father was detained or deported, and the mother typically came to CPS’s attention due to negligence or abuse of the child, often related to her own substance abuse issues. The prevalence of U.S. citizen mothers in my sample may reflect CPS’s focus on the fitness of mothers rather than fathers and the greater contact of native-born and non-Latinos with CPS (Lu et al. 2004, Putnam-Hornstein et al. 2012).

In all of the cases involving U.S. citizen mothers, as well as most others, the children were U.S. citizens. As discussed by consular informants, CPS is more likely to devote resources to cases in which the children were born in the United States. According to them, CPS workers may believe they do not really have a responsibility to protect Mexican-born children or that it is not worth investing as many resources in these cases. CPS may also more willingly allow those children to be returned to Mexico.

Consular Notification

The consulate may be alerted to a case in one of several different ways. Most commonly in my sample (for seventeen families), CPS contacted the Raleigh consulate. However, the point
at which CPS did so varied; sometimes it was even before the child officially came into CPS custody, while in other cases, the child had been in CPS custody for years and CPS already planned to terminate the Mexican parent’s rights. The second most common way (ten families) in which the consulate learned of the case was by a deported parent going to a SRE office in Mexico. The SRE office would open a case file, take notes on the parent’s concerns or request, and assign the case to the Raleigh consulate. For eight other families, the consulate learned of the case through a parent or other family member who contacted the Raleigh consulate or Mexican Embassy in DC directly.
BUREAUCRATIC INVOLVEMENT AND INSTITUTIONAL LINKAGES

Based on the case files and interviews with consular staff, I developed a diagram of the network of institutions and individuals that may be involved in reunifying families (Figure 1). Using this diagram, I provide a brief overview of the role of the different bureaucracies involved in custody cases with a detained or deported parent. I then analyze the role that the consulate and personal, local, and state networks play in migrant family reunification. I pay particular attention to the extent to which the consulate has worked to develop or formalize ties at each institutional level.

Overview of Institutions Involved

The primary actors in a binational custody case typically include CPS; the National System for Integral Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*, DIF), which is Mexico’s equivalent of CPS; and branches of Mexico’s Ministry of Foreign Affairs (SRE): the consulate in the United States and SRE delegations or the central Directorate General for the Protection of Mexicans Abroad (*Dirección General de Protección a Mexicanos en el Exterior*, DGPME) in Mexico. Each county in the Carolinas has its own CPS agency, municipalities in Mexico have their own DIF offices, and most Mexican states have a SRE delegation. The DGPME is charged with coordinating the protection services offered by SRE offices, including the delegations and consulates, and people living near Mexico City can go to the central DGPME office instead of a delegation.

Depending on the circumstances of the case, there are other, secondary institutions that may be involved. In the United States, that may include other consulates, the state-level
Department of Health and Human Services, and local attorneys. In Mexico, it may include civil registries, attorneys, and state-level institutions providing services to returned migrants. Relatives and friends of the parents in both Mexico and the United States are also often involved. Below, I discuss each of the levels shown in Figure 1: consulate/delegations/DGPM, personal, local, and state.

Consulates, Delegations, and DGPM

The consulate and the corresponding SRE institutions in Mexico can play a central role in cases involving a deported parent by mediating between several institutions and individuals in both Mexico and the United States. The consulate’s involvement in a case can vary greatly; it may do no more than simply take note of a case, or it may provide many of several different services, as in the Montes case discussed in the introduction.

When CPS has custody of a child whose parent is thought to be detained or in Mexico due to deportation or another reason, one of its most frequent requests of the Mexican consulate is for assistance in locating that parent. For at least ten families in my sample, CPS requested that the consulate help find a parent or parents\(^3\) believed to have been deported to Mexico in order to ask them if they or other relatives in Mexico would like custody of the child with CPS or to notify them that their parental rights would be terminated. The consulate then typically began an extensive search, often involving institutions on both sides of the border. On the U.S. side, the cases demonstrated that the Raleigh consulate may search its own records of people who have come to the consulate for identity documents or other services, contact Immigration and Customs Enforcement (ICE), search federal and district court records, and ask other consulates to search their own records. For searches in Mexico, the consulate occasionally contacted civil registries in

\(^3\) Notably, in all 10 of these cases, CPS was searching for the father, though in one case it was searching for both parents. Once again, this likely reflects the gendered nature of deportation.
the municipal areas where the parent was thought to be, but typically the consulate asked the delegations to conduct searches. The search process can be quite difficult, and it is made even more complicated when the parent has used multiple aliases.

