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The Undocumented Threat:
Beliefs, Policy Preferences, and the Politics of Immigration

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Abstract

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I examine the causes for the increasing convergence between immigration and criminal law, known as crimmigration, and its consequences for public opinion. Drawing on theories of path dependence I argue that this convergence began in the 1920s as hostility towards Mexican immigrants increased, culminating in S. 5094 that declared undocumented reentry a felony. This initial act of criminalization redefined undocumented Mexican immigration as both a problem and a criminal violation, while at the same time creating learning effects and positive feedback loops that made changing direction difficult. I trace the immigrant-as-criminal narrative through Congressional debate on the Johnson-Reed Act, S. 5094, IRCA and IIRIRA. I argue IRCA represented a critical policy failure (CPF) and a missed opportunity to turn away from criminalization, instead leading to a regression to the policies of the past, which were reborn in IIRIRA. Having shown how entrenched the immigrant-as-criminal narrative has become in

Congressional debate and policymaking I next examine public opinion on immigrant criminality. Drawing on two national polls on immigration attitudes, I show that beliefs in the immigrant-as-criminal narrative are common in the American public and that media consumption plays a unique role in influencing public opinion on criminal threat. Finally, I assess the consequences that a belief in the immigrant-as-criminal narrative has for policy preferences regarding the treatment of undocumented immigrants. I find that perceptions of criminality do in fact play a role in determining policy preferences, with those agreeing that undocumented immigrants are criminals being more likely to support deportation and felony charges. The implications of these findings for attempts at comprehensive immigration reform are then discussed.

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Dedication

This is dedicated to my mother, Frances Marie O'Brien, who believed in me even during my darkest moments. This is hers as much as it is mine and I wish she was here to share it with me.

I did it mom, I did it.

Thank you.

“I’m not a...criminal. I just want to work.”

-An undocumented immigrant deported under Arizona’s Operation Streamline (Lemons 2010)

“We are a nation of laws. And they are coming across our border illegally. And the majority of them in my opinion and I think in the opinion of law enforcement is that they are not coming here to work. They are coming here and they’re bringing drugs. And they’re doing drop houses and they’re extorting people and they’re terrorizing the families...That is the truth”

-Arizona Governor Jan Brewer defending Arizona’s SB1070 during a primary election debate in 2010 (Nill 2010)

These two quotes nicely exemplify the contradictions of undocumented immigration in the United States. On the one hand, US employers have depended on Mexican laborers since at least the end of the 19th century, as immigration restrictions first brought an end to Chinese immigration and later to immigration from most of Asia, as well as reductions in Southern and Eastern European immigration. On the other hand, Mexican immigrants have also been the target of nativist and racist campaigns that have painted them alternately as economic threats because of the cheap labor they provided, cultural threats because of existing Latino communities in the United States and a feeling Mexican immigrants did not assimilate, and a suspicion that undocumented immigrants were predisposed to criminality.

This latter threat frame has been used in justifying some of the most restrictive immigration measures, including Proposition 187 in California, which denied government services and education to undocumented immigrants, and Arizona’s SB 1070, which allowed police officers to ask those they suspected of being undocumented for proof of citizenship. Many of Arizona Governor Jan Brewer’s justifications of SB 1070 relied on lurid stories of Mexican

immigrants trafficking drugs, kidnapping, and murdering American citizens (Milbank 2010).

However, there is also a very basic frustration with our system of immigration in the United States. Many Americans acknowledge the necessity of Mexican labor to the US economy but there seems to be a basic lack of control over how these workers come to this country. Different attempts have been made to address this, first through the Bracero Program in 1944 and later through the guest worker program set up under the Immigration Reform and Control Act (IRCA) of 1986. However, these have all failed to significantly reduce the flow of undocumented immigration. This frustration interacts easily with a longstanding American suspicion of the foreign born that traces its roots all the way back to the founding of the country (Higham 1963). The foreign born were always suspected of somehow being different, or inferior, and were thusly demonized. Before Mexican immigrants there were the Irish and Italians, who faced stereotypes of being drunks, rabble-rousers, and criminals. Yet these groups though would all eventually become accepted as White and hostility would wane as a result.

