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R·I·T

Immigration, Crime, and Policy

By Tiara Grayson

A Capstone Project Submitted in Partial Fulfillment of the  
Requirements for the Degree of Master of Science in Criminal Justice

Department of Criminal Justice

College of Liberal Arts

Rochester Institute of  
Technology Rochester, NY  
June 10, 2020

# RIT

## **Master of Science in Criminal Justice**

### **Graduate Capstone Approval**

Student: **Tiara Grayson**

Graduate Capstone Title: **Immigration, Crime, and Policy**

Graduate Capstone Advisor: **Dr. Jason Scott**

Date:

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## **Working Paper #1: Historic and Current Immigration Policies**

### **Introduction**

When viewing the criminal justice system, it is always investigated through a criminological approach. Meaning, there are numerous studies that attempt to get an understanding of why crime occurs, rather than the “why” in regards to the criminal justice system. The actors of the criminal justice system and their methods of crime control are rarely examined. In this paper, I will examine the behaviors of those who are attached to the criminal justice system; this includes the police, the media, politicians, and the public, who all play a role in how the criminal justice system functions, regarding immigration. Studying the criminal justice system is beneficial because “understanding the why of criminal justice behavior is crucial for the effective development and implementation of policy and reforms. A second benefit just as important involves not the control of crime but crime control.” (Kraska, 2006, p. 5)

### **History of U.S. Immigration**

Immigration has been a concern within the United States of America (US), since its creation. The US has experienced a high influx of immigrants during this time, in which a consistent pattern of millions of people immigrated to. Immigration had been open to the US, in addition, the occasional oversight and restrictions inflicted by individual states. (Immigration Act of 1882, (n.d.)) The US, on many occasions, has been referred to as the nation of immigrants. (Higgins, Gabbidon, & Martin, 2010, p. 2) This influx of immigrants was embraced, to increase the amount of the able-bodied workforce. Prior to the late 1800s, European immigrants' existence in the US blew up, and this first massive wave of immigrants encouraged the dislike of other immigrants, and “produced some of the most vociferous anti-immigrant sentiments.” (Higgins,

Gabbidon, & Martin, 2010, p. 2)

### **Chinese Immigration**

Prior to the 1870s, particularly during the onset of the United State's development, immigration was widely accepted. (Immigration Act of 1882, (n.d.)) Chinese workers migrated to the United States in the 1850s. In addition to them were the Irish and German Catholics during 1840 and 1850. (Trends in Migration to the U.S., 2014) Initially they came to the US to work in the gold mines, then for agricultural jobs, and factory work, especially in the garment industry. The building of the railroads in the American west, were particularly, due to Chinese immigrants. As Chinese laborers became prominent in the United States, numerous of them became entrepreneurs. The American economy grew, and as the numbers of Chinese laborers increased, so did the strength of anti-Chinese sentiments' among other workers in the US. (Chinese Exclusion Act., n.d.)

In the late 1800s, a recession occurred in which the new immigrant population was the center of the blame. (Higgins, Gabbidon, & Martin, 2010) Due to the economic conditions, racial prejudice and sentiments towards immigrants were fueled. The issues believed to be caused by immigration included; "taking jobs from low-wage workers, increasing the percentage of persons in poverty, and competing with established residents for various social service benefits." (Higgins et al., 2010, p. 1) Objections to Chinese immigration by Americans took many forms, including ethnic discrimination. (Chinese Exclusion Act., n.d.) As facilities where enormous quantities of Chinese men convened to smoke opium, gamble, and visit prostitutes expanded. Advocates of legislation against the Chinese deliberated that permitting people from China into the US diminished the moral and cultural standards of American society. Meanwhile, others employed an overtly racist approach for limiting immigration from East Asia, and conveyed

concern about the integrity of American racial composition. (Chinese Exclusion Act., n.d.)

Chinese were amongst those who felt the wrath of the “resentment” held by the European Americans, public pressures towards providing restrictions on immigrants, began in California against the Chinese. (Chinese Exclusion Act., n.d.) The California state government passed a series of measures aimed at Chinese residents in the 1850s through the 1870s, to address these forming tensions. This consisted of requiring special licenses for Chinese businesses or workers attempting to prevent naturalization. Legislation directed to limit future immigration of Chinese workers to the United States, and intimidated to sour diplomatic relations between the United States and China, was the final result. (Chinese Exclusion Act., n.d.) The Page Law was passed by congress in 1875. Its purpose was to reduce women from Asia immigrating to the US. Seeing the largest number of immigrants in American history in the year 1882, Congress passed two historic immigration acts; the Immigration Act of 1882, and the Chinese Exclusion Act of 1882, banning immigration of Chinese laborers. This act was developed with ease, due to the Seward Treaty of 1868.

With anti-Chinese discrimination and efforts to stop Chinese immigration violating Seward Treaty of 1868 with China, it was easy for the federal government to nullify much of this legislation. (Chinese Exclusion Act., n.d.) Due to Democrat’s ties to supporters in the West and Republicans eager to please western states, combined with push from other Democrats and Republicans, China later agreed to limit immigration to the United States. U.S. diplomat James B. Angell developed the Angell Treaty, which allowed the US to restrict Chinese immigration, although not completely. (Chinese Exclusion Act., n.d.) Following this treaty was the Chinese exclusion Act of 1882, which prohibited the immigration of skilled or unskilled Chinese laborers for 10 years. In addition, the Act also obliged every Chinese individual traveling in or out of the

country to bring “a certificate identifying his or her status as a laborer, scholar, diplomat, or merchant.” (Chinese Exclusion Act., n.d.) This Act was the first to place broad restrictions on immigration in American history.

Public views competed with international affairs regarding China; the challenge was to balance domestic attitudes and politics. (Chinese Exclusion Act., n.d.) The domestic factors eventually won against international concerns. During this time, over 20 million European immigrants to the US, majority of them being a part of the third wave of immigrants. (Trends in Migration to the U.S., 2014) This consisted of European immigrants traveling through New York’s Ellis Island. (Trends in Migration to the U.S., 2014) Congress later passed the Scott Act in 1888, which made reentry to the United States after a visit to China impossible, even for long-term legal residents. Congress voted to reinstate exclusion for ten years in the Geary Act in 1892. Later, the prohibition was stretched over to Hawaii and the Philippines in 1902. Sadly the Exclusion Act indefinitely was extended by Congress, which was not repealed until 1943. (Chinese Exclusion Act., n.d.) However, it was still likely to see immigrant groups allowed into the US, to maintain the economy post wars. Even after the banning of Chinese immigrants, the US began permitting Mexican workers into the US.

The “first wave” of Mexican immigrants occurred post “the curtailment of Japanese immigration in 1907 and the consequent drying up of cheap Asian labor.” (Uneasy Neighbors, 2011) After the commencement of World War I, between 1917 and 1921, the Mexican government agreed to send Mexican workers to the US as contract laborers to permit American workers to participate in war, following the increased need of labor. (Bracero History, Compensation, 2006) Yet again, Americans sway back to restricting immigrants. At the end of World War I, came about a depression, in which the locals began to blame immigration for the

hardships faced and immigration began to slow down. (Trends in Migration to the U.S., 2014) In the 1920's, European immigration began to be restricted, as well as Mexican immigration.

(Braceros: History, Compensation, 2006)

### **Bracero Program**

Many Americans do not know, but the Braceros Program formed out of an agreement with Mexico and the United States, which allowed millions of Mexican males to enter the US for short-term work on agricultural labor contracts. (Bracero History Archive, 2020) It was brought upon by an executive order in 1942 due to many growers contending that World War II would exacerbate labor shortages to low-paying agricultural jobs.

So, the United States decided, on August 4, 1942, to support a short-term “intergovernmental agreement for the use of Mexican agricultural labor on United States farms (officially referred to as the Mexican Farm Labor Program), and the influx of legal temporary Mexican workers.” (Bracero History Archive, 2020) Also in Bracero History Archive (2020), it was stated that “From 1942 to 1964, 4.6 million contracts were signed, with many individuals returning several times on different contracts, making it the largest U.S. contract labor program.” Meanwhile, desperate for work, Mexican nationals were willing to take strenuous jobs at wages disdained by many Americans. Farm workers already residing in the United States feared that Braceros would compete for employment and lower wages. (Bracero History Archive, 2020)

The Bracero Program, in theory, had precautionary measures to protect both Mexican and domestic workers “for example, guaranteed payment of at least the prevailing area wage received by native workers; employment for three-fourths of the contract period; adequate, sanitary, and free housing; decent meals at reasonable prices; occupational insurance at employer's expense; and free transportation back to Mexico at the end of the contract.” (Bracero History Archive,

2020) Braceros were to be hired only in regions of “certified domestic labor shortage,” and were not to be used as “strikebreakers.” (Bracero History Archive, 2020) The employers disregarded many of these rules. Native and Mexican workers suffered while growers profited from abundant, inexpensive labor. Farm wages decreased tremendously as a portion of manufacturing wages, resulted in some of the utilization of Braceros and undocumented laborers who were not provided with full rights in American society. (Bracero History Archive, 2020)

As stated previously, the restriction of immigrants has always fluctuated off and on. Between 1920s and 1960s, immigration halted momentarily, then in 1965, immigration rates began to slow down due to the Depression that lingered from 1930. (Trends in Migration to the U.S., 2014) Immigrant origins changed during the 1970s from Europe to Latin America and Asia. Over three-fourths of the 10 million immigrants admitted were from Latin America and Asia between 2000 and 2009. (Trends in Migration to the U.S., 2014) During the 1990s, there were constant debates over the relationships between immigrants and their families, which includes: welfare, political, and educational systems, and to figure out whether the US’s national interests can be served by the immigration system. (Trends in Migration to the U.S., 2014) Then the views of immigration took a detour and Americans began to view them as a hindrance on society and hold negative attitudes towards immigrants. Both, the Chinese and the Mexican immigrants endured discrimination, and were treated unfairly as they resided here in the US. This is an issue that has been taking place for centuries. However, the issue in more modern times is not immigration, per se, but “illegal” immigration.

### **Modern Immigration Enforcement and Policies**

This societal fear is exacerbated by the concern with “illegal immigration,” as compared to immigration in general. Combined with the racial element; from figures from 2007, out of 38

million immigrants who are legal and illegal, of them one-third are illegal, and of those, half are Central American and Mexican immigrants. (Higgins et al., 2010) The fear of this community is rooted in ethnocentrism, “the belief that the immigrants’ culture was inferior to that of the dominant culture.” (Higgins et al., 2010, p. 1) An example of this is discrimination shown by the dominant group upon the “inferior” groups. This behavior was displayed by the US between 1917 and 1921, where the Mexican government were unhappy in finding many “Braceros” endured discrimination and several were left with little in savings “because of charges they incurred at farmer-owned stores.” (Braceros: History, Compensation, 2006) It is also visible in the treatment and exile of Chinese immigrants who were banned from the US for about 60 years. (Chinese Exclusion Act., n.d.) In fact, being a part of a marginalized group is viewed and treated as it is illegal.

