

# Disquieting Complicities: The Double Binds of Anthropology, Advocacy, and Activism

Journal of Contemporary Ethnography

1–25

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DOI: 10.1177/08912416166646425

jce.sagepub.com



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## Abstract

In seeking to balance the demands of social science research with complex ethical and political commitments, ethnographers often find themselves caught in a series of double binds. This is particularly true when we are asked to testify in court on behalf of subjects criminalized by the state. I explore how these tensions play out in settings where right and wrong cannot be clearly distinguished in anthropological terms but are demanded in legal or political terms. I consider the narrative strategies that anthropologists employ in an effort to produce social-legal knowledge from our ethnographic research that would satisfy the demands of the court, while simultaneously deploying analytical strategies that can account for multiple realities and conflicting truths. I consider my own participation in these overlapping and often incommensurate projects through a particular ethnographic and legal case in which I was implicated as researcher and as a witness for the defense.

## Keywords

criminal justice, anthropology, advocacy, activism, deception, misrecognition, complicity, strategic multiplicities

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Making culture in the zone of political emergency is for both the ethnographer and the informants a matter of making contradictions, of mixing knowledge with non-knowledge, narratives with silence, experience with the unacceptable.

Allen Feldman (1995)

## Preamble: Ethnographic States of Emergency

*In June 2009, the director of Homies Unidos, a youth violence prevention and intervention program, Alex Sanchez, was arrested in his home in Bellflower, California, by twenty or so armed FBI agents in front of his wife and three children. Afterwards, the FBI held a press conference announcing that:*

*In the first indictment in Los Angeles to allege racketeering charges against the MS-13 Gang, several members, leaders and associates were arrested early this morning after the return of a federal indictment which charges two dozen defendants, including the executive director of a non-profit gang intervention organization with violations ranging from murder and conspiracy to commit murder and extortion to narcotics trafficking.*

*Sanchez along with 23 other alleged members of the MS gang had been charged under federal Racketeer Influenced and Corrupt Organizations (RICO) Act.*

*The arrests, according to a press release, are a result of an investigation by the Federal Bureau of Investigation and the Los Angeles Police Department, with substantial assistance from the U.S. Bureau of Prisons and the U.S. Department of Justice—Criminal Division's Gang Unit and the cooperation of, among others, the U.S. Immigration and Customs Enforcement (ICE), and the Salvadoran National Police (PNC)—a coalition of forces brought together in a 2007 transnational security agreement to create the Transnational Anti-Gang unit (TAG).*

*Less than a week after Alex Sanchez's arrest and arraignment, his federally appointed defense attorney Kerry Bensinger appeared before federal judge Rosenberg to seek bail for Sanchez. Bensinger produced 120 letters of support (including one from me) and approximately \$2.5 million in bond sureties put forward by his supporters, an eclectic mix of politicians, academics, photojournalists, community activists, and family. The courtroom was packed with Sanchez supporters observing the proceedings intently. I was one of these supporters. Tom Hayden, author, activist and former State Senator; Father Greg Boyle, a respected figure in the violence prevention world, and Tom Parker a former FBI agent from the Los Angeles Division were also present to support and to testify on behalf of Alex. The*

prosecution—who argued against bail—dismissed us all as well meaning dupes. We had been taken in by Alex's public face, she asserted. He had been leading a double life, and using Homies Unidos as a front for his illegal activities with the criminal organization, the Mara Salvatrucha gang.

Three and a half years later, the charges against Sanchez were dropped. It was in fact the Grand Jury who had been duped with erroneous evidence by the LAPD, the FBI and the United States Attorney's Office. Nonetheless, on the day of his arraignment, the judge denied Sanchez bail based on this "evidence." Allegedly based on wiretaps of phone calls between Sanchez and several "shot callers" in MS, Sanchez was charged with ordering a gang member Juan Bonilla (AKA Zombie) to kill Walter Lacinos (AKA Camaron) in El Salvador. Lacinos had been deported from the U.S. to El Salvador after his imprisonment shortly before his death.

The prosecution produced two photographs as further evidence of Alex's hidden agenda. The first was taken right after the arrest and during the booking process. This was not the proverbial mug shot but an equally ubiquitous genre in crime photography: the bared chest revealing tattoos denoting gang affiliation, in this case, MS13. While Alex has had all his visible tattoos removed, the prosecution argues that the presence of this tattoo is further proof that underneath he is still a gang member. Judge Real ignored the defense's explanation and refused to hear expert testimony from anthropologist Rosemary Ashamala. Ashamala runs a free tattoo removal program. Had she been allowed to testify, Ashamala would have explained that she only removes visible tattoos because the process is so lengthy, painful and also costly.

The second photograph was taken a decade earlier in 1999. In it Alex is throwing gang signs (making hand gestures in the shape of the letter "M" with thumb and index fingers) with one of his homeboys from the Normandie clique of MS13. Once again, the photograph was entered as evidence that Alex had not in fact renounced his gang membership. The police had found this photograph many years before the 2009 indictment while searching the Koreatown apartment of Alex's then girlfriend. That photograph had been in an evidence file all these years. The defense would likely call me to talk about the circumstances surrounding this particular photograph. While I did not take the photograph, I was there when it was taken, and I was to bear the weight of its interpretation in court.

Alex Sanchez was a central figure in my ethnographic research on the production of the so-called "transnational gang crisis" between the U.S. and El Salvador. Alex is an ethnographic interlocutor, a fellow advocate for alternatives to the incarceration and deportation of immigrant youth, and, with more than 15 years of association, a friend. Needless to say, his arrest and the

*charges brought against him proved a professional and ethical minefield, or what Allen Feldman aptly terms an “ethnographic state of emergency” (1995). In the grip of something akin to vertigo, I delayed the publication of my book until I had a better grasp of these charges and the potential implications of my work for the trial.<sup>1</sup> The ethical commandment to “Do No Harm” and the fear of ethnographic “betrayal” (Visweswaran 1994) has haunted me throughout my association with undocumented and deported immigrants classified as “criminal aliens” and “criminal deportees.”*

## Introduction

In keeping with the theme of this special issue, my article focuses on the ethical and theoretical commitments that arise for ethnographers tasked with (re) tellings of migrant narratives. In states of ethnographic emergency, when our ethnographic interlocutors are fleeing from or facing conditions of extreme physical and structural violence, we face a number of interpretive challenges, particularly when called upon to reframe those narratives for different institutional contexts and political projects. In states of political emergency, the ethnographic process is fraught with fear and its affective distortions. Our research also becomes all the more mired in the “contradictory abutment[s] of the ethnographer’s own social contexts and disciplinary dispositions with local situations and knowledge” (Feldman 1995, 228). States of political emergency are thus also ethnographic emergencies.