Occasionally, after a father is located, CPS may require a paternity test. In this case, the consulate can facilitate arrangements for the DNA test to be administered to the father in Mexico and for the results to be sent to CPS. For three families in my sample, uncertainty about the father led CPS to ask the consulate to help obtain a DNA test. In these cases, the consulate communicated with a DNA-testing company in the United States and arranged for the company to ship the testing kit to a delegation in Mexico. The delegation arranged for a local laboratory to collect the sample and mailed it to the consulate, which then forwarded it to the company.

Another common request by CPS is for assistance obtaining a home study, which occurred for 12 families in my sample. If CPS is considering placing a child with relatives in Mexico, it will require a home study to ensure that the family has the desire and adequate resources to properly care for the child. In these cases, the CPS office can inform the consulate of its particular requirements or questions for the home study, and the consulate will relay this to the delegation in the family’s state of residence. In turn, the delegation contacts the DIF office closest to the family. Social workers from DIF conduct the home study and send the results to the delegation, which forwards them to the consulate, which then translates the study if requested to do so by CPS and sends the original and translation to CPS. In addition to the home study, CPS may request that the parent attend parenting classes or a substance abuse program in Mexico, so the consulate and delegations also serve as intermediaries between DIF and CPS for this.
In the case that someone in Mexico is awarded custody of the child and has a successful home study, the consulate can arrange for the child to be sent to Mexico and cover the cost of repatriation. Roberto’s case provides an example of how this can be done:

Roberto, who had been deported to Estado de Mexico, was awarded custody of his two young daughters in South Carolina after their mother was accused of neglect and failed to follow CPS’s reunification plan. The consulate caseworker contacted the CPS social worker and explained the process of obtaining a home study and repatriating the children. The consulate and the Estado de Mexico delegation then served as intermediaries between DIF and CPS to complete the home study. Since the home study demonstrated that Roberto had the willingness and ability to care for his daughters, the judge in the custody hearing decided that the girls should live with their father in Mexico. The consulate caseworker told CPS that either she could accompany the girls to Mexico or the consulate could pay for the CPS caseworker’s flight. CPS opted to send its own caseworker and Spanish interpreter, so the consulate made the travel arrangements and paid for the plane tickets for the two girls and the CPS caseworker, while CPS covered the cost of its interpreter’s ticket. Through the Estado de Mexico delegation, the consulate confirmed that the father, someone from DIF, and someone from SRE would be present to receive the girls and CPS workers at the airport. The consulate communicated to CPS that DIF would continue to make home visits and assess Roberto’s ability to care for his daughters following reunification.

However, as I will discuss in more detail later, CPS workers and family judges are not always as willing to work with the consulate to ensure that the Mexican parent’s rights are protected as they were in Roberto’s case. Parents involved in custody hearings will typically receive a court-appointed attorney if they request one and are unable to pay, but if there are issues with the custody hearing or court-appointed attorney for a parent or guardian at any point during this process, the consulate may consult with other legal counsel. In addition, there are sometimes other types of cases where an attorney may be necessary. For example, two of the cases in my sample involved children whose deported parents were not capable of taking care of them, so the consulate contacted an attorney to see if the children could qualify for Special Immigrant Juvenile Status.
Through its legal assistance program (PALE), the consulate maintains contracts with family and immigration attorneys in the Carolinas who can provide assistance in cases such as these.

*Personal networks*

A child or parent’s social ties may become important at various stages in a case. As discussed in the section on case origins, children in some cases were first placed with relatives after the parent’s deportation, and it was only after the relatives could no longer care for them that CPS and then the consulate became involved. Relatives and friends may also mediate between the deported parent and local institutions. Furthermore, CPS and the consulate often rely on a child or parent’s social ties to locate a parent or relative who is willing to care for the child. However, deportation can lead to the weakening of a parent’s family ties, and if he or she has lost touch with family in the United States, reunification may be impossible.

