American Deportation and the ‘Non-Criminal’ Criminals

DISSERTATION

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ABSTRACT

In recent years, a considerable amount of the socio-legal literature has focused on the rising rate of criminal deportation and more generally the intersection of the immigration and criminal justice systems. While the number of criminal removals in this decade is indeed unprecedented, deportation because of non-criminal conduct has far outnumbered criminal deportation. Yet, there are no empirical studies to date which have focused exclusively on non-criminal deportation. This dissertation fills this gap in the literature by providing an in-depth analysis of non-criminal deportations from 1908-2012. The study documents and explains historical variations in non-criminal deportation in the United States. Dividing the analyses into three distinct eras, this study looks at how noncriminal deportation has fluctuated with macro-level factors such as the economy, the political system and changing demographics. In addition, the study evaluates the impact of public opinion on non-criminal deportation for the period from 1964-2012.

Results from descriptive analyses suggest that during the early years of the century, deportation was highly variable with removals based on the ‘morality’ of foreigners and whether or not they were likely to become dependent on the state as public charges. As the enforcement bureaucracy strengthens during the latter half of the century, non-criminal deportations become more administrative with majority of the deportees being visa violators and those who entered without proper documents. The statistical results suggest that during the period between 1908 and 1940 which coincides with the
Great Depression, there was a strong association between the unemployment rate and non-criminal deportation. Unlike previous research which suggests that criminal deportation increased following the passage of punitive immigration laws in the 1980s, this study finds that non-criminal deportation increased in the 1990s following the passage of laws under the Democratic Clinton administration with support from a Republican Congress. The results also suggest that when Republican president in power, non-criminal deportations are more likely to increase than when there is a Democratic incumbent. These results are significant in all eras except the period from 1941 to 1986. With regards to public opinion, the results show that non-criminal deportations increase when the public has negative opinions towards immigrants during the post-1964 era. Thus, this study sheds light on how non-criminal removals have been classified and what this means for current immigration policy on deportation.
Dedicated to my family and all my friends
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“If I have seen further, it is by standing upon the shoulders of giants”

—Sir Isaac Newton
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CHAPTER 1: INTRODUCTION

In the United States, deportation is a decision from a civil proceeding whereby the federal government orders the removal of a non-citizen from the country. Over the last two decades, the number of people deported from the United States soared from about 33,000 in 1991 to nearly 370,000 in 2013 (Yearbook of Immigration Statistics 2004; U.S Immigrations and Customs Enforcement 2014). While these numbers mark an unprecedented rise in deportation, they also indicate a growing shift towards more ‘criminal’ removals. In 2001, the number of removals for criminal behavior was about 73,000 and by 2012 this number rose to nearly 200,000 (U.S Department of Homeland Security 2011; 2012). Alongside this increase, an extensive number of laws passed in the late eighties and mid-nineties expanded the number of deportable crimes classified as ‘aggravated felonies’ to include shoplifting, writing a bad check, misdemeanor battery, marijuana possession or even traffic crimes like speeding (Cook 2003; Golash Boza-2009).

But criminal removals are only part of the deportation story. A significant number of non-citizens get deported for reasons considered non-criminal. For instance, in 1998, non-criminal removals were an estimated 112,000 and by 2012 this number had increased to 220,000 exceeding the number of criminal deportees (U.S Department of Homeland Security 2012; 2004). Currently, Immigration and Customs Enforcement (ICE) and the Customs and Border Patrol (CBP) classify ‘non-criminal immigrant violators’ as falling
into one of four categories: immigration fugitives (migrants who were ordered to be deported and did not show up for their court hearing), repeat immigration violators (migrants who returned usually because they have family residing in the country), border removals (migrants apprehended for illegally trying to enter the country) and other ‘removable aliens’ (migrants who may be removed for any reason such as violating the terms of their visas by working illegally).

While border apprehensions account for more than half of all criminal and non-criminal removals, there has also been a substantial increase in the number of non-citizens apprehended from the country’s interior (i.e., people already residing within the country). Daniel Kanstroom (2007) describes this as ‘post-entry’ social control since it relegates non-citizens to an ‘eternal probation’ where they can be deported at any time for non-criminal reasons. At this point we know relatively little about the nature of non-criminal deportation and whether or not the criteria used by the federal government to banish non-citizens have changed over the last century. Thus, an investigation of non-criminal deportation is timely and provides an opportunity to examine how economic, political and legal forces have shaped the enforcement of immigration law and determined the intensity of removal. Using data compiled from the *Yearbook of Immigration Statistics*, Figure 1.1 shows that while aggregate deportation has ebbed and flowed, non-criminal deportation far surpassed criminal deportation during most of the twentieth century. From 1908-1980 for instance, the data show that at several points, non-criminal removals reached high numbers while criminal deportation remained relatively stagnant. By the 1990s, the figure shows a sharp increase in non-criminal deportation—a
trend that continues into the 2000s with non-criminal removals recording their highest numbers in history.

Given the dearth of research on non-criminal removals, the data suggest a need for further investigation. Historical studies on criminal removals assert that Republican strength and conservatism may strongly influence deportation (Tichenor 2002; Zolberg 2006). However, the two major political parties have been somewhat schizophrenic on the immigration issue. For example, some Republicans favor the presence of immigrant labor and call for lenient removal practices, while others advocate harsher penalties for non-citizens charged with aggravated felonies (Huntington 2004). For Democrats, there has also been a divide, with some favoring restrictive immigration policies due to their support for unions and others advocating liberal immigration approaches based on humanitarian concerns (Ellerman 2009; Tichenor 2002). With regards to the economy, King, Massoglia and Uggen (2012) suggest that during economic surpluses the public is less likely to vilify immigrants or call for punitive approaches to immigration. Still, there is no empirical study that considers how non-criminal offenders fit into this model. Prior research has not examined how economic forces affect non-criminal removals. Further, there has not been an assessment of the relationship between economic, political and legal forces on non-criminal deportation.
Taking the issue a step further, this study includes an analysis of the relationship between public opinion and non-criminal removals. Research indicates that immigration enforcement evokes strong sentiments from the public. At the turn of the nineteenth century for instance, the American public was highly restrictionist due to the sheer increase in immigration (from Southern and Eastern Europe) and the emerging ideologies of Anglo-Saxon superiority. New immigrants were not welcomed since many worried that these immigrants would flood overcrowded urban cities already plagued with unemployment (Brin 1997; Dolmage 2011). As a result, anti-immigrant rhetoric surged during economic downturns because of the tendency to blame unemployment on the presence of foreign labor and workforce downsizing (Kanstroom 2007; Sampson 2008).

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1 The data taken from the *Yearbook of Immigration Statistics* clearly demarcates between criminal and non-criminal deportation. The data include observations from 1908 because this was the first year when data were available with regards to the administrative reason for removals.
Using the framework of Kanstroom (2007), this dissertation chronicles the antecedents of deportation as an exclusionary mechanism. Kanstroom’s work demonstrates that deportation has always been a feature of the American immigration system dating back to the colonial and antebellum eras. Drawing parallels to the British origins of deportation as a means of relief from the poor and ‘criminal undesirables’, his work includes analogies between current removal policies and less conventional forms of removal such as the forced migration of the Navajo from their native lands during the Trail of Tears, the Fugitive Slave Raids of the 1850s and attempts to send freed slaves back to Africa. Through a look back at the classifications given for non-criminal removals, this dissertation suggests that it will be possible to create links between past and present forms of non-criminal removals. The chapters shed empirical light on the following questions: (1) What were the reasons that the American government provided to justify the removal of non-criminal aliens? (2) How did these reasons—and the overall rate of deportation fluctuate against the changing economic, political and social backdrop of the last century? (3) Given the salience of immigration and deportation, what was the general sentiment or ‘mood of society’? For instance, was the American public more likely to support non-criminal removals during economic downturns? If so how strong was this support and when did it wane?

Past research suggests that instead of being a static administrative procedure, deportation is built on a historical foundation that grants Congress absolute power over immigration enforcement. Placing emphasis on the roles that political, legal and economic factors play in shaping policy, this dissertation evaluates the federal
government’s use of its plenary powers to exclude immigrants who are not considered criminal. Taking a systematic look back at how deportation evolved at different points in American history, the study uses a periodization method following King, Massoglia and Uggen (2012) to consider how significant changes at different eras of the 20th century influenced the growth of the immigration enforcement bureaucracy.

I. Brief Historical Background

- The Pre-1907 Era: Immigration becomes the domain of the federal government

At the turn of the century, immigration was a matter handled by the individual states. In the years leading up to 1907, the Supreme Court strongly emphasized that only Congress and the federal executive had authority over the admission and removal of non-citizens (Gardner 1981; Brin 1997). Removing the power to admit and deport from the hands of the states, the Court established the ‘plenary doctrine’ granting Congress exclusive power over immigration. Since immigration is tied to foreign policy and national security, the doctrine provides congress and the executive with a special deference when passing or executing immigration legislation. As matters of national sovereignty, immigration and deportation are related to the nation’s right to determine who enters and who is removed from its own borders (Motomura 1990; 1992).

The decision to make immigration the exclusive right of the federal government began with the 1876 case of Henderson v. Mayor of New York, when the states of New York and Massachusetts fined shipping companies ‘head taxes’ for every alien passenger brought into their ports. Arguing that the states’ ‘police power’ over newly arriving
immigrants infringed federal power to regulate commerce, The Court ruled that the whole country should follow a uniform system or plan to “govern the right to land passengers in the United States,” whether they arrived in New York City, Boston, New Orleans, San Francisco, or some other port of entry (Henderson v. Mayor of New York [1876]).

After the Henderson decision, Congress approved two new laws: The Chinese Exclusion Act and the Immigration Act of 1882. Passed in response to the overwhelming animosity of native workers toward inexpensive Chinese labor, the exclusion act was the first law that restricted the immigration of an entire ethnic group (Ngai 1999). Later that year, the Act of 1882 was passed and congress stated that a 50 cents tax would be levied on all aliens landing at American ports. The legislation also gave authorities the right to deny entry to convicts (except those convicted of political offences), lunatics, idiots and those likely to become public charges (Preston 1963; Lee 2003; Dolmage 2011). Deriving from state-level exclusion policies, this law also returned passengers who were denied entry back to the country where they boarded—at the expense of the shipping companies that that brought them (Brin 1997; Hirota 2013). Thus, the new law sought to regulate immigrant admission by screening prospective migrants while they were still in Europe.

- 1908-1940: Building the Immigration Bureaucracy and Expanding Post-Entry controls

Following the consolidation of power by Congress and the Supreme Court, the era between 1908 and 1940 was a time when the immigration and enforcement bureaucracy was still being constructed. With regards to legislation passed in the first ten years of this
era (1908-1918), most of the immigrants who were deported were at the border (as opposed to post-entry removals from the interior). It was not until 1917, that there were laws calling for the removal of immigrants convicted of crimes of ‘moral turpitude’ (Cohen 2003; Goldin 1994). Further, laws passed in the 1920s like the Emergency Quota Acts of 1921 and 1924 stemmed the total number of immigrants admitted, but they also expanded post-entry controls to include visa violations and crimes related to anarchy—especially after the Red Scare of 1919-1920 (Kanstroom 2007; Daniels 2005).

According to Kanstroom (2007), this was a time when immigration enforcement was still under construction. He states that at this point, the bureaucracy was becoming more centralized as the federal government gradually widened its reach to include post-entry removals—with the creation of the U.S Border Patrol in 1924. Notably during this period, the removals exemplified a social and political desire to remove people who were ‘immoral’ and ‘unwilling to embrace American values’ (Baynton 2005; Guzda 1986). The period also included one of the most sweeping acts of post-entry removal in history—the Mexican Repatriation2 (Balderrama and Rodriguez 1995). As Mexican immigrants became the targets of America’s economic troubles during the Great Depression of 1929, hundreds of thousands were deported exemplifying a tremendous expansion of the powers of enforcement.

- 1941-1986- Strengthening the Bureaucracy and its intersection with Criminal Law

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2 The campaign to remove people of Mexican ancestry from the United States.
The beginning of this era is notable due to American involvement in World War II after the bombing of Pearl Harbor as the well as the subsequent need to recruit immigrant labor due to the post-war labor shortage—i.e. during the Bracero Program\(^3\) (Massey and Espinosa 1997). The era is also notable due to the passage of the Alien Registration or Smith Act in 1940 which required all aliens seeking entry to be fingerprinted and categorized by their admission status (Messina and Lahav 2006). By doing this, the Smith Act expanded the bureaucratic powers of the federal government over enforcement and gave it a better ability to track and identify non-citizens in order to systemize the deportation process. Further, the Act added new parameters for removal to include aliens who possess weapons and those who actively promote ‘subversive propaganda’ once in the country (Daniels 1988; 2002). With the transfer of the Immigration and Naturalization Service (INS) from the Department of Labor to the Department of Justice—also in 1940, this signified a strengthening of the link between the immigration bureaucracy and the criminal justice system.

Contrasting this era with the period before the war, it is worth mentioning that it was not necessarily characterized by a lot of legislative activity and immigration rates were significantly lower during this era as well. The only other laws passed during this time were the McCarran Security Act of 1952 which brought immigration law under a comprehensive set of statutes and the Hart-Cellar Act of 1965 which was passed at the height of the Civil Rights Movement removing the ‘national origins’ policy as well as all

\(^3\) After the post-World War II labor shortages, the Bracero Program brought millions of Mexican guest workers to the United States to perform low-paying agricultural jobs caused by labor deficits in the South-West
racial quotas for immigration purposes (Zolberg 2006 p. 324). So while it is evident that the immigration system was becoming more bureaucratized, the INS maintained administrative discretion—especially when it came to cases regarding lower skilled manual labor. Also, in deportation proceedings, judges still retained discretion to evaluate cases which had ‘unjust results’ on a case by case basis (Cook 2003).

- **1987-2012-The Rise of Criminal Immigration and the Decline of Judicial Discretion**

By 1987, immigration had returned to the forefront of American politics and its policy was once more in need of an overhaul. With regards to the law, researchers have often looked at the post-1986 era as a ‘great divide’ in enforcement (Massey, Durand and Malone 2003; King, Massoglia and Uggen 2012). Like the extensive legislative activity passed during the pre-World War II years, this period is characterized by a sharp uptick in punitive enforcement and social controls. While the deportation bureaucracy was already established at this point, this time in history overlaps with the administrative increase in criminal punishment and incarceration for natives as well as immigrants.

Research has identified that a key reason why deportation increased dramatically after 1986 was due to the passage of The Immigration Reform and Control Act (IRCA) which became effective after January 1st 1987 (Cook 2003). Although the IRCA granted amnesty to undocumented aliens who had entered the country illegally before January 1982, its primary purpose was to punish employers who knowingly employed undocumented workers (Donoghue and Sturtevant 2010). Also embedded into the IRCA were provisions granting the Attorney General the power to deport all non-citizens
convicted of crimes known as ‘aggravated felonies’. The crimes constituting aggravated felonies included: murder, rape and fraud as well illegal drugs and firearm trafficking. The judicial relief from deportation was eliminated during this time which meant that judges were severely limited in their ability to consider cases and deportation proceedings on a case by case basis. Also, as the increase in punitive enforcement continued through the 1990s and 2000s, aggravated felonies came to include minor infractions like traffic violations or misdemeanors like shoplifting (Markowitz 2008). Thus, this new shift in punitive legislation increased the removal of all non-citizens and marked the rise of what Freely and Simon (1992) call the ‘new penology’ to immigration and its subsequent intersection with the criminal justice system.