For example, “in the late Middle Ages, large numbers of serfs wandered from their ancestral homes to forage and beg across Europe, and, as this happened, anti vagrancy law appeared and spread throughout the Continent.” (Black, 2010, p. 51) These “sturdy vagabonds” were tied up and whipped until blood poured from their bodies and to swear an oath to return to their homelands of the last three years and put themselves to work. (Black, 2010) Being treated unfairly and like one’s existence is illegal is seen when undocumented immigrants are apprehended and not given due process, based solely on not having residency documentation or a drivers license. Presently, it is common to see “curtailed access to due process for immigration offenses, limited judicial review of deportation and detention, and encouraged the INS to expand the types of crimes that are grounds for deportation under the newly created category of “aggravated felonies.” (Cervantes, Alvord, & Menjivar, 2018) Many immigrants are limited on services that can be utilized because of municipal legislation prohibiting such activities. This can

be a hindrance to the immigrant population; “These criminalizing practices have been accompanied and reinforced by a growing rhetoric that justifies and legitimizes the association between Latino/as and criminality.” (Cervantes, Alvord, & Menjivar, 2018)

Currently, under President Donald Trump’s administration, he gave authority to federal immigration agents freedom to arrest and detain practically any undocumented immigrant with whom they come in contact.” (Chavez, Adames, Perez-Chavez, & Salas, 2019) The Criminal Alien Program (CAP) utilized strategies to implement immigration laws using ethno-racial profiling and recognize and criminalizes immigrants who has participated in minor offenses like urinating in public and traffic violations. (Chavez, Adames, Perez-Chavez, & Salas, 2019) Within the first few months in office, 22,000 immigrants were arrested. This type of treatment from those who are employed to protect and serve the community and from the very politicians who are to ensure equal opportunities and safety to all, can lead into ostracization.

### **Theory: Responding to Immigration**

Ostracization against marginalized groups is embedded into the cultures and traditions of the US. A theory that can shed light to the increased disparities within the immigrant populations is the theory of law. (Black, 2010) The theory of law predicts; who will call the police and who will utilize the courts, what the results of the court proceedings will go, whether arrested or released, and how the police would manage disputes, etc. (Black, 2010) This theory provides context as to why minorities, racial minorities in this matter, will experience interactions with the police more than their white counterparts, and why racial minorities are least likely to utilize the law, whether it is calling the police or utilizing the courts. According to Black, law is not universal but is a historical phenomenon. So it isn’t everywhere, but over the years law has been developed, even in places where it was nonexistent. (Black, 2010) As the Europeans conquered

society after society, law was introduced to modernize and civilize the inhabitants. As more law was introduced, those who were viewed as egalitarian are now viewed more spatially.

Stratification was introduced, which stratification is “any uneven distribution of the material conditions of existence, such as food and shelter, and the means by which these are produced, such as land, raw materials, tools domestic animals, and slaves.” (Black, 2010, p. 11)

This stratification has led those in power to use methods, including racism, to maintain their “higher” status. The tensions between native born Americans and immigrants came about due to the conflicting times, resulting from stratification. The war brought about economic hardships that were unbearable by the locals alone, facing minimal employment opportunities because of the war, and combining that with the corporations and business owners seeking the least expensive labor, seeking out a channel for blame was brewing. (Higgins et al., 2010, Adelman et al., 2018) In addition, politicians using race as a scapegoat for the hardships, which was nothing new, but the delivery that has transcended. Race was always at the focal point; in fact, race played a major role in the Jim Crow Era, deindustrialization era, War on Drugs era, and Mass Incarceration era.

Over the past several decades, we can view the regurgitation of racist ideas in every era. When viewing slavery, Jim Crow era, deindustrialization (ghettos & slums form, redlining, voting restrictions. etc.), the divide and conquer method was always used. For example, in 1676 Nathaniel Bacon came up with the idea of divide-and-conquer, when racial laws passed in the 1660s did little to eliminate class conflict. Nathaniel Bacon “mobilized a force of frontier White laborers to redirect their anger from elite Whites to Susquehannocks.” (Kendi, 2017, p. 53) The Susquehannocks was a Native American tribe, whom prior to extinction through colonization, was a powerful and large group, who spoke Iroquois and “were located along the Susquehanna

River and its branches, from the northern end of Chesapeake Bay in Maryland across Pennsylvania and into southern New York state.” (Baker & Kessler, 2015)

However, the civil war of Virginia, also known as, “Bacon’s Rebellion,” the fight against the Susquehannocks is one example of the “divide and conquer” method used by the elite white groups. During and post slavery, it was common to see poor white individuals be used as slave catchers or to see Native Americans manipulated into oppressing Mexicans, and signing them on to fight against them in the wars to expand land dominance. Even elite Black folk viewed poor White individuals as “unworthy,” they looked down on them for being too poor to have the ability to enslave them. (Kendi, 2017) However, there is a duality in regards to the views held regarding immigration.

There are many who believe immigration should continue to be strictly enforced, for the most part, and believe sanctions should be even greater. There are those who view immigration as the entity that will destroy the US. It is presumed that police utilize resources to handle “increased crime rates,” and other public resources, crime increases as well. (Higgins et al., 2010) However, there are also individuals who do not view immigration through a negative lens. There are those who believe immigration is a vital part of the social and economic development in the nation; this is referred to as immigration dilemma. (Provine & Varsanyi, 2012, Akins, 2013) For example, California farmers constructed three vital arguments in the 1920’s “in favor of continued Mexican immigration: “normal” workers shunned seasonal farm jobs; farmers could not raise wages because they were price takers in national and international markets; and Mexicans were “homing pigeons” who would not stay in the United States and create social problems.” (Braceros: History, Compensation, 2006)

**Theory: Responding to Immigration (continued)**

This dilemma can lead to confusion and immigrant communities displaying a lack of trust in police, known as *legal cynicism*, which is encouraged by the “overlapping and neighboring jurisdictions to have competing and contradictory stances toward local immigration enforcement.” (Provine & Varsanyi, 2012, p. 4) Legal cynicism is the belief that the criminal justice system is unreliable, unfair, and illegitimate, and incapable of maintaining the public’s safety. This arises from people of color feeling that the criminal justice system and law enforcement discriminate against people of color.

Discriminating based on the premise of color is not a new phenomenon, in fact, prior to the creation of the criminal justice system, in all aspects, the color of one’s skin was the display of the existing hierarchy in the United States. White skin, and white features were considered a part of a higher class, a majority group, where darker skinned individuals were succumbed to an inferior position, deemed a part of the minority class. This inferior/superior status was reinforced through slavery and post slavery. Many believe that ignorance and hate is what drafted racially driven policies, however, it is the other way around. Racist policies were created, and justifications for those policies came about, which criminalized racial minorities. (Higgins et al., 2010) Black (2010) explained that this was a result of law (theory of law) being introduced, in which stratification exacerbated it. The racial policies were motivated by power and the desire to maintain dominance in the economy. This encouraged the consumers of these racist ideas to believe there is something innately wrong with the minority populations, and not the policies that have oppressed, enslaved, and incarcerated so many people.

Justifications were a method used by many, even by the Greeks, to ensure their dominance over other communities. For example, “Aristotle, who lived from 384 to 322 BCE, concocted a climate theory to justify Greek superiority, saying that extreme hot or cold climates

produced intellectually, physically, and morally inferior people who were ugly and lacked the capacity for freedom and self-government.” (Kendi, 2017, p. 17) Justifying one’s ill-behaviors masked the fact that harm was being done upon people, and provided an escape from the evils of one’s behaviors. Once African Americans were enslaved, justifications for enslaving people and treating them inhumanely were created. (Kendi, 2017)

The current racial disparities within the criminal justice system that exist not only amongst the Black population, but the Latino population, is caused by racial discrimination. (Kendi, 2017) This is why when we think about why numerous Americans did not resist slave trading, enslaving, segregating, or now, mass incarceration,” (Kendi, 2017, p. 10) it is because of “racist ideas.” (Kendi, 2017, p.10) Those who benefitted from not only slavery, but also segregation, and mass incarceration, conjured the racist ideas that those other than white, deserved their second class status. That includes the Black folk who were enslaved and the Black and Latinos who predominantly make up the jail/prison population. (Kendi, 2017) These racist ideas were a result of the desire to remain in power and to maintain profit, which led to the creation of racist policies, used to enforce immigrants, and the creation of immigration enforcers, also known as the federal government. The increased use of the criminal justice system and increased involvement with Latinos resulted from negative views of immigration, increased legislation, resulted from the increased criminalization of minorities.

### **The Expansion of the Criminal Justice System**

The criminal justice system has expanded tremendously in the last 100 years, however, the growth has been exponential in the past 10 years. (Kaska, 2006) This is why I chose not to view this from a criminological perspective, rather a criminal justice theoretical perspective. It is imperative to view the trends revolving around immigrants and the criminal justice system

because; “first, understanding the why of criminal justice behavior is crucial for the effective development and implementation of policy and reforms. A second benefit just as important involves not the control of crime but crime control.” (Kraska, 2006, p. 171) These benefits are important because they could provide some insight as to what is encouraging the increased incarceration rates and criminal justice involvement, not from an offender-blaming perspective, but from a crime control perspective, despite the lowering crime rates.

The federal and local/state government powers/authority were divided through American federalism. With that being said, there are split jurisdictions in which both varying governments oversee. In all instances, local law enforcement agencies (LLEAs) jurisdiction is over criminal matters, where involvement in civil matters is possible, however, only when criminal matters arises in the midst, like custodial interference. (Khashu, 2009) So regarding immigration, it is a civil matter, that is limited to the federal government. Immigration enforcement was once limited to border control, however, internal controls have been included that selects unauthorized removable immigrants presently within the nation's interior through immigration enforcement strategies. (Armenta & Alvarez, 2017) The changes included, “federal immigration laws in the 1980s and 1990s created an immigration enforcement system focused on identifying and removing “criminal” aliens.” (Kraska, 2006)

These changes led to the criminal justice system being criminogenic, also known as *state intervention is criminogenic*. That means that criminal justice involvement encouraged the increased prison populations, including the disparities. It is stated that law enforcement would be heavily policing these areas of social disorganization and following the ecological differences of the levels of crime. An example of this is, “people of color are incarcerated at disproportionate rates compared with Whites.” (Becerra et al., 2016) “immigrants are subject to heightened

policing, increased rates of pre-trial detention, and use of deportation in lieu of criminal proceedings,” which is an example of state intervention being criminogenic as well. (Bersani et al., 2018) This heightened policing can be supported with looking at the way police officers are to be deployed to complete their daily tasks.