Despite the legal categorization of Latinos (and Mexicans) specifically as Caucasian and thus White, their difference in skin color was a barrier not faced by earlier generations of immigrants. While they may have been a “lesser form of Whiteness”, these earlier immigrants were, eventually, accepted as White and saw nativism directed at them lessen, at least in part as a result. Mexican immigrants have seen this suspicion endure though. The formal criminalization of undocumented immigration in 1929, which was the culmination of a period of increasingly hostile administrative actions, offered a confirmation of the historical connection between criminality and the foreign born, with Mexicans becoming, in the words of Mae Ngai, the “iconic illegal immigrants”. As a result of US immigration policy, Mexican immigrants were became inextricably linked to criminality. Yet to date there is little research on the historical roots of the

convergence of immigration and criminal law, what Juliet Stumpf has labeled “cimmigration”, nor the effects that perceptions of criminality have for policy preferences. This dissertation is a start towards filling that hole in the literature.

The first step in this to determine when exactly the legal treatment of undocumented immigrants and the rhetoric of immigrant criminality began to converge. I argue that the roots of this can be traced back to the early years of the 20th century, when immigration restriction was at its height and hardening notions of sovereignty led to perceptions that there was a “Mexican problem”. Drawing on the path dependence literature, I argue that this set Congress on a course that made bills like the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 much more likely because the long history of thinking of undocumented immigration as a crime made the obvious solution one that treated it as such. I also argue that this linkage in the mind of many legislators between immigration and crime helped doom attempts at changing course. When IRCA failed to “solve” undocumented immigration, the response was to go back to the same policies that the US has used for the 57 years between the initial criminalization in 1929 and the passage of IRCA: more deterrence, more Border Patrol, more border militarization. IRCA represented what I term a “critical policy failure”, a policy that attempts a significant shift in approach to a particular policy area but in its shortcomings instead creates a boomerang effect that results in regression to and reinforcement of the previously existing path.

Yet just examining the legislative history of the criminalization of undocumented immigration tells us little about what effect this actually has on the American voter. To that end I also examine what predicts a belief in immigrant criminality for the members of the American public and the effect that this has on policy preferences. I test three very specific criminality frames in order to determine which of them resonates the most with the American people. Do

they tend to believe that crossing is a crime and therefore undocumented immigrants are criminals? What about the effect of the undocumented immigrant population on neighborhood crime rates? Are members of the public convinced that undocumented immigrants are involved with drugs or gangs? These questions have not been asked before in public opinion surveys and we thus know very little about perceptions of criminality. Do they increase support for deportation and/or decrease support for a path to citizenship? What effect do they have on other potential policies such as a guest worker program or employer penalties?

Ultimately, the goals of this dissertation are to explore the claims and perceptions of immigrant criminality in American politics and public opinion. I analyze the reasons behind increasing criminalization at the institutional level and the role that perceptions of immigrant criminality play in American public opinion. My central argument is not that institutional claims have *created* the perceptions of criminality held by the American public, but instead that institutional claims of criminality and acts of criminalization exacerbate tendencies toward nativism, and often underlying racism, in the American public and frames the discussion of undocumented immigration in terms of crime control.

I also argue that the criminalization of Mexican immigration is unique, despite the earlier rhetoric of criminality targeting the Irish, Italians, Chinese and a host of other national groups. The criminalization of Mexican immigration is unique amongst these cases because it was undocumented Mexican immigration that led to the first formal linkage of the rhetoric of criminality and the treatment of immigrants as criminals in 1929, which was not the case for any of the other national groups previously demonized. Undocumented Mexican immigrants have been both rhetorically and *legally* criminalized since 1929, a span of 85 years as of the writing of this dissertation. While other national groups have been stereotyped as having tendencies

towards criminality, it is Mexicans alone that have seen this rhetorical linkage formalized in their legal treatment in the United States.

In the pages that follow I examine the legislative history of policy on undocumented immigration, as well as the rhetoric that is associated with it. I begin in Chapter 1 by laying out the theoretical framework under which the history and impact of crimmigration will be considered. Drawing on theories of path dependence and punctuated equilibrium, I discuss the relevance of increasing administrative action beginning in 1924 and the passage of S. 5094 in 1929 in setting the US on a path that would see, in the 1990s, the legal linkages between immigration and crime become fully developed. I then turn to the literature on group threat and public opinion as a basis for my argument that perceptions of criminality are common amongst the American public and that these have a significant impact on policy preferences for all Americans, regardless of race.