II. Empirical Research on Deportation

The modern practice of deportation has changed over time. To explain how the practice has changed, most research has looked at deportation from an economic standpoint. Most notably, Rusche and Kircheimer’s (2003) research states that punishment changes with the mode of production. They suggest that the rise of mercantilism prompted many countries to reconsider capital punishment as that removed convicts from the labor market. Instead, prisoners were put to work and harnessed as a reservoir of labor to be tapped into. Consistent with Rusche and Kircheimer’s work, immigration has long been identified as a vehicle for labor shortages –as was apparent during the post-World War II era with the Bracero Program (Calavita 1992; Gratton and Merchant 2013). Referencing the Mexican Repatriation of the late 1920s and Operation
Wetback of 1954, Balderrama and Rodriguez (1995) state that it is understandable to expect pressure to remove excess labor once it outstrips the demand—especially if the economy is contracting or going through a recession. Keeping with this line of reasoning, King, Massoglia and Uggen (2012) find a strong association between rising unemployment and criminal removals. For the period between 1941 and 1986 (when the enforcement bureaucracy was already in place), they find correlations between unemployment and deportation—at least when judges still held judicial discretion. After 1986, their work finds that deportation rates come to mirror incarceration rates reiterating the relationship between immigration and criminal law enforcement.

But in addition to economic concerns, research has also identified that punitive immigration practices and support for deportation sometimes thrive even when the economy is healthy and experiencing expansion. Meyers (2000) states that in the 1920s, when the nation’s wealth more than doubled between 1920 and 1929 and swept Americans into an affluent ‘consumer society,’ the immigration laws of the era remained some of the harshest in history. Similarly, Pantoja (2006) and Hirschman and Massey (2008) state that during the economic boom of the 1990s—a period of steady job creation, low inflation and a surging stock market, there were several punitive immigration laws including the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) both of which significantly widened the classes of crimes considered aggravated felonies. But it was perhaps the addition of retroactivity that made the laws particularly severe. Retroactivity means that non-citizens who committed crimes that were not considered
aggravated felonies before the passage of the 1996 laws could be deported if the crimes were currently considered ‘deportable crimes’ (Cook 2003; Markowitz 2008).

Adding to these non-economic concerns, research identifies an ‘immigrant threat’ from natives who view immigrants as competitors for resources in addition to the belief that they are more likely to engage in criminal behavior than the native population. Using Blalock’s (1967) classic group threat hypothesis which posits that the larger the minority group the greater the threat to the majority group, Zolberg (1992) and Money (1997) state that as the immigrant population increases, natives come to feel an economic and social threat more acutely and as a result, they push for more punitive approaches to enforcement. According to Borjas (1999), it is this ideology that precipitated the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which slashed the benefits and public assistance available to non-citizens—including permanent residents. With regards to criminality, research has indicated that immigrants—especially the undocumented are believed to engage in crime at a higher rate than natives (Bender 2003; Martínez 2002). Although several empirical studies refute the link between immigration and criminality (Sampson 2008; Rumbaut and Ewing 2007; Martinez and Lee 2004), the threat of immigrant criminality remains a resilient part of the native population’s view of immigrants and a driving force for restrictive legislation.

Empirical research on deportation also highlights the importance of political actors to enforcement and the push for punitive approaches to punishment. In particular, it is suggested that immigration is an issue that is highly divisive among Republicans and Democrats within the parties. For instance, while some pro-business Republicans support
immigration by stressing its economic benefits, other socially conservative Republicans advocate harsher deportation practices on the grounds that immigration dilutes American culture and threatens national security (Huntington 2004; Jeong et al. 2011). On the other end of the political aisle, Democrats are equally divided since some show support for immigration by voicing humanitarian concerns while others (due to their support for unions) push for stringent enforcement policies. Since immigrants often work for lower wages than the native population, pro-union Democrats are often weary of the economic threats which immigrants pose (Martin 2003; Miller and Schofield 2008). Thus, by being mindful of the empirical literature on deportation, this dissertation takes a careful look back at specific points in history and evaluates how the nature of deportation has changed in response to economic, political and legal forces.

III. Organization of Chapters:

In addition to the historical previews laid out in this introductory chapter, the second chapter lays out a solid theoretical foundation using the Marxist ideology of Rusche and Kircheimer (1939/2003). Emphasizing the importance of economic factors, it is asserted that deportation often fluctuates with labor market forces. This means that when the market expands, there is a desire to import immigrant labor, but when it contracts the labor becomes expendable and the likelihood of deportation increases. This chapter also underscores the importance of political factors on both sides of the aisle. Looking at both parties’ history of support and restriction for immigration, it is asserted that enforcement remains a divisive issue for Republicans and Democrats. Using
Blalock’s (1967) threat hypothesis, the chapter closes with a discussion of how perceived ‘immigrant threat’ potentially influences the likelihood of support for restrictive policy. Taken together, this theoretical chapter outlines some of the key macro-sociological factors influencing deportation.

Building on this, chapter three presents the methodology and data analysis for the study. A substantial part of the chapter is devoted to a discussion of the variables used, the population sample and data analysis techniques. It concludes with an explanation of the research design and why it is appropriate to the study. In chapter four, I present statistical models which test the impact of economic, political and demographic factors on the rate of non-criminal deportation over the last century. The first section of the chapter gives a descriptive portrait of who the deportees were and suggests possible reasons for the trends which occur over time. The second section of the chapter presents statistical time series models on deportation which follow periodized eras as immigration gradually becomes bureaucratized under federal law. Also in this chapter, public opinion on removals between 1964 and 2012 are evaluated. The analysis on public opinion suggests that while enforcement has always been a salient issue in Congress, it also evokes strong sentiments from the general public (Citrin et al. 1997; Harwood 1986) in light of this, the chapter provides an analysis of the influence of the public discourse on deportation. Chapter five closes the dissertation by reiterating the impact that economic, political and social factors have had on removals considered by the federal government to be non-criminal. From these links, it is suggested that through a historical lens, we can
get a better understanding of current forms of expulsion as well as the changes to immigration policy.
CHAPTER 2: THEORETICAL APPROACHES TO NON-CRIMINAL REMOVALS

2. A. Labor, Punishment and Deportation

Amid the growing body of literature on deportation, a variety of theories have been put forth to explain the importance of economic, political and social factors on removals. Most notably, Marx’s economic theory has served as a foundation for understanding how class conflict is generated and sustained. According to Marx, the capitalist system is divided into those who own the means of production and those who are dependent on them for their economic survival (the haves vs. the have-nots or the bourgeoisie vs. the proletariat). In effect, history is punctuated with a series of economic systems which are structured around the means of production where those who own the most are able to secure a great amount of power and dominate those who are less fortunate. Using the base-structure metaphor, Marx explains that “the mode of production in material life determines the general character of the social, political and spiritual processes of life” (Marx 1978 p. 4). Like a building with many levels rising out of its foundation, the economic base is the key locus of power in any society from where the resulting political and legal superstructures are built. Thus, Marxist theory maintains that the economically dominant class asserts its dominance in other spheres of social life; and it is because it derives its power from the exploitation of the subordinate class that antagonisms exist. Given this conceptual foundation, the worker is reduced to “the level of a commodity”
(Marx, 1978 p.70) who is only valued for his ability to earn wages and contribute to the economic base.

In line with classic Marxist tradition, Rusche and Kircheimer (2003) state in their 1939 work *Punishment and Social Structure* that those in power have more than just dominance over economic and political systems. They are able to acquire power within the legal system which determines societal laws. More often than not, these laws are tilted in favor of the dominant classes and punitive towards the lower classes. So punishment is not a mere social response to criminality; rather it is deeply embedded in the class struggle between the bourgeoisie and proletariat. For Rusche and Kircheimer, this class struggle (and punishment’s role within in it) gains relevance due to its foundations within the economic base rather than the political or social superstructures. Through its link with the courts, the dominant class applies punitive punishments to those who are not economically productive in times of labor surpluses and refrains from such punishments during times of labor scarcity. Thus, within the economics of labor power, “Every system of production tends to discover punishments which correspond to its productive relationships…and the intensity of penal practices are determined above all by economic and fiscal forces” (Rusche and Kircheimer 2003 p. 5). Simply put, punishment has a social significance which extends far beyond the requirements of crime control.

Using historical data to support their thesis, Rusche and Kircheimer illustrate that while criminal conduct has more or less remained the same over time, the severity of punishment has changed dramatically. For instance, while homicide patterns in Medieval England bear striking resemblances to homicide patterns in twentieth century
Philadelphia, the sanctions for homicide have changed over time. According to Rusche and Kircheimer, the reason for the variability in punishment lies within the changes to the mode of production. For slave economies, enslavement was the dominant form of punishment and it was directly related to the commercial demand for slave labor. In feudal systems, corporal and capital punishments dominated the penal code. With later industrial capitalism, enslavement and corporal punishment were no longer viable economic options. Instead, the market economy gradually gave way to incarceration as a form of punishment. Marxist-criminologists posit that high levels of unemployment create a fear of crime and a greater use of prison sentences to remove those who are not economically productive. The Rusche-Kircheimer thesis predicts a direct relationship between unemployment and punishment. It asserts that incarceration rates increase during economic downturns and reduce when the demand for labor exceeds the supply. Testing the effects of the thesis, Chiricos and Bales (1991) find that unemployment has a significant impact on incarceration rates—an effect which is particularly heightened when race and social class are taken into consideration.

While the Rusche-Kircheimer model has received widespread support in the criminology literature, it has not been without its criticisms. Garland (1991) for instance, states that the theory depends too highly on the primacy of the economic base and grossly underestimates the importance of political and ideological factors which help to shape social policy. Also it has been argued that penal practices vary widely even within societies with similar economic structures. Criticisms notwithstanding, the Rusche-Kircheimer model highlights how fluctuations in the labor market affect the mode and
severity of punishment. More recently, it has been used in the literature on deportation to illustrate that while immigrants are welcomed during times of labor scarcities, they are quickly removed when the unemployment rate soars. King, Massoglia and Uggen (2012) find that harsher approaches to criminal deportation are closely correlated with rising unemployment and incarceration rates even after controlling for political factors.

Similarly, using the threat hypothesis, Fox (2010) underscores the link between the economy, the public’s perception of criminal activity and the use of welfare assistance. According to this hypothesis, in periods of economic decline, negative attitudes towards immigrants proliferate because the public views them as economic burdens who are underserving of welfare. Brin (1997) states that the perception that certain immigrants would become public charges was one of the main reasons that triggered the rigorous medical examinations which began in Ellis Island in 1892. Medical inspectors were taught to watch for “irregularities in movement” and “abnormalities of any description,” which justified aliens as physically or mentally defective (Baynton 2001; 2011; Yew 1980). In addition, belief in the racial and ethnic proclivity to certain diseases such as vice, pauperism and immorality were not uncommon. Inspectors associated Syrians, Greeks, Armenians and Russians with trachoma and Eastern Europeans, Italians and Russians with feeblemindedness (Brin 1997; Gudza 1986). The immigration restrictions of the era were presented simply as a matter of economics to “detect poorly built, defective or broken down human beings” likely to proliferate in urban slums and “leave behind feebleminded descendants…unable to do the work necessary to earn bread” (Baynton p. 35).
Given the meticulous attention to the quality of immigrants admitted, Marxist ideology conceptualizes immigration as a distinctive process occurring within capitalism. Sharply attuned to the economic forces of production, immigration fosters the growth of an “industrial reserve army of labor” (Marx 1967 p. 314). According to Marx, immigration is not just the outgrowth of the changing manpower of industrialized nations; rather it is a structural component of capitalism which fuels the growth of the economic base. Within the American context, the presence of stringent measures preventing the entry of ‘infectious’ immigrants showed the nation’s desire to have an able-bodied labor force. During the industrial era, this meant excluding people who would not make good industrial workers (Goldin 1993; Fairchild 2006). By removing immigrants believed to be defective, the rationale was that such individuals would require care and maintenance which the growing economy could not afford. From the end of the Civil war and up to the onset of World War I, America was gradually transformed into one of the world’s industrial powers. Mechanization had brought dramatic changes to industrial production and ushered in an era of economic expansion (Montgomery 1987; Castells 1975; Sutton 2001). As thousands of workers (immigrant and native) settled in urban cities, it was imperative that the rapidly growing industrial power had an able supply of labor.

Still, the vast majority of immigrants who entered the class structure between 1880 and 1920 did so well below the class positions of the average native born citizen. Fleeing poverty, religious persecution and famine in their homelands, many immigrants came to America seeking greater economic opportunities and religious freedoms (Borjas
To keep wages low and take advantage of the seemingly inexhaustible supply of cheap labor, industrialists used immigrant labor in steel plants, coal mines, railroads and textile mills (Preston 1963; Lee 2003). As mechanization continued, the cheaper immigrant workers quickly became an economic threat to the native born members of the proletariat who grew to despise them. Supported by the rise of a new movement called nativism, the American-born working class demanded that government take action against the newcomers who were creating too much competition. Attacked by intense discrimination, immigrants (especially the Italians and Irish) became scapegoats for everything from domestic radicalism to organized crime (Daniels 2005).

While the strength of these anti-immigrant campaigns waxed and waned, they did so largely in concert with the strength of the economy and the supply of jobs. True to Marxist form, anti-immigrant rhetoric increased during hard times and tended to soften when the economy improved. A notable example is the “yellow peril” which greeted Chinese immigrants during the first half of the twentieth century. Initially welcomed during the gold rush of the 1840s, Chinese labor was needed as the economy burgeoned. The construction of the transcontinental railroads of the 1860s drew tens of thousands of unskilled Chinese workers who did backbreaking work with hand tools (Fong and Markham 2002; Boswell 1986). Although they were no strangers to anti-ethnic hostility, it was a split labor market that ultimately caused anti-Chinese prejudice to boil into race riots and laws designed to keep them out of the country. While the American government allowed Chinese immigrants to work on railway construction and mining, they received wages that were significantly lower than those of the native white population.
Where the competition for jobs between the Chinese and native whites was intense, the result was discrimination along racial and ethnic lines. When the economy began to falter with the onset of the Long Depression in 1873, the Chinese were branded as “half-civilized beings” who spread “filth, depravity, and epidemic”. The ideology was that competition with Chinese immigrants was unfair because Chinese immigration was “more abominable slave traffic than that of the African slave trade in its most odious features” (Boswell p. 358). But despite the apparent abolitionist stance, the Chinese suffered intense xenophobia and stereotyping similar to those against African Americans during the same time period. In fact, much of the anti-Chinese legislation was modeled on anti-black Laws found in the Southern and Midwestern states (Saxton 1971; Ong 1993). By 1882, Congress passed an act prohibiting three classes of people for ten years: lunatics, idiots and Chinese. The act was extended in 1892 and made permanent in 1907. It was only repealed in 1943, when Congress established a quota of 105 Chinese immigrants a year (Wong 1980). The prohibition of Chinese immigrants from the United States provides a clear example of the intersection between nativist sentiments and economic concerns. Of note is the Marxist ideology that during the downturn of the Long Depression, native workers felt the competition posed by Chinese workers more acutely and scapegoated them for the ailing economy. The result was one of the most hostile anti-ethnic movements in American history.