The *deployment theory*, which states that police are more likely to arrest minorities because they are more likely to be deployed in greater numbers and inner-city neighborhoods whose residents are disproportionately people of color, states that police policing tactics are biased. (Briggs & Keimig, 2016) When viewing the rates of arrests or involvement of police in general, they tend to be in areas that have large and diverse populations, which are normally areas where immigrants tend to move to when coming to the states. (Jiang & Erez, 2017, Becerra et al., 2016, Briggs & Keimig, 2016) Also, according to the *law of theory* by Black (2010), police are likely to be called on those who are on the side of those less favorable to stratification.

Another piece of evidence is the re-arrest rates, which are tremendously high for the undocumented immigrant population compared to native-born and documented immigrants; although, findings have shown that undocumented immigrants have relatively low levels of criminal involvement, despite being indulged traditionally to criminogenic risks (Adelman, Kubrin, Ousey, & Redi, 2018) This is known as the “immigrant paradox.” In addition to deployment theory and law of theory, is the *ecological bias theory*, in which police are more likely to make an arrest in less affluent neighborhoods. Immigrant populations tend to locate themselves in, “larger, less White, more racially and ethnically diverse, have lower median incomes, have higher levels of poverty, have larger foreign-born populations, and are more Democratic.” (O’Brien, Collingwood, El-Khatib, 2017) All of these theories are conducted and wrapped up with a bow, known as police discretion.

Police discretion is the ability for police officers to make decisions based on their own judgement. The use of police discretion (e.g., making an arrest, giving a warning or citation) when disposing minor traffic-related violations or other regulations has resulted in increased deportations of immigrants who are unable to comply with the law (e.g., produce documentation, licenses, etc.) due to their ambiguous legal status.” (Jiang & Erez, 2017) This shows that policing tactics are based on extralegal factors. In more present time, legislation has been passed giving police the ability to check immigrant status of suspects believed to be Hispanic and detain those identified as undocumented.” (Jiang & Erez, 2017) Now, we will take a look at the legislation regarding immigration.

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## **Working Paper #2: Immigration and Criminal Justice Theory**

### **Introduction**

This working paper is intended to explain the immigration aspect through the lens of criminal justice theories, instead of criminological theories. This will show how it is the social control forces that are contributing to the criminalization of the immigrant population. I chose this path because criminal justice theories are beneficial for understanding the “why” regarding criminal justice actors/enforcers behaviors are important for effective creation and application of policies and reforms. In addition to that benefit, is the benefit involving crime control, not the control of crime (Kraska, 2006). The theories revolving around this working paper are *state intervention is criminogenic* and *theory of law*. Taking a look at the history of the United States construction, the criminal justice system, and the split of power through our federal government and local government, we can get an understanding on how we ended up where we are currently, regarding immigration.

### **American Federalism**

American Federalism, also known as the “doctrine of shared sovereignty,” is the division of power between the federal government of the United States and the US state governments, constitutionally. For more understanding, power is shared by the national and state governments” (Federalism, n.d.). This means that the Constitution determines whether powers go to either the central government or the state governments. Since the creation of the United States of America, the founders constructed a way to distinguish the US from the British (Federalism, n.d.). The goal was to decentralize the government, in which the legal authority is organized by a political executive to which smaller units; the founders of the US wanted to separate from the oligarchical ways of the British, in which, the central government was the only one with power, a bit of a

unitary system (Federalism, n.d.). The setup of a unitary system is that the federal government were the ones who provided the local governments with their powers, granted by Parliament, as it “holds the supreme power” (Federalism, n.d.).

With that being said, Post civil war, the power shifted from the states toward the national government. Federalism “provides safety valves to keep the pressure cooker of American politics from getting out of control” (Provine & Varsanyi, 2012, p. 3). Federalism is backed by and defined by the Tenth Amendment, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people” (Constitute, (n.d.)). This amendment provides clarity on the relationship between the federal government, municipal governments, and the people. A couple of disadvantages for maintaining a centralized government are: the needs of the citizens of citizens not being understood by the central officials, and tyranny being a result of this singular power. The larger the country, the more distant the central government, which in turns, assists the government in losing control. To prevent that from occurring, in a confederal government, the individual needs of the states can be fulfilled through laws tailored to them specifically (Federalism, n.d.). With that being said, there is a bit of a “checks and balances” method, in which no one government has complete and total control, and the tasks of the two government are interdependent.

Now that that is known; it can now be well accepted that federal agencies are completely separate entities from local law enforcement agencies. Their missions vary and it is impossible for one to do the others tasks with efficacy. Regarding immigration status, the federal government maintains jurisdiction and authority over its enforcement, whereas, local law enforcement scope of authority is making arrests for a small subset of criminal immigration violations (Graber, 2014). Although, it was not quite clear on where local law enforcement

agencies (LLEAs) stood on enforcing immigration prior to now, because the law was quite vague about the role of local and state law enforcement agencies, (Akins, 2013) LLEAs have little to no legal involvement in immigration, let alone, in civil matters (Khashu, 2009).

### **Who's Responsible for Immigration Enforcement?**

The Department of Justice (DOJ) constructed statements and memos, prior to 2002, stating local and state police have no authority in the enforcement of immigration law. They also released a statement in 1978 stating, “INS officers are uniquely prepared for this law enforcement responsibility because of their special training and because of the complexities and fine distinctions of immigration laws” (Khashu, 2009, p. 4). The make-up of the jurisdictions that the varying law enforcement agencies cover are; Sheriff’s preside over counties, police departments are over particular cities, whereas the United States Border Patrol (BP) and Customs Enforcement (ICE), previously the Immigration and Naturalization Service, have the responsibility of enforcing criminal and civil violations of immigration law (Armenta & Alvarez, 2017). Despite there being minimal word of local and state police not assisting in the immigration matters because of the federal government being capable, it was still possible to see LLEAs participating, even if to a small degree. Modern immigration enforcement methods have stretched over to include internal controls, LLEAs, to target undocumented and deportable immigrants residing within the nation’s borders, despite immigration being limited to border control. The Reagan Justice Department incited more cooperation from LLEAs in 1983, which limited the role solely to notifying Immigration and Naturalization Service (INS) of immigrants suspected of being deportable (Khashu, 2009). The support of this idea developed from the position that “state law authorizes local officers to enforce criminal provisions of federal law, “state and local police could exercise their authority to enforce criminal provisions of federal

immigration law” (Kashua, 2009, p. 4). Due to this dilemma, there was not any clarity on whether or not LLEAs are legally allowed to enforce immigration policies.

However, about ten years later, it was clarified and the purview of immigration fell onto the federal government. Post 2002, at a conference, “Attorney General John Ashcroft announced a reversal of DOJ’s long-standing opinion, stating the state and local officials have inherent authority to enforce federal immigration law” (Khashu, 2009, p. 4). In *Arizona v. United States* (2012), it was reaffirmed that local law enforcement agents (LLEA) are not authorized to stop or detain individuals “for presumed violations of civil immigration law (Khashu, 2009). Also, the Tenth Amendment bars coerced cooperation between local and state governments to enforce or adopt policies mandated by the federal government (Sena, 2019). Since the US faced 9/11 and the terrors that came with terrorism, laws and policies began to shift and tightened immigration control became the focus as a measure to counterterrorism (Khashu, 2009).

Federal agents facing the complexities of locating, arresting, and deporting the vastly increasing undocumented immigrant populations, began launching varying programs promoting advocacy for more cooperation amongst federal immigration authorities and local police (Khashu, 2009). These programs/legislation provided police officers the ability to utilize discretion, the ability to make choices using one’s own judgement, to pry into immigration status of lawbreakers believed to be Latino and hold them in detention and categorized as undocumented (Jiang & Erez, 2017). The increased immigration enforcement that was encouraged by immigration policies led to increased detainments and deportations (Becerra et al., 2016). This immigration enforcement includes making an arrest, giving a warning or citation to immigrants who are incapable of complying with the law due to their complicated legal status (Jiang & Erez, 2017).

The justifying argument was “that the nation’s approximately 700,000 local and state police officers would be an effective “force-multiplier,” that is, they could dramatically increase the number of law enforcement officials who could detect undocumented immigrants in the interior of the country” (Kashu, 2009, p. 3). This is an example of the theory, *state intervention is criminogenic*, in which the increasing crime control is contributing to the disparities and the illusion of increasing crime rates. The state intervention is criminogenic disposition states that criminal justice involvement furthers criminal behaviors because law enforcement would be heavily policing these areas of social disorganization and following the ecological differences of the levels of crime. This invasive and inhumane method of policing is hazardous, “punitive legal intervention in immigration issues will not only fail to reduce crime but also may undermine the community revitalization and crime preventative effect that recent immigration can provide” (Akin, 2013, p. 230). Now, let’s get an understanding as to the policies prohibiting and permitting immigration enforcement.

## **Policies Surrounding Immigration**

### *I. The Immigration Act of 1882*

The enforcement of strict immigrant policies predominantly began with the Immigration Act of 1882. This act was the first to deal with federal oversight and categories of exclusion through immigration law (Immigration Act of 1882, (n.d.)). The Immigration Act of 1882 (n.d.) stated that the policy gave authority over immigration enforcement to the secretary of the treasury (responsible for managing customs in U.S. ports.). The Treasury Department was tasked to supply regulations for the organized admission of immigrants and to gather a “head tax” of a half of a dollar for each immigrant arriving to settle administrative expenses. Individual states were allowed to enter into agreements with the treasury secretary to dispense immigration entry

(Immigration Act of 1882, (n.d.)). Out of those deemed “undesirable,” “the act prohibited the entry of “any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge” (Immigration Act of 1882, (n.d.)). States began developing their own policies barring immigration, and from that, the “public charge” doctrine began barring the arrival of foreigners who could not provide proof of the financial ability to support themselves (Immigration Act of 1882, (n.d.)). This policy led into more modern policies that hindered the immigrant population.

## *II. Immigration and Nationality Act of 1952 and Immigration Reform and Control Act of 1986 (IRCA)*

The Immigration and Nationality Act was introduced in 1952 and is a federal immigration law, which modified the national origins quota system, set under the Immigration Act of 1924, that set limits as to how many individuals from a certain nation, could immigrate to the US (Immigration and Nationality Act of 1952. (n.d.)). Under this provision, Asian immigrants were banned. Also under this provision was the preference for specific visa applicants were established, which allowed those with specialized skills and whose families were already in the US (Immigration and Nationality Act of 1952. (n.d.)). Later, “The Armed Forces Naturalization Act of 1968 amended the Immigration and Nationality Act "to provide for the naturalization of persons who have served in active-duty services in the Armed Forces of the United States" (Immigration and Nationality Act of 1952. (n.d.)). In the next several decades, more immigration policies began to become present.