In Chapter 2 I analyze the Congressional debate on the Johnson-Reed Act and S. 5094, arguing that the passage of the latter represented the culmination of increasing administrative actions aimed at Mexican immigration that began in 1924. I also argue that this piece of legislation marked the beginning of the convergence between immigration and criminal law that scholars today refer to as crimmigration. Further, I show that the rhetoric on Mexican immigration during this time when Mexican immigration was first being considered by the US Congress differs little from the current rhetoric, providing further evidence that if we want to find the roots of crimmigration we must look all the way back to the 1920s. Many of the threat frames associated with Mexican immigration today, including the criminal threat frame, were present in these early Congressional debates and that S. 5094 gave legal weight to nativist and racist perceptions of criminality.

Chapter 3 moves from 1929 to the 1980s and 1990s with an analysis of the Congressional debate on both IRCA and IIRIRA. In the case of IRCA, I find that the criminality frame was downplayed, especially in the Senate, while the economic contributions of undocumented immigrants were emphasized in a way they had not been in debate on Johnson-Reed or S. 5094. I argue that a number of factors led to a moment of punctuated equilibrium in the mid-1980s that opened a space for a shift in policy away from the path of criminalization that had dominated the US response to undocumented immigration up to that point. Yet, IRCA also carried a heavy burden and its shortcomings were used as a repudiation of more liberal policies on immigration by the 1990s. It represented a critical policy failure in US immigration policy, a failure so massive that it resulted in a return to the previously existing policy regime of crimmigration and a reinforcement of this regime, as is reflected in the passage of IIRIRA in 1996. The rhetoric of criminality was also a focus in the debate on IIRIRA in a way it had not been in any of the other pieces of legislation I examined. I argue that the failure of IRCA and passage of IIRIRA led to a return to the previous policy monopoly on undocumented immigration, where this was constructed as a criminal violation and immigrants scapegoated as criminals.

In Chapter 4 I turn from a consideration of path dependence, policy and elite rhetoric to a functional examination of beliefs in immigrant criminality amongst the American public. As mentioned earlier, there have been no studies to date that have examined perceptions of immigrant criminality, with most past studies instead focusing on the economic and cultural threat frames. Two public opinion surveys containing questions on immigrant criminality are drawn on for analysis. In both cases the questions on immigrant criminality were written specifically for this dissertation and both surveys contained an oversample of African-Americans, allowing me to examine differences between Whites and Blacks both on agreement and in terms

of predictors. I find that perceptions of criminality are uniquely associated with patterns of media consumption and that the predictors for each individual frame differ from one another and argue that this shows that the media plays a central role in perpetuating perceptions of immigrant criminality.

Finally, in Chapter 5 I examine the effect of these threat perceptions on policy preferences. Once again, this is a new area of enquiry, as there has been little research on beliefs of criminal threat, though the economic and cultural frames have been examined in the past as was discussed earlier in this chapter. There are also few studies that examine both Black and White policy preferences on undocumented immigration. I find that a belief that crossing is a crime is associated with increases amongst Whites for deportation and felony charges, while it is a perception that immigrants increase neighborhood crime rates that drives up preferences for deportation amongst Blacks.

The findings presented in this dissertation underline how difficult comprehensive immigration reform will likely be and that lawmakers seeking a new solutions face an uphill battle, as path dependence ensures that any deviation from criminalization will likely entail significant political costs and the critical failure of IRCA has delegitimized some of the more liberal approaches to undocumented immigration. Theoretically it could be said that immigration has not only converged with criminal law but also that it now faces many of the same difficulties found in any attempts to shift away from punishment in the treatment of crime (Simon 1997). As I show in the pages that follow, the rhetoric of criminality and the legal treatment of undocumented immigrants as criminals has been a part of immigration policy since Mexican immigration was first considered. I argue that the modern history of IRCA and IIRIRA further show how difficult a shift in elite discourse and in the legal treatment of undocumented immigrants will be, especially as there is public support for both the perception and treatment of undocumented immigrants as criminals.