As the era of Chinese migration came to an end, European immigration continued but many industrial professions remained divided along racial and ethnic lines. Advertisements asking for specific ethnicities were not uncommon due to the belief that
members of particular ethnic groups held similar traits. In addition to this, the absence of Chinese laborers had left a labor vacuum in the Southwest. To fill this shortage, thousands of Mexican workers migrated to the United States between the early 1900s and the 1920s performing manual labor in smelting plants, railroads and agricultural lands. Employers profited from the work of Mexicans by paying them the lowest wages imaginable and in so doing, created a split or dual wage system. In contrast to the native white or Anglo population, Mexican laborers were funneled into menial-dead end jobs also known as “Mexican jobs” and in turn received “Mexican pay” which was considerably lower than the wages of Anglo workers (Hoffman 1974; Johnson 2005). Also, unionization by the native workers worked further to keep Mexican laborers from better paying jobs.

By 1929 the Great Depression swept the United States and almost ironically, pressure mounted to remove Mexicans from the jobs they were said to hold at the expense of Americans. Considered the most expendable of workers, Mexican laborers suffered disproportionately high rates of unemployment following the economic recession. In the Southwest, immigration officials searched for Mexican immigrants and local welfare agencies urged them to volunteer for repatriation. An economic threat had placed the country in jeopardy and U.S citizens compelled their government to react. With the cooperation of both the Mexican and American governments, local civic organizations rounded up hundreds of workers and their families and placed them on trains bound for the U.S.-Mexico border (Betten and Mohl 1973; Hoffman 1974). During

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4 The campaign to remove people of Mexican ancestry from the United States.
the early 1930s more than 400,000 people of Mexican ancestry were removed from the country. Interestingly, almost 60 percent of those deported were American citizens who were bewildered by the rapidly tightening noose of immigration restriction. For many of them, Mexico not the United States was the foreign land (Balderrama and Rodriguez 1995).

Being cognizant of the role that racial and ethnic factors played in shaping the American labor market, the overarching argument remains that immigration and deportation are twin effects of the same economic push and pull factors. Echoing the Marxist theory of Rusche and Kircheimer (2003), the desire to punish is strongest when the economic base falters and weakest when it thrives. Taken together, restrictions to immigration are calculated measures to protect the state from labor excesses and overproduction. Deportation reduces the maintenance costs of non-producing workers by expelling them when they become economic liabilities. Within the cycles of capital accumulation, it is a disciplinary device within the immigrant himself since he is always aware of the real threat of removal. For the capitalist class, deportation is a cost saving device for dealing with the burden of surplus labor when it is no longer needed. By removing the “reserve army of labor,” Polanyi (1944) draws attention to the double movement of capitalism, where market forces are met with a stronger need for social protection and control. For capitalism to survive, the capitalist class hedges its bets and removes those who it feels will be detrimental to its long term survival. In sum, given the relationship between unemployment and punishment the economic patterns depicted suggest the following hypothesis:
Hypothesis 1. — *Deportation rates will increase when the unemployment rate rises*

Still, all things considered, the economic approach has been critiqued for overestimating economic factors and downplaying the non-economic motivations which underlie state actions. This is because state policies have sometimes discriminated against immigrants *even* when a demand for labor exists. For instance, nativist policies such as the quota laws of the 1920s restricted entry to certain immigrants after World War I even when there was a post-war demand for labor (Tichenor 2002; Freeman 1995). Further, economic motives alone are unable to explain the advocacy for restrictive policies on the grounds that immigration undercuts social cleavages and encourages a loss of national identity. Rather than being driven by economic competition alone, questions are raised about the ability of immigrants to assimilate into American society and the length of time taken to do so (Zolberg 2006). Responding to events such as the Red Scare and the internments of Japanese, Germans and Italians in the aftermath of the Pearl Harbor bombing, Jones (1960) states that when Americans lose confidence in the process of assimilation, the result is sometimes a nationalist outburst that is expressed as a “fear ridden and sometimes hysterical hatred for foreigners” (p.217). Emphasizing the importance of the state as an actor in its own right capable of defining and pursing its own goals, it is argued that policy is not only driven by economic demands (Meyers 2000; Money 1997). Rather, it is also the shifts in the general attitude of the public and the dynamic role of politics within the state itself which determines how punitive deportation policies and punishments will be.
2. B. Deportation, Punishment and the Politics of Removal

Deportation is a key component of immigration enforcement. While the immigration system serves domestic and geopolitical purposes, it is the power to regulate the entrance and removal of immigrants that best characterizes it as a mechanism of social control. As a form of punishment, deportation can mean permanent exile from family members and in some cases, the forcible return to a nation where one has never lived and has no meaningful ties (Coleman and Kocher 2011; Miller 2005). Like other forms of punishment, research on deportation draws attention to the intricate social, economic and political frameworks driving this penology of the state (Tichenor 2002; Kanstroom 2007). Interwoven with immigration policy and susceptible to the changes within the legal and political systems, deportation represents the state’s right to remove those who are deemed unfit to remain within its borders.

I. The Politics of Punishment

Embedded into the sociological canon, classical and contemporary theories explain the relationship between the state and the enforcement of penal law. Émile Durkheim (1983; 1984) describes this relationship as one which grows out of the societal need for order and solidarity. Based on this desire, the state punishes those who threaten the stability of society. For Durkheim, punishment is not just penological; it is best conceived as an affirmation of the social order and a “reaffirmation of the mutual relationships which strengthen the social bond” (Garland 1990, p. 33). As a fundamental
aspect of the political authority, Foucault (1977; 1980) describes punishment as a political apparatus of the state and a means of exercising social control. His framework suggests that the state’s coercive penology is harnessed by politicians who show support for punitive approaches to punishment. In order to understand how punishment operates, he suggests an examination of the ‘political anatomy’ of the state since punishment is just one manifestation of what he sees as method by which politicians exercise the ‘mechanics of power’ (Foucault 1977, p. 139). Echoing this sentiment, Beckett and Sasson (2003) state that politicians frequently magnify perceptions about crime in order to win office and heighten public anxieties. In the mid to late 1960s for instance, they state that liberals and conservatives offered very different approaches to crime. According to liberal politicians, social inequality—especially racial inequality and discrimination were the root causes of crime and poverty. To remedy the problem, they sought to expand social welfare programs since these offered not only a humane way of dealing with poverty but also a way of addressing the crime issue as well. In contrast, conservative politicians argued that societal pressures such as racism, low wages and limited opportunities did not cause crime. Instead, they stressed the individuality of those who commit crime. People who commit crime do so because they have made bad personal choices and an expansion of social welfare will not rectify the situation. Rather, the Great society welfare programs coddle individual offenders and encourage a culture of dependency and predation. As Republican presidential candidate Barry Goldwater put it:

“If it is entirely proper for the government to take away from some to give to others, then won’t some be led to believe that they can rightfully take from
anyone who has more than they? No wonder law and order has broken down, mob violence has engulfed great American cities, and our wives feel unsafe in the streets.” (Parenti 2000 p. 7)

Frequently used by researchers to explain the punitive turn adopted by lawmakers, the Goldwater campaign has been seen as a turning point in criminal justice policy. According to Western (2006), the campaign’s use of phrases like ‘crime in the streets’ and ‘law and order’ equated civil disobedience with crime. Using this rhetoric, Western identifies the modern prison boom as a political initiative that grew partly from rising crime, but mostly from the upheaval in American race relations in the 1960s and the collapse of labor markets in the early 1970s. From the Goldwater campaign, the Republican Party linked the problem of street crime to the civil rights movement and the growing unease about racial violence. In accepting the Republican nomination, Goldwater warned that crime and disorder had been allowed to grow unchecked resulting in a “growing menace in our country…to personal safety, life, limb and property” (p. 59).

Adopting what became known as the ‘Republican Southern Strategy’, conservative politicians embraced policies aimed at increasing the severity of punishment. During the 1968 and 1972 presidential elections, Republican candidate Richard Nixon actively used the law and order issue to appeal to the racial sentiments of white southern and working class voters who viewed street crime as a threat (Tonry 2009; Western 2006).

Drawing attention to the problem of jobless black males in inner cities, conservatives pushed for increased policing in urban neighborhoods replete with social disorder, drugs and an idle population that turned to crime as a way of life (Parker et al. 2005). Using this logic, incarceration was seen as the most viable solution to the problem
of crime. It also suggests that Republicans have more to gain by pushing for punitive criminal justice sanctions. Specifically, the argument is that ‘tough-on crime’ stances allow Republicans to connect with voting blocs who may resent street criminals because they live in close proximity to minorities while still pursuing economic policies that benefit their affluent supporters (Stucky 2013). Beckett (1997) states that this connection became even more apparent in 1982 when President Reagan extended the war on crime to include the war on drugs which added mandatory federal prison sentences for drug offenders including those in possession of small amounts of crack cocaine. Analyzing yearly shifts in prison admissions, Jacobs and Helms (1996; 2001) and Jacobs and Carmichael (2002) find that expansions in the Republican Party and support for conservative values show robust correlations with the prison population. In fact, Calderia and Cowart (1980) state that in contrast to Democrats, Republicans since 1935 have increased total expenditures on corrections and criminal justice programs at both the federal and state levels.

With the rising rate of incarceration, the growth of the American prison has been unprecedented. When crime rose in the late 1980s and early 1990s imprisonment increased. When crime declined—first in the early 1980s and again in the late 1990s, imprisonment increased (Jacobs and Carmichael 2002). During the 1990s in an era of economic expansion and low rates of poverty and unemployment, the country built more prisons to house the rapidly growing population. So basically, whether times were good or bad incarceration rates remained high (Tonry 1999). While the ‘law and order’ mantle has been largely attributed to Republicans, Democrats have also taken strides to increase
punitive criminal justice policy. In the early 1990s for instance, many congressional Democrats introduced bills which carried the death penalty. This was a marked departure for the party since liberals had opposed capital punishment since its reinstatement in 1976 (Bedau 1998). Also, President Clinton’s 1994 Violent Crime Control and Law Enforcement Act authorized funding for local police, imposed a ban on assault weapons and earmarked 9.9 billion dollars to be spent on prison construction (Palmiotto 1998). At the state level, researchers point to the fact that in Texas, incarceration rates increased more rapidly under the Democratic governor Ann Richards than her successor George W. Bush. Also, under Democratic governor Mario Cuomo, the state of New York saw a massive expansion of its prison system—one of largest in the state’s history (Hooks et al. 2004). In short, these moves by the Democratic Party illustrate that the Democrats realized the viability of the ‘tough-on crime’ message and started punitive campaigns of their own in order to compete with their conservative opponents.

Research by Jacobs and Carmichael (2002) states that even though Democrats have recently taken up the ‘tough on crime’ mantle, they have done so with considerably less enthusiasm than their Republican counterparts. Similarly, Jacobs and Helms (2001) find that on average, imprisonment rates grew much faster under Republican presidents than under Democratic ones. Beckett and Sasson (2003) add to this by acknowledging that the modern ‘tough on crime’ movement is part of a much larger effort to increase votes for the Republican Party. In order to redirect state policy towards social control and away from social welfare, conservative politicians have emphasized the inherent criminality of the poor and the underserving nature of the underclass (Western 2006;
Beckett and Sasson 2003). By drawing attention to the problem of drugs and crime, the punitive turn in policy transforms the poor—especially minorities into dangerous carriers of criminal pathologies who need to be punished in the harshest ways possible.

In sum, a running theme through the literature is that punishment is an inherently political exercise. Although Republicans have pushed for more punitive approaches, U.S incarceration rates—since the 1970s, have increased regardless of Democratic or Republican leadership (Jacobs and Helms 1996; 2001). These patterns suggest that punishment resides in a complex environment that cuts across partisan lines. As an incapacitative punishment of the state, deportation falls within the parameters of disciplinary control. Given the link between conservatism and support for punitive punishment, this study suggests that conservatives may show stronger support for restrictive immigration policies and support harsher approaches to removal. Not discounting the fact that Democrats may also show support for punitive policies, this study suggests that the distinction is likely to be stronger among social conservatives. As such, the research is guided by the following hypothesis:

**Hypothesis 2.**—Deportation rates will be higher when Republicans are in power rather than Democrats indicating the former’s support for punitive approaches to punishment.

By placing immigration enforcement into the political discourse between the two political parties, this study suggests that deportation is a form of punishment that reflects the state’s desire to regulate those who are allowed entry into its borders, those who are
removed, and the circumstances that accompany that removal. Also, it suggests that like other penologies of the state, the mechanisms that drive deportation and immigration law are often complex and multifaceted—especially when they cut across party lines. As such, an analysis of the politics of immigration law requires careful scrutiny.

II. The Politics of Immigration Law and Enforcement

Like other forms of state sanctioned penal controls, deportation comes from the state’s power to control immigration. However, unlike other forms of punishment, both parties have demonstrated strong support for punitive as well as permissive approaches to enforcement (Kanstroom 2007; Paige 2011). Among Republicans, pro-business factions consistently advocate lenient deportation practices by stressing the economic benefits of immigration. Lining up alongside them, some business and trade union leaders, especially in the service sectors, also show support for liberal immigration laws. But socially conservative Republicans oppose immigration on the grounds that it expands the welfare state, dilutes American culture and threatens national security (Huntington 2004). Also, the rise of conservative activists such as the Tea Party within the Republican establishment has demonstrated strong opposition to immigration and advocated harsher restrictions on the due process rights of those apprehended in the United States during deportation proceedings (Williamson, Skocpol and Coggin 2011; Golash-Boza 2012).

On the Democratic side, politicians are also divided. While some support an ‘open borders’ stance which advocates lenient deportation practices and amnesty for the undocumented, there are Democratic voters and those within the party who do not. Due
to their support for unions (and union elites who distribute millions of dollars annually to Democratic candidates), many politicians on the Left dread the presence of cheap immigrant labor and often favor restrictive policies. Pro-Democratic groups such as the National Association for the Advancement of Colored People (NAACP) are weary of immigration and point out that newcomers often compete for jobs with those at the bottom of the employment pyramid—which often includes African Americans and other native born minorities (Martin 2003; Miller and Schofield 2008). Others, touting environmentalist concerns, are also split on immigration due to its perceived effects on population growth. Organizations such as the Sierra Club have often adopted hardline stances which state that immigration drives unsustainable population growth which drains resources and harms the environment (Hanson 2005). Thus, both the Democratic and Republican Parties contain coalitions of opposing interests which are both socially conservative and socially liberal on immigration. Historically, although both parties have shown support and restrictiveness for deportation, no clear pattern emerges due to the deep fissures within each party and the polarizing debate on immigration reform.

The indecisiveness over immigration within the parties often mirrors the differences of opinion within the electorate as a whole. For instance, when asked about the about the contributions of immigrants to American society, Scheve and Slaughter (2001) find that over two-thirds of survey respondents agreed that immigrants had positive contributions to offer. However, when asked about the level of immigration, nearly half of the respondents stated that they would prefer to see a reduction in the number of admitted aliens as well as stronger measures put in place to combat
undocumented migration. Echoing this sentiment, other studies have noted that anti-immigrant feelings are especially stirred during bitter economic recessions with a persistent complaint being that immigrants take jobs away from native workers and depress wages (Espenshade and Calhoun 1993; Borjas 2003). Others worry that immigration is rapidly transforming America into a third-world country, with crowded, violent cities and low-skilled labor that abuses the generosity of the welfare state (Borjas 1995). The fact that opinions differ on immigration is hardly surprising. On one hand, some Americans believe that immigration offers potential benefits while others favor a scaling down of immigration and a tightening of restrictions (Huntington 2004). Aware of the fluctuating mood of the public, politicians take note and often make decisions which mirror the sentiment of the electorate.