Beginning in 1986, the Immigration Reform and Control Act (IRCA) was introduced. This act made it more difficult for immigrants to cross the border and provided more specific definitions to the types of behaviors that are deemed punishable with deportation (Cervantes,

Alvord, & Menjivar, 2018). Its purpose was to ban “employers from knowingly hiring, recruiting, or referring for a fee any alien who is unauthorized to work” (Immigration Reform and Control Act (IRCA), n.d.). This means that “all employers are required to verify both the identity and employment eligibility of all regular, temporary employees, temporary agency personnel, and student employees hired after November 6, 1986, and complete and retain a one-page form (INS Form I-9) documenting this verification” (Immigration Reform and Control Act (IRCA), n.d.). This may result in imprisonment and payment of fines, civilly or criminally. (Immigration Reform and Control Act (IRCA), n.d.) Over the years of the Immigration and Nationality Act reign, it was amended and more policies were introduced.

### *III. The Antiterrorism and Effective Death Penalty Act (AEDPA) and The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)*

The Antiterrorism and Effective Death Penalty Act (AEDPA) provides the police with the ability to rearrest those who have been deported with noncitizen felonies (Provine & Varsanyi, 2012). Also, section 439 of AEDPA allows states the authority to “arrest and detain an immigrant who had a previous order of deportation and had been convicted of a crime, to the extent authorized by state law” (Khashu, 2009). Additionally, requires that LLEAs verify immigration status with INS and hold them long enough to be transferred into federal custody (Khashu, 2009). Together, they both welded together the association of crime and immigrants. They also, “curtailed access to due process for immigration offenses, limited judicial review of deportation and detention, and encouraged the INS to expand the types of crimes that are grounds for deportation under the newly created category of “aggravated felonies” (Cervantes, Alvord, & Menjivar, 2018). These laws also made it to where such offenses are retroactive, despite having served their time or when the violation occurred. Another policy that negatively

affected the immigrant population were the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).

Through the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), section 287(g) was added to the INA in 1996, which provided the Department of Homeland Security (DHS) the ability to form a form of partnership with state and LLEAs (Wong, 2012, Akins, 2013). This allows all counties in the United States to be able to yield a request to become a 287(g) partner; which acceptance is subject to DHS approval (Wong, 2012, Sena, 2019, Khashu, 2009, Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act. (n.d.)). These agreements require the functioning under the supervision of ICE officers and LLEAs must receive proper training (Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act. (n.d.)).

To reiterate, the 287 (g) of 1996 Federal Immigration and Nationality Act permits DHS to engage in formal agreements with state and local law enforcement agencies to deputize them to conduct immigration law enforcement functions, under the direction of sworn ICE officers. It was signed by President Clinton, with the intention to amend the Immigration and Nationality Act (Sena, 2019). Any agency entering into the 287(g) program must sign a memorandum of agreement (MOA) that elaborates on the extent and restrictions of the authority appointed to the local or state officers. In addition, these agreements must display a supervisory and monitoring arrangement for the program. This provision also mandates that state and local officers are instructed in the enforcement of immigration laws (Khashu, 2009). The 287(g) agreement has enforcement models, in which LLEAs decide which method is best for them.

The enforcement models include: the jail model, the task force model, and the hybrid model (Armenta & Alvarez 2017, Delegation of Immigration Authority Section 287(g)

Immigration and Nationality Act. (n.d.), Immigration and Nationality Act, Wong, 2012, p. 3, Solomon, Jawetz, Malik, 2017, p. 2, Sena, 2019, p. 2, Akins, 2013, 3). The jail model is where the LLEAs identify removable immigrants in custody and inform ICE to plan their removal. In the task force model, officers are allowed to investigate those suspected of immigration violations, while conducting normal duties. Lastly, the hybrid model consists of both models combined (Armenta & Alvarez, 2017, Akins, 2013, Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act. (n.d.), Solomon et al., 2017, Sena, 2019). All models were suspended in 2012, except for “jail models” (Sena, 2019).

The “jail model” is also referred to as a “jail hub,” meaning that immigrants are channeled through the jail system once a county jail is enrolled in the 287(g) program. It becomes a place that is a focus point for illegal immigrants. It provides the federal agencies with the means of tracking these individuals and getting a hold of them without much work on their own ends. The federal agencies, like US Immigration and Customs Enforcement (ICE) and BP provide LLEAs with detainers, a document requesting the LLEA detain the individual longer than the time of release (post bail, release on recognizance, etc.), to be taken into ICEs’ custody (Graber, 2014). Another program introduced is the Warrant Service Officer program, which provides local law enforcement (LLE) with the ability to make immigration arrests. This allows “local authorities to detain criminal suspects beyond the point at which they would have been otherwise released if ICE has requested their detention, essentially giving ICE an extra 48 hours to take them into federal custody” (Hauslohner, 2019, p. 1). Partnership is promoted by ICE because they view the local police as a more efficient means of combatting undocumented movement into the states because they encounter immigration violators and foreign-born criminals that threatened US soil and they play an important role in providing security to the

homeland (Wong, 2012).

*IV. Immigration and Naturalization Services (INS) & Law Enforcement Support Center (LESC) and Secure Communities*

The original Immigration and Naturalization Services [INS] functions pertaining to immigration belonged to this federal agency, until the name changed in March of 2003, where the tasks were distributed between US Citizenship and Immigration Services, US Immigration and Customs Enforcement (ICE), US Customs and Border Protection, and the Department of Homeland Security (USCIS History Office and Library (2012)). Also, the *Law Enforcement Support Center (LESC)* was created out of states' outcry for reimbursement after enforcing immigration law. Its mission is to assist local, state, and federal law enforcement with immigration status information on individuals arrested, under suspicion, and in detention for criminal offenses. The final federal policy we will discuss is Secure Communities, which set off under the administration of George W. Bush. Fingerprint information is gathered by state and local LEAs during booking and received by federal immigration officials and shared with the Federal Bureau of Investigation to use in criminal background checks. Having this information, ICE drastically increased its issuance of detainer requests (Solomon et al., 2017). This policy opened doors for those in immigrant communities, information to be shared in an unethical fashion, which contributes to the mass incarceration and mass deportation of immigrant communities. The Secure Communities policy gives permission to local law enforcement agents to act like immigration enforcement agents.

More recent restrictions on immigrants were exacerbated by California in 1994. California pushed to pass Proposition 187. Proposition 187 would have provided the state of California with the ability to deny unauthorized immigrants with most social benefits, provided

by the state, which included access to public schools (Provine & Varsanyi, 2012). But it was struck down by the court case *LULAC v. Wilson* 1995, for being unconstitutional (Provine & Varsanyi, 2012).

#### *V. State Policies*

As shown, immigration policies have historically been involved in numerous aspects of immigration. This includes banning certain groups and allowing others based on skills that can affect the economy, criminalizing certain group's activities and discriminating against them. The state policies put forth to enforce immigration between 2006 and 2008 regulated three areas of immigrant group's lives: employment, state-level immigration enforcement, and set state-level identification. For example, Arizona's SB 1070, immigration law, permitted police officers to pry into an immigrant's immigration status if that officer believed, with "reasonable cause," that the individual had entered into the country illegally (Jiang & Erez, 2017). In Hazelton, Pennsylvania, there was the Illegal Immigration Relief Act which states, "Latino "degradation ceremonies" through which local policy makers mobilized entrenched racial anxieties and socially constructed linkages between immigrant minorities and criminality into action, passing legislation that endorses police discretion to check immigrant status of suspects believed to be Hispanic and detain those identified as undocumented" (Jiang & Erez, 2017).

Local policies like these two provide an opportunity for "backdoor policies," which "include the increased use of city-level ordinances targeting the undocumented, including efforts to compel landlords to verify the immigration status of prospective tenants, denying business licenses or city contracts to those who hire undocumented immigrants, and the use of local police to facilitate deportations in conjunction with ICE" (Wong, 2012, p. 743). Policies like these leads to racial profiling (Armenta & Alvarez, 2017, Sena, 2019). For example, investigative traffic

stops depends on officers relying on their implicit biases in order to make stops of those deemed “suspicious.” Traffic control has been restructured to discipline immigrants (Armenta & Alvarez, 2017). In Maricopa County, Arizona, racial profiling and discriminatory treatment was found when analyzing a program in 2011 by the DOJ (Sena, 2019).

Deployment theory can provide an understanding as to why criminal justice actors' intervention methods are criminogenic. Deployment theory, for example, is when police are more likely to arrest minorities because they are more likely to be deployed in greater numbers and inner-city neighborhoods whose residents are disproportionately people of color, states that police policing tactics are biased (Briggs & Keimig, 2016). It is stated, “immigrants are subject to heightened policing, increased rates of pre-trial detention, and use of deportation in lieu of criminal proceedings,” which is an example of state intervention that is criminogenic (Bersani et al., 2018). This method of policing encourages the increased deportation for non-violent offenses and increased incarceration of the immigrant population. However, just like there are cities, counties, and states that prohibit immigration, there are also municipalities that support and/or go against immigration enforcement.

## *VI. Sanctuary Cities*

Sanctuary policies began to form as a response to protect residents of the US, from the invasiveness from the federal governments' law enforcement methods. Sanctuary cities are cities that have policies and laws in-place that prohibits law enforcement and additional governmental employees from prying into an individual's immigration status (Morse, Polkey, Deatherage, Ibarra, 2019). According to the congressional Research Service Report from 2006, there were “31 cities and counties, along with the states of Oregon and Alaska, as entities with sanctuary policies” (McBeth & Lybecker, 2018, p. 872). More recent numbers vary from over 100 to

around 300 jurisdictions to 5 states, 633 counties, and 39 cities (McBeth & Lybecker, 2018). The District of Columbia and ten states have incorporated legislation providing safety and protection for immigrant families, in addition to nine states that passed legislation to ban “state and local authorities from restricting and hindering federal immigration enforcement” (Morse et al., 2019, p. 2).