CHAPTER 1: Considering Crimmigration

While notions of immigrant criminality can be traced back to the nation's founding there has been an increasing convergence of crime and immigration in American law, which legal scholar Juliet Stumpf has labeled the “crimmigration crisis” (Stumpf 2006). Increasing criminal penalties for undocumented entry have resulted in Latinos becoming the largest percentage of sentenced federal offenders at 40 percent, more than three times their percentage of the US population (Pew Hispanic Center 2009). Arizona's SB 1070, and similar laws that passed in Georgia, South Carolina and Alabama furthered these linkages between crime and immigration by requiring enforcement by police of what is an administrative violation¹. Though the Supreme Court declared this to be unconstitutional for routine traffic stops, the rhetoric that surrounded SB 1070 and the high levels of public support suggested that many Americans were and are comfortable with the treatment of undocumented immigration as a criminal offense. In 2010 when SB 1070 was passed, 64 percent of Americans supported the law, though this dipped to 58 percent by 2012 (Pew 2012).

SB 1070 is not alone in furthering the convergence between immigration policy and crime control. The increasing use of large scale workplace and residential raids by Immigration and Customs Enforcement (ICE) similarly blends together the tactics of criminal law enforcement with the administration of immigration policy. Despite promises of immigration reform and a focus on undocumented immigrants with criminal records, deportations of undocumented workers have soared under the Obama administration, leading the National Council of La Raza to label Barack Obama the “deporter-in-chief” (Epstein 2014). The recent border crisis of Central American children has helped keep undocumented immigration in the

¹ Georgia passed HB 87, South Carolina SB 20, and Alabama HB 56 on the heels of the passage of SB 1070.

spotlight, with Governor Rick Perry of Texas deploying 1000 Texas National Guard troops to “secure” the border against undocumented children (Fernandez & Shear 2014).

Mexican Immigration, Criminality, and the Evolution of Immigration Policy 1848-1929

Despite being the “iconic illegal aliens”, Mexican immigration to the United States has a long history and for a significant period of this history was unregulated. At the conclusion of the Mexican-American War (1846-1848), Mexico ceded what is now the Southwest to the United States and former Mexican nationals who did not want to relocate to Mexican territory were allowed to naturalize as US citizens. No restrictions were placed on Mexican immigration and Mexican labor played a significant role in the development of the Southwest (Hernandez 2010; Tichenor 2002). By the 1920s the Southwest had become one of the nation’s most valuable agricultural regions and with approximately 31 million acres of crops a large workforce was necessary to meet labor demands (Hernandez 2010, pg. 23). At the same time, the access of Southwestern agribusiness to other labor sources during the late 19th and early 20th century was cut off. Chinese, Japanese and Filipino labor was restricted through the Chinese Exclusion Act (1882), the Gentleman’s Agreement between the US and Japan (1907), and the Asiatic Barred Zone (1917). This meant that by the 1920s Mexicans had become a majority of the Southwestern labor force (Ibid, pg. 25). Mexican laborers regularly crossed back and forth between the two countries to work while restrictionists focused their energies on European immigration and for the most part ignored them.

There was little change in the first decade of the 20th century. Mexican labor continued to move freely across the border, while attempts at restriction of European immigration largely fell flat between 1900 and 1910. Mexican immigration during this time received little, if any,

attention from federal lawmakers. The unrestricted crossing of Mexican immigrants was not seen as a criminal act, even if after 1917 it was technically an administrative violation to cross into the US at any location other than a designated border crossing (Ngai 2004). Even immigration inspectors during this time ignored Mexican laborers who were coming to work in the US and the Immigration Bureau did not even consider Mexican immigration to be within its purview, but instead saw it as regulated by labor demands in border states (Ngai 2004, pg. 64). Mexicans were seen as a valuable source of labor not only for their proximity but also because they were seen as less threatening than other foreign workers (Kanstroom 2007, pg. 156). An article from the *New York Times* in 1920 nicely sums up the view of Mexican immigrants during the period, quoting Vernon McCombs, a Superintendent of the United-Methodist Latin America Missions in Southern California as stating, “They hold fine possibilities of citizenship, being sturdy, independent and filled with racial pride. To the best of my belief, there isn’t a Mexican tramp in the United States. But despite their good qualities, they are, we must remember, illiterate and grossly misinformed about the United States” (Breitigam 1920, XX6). Perceptions of Mexican immigrants contained a good deal of racial paternalism but there were few perceptions of threat, at least while Mexican labor remained a necessity and more appealing than laborers from Southern or Eastern European countries, who not only were seen as being of inferior stock but also as potential political agitators and troublemakers (Tichenor 2002).