In some cases, relatives and occasionally friends in both Mexico and the U.S. played an important role in reunification with a deported parent, particularly in helping to locate the parent or establishing contact between the parent and the consulate. Elena’s case, the origins of which were described previously, demonstrates the role that family and friends can play:

Immediately following Elena’s deportation, her sister in the U.S. sent a fax to the Raleigh consulate informing them of the case and asking them to contact Elena, which the consulate then did. When the consulate case worker later had trouble getting in touch with Elena, Elena’s mother in Mexico put the case worker in contact with Elena’s friend in Mexico, who was able to provide information that allowed the consulate to reestablish contact.

In this case, Elena’s family and friend helped her to establish and maintain contact with the consulate so that she could work toward reunification with her daughter.

On the other hand, when a deported parent has lost contact with family in the U.S., he may be unaware of important information regarding his child. For example, one deported father
told his court-appointed attorney that he wanted his daughter to be with his family rather than his wife’s, but he did not realize that the child had already been with his wife’s brother for a year. Being out of touch with family may even lead a father to permanently lose his parental rights, as in the following case:

A CPS office in central North Carolina notified the consulate that they had custody of Valeria, a two year-old girl whose U.S. citizen mother, Diana, was unable to care for her due to a drug addiction. CPS asked the consulate for help finding Mario, Valeria’s father who had been deported soon after her birth. However, Mario had not kept Diana apprised of his whereabouts after his deportation, and the only information the consulate had to search for him was his name. The consulate was able to find his place and date of birth after inquiring with an ICE official and then asked a delegation to ask his municipality of origin to conduct a search in case he had returned there. However, the Mexican government was never able to locate him or any of his family members. The case notes indicated that if he was not found, his parental rights would be terminated.

These cases demonstrate that family reunification is not only dependent on the consulate; even with the consulate’s best efforts, family reunification may be impossible if personal networks are incomplete and the deported parent has lost contact with family and friends in the United States.

Of course, the consulate’s ability to interact with a parent or child’s personal network may also depend on the family and friends’ knowledge and trust of the consulate. In Elena’s case, the consulate may not have even learned of her situation, let alone been able to help, if her sister had not believed that the consulate could and would provide assistance. However, my previous work indicates Elena’s sister may have been unusual in this regard and that many migrants may be unaware of the services the consulate can provide or may not view the Mexican government as a source of help. In interviews with thirty Mexican nationals living in North Carolina in 2012, nearly all stated they had no knowledge of consular protection services. Most also believed that the Mexican government did not care about Mexicans in the United States and that they would not be treated well if they went to the consulate (Peavey 2013). The informants
in that study, as well as in my current study, also mentioned the difficulties of farmworkers and other populations who live in isolated areas far from Raleigh in reaching the consulate.

My interviews with consular officials demonstrated that they were largely aware of the lack of knowledge of consular services and need for greater outreach. According to consular officials in 2012, the consulate had undergone a period of rapid growth since its creation in 2000, and the first decade or so was largely focused on forming and stabilizing its internal structure. Few resources were dedicated to outreach because staff could barely cope with the work they already had. However, the consulate intensified their outreach efforts during the study period. By 2016, the consulate had a presence on social media, used local Spanish-language newspapers and television to advertise services, hosted a mobile consulate in a different city in the Carolinas every month, and developed a program called Consulate on Wheels that travels to different locations every week. While there are likely still gaps in knowledge and trust of the consulate among the migrant population, hopefully the outreach efforts will allow the consulate to make better use of personal networks in its efforts to reunify families.