With regards to crime, research indicates that immigrants—especially the undocumented are often stereotyped as criminal by the public (Bender 2003; Martínez 2002). Kanstroom (2007) calls this the ‘criminalization of immigration’ because it involves the control of immigrants and criminals through the integration of deportation with the criminal justice system. Within this framework, immigrants are believed to engage in criminal activity to a greater extent than native born Americans. Although there are important reasons to believe that immigrants would be involved in crime to a higher degree than Americans, this has not always been the case. For instance, in addition to the acculturation and assimilation problems which immigrants sometimes face, they are also more likely to settle in neighborhoods characterized by widespread poverty, substandard housing, poor schools and high crime rates (Hagan and Palloni 1998; Yeager 1997).
Segregated into such neighborhoods, some immigrants may turn to crime as a way to overcome blocked economic opportunities (Whyte 1943). Still, despite theoretical reasons to associate high levels of crime with immigrants, most empirical studies find that immigrants are actually underrepresented in crime statistics (Sampson 2008; Rumbaut and Ewing 2007). Sampson’s (2008) study of Latin American immigrants in 180 Chicago neighborhoods from 1995 to 2002, finds that immigrants were less likely than the US-born to commit violent crimes even when they lived in dense communities with high rates of poverty. Also, empirical studies by Martínez and Lee (2004) which compares homicides in three high immigration border cities: San Diego, El Paso and Miami finds that immigrants were less likely to engage in homicides than American citizens—further refuting the presumed linkages between immigration and criminality.

In the face of such findings, perceived immigrant criminality has grown almost paradoxically. For instance, in the early 1980s, concurrent with the push for harsher penalties for criminal offenders came the ‘war on drugs’ first launched by the Nixon administration. Pushed aggressively during the Reagan and George H.W Bush administrations, the anti-drug campaign used terms like ‘battle’ and ‘war’ to demonize drugs and ostracize users. With an expanded budget on policing and enforcement, incarceration rates steadily increased due to the expansion of zero tolerance policies, lengthy first time statutes and a shift in prosecutorial focus to ‘mandatory minimums’—laws designed to limit the discretion of judges by creating statutory required sentences for drug offenses (Tonry 1994; Chin 2002). At about this same time, the nation experienced an escalation in public concern over perceived developments in
immigration—most notably the perception that undocumented immigration was flourishing and immigrant involvement in criminal activity (especially drugs) was rampant (Yates, Collins and Chin 2005). Congress responded to these concerns by taking punitive steps to deal with criminal aliens. The most notable of these was the Immigration Reform and Control Act (IRCA) which granted the Attorney General the power to deport all non-citizens convicted of ‘removable offenses’ (Donoghue and Sturtevant 2010). While this legislation dealt with a myriad of concerns, particularly prominent were the provisions designed to combat drug trafficking through the Alien Criminal Apprehension Program (ACAP) and the development of a new category of criminal alien—the “aggravated felon” (Inda 2013; Golash-Boza 2010). Introduced into immigration law along with the Anti-Drug Abuse Act of 1988, aggravated felonies included drug possession and trafficking, murder, rape, burglary and fraud as well as firearm trafficking. Setting the precedent for contemporary immigration enforcement, the IRCA introduced the practice of targeting ‘criminal aliens’ or ‘aggravated felons’ for deportation purposes (King, Massoglia and Uggen 2012).

Researchers have identified that although the IRCA was passed under the Republican Reagan administration, it did so with strong bi-partisan support from Congress (Simon 1997; Warner 2005). Along with the increases in incarceration from the war on crime and the war on drugs, the number of deported immigrants increased substantially. Since the 1980s for instance, deportation rates increased from 18,013 persons deported to 30,039 in 1990, 188,467 in 2000, and 393,289 in 2009 (Yearbook of Immigration Statistics, 2009 p. 95). The legislative activity around deportation parallels
what Simon (1998) describes as ‘governing through crime’ and what Freely and Simon (1992) describe as the new penology or ‘othering’ of immigrants. As a strategy of pacification, deportation is a penal policy designed to efficiently manage groups deemed to be threatening by the public. As Western (2006) suggests, the politics of crime intersected with the anxieties about race and economic insecurity which drove the anti-drug rhetoric and fueled the anti-immigrant sentiment as well. It is these overlapping concerns that help to explain the state’s punitive turn in the enforcement of immigration.

Being mindful of these concerns, the crime and drug agenda has evolved into a campaign that enjoys strong support from Republicans and Democrats. While the new penology focuses on the control and criminalization of immigrants, political agendas often focus more broadly on the electorate since both parties have used the undocumented immigration issue to justify their policies. For instance, while the criminalization of immigration continued with the 1990 Immigration Act (IMMACT) under the Bush administration, the Democratic Clinton administration also spoke out about the problem of undocumented migration (Wroe 2008). In 1996, the President stressed the need for legislation that “strengthens the rule of law by cracking down on illegal immigration at the border, in the workplace, and in the criminal justice system” (Clinton 1996). After the Oklahoma City and World Trade Center bombings in the early 1990s, the president implemented punitive immigration sanctions and stringent border controls. With overwhelming support from the Republican controlled Congress, the Anti-

http://www.presidency.ucsb.edu/ws/?pid=52021
Terrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration and Immigrant Responsibility Act (IIRIRA) were both signed into law. Taken together, these laws increased the list of crimes considered ‘aggravated felonies’ for deportation purposes. Before their passage, an alien had to receive a sentence of five years or more in order for their crime to be considered an aggravated felony. Now, crimes (including misdemeanors like shoplifting) with sentences as short as one year came to be considered aggravated felonies. In many cases, aliens did not even need to receive a full sentence to be in danger of removal. Suspended sentences were retroactively redefined as convictions for immigration purposes after which they could then be re-categorized as aggravated felonies for deportation purposes (Cook 2003; Markowitz 2008).

These harsher immigration enforcement policies created a greater overlap between criminal and immigration law and as a result, the number of removals increased dramatically, going from approximately 69,680 in 1996 to 409,850 in 2012 (Yearbook of Immigration Statistics 2011 p. 102). Research indicates that the Immigration and Naturalization Service also saw a dramatic increase in its budget as thousands of new border patrol agents were appointed (Andreas 2003). With these widespread changes, Miller (2005) and Warner (2005) state that the strong bipartisan support of the IIRIRA and AEDPA indicated a unison between the Republicans and Democrats on the issue of immigration enforcement. Developed during a period when the electorate feared crime and terrorism, the “hysteria about people seeming to be culturally inassimilable” (Miller, 2002, p. 216) trigged the creation of the 1996 laws which both perpetuated and reinforced the social control and social marginalization experienced by immigrants. Despite this,
Miller and Schofield (2008) state that both parties were aware of the changing demographics of the electorate and the growth of the Latino voting bloc. As a result, politicians from the Republican and Democratic parties campaigned against each other in order to be the most welcoming and ‘immigrant friendly’ party. Fraga and Leal (2004) state that Democratic candidates consistently targeted Latino voters in key states like California, Texas and Florida in an attempt to demonstrate a respect for Latino communities and an empathy for immigration issues. Notably, presidential candidate George W. Bush spoke Spanish during his political campaign in order to show his support for racial and ethnic inclusion as well as his support for the Latino electorate. Researchers state that by catering to Latinos and creating Latino-focused campaign ads, the Republicans were able to soften their image as social conservatives while still appealing to moderate white voters in non-southern states (Barreto 2005).

The trend to appeal to Latino voters continued in the early years of the Bush administration. Taking a decidedly pro-business stance, Bush advocated for immigration reform during his presidency (Wroe 2008). In 2004, the president renewed calls for a guest worker program that would grant relief from deportation to undocumented immigrants already working in U.S. for a maximum of six years. (Ilias, Fennelly and Federico 2008). Under this proposal, immigrants would be required to pay a fee and document their application for legal status. The plan was also designed to help employers gain access to temporary foreign workers once they proved that they were unable to find American workers (Martin 2006). The president’s pro-immigration ideologies were not viewed positively by everyone. Responding to widespread concerns about border security
and undocumented migration, social conservatives complained about the economic impact of competing with immigrants for state resources. Others, like Pat ‘pitchfork’ Buchanan argued that the increasing ethnic diversity of immigration weakened the fabric of American culture and identity (Wroe 2008; Hanson 2005). Research by Gimpel (2014) indicates that although pro-business Republicans support lenient immigration policies, legislators from socially conservative constituencies often have to temper their support for immigration in order to secure electoral victories. In particular, Jeong et al (2011) state that while Democrats representing labor interests have often taken more punitive positions on immigration than Republicans, the rise of extreme right-wing conservatives like the Tea Party have allowed Democrats to ‘exploit the cracks in the opposition’ and gain the vote of newly naturalized citizens. By adding immigration policy to the Republican Party’s history of restriction on social welfare and spending issues, Democrats have been able to deliver a pro-immigration message despite their continued support for labor unions.

With the terrorist attacks on the World Trade Center towers in 2001, both parties showed support for the use of more stringent approaches to enforcement. The president (with the support of Democrats in congress) signed the USA PATRIOT Act just six weeks after the attacks and granted the Attorney General the power to incarcerate and detain non-citizens suspected of representing ‘a reasonable threat to national security’ (Brotherton and Kretsedemas 2008). In such cases, non-citizens could be held indefinitely in six-month installments with minimal judicial review. Democrats, including Senate majority leader Tom Daschle stated he believed that the efforts by the
administration had ‘been successful’ while representative Peter Deutsch (D-FL) agreed to more punitive approaches to enforcement; stating that the nation was at war and needed to defend itself (Lindsay 2003; Steffoff 2010). In addition, the president’s approval rating increased as the polls showed that the American public had more confidence in the ability of Republicans to handle foreign affairs, immigration issues and matters of border security than Democrats (Campbell 2005). With support from Republicans, Democrats and the electorate, the president authorized the creation of the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and the Office of Detention and Removal (DRO). Together these agencies granted immigration enforcement powers to local police departments and allowed them to fingerprint and run immigration background checks on arrestees booked in county jails while still in pre-trial custody (Goodman 2011; Cook 2003).

Against the backdrop of the anti-crime, anti-drug rhetoric that already dominates immigration enforcement, researchers point out that the administration of Democratic President Barack Obama has also reported sharp increases in deportation (Golash-Boza 2013). While the president explained that the government only targets criminals, research suggests that since 2009 almost two thirds of the nearly 2 million deportations involved people who had minor infractions like traffic violations or misdemeanors like shoplifting (Menjívar and Kanstroom 2014). Research also points to the fact that a substantial percentage of the deportees had no criminal record at all (Golash-Boza 2013; 2010). Within the Democratic Party, the president’s stance on immigration has received both support and criticism from party officials. For instance, Democrats like Congressman
Luis Gutierrez (D-IL) have been critical of Obama’s immigration strategy—stating that members of the Latino electorate are disappointed by the president’s strict enforcement policies (Preston 2011). On the other hand, senate majority leader, Harry Reid from Nevada praised the administration’s punitive stance on immigration by stating that it allows federal agents to “focus on serious felons, gang members and individuals who are a national security threat”6 (Pear 2011).

Among Republicans, the president’s enforcement policies have been met with tempered support as well as criticism. While some Republicans have supported some of the president’s approaches to deportation, others have shown a strong unwillingness to address the immigration issue. Wallace (2012) states that the rise of the Tea Party movement within the Republican Party fundamentally changed the rhetoric of the Republican establishment and led to the usage of more extreme policy stances on immigration. Party polarization strongly increased with the Tea Party and moved the center of the Republican Party to the extreme right so that even with the president’s record deportation numbers, many still feel that the administration is ‘too soft’ on immigration (Williamson, Skocpol, and Coggin, 2011). As a result, Hajnal and Rivera (2014) state despite the Latino disillusionment over the Obama administration’s deportation policies, the Democratic Party still wields a significant advantage over Republicans in currying the support of Latino voters. In the 2012 presidential elections,

Obama received 71 percent of the Hispanic vote compared to Republican candidate Mitt Romney’s 27 percent.

Taken together, the behavior of both political parties emphasizes the complicated nature of immigration enforcement to national politics. More importantly, it illustrates that immigration is an issue which is highly divisive between parties and within them. So while some factions may oppose strict enforcement practices, others may show support for more permissive approaches. Moreover, with the changing demographic of the electorate, immigration remains an issue of crucial significance to both Democrats and Republicans. As such, both parties must find a middle ground between appearing tough on enforcement while still showing empathy and understanding for immigration issues.

With this in mind, the research is guided by the following hypothesis:

**Hypothesis 3.** — *The deportation rate will show slight (if any) variation between the Republican and Democratic parties; reinforcing the divisive nature of immigration policy among political actors.*

With this in mind, it is also worth mentioning that unlike the punishment literature, which suggests that Republicans will show stronger support for deportation, this hypothesis—taken from the immigration literature -- underscores the complexity of the political discourse within the parties with regards to immigration. As such, this hypothesis competes with Hypothesis 2 and suggests that since both parties have often adopted punitive measures, penal severity may not show much severity between the
parties. Still, being mindful of the role which politics plays with regards to enforcement, prior work on punishment and immigration also directs attention to demographic factors like race and ethnicity (Park 1936; Olzak 1992; Waldinger 1999). Emphasizing the importance of demographics to the growing immigrant population, research examines adaptation patterns as well as interaction with natives—particularly as it relates to punitive approaches to enforcement and support for deportation (Kanstroom 2007; Markowitz 2008). Drawing on classic and contemporary theory, the heterogeneous nature of immigration makes the study of policy an important one—especially as the population size increases and the competition between natives and the foreign born intensifies.

2. C. Race, Ethnicity & the Demographics of Deportation

In the United States, ongoing immigration has transformed the country into a diverse, multi-ethnic conglomeration (Waldinger 1989). While immigration often benefits both the immigrant group and the host nation, an immediate sociological concern is the extent to which the native population views immigrants as competitors for scarce economic, political and social resources (Bobo and Hutchings 1996; Stephan et al. 2005). The perception that immigrants may be competitors often leads to the formation of coalitions by natives against immigrants, discrimination, or even open antagonism and conflict. Although the tensions between immigrants and citizens of the host country may stem from a wide array of factors, researchers suggest that the fear and perception of threat may play an important role in the prejudice against immigrants (Pantoja and Segura 2003; Goldin 1994). A second explanation is that anti-immigrant sentiment comes
from a collective reaction by the native population to the competition posed by immigrants for valued resources which are held by the dominant group (Citrin et al. 1997; Quillan 1995)

I. Group Threat and Punishment

In the criminological literature, group threat is well documented—especially as it relates to the racial-ethnic inequality in the criminal justice system. Following the civil rights movement in the 1960s, several critical perspectives scrutinized the rising incarceration rate of minorities and the increasingly racialized outcomes with regards to punishment and sentencing. Among these perspectives, Blalock’s (1967) racial threat theory is arguably one of the most influential explanations of racial disparity in criminal justice outcomes. Using a race-based conflict approach to explain social control practices, Blalock views the social order as being rooted in a fierce competition between racial and ethnic groups who constantly struggle with each other over society’s finite resources. Racial threat theory proposes that dominant groups seek to preserve their advantageous position in society by ensuring that subordinate groups do not gain access to power; since such gains could potentially threaten the existing social order.