There are also informal sanctuary cities, in which there is no policy in place, but these cities do not enforce the federal laws onto their immigrant populations (Kaufmann, 2019, O’Brien, Collingwood, & El-Khatib, 2017). Some cities forbid local officials from inquiring about an immigrant’s status; others prohibits just law enforcement. “Some jurisdictions, like San Francisco, take this a step further by refusing to honor detainers by ICE for nonviolent offenders” (O’Brien et al., 2017, p. 8). Not only is the term “sanctuary” to proclaim just for practical reasons, but also to protest federal immigration policies. Sanctuary cities can provide safety, a sense of belonging, and a way to counter injustices inflicted amongst the immigrant populations. However, the question that mainly screams the loudest is, why do some states support invasive immigration policies and why other states are more lenient towards the immigrant populations?

### **Differences Between Varying Municipal Policies**

Some reasons states vary in whether being pro restrictive immigration policies or pro permissiveness includes political partisanship (conservative v liberal), immigration & demographic change (dispersion), identity politics, wage competition, county size, and white disadvantage, previous immigrant makeup (immigrant population changes) and whether the legislatures are controlled by the Republican party (Adelman, Kubrin, Ousey, & Reid, 2018, Wong, 2012, Higgins, Gabbidon, & Martin, 2010). Republican run jurisdictions tend to be more

supportive of crime control, instead of opening the borders to “outsiders.” These counties are more likely to engage in a contract under the 287(g) program than Democratic led counties (Wong, 2012). The minority threat theory and economic threat theory plays a role in the states that are for more restrictive immigration policies. The minority threat theory is when white individuals believe there is a competition for power against racial minorities. Whereas economic threat theory involves the competition for employment (Higgins et al., 2010). In these areas, the residents have little to no experience with immigration and are struggling to decide how to integrate the incoming residents.

The increased changes to immigration population in locations that had smaller immigrant populations encouraged natives to begin to feel as if they have to compete for employment and services (Wong, 2012, Khashu, 2009). In addition, a contributing factor to being pro restrictive enforcement is being conservative. Those who identify as a conservative had anti-immigration sentiments, compared to those who identify as liberal, who were pro-immigration (Higgins et al., 2010). Despite the division between the federal government and local governments, the federal government has always had a strong hand immigration enforcement. In fact, it is said that it is not possible for police to avoid being a part of the immigration control system (Armenta & Alvarez, 2017). As stated previously, Republicans are more likely to hold negative views towards immigration and be against it. Looking at present time, Donald Trump, the president of the US is a great example of Republicans being anti-immigration. He can be viewed as the leader being unsympathetic towards immigration, and used his rhetoric to paint Latino immigrants as criminals who threaten the US public safety (Solomon et al., 2017). On numerous occasions, he called for the development of a “deportation force” to increase the amount of immigrants deported from the country (Solomon et al., 2017). Other political leaders mimicked Trump’s

rhetoric by stating sanctuary cities are to blame for increased crimes that could have been prevented, which is just untrue (Hauslohner, 2019). Trump has even called for increased partnerships with 287(g) agreements and local police officers, and even tried to make it an obligation, by revoking funding if a local government takes on a sanctuary city approach (Solomon et al., 2017, Sena, 2019).

The immigration policies that have been put forth, for the most part, have been devastating to the immigrant community, especially the Latino community. Some of these policies have been outright racist and discriminative, while others were a little more discrete. However, the views regarding immigration have not been the same across the board. As you have those who are anti-immigration, you also have the ones who are not. You have those who are for immigration, in fact, there are numerous locations that have sanctuary policies.

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## **Working Paper #3: Immigration and Crime**

### **Introduction:**

There are numerous myths regarding the relationship between immigration and crime that have developed; some encouraged by the past and present policies regarding immigration, backed by the love of money and power, while others were developed through ideologies and attitudes held by the public. Despite the prominent anti-immigration attitude held by the public, there is a duality regarding attitudes about immigration. There are those who view immigration negatively, as a hindrance to the nation's existence, but there are also those who believe immigration is a "necessary and valued part of economic and social development" (Provine & Versanyi, 2012, p. 1). This dilemma is quite common, in fact, "it is not uncommon for overlapping and neighboring jurisdictions to have competing and contradictory stances toward local immigration enforcement, a situation that has the potential to cause confusion and lack of trust of police in immigrant communities (Provine & Versanyi, 2012, p. 4). The ideologies of the public can direct them down the path of "societal fear."

### **Ideologies of American Culture**

Higgins et al., (2010, p. 1) stated, "the effect of immigration on crime rates was spurred because of societal fears about the impact of waves of immigrants (particularly those from Europe) arriving in America." The fears are triggered by the "otherness" held by immigrants, the illusion of the displacement of employment, overcrowded housing and schools, bigotry, and many other aspects. Immigrants, especially Latino immigrants, are viewed through the lens of the brown threat theory or criminal immigrant. The "Brown Threat," which reproduces anxieties and fears about crime, terror, and threats to the nation, affect the everyday lives of immigrants and non-immigrants alike, though in different ways" (Cervantes, Alvord, & Menjivar 2018).

Criminalizing the immigrant population underscored the negative attitudes held towards immigrants (Adelman, Kubrin, Ousey, & Reid, 2018). This imagination-created fear of the immigrant population provided a justification to treat them inhumanely, where otherwise they wouldn't have been. According to the U.S. Bureau of Justice Statistics, Latino males are one in six times likely to go to jail, whereas white males are one in seventeen (Quigley, 2012). Also, the participants in a small study overemphasized that they believed Black people and Latinos, compared to any other group, are the most violent (Khashu, 2009).

These fears are also exacerbated by the “white minority” perspective, where white residents feel they have become the minority with the high immigrant influxes (Khashu, 2009, (Higgins et al., 2010). With all of these in mind, it could be more easily understood how economic conditions impacted race prejudices (Higgins et al., 2010). This is because of the theory known as *ethnocentrism*. Ethnocentrism is “the belief that the immigrants’ culture was inferior to the dominant culture,” (Higgins et al., 2010, p. 1) and/or the “belief that one’s own ethnic group’s beliefs, values, and practices are superior to others.” (Chavez, Adames, Perez-Chavez, & Salas, 2019, p 51).

With the public holding the perspective of the immigrant population, it was easy for them to conjure the notion that immigrants are detrimental to the United States’ (US) civil functioning. This leads us into the *minority threat theory*, which, “posits that competition, power, and population size are the keys to understanding increased attempts to control racial/ethnic minorities” (Higgins et al., 2010, p. 2). These obscured perspectives combined with the current state of immigration can have adverse effects. For example, notable increases in the immigrant community-and/or Latino’s population in a county and/or their absence of societal or political incorporation may be interpreted by some as intimidating to existing definitions of societal

belonging and membership (Wong, 2012). The negative perspectives held by the public regarding immigrants derives from national identities and “prejudices against and perceptions about foreigners” (Wong, 2012, p. 5).

Locals began constructing these ideas that higher influxes of immigration would result in the “perceptions that immigrants displace native workers, cause overcrowded schools and housing, and negatively impact the provision of healthcare and other social services (Wong, 2012, p. 5). The concern with protecting the USs’ border has been rehearsed repeatedly by those anti-immigration, to the point they believe their own lies. Bigotry is apparent; with anti-immigrationists complaining about people being here without official legal authorization, when in fact, they are upset with interacting with people who are different from them, and doing things unlike behaviors widely accepted or known (Khashu, 2009). Racial discrimination is a motivation for attacks against “illegal immigration,” (Khashu, 2009) and as the Latino population increases, local municipalities tend to be more likely to utilize formal cooperation with Immigration and Customs Enforcement (ICE) (Wong, 2012). Racial discrimination is viewed as a result of the use of implicit bias, which police officers rely on when gauging who is “suspicious” enough to be stopped (Armenta & Alvarez, 2017). Not only are immigrant communities discriminated against racially, but they are treated with overt racism. An example is when, “a United States Marine, in full uniform, was harassed, insulted, and called a traitor by a group of protestors, who shouted at the marine, ‘It’s too bad you didn’t die in the war; you’re a disgrace to your uniform. Go back to your own country’” (Khashu, 2009, p. 10). It isn’t about lawful or unlawful residence, it is about what makes people different. There are numerous myths revolving immigration, however, next we will discuss one of the most commonly believed myths.

A myth that is common amongst community members is the belief “that it is simple to determine a person’s immigration status, which there isn’t, one could only rely on racial profiling to determine one’s immigration status (Khashu, 2009). Due to the coerced involvement of local law enforcement agencies (LLEAs), which obliged police officers to “investigate and interpret” complex federal immigration laws, which the risk of racial profiling has increased (Sena, 2019). In vehicle stops, racial profiling is prominent, it basically is its main food source. It was argued “that investigative vehicle stops create racialized policing because officers have implicit biases about who poses a threat to the community or who is likely to be involved in criminal activities. As such, aggressive policing tactics target Black and Latino youth through racial profiling.” (Armenta & Alvarez, 2017, p. 5). Nevertheless, there are many contributing factors to the misperceptions of the immigrant community.

### **Influence of Politicians and Police Officials**

One aspect that contributes to the policies used as a form of social control over the immigrant communities, which are two separate entities combined into one, are the media and politicians. The politicians place pressure on local law enforcement (LLEAs), after responding to the public and the media. In particular, conservative media coverage has been pushing for stronger enforcement policies, while connecting to the public’s frustration to gain votes (Khashu, 2009). Also, according to Wong (2012), one’s political identity contributes as well; “restrictive policies were more likely in “new immigration” states and states with legislatures controlled by the Republican Party” (Adelman et al., 2018, p. 144). Politicians are in fact well known for being “guilty of flatly misrepresenting evidence on the extent of immigration and on the proportion of crime committed by newly arrived immigrants.” (Akins, 2013, p. 227).

Additionally, “Officers also get their cues about acceptable behavior from department

administrators, and if administrators promote or permit police-ICE cooperation or immigration policing ‘through the backdoor,’ officers will be more likely to engage in informal immigration policing” (Armenta & Alvarez, 2017, p. 6). With supervising officials supporting the restrictive policy enforcement by local police, negative backlash is avoided. Although police higher officials have some influence, they for the most part, believe local police involvement in immigration matters would make communities less safe (Khashu, 2009). Now, we will take a look at the myths surrounding immigration.

## **Current Myths & Realities Revolving Around Immigration**

### **I. Crime Rates**

Many native-born residents believe that immigrants are more vulnerable to participate in criminal behavior compared to themselves and that they enter into the US, to commit crimes and destroy everything that makes it a prominent country. But that is untrue; in all actuality, immigrants come to the US to get away from their countries’ broken government, to avoid famine and wars within their homelands, and just out right chances at having a better life and opportunities for them and their families (Bersani et al., 2018). In the 2000 General Social Survey, the belief that immigration is causally related to increased crime was held by seventy-three percent of participants (Khashu, 2009). There is a shared misconception amongst native-born citizens that increased immigration leads to increased crime rates (Curry, Morales, Zavala, & Hernandez, 2018, Adelman et al., 2018, Khashu, 2009, Higgins et al., 2010). In fact, there is the false notion that crime rates are increasing, but in fact, they are decreasing (Khashu, 2009, Bersani et al., 2018, Adelman et al., 2018, Higgins et al., 2010, & Akins, 2013). With a higher influx of immigrants; the crime rate decreased and has been seen in areas populated with immigrants, to diminish over time. This is because of “the proliferation of immigrants —

particularly because of the cultural values they possess and bring to host communities that might suppress crime” (Curry et al., 2018).