“The People vs. Sanchez” RICO case presented me with an ethnographic emergency *par excellence*. My direct implication in the case, as both researcher and as witness for the defense, brought the tensions between anthropology, advocacy, and activism to the fore in disturbing and challenging ways. Anthropologies of immigration and deportation often pose serious challenges to societal consensus, which all too often conflate migration with crime and terrorism.<sup>2</sup> However, our representations of unsympathetic or “bad subjects” (Foucault 1979, 77–83) must do more than offer sympathetic accounts from the “criminal” point of view—if ethnographers are not to be dismissed as “well-meaning dupes.” In seeking to balance the demands of scholarly research with those of their ethical and political commitments, ethnographers often find themselves caught in a series of “double binds” (Fortun 2001).<sup>3</sup> Navigating these incongruent obligations may well be productive for our research and our occupational proclivities for deploying analytical strategies that can account for “multiple realities and incommensurate truth[s]” (Coutin, Maurer, and Ygvesson 2002, 836). Yet that complexity often works against the demands of advocacy and the simplifying “strategic essentialism[s]” (Spivak 1988) that the legal system necessitates. This article

considers the narrative strategies anthropologists employ in their encounters with the legal–bureaucratic proceedings of law enforcement, and federal and immigration courts that (de)legitimize their ethnographic subjects.<sup>4</sup> In it, I consider my own participation in these overlapping yet conflicting projects, and how these strategic dualities and multiplicities of anthropology, advocacy, and activism both limit and enable what can and cannot be said.<sup>5</sup>

In the first part of the article, I consider the implications of the accusation leveled against Sanchez supporters by the prosecution that we were all “well-meaning dupes.” In the second part of the article, I consider my role as witness for the defense regarding the second photograph used as “evidence” against the defendant. In the third section of the article, I explore the various double binds faced by ethnographers caught in the inescapable, productive, but unresolved tensions between anthropology, advocacy, and activism (Clifford 1988; Fortun 2001; Hale 2008; Speed 2015). I do not pretend to provide a blue print or to establish a set of best practices for others to solve these double binds. Rather, I seek to contribute to an ongoing discussion about the politics and ethics of ethnographic research conducted in deeply charged contexts where the stakes for the people with whom we engage are very high—be those stakes incarceration, detention, deportation, injury, or death.<sup>6</sup> I am also concerned with the tenuous status of ethnographic knowledge in legal arenas where normative notions of truth and evidence apply, and where ethnographers may “find themselves at the edge of law” when engaging with “the subtle, ambiguous, and contradictory realities of both crime and criminal justice” (Ferrell and Hamm in Coutin and Fortin 2015, 79) and in immigrant communities where the line between legality and illegality is blurred further.

Finally, in this article I move back and forth between a discussion of Alex Sanchez as defendant and myself as witness for the defense. This indeterminacy of subject–object relations is deliberate. My intentions here are twofold: to stress the dialogical and intersubjective nature of knowledge production that is central to the ethnographic method (Visweswaran 1994; Strathern 2006; Hayden 2009) and to actively engage in a form of “contaminated critique” that puts the ethnographer on the same plane of analysis as the object of her research (Stewart in Molino 2004, 139). I prefer to think of this as a recursive rather than reflexive move. More than positioning myself in the ethnography, I am concerned with how I am positioned by processes that are beyond my control, but over which I have an effect (Fortun 2007).

## **RICO: Guilt through Association**

Alex Sanchez’ right to a fair trial was severely compromised by the RICO Act. Even if the murder charges were dismissed—if in fact, as the defense

argued, the prosecution had conflated two men, both going by the moniker Zombie—Alex still faced the more vague and far-reaching charge of conspiring with an illegal enterprise. While the bulk of the charges in the government document pertained to the twenty-three other defendants, Alex was culpable by virtue of “association.” This gave the prosecution considerable leverage. According to the second of Sanchez’s attorneys, Amy Jacks,<sup>7</sup> “They have to prove more than that you were simply a member of the gang, but not much more.” “Conspiracy” requires an agreement between two or more people that somebody in the future is going to commit at least two racketeering acts. RICO doesn’t require any completed act, and what constitutes “racketeering” is similarly broad. What’s more, the definition of “enterprise” does not specify precisely how loose or how large that association must be, nor does it identify the criteria identifying what activities differentiate a “syndicate” from a street “gang” (Lynch 1987).

Enacted in 1970, RICO was first intended to root out the Mafia and was the centerpiece of Nixon’s crime bill. Over the last three decades, it has “metastasized from its original intent” (Anderson and Jackson 2003, 86) and has come to be used as “an all purpose prosecutorial tool” (Lynch 1987, 663) without the baggage of the usual understandings of justice and the protections of due process. RICO serves as an “arbitrary penalty enhancer” and “prosecutorial bargaining tool” (Anderson and Jackson 2003, 89). It also allows the government to join into a single prosecution widely diverse defendants and crimes, that “absent RICO, would be too disjointed to be allowed in the same trial and under the rules of evidence and criminal procedure” (ibid., 90). Furthermore, the defendants do not have to be charged with particular crimes, “but rather are accused of *racketeering*, which is a derivative catch-all term” (ibid.). In other words, RICO “adds powerful weapons to the prosecutor’s arsenal” and represents the government’s “arbitrary wielding of [its] awesome power” (ibid., 96) to effect a “state of exception,” where the state can suspend and act outside the law (Agamben 2005). Indeed, RICO brings into view the ways in which the state itself is also two-faced—where the mask of justice obscures how certain populations are subject to very different laws.<sup>8</sup>