Within this setting, Blalock suggests that the dominant majority sometimes uses symbolic segregation to reinforce its dominance. To illustrate this point, he draws reference to the enactment of Jim Crow laws which had the symbolic purpose of drawing demarcations between whites and blacks in the South during the pre-Civil Rights era. Blalock states that while Jim Crow practices such as the separation of drinking fountains,
restrooms, and waiting rooms did not serve any obvious economic gains for the majority, they did have a symbolic value because they allowed whites—especially less prosperous whites to “appear a little better off than the Negro” (p. 165) and maintain their position above blacks in the Jim Crow caste system. In this vein, ‘racialization’ occurs when the white majority uses its disproportionate power to implement state-sanctioned control over minorities and, in the event of a growing minority population, encourages stronger control mechanisms such as increased policing and higher levels of incarceration to protect existing power and privilege (Quillian 1995; King and Wheelock 2007).

Using this framework, Blalock suggests that racial threat usually takes three distinct forms—economic threat, political threat and symbolic threat. Economic threat occurs when white workers view minorities as threatening to job availabilities and wages. Political threat is when whites fear losing political power and symbolic threat occurs when whites perceive non-whites as being disproportionately linked to criminal or deviant behavior. To illustrate, Eitle, D’Alessio and Stolzenberg (2002) use county-level data from South Carolina’s National Incident Based Reporting System (NBRS) and find support for the black crime hypothesis. As the percent of violent felony offenses that involve a black perpetrator and a white victim increases, the likelihood that a black individual will be arrested for a felony crime also increases. However, although black on black crime accounts for almost sixty percent of all the reported violent crime in South Carolina, the researchers find no corresponding effect. Thus, using Blalock’s hypothesis, the theory predicts that with each form of threat, the white majority responds by supporting state-sanctioned social control mechanisms that ‘contain’ the racial threat and
prevent it from undermining the hegemonic authority of the majority. According to this model, the response of the dominant group is particularly heightened when sources of threat are highest—where the minority population is relatively large and where there is an increased competition for limited market and state-based resources, such as jobs and welfare (Borjas 1999; Fox 2010). In the criminal justice literature, research using the racial threat model suggests that the dominant white majority often becomes more politically active and advocates for stronger social control mechanisms when they live in close proximities to African American or minority neighborhoods and when they perceive that the growing minority population may be a source of economic and political threat (Smith and Holmes 2014; Jacobs and Carmichael 2002).

Most studies using Blalock’s theory stress the size of the minority population as an indicator of the level of threat which the dominant group feels about the encroachment of minority groups. For instance, Kent and Jacobs (2005) identify that out of 11 developed nations between 1975 and 1994, the United States was the only one to show a significant relationship between increased minority population and police size. Their study suggests that when compared to other nations, race relations in the U.S have been the most antagonistic and violent. By interacting the percentage of minorities in cities with period dummy variables, they find that the size of the police force was contingent on the interaction between the minority population size and the level of racial segregation. Also, their research shows that increases in economic inequality—operationalized by a Gini index, resulted in expansions in the use of formal social control methods. Similarly, in a study of 74 precincts in New York City, Kane (2003) finds that the deployment of
police officers significantly correlates with increases in the African American and Latino populations. Notably, this study reports that police deployment across neighborhoods increased as the percentage of minorities increased; suggesting that police departments often allocate police officers based on the perception that racial minorities increase crime and disorder in communities.

Chiricos, Welch and Gertz’s (2004) study echoes this sentiment since it suggests that the dominant white majority often associates race/ethnicity with criminality and urban violence. The presence of a large minority population heightens the fear of crime and social disorder since police officers may feel that large minority groups could pose a serious social control problem (Bender 2003; Quillian and Pager 2002). Given their fear of minorities and street crime, the majority population marshals its political power to ensure that coercive crime control policies are in place in order to protect their interests and contain the minority threat. Terrill and Reisig (2003) find that in addition to increased deployment in minority neighborhoods, police are also more likely to use force in precincts characterized by higher levels of crime and social disadvantage. So according to this ideology, residents of poor, minority neighborhoods are believed to be the carriers of dangerous criminal pathologies and must be dealt with greater force since they threaten the existing normative order.

In light of the emphasis on street crime, Jacobs and Tope (2007) state that much of the recent fear of minority criminality stems from the post–civil rights era after social conservatives followed President Nixon’s Southern strategy which identified minorities—especially African Americans as undeserving members of the underclass.
who victimize whites. This ideology held firm even when crime rates reduced in the early 1980s and late 1990s (Quillian and Pager 2002). To mobilize political support, Smith and Holmes (2014) suggest that the white majority—especially those who live in cities with spatially segregated minority populations are more likely to advocate for increased police expenditures, arrests as well as punitive sentencing decisions. From an economic standpoint, King and Wheelock (2007) combine census and survey data to determine whether the relative size of the minority population, the unemployment rate and perceptions of minority competition affect support for punitive approaches to punishment. Their study finds that people who live in areas with high unemployment and an increased African American population (in direct competition for jobs and social welfare) are more likely to advocate for punitive policies. Similarly, Greenberg and West (2001) use measures of unemployment and number of families on welfare to test the influence of economic threat on incarceration rates. Using pooled time series data from all 50 states from 1971 to 1991, they find that both measures had significant effects on the state’s incarceration rate after controlling for race and crime effects. Their study also finds that percent black and change in percent black are among the strongest indicators of aggregate state imprisonment rates.

Further emphasizing the minority threat hypothesis in regards to incarceration, Crow and Johnson (2008) examined racial and ethnic threat in relation to the use of Florida’s habitual offender law which automatically lengthens an offender’s prison sentence. Using data available on offenders from 1994 and 2003, their study finds no significant effects that the percent black in the population increased the likelihood of the
habitual offender label. However, they did find that the percent Hispanic significantly increased the likelihood of getting the habitual designation. Consistent with prior research, the findings of this study indicate that a racial and ethnic sentence disparity exists when the habitual-offender status is invoked. Replicating the Crow and Johnson (2008) study, Caravelis, Chiricos, and Bales (2011) also find that the habitual offender law is disproportionately used on both blacks and Hispanics. With a sample of 26,740 offenders in Florida from 2002 to 2004, they find that both the change in percent black and the change in percent Hispanic were significantly associated with the habitual offender designation.

With regards to sentencing, Ulmer and Johnson (2004) find a positive relationship between minority population size and the length of sentences received by defendants. A similar story seems to hold with regards to the death penalty and the size of the minority population. Jacobs and Carmichael’s (2002) state-level analysis across three time periods—1970-71, 1980-81, and 1990-91 shows that the percent black in the population and the incidence of capital punishment are positively related. Also, their study reveals that states with higher percentages of blacks are more likely to impose a death sentence than those with lower percentages. This research is also supported by the work of Bobo and Johnson (2004) who find that people living in areas with relatively high minority populations are more likely to support the death penalty than those from areas with lower minority populations; net of factors like the homicide rate and socioeconomic status.

Taken together, these empirical findings highlight the fact that the population size of racial and ethnic groups remains significant parts of the American social order. The
way in which the dominant white majority manages the presence of minority groups shapes the nature of state-sanctioned controls and determines the severity of punishment that is imposed. Blalock’s classic hypothesis illustrates that attitudes of intolerance may sometimes be used to justify exclusionary policies towards minorities. From intergroup anxieties and the perception of disparities (or economic competition) the dominant group must protect its own interests and control the encroachment of the minority group. So by assigning a label of criminality to minorities, the dominant group finds it easier to justify the use of force or find support for punitive approaches to punishment. In so doing, it maintains its hegemonic powers and privileges atop the social structure.

II. Immigration, Group threat and Removal

As with the many issues surrounding immigration, the threat hypothesis posits that the native population often feels threatened by the presence of a large or growing immigrant population. The hypothesis suggests that natives perceive the presence of immigrants as threats to their economic, political and social power. Olzak (1992) states that this threat—especially as an economic force, is particularly strong when natives occupy the same labor market niche as immigrants. Restating the ideologies of Blalock (1967), Olzak argues that immigration helps generate competitive pressures between newcomers who seek employment and native citizens who seek to maintain their economic dominance. The extent to which immigrants compete with natives for economic resources comes from their ability to work for lower wages than the native population; thereby posing an economic threat to established native workers. Using the
classic work of Robert Park (1936) Olzak states that as the population of immigrants steadily increases, natives seek to exclude them from the labor market. Using the example of Chinese immigrants, Boswell (1986) states that this is one of the main reasons that triggered native whites to form labor unions. While the Chinese were welcomed during the Gold Rush of 1848-1849, the welcome quickly wore off when natives realized that Chinese immigrants (with their ability to work for cheaper wages) provided employers with a supply of would-be strikebreakers that infringed on union organizing. This perceived economic threat triggered a full-scale attack on immigration which resulted in the Chinese Exclusion Act of 1882 which ‘suspended’ all Chinese immigration for 10 years (Wong 1980; Boswell 1986). The Act was renewed in 1892 for another 10 years and made permanent in 1902. It was only lifted in 1943 when Congress granted entry to a quota of 105 Chinese immigrants per year.

The restrictions to Chinese migration illustrate that the presence of ethnic and racial groups who compete for the same kind of work as natives often fosters a strong sense of resentment and antagonism. This sort of competition allows employers to threaten the native group with potential replacement by lower wage employees to drive down aggregate worker costs in what Bonacich (1972; 1979) calls a ‘split labor market.’ As the number of immigrants increases and the boundaries of the dominant group are threatened, so too does their ability to mobilize and push for more stringent restrictions. In this regard, Olzak (1992), like Blalock (1967) views increases in the minority population as an impetus for action. Using data on conflict from daily editions of the New York Times from 77 cities between 1877 and 1914, her study draws links between the size
of the foreign-born population in metropolitan areas and the propensity for riot activity. The study finds that along with increases in riots caused by immigrant presence, the propensity for riots also increased with black migration from the rural South to the industrial Midwest. According to Olzak, the antagonisms experienced by blacks mirrored those experienced by the Chinese. As the proportion of black residents increased in cities like Chicago and Detroit, there was a subsequent outbreak of racial violence that Olzak suggests came partially from the increased labor competition which blacks posed to the white majority.

Emphasizing the effect of an economic threat, Marrow’s (2005; 2009) study of immigrant settlements in North Carolina—a popular new destination state, finds that in many counties, immigrant workers dominate employment in the manufacturing and service sectors. As a result, they frequently come into conflict with natives—creating economic threats even as they help to sustain their new communities. Zolberg (1992) and Money (1997) posit that in addition to labor, the native population is often in direct competition with immigrants for state-based resources. Feeling the competition more acutely as the immigrant population increases, these increases can sometimes trigger a push for punitive approaches to enforcement. According to Borjas (1999), it is this ideology that precipitated the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which denied noncitizens the right to receive most types of public assistance. Xavier-Inda (2000) states that concurrent with the rise of Latino immigration in the 1990s, public opinion was galvanized in states like California as natives pushed for the passage of Proposition 187—a voter initiative which sought to
bar undocumented immigrants from receiving public services like healthcare, education and welfare. Using exit poll data from the 1994 California election, Alvarez and Butterfield (2000) find that voters who lived closer to immigrant enclaves were more likely to support the initiative. Similarly, Tolbert and Hero (2001) find that among whites, support for Proposition 187 was highest in counties with larger Latino populations, and lowest in counties with mid to average size populations. An interpretation being that larger minority populations generated greater feelings of threat while smaller populations appeared less threatening to the native majority.

On this note, Martinez and Lee (2000) add that in addition to the social and economic threats that immigrants pose, they are also perceived as engaging in criminal activity at a much higher rate than natives. Although several empirical studies (Sampson 2008; Rumbaut and Ewing 2007; Martínez and Lee 2004) refute the link between immigration and criminality it remains a resilient part of the native population’s view of immigrants and a driving force for restrictive legislation. Crow and Johnson (2008) also state that it is the threat of criminality that has increased police presence in many immigrant neighborhoods and caused an increase in Florida’s habitual offender law—especially as it pertains to Latinos. Menjívar and Kanstroom (2013) add that concurrent with the increases in the immigrant population, ICE has granted local and state police the power to detain immigrants and enforce federal immigration laws. Reflecting the convergence between immigration and criminality—a trend that scholars refer to as ‘crimmigration,’ heightened policing by ICE and border patrol agents reflects the societal response to perceived immigrant threats. By criminally prosecuting and deporting
immigrants, they are believed to be carriers of criminal pathologies that need to be contained—especially when their population size increases relative to the native majority (DeGenova 2004; Golash-Boza and Hondagneu-Sotelo 2013).

Building on this, proponents for reduced immigration such as conservative politicians like Pat Buchanan and non-profit groups like the Federation for American Immigration Reform (FAIR) underscore the social threats that immigration poses to the national identity (Becerra et al. 2012). Showing support for restrictive policies, questions are raised about the ability of immigrants to assimilate into American society and the length of time it takes for them to do so. By focusing on the costs rather than the potential benefits of immigration, opponents state that immigrants not only pose economic threats, but social ones as well. For instance, Wilson (2001) uses data from the 1994 General Social Survey and finds that Americans who consider immigrants a threat to their economic or cultural interests are more likely to express hostility toward immigration and oppose policies which benefit immigrants. Similarly, Fetzer (2000) finds that Americans who perceive that immigrants pose a threat to labor and employment opportunities are more likely to believe that immigration should be reduced.

Looking beyond the United States, Rink, Phalet, and Swyngedouw (2009) use survey data from Belgium to evaluate whether or not the size of the foreign-born population has any effect on native support for an anti-immigrant party. They find that as the number of immigrants increased, so did the probability that local voters would support the anti-immigration party net of other socio-demographic characteristics. Quillian (1995) uses survey data from 12 European countries and yields similar results—
though he emphasizes that economic conditions played an important role in the level of perceived threats expressed by natives. Also, in a sample of 756 respondents conducted in two counties along the Texas-Mexico border, Binder, Polinard, and Wrinkle (1997) find that support for stricter immigration policies came from those who reported that they had personal knowledge of an undocumented immigrant taking a job from an American worker. Thus, being mindful of the relationship that the size of the immigrant population has on the likelihood of support for punitive enforcement policies, this study provides a test of Blalock’s (1967) classic group threat model by investigating the effect of immigrant population size on deportation. It is guided by the following hypothesis:

_Hypothesis 4._ — _The rate of deportations will increase as the percent immigrant increases._

In addition to emphasizing the percentage of the immigrant population, the study also underscores the importance of public opinion in influencing immigration enforcement. For instance, Burns and Gimpel (2000) find that respondents living in border states are more likely to express negative stereotypes about immigrants and more likely to support decreased levels of immigration. Further, Hood and Morris (1998) explain variation in public opinion in terms of racial threat, For example, their research shows that whites who live in areas that have a higher concentration of Hispanics tend to be less supportive of immigration than those who live in areas with smaller populations. Emphasizing the fact that a large immigrant population can often trigger support punitive enforcement practices, this study suggests the following hypothesis:
Hypothesis 5. — The rate of deportation will increase as negative public opinion increases

Further, given the vast increase in legislative activity which characterized the mid-late 1980s, and 1990s that included the passage of punitive laws which severely reduced judicial discretion and widened the crimes considered ‘aggravated felonies,’ I expect that the relationship suggested in Hypothesis 5 will be higher in the last era of the study when the enforcement bureaucracy has been fully entrenched. With this in mind, I suggest the following hypothesis:

Hypothesis 6. — The rate of deportation will be higher in the last era because of the increase in punitive immigration laws

Being mindful of the theoretical assertions presented in this chapter, the study also draws attention to the effects of socioeconomic, legal and demographic changes to the development of the enforcement bureaucracy. Focusing on three distinct eras: 1908 - 1940; 1941-1986 and 1987-2012, this study considers how the nature of immigration changed in response to the various macro-level social forces which defined the last century. With a focus on historical contextual factors, the study focuses on these eras due to the effects that they had in transforming the immigration bureaucracy and shaping enforcement.