In 1917, the first major immigration act of the 20th century was passed, requiring all immigrants to pay a head tax and to submit to a literacy test. Both of these requirements were targeted not at Mexican immigrants, but instead at immigrants from Southern and Eastern Europe (Jacobson 1998). Initially, Mexican immigrants were subject to both the head tax and the literacy test but during World War I were exempted from both in order to facilitate US access to

Mexican labor (Tichenor 2002, pg. 142). Mexican laborers poured into the Southwest during this time, and even bars on “contract” labor were eased (Kanstroom 2007, pg. 156). After the war these exemptions were removed and Mexicans were required to apply for US admission at a valid point of entry, though there was still little regulation of the southern border, which remained unpatrolled until the formation of the Border Patrol in 1924 (Ngai 2004, pg. 64).

The formation of the Border Patrol and the passage of the Johnson-Reed Act of 1924 represented a significant victory for restrictionists in Congress, who had long argued for greater regulation of immigration, as well as more concrete methods for reducing the flow of immigration from Southern and Eastern Europe. The Johnson-Reed Act set quotas for immigration at two percent of the total number of individuals of a given nationality residing in the US based on the 1890 Census, though the Western Hemisphere was exempt from these quotas. This significantly reduced immigration from the “undesirable” countries of Europe and immigration as a whole. As a result of Johnson-Reed, European immigration was reduced from 364,339 in 1924 to 148,366 in 1925 (Ngai 2004).

During the 1920s nativist calls to restrict Mexican immigration also began to grow despite the lack of quotas, with a spike in scholarly articles on the subject of the “Mexican Problem” from nineteen between 1910 and 1920 to fifty-one between 1920 and 1930 based on *The Reader’s Guide to Periodical Literature* (Nevins 2010, pg. 105). In the past, Mexican immigration had avoided the quota for a number of reasons. Firstly, because of the value of Mexican labor to American industry, many Republicans and Southern Democrats opposed any serious restriction of Mexican immigration. In addition, business interests in the Southwestern United States lobbied hard to preserve access to Mexican labor, often testifying before Senate and House committees on the necessity of Mexican labor (Tichenor 2002; Hernandez 2010). A

desire for friendly relations with Mexico also played a role, as the imposition of quotas was seen as a potential refutation of notions of Pan-Americanism (Tichenor 2002). Finally, it was impossible to patrol the entirety of the US-Mexico border, particularly with a relatively small and undertrained Border Patrol, which would make any quota difficult to enforce. Despite these factors there were calls to restrict Mexican immigration during the floor debate on the Johnson-Reed Act which presaged the later problematizing of undocumented immigration as a criminal violation and marked the beginning of a new period in the history of undocumented immigration. The formation of the Border Patrol and the passage of Johnson-Reed also marked the beginning of increased hostility to Mexican immigration and the use of administrative actions to attempt and reduce it, culminating in the passage of S. 5094 in 1929.

Senate Bill 5094, also called the Undesirable Aliens Act, for the first time added criminal penalties to deportation for undocumented immigration and was the culmination of increasing hostility to Mexican immigration throughout the 1920s. After the passage of S. 5094, undocumented entry was a misdemeanor, punishable by up to a \$1,000 fine and one year in prison, while reentry after deportation was a felony, carrying a maximum \$1,000 fine and two years in prison while also making the immigrant in question ineligible to legally immigrate to the United States in the future. I argue that it was this bill that set the United States on a path that would eventually see an increasing convergence between immigration and criminal law, or crimmigration.