In 1996, RICO also became a new tool for immigration law enforcement (King 2003). Congress expanded RICO to include violations of federal immigration law such as encouraging illegal immigration and or employing illegal aliens (ibid.). More pertinent to Alex’s case, by the mid-2000s, RICO had become a powerful tool for the constellation of federal and local law enforcement bodies in carrying out “Operation Community Shield.” Launched in 2005, that operation originally targeted MS13 but has since been broadened to include other gangs, including the 18th Street gang (Zilberg 2011; González 2013).<sup>9</sup> Leading up to his arrest in 2009, Alex had become a vocal opponent

of the operation. Alex had also served as an expert witness for the defense in several RICO cases against alleged gang members—the very law under which he was now charged.

## **Rampart: The Deportation Pipeline**

I was shocked, although not surprised, by Alex's arrest. RICO was just the latest weapon leveraged against Alex. Ten years earlier, in 1999, he was arrested by police officers in the Los Angeles Police Department (LAPD) and its notorious Rampart division on a warrant for "illegal reentry" of a "criminal deportee"<sup>10</sup> and subsequently detained by the now defunct Immigration and Naturalization Services (INS). Alex lingered in immigration detention for nine months, during which he filed a political asylum claim in which he asserted he would face persecution in El Salvador because of his status as former gang member now gang-peace activist by both the gang and the state if deported back to El Salvador. After a prolonged trial, Alex was finally granted political asylum in 2002. After his trial, Alex joined several Homies Unidos members in filing a lawsuit against the LAPD for police harassment. They settled out of court.

According to Alex, LAPD officers had threatened that he and Homies Unidos would be "finished in less than six months." His arrest in 2000 occurred shortly after he testified in a hearing on police harassment in the Rampart division. Alex was also due to serve as a hostile witness to the prosecution in a murder trial for a fourteen-year-old. The youth was participating in Homies Unidos's art program when the murder was committed. Some felt that Alex's arrest was retaliation for these unwanted and inconvenient interventions into LAPD's illegal activities.

Alex's arrest and detention in 2000 happened against the backdrop of "the worst [police scandal] in sixty years" (Olney 1999). Several LAPD officers in the Rampart Division's elite gang abatement unit (Community Resources Against Street Hoodlums, or CRASH) had been charged with "acting like a gang," literally taking over the local drug trade from gangs in that area, and framing gang members in order to push them through the deportation pipeline. In fact, Alex's case brought the immigration consequences of the Rampart scandal to the fore, and called into question the legal grounds for other deportation cases that were set in motion by Rampart arrests.

## **Gang Intervention Worker**

Interestingly, although the actual charge was a warrant for his arrest for "illegal reentry" into the United States, Alex's apprehension by Rampart in 2000

rested on the same accusation as the RICO case in 2009—both alleged that Alex was using Homies Unidos as a front for gang activity. Before his arrest in 2009, Alex had been working with a coalition of community-based gang intervention projects in collaboration with the nonprofit organization The Advancement Project and its Urban Peace Program to develop a comprehensive community-based approach to violence prevention and intervention program for the city of Los Angeles. Alex was selected to serve on the “Community Engagement Advisory Committee” formed in March 2007 by Councilmember Tony Cárdenas, who was at the time the Chair of the Ad Hoc Committee on Gang Violence and Youth. The “Community-Based Gang Intervention Model” that emerged from the group was voted in as official policy of the city of Los Angeles in February 2008.

The city’s “Guide for Understanding Effective Community-Based Gang Intervention” outlines the role of the Gang Intervention Worker (GIW). GIW responsibilities include street mediation, developing local and regional truces, peace agreement maintenance, crisis intervention and rumor control, defusing and deescalating potential or actual violence between rival gangs and one another (2008, 14–16). The language from an earlier document from the Advancement Project reads:

Training and professional development of gang intervention workers needs to expand. *It is widely recognized that only ex-gang members who have exited the gang life successfully have the “license to operate” and secure the trust and support of gang leaders and therefore, the members.* Intervention workers act as mentors guiding the gang members through a process of change, or alternation<sup>11</sup> and can be successful in doing so because they offer insights into the thinking and actions of gang members from their own experience. (2007, 88, my emphasis)

A photo of Alex appears on page twelve of the document with the following caption “Alex Sanchez from Homies Unidos, along with Los Angeles City Council Members Tony Cárdenas and Herb Wesson speaking at a press conference.” Despite this growing recognition for and endorsement of that work by the city of Los Angeles, and despite his active participation in writing the language specifying the role of the GIW, Alex’s ongoing communication and association with active gang members in that capacity continued to make him vulnerable to charges of “conspiracy” with a criminal organization.

## Dialectics of Seeing

When Alex was arrested again in 2009, it seemed likely that I would have to appear as a witness for the defense, and to support the argument that Alex



Sanchez was a *legitimate* GIW at the center of the City's new gang prevention program. In particular, I would be called as a factual witness to speak to circumstances surrounding photo exhibit B—the photograph of Alex throwing gang signs with his homeboy. Again, while I did not take the photo, “I was there”—in the everyday, ethnographic and legal sense. I was an “eye witness.” The prosecution had introduced the photograph as evidence of bad faith, and to call into question Alex's sincerity and credibility. In what follows, I consider the various interpretive challenges I faced as an anthropologist compelled to reframe the photograph while still adhering to the narrow confines of the law.

### *Contextualization*

I would, of course, endeavor to offer other trajectories of interpretation to the jury by placing the photograph in context with some of my own photographs taken on that same trip. I even have much the same photo in that group, albeit without the offending signs. I very rarely took photographs of gang members posing. As an anthropologist, I was troubled by the politics of the gaze and the exoticized images of gangs that proliferated in both conservation *and* progressive media. I did, however, take plenty of photos during this particular fieldtrip. When I sent Alex's attorney, Amy Jacks, my contact sheets from the trip, she responded, “This tells the *whole* story.”