Immigrants are viewed as a group of people who would undermine the “social fabric of America,” emphasizing the fear of the negative impact of immigration (Akins, 2013). This “undermining of American fabric” is exacerbated by the notion that immigrants are lawbreakers (Khashu, 2009, Akins, 2013). The social fabric of America that is at risk, holds that racial minorities, especially Latino immigrants, engage in crime more than their white counterparts and/or native-born citizens. But through self-reports, “Arresting offenses for drug related crimes are rare in this sample, comprising less than 5% for US-born Whites (4.1%), US-born Latinos (1.3%) and second generation youth (1.5%), and absent from documented and undocumented immigrant groups.” (Bersani, Fine, Piquero, Steinberg, Frick, & Cauffman, 2018). The offending rates for undocumented immigrant decreases over time after initial arrest at a higher rate than any other group (Adelman et al., 2018).

Additionally, there are less crimes in sanctuary cities compared to non-sanctuary cities (Solomon et al, 2017, Adelman et al., 2018). Just remember, crime rates in general lowers at the presence of high influxes of immigrants. Lastly, it is commonly believed that the perceptions of crime issues and racial ethnic groups is not linked with race/ethnic relations, however, it is (Higgins et al., 2010). Racism contributes to the increased encounters of immigrant people and criminal justice actors, “an ideology used to justify harmful practices of inequity based on the belief that one race is superior to another based on skin color and phenotype” (Chavez, Adames, Perez-Chavez, & Salas, 2019). The very notion that one commits more crimes compared to another group, despite studies showing otherwise, shows there is some involvement of race/bigotry. For example, Trump stated during the 2016 Presidential campaign, “When Mexico

sends its people they're not sending the best. They're not sending you, they're sending people that have lots of problems and they're bringing those problems. They're bringing drugs, they're bringing crime. They're rapists and some, I assume, are good people ...” (McBeth & Lybecker, 2018). This racist and hateful rhetoric appealed to those with conservative stances on immigration, which motivated his followers to elect him.

A common fallacy circulating in conversation is the higher use of drugs by undocumented immigrant populations, especially amongst the Hispanic population. However, illegal immigrants were found to be less likely to use methamphetamine, marijuana, and other illicit drugs compared to native-born citizens (Bersani et al., 2018). In addition to that, there are “benefits” to increased immigration enforcement fallacies as well. These fallacies include: immigrants being an economic burden, reduced jail populations, deterrent to unauthorized immigration, weaponized immigration laws, counterterrorism, and access to Federal Database to verify identity immigrants (Khashu, 2009, Higgins et al., 2010). This means that the belief is that these policies can minimize terrorism and reduce crime. Immigrant populations have actually been seen to assist in financial security; they do pay their taxes, whether using a false social security number or using an individual tax identification card, pay real estate taxes and other local service taxes (Khashu, 2009). So that means that immigrant populations are actually imperative to the functioning of the U.S.’ economy. Regarding immigrants, “the U.S. Social Security Administration has estimated that three quarters of undocumented immigrants pay payroll taxes, and that they contribute six to seven billion dollars in social security funds that they will be unable to claim” (Khashu, 2009, p. 12).

## II. Arrests

Undocumented immigrants report participating in less crime prior to and following their

first arrest, in comparison to documented immigrants and US-born peers, which possible reasons will be explained shortly (Bersani et al., 2018). With that being said, immigrants are not more likely to engage in criminal activities than their native-born counterparts (Curry et al., 2018). It was stated that, “higher levels of acculturation to the US are typically associated with higher levels of crime, including family violence, while acculturation to the country-of-origin is predicted to reduce family violence” (Curry et al., p.173, 2018). All of these aspects combined has led to the country’s most recent numbers on the amount of immigrants that have been deported, which is higher than any deportation numbers previously (Adelman et al., 2018).

Despite this finding, there is still an arresting dilemma present. Undocumented immigrants are more likely to be re-arrested compared to documented immigrants or native-born citizens, although they have lower self-reports of offending (Adelman et al., 2018), which could be explained by the generational differences. Also, “second and later generations may be more prone to engaging in criminal behavior” and “found that first generation immigrants had significantly lower odds (about 45% lower) of self-reported violence than third generation Americans, while second generation Americans’ odds of self-reported violence were not as low as first generation immigrants but were still significantly lower (22% lower) than that of the third generation” (Curry et al., 2018). This is because second and third generation-born Americans are more acculturated to American culture, whereas, first generation-born are the least acculturated. Immigrant groups are a protective factor, as they assist in solving crimes and engage in less crime than native-born citizens (Xie, Heimer, Lynch, & Planty, 2018, Curry et al., 2018, Akins, 2013). For example; the executive director of the Police Executive Research Forum, Chuck Wexler, stated, “Had these undocumented people, and countless others in the cities across America, not stepped forward to report crime and cooperate with the police, we would have

more dangerous offenders committing more crime--and more serious crime--against innocent victims.” (Solomon, Jawetz, & Malik, 2017).

### III. Local Law Enforcement Involvement

There are also some myths revolving around LLEAs and ICE; one myth is that ICE believes that being that police officers are first responders, they often come in contact with foreign-born criminals and immigration violators who are a threat to public safety or national security, which makes them a “significant force multiplier” (Wong, 2012). In all actuality, local police responsibilities include making arrests for unauthorized reentry after a final order of removal and smuggling, transporting, or harboring illegal immigrants, which are federal immigration crimes (Khashua, 2009). Also, many believe that getting into the 287(g) agreement with the belief that it would benefit the locality financially (Sena, 2019). In addition to that, it is believed that ICE would cover the finances involved in LLEAs enforcing immigration policies, when in fact, LLEAs will be responsible for all costs outside of providing instructors training materials and software and hardware, utilized for computing and fingerprinting immigrants encountered (Sena, 2019). In both of these matters, they are untrue.

Most costs must be fulfilled by the LLEA and these agencies receive no additional funding for taking on this task (Sena, 2019). ICE provides minimal funding for training officers & technology equipment & services information (Sena, 2019). So that mean LLEAs are responsible for salaries, benefits, travel costs, housing, & per diem training (Solomon et al, 2017). If police get in a situation that potentially violates an individual’s rights, ICE provides them no protection (Khashu, 2009). The federal authorities deny knowledge of abuses at the local level (Provine & Varsanyi, 2012).

Additionally, it is believed that the 287(g) agreement is detaining “serious offenders,”

when in reality they are detaining traffic violators (Provine & Versanyi, 2012). Once incarcerated and immigration status is checked, the offenders are held past the time the officers would normally have released them, under the impression that they are allowed to do this, which they are not (Graber, 2014). They are actually violating the immigrant population rights. The police do this because they are convinced that they must adhere to the retainer requests (requests to hold the incarcerated past the time normally would've been released) provided by ICE (Graber, 2014). The reality of the 287(g) agreement is, "that 287(g) suffers from a lack of truth in advertising-being presented as a public safety measure focused on serious offenders but in practice generating the deportation of individuals who outside of being undocumented commit either no or only minor offenses" (Akins, 2013, p. 230).

Police officers also falsely believe they are obligated to arrest an immigrant once a warrant appears at the National Crime Information Center (NCIC), but that is untrue, unless the entry is based on a judicial warrant. Keeping that in mind, it is understandable that being in the US lacking lawful immigration status is not a crime. One cannot be punished criminally for their immigration status, for this is a violation of civil immigration law (Graber, 2014). The police are even prohibited from stopping those to investigate one's immigration status. Police require "reasonable suspicion" that a crime has occurred, and an immigration status violation is not a crime within their jurisdiction (Graber, 2014). Despite this fact, immigrants encounter "worksite enforcement as an immigration apprehension tactic and the rapidly growing apprehension of immigrants via routine traffic stops" (Provine & Versanyi, 2012, p. 5). This is supported with 60% of detainees being sent off for immigrants whose offenses were less than serious, with about 30% of those responding to traffic violations (Akins, 2013). The majority of the immigrants identified for deportation were arrested for misdemeanor violations, like traffic violations

(Provine & Varsanyi, 2012).

Although the misconception amongst the public that identifying one's immigration status is an easy task is not shared with police officers, police officers mistakenly stop and apprehend members of society for being illegal immigrants (Khashu, 2009). The arrest and removal of law abiding citizens has been done amongst those who have lived in peaceful communities (Provine & Varsanyi, 2012). Most of those deported, are deported utilizing inaccurate data. A study on the accuracy of ICE's databases found, "that they were able to verify employment eligibility in less than 50 percent of work-authorized noncitizens." (Khashu, 2009, p. 28). This encourages me to believe that racial profiling just may be unavoidable (Khashu, 2009). Local law enforcement agencies utilize racial profiling in order to fulfill the 287(g) agreements with ICE.

The sole enforcer of immigration policies is ICE because Congress awarded them with this task (Graber, 2014). ICE's punitive methods, or any punitive legal intervention fails to lower crime because state intervention is criminogenic (Akins, 2013). For example, ICE Warrant Service Program, is a countermeasure to "sanctuary cities," that "undermine public safety" (Hauslohner, 2019, Akins, 2013). Next, it will be shown how these fallacies, despite the numerous studies showing otherwise, have consequences that affect all.

### **The Consequences Surrounding Immigration**

One consequence is that it turns sheriff deputies into federal immigration agents & jails into immigrant holding cells (Hauslohner, 2019). The invasiveness surrounding policing tactics has a chilling effect, as it leads to diminished relationships with police (Wong, 2012, Solomon et al, 2017). Other consequences include: hurt communities; which leads to undermined public safety, lack of trust, (Solomon et al., 2017) & increased risks of vigilantism, (Akins, 2013), causes legal cynicism to developed amongst the immigrant communities and hurt relations with

immigrant communities, and negatively affecting LLEAs community policing efforts, (Becerra et al., 2016, Armenta & Alvarez 2017, Solomon et al, 2017, Hauslohner, 2019, Akins, 2013, Adelman et al., 2018, Khashu, 2009). Additionally, this can lead into police misconduct; like violence, racial profiling, and violating citizens' rights (Khashu, 2009). This detracts from pursuing violent criminals (Hauslohner, 2019).