2. D. Periodization and Historical Contextual Factors

• 1908-1940: Building the Immigration Bureaucracy and Expanding post-entry controls
The first era includes the time before World War II when the enforcement bureaucracy was still being constructed. Although there were restrictive Acts such as the 1907 Immigration Act (created by the Dillingham Commission) that stressed the need to refine immigration laws, it was not until 1917 that there was legislation calling for the removal of non-citizens who had committed crimes of ‘moral turpitude’ as well as those who were over the age of 16 and were ‘unable to read 30 to 40 words’ (Cohen 2003; Goldin 1994). For most of this period, the social and political calls for the removal of immigrants stemmed from a desire to remove the ‘immoral classes’ and those who were considered ‘mental or physical defectives’ (Brin 1997). Kanstroom (2007) and King, Massoglia and Uggen (2012), state that the bureaucratic machinery to remove large numbers of people was still a work in progress prior to WWII, and thus removals in this era are expected to increase as the state’s ability to deport increases. Even if the overall number of deportations is likely to be low during this time, it is likely that extra-legal factors such as unemployment and politics will exert significant effects because federal law enforcement had vast discretion and little oversight.

• 1941-1986- Strengthening the Bureaucracy and its intersection with Criminal Law

The second period starts in 1941 following American entry into World War II and the demand for labor in the post-war years. Although this era is not characterized by a spate of legislative activity, there were two notable acts which were passed: The Alien Registration or Smith Act of 1940 which significantly expanded federal enforcement powers and the McCarran Security Act of 1952 which systemized the deportation process
and brought immigration under a comprehensive set of statutes (Zolberg 2006). Although the Hart-Cellar Act was passed in 1965 eliminating the ‘national origins’ formula, it had no direct implications for removals as a whole.

With the deportation bureaucracy firmed up and little change in laws, I expect less of an upward trend in deportations during this period in comparison to the pre-WWII years. Further, given the still-vast discretion afforded to federal law enforcers and prior work finding that economic conditions were particularly important during this time, I expect strong correlations between macro-sociological factors and non-criminal deportations.


The post 1987 era is a time described as a watershed period for enforcement and deportation. It is also known for its punitive legislative activity as exemplified by the consecutive wars on crime and drugs (Jacobs and Carmichael 2002). By this time, the deportation bureaucracy is already well entrenched. With the passage of laws like the IRCA and ACAP, removals are expected to be an order of magnitude higher during this period of strong social and political pressures to remove non-citizens. Although much of the action during this period pertains to criminal removals (Cook 2003; Markowitz 2008), it is likely that the sentiment will include many non-criminal deportations as well. In addition, the early 2000s are also characterized by punitive legislation like the PATRIOT Act which expands the ability of local law enforcement to arrest and detain non-citizens for deportation purposes (Goodman 2011; Cook 2003). But what is perhaps most noteworthy about this era is the decline of judicial discretion. The rise in punitive
enforcement severely limits the ability of judges to review individual cases and grant relief from deportation. So in light of these changes, the rise of a new ‘culture of control,’ (Garland 2001) and the increase in incarceration rates, I assume here just the opposite of the first period described above: the rate of deportation will be substantially higher than in past eras, but the decline in discretion and the inflexible new laws will make economic conditions, crime, and politics irrelevant.

2. E. Chapter Conclusion

The economic, political and legal frameworks presented in this chapter draw attention to the macro-level determinants of deportation during the last century. Paying attention to the Marxist ideology of Rusche and Kircheimer (2003), the state’s desire to deport is strongest when the economy contracts and weakest when it expands. Within the cycles of capital accumulation, deportation is a calculated measure to protect the state from labor excesses and overproduction. By expelling non-producing workers, it is a cost saving device for dealing with the burden of surplus labor when it is no longer needed. Still, being cognizant of economic factors, it is important to stress that policy is not only influenced by financial boom and busts. Political actors from parties, interest groups and government officials also have a tremendous amount of influence in the creation of deportation laws which are sometimes independent of economic motivations. Influenced by nativist concerns, immigrant threat or questions about the assimilability of different groups, state policies can be punitive even when a demand for labor exists. Using extended border and post entry control mechanisms, the state defines its own borders by
deciding who is allowed to enter and the legal provisions that will be granted. Given the strong criminalization of immigration which occurred in the post-1987 era, it is also suggested that in the years leading up to this point, non-legal factors may have had a stronger influence on deportation—especially when immigration was still under the Department of Labor and not the Department of Justice. Thus, the theoretical debates presented here provide an understanding of the historical contours of deportation and what this means for contemporary policy.
CHAPTER 3: VARIABLES AND METHODOLOGY

The analyses in the next chapter are based on data from multiple sources spanning the period 1908-2012. Most data are from official statistics published in the U.S. Immigration and Naturalization Service Reports, the Uniform Crime Reports, the Policy Agenda’s Project, the United States Census, and the Yearbook of Immigration Statistics from the U.S. Department of Homeland Security.

3. A. Variables & Data Sources

• Dependent Variables:
  
  • Rate of Non-criminal deportation

The key dependent variable of interest is the rate of non-criminal deportation per 100,000 foreign-born for each year between 1908 and 2012. It comprises all removals not characterized as criminal in federal statistics. Data are from The U.S Immigration and Naturalization Service Reports prior to 1960 and the Yearbook of Immigration Statistics through 2012. Although the data are published in different places, there is continuity with respect to the source and type of information provided. This is important since the federal government only started to collect data on deportation (and the administrative reason for removal) from the 1908 fiscal year—just as immigration control was being removed from the hands of the individual states and consolidated under the federal plenary doctrine.

While it would have been beneficial to use the number of non-citizens as a measure of the population at risk of removal, the data on non-citizens are only available decennially after
1920. However, the foreign-born are reported decennially for the whole century. As a result, the study uses foreign-born as a proxy for the non-citizen population is appropriate given the correlation between the non-citizen and foreign-born populations (> .90). For the time period under study, the data are first presented descriptively in order to illustrate what the categories of non-criminal removal were and which ones were the most frequently used (by rank order) to deport immigrants. Following the descriptive analysis, non-criminal removals are incorporated into time series regression models to evaluate how they have been affected by political, economic and demographic factors over the last century.

- Public Opinion

Public opinion is measured as a dependent and independent variable in this study. It is derived from survey questions from 1964-2012 which ask respondents if immigration to the United States should be increased or decreased or kept at present levels. The measure, which is a weighted aggregate index, comes from the policy-specific moods data series of the Policy Agendas Project at the University of Texas at Austin. Due to the nature of the Policy Agenda’s Data, survey questions on immigration were not asked every year in the aggregate index. For the years with incomplete values, the data are interpolated. The questions from the aggregate include:

I. Should immigration to the United States be kept at present levels, increased or decreased?

II. Should we restrict and control people coming into our country to live more than we do now?
III. Should federal spending on tightening border security to prevent immigration be increased or decreased or kept about the same?

The Project uses data from almost 400 survey questions and archived sources to trace yearly changes on public opinion across different policy domains. Since the data from the Policy Agendas Project are not available for all years under investigation, this variable is introduced in the latter half of the analyses. The public opinion variable is designed to depict how salient immigration was to the public and how this possibly shaped the political debates on enforcement and deportation. Public opinion is used since researchers have frequently turned to opinion data in order to gauge what issues are important to the masses and how they change from year to year. In his research on mass incarceration, political scientist Peter Enns (2014) uses opinion data to measure how punitive attitudes of the public often influence the decisions made by policy makers. Also, Page and Shapiro (1983) examine public opinion and policy data in the United States from 1935-1979 and find that changes in opinions measured in a given year corresponded to policy changes one year later—implying that policy makers responded to the desires of the public. Thus, building on a strong legacy of historical research using opinion data to map the ‘mood’ of the public, this study aims to address the historical connections among economic, political and legal factors on non-criminal deportation.

Independent Variables:

- Economy

The unemployment rate is generally used as a measure of the health of the labor market. Prior work suggests that an expanding economy will have a lower rate of
unemployment while a contracting economy will have higher levels. For instance, Western and Beckett (1999) use the unemployment rate to study penal policies in the U.S. and Chiricos and Bales (1991) use the unemployment rate to measure the prosecution and incarceration of criminal defendants. In this analysis, the data on unemployment are from Dunlop and Galenson’s (1978) *Labor in the Twentieth Century* for 1908 to 1976. Their book presents statistical data series for employment, unemployment, wages and labor disputes dating back to the beginning of the twentieth century. For all subsequent years, data are taken from the *Bureau of Labor Statistics* statistical tables. All data used in the study are representative of the level of employment among the population that is not institutionalized.

- Politics

In addition to economic factors, the dissertation also measures the impact of politics on deportation. Research on political strength has often measured partisanship by evaluating the effect that a Republican or Democratic president has on penal severity. Jacobs and Helms (1996) use presidential partisanship in their study of imprisonment rates and Jacobs and Kent (2007) also use partisanship to test support for the death penalty. This study measures partisanship by using the Republican or Democratic presidency. Data come from the *Historical Statistics of the United States* (2006). This measure is coded as a dummy variable with ‘1’ representing a Republican president and ‘0’ when there is a Democratic incumbent.
Demographics

Adding to the measure of partisanship, the study also tests the impact of Blalock’s (1967) threat hypothesis. A common measure of threat is the size of the minority population. King and Wheelock (2007) use minority population size to predict support for punitive punishments and Ulmer and Johnson (2004) also use minority population size to evaluate the length of sentences received by defendants. In this study, immigrant population size is measured by the percent of the population that is foreign born—where the foreign born are a proxy for the non-citizen population. Data are from the Historical Statistics for the United States: Millennial Edition, Census Bureau files, and the Yearbook of Immigration Statistics.

Crime Rate

The research also includes a measure of the crime rate. Data come from the Uniform Crime Reports and The Sourcebook of Criminal Justice for earlier years (Cahalan 1986) where the homicide rate is used as a proxy for the overall crime rate. The homicide rate is used because data on homicides are the only crime for which data are available for the entire period under study (1908-2012). Other types of crime were not systematically reported in the Crime Reports until the 1930s. Also, surveys like the National Crime Victimization Survey (NCVS) did not start collecting data until 1972. The homicide rate is also used as a measure of crime by King, Massoglia and Uggen (2012) in their historical study on criminal removals.
To illustrate, Figure 3.1 is a conceptual model and Table 3.1 shows means and standard deviations for all variables included in the statistical models. All models use Ordinary Least Squares Regression (OLS) which are detrended by controlling for year.

Figure 3.1 Conceptual Model showing independent and dependent variables

- Public Opinion on Immigration: 1964-2012
- Rate of Non-Criminal Removals: 1908-2012
- Economy: Labor and Unemployment rate
- Crime Rate: Measured by the rate of homicides
- Demographic Factors: Immigrant Pop. Size
- Politics: Republicans/Democrats

Public Opinion on Immigration: 1964-2012

Rate of Non-Criminal Removals: 1908-2012

Economy: Labor and Unemployment rate

Crime Rate: Measured by the rate of homicides

Demographic Factors: Immigrant Pop. Size

Politics: Republicans/Democrats
Table 3.1: Descriptive Statistics by year for independent and dependent variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>All Years</th>
<th>1908-1940</th>
<th>1941-1986</th>
<th>1987-2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Crim deports per 100,000 f. born</td>
<td>153.52</td>
<td>48.45</td>
<td>120.3</td>
<td>345.7</td>
</tr>
<tr>
<td>Percent foreign born</td>
<td>9.02</td>
<td>12.18</td>
<td>6.16</td>
<td>10.08</td>
</tr>
<tr>
<td>Homicide Rate</td>
<td>7.00</td>
<td>7.27</td>
<td>6.81</td>
<td>7.01</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>6.83</td>
<td>9.50</td>
<td>5.39</td>
<td>6.02</td>
</tr>
<tr>
<td>Republican President</td>
<td>0.50</td>
<td>0.51</td>
<td>0.48</td>
<td>0.53</td>
</tr>
<tr>
<td>Public opinion-level of immigration*</td>
<td>42.76</td>
<td>4.51</td>
<td>9.50</td>
<td>6.02</td>
</tr>
</tbody>
</table>

N: 105 33 46 26

*N=48 years from 1964-2012
CHAPTER 4: RESULTS OF DEPORTATION ANALYSES

4. A. Descriptive Portrait: Who are the Deportees?

This chapter provides a descriptive portrait of the reasons for non-criminal deportation. It also includes time series regression models which span three historical periods (see chapter 2 for discussion of periodization) as well as models which evaluate the role of public opinion. Evaluating the impact of socioeconomic, political and demographic factors, the chapter endeavors to explain variation in deportation by the federal government.

- 1908-1940: Building the Immigration Bureaucracy and Expanding Post-Entry controls

During the first two decades of the century from 1908-1930, most removals were aliens considered to be ‘mental/physical defectives’, ‘the immoral classes’ or those ‘likely to become public charges’. Interestingly, criminals account for the smallest number of deportees. From 1931-1940, criminal removals increase sharply and non-criminal removals become more administrative ranging from those who ‘entered without proper documents,’ ‘remained longer than authorized’ and those who were ‘previously excluded or deported.’ In the latter part of this era, removals for mental or physical defects reduce as well as those considered to be immoral.

At a time when the enforcement bureaucracy was still being constructed, this period is characterized by the gradual growth of the deportation machinery and the
widening of the categories used to remove aliens. Characteristic of the early years was a strong emphasis on morality as well as eugenic sentiments. The exclusion of people with mental and physical defects—as well as those considered to be immoral (also seen as a mental defect) was not an isolated occurrence; it was commonplace to remove the ‘unfit’ and ‘degenerate’ immigrants (Dolmage 2011). Further, there was a sentiment that in addition to making poor industrial workers, these defective immigrants were “likely to join the criminal classes and become public charges” (Baynton 2005 p. 35). The laws were presented as a matter of economics to “detect poorly built, defective or broken down human beings likely to proliferate in urban slums” (Kraut 1995 p. 63). As the enforcement bureaucracy becomes consolidated during the mid-latter half of the century, categories such as ‘mental or physical defectives’ and the vague ‘immoral classes’ are dropped and replaced by more administrative reasons, such as ‘failed to comply with the conditions of non-immigrant status’ and ‘entered without proper documents.’ This is particularly evident with the creation of the U.S Border Patrol in 1924 and after the Immigration and Naturalization Service (INS) transfers from the Department of Labor to the Department of Justice in 1940. In addition, following the Great Depression of 1929, this period also includes one of the most sweeping administrative enforcement acts—the Mexican Repatriation (Balderrama and Rodriguez 1995). As Mexican immigrants become the targets of America’s economic misfortunes during the Depression, thousands are deported—exemplifying a vast expansion of the state’s powers of deportation.