Local Institutions and Context

As mentioned previously, CPS and DIF are the key local institutions involved in binational custody cases. However, my data provides relatively little information about local institutions in Mexico, so I focus primarily on CPS and the context in which it acts. Related to the Carolinas’ status as a new immigrant destination, I find that CPS caseworkers and others often have little knowledge of Spanish, immigration law, and the services that the consulate can provide. They may additionally have biases against undocumented migrants and sending a child to Mexico, as Wessler (2011) also found. However, the consulate has tried to overcome these problems by educating CPS workers at both the individual and organizational levels.
Language presents a significant barrier at the local level in the Carolinas. In her 1999 article, Weissman cited the need for more court interpreters in North Carolina to serve the growing Latino population. Many years later, my informants noted that there are still few Spanish speaking staff and interpreters at social service agencies and in courts, particularly in more rural areas. Even the attorney assigned by the court to the Mexican parent may not know Spanish or have an interpreter, in which case a consulate employee may serve as an interpreter. Furthermore, a consulate informant described how when CPS does not go through the consulate and directly notifies a potential parent or guardian in Mexico about a child in its care, it sometimes only provides documents in English. Not knowing or understanding what the documents are, the individual may ignore them, leading CPS to assume that he or she is uninterested in the child. Informants also noted that if the consulate wants another family attorney to assist with a case, this may be difficult. There is a general shortage of family attorneys who speak Spanish and are willing to work with low-income Hispanic clients, and this shortage is particularly profound in rural areas.

As mentioned previously, the consulate has increasingly made outreach efforts and now sets up mobile consulates throughout the Carolinas. However, as of the time that the data was collected, a lack of familiarity with consular services among local institutions was still a significant problem. Consular officials noted that local institutions may not even know what a consulate is, much less that it could provide help with family reunification. CPS is supposed to notify the consulate every time they have a child who is Mexican or whose parents are Mexican so that the consulate can provide assistance if necessary, but according to a consular informant, CPS sometimes either does not notify the consulate at all or notifies them late in the custody
process. This can lead to the violation of the Mexican parent’s rights, as occurred in the following case:

Francisco had already been deported to Mexico when his son Samuel’s U.S. citizen mother, who had substance abuse issues, was arrested for robbery while she had Samuel with her. CPS took custody of Samuel following that incident, in 2009, but did not contact the consulate to ask for assistance locating Francisco until 2012. At that point, CPS had already terminated the mother’s rights and decided that it would terminate Francisco’s parental rights and put Samuel up for adoption. Although the consular caseworker convinced CPS to wait to terminate Francisco’s rights until she searched for him, the search was not immediately successful, and CPS seemingly proceeded with the termination of parental rights and adoption.

In several cases, social workers’, attorneys’, or judges’ misconceptions about U.S. immigration law led them to have unrealistic expectations of migrant parents or potential guardians. For example, some deported parents contacted the consulate (either directly or through a delegation or DGPME), concerned and confused after a CPS social worker or attorney told them they must attend a custody hearing in the U.S. The following is a narrative summary of one of these cases:

Juana was fighting for custody of her two U.S. citizen children in South Carolina after her deportation to Mexico, and her court-appointed attorney was insisting that she return to S.C. to attend the custody hearing. Juana knew that she could not legally enter the United States and was unsure what to do, so she contacted a delegation office, which then contacted the Raleigh consulate. The consulate corresponded with her attorney, essentially educating him about U.S. immigration law and convincing him to request that the court allow Juana to attend the hearing via Skype. The S.C. court was reluctant to do so because it had never had a videoconference hearing before, but with the efforts of Juana’s attorney, the consulate, and the collaborating delegation and municipal office in Mexico, the court agreed and the videoconference was a success.

Without the intervention of the consulate in this case and others like it, the attorney’s, judge’s, or social worker’s lack of knowledge about U.S. immigration law and unrealistic expectations of detained or deported parents could present an insurmountable barrier to reunification with a deported parent. However, even when the consulate attempts to educate child welfare workers
about the basics of U.S. immigration law, those workers may not be open to learning, leading to protracted court battles.

In addition, there were some instances of bias. In one case that occurred in the metropolitan area where the consulate is located, the undocumented aunt and grandmother of a child were reportedly told by CPS that their legal status was a reason why they should not have custody of the child, although there was no other relative in the United States who had legal status and was able to care for the child. In another example, a court-appointed attorney for a father in removal proceedings told a consulate caseworker that the father’s legal status could affect the custody decision when the judge considers the stability that his daughters would have. In two other cases, social workers indicated serious concern about sending a child to Mexico without having first investigated anything about the family’s living situation in Mexico.