Path Dependence, Critical Policy Failures, and the Legacy of S. 5094

In *Logics of History* William H. Sewell Jr. details the significance of time in the study of social transformations (2005). Sewell argues that individual events have a significant impact on the development of social interactions and are defined as "sequences of occurrences that result in

transformations of structures” (Sewell 2005, pg. 227). Later he clarifies this point further, stating that events are ”brief and intense sequences of social interactions that have long-lasting effects on the subsequent history of social relations” (Ibid, pg. 271). Past events are, for Sewell, crucial in understanding social interactions because they provide the catalyst for change. Events lead to a change in the very structure of society and thus effect all future social interactions, as well as the nature of societal structures. Events can challenge or even undo the most durable of historical trends but can also reinforce existing ones (Ibid, pg. 102). There had long been a suspicion of that the foreign-born had a propensity to criminality but there had been no linkage between the rhetoric and legal treatment of these groups until the passage of S. 5094 (Higham 1963).

Events like the passage of S. 5094 can also drive future political choices, with politics being composed of a number of processes that are path dependent (Pierson 2004). For these processes small events early on may have a larger impact than large events at a later stage because sequencing is important. Path dependence assumes that changes in the early part of a process result in positive feedback and further movement in the same direction. By making one choice at one point in time, future choices are constrained in some ways. Even if the choice made does not necessarily cut-off other options, positive feedback loops usually make it easier to continue down the road chosen rather than trying to reverse the original decision (Pierson 2000; Pierson 2004; Thelan 1999). In terms of Mexican immigration, the decision to criminalize undocumented immigrants, rather than employers, in 1929 shaped all future policy choices. Undocumented immigration was to be dealt with through punishment of the immigrant while turning a blind eye to the profits being made from their labor by US employers.

In Chapter 4, I argue that this path dependence can even be seen in the post-Immigration

and Reform Control Act (IRCA) period by introducing the concept of critical policy failures or CPFs. CPFs are pieces of legislation that attempt to significantly shift policy monopolies and regimes. However, because they represent such a large departure from the policies of the past, their failure leads to a regression to and reinforcement of the previously existing policy monopoly. This is something missing from theories of path dependence, which assumes movement in the same direction until moments of punctuated equilibrium open up windows of opportunity for change. Path dependence theory does not account for pieces of policy that attempt a shift away but instead lead to a regression to the previously existing path.

IRCA shifted the approach of the United States toward undocumented immigration through the creation of the first amnesty program for undocumented immigrants and the attempt to levy fines on employers. Under IRCA all immigrants who had resided in the US before January 1st, 1982 and could demonstrate they had resided in the United States permanently were applicable for legalization. Both the Regional Agricultural and Seasonal Agricultural Worker (RAW & SAW) programs were set up to meet labor demands. Finally, employers were required to attest to the immigration status of their employees and faced a fine if they were found to be knowingly hiring or recruiting undocumented immigrants. However, when IRCA failed to stop the flow of undocumented immigration, it functioned as a CPF and created a boomerang effect in US policy, with a swift shift back to, and a reinforcement of, criminalization through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Aside from IRCA there has been a great deal of stability in Congressional action on undocumented immigration which has been characterized on the one hand by a relative high degree of inactivity and on the other a tendency to respond to undocumented immigration through criminalization.

In many ways immigration control mirrors crime control and the “severity revolution” detailed by Jonathan Simon (2001). Once deterrence through punishment became the norm, few politicians wanted to attempt a return to rehabilitation because of the high potential cost to their political career. With many believing that the act of undocumented immigration is, in and of itself, a crime, few politicians have an incentive to pursue immigration reform that does not in some way increase detention, deportation and criminal penalties. New social initiatives usually entail significant start-up costs, so there are incentives to work within the existing system, which currently emphasizes enforcement and deterrence (Pierson 2004). Secondly, once a process is put in motion there are learning effects, people learn how to operate under the existing system and innovations are likely to be developed for the existing system. There are also adaptive expectations as a result of one choice triumphing over another. Individuals are more likely to want to pursue a path that has already been successful rather than ones that have failed and IRCA represented a critical policy failure, making a return to criminalization likely (Pierson 2001; Pierson 2004; Thelan 1999). Control of undocumented immigration is a difficult problem requiring a solution that addresses both push and pull factors, and addressing many of these would require an entirely new approach to the problem than has traditionally existed. There was an attempt at this with IRCA, but when this came up short there was a quick return to the far simpler policies of criminalization that had been a mainstay of American policy on undocumented immigration prior to IRCA. IRCA represented a critical policy failure in US immigration policy, retrenching liberal approaches and reinforcing restrictionist ones.