7 Not all immigrants faced the same level of scrutiny. First and second class passengers were not believed to be defective and rarely received the rigorous physical examinations of third class passengers in steerage.
• 1941-1986- Strengthening the Bureaucracy and its Intersection with Criminal Law

This period begins with America’s entry into World War II. During the war, the foreign-born population of the United States drops from 14.2 million to 10.3 million, or from 11.6 percent to 6.9 percent of the total population. These declines reflect the extremely low level of immigration during the late 1930s and early 1940s (Smith 1995; Milton 1997). The era is also notable due to the passage of the Alien Registration Act of 1940 which required all aliens to be fingerprinted and categorized by their admission status (Messina and Lahav 2006). From this, the Act expanded the bureaucratic powers of the federal government over enforcement and gave it a better ability to track and identify non-citizens and systemize the deportation process. Still, the period from 1941 through 1986 is not characterized by an increase in administrative removals. The largest category of removal for the entire period is for those who ‘entered without inspection or by false statements,’ the ‘previously excluded or deported’ and those who ‘failed to comply with the conditions of non-immigrant status’.

Rather than deportations based on ‘immoral classes’ or ‘mental or physical defectives’, the vast amount of non-criminal removals during this period are visa violators and those who were previously deported. Also, non-criminal categories like those who are likely to become public charges as well as the ‘subversive/anarchist classes’ gradually fall out of use. Of note however, is that during the post-war period following the Bracero Program, the federal government coerced noncitizens to leave without formal deportation proceedings (Hernandez 2006; 2010). Through ‘Operation Wetback’ thousands of immigrants ‘voluntarily’ left the country and as a result these
numbers are not represented in formal deportation data. Also, after 1970 the foreign-born population of the United States increased rapidly due to large-scale immigration, primarily from Latin America and Asia.

• 1987-2012-The Rise of Criminal Immigration and the Decline of Judicial Discretion

As a watershed period for enforcement and deportation, the post-1987 era is known for its steep increase in punitive legislation including the wars on crime and drugs (Jacobs and Carmichael 2002). By this time, the deportation bureaucracy is already established. Like the previous era, removals are administrative and related to visa violations with the largest categories being for those who ‘entered without inspection or by false statements’, ‘the previously excluded or deported’ and ‘border removals.’ Signaling the rise in punitive laws like The Immigration Reform and Control Act (IRCA) and the Anti-Drug Abuse Act of 1988, this era contains two sets of categories with regards to narcotics: ‘criminal or narcotic violations’ as well as those ‘related to criminal or narcotic violations.’ From 2001-2012, criminal removals top the list of deportations while non-criminal removals remain administrative visa violations or border apprehensions. Also, with the creation of The Immigration and Customs Enforcement agency (ICE) in 2003, a new category of non-criminal removal is added: ‘other removable alien.’ These are non-citizens who are not confirmed to be criminals, border crossers or aliens who ‘fall under ICE’s civil enforcement category’ (U.S Customs and
Immigration Report 2014). This means that these immigrants can be removed for any non-criminal security grounds. 

With the decline in judicial discretion during this era and the retroactive application of aggravated felonies to include minor infractions like traffic violations or misdemeanors like shoplifting, this era has been characterized by its punitive approaches to immigration and its increased intersection with the criminal justice system (Freely and Simon 1992), sometimes known as ‘crimmigration’. Also, the categories of removal shrink considerably with ‘repeat immigration violators,’ ‘immigration fugitives’ and ‘border removals’ accounting for the largest amount of non-criminal deportations. To illustrate, Table 4.1 gives a complete list of non-criminal removals ranked from 1908 to 2012.

---

8 Since the September 11th 2001 terrorist attacks, ICE has largely used this category to arrest and remove non-citizens suspected of terrorist activity which potentially violates the security interests of the United States (Kobach 2004)
Table 4.1 Rank ordering of removals by reason and largest number of deportees 
(1=most deported)

<table>
<thead>
<tr>
<th>Decade</th>
<th>Rank</th>
<th>Administrative reason for Deportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1908-1910</td>
<td>1</td>
<td>Mental or Physical Defectives</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Entered without Inspection or by false statements</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Immoral Classes</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Likely to become a public charge</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Criminals</td>
</tr>
<tr>
<td>1911-1920</td>
<td>1</td>
<td>Likely to become a public charge</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Mental or Physical Defectives</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Immoral Classes</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Entered without Inspection or by false statements</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Criminals</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Unable to read (over 16 years)</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Subversive, Anarchist</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Previously Excluded or Deported</td>
</tr>
<tr>
<td>1921-1930</td>
<td>1</td>
<td>Entered without proper documents</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Likely to become a public charge</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Mental or Physical Defectives</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Criminals</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Unable to read (over 16 years)</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Remained Longer than authorized</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Entered without Inspection or by false statements</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Immoral Classes</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>Previously Excluded or Deported</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>Subversive, Anarchist</td>
</tr>
<tr>
<td></td>
<td>12</td>
<td>Violators of Narcotic Laws</td>
</tr>
<tr>
<td></td>
<td>13</td>
<td>Abandoned status of admission</td>
</tr>
<tr>
<td>1931-1940</td>
<td>1</td>
<td>Entered without proper documents</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Criminals</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Remained Longer than authorized</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Previously Excluded or Deported</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Unable to read (over 16 years)</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Mental or Physical Defectives</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Entered without inspection or by false statements</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Immoral Classes</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>10</td>
<td>Likely to become a public charge</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>Violators of Narcotic Laws</td>
</tr>
<tr>
<td></td>
<td>12</td>
<td>Subversive, Anarchist</td>
</tr>
<tr>
<td></td>
<td>13</td>
<td>Abandoned status of admission</td>
</tr>
</tbody>
</table>

*Note: Deportation statistics by administrative reason are not available prior to 1908*
From 1951, a new category ‘failed to comply with conditions of non-criminal status’ was added.
Table 4.1: Continued

<table>
<thead>
<tr>
<th>Decade</th>
<th>Rank</th>
<th>Administrative Reason for Deportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981-1990</td>
<td>1</td>
<td>Entered without Inspection or by false statements</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Criminal or narcotic violations</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Failed to comply with conditions of non-immigrant status</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Related to criminal or narcotic violations</td>
</tr>
<tr>
<td>1991-2000</td>
<td>1</td>
<td>Entry without proper documents or fraud</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Criminal</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Present without authorization</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Previously Excluded or Deported</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Failed to comply with conditions of non-immigrant status</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>Miscellaneous</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>Smuggling/aiding illegal entry</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Security</td>
</tr>
<tr>
<td>2001-2012</td>
<td>1</td>
<td>Criminal</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Repeat Immigration Violators</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Border Removals</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Immigration Fugitives</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Other Removable Aliens*</td>
</tr>
</tbody>
</table>

From 2001 to 2012, criminals become the top priority for removals according to the immigration Customs and Enforcement (ICE)

*Other Removable Alien: An individual who is not confirmed to be a convicted criminal, recent border crosser or fall under another ICE civil enforcement priority category. This category may include individuals removed on national security grounds or for general immigration violations

4. B. Results from Statistical Models:

- **Non-Criminal Deportation**

A characteristic of time series data which distinguishes it from cross-sectional data is that it has a temporal (time) ordering. Since the data vary over time, they are *detrended* by running regression models which include a time variable. Detrending is the mathematical or statistical operation of removing trends from the series. The goal is to help isolate the effect of predictor variables net of linear time (Wooldridge 2013). Table 4.2 shows regression coefficients for each of the eras in the study. Model 1 presents results from the first period between 1908 and 1940. In these early years which include
the Great Depression, there is a positive relationship between the unemployment rate and non-criminal deportation \((b=2.381; p<.05)\). The significant relationship supports Hypothesis 1 which states that the rate of deportation will increase as the unemployment rate rises. The correlation between the unemployment rate and non-criminal deportation suggests that the high levels of structural unemployment—especially during the Depression—had a positive effect on removals at the time. Figure 4.1 illustrates the non-criminal deportation and unemployment rate by year from 1908-1940. Note that the steep rise in unemployment coincides with the steep rise in deportation during this time.

In this model, there is also a positive association between having a Republican President in office and non-criminal removals. This correlation was expected because Republicans have often shown higher levels of support for punitive approaches to punishment than Democrats, and deportation conceptually overlaps with punishment (both sanction a violation of law). Further, the association supports the assertions of Hypothesis 2 which states that deportation rates will be higher when Republicans are in power rather than Democrats. Interestingly, this finding does not support Hypothesis 3, which states that the deportation rate will not show much variation between the political parties.

Model 2 reports non-criminal removals during and after the World War II years (1941-1986). During this time, the unemployment rate does not show a statistically significant correlation with non-criminal deportation, although the homicide rate is positively and strongly associated with non-criminal removals \((b=17.47; p<.05)\). This means that for every unit increase in the homicide per capita, non-criminal deportations are expected to increase by 17 per 100,000 foreign born in the country. While this era
illustrates a positive association between homicide and deportation, the post-IRCA years show a different pattern from 1987-2012.

Model 3 shows that the homicide rate has a significantly negative correlation with the non-criminal rate ($b=-42.55; p<.05$). Also the Model shows that the percent foreign-born has a significant negative relationship with non-criminal deportation—where every percent decrease in the foreign-born population decreases non-criminal deportations by more than 46 per 100,000 foreign born. This correlation refutes the assertions of Hypothesis 4 and the immigrant threat hypothesis which states that the number of deportations will increase as the size of the immigrant population increases. The results of the Model suggest that rather than increasing deportation, a large immigrant population reduces the rate of non-criminal deportation. Also, like Model 1, this Model also shows that having a Republican president in power—rather than a Democrat has a positive correlation on the non-criminal deportation rate ($b=58.48; p<.10$).
Table 4.2 OLS Regression Models of Non-Criminal Deportations on Predictor Variables

<table>
<thead>
<tr>
<th></th>
<th>Model 1 1908-1940</th>
<th>Model 2 1941-1986</th>
<th>Model 3 1987-2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td>10.36* (5.734)</td>
<td>-1.225 (1.388)</td>
<td>28.72* (5.776)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>2.381* (0.744)</td>
<td>-3.198 (5.342)</td>
<td>3.342 (12.40)</td>
</tr>
<tr>
<td>Homicide Rate</td>
<td>1.513 (6.255)</td>
<td>17.47* (7.046)</td>
<td>-42.55** (19.21)</td>
</tr>
<tr>
<td>Percent foreign born</td>
<td>50.57 (30.14)</td>
<td>-10.20 (9.466)</td>
<td>-45.86* (11.74)</td>
</tr>
<tr>
<td>Republican President (vs. Democratic President)</td>
<td>18.11* (7.495)</td>
<td>10.24 (18.27)</td>
<td>58.48* (32.13)</td>
</tr>
<tr>
<td>Constant</td>
<td>-20,546* (11,360)</td>
<td>2,481 (2,710)</td>
<td>-56,361* (11,574)</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.759</td>
<td>0.221</td>
<td>0.931</td>
</tr>
</tbody>
</table>

N | 33 | 46 | 26

Note: Standard errors in parentheses: * p<0.10, ** p<0.05, *** p<0.01.
Non-Criminal deportation is measured by the rate per 100,000 foreign born population.

For the period depicted in Model 3, the year variable is highly correlated with non-criminal deportations (r=.931). Using another method to detrend the data when collinearity is posed, I ran models using change-scores (difference in value measured at one time point from the value of the variable at a previous time point). From a comparison of the change-score models to the results of Model 3 (which detrends the data
using the year variable), there were changes in statistical significance though these did not alter the overall findings of the Model.

![Figure 4.1: The non-criminal deportation and unemployment rate by year (1908-1940)](image)

- **Public Opinion**

In Table 4.3, Model 1 shows regression coefficients for public opinion regressed on the level of immigration, while Model 2 shows coefficients for non-criminal deportation. Unlike Table 4.2, the Models in Table 4.3 are not separated by period for two reasons. First, unlike the consolidation of the enforcement bureaucracy, the public opinion is not necessarily conditioned by legal and bureaucratic changes. Second, the public opinion time series begins in 1964 and hence there are two few data points to analyze the second period in isolation. In Model 1, the homicide rate has a negative
correlation with public opinion about immigration (b=-1.27; p<.10) which means that for every additional decrease in homicide per capita, the opinion of the public on the level of immigration that should be permitted reduces by 1.27 units. Although the other variables in the Model are not statistically significant, I ran models that regressed the opinion variable on each predictor variable individually (only controlling for year). The only variable that is significantly associated with negative opinions about immigrants was the homicide rate, which was negatively correlated.

Model 2 shows reduced regression coefficients on non-criminal deportation for the post-IRCA years. Due to the small N value, some variables are omitted from the results presented. However, it is worth mentioning that these variables were not statistically significant in the Model. The results illustrate that the unemployment rate is positive and strongly correlated with non-criminal deportation (b=36.43; p<.05). This correlation supports the economic assertions of Hypothesis 1 which states that a high unemployment rate will be associated with an increased rate of non-criminal deportation. Also in Model 2, the homicide rate has a strong negative association with the non-criminal deportation rate. This means that for every additional decrease in homicides per capita, non-criminal deportations are expected to decrease by more than 57 per 100,000 foreign born in the country. This relationship is depicted in Figure 4.2 which illustrates that after 1996, there was a sharp decline in the homicide rate while non-criminal deportations steadily increased. Further, the public opinion variable in this Model is positively correlated with the non-criminal deportation rate (b=11.85; p<.05), indicating
that public opinion about immigration is important for understanding the enforcement of deportation law. Taken together, these findings support the assertions of Hypothesis 5 which state that deportation will increase as negative public opinion towards immigration increases. Moreover, these findings also support Hypothesis 6 which states that this relationship will be higher in the last era of the study. Thus, this relationship shows that negative public opinion strengthens along with the passage of the punitive laws of the last time period where immigration enforcement became a major issue to the electorate.
Table 4.3 OLS Regression Models of Public Opinion on Predictor Variables (Model 1) and Non-Criminal Deportations on Predictor Variables (Model 2)

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public opinion-level of immigration</td>
<td>Rate of Non-Criminal Deportation</td>
</tr>
<tr>
<td>Year</td>
<td>0.311 (0.219)</td>
<td>36.43** (8.571)</td>
</tr>
<tr>
<td>Unemployment Rate</td>
<td>-0.472 (0.604)</td>
<td>-56.82*** (8.281)</td>
</tr>
<tr>
<td>Homicide Rate</td>
<td>-1.266** (0.638)</td>
<td>-56.82*** (8.281)</td>
</tr>
<tr>
<td>Percent foreign born</td>
<td>-1.645 (1.188)</td>
<td></td>
</tr>
<tr>
<td>Republican President</td>
<td>2.816 (1.889)</td>
<td></td>
</tr>
<tr>
<td>Post-1986 year</td>
<td></td>
<td>104.9*** (29.50)</td>
</tr>
<tr>
<td>Public opinion-level of immigration</td>
<td></td>
<td>11.85*** (2.308)</td>
</tr>
<tr>
<td>Constant</td>
<td>-550.7 (423.6)</td>
<td>-103.0 (143.4)</td>
</tr>
<tr>
<td>R-squared</td>
<td>0.158 (423.6)</td>
<td>0.780 (143.4)</td>
</tr>
<tr>
<td>N</td>
<td>48</td>
<td>48</td>
</tr>
</tbody>
</table>