Local law enforcement agencies enforcing immigration law can also lead them into “financial burden, increased litigation, and diminished public trust” (Solomon et al., 2017). Two Sheriff's Departments, in Texas and Wisconsin, expressed their lack of resources to continue on with their 287(g) agreements (Sena, 2019, Solomon et al., 2017, p. 4). They were incapable of being able to afford to continue enforcing immigration policies, in fact; “according to the sheriff, incorporating ICE-trained deputies elsewhere in the jail complex could reduce the \$1 million in overtime costs the county incurs every two weeks managing the overcrowded facility.” (Solomon et al. 2017). In addition to these possible and likely negative results is the risk of court involvement. In 2011, the Maricopa County Sheriff's Office (MCSO) was found to be “engaged in discriminatory policing practices, leading the DHS to terminate the agreement” by the U.S. Department of Justice (Solomon et al., 2017). Being a part of activity like this opens room for the police having civil liability (Graber, 2014, Solomon et al, 2017, & Sena, 2019).

Police officers tend to violate the 4th, 5th, and 10th amendments (Graber, 2014, Solomon et al, 2017, & Sena, 2019). When LLEAs hold immigrants past their released time; they violate the Fourth Amendment because it requires that arrests be made with the use of arrest warrants, which is based on probable cause (Graber, 2014). Holding someone past their release time is considered a new arrest and the LLEAs are in violation. When the government states they will refuse funding to localities as a punishment for their sanctuary policies, it is in violation of the

Tenth Amendment. The Tenth Amendment “the Tenth Amendment of the Constitution bars the federal government from enacting any laws or regulations that commandeer the resources of the states to enact and enforce them” (Graber, 2014). Not only are their negative consequences for the major institutions controlling the functions of the US, but they also reflect in the lives of the public citizens and the immigrants themselves.

Immigrant populations are excluded from areas and services that are open to the public. For example, “In an examination of police practices in Phoenix, Arizona, Varsanyi (2008) argues that police engage in immigration policing ‘by proxy’ by enforcing public space ordinances that target day laborers who are presumed to be undocumented” (Armenta & Alvarez, 2017, p. 5). Then Varsanyi stated these types of ordinances and policing methods have the indirect but unintended outcomes of excluding undocumented immigrants from public spaces (Armenta & Alvarez, 2017). With this group of people being prohibited from engaging in the same activities as their documented counterparts, this leaves immigrants vulnerable to being exploited by businesses and corporations (Becerra et al., 2016, Akins, 2013). For example; with immigrants lacking enough representation in policy-making, workers employed at various businesses risk not being paid, and even rotated out, to save money. The enforcement of immigration policies also leads to stigma, trauma, stress (Becerra et al., 2016), & anxiety (Chavez et al., 2019, Adelman et al., 2018, Armenta & Alvarez 2017, Adelman et al., 2018). Fear overtakes this population which hinders them from calling the police if they witness crime or are a victim of a crime. This population may also be fearful of utilizing social services provided to them (Solomon et al, 2017, Khashu, 2009, & Adelman et al., 2018). This essentially causes the immigrant population to become invisible or silent victims (Solomon et al, 2017, Adelman et al., 2018).

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## **Working Paper #4: Data Analysis Predicting State Immigration Policy**

### **Introduction:**

Numerous studies have expressed that states that are considered “new immigrant states,” controlled by Republicans (Adelman et al., 2018), perceive having large Latino populations, and have residents who share the “white minority” perspective or otherwise known as the “minority threat” theory (Khashu, 2009, Higgins, Gabbidon, & Martin, 2010) are more likely to have restrictive legislation regarding immigration. Additionally, locations close to the U.S./Mexican border are more likely to have more restrictive legislation. The Immigration Reform and Control Act (IRCA) was introduced, in the beginning of 1986, which made it more difficult for immigrants to cross the border and provided more specific definitions to the types of behaviors that are deemed punishable with deportation. (Cervantes, Alvord, & Menjivar, 2018) Last but not least, the political ideology of the state’s residence is said to influence the restrictiveness or expansion of immigrant’s rights, through legislation (Wong, 2012). The states that are predominantly Republican tends to take a more conservative approach regarding undocumented immigrants (Wong, 2012). Conservatives hold an anti-immigration attitude, whereas liberals tend to hold a pro-immigration attitude. (Higgins et al., 2010)

In 2007, the states that traditionally receive immigrants most popular bills introduced were bills that expand immigrant rights (Laglagaron, Rodriguez, Silver, & Thanasombat, 2008). However, the states that are new immigrant locations most common bills passed were bills that contract immigrants’ rights. (Laglagaron et al., 2008) This is due to the high influxes of immigrants in or near these new immigration jurisdictions, which leads to hostile political reactions because of perceptions that immigrants displace native workers, contributes to overcrowding in housing and schools, and impacts social services (Wong, 2012, Khashu, 2009).

Additionally, large influxes of immigrant populations increase the possibility of restrictive legislation, including cooperating with Immigration and Customs Enforcement (ICE). The population’s size and total growth are parallel with the county’s decision to become a 287(g) partner. (Wong, 2012, Khashu, 2009, & Higgins et al., 2010)

The enforcement of immigration by local police, through the use of local law enforcement agents (LLEA); were reaffirmed that they are not authorized to stop or detain individuals “for presumed violations of civil immigration law” in Arizona v. United States (2012) (Khashu, 2009). Additionally, the Tenth Amendment prohibits coerced cooperation between local and state governments to enforce or adopt policies mandated by the federal government (Sena, 2019).

<b>Dependent Variables Descriptive Statistics</b>							
	<b>Source</b>	<b>Year</b>	<b>N</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>	<b>Std. Deviation</b>
# of Introduced Legis. Expanding Immigrant Rights	Laglagaron et al., 2008	2007	50	0	61	6.26	9.82
# of Introduced Legis. Contracting Immigrant Rights	Laglagaron et al., 2008	2007	50	0	36	5.26	6.82
Valid N (listwise)			50				
<b>Independent Variables Descriptive Statistics</b>							
	<b>Source</b>	<b>Year</b>	<b>N</b>	<b>Minimum</b>	<b>Maximum</b>	<b>Mean</b>	<b>Std. Deviation</b>
Ratio of Liberals to Conservatives	Political Ideology by State (Pew Forum)	2014	50	0.24	1.56	0.66	0.27
% Hispanic Legislature	Mahoney, J. (2018)	2018	50	0	0.37	0.04	0.07

% Latino Population	Demographic and Economic Profiles of Hispanics by State and County	2014	50	1.26	47.40	10.95	9.86
Political Affiliation of the Governor	The Kaiser Family Fdn.	2020	50	0	1	0.48	0.50
Valid N (listwise)			50				

The dependent variables the number of introduced legislation expanding and contracting immigrant rights were both gathered by the study conducted in Laglagaron et al., 2008. Some examples of legislation that expands the rights of immigrants include removing immigration and citizenship status requirements for children from public benefits, granting unauthorized students in-state tuitions, including destruction and possession of immigration papers in the definition of human trafficking (Laglagaron et al., 2008). Examples of contracting legislation include implementing prohibitions on the receipt of state public benefits, requiring proof of citizenship to gain a driver’s license, and isolating immigrants from workers’ compensation benefits if lacking proof of lawful immigration status (Laglagaron et al., 2008). Legislation was sought using the StateNet database within Westlaw and LexisNexis, which both are legal research services. A few of the seventeen search terms were “alien,” “immigration,” and “noncitizen” (Laglagaron, Rodriguez, Silver, & Thanasombat, 2008). The District of Columbia and all fifty states were searched, in which the bills are conveyed for each state and geographic region (Laglagaron et al., 2008) The legislation that did not target immigration or immigrants were excluded.

The data also does not incorporate programs on “US citizenship or lawful permanent resident status when these criteria are listed as one among many criteria for participation” (Laglagaron et al., 2008, p. 25). Each bill was strategically selected to ensure the relevant

immigration information was presented in the relevant year. The coding for the legislation was rejected, passed, expired, or pending (Laglagaron et al., 2008). Legislation categorized as passed were moved forward by either both chambers or the relevant chamber. The rejected legislation were the legislation voted down or vetoed by either chamber. The legislation that were not passed or voted down are deemed expired legislation. Lastly, the legislation that died, for lack of better term, or absorbed, were also deemed expired. (Laglagaron et al., 2008)

For the independent variables, the variable ratio of liberals to conservative was conducted by dividing the percentage of conservatives by the percentage of the liberals and conservatives of each state, which was conducted by Pew Forum. Pew Forum gathered this information by calling individuals within all fifty states who are at least eighteen years or older. If the person who answered was under eighteen years of age or refused to answer, they were excluded from the data (Political Ideology by State, 2015). To gauge their political perspective, the participants were asked “In politics TODAY, do you consider yourself a Republican, Democrat, or Independent?” (Political Ideology by State, 2015, p. 41). All participants were also asked how to describe their political views (very conservative, conservative, moderate. liberal, or very liberal). Not all states had the same sample sizes; for example, California’s sample size was 3,697, whereas Maine was 303 (Political Ideology by State, 2015).

As for the Latino population percentage variable, according to the study in Demographic and Economic Profiles of Hispanics by State and County (2014), this analysis is from Pew Research Center, which used the sample of the 2014 American Community Survey (ACS) from the Integrated Public Use Microdata Series (IPUMS). Population estimates are based on the latest information from the 2010 decennial census, from the 2010 ACS and later; the 2005 to 2009 ACS estimates derives from the latest information available for those surveys—“updates of the 2000 decennial census” (Demographic and Economic Profiles of Hispanics by State and

County, 2014. (n.d.)). The percentage of Latino populations were gathered by dividing the total of Latino populations by the total population of all fifty states.

The percentage of the Latino legislatures population were gathered from the National Conference of State Legislatures (NCSL) combined with the Pew Charitable Trusts to conduct a study that was compiled between May and September 2015 using several sources like: KnowWho (gathers information from legislative websites), Project VoteSmart, Legislators' personal websites, and "Membership lists from the National Black Caucus of State Legislators, the National Hispanic Caucus of State Legislators and the Asian Pacific Islander Legislative Caucus," (Mahoney, 2018) to name a few. The Political Affiliation of the Governor variable is almost self-explanatory, this data was gathered by the Kaiser Family Foundation, displaying the governor's political stance, which is publicly known information (The Kaiser Family Foundation, 2020)

I expect states that are run by Democrat governors will pass legislation like granting unauthorized students in-state tuitions, removing immigration and citizenship status requirements for children from public benefits, including destruction and possession of immigration papers in the definition of human trafficking (Laglagaron et al., 2008). Whereas states that are run by Republican governors are more likely to have more contracting legislation like requiring proof of citizenship to gain a driver's license, implementing prohibitions on the receipt of state public benefits, and isolating immigrants from workers' compensation benefits if lacking proof of lawful immigration status (Laglagaron et al., 2008). I intend to test these variables and the questions I seek to answer are: are Democratic governors more likely to implement legislation that expands the rights of immigrants, does having large Latino populations prohibit states from implementing restrictive legislation, and does states with Latino legislators influence the expansion of Latino rights?