On that trip, I was accompanying Magdaleno Rose-Avila, co-founder of Homies Unidos, and Alex and his “recruits,” Pewee and Laughie.<sup>12</sup> We were en route back to Los Angeles after stopping in Santa Cruz where we had attended a Barrios Unidos<sup>13</sup> conference on youth violence prevention and intervention, a reading of Magdaleno's poetry at the University of California Santa Cruz, a presentation on the work of Homies Unidos to a group at an Unitarian Universalist church in San Francisco, and a stop at San Quentin prison where California houses its death row inmates. It was early days for Homies Unidos in Los Angeles.<sup>14</sup> Alex was just getting the program off the ground and Magdaleno was mentoring him through the process. Magdaleno wanted to show Alex and his companions other horizons of possibility and, in Barrios Unidos, a model for what they and Homies Unidos could become—an alternative to San Quentin, the crazy life's dead end. Our final stop was Salinas. There we met some of Magdaleno's *compadres* from his days with the United Farmworkers Union and the Cesar Chavez Foundation—another model for nonviolent social change.

This then was the context in which I hoped to reposition the photograph and to escape its negative implications with power. The strategy was not simply to put the image “in context” but to incorporate it into a

montage of images of the fuller *mise-en-scène* and to remap the image within this *peacescape* choreographed by Magdaleno. The more challenging task, however, would be to offer alternative ways to read the actual image of Alex throwing gang signs with his would-be recruits; to interrupt the context into which the image of Alex had been inserted by the FBI, and to “slow the quick jump to representational thinking and evaluative critique” long enough to consider other possible interpretations (Stewart 2009, 4).

### *Photographic Evidence*

That the LAPD and prosecution insisted on looking at these images of Alex “straight on” and as self-evident was particularly ironic given the 1992 trial of several LAPD officers, who had been caught on video tape striking Rodney King repeatedly. Indeed, one can hardly begin a conversation about the use of visual evidence in the courtroom now without conjuring that video and with it, a discussion of the “myth of photographic truth” (Sturken and Cartwright 2001, 16–20), “professional vision” (Goodwin 1994), the history of crime photography as a technology of power (Lerner 2007), and the ways in which visual evidence has been used to constrain racialized subjects in particular.

The video appeared to most Americans as incontrovertible evidence of the officers’ guilt. However, through a series of semiotic moves, the defense skillfully disaggregated the police officers’ actions in such a way as to place the agency and blame on Rodney King (Crenshaw and Peller 1993, 64), thereby refuting and reversing the seemingly commonsense meaning of the video and demonstrating its opposite. In the case of the Rodney King beating, the defense claimed that the video could not speak for itself but needed to be interpreted by experts and through their “professional vision.” In the case of Alex Sanchez, the prosecution insisted that the image of Alex throwing gang signs spoke for itself and needed no further explanation. While these are different visual technologies and were interpreted in precisely opposite ways, both images were framed by the LAPD’s point of view. The depiction of King the aggressor and Sanchez the gangster both rely on the black and brown male body, respectively, as an “already interpreted image” (Gooding-Williams 1993, 165). Both the video and the photo were drawn from the same “received stock” of images of black and brown criminality (*ibid.*). The image of Alex Sanchez as Latino gangster is further embedded in a particular sociopolitical imagination that combines the “Dangerous Brown Man” with the “Illegal Immigrant” in the figure of “Criminal Deportee” (Zilberg 2011).

## Demythification

Gooding-Williams argues that rather than “demystification” of these racialized images, cultural critics should aspire to “demythification.” He describes “demythification” as the “critical use of evidence and argument to gauge the truth value of the sociopolitical allegories implicit in racial representations” (Gooding-Williams, 162). In his analysis of the Simi Valley trial, Bill Nichols argues that in moments such as the beating of Rodney King, “the *historical referent* . . . cuts through the inoculating power of these signifying systems and turns our response to that *excess beyond the frame*” (Nichols 1995, 19, my emphasis). Andrew Goodwin notes of his double reaction to the not-guilty verdict in the Rodney King beating case that as a white liberal he was taken aback, but as a media critic he was not. As media critic, he could not sustain that the video was merely a reflection of reality. The case in his view should not have been argued solely on the basis of the videotape but rather within “the wider arena of urban racial politics” (Goodwin 1992).

As with the LAPD officers’ beating of Rodney King video, the prosecution’s reading of the Sanchez photographs removed those particular episodes not just from the immediate context of the trip north but their “larger social and racial context[s]” (Crenshaw and Peller 1993, 64). Both images of King and Sanchez functioned within the broader cultural sphere of U.S. urban racial politics where Blacks and Latinos “live in a different world from whites, in something like a different nation,” and where the police are experienced as “an occupying force” (ibid., 69).

The police presence in urban Latino neighborhoods does have the feel of an occupying force. The constant appearance of the “policecopter” is a key feature of that occupation and its affective dimensions. The Homies Unidos fundraising calendar in which the damning photograph of Alex and Laughie appeared is another example of the overriding sense of occupation. When photo exhibit B is placed in the context of the other photographs in that calendar, we see clear signs of this occupation: Homies Unidos program participants on their way to a poetry workshop being stopped and frisked against a wall. The image is further “demythified” by the photographs of “Free Alex Sanchez” signs at rallies calling for his release from the immigration detention center in 2000. This discussion of the larger historical and political contexts in which the photograph is situated, however, would have no place in this courtroom.<sup>15</sup>

## Misrecognition

I met with Amy Jacks, Alex’s lawyer, twice to prepare our strategy in anticipation of going to trial. While I was only going to testify as a factual witness

to the precise events and activities surrounding Homies Unidos' fieldtrip north, I nonetheless felt that I needed to prepare on other fronts—to anticipate what the prosecutors might throw my way to try to discredit me as a witness to those events. Our first concern was the accusation of bias—mine towards Alex and Homies Unidos. At the time, however, I was more concerned about how my work might be misconstrued and used to support the prosecutions' argument. I asked Jacks to read the portions of my book where I addressed the difficulty in navigating the line between violence and nonviolence for gang intervention workers.