Note: Standard errors in parentheses: * p<0.10, ** p<0.05, *** p<0.01.
Public Opinion is measured by an index which asks respondents about immigration levels.
Non-Criminal deportation is measured by the rate per 100,000 foreign born population.
4. C. Chapter Conclusion

The results presented in this chapter depict the changing nature of non-criminal deportation during the last century. The descriptive portrait shows that in the early years of immigration enforcement, the categories of removal were vaguely defined to include the ‘immoral classes’, those ‘likely to become public charges’ and those who were ‘mentally or physically defective.’ As the enforcement bureaucracy grows around mid-century, removal categories expand to include visa violations, such as being ‘present without authorization,’ ‘entered without proper documents’ and ‘repeat immigration violators.’ With regards to the statistical results, Table 4.2—Model 1 illustrates that during the early years of the century, unemployment was significantly associated with the
non-criminal deportation rate. While the unemployment rate is not statistically correlated with non-criminal removals in the subsequent periods of this Table, Model 2 in Table 4.3 suggests that the unemployment rate had a positive correlation with non-criminal deportation. Likewise, the results presented in this chapter indicate that having a Republican rather than a Democratic president has a significant effect on the non-criminal deportation rate. This relationship is strong and positive and holds for all of the eras except for the period between 1941 and 1986 in Table 4.2. For the homicide rate, it has a negative association with the rate of non-criminal deportation in Model 3—Table 4.2 as well as Model 2—Table 4.3 which both include the post-IRCA years. Also, from Model 1—Table 4.3, the homicide rate shows a negative correlation with public opinion. With regards to the relationship between public opinion and the rate of non-criminal deportation, the relationship is positive and significant indicating that public opinion seems to have an effect on non-criminal deportation rates when all other variables are held constant. All things considered, the analyses presented in this chapter provide an understanding of the nature of non-criminal deportation and how it evolved—along with the growth of the enforcement bureaucracy during the last century. Further, the statistical analyses illustrate the effects that macro level economic, political and social forces played in shaping the rate of non-criminal deportation. Thus, the analyses provide a better picture of non-criminal deportation and what it means for contemporary immigration enforcement policy.
CHAPTER 5: CONCLUSION

- **Descriptive Portrait**

As the only study to date which addresses the macro-level determinants of non-criminal deportation, the analyses presented in this dissertation provide a descriptive portrait of removals and illustrate how the categories of exclusion changed over the last century. The analyses show that administrative reasons for deportation have been highly variable. Removals in the early years focused on the ‘morality’ of foreigners, their physical dispositions and whether they were likely to become dependent on the state as public charges. Consistent with prior research, removals during this time indicate a national desire for an able-bodied labor force that could contribute to the growing economy (Kanstroom 2007; Fairchild 2006). During the industrial era at the turn of the century, it was apparently seen as necessary to remove immigrants who could potentially become economic liabilities by becoming public charges. After the transfer of the Immigration and Naturalization Service (INS) to the Department of Justice in 1940, deportations are noticeably more administrative and concerned with visa infractions, violators of non-immigrant status and those who remained longer than authorized. Consistent with Kanstroom (2007), removals during the post-World War II era illustrate
the consolidation of the enforcement bureaucracy as well as the expansion of the powers of the state for post-entry deportation.

By the 1980s, visa violators remained the most deported category and in the post-IRCA years, deportation for criminal and narcotic violations increased as well. Given the passage of laws like the Anti-Drug Abuse Act of 1988 and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 which expanded the list of crimes regarded as aggravated felonies (and allowed them to be applied retroactively) to include minor drug infractions and misdemeanors like speeding; removals during this time are concurrent with the punitive changes that characterize the era, one that Garland (2001) refers to as a culture of control. They are also concurrent with the decline in judicial discretion which gives judges the power to review deportation hearings on a case by case basis. With the creation of Immigration and Customs Enforcement (ICE) in 2003 after the increased budget on enforcement following the September 11th attacks, new categories of removal are added such as border removals, immigration fugitives and other removable aliens—who are non-citizens who can be removed for any administrative reason that is not criminal. These changes further signify a hardening of enforcement and the continued expansion of the state’s post-entry social controls. From the descriptive portrait, the dissertation illustrates that the consolidation of the immigration bureaucracy coincides with the shift from vague categories of removal like immorality or being mentally or physically defective to more concrete administrative categories that deal with visa violations and failure to comply with the conditions of post entry.
Statistical Analyses

Building on the descriptive portrait, the dissertation also includes statistical models which evaluate the impact of economic, social and political forces on deportations classified as non-criminal by the federal government. Unemployment is positively correlated with non-criminal deportation during the early years of enforcement (1908-1940). This positive association during the early part of the century is consistent with the Marxist explanation of punishment advanced by Rusche and Kircheimer (1939/2003) which asserts that the state’s desire to punish increases when the economy contracts or experiences a downturn. In order to protect itself from the excesses of overproduction, the state seeks to minimize surplus labor when it is no longer needed. This time period is notable because it coincides with the Great Depression of 1929 which plunged the economy into a financial crisis and hastened the removal of the ‘industrial reserve army of immigrant labor’ which was seen as an economic liability by the American public. What is interesting is that the association between the unemployment rate and deportation is not statistically significant in the subsequent eras. This is possibly due to the absence of large scale economic shocks like the Great Depression. It is likely that after the economy stabilized, so did the desire to deport non-criminal immigrants. Although the latter half of the 20th century had periods of economic instability such as the recessions of the early 1980s and 1990s, they were not on the same scale as the Depression. While my data do cover the years between 2007 and 2009 which capture the subprime mortgage crisis, unemployment—although positive is not statistically significant possibly because not enough time has elapsed to truly capture its effects. With more data points, future
research can parse out if noncriminal deportation during this time has a statistically significant relationship with unemployment that is on par with the Depression.

With regards to the partisanship, the results largely affirm the suggestions of Jacobs and Carmichael (2002) and Jacobs and Helms (1996; 2001) that Republicans are more likely to advocate for punitive approaches to punishment than their Democratic rivals. Liberal politicians have generally sought to expand welfare programs since they believe that these offer a humane way of dealing with social inequality as well as crime. In contrast, conservative politicians stress the individuality of crime and seek to punish criminals for personal choices since they claim that welfare programs coddle individual offenders and encourage a culture of dependency and predation (Parenti 2000). On immigration, conservative Republicans oppose the presence of foreigners since they believe that it expands the welfare state, dilutes American culture and encourages immigrant criminality (Huntington 2004).

Since the executive branch sets priorities which often reflect the sentiment of the ruling party, the statistical findings in this dissertation support the notion that when a Republican President is in power, non-criminal deportations are more likely to increase than when there is a Democrat in office. These findings are significant in all eras except the period from 1941 to 1986 (where the coefficient is positive but not statistically significant). Criminologist note that this was a period of general agreement and compromise on criminal justice issues (Garland 2001), and perhaps during this time of modest immigration there was general agreement across party lines on immigration enforcement as well.
For the percent foreign-born, the analyses illustrate a negative relationship with the rate of noncriminal deportation. Although this relationship is only significant and negative in the years between 1987 and 2012, it is not at all consistent with Blalock’s (1967) threat theory. According to this theory, the dominant group seeks to maintain its advantageous position by ensuring that subordinate groups do not gain access to power. Given that existing research states that the native population often resents the economic threats posed by immigrants and frequently advocates for punitive enforcement due to perceived immigrant criminality, the findings in this study suggest that a large foreign born population does not necessarily lead to an increase in deportation, at least not when measuring deportations per foreign born. Further, given that the year variable was so highly collinear with non-criminal deportations ($r=0.931$) in Model 3 of Table 4.2, estimating any effect independently of time is difficult. But to be clear, the analysis found no support for the threat thesis.

The association between deportation and the homicide rate is less straightforward and does not show stable patterns over the observation period. For instance, during the 1941 and 1986 era, which was notable for its stability in the realm of immigration policy, the homicide rate shows a significant and positive correlation with the non-criminal deportation rate. However, in the post 1986 era—noteable for its rise in punitive enforcement from the wars on drugs and crime, it is negatively associated with the rate of non-criminal deportation. I am careful not to read deeply into this negative correlation, and I speculate here as to how we might explain the association between crime and deportation. One possibility is that affects deportation in much the same way that it
affects punishment. For much of the 20th century the homicide rate moved in sync with incarceration rates. However, as crime became a salient political issue in the 1980s and highly punitive laws were passed at the federal and state levels, the incarceration rate became divorced from the crime rate; the former went up regardless of the latter. I suggest a similar pattern is at play for deportation. As immigrants were linked with crime in the press and in public opinion, deportation laws became more rigid and punitive as well. Indeed, in many cases the same criminal laws that helped fuel mass incarceration also included deportation provisions (e.g., the 1996 Effective Death Penalty Law). Once these laws were on the books, deportation skyrocketed and was unhinged from sociological factors that previously had been correlated with deporting non-citizens. This explanation is speculative, but the empirical finding is clear: the homicide rate is not related to non-criminal deportation in any consistent way.

On this theme of changes in law, it is noteworthy that non-criminal removals increased sharply after 1996. This is notable due to the increase in punitive laws passed in the 1990s including the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Taken together, the AEDPA and the IIRIRA greatly increased the list of crimes that constituted ‘aggravated felonies’ and almost eliminated judicial review as a rule of immigration law (Kanstroom 2007; Cook 2003). While research on criminal deportation by King, Massoglia and Uggen (2012) suggests that after 1986, criminal deportation rates increased significantly—especially after the passage of laws like the IRCA and the Alien Criminal Apprehension Program (ACAP), this study finds that non-criminal deportation
rates increased a decade later in the 1990s. Figure 5.1 depicts non-criminal deportation for the entire period under study and the data show that non-criminal removals increased considerably after 1996. Passed under a Democratic president with bi-partisan support from a Republican Congress, IIRIRA and the AEDPA signified the government’s hardening stance on immigration. In particular, with the passage of laws like Proposition 187 in California and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which restricted the provision of many federal, state and local public services to immigrants, the sentiment was that the U.S a had become a welfare magnet for undocumented aliens who accessed social services and posed an unfair economic threat to American citizens. Thus, it is likely that these laws had a significant effect on the vast increase in non-criminal deportation which characterized the late 1990s and continued into 2012.

Figure 5.1 Non-criminal removals from 1908-2012
For the effect of public opinion on non-criminal deportation rates, the relationship is positive and significant for the post-1964 period which was when data were available. Research in criminal justice frequently reflects that federal budgets and the stringency of enforcement are highly responsive to public opinion and sentiment (Jacobs and Carmichael 2001; Burstein 2003). Measuring the public’s support for being tough on crime, Enns (2014) and Nicholson-Crotty, Peterson and Ramirez (2009) find that a positive relationship exists between the public’s punitiveness and the behavior of policy makers. For this study, it is important to note that this is a time which coincides with the wars on drugs, crime and terror. With the increased legislative activity following the IRCA bill (which came into effect in 1987), the Anti-Drug Abuse Act of 1988, the Illegal Immigration Reform and Responsibility Act of 1996 (in response to the Oklahoma City bombings) and the PATRIOT Act of 2001 (passed in response to the September 11th bombings), immigration remained at the forefront of politics and the public discourse. Therefore, it is not surprising that the public had strong opinions about the levels of immigration during this period. Combined with the increasing criminalization of immigrants, was the notion that the United States needed to reduce immigration levels and enforce harsher restrictions as a matter of national security (Johnson and Trujillo 2006). Thus, the opinion of the public on immigration reaffirms the notion that public sentiment has a powerful impact of enforcement policy. As the steep rise in legislation depicts, it is likely that increased public sentiment on immigration led to an expanded
budget on enforcement and an increase in the rate of non-criminal deportation during this time.

**Conclusion & Directions for Future Research**

In light of the vast increases in non-criminal deportation, this dissertation brings an understanding of the macro-level determinants driving this state sanctioned disciplinary tactic to fore. The analyses trace the historical contours of deportation and evaluate the possible implications for contemporary enforcement policy. The research has shown that: (1) Unlike criminal deportation which increased following the passage of punitive laws like the IRCA and ACAP in the 1980s, non-criminal deportation steeply increased in the 1990s following the passage of punitive laws like the IIRIRA and AEDPA which significantly reduced judicial review. (2) The unemployment rate is strongly correlated with non-criminal deportation during the 1908-1940 periods which coincides with the Great Depression. Though the unemployment rate is not significant in the post-Depression era, it is likely that after the economy stabilized, so did the need to deport non-criminal immigrants (3) Keeping with prior research which suggests that Republicans are more likely to advocate punitive approaches to punishment than Democrats, this study finds that non-criminal deportation rates are more likely to increase under a Republican President than a Democratic incumbent. (4) The categories of removal evolved with the entrenchment of the immigration bureaucracy. From the vague categories concerned with the ‘immorality’ and mental or physical defectiveness of immigrants in the early years, to more administrative post-entry removals dealing with
visa violations, enforcement changed as the immigration bureaucracy grew in the latter half of the 20th century. (5) Unlike the assertions of Blalock’s (1967) threat theory, a large foreign-born population does not appear to pose an ‘immigrant threat’ with regards to non-criminal deportations. (6) Lastly, keeping with prior research on the importance of public opinion, it appears to have a significant impact on non-criminal removals in this study.

While the results of the study are noteworthy, it is also important to acknowledge its limitations and suggest directions for future research. For instance: Due to the nature of the data from the Policy Agenda’s Project (which was aggregated from various surveys which asked respondents how satisfied they were about the levels of immigration), data are not reported for every year in the study. In order to compensate for the survey years that do not ask this question, the data are interpolated for this variable. Since the data do not cover the entire observation period (from 1908-2012), I had to run reduced regression models which only evaluated the period between 1964 and 2012. The Policy Agenda’s Project provides an aggregate of public opinion; however it would have been interesting to see—with a series of dummy variables how the public felt exactly. I.e. did they want immigration to be reduced or decreased or kept at its present levels? Research can consider this when considering the role of the public on immigration with regards to deportation or enforcement policy. Another limitation of the study which future research can address is the retroactive classification of non-criminals as criminals for deportation purposes—i.e. as a result of the aggravated felony label. Due to the nature of the study, I cannot parse out how many misdemeanor offenses which were previously considered
non-criminal are now retroactively classified as felonies. With the decline in judicial discretion, the classification and reclassification of the aggravated felony label is pertinent. In this vein, future research can also evaluate how non-citizens—those charged with criminal or non-criminal offenses are treated in pre-trial custody as well as the immigration courts as they await decisions on deportation rulings. With more years/data points, future research can evaluate if the effects of the subprime mortgage crisis mirror those of the Great Depression. Does the unemployment rate have a statistically significant relationship with non-criminal removals?

Mindful of these limitations, this study has provided the first empirical analysis of the determinants of non-criminal deportation and highlighted how the evolution of the enforcement bureaucracy changed the categories of removal from 1908 to 2012. Much like the work of Kanstroom (2007), this study documents and explains historical variations in non-criminal deportations. Given the rise of post-entry social controls in the latter half of the century, future research can look closely at the evolving nature of the ‘non-criminal label’ and what this means for deportation policy. With the centrality of immigration to American politics, culture and the economy the reasons for the banishment of immigrants needs to be addressed since it is from this that we can get a better understanding of current forms of expulsion as well a better understanding of future changes to immigration policy.
REFERENCES


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