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PUNISHING IMMIGRATION

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Chapter 16, in *Oxford Handbook on Sentencing* (edited by Michael T. Light & Ryan D. King). Oxford University Press (2026).

Abstract

This chapter analyzes the rise of mass criminalization of immigration in the United States. In it, the author traces how the federal prosecution of border crossing has contributed to systemic disparities in the federal criminal system along lines of citizenship, race, and ethnicity. The chapter concludes by outlining ways that such concerns could be addressed, including by exercising prosecutorial discretion, engaging in systemic litigation to challenge prosecution practices, reforming sentencing laws, and decriminalizing border crossing entirely. Inclusion of this topic within this volume on sentencing is essential because of the sustained prominence of the two primary immigration crimes—unlawful entry and unlawful reentry after deportation—in the federal criminal system. Moreover, the placement of this chapter within a section on sentencing inequality is particularly apt given how prosecutions of these two crimes routinely discount procedural protections and rely almost exclusively on incarceration as punishment.