The consulate has attempted to confront the lack of knowledge and biases by educating, at both the individual and organizational level, those involved in these types of cases. Providing information to social workers and attorneys sometimes turned them into advocates for the Mexican claimant. For example, the attorney in Juana’s case was initially unknowledgeable about the difficulties a deported migrant would have in entering the United States to attend a custody hearing, but after a consulate case worker spoke with him, he advocated for Juana to be allowed to attend the hearing via Skype. In other cases, social workers also displayed a willingness to learn about the possibility of sending the child to Mexico and then worked closely with the consulate and the child’s relatives in Mexico to reunify the family in Mexico. Although many attorneys and social workers will not frequently encounter cases with a detained or deported parent, they will hopefully remember what they learn in their interactions with the consulate and implement that knowledge in future cases. In one case, a social worker noted that
she knew to contact the consulate case worker because the same case worker had helped her with another case years earlier. In another case, a social worker reached out to the consulate case worker after that case worker gave a presentation at a regional meeting of social workers.

*State-level Interventions and Linkages*

State-level institutions on both sides of the border can sometimes intercede when communication is not proceeding smoothly at other levels. When deported parents in Mexico are experiencing delays in their cases, they may contact state institutions set up to assist returned migrants. For example, one deported father in the state of Guanajuato was frustrated that he had been trying to recuperate custody of his daughter in the U.S. for over two years and seemed to be making little progress due to delays and miscommunications between DIF, the Guanajuato delegation, the consulate, and CPS. He therefore contacted the State Institute of Assistance for Guanajuatense Migrants and their Families (*Instituto Estatal de Atención al Migrante Guanajuatense y Sus Familias*), which in turn contacted the delegation to ask for an update.

In the United States, the state-level Department of Health and Human Services (DHHS), which oversees county-level CPS offices, can also help to facilitate communication between different actors in binational custody cases. In at least two cases in my sample, the Latino Ombudsman in the NC DHHS Division of Social Services served as a link between a local CPS office and the consulate. When one CPS office was unfamiliar with the process of reunifying a child with family in Mexico and did not know who to contact and when another CPS office was questioning a delay in an ongoing case with the consulate and wanted an update, they both contacted the Latino Ombudsman. He was able to help establish and maintain contact between the consulate and CPS.
In addition, although the consulate has conducted outreach to local CPS offices, it is at the state level that these linkages may become formalized. The relationship between the consulate and NC DHHS resulted in a Memorandum of Agreement (MOA) between the two institutions. The MOA, signed in 2015, recognizes that the Mexican government, through its consulate, has the right to information about and access to any Mexican minors or minors with Mexican national parents in the NC DHHS system in order to provide assistance. DHHS agrees to determine whether a child in its custody is Mexican or of Mexican parentage and provide written notification to the consulate within ten days if that is the case. The MOA also sets out the steps that the consulate may take, such as interviewing a minor in CPS custody in order to identify relatives and assisting in locating Mexican parents to notify them when their children are the subject of juvenile court proceedings so that the parents can participate.

From the perspective of the consulate, the MOA seems to be working, though with some variation across North Carolina. The consulate worker in charge of custody cases reports that she has received “more and more” notifications about Mexican children in CPS custody since the MOA was implemented, which allows her to monitor these cases and provide assistance when needed. The MOA could help combat some of the problems that appeared in my case sample, such as delays in notifying the consulate about cases, an unwillingness of CPS caseworkers to share information, and unresponsiveness of caseworkers. But although NC DHHS informed all counties of the MOA, not all appear to be following its terms. Certain counties, particularly those in metropolitan areas close to the consulate, seem to be more consistent about providing notifications.

The consulate has also attempted to form a similar MOA with South Carolina. However, SC DHHS officials have been less receptive to the idea. Consular staff relate this to the general
differences between North and South Carolina, with South Carolina having fewer resources and “a different perspective when it comes to foreign nationals.” The informants also stated that the geographical distance between the consulate in Raleigh and South Carolina’s capital makes it more difficult to develop relationships.
BROKERS AND GATEKEEPERS

In order to resolve binational custody cases, migrant families often must interact with multiple bureaucracies. Street-level bureaucrats can use their discretion to wield enormous power over the services and benefits that migrant families receive, as well as their access to other institutions. Below I analyze the roles that representative-brokers, gatekeeper-brokers, and other gatekeepers play in binational custody cases. I focus primarily on consular caseworkers and CPS caseworkers and attorneys since these are the key bureaucratic actors involved in the cases I analyzed. I find that these brokers and gatekeepers can either facilitate or inhibit family reunification.