## **Methodology:**

The unit of analysis is the 50 states of the United States of America; in which the District of Columbia, as well as other locations that are not states were left out due to incomplete data. The variables include 4 independent variables; the ratio of liberals to conservatives, the political affiliation of the states' governors, the percentage of Latino legislators, and Latino population demographics. The dependent variables are the legislation that expands and contracts the rights of immigrants. This legislation includes states becoming sanctuary jurisdictions; which provides safety from LLEAs developing partnerships with ICE, restricting or permitting access to public service, and employment protections.

Initially, I utilized a bivariate correlation to gauge the correlations between my variables. After utilizing a bivariate correlation, I noticed a correlation between the percentage of the Latino population and the percentage of Latino legislatures has a high and significant correlation (0.95 [0.00]), which may necessitate the selection of one and not the other, when looking at the expansion and contraction of legislation in the multivariate analysis. I also used a multiple regression models to gauge the effect of the independent variables individually, while considering the effect of the others, on the dependent variables (level of protection through immigration policies). I also gathered the descriptive statistics for the dependent and independent variables.

### *I. Hypothesis*

Based on the literature surrounding immigration; I hypothesize that having a democratic governor, large Latino populations, Latino legislators, and more liberal residents compared to conservative residents would result in more legislation being passed that expands the rights of the immigrants. With that being said, states with less Latino residents and legislators, more

conservative residents and a Republican governor are expected to pass more policies that contract the rights of immigrants.

**Data:**

**Pearson Correlation Coefficients**

*I. Correlations Findings*

		Correlations					
		Expanding Rights	Contracting Rights	Ratio of Lib. to Con.	% Leg Latino	% Latino Pop.	Democratic Governor
<b>Expanding Rights</b>	r	1.00	0.43 (0.00)**	0.32 (0.02)*	0.28 (0.05)	0.35 (0.01)*	0.20 (0.17)
<b>Contracting Rights</b>	r	0.43 (0.00)**	1.00	-0.10 (0.49)	0.10 (0.50)	0.10 (0.48)	-0.01 (0.93)
<b>Ratio of Lib. to Con.</b>	r	0.32 (0.02)*	-0.1 (0.49)	1.00	0.17 (0.23)	0.24 (0.10)	0.33 (0.02)*
<b>% Leg Latino</b>	r	0.28 (0.05)	0.1 (0.50)	0.17 (0.23)	1.00	0.95 (0.00)**	0.19 (0.19)
<b>% Latino Pop.</b>	r	0.35 (0.01)*	0.1 (0.48)	0.24 (0.10)	0.95 (0.00)**	1.00	0.23 (0.10)
<b>Democratic Governor</b>	r	0.20 (0.20)	-0.01 (0.93)	0.33 (0.02)*	0.19 (0.19)	0.23 (0.10)	1.00
* p < 0.05							
** p < 0.01							

Looking at the Pearson Correlation’s table, we see there is a positive moderate correlation between expanding and contracting immigrant rights, which is also statistically significant (r = 0.43, sig. = 0.00). This correlation may be because they may be capturing the fact that some states are simply more active legislatively than others. The strong correlation (r = 0.95, sig. = 0.00) between the percentage of the Latino population and the percentage of the Latino legislatures could be due to the fact that they are measuring the same thing and it creates a potential problem of multicollinearity. Multicollinearity is two independent variables are highly correlated with one another in a multiple regression equation. Also, this premise could be applied to the ratio of liberals to conservative and democratic governors (r = 0.33, sig. 0.02). I believe

including the Latino Leg variable is more imperative for understanding the expansion of immigrant rights through legislation. In different circumstances, the inclusion of the percentage of Latino population is more important for comprehending reactive legislation structured to constrict immigrant rights.

The ratio of liberals to conservative also has a bit of an influence on the expansion of rights ( $r = 0.32$ ,  $\text{sig.} = 0.02$ ), which also shows a positive, moderate correlation, that is statistically significant. This means the more liberals there are in a jurisdiction, the more legislation expanding immigrant rights would be developed. Because the variables measuring a state's Latino population and state Latino lawmakers were so highly correlated with one another, I didn't want to include them both in the same regression equation. Instead I decided to exclude the percentage of Latino legislatures from the contraction multivariate equation, because the increased Latino populations in areas new immigrant destinations tend to have restricting legislation passed at higher numbers than other states (Adelman et al., 2018, Laglagaron et al., 2008, Wong, 2012, & Kashu, 2009) Whereas, for the expansion of immigrant rights through legislation are hypothesized to be introduced the more Latino legislators a state has.

***Contraction of Immigration Rights Multivariate Equation***

	<i>Unstandardized Coefficients B</i>	<i>Standardized Coefficients Beta</i>	<i>Sig.</i>
<i>(Constant)</i>	<i>6.429</i>		<i>0.019</i>
<i>Ratio of Liberals to Conservatives</i>	<i>-3.297</i>	<i>-0.132</i>	<i>0.402</i>
<i>Democratic Governor</i>	<i>-0.016</i>	<i>-0.001</i>	<i>0.994</i>
<i>% of Latino Population</i>	<i>0.093</i>	<i>0.135</i>	<i>0.379</i>

*a Dependent Variable: Number of Introduced Legislation Contracting Immigrant Rights*

*Expansion of Immigration Rights Multivariate Equation*

	<i>Unstandardized Coefficients B</i>	<i>Standardized Coefficients Beta</i>	<i>Sig.</i>
<i>(Constant)</i>	<i>-1.773</i>		<i>0.614</i>
<i>Ratio of Liberals to Conservatives</i>	<i>9.207</i>	<i>0.257</i>	<i>0.082</i>
<i>Democratic Governor</i>	<i>1.375</i>	<i>0.071</i>	<i>0.628</i>
<i>% of Latino Legislators</i>	<i>29.591</i>	<i>0.218</i>	<i>0.123</i>

***a Dependent Variable: Number of Introduced Legislation Expanding Immigrant Rights***

*I. Multivariate Regression Findings*

According to the multiple regressions table; the contracting of immigrants’ rights, the ratio of liberals to conservatives (B = -3.297, sig. = .402) have a little influence in the negative direction. One increment increase in liberals, the contracting legislation decreases by three, however, there is no statistical significance. Surprisingly, Democratic governors have little to no influence on the prevention of contracting legislation revolving immigrants (B = -0.16, sig. = .994), in which this minimal influence is not statistical significance. So that means, for every increase in Democratic governors, they cause a small decrease in contracting policies. Lastly, the percentage of Latino populations influence goes in the other direction and is positive. The percentage of Latino populations does not have an impact on the contraction of immigrant rights (B = .093, sig. = .379); so for every increase in the

percentage of Latino population, contracting legislation also increases very little. In this model none of the independent variables significantly predict the amount of laws introduced that would contract immigrant rights.

Regarding the expansion of immigrant rights legislation, for every one incremental increase in liberal residents compared to conservative, there are about nine policies introduced to expand the rights of immigrants within the states ( $B = 9.207$ ), however, this is only marginally significant ( $\text{Sig.} = 0.082$ ). The percentage of Latino legislators are influential in expanding rights for immigrants ( $B = 29.591$ ,  $\text{sig.} = 0.123$ ), in which every one increment increases Latino legislators, there is an increase of about thirty policies, but also not statistically significant. Lastly, regarding the governors' political affiliation ( $B = 1.375$ ,  $\text{sig.} = 0.628$ ) show there is an increase in the expansion of rights for immigrants as these variables increase, however, the increase is so minute. This shows that there is more legislation regarding the expansion of immigrants' rights having more liberal residents, than any of the other independent variables. Which both the percentage of Latino legislatures ( $\text{Sig.} = 0.123$ ) and having a Democratic governor ( $\text{Sig.} = 0.628$ ) are not statistically significant.

## **Discussion:**

### *I. Flaws*

I have come across a few issues regarding the data surrounding immigration; I initially wanted to include information on the specific types of policies passed by the states (state driver's licenses, sanctuary jurisdictions, active agreements with ICE, etc), but the data was difficult to narrow down to one source. While searching "immigration policies," "current immigration policies," "sanctuary cities," "current sanctuary cities," "states with 287(g) agreements," some states were compiled to one source, while many were left out. This is because every state is

different. For example, the state of California is always undergoing policy changes regarding immigration, so information on this state is easier to find. California and several other states identify as sanctuary states, however, there are many states that have not officially deemed itself as a sanctuary state nor in support of restricting immigrants' rights. So pinpointing specific data regarding policies supporting or opposing sanctuary jurisdiction is difficult.

Another issue I have encountered is the years the data was compiled. The ratio of conservative and liberals and Latino population demographics data was from 2014, the political affiliation of the states' governors was compiled in 2019, and the percentage of Latino legislators gathered in 2015. This data is fairly recent, however, when trying to compare it to the types of legislation passed, the most recent and useful data found was in the research article Laglagaron, Rodriguez, Silver, & Thanasombat (2008). This construes the findings in an inaccurate way because it is combining recent data with older data, throwing off the accuracy of the measures. Lastly, I ran into the issue of redundancy, in which the percentage of Latino populations and the percentage of Latino legislatures just about measure the same thing.

### **Conclusion:**

Large influxes of immigrant populations to new immigrant locations increase the possibility of restrictive legislation, which includes cooperating with Immigration and Customs Enforcement (ICE), isolating immigrants from workers' compensation benefits if lacking proof of lawful immigration status, implementing prohibitions on the receipt of state public benefits, and requiring proof of citizenship to gain a driver's license (Laglagaron et al., 2008) Having a Democratic governor, Latino legislators, and more Liberal citizens decreases the possibility of restrictive legislature, however, the influence is small and insignificant. Regarding to the expansion of immigrant rights; the legislation that expands the rights of immigrants include,

granting unauthorized students in-state tuitions, removing immigration and citizenship status requirements for children from public benefits, and including the destruction and possession of immigration papers in the definition of human trafficking (Laglagaron et al., 2008) I found the ratio of liberal residents compared to conservative have more influence on this type of legislation compared to the other variables, however, this is only marginally significant (Sig. = 0.082). I recommend a study be conducted using more up-to-date data which includes more recent legislation introduced, rejected, or no effort at all amongst the various states. As well as more recent data on the percentage of the various Latino populations and legislatures.

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