Phillipe Bourgois describes the ethical dilemmas of exposing the criminal and violent activities of his ethnographic protagonists in the introduction to his book about Puerto Rican drug dealers in East Harlem in New York. Speaking of the politics of representation, he expresses concern that his work would be misread by the general public through a “conservative, and unforgiving lens.” He notes, “discussions of poverty tend to polarize immediately around race and individual self-worth . . . moralistic biases and middle-class hostility toward the poor.” Youth, violence, and immigration are commonly related lightning rods. At the same time, Bourgois was also concerned that anthropologists would think his work “complicitous with oppression” owing to his refusal to “*sanitize* the suffering and destruction that exists on inner-city streets “for fear of its negative connotations” (1995, 11–15, my emphasis). I found myself caught in a similar double-bind with my research, and my own narrative strategies for destabilizing criminal categories. In my writing, I describe a number of bifurcating and oscillating images that recast gang members as peace activists, and cops as criminals among other things.

These dialectical images are at the center of my work. When I spoke up in defense of Alex to a colleague not long after his indictment, she chided me, “But what about all your work on mimesis?” Her rebuke troubled me: Was she suggesting that the advocate in me was silencing the cultural theorist in me? Was I being two-faced in refuting the possibility that Alex could have crossed the line? Had I been duped? This was precisely the issue at stake in the RICO case: Not just the instability of the Gang Intervention Worker, but whether the GIW was a mask for MS.

From this point of view, Alex was not a peace activist in the guise of a gang member. He was a gang member in the guise of a peace activist. But these images fracture further. The LAPD and Homies Unidos were both beholden to the structure and ethos of the gang in particular ways. Both were mimetic improvisations of their object of transformation. These doublings, be they police with criminal, or peacemaker with gang member, constituted highly unstable unions. Could my theoretical framework be misconstrued and used to support the prosecution's argument that Alex was a gang member

masquerading as peace activist, and Homies Unidos operating as a front for MS13?

Certainly I was well aware from my research of the unstable coupling of gang member and peace activist in the figure of the GIW. I had seen how difficult it was to walk the line between these worlds for those courageous enough to try it.<sup>16</sup> I'd also seen it deployed in cynical, instrumental, and desperate ways. So if I was "duped," it was not through ignorance.<sup>17</sup> This is not, however, what I saw in Alex. Which is not to say that I didn't see instability. The model of gang intervention and Homies Unidos were both in their infancy in 1999. The very existence of the photograph with Alex throwing gang signs is an indication of something in transformation. Attorney Jacks mused over this:

The idea of how it was going to work and how [to] deal with current and former gang members were [still] being tested. Was Alex perfect? No. Should he have known better? Is he more professional now? Are there more standards for behavior now? Yes. But I don't think that undermines the fact that he was committed to doing it.

Leaving a gang isn't just a personal decision made by an individual out of sheer will or from one day to the next. It involves a *reworlding* or, in the language of the GIW Guide, a process of *alternation*.

The concept of "alternation," a term introduced by sociologists of religion, Berger and Luckman (1967), is at the core of the Los Angeles City Council's "Citywide Gang Activity Reduction Strategy." Deployed in the service of gang intervention, alternation is understood as the "phenomenological mechanism" by which gang intervention workers and case managers "transform the reality and value structures that set gangs into violent activities as well as locking one into gang life" (Advancement Project 2007).<sup>18</sup> Placed in context with the other photographs from the trip, the image of Alex and Laughie reads as the alternation process in its early stages. Alex, through the mentorship of Magadaleno and Barrios Unidos, was developing a "plausibility structure" for Homies Unidos and a "legitimation apparatus for a sequence of transformations" (Berger and Luckman, 176–78). The meetings with Latino youth at Barrios Unidos, liberal white Unitarians, family members of inmates on death row, Chicano activists and university students all created opportunities for "reorganiz[ing] the conversational apparatus" for neighborhood youth—be they in, trying to leave, or thinking of joining a gang (ibid.).

It is this idea—that another world is possible through the transformative potential of former gang members to act as GIWs, alongside his personal freedom—that was at stake in the Alex Sanchez case. Law enforcement's

attitude toward the GIW program is well expressed by Malcolm Klein's slogan, "to recognize is to legitimize" (Hayden 2004, 260).<sup>19</sup> Responding to Judith Butler, Fraser distinguishes between misrecognition as a psychological state and as an institutional social relation. Opting for the latter, she argues:

To be misrecognized . . . is not simply to be thought ill of, looked down on, or devalued in others' conscious attitudes or mental beliefs. It is rather to be denied the status of a full partner in social interaction and prevented from participating as a peer in social life . . . as a consequence of institutionalized patterns of interpretation and evaluation that constitute one as comparatively unworthy of respect or esteem. . . . [M]isrecognition is a status injury. (Fraser 1998)

The misrecognition of Alex as an active gang member was indeed a status injury. It was also a status injury to his supporters, who the government suggested had been duped. Diane Nelson captures the sort of dilemma facing Sanchez supporters perfectly in her work on the "dialectics of deception" during and after the Guatemala civil war. As Nelson puts it, "Power not only accuses its enemies of duping it . . . [i]t also struggles to convince them that they are duped" into believing that social change is possible (2009, 10).

The photograph of Alex throwing gang signs is, of course, itself a dialectical image where the image's "ideational elements remain un-reconciled" (Buck-Morss 1993, 67). In the photograph, which the prosecution takes as damning evidence of Alex's true identity, I see "lines of flight" and movement through "space, time, and social fields" (Deleuze in Biehl and Locke 2010, 323): Alex, *veterano* of the MS gang, morphing into something else.<sup>20</sup> He is learning how to leverage that identity and his status as *veterano* to recruit neighborhood youth into a different project—not MS and the crazy life of the gang but Homies Unidos and a life of nonviolence and community service and organizing. This photograph is taken in a moment of becoming: Alex transforming into the gang intervention worker he is today. It captures a moment in that process. If I were called upon by the prosecutor to do more than simply put the image in context, and to talk about the image itself, my challenge as an anthropologist and as a witness would be to articulate that process, to make this transformation visible in the photograph in which Alex adopts the pose of a *Salvatrucha*.