Representative-brokers

The case files and interviews indicate that consular caseworkers can play a vital, central role in reunifying families separated by deportation by acting as representative-brokers. A significant part of the job of staff in the consulate’s Department of Protection is to protect Mexican nationals’ rights by advocating for them to outside organizations. Reunifications generally rely on consular caseworkers’ in-depth knowledge of U.S. and Mexican institutions and their ability to connect the various institutions and individuals shown in Figure 1 with one another.

Consistent with Gould and Fernandez’s (1989) conceptualization of representative-brokers, consular caseworkers are typically co-ethnics of the migrant families they represent and

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4 However, there are also some indigenous Mexican migrants in the Carolinas who do not speak Spanish, and at the time of the interviews, the consular staff did not speak any indigenous languages. In 2012, consular staff discussed the need to do more outreach to this population, though the consulate does have connections to outside interpreters.
feel a sense of allegiance to them as fellow Mexican nationals. In addition, consular caseworkers’ knowledge of the Spanish language and ability to communicate directly with Mexican family members is particularly important in the Carolinas, given the lack of Spanish speakers in local institutions.

Furthermore, consular caseworkers are knowledgeable about local institutions and are able to communicate with those institutions to represent the interests of Mexican nationals. Both of the two women who handled custody cases at the Raleigh consulate during the study period are fully bilingual and have worked at the consulate since the mid-2000s, making connections in the Carolinas and gaining extensive knowledge. In their role as representative-brokers, consular caseworkers can advocate for the rights of Mexican nationals and orient CPS workers and judges regarding relevant U.S. immigration laws, as in Juana’s case. If that orientation alone fails, consular caseworkers can connect a Mexican parent to a local attorney, as in the Montes case.

Other bureaucrats in state-level institutions may also serve as representative-brokers, though I have limited data on these workers. For example, as discussed in the section on state-level interventions above, state migrant institutes in Mexico appear to represent the interests of returned migrants to other Mexican institutions.

Gatekeeper-brokers

When determining whether or not a migrant family member gains access to other parts of the Mexican government, consular caseworkers and their counterparts in SRE offices in Mexico act as gatekeeper-brokers. Although consular caseworkers advocate on behalf of migrant family members to other institutions and may identify with them in that circumstance as fellow Mexican nationals, they may identify more with the Mexican government institution they serve. Unlike most of their clients, consular caseworkers have legal status in the United States and come from
a higher socioeconomic background. My previous research indicates that Mexican migrants view consular staff as distinct from them and therefore less likely to be sympathetic (Peavey 2013). The case files provide evidence of how these bureaucrats may either contribute to a reunification by quickly facilitating access to the necessary institutions or alternatively contribute to prolonged family separation by failing to take prompt action.

In most cases, consular caseworkers work closely with their counterparts in Mexico to communicate with the necessary institutions in Mexico. Bureaucrats in the SRE delegations can play an important role in facilitating access to other institutions in Mexico, particularly to help locate family members. For example, in the case of Francisco, a deported father thought to have returned to his rural hometown in the state of Oaxaca, the Oaxacan delegation made persistent efforts to try to find him. The delegation contacted the state migrant institute (*Instituto Oaxaqueño de Atención al Migrante*, IOAM), DIF, and the municipal government in the area where the father was thought to be, which then made a radio announcement with the hopes that it would reach the father’s remote community.

On the other hand, my case sample also provided examples in which delays on the part of consular or other SRE caseworkers led to prolonged separation and the near violation of parents’ rights. For example:

Paula was deported in the summer of 2012 and went to the DPGME office multiple times between August and December 2012 to request assistance reunifying with her four children in CPS custody in North Carolina. The DGPME office mistakenly sent the request to the Atlanta consulate, and due to communication delays on the part of the DGPME office and the consulates, the Raleigh consular caseworker did not contact the CPS social worker until December 2012. At that point, the social worker said they already had a plan to move toward adoption of the children since they had not heard from Paula and believed she was not interested in recuperating her children.
Meanwhile, only one case file provided an example of a consular caseworker seemingly following up with a family member or taking action without the urging of that or another family member, CPS, or the Latino Ombudsman for DHHS.