Punctuated Equilibrium, IRCA and the Return to the Path Most Traveled

Many policy areas demonstrate what is called punctuated equilibrium, long periods of stability followed by windows for possible shifts often driven by external events (Baumgartner &

Jones 1993). Policy on Mexican immigration had, until the 1920s, largely had been to ignore it and allow the number of Mexican immigrants to be regulated by the market (Ngai 2006). Three things led to the opening of a window for change in policy in regards to unregulated immigration from Mexico. The first was the success of immigration restrictionists in limiting European immigration in 1924, which had been a longtime goal. This success led to a shift of attention to Mexican immigration which had received little attention on the part of Congress prior to the passage of Johnson-Reed. The second was the end of World War I in 1918 had also began to harden notions of state sovereignty and made the unregulated border impossible to maintain in an era where land borders were increasingly seen as physical boundaries that required strict regulation (Ngai 2006). This was reflected in the formation of the Border Patrol in 1924 which for the first time allowed for the pursuit and apprehension of undocumented immigrants (Ngai 2006). Finally, there was the start of the Great Depression in 1929, which like most economic downturns led to increased nativism (Higham 1963). The Great Depression helped drive perceptions of economic threat from immigrant groups and helped to shift the attention of the American public onto Mexican immigration as a source of potential danger to their economic well-being.

Baumgartner and Jones state that, “Every interest, every group, every policy entrepreneur, has an interest in establishing a monopoly—a monopoly on political understandings concerning the policy of interest, and an institutional arrangement that reinforces that understanding” (Baumgartner & Jones 1993, pg. 6). The success of immigration restriction in 1924, the beginning of the Great Depression in 1929 and hardening notions of state sovereignty all helped to dismantle the previously existing policy monopoly in regards to Mexican immigration which had constructed it as a matter of labor demands and where it was regulated by the market. These

shifts also constructed a new policy monopoly and policy regime where undocumented Mexican immigration was a law and order issue and the act of undocumented crossing was reborn as a criminal act in Congressional rhetoric, beginning the now long-standing association of undocumented immigrants with criminality. S. 5094 on the one hand allowed for a demonization of undocumented immigrants as criminals but also, by placing the burden of responsibility on the immigrant rather than the employer, allowed continued access to cheap labor for economic interests in the United States.

Based on the competing interests of restriction and access to labor, Mexican immigration came to be handled in two ways. Legal Mexican immigration saw a relative lack of restriction due to resistance by labor interests, with even requirements like head taxes waived during times of significant labor shortages (Ngai 2006; Tichenor 2002). Illegal Mexican immigration on the other hand was dealt with through apprehension, detention, criminal charges and deportation of the immigrant, while the employer faced no sanctions. This allowed businesses to rely on undocumented immigrant labor without penalty and for the control of the undocumented population, who remained, in the words of Mae Ngai “impossible subjects”, both part of the political body and forever outside it (Ngai 2006). This satisfied the two significant interests in the immigration policy arena in the early part of the nation’s history, employers who were reliant on Mexican labor and restrictionists who sought to reduce the overall flow of Mexican immigration.

Had there not been the reliance of a number of American industries on Mexican labor there is a good possibility that even quotas would have been extended to Mexico during this period, but as will be shown in Chapter 2, there was significant resistance to this on the part of

agriculture. The resistance of agriculture and business interests to the restriction of Mexican immigration has been cited as one of the reasons that US immigration policy never became as restrictive as it may have without the push back from these groups (Tichenor 2002).

Restrictionists such as Southern Democrats John Box of Texas and Coleman Blease of South Carolina, thus turned toward the criminalization of a long-standing practice of unregulated crossing in 1929, while Immigration and Naturalization Services (INS) instituted a campaign of “Mexican repatriation” the same year that sought to use the threat of raids, deportations, and penalties to force Mexican immigrants (both legal and illegal) to return to Mexico. Both of these actions were the culmination of increasing hostility toward Mexican immigration throughout the 1920s, as is well documented (Ngai 2006).