## Complicity

More likely than a grilling about the instability of Benjamin's dialectical images, the prosecution would no doubt call into question my credibility

based on bias. I met with Jacks in October 2014, almost two years after the charges against Alex had been dropped, to reflect upon the case and my role in it. By that point, Jacks had read my book. She wasn't so worried about my take on *doble cara*. She pondered my concerns:

Even if they had got to that, it's speculative . . . well yes, he could have, or could not have, but this issue is *what did happen* during the Santa Cruz trip. . . . They would probably focus on showing your bias, that you overly sympathize with these people, or you have some anti-law enforcement bias, or you would overlook current gang activity. . . . So the bias was a real concern . . . to what though? That you would lie about the context in which the photos were taken?

The prosecutor would likely try to reframe my testimony through the LAPD POV. From that perspective, I am a sign—"a thug hugger" at worst, "a well meaning dupe" at best, either way I am "complicit" with Alex and Homies Unidos. Drawing on the semiotic theories of Pierce, Bridget Hayden explores how we experience this sort of indeterminacy of self as sign when we are accused of something we don't recognize in ourselves (2009). In her case, as an American anthropologist working in Cost Rica with Salvadoran refugees in the aftermath of the Salvadoran Civil War, Hayden felt misrecognized as a racist by her Salvadoran interlocutors.

As sign, Hayden, induced an expectation of racist behavior and was implicated by her interpreters in U.S. imperialism in Latin America and the racial politics surrounding Latino immigrants in the United States, I am also implicated in the racial politics in urban Latino barrios (albeit in reverse) as well as the conservative attacks against academic freedom in universities and civil rights on the streets and in the courts. Perhaps even the history of the Salvadoran Civil War and the Central American Solidarity Movement figures here. During the war, the LAPD illegally searched and seized files from the office of The Committee in Solidarity with the People of El Salvador (CISPES) in Los Angeles.<sup>21</sup> It was also common for Salvadoran refugee organizations to receive death threats from Salvadorans who, like the U.S. government, viewed the leftist opposition and guerrilla group, the Farabundo Martí National Liberation movement (FMLN) as a terrorist organization, and any community-based organizations working with Salvadoran refugees as fronts for the FMLN.<sup>22</sup> Presumably, I am being interpreted through some of this historical and political baggage. Regardless, I am implicated as part of the so-called leftist academic establishment.

How could I acknowledge this framing of me, in which I recognized myself as interpolated through the LAPD POV, while also asserting the legitimacy of my own analysis? That my research is partial—in both senses of the

term (incomplete and written from a particular perspective)—is both undeniable and inevitable. I would have been a witness *for* the defense. I do not write or speak from a “decontaminated distance” (Stewart 1991). My knowledge is *contaminated* by *both* scholarship and activism and their respective discursive practices. From the LAPD POV, I am *complicit* with Alex.

In his essay on complicity, George Marcus opens up the term “beyond the sense of ‘partnership in an evil action’ to a sense of being complexly involved through a relationship to a third interest/party/object.” Complicity places the researcher in a much more complex and often “disturbing relation” to his/her informant, and considers how the researcher serves knowingly, wittingly, reluctantly as an informant to projects not of his/her own making and design. It also provides a way of recognizing how the ethnographer is “always on the verge of activism, of negotiating some kind of involvement beyond the distanced role of the researcher” (1998, 105–32).

Proponents of critically engaged activist research argue that our research should have “an overt commitment to engagement with our research subjects that is directed toward a shared political goal” (Speed 2015, 71) and that we “mak[e] our political commitments explicit up front” (Hale 2008, 11). It is clear from my research that my political commitments rub against the grain of moral panics over immigrants and “dangerous brown men” (Bhattacharyya 2008). In my writings, I have been deeply critical of how zero tolerance police campaigns play out on the ground in urban communities of color, and how they open further “states of exception” in the law. In this sense the “object” of my research overlaps, if not corresponds, with the “object” of Sanchez’s activism (Zilberg 2011).<sup>23</sup>

Alex Sanchez ruminated on these questions in a conversation with me when we met to talk about the case in October 2014. For him, the question is quite simple and my “bias” is both essential and suspect.

Sanchez: Well I think it’s important. Many people who get indicted or deported lack that expertise. You have the government bringing in a law enforcement officer to testify as an expert on gangs and their testimony really demonizes and leaves no room for the jury to understand the humanity of this individual at all, so the consequence of that alone, without an expert witness on the defense side is that he will be judged based on how he has been described by a law enforcement officer. . . . That’s when it becomes critical to have somebody that understands the issue such as yourself, Tom Ward, Luis Rodriguez, and others . . . to be able to address the humanity and circumstances of why these kids join gangs, and that people can change because you yourself have witnessed it.

Alex acknowledges that the jury is still more likely to believe a police officer over a witness for the defense regardless of whether they are an advocate or an academic or both.



It's one thing if your testimony is ineffective. It's another if your testimony actually damages the case. I asked Alex if he was ever worried that my testifying on his behalf would harm him.

Zilberg: You testify as an advocate. I testify as an academic. So do you ever worry, are you ever concerned about people like me testifying. . . . For instance, when you and I were on a panel together at UC Irvine, I was talking about the ways in which gangs were going underground in El Salvador in response to the zero tolerance police campaigns there. You didn't disagree with me, but you were uncomfortable about putting that on the radar.

Sanchez: I look at it like this. You know, you're not lying and I think that people should know what's going on . . . because it's important. If they're doing this, it's not just because they're being arrested, it's because they're under fire, they're being persecuted . . . not only by law enforcement but by death squads . . . so, of course, those types of policies . . . change the dynamics of the gang structure. . . . So you're not saying something that's not true.