In addition, it seems likely that many other cases do not receive the full attention of the consulate. As discussed previously, some case files end abruptly, with no resolution mentioned, but there is no way to know if this was due to the consulate’s lack of assistance or the family member’s lack of interest in continuing. Furthermore, the case files do not reflect the situations of any individuals who may have contacted the consulate, delegation, or DGPME and did not receive any assistance. In order to better understand the gatekeeping role of consular staff, it would be useful to interview the migrant families involved in these types of cases.

This gatekeeping function of consular staff may be related to their position as street-level bureaucrats who are attempting to cope with limited resources. Consular staff are inundated with work; during the study period, about six employees in the Raleigh consulate’s Department of Protection were responsible for the entire population of Mexican nationals in the Carolinas, which the consulate estimated to be between 1 and 1.5 million. It seems reasonable to suspect that with a caseload so large, consular caseworkers may resort to a similar coping strategy as the child welfare caseworkers who Smith and Donovan (2003) found to not follow up with parents unless they were contacted first.

Furthermore, the inability to devote sufficient time and resources to every case may lead to caseworkers to make decisions about which claimants are worthy of these resources, as is common with street-level bureaucrats (Lipsky 1980). In 2012, a consular informant described how she thought that it was unfortunate that many migrants were likely unaware of the services she could provide, but at the same time she felt that this would prevent frivolous demands. It also
may not be a coincidence that the case that was given the most time and resources during the study period was that of Felipe Montes, who unlike many other parents in the case files, had no criminal history (other than driving without a license) and was portrayed as a devoted, hard-working father.

Other Gatekeepers

As discussed previously, CPS caseworkers’ and attorneys’ lack of knowledge about U.S. immigration law and biases against Mexico and undocumented individuals can complicate reunification with a deported parent. I argue that these child welfare workers are serving as gatekeepers whose individual efforts can significantly influence whether or not a child is reunited with her Mexican family members. If a worker is willing to make the effort to locate and work with deported parents and is open to learning about parents’ rights and limitations due to immigration status, then there is probably a good chance that reunification will occur, or at least that the parents’ rights will be respected.

However, if the child welfare worker does not make such an effort, as occurred in the Montes case, then violations of parental rights are more likely and the chances of an uncomplicated, successful reunification decrease. One of the most common complaints about CPS caseworkers is that they are unresponsive, which may be even more problematic than the biases or lack of knowledge that some possess. In many cases throughout the consular jurisdiction, the case notes indicated that the consulate caseworker or the parent had trouble getting in contact with the social worker assigned to the case. Given the hefty caseloads that many social workers manage and the findings of Smith and Donovan (2003) related to the way in which caseworkers cope by neglecting to reach out to parents, it is not surprising that this occurs.
Similar to consular caseworkers, CPS workers are likely overburdened street-level bureaucrats attempting to manage a large caseload with few resources.

While most of the case files do not include any information from the perspective of parents or other relatives in Mexico about their interactions with institutions in Mexico, there is some evidence that these institutions can present obstacles. In multiple instances, DIF either did not adequately follow the instructions for the home study or was very slow in completing it, leading to delays in the cases. However, more research needs to be done to better understand the extent to which local DIF staff in Mexico serve as gatekeepers in child custody cases.

Consequences of Gatekeeping

Family members often must repeatedly follow up with gatekeeping bureaucrats in order to obtain action on their cases, as Paula did. But even when deported parents attempt to insistently follow up with gatekeepers, they may continue to experience unresponsiveness from U.S. or Mexican institutions. Under these circumstances, they may decide to take matters into their own hands, making the risky journey to illegally reenter the US and reunify with their children. For example, in one case in my sample, a deported mother journeyed to South Carolina to be with her daughter after several weeks in which the consulate caseworker had been unsuccessful in establishing communication with an unresponsive CPS social worker.
CONCLUSIONS, IMPLICATIONS, AND FUTURE RESEARCH

This research shows that the sending state can play an important role in reunifying families separated by U.S. immigration enforcement actions. The consulate and other SRE offices can mediate between institutions and individuals in both Mexico and the United States, connecting, orienting, and educating the various actors involved in a cross-border reunification (Weissman et al. 2017). In their role as representative-brokers, consular caseworkers advocate on behalf of deported Mexican parents to CPS and family courts, helping to protect parental rights and reunify families. The Montes case discussed in the introduction has become a well-known example of this type of successful sending state intervention, and my sample of case files contains several other examples of family reunifications aided by the sending state.

However, sending state institutions are not unambiguously helpful. Consular caseworkers and other SRE bureaucrats also act as gatekeeper-brokers who may or may not make the effort to facilitate access to other institutions. Evidence suggests that migrant families seeking reunification are often caught between overwhelmed bureaucrats on both sides of the border, though more research should be done to understand the perspective of those families.

In addition, the consulate must rely on personal networks and a variety of local and state actors in order to successfully reunify a child with his or her family. If the personal networks are incomplete or institutional gatekeepers such as CPS social workers fail to cooperate, reunification may become difficult or even impossible. In particular, the cases and interviews demonstrate that there is a need for education of social workers and others in the child welfare system regarding consular services, U.S. immigration law, and the rights of foreign national
parents. The MOA between the consulate and NC DHHS is likely helping with this, but there is still variation within North Carolina, and South Carolina has failed to make a similar MOA.

The Mexican case is unique in that Mexico devotes a large amount of resources to consular protection and its consular network is far more extensive and developed than that of any other sending state. With significantly smaller emigrant populations and far fewer resources, sending states such as Guatemala and Honduras lack both the impetus and capability to provide as many protection services through their consulates. However, they could still model some of the Mexican government’s best practices and hopefully benefit from its outreach to CPS and DHHS offices. But while the sending state can provide valuable assistance in reunifying families separated by immigration enforcement, it cannot and should not be the only solution.
APPENDIX

Table 1. Family Members' Countries of Birth and Whether Detained/Deported

<table>
<thead>
<tr>
<th></th>
<th>Mexico</th>
<th>U.S.</th>
<th>Both</th>
<th>Other</th>
<th>Not Stated</th>
<th>Detained/Deported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mother</td>
<td>21</td>
<td>15</td>
<td>---</td>
<td>0</td>
<td>8</td>
<td>13</td>
</tr>
<tr>
<td>Father</td>
<td>40</td>
<td>0</td>
<td>---</td>
<td>1</td>
<td>3</td>
<td>36</td>
</tr>
<tr>
<td>Children</td>
<td>4</td>
<td>32</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>---</td>
</tr>
</tbody>
</table>

Table 2. Typology of Paths to Separation

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
<th>Case Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Straight (10 cases)</td>
<td>Children enter foster care as a direct result of their parent(s)' detention.</td>
<td>Elena's partner was already imprisoned for domestic violence and other crimes. When she was detained while driving and then deported, CPS took custody of her one year-old daughter.</td>
</tr>
<tr>
<td>Parallel (24 cases)</td>
<td>A family comes to CPS's attention because of allegations of child maltreatment, but immediate reunification is not possible because a parent has been detained or deported.</td>
<td>The Montes case described in the introduction fits this profile: CPS took custody of the Montes children because their mother's substance abuse and mental health issues prevented her from adequately caring for them. Although Felipe Montes was capable of providing care, the children could not be immediately with him because he had been deported to Mexico.</td>
</tr>
<tr>
<td>Interrupted (4 cases)</td>
<td>The family had an open case with CPS, and then a parent's detention or deportation complicates reunification.</td>
<td>Alejandro's partner had already lost her parental rights, and Alejandro was attempting to gain custody of his daughter. However, he was placed in removal proceedings due to unlawful presence and deported before he could attend the second custody hearing.</td>
</tr>
</tbody>
</table>
Figure 1. Diagram of Actors Involved in Binational Family Reunification
REFERENCES


50, e41–e50.