My complicity thus cannot be reduced to mere bias. It is much more complicated. Alex and I have interests that overlap but they are not entirely commensurate nor without their contradictions. Activist and ethnographic knowledge mix but they retain a certain distance. That distance should not be mistaken for objectivity. It is better described as a subjective distance.

### *Concluding Thoughts*

In addition to the accusation that we are complicit, or the concern that our research findings could be construed in such a way as to weaken the defense's case, another potential problem is that our answers are just too complicated for the courtroom. In many situations, lawyers need a clear answer: yes or no. But our answers are unsatisfying in their complexity. In his well-known essay on a federal trial to recognize the Mashpee as a legitimate Native American tribe, James Clifford explores the dilemma anthropologists face in an adversarial system of justice where the "need to make a clear case to counterbalance an opposing one, discourages opinions of a "yes, *but*, . . ." (1998, 321). Anthropological knowledge requires the "but"—that is, historical and geographic specificities and contingencies.

I addressed this "yes, *but*" dilemma we face as anthropologists and our proclivity for complicating issues by questioning the very grounds on which the questions are posed with Alex:

Zilberg: But take my book for instance. In it I discuss how there are people who are adept at being two contradictory things at once, but I complicate it. I can because I'm an anthropologist, and this is true for identity in general . . . and it works for cops too, who operate as criminals, or gangsters as guerillas or peace activists. So I was really worried that the prosecution could use that against you and to question my testimony. I've always been worried that my attention to the ambiguity and the way the boundary between things blur could hurt somebody.

Sanchez: So the question is, in the cross examination, when the prosecution is going to come at you and want to ask you those yes and no questions. "Can people live double lives?" "Yes."

Zilberg: But they could ask, "Have you ever known anybody who participated in a violence prevention organization and was active in a violent group?" I would have to say yes, but it wouldn't be you.

Sanchez: You know who they brought up all the time? Hector Marroquin of No Guns.<sup>24</sup> So the answer is yes. You can't go around it and say no. But the defense needs to make that clear as to what and who we're talking about. . . . Some attorneys do a good job with their witnesses and then there're some attorneys who don't do shit with their witnesses and when they go up there, they screw the case. . . . The defendant needs to be engaged as well . . . to look at what questions are being asked, because the defendant knows. . . . It's not just about the witness, is what I'm trying to say.

It's not just about the witness. All three actors—anthropologist, advocate, and activist—bear the weight of the image's interpretation. Each interpretation is contaminated by the other and in relation to a fourth—the (de)legitimation work of the state. A recent call for "cross-training" between researchers and lawyers through the integration of clinical practice and ethnographic methods in graduate programs speaks to the ways our intellectual practices and methodological approaches overlap and the potential to enrich both pursuits (Coutin and Fortin 2015, 82). The impulse behind activist research programs (Hale 2008) is a parallel attempt at "cross-training." Indeed, this article traverses all three fronts. It was written in conversation between the author as anthropologist, Jacks as advocate, and Sanchez as activist.

There is no roadmap for ethnographers to follow. I maintain, with many others, that we can only critically *engage* but not *solve* these contradictions. These double binds are produced by "related and equally valued," but ultimately "incongruent" projects (Fortun 2001, 13). Nonetheless, following Bloch, I contend that despite our professional cautiousness, despite our knowledge that easy answers don't work, and despite our inevitable negative role, "we should engage with the general questions that people are asked"

(Bloch in Kaaristo 2008). Those questions demand a reply and hold us accountable to advocacy (Fortun 2001). Our responses are only strengthened by collaboration, in its various guises, with advocates and activists. In this sense, I agree with the call for anthropologists to “design” our ethnographies in conversation with our interlocutors, who are asking similar questions in order to address the demands of the historical moment. That is inherently an activist project in that it seeks to transform the very conditions about which we write (Fortun 2012).

## Postscript

Seven months after his arrest, Alex Sanchez was granted bail and released from detention pending trial. The 9th Circuit panel rejected the grounds for Judge Real’s initial denial of bail for Alex requiring that the judge do his due diligence in fact-finding. In response, the Judge held a closed meeting with lawyers, law enforcement, and city and community gang experts. The transcript of the testimony was sealed, so one can only speculate who was there and what was said. What’s clear is that, after the rebuke from the 9th Circuit (by no means the first in his career), Judge Real finally admitted the testimony he had refused to entertain at the first two bail hearings (Hayden 2010b). Shortly after, Alex’s case was removed from Real’s docket and transferred to a different judge.

It turned out that I did not have to testify in Alex’s case after all. Four years after his arrest and before he even went to trial, the charges against Alex were dropped—after Alex’s attorney Amy Jacks filed a motion to dismiss the case based on the continuing misconduct, misinformation, and willful ignorance by the prosecution. In brief, the evidence showed that the government’s theory about the murder was completely wrong. The most damning evidence pointed to the transcript of the phone conversation in which Alex purportedly colluded and conspired to have someone killed in El Salvador. This, it turns out, was based on the misidentification of the person referred to in the transcripts as Zombie. Alex’s first attorney pointed this confusion out early on in the case. Yet the prosecutors, who followed the defense to El Salvador to take the deposition of the real Zombie, chose to ignore this factual error.

Moreover, Father Greg Boyle, a fluent Spanish speaker with close to twenty-five years of experience working in gang violence prevention, found considerable flaws in the translations provided by the prosecution. His analysis varied substantially from that of LAPD Detective Flores. Most troubling for Boyle was the discovery that a significant section of the conversation had been left off the transcript. In that section, one of the gang members on the call is heard saying “Butt out, Alex, you are no longer one of us . . . you should not

get involved in our things . . . because you are no longer active.” This for Boyle was a clear indication that these MS shot callers did not recognize Alex as a member in their ranks. In his response, “If you told Boxer that I’m working with the FBI, then you know what, you are getting me involved!” (Fremon 2009), Alex justifies his participation, not as a member of MS, but as someone who has been dragged unwillingly into the mix and who has been put in danger as a result. On the one hand, Alex was accused of being a “shot caller” for MS13 by the FBI—even though, according to wiretaps, he was no longer active. On the other hand, he was accused of being an FBI informant by the gang—even though he was being investigated by the FBI.

As Amy Jacks, Alex’s lawyer, said to me, “You can’t get an indictment based on false evidence and then, when you discover it’s false, sit there and do nothing. You have a duty to correct it.” Before the defense’s motion to could be granted, the prosecution asked the judge to dismiss the case “without prejudice,” reserving the right to re-file within a certain period. Jacks mused, “It was kind of sad for Alex because the case is dismissed but they’re not even conceding that they’re wrong or saying they screwed up. They were just trying to save face.”

The story has a happy ending, for now.<sup>25</sup> While the charges were still pending, Alex lived with a constant sense of being watched: “More than monitored, I felt I was being stalked.” Alex may well always live under such scrutiny. If the RICO case was revenge for the Rampart case, will there be revenge exacted for the RICO impasse? Is there still an investigation ongoing behind the scenes? After all, this is not the first postscript included in writings about Alex and his work with Homies Unidos. When writing at the edge of the law, one writes with a sense of foreboding that the next state of ethnographic emergency is never far away.

### **Declaration of Conflicting Interests**

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### **Funding**

The author received no financial support for the research, authorship, and/or publication of this article.

### **Notes**

1. In his discussion of the ethics of ethnographic witnessing, Feldman describes how, in a “state of ethnographic emergency the body and the perception of the ethnographer overtake themselves” such that the ethnographer experiences

- something akin to vertigo and a profoundly embodied disorientation (Feldman 1995, 240).
2. See De Genova (2002), Coutin (2007), De Genova and Peutz (2010), and Zilberg (2004, 2011).
  3. A double bind is “not simply as a situation of difficult choice” but one in which “individuals are confronted with dual or multiple obligations that are related and equally valued, but incongruent” (Fortun 2001, 13).
  4. Coutin, Maurer, and Yngvesson’s notion of “legitimation work” involves “the everyday work of constituting coherent worlds” through legal-bureaucratic proceedings such as “issuing and denying documents, sealing and opening records, regulating and criminalizing transaction, and repudiating and claiming countries and persons” (2002, 804).
  5. For “strategic dualism,” see Sjoberg in Hale (2008, 10), and for “strategic multiplicity” see Mendez in Hale (2008, 138).
  6. See Nordstrom and Robbins (1995), Scheper-Hughes and Bourgois (2004), and Huggins and Glebbeek (2009).
  7. Amy Jacks took the case over from Kerry Bensinger in 2012, after Bensinger was appointed to a judgeship in the Los Angeles County Superior Court.
  8. Diane Nelson explores the post-civil war Guatemalan state as two-faced. It dons “a democratic mask hiding the ongoing power of the military and economic elites” (2009, xxiv).
  9. Despite its purported limited mandate, the operation swept many nonviolent immigrants into its net ([www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)).
  10. Alex came to the United States in the 1980s when he was seven years old during the Salvadoran Civil War. Alex was deported to El Salvador in 1994 and then returned to the United States illegally in 1996 to escape threats on his life by rival gangs and death squads, and to be reunited with his son.
  11. See section titled “Misrecognition” for a discussion of the term *alternation*.
  12. Magdaleno Rose-Avila’s political formation began in Denver in the 1970s with the Chicano Movement led by “Corky” González. He later moved to California to work with the Cesar Chavez Foundation. He has strong associations with Barrios Unidos, Amnesty International, and the anti-death penalty and immigrant rights movements.
  13. Barrios Unidos, the youth violence prevention program that inspired Homies Unidos, was founded in 1977.
  14. The organization was founded in San Salvador two years before by an alliance of rival gang members, all deportees from the United States.
  15. “Legalism” note Brown and Halley, “incessantly translates wide ranging political questions into more narrowly framed legal questions” (2002, 19) and cannot account for a fuller discussion of the “interlocking [systems of] violence and structural vulnerabilities” in which vulnerable populations are caught (Stephen, n.d.).
  16. GIWs are vulnerable on both fronts. They are prone to be seen as snitches by the gang and the police.

17. To be duped, says Nelson, “is different from claiming ignorance or being forced to do something. . . . Rather it suggests that you went willingly but under false pretenses” (2009).
18. Berger and Luckman point to religious conversion as the “historical prototype of alternation.” In its “secular imitations,” while the transformation may be “subjectively apprehended as total,” in practice alternations are instances of transformation that appear total compared to lesser modifications (ibid.).
19. Malcolm Klein, professor at the University of Southern California and considered an authority on gangs, adopts a distinctly law enforcement point of view.
20. Following Deleuze, Biehl and Locke map “people’s lines of flight, their escapes, as well as their blocked passages” (2010).
21. Founded in 1980 in opposition to U.S. intervention in El Salvador and backing of right wing regimes, CISPES was and continues to be allied with the FMLN and Salvadoran popular movements including unions, women’s groups, peasant and environmental groups.
22. The primary informant on the RICO case was Nelson Comandari, the so-called “CEO of Mara Salvatrucha” and grandson of Colonel Agustin Martinez Varela, who served as an interior minister during El Salvador’s civil war. Comandari’s uncle, Franklin Varela, was a central informant in the Reagan administration’s investigation of CISPES (T. Hayden 2010a).
23. All knowledge about these and other topics is produced in political contexts and is actively aligned with a project, even if not openly or knowingly so. The LAPD POV, and the knowledge it produces, is no different.
24. Hector Marroquin was the founder and director of the violence prevention and intervention organization, No Guns. The organization was funded by the City of Los Angeles to steer Latino youth away from gangs and crime. In 2008, he was sentenced to eight years in prison for illegally selling assault weapons to federal undercover officers. Marroquin was a “shot caller” for the 18th Street Gang but claimed to have withdrawn from the gang.
25. This is not to obfuscate the considerable toll the charges had taken on Alex, his family, their emotional and financial situation, and on Homies Unidos’ credibility and funding.

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