The passage of S. 5094 in 1929 led to a 57 year period where there would be almost no Congressional action on undocumented immigration. It was not until 1986 that there would be another moment of punctuated equilibrium, with Congress once again taking up the issue of undocumented immigration. This attention to undocumented immigration and window for policy change was due again to the convergence of a number of factors. First was the election of Ronald Reagan in 1980, who saw the solution to undocumented immigration as open borders and a free trade zone that also included people, as well as goods (Tichenor 2002). The second was increasing media and public attention to the issue of undocumented immigration, which forced Congress to act as immigration came to be seen more and more as a priority by the American public (Tichenor 2002). Finally, there was the divided nature of Congress in 1986, with a Democratically-controlled House and a Republican Senate, which made compromise on immigration a necessity. IRCA represented a rare opportunity to change course, a moment of punctuated equilibrium where policy change was possible and a new monopoly could have been

created, though ultimately the old monopoly prevailed. As I detail in Chapter 3, IRCA represented a critical policy failure or CPF, ultimately leading to a revival of crimmigration, the passage of the Illegal Immigration Reform and Immigrant Responsibility Act in 1996 and a return of the policy monopoly that had existed since 1929.

While it is clear that criminality has been a part of Congressional rhetoric on immigration, the other question it is unclear whether these same notions of immigrant criminality are held by the American public. If so what is their effect on policy preferences? Both of these questions have potential implications for comprehensive immigration reform. If a large percentage of the American public sees the undocumented population as criminals, they are likely to be unsympathetic to appeals for a pathway to citizenship for this same group. Similarly, there is currently little knowledge of whether perceptions of criminality do play a role in preferences and if so in what way? Do they increase support for deportation? What about a guest worker program? If we are to pursue comprehensive immigration reform we must be aware both of public perceptions of undocumented immigrants, as well as how these interact with policy preferences. In Chapters 4 and 5 of this dissertation I turn to an examination of public opinion on undocumented immigration in order to answer these questions.

Perceived Threat and Immigration

While there has been little research on perceptions of immigrant criminality specifically, a great deal of work has been done examining the impact of the perceived economic and cultural threats from immigration on public opinion. There is a significant amount of evidence for the role played by perceived threat in anti-immigrant attitudes. In a study conducted in the Netherlands, it was found that perceptions that immigrants posed a threat to Dutch cultural

identity led to higher levels of hostility toward immigrants and greater favorability for immigration restriction (Sniderman et al. 2004). While perceptions of cultural threat had the largest effect on hostility, beliefs that immigrants posed an economic threat to the nation were also significant and collective threats were found to elicit greater hostility than did threats to the individual (Ibid).

Individuals have also reported more prejudice when they were induced to identify differences between their group and Mexican immigrants on interpersonal traits (Zarate et al. 2004). When immigrants were seen as differing from the norm, they were also believed to pose a threat to the social fabric of the country and were subsequently evaluated in a more negative fashion. Other research has split threat perceptions into “realistic” and “symbolic” categories in assessing the effects of both on prejudice against immigrants. Symbolic threats are conceptualized as threats to national culture or values, while realistic threats, drawing on the work of Lawrence Bobo (1983, 1988), were threats to the economic, social or political resources of Whites. Both symbolic and realistic threats were found to have a significant effect on prejudice toward immigrants, suggesting that both economic, cultural, and criminal threats play a role in determining how individuals react to immigrant groups and thus the importance of examining the predictors of these beliefs (Stephen et al. 1999). In a second study by the same researchers, it was found that attitudes toward immigrant groups were the most negative when they were believed to pose both realistic and symbolic threats to one’s own group, which fits neatly with psychological findings regarding in-group/out-group bias (Stephen et al. 2005).

Similarly, Canadian students who were provided with positive or negative descriptions of a fictional immigrant group were found to react to the physical relevance of the immigrant group to the respondent and the description they received (Maio et al. 1994). Individuals expressed

higher levels of prejudice if the immigrants were believed to be moving into the their own province and if they had received a negative description of the group, emphasizing the importance of realistic threat perceptions. A further pair of studies in Canada manipulated the economic threat posed by immigrants. In the first study, participants were led to believe that the immigrant group would be a strong competitor for scarce jobs while in the second the immigrant group was portrayed as having high levels of success in a difficult economic climate. In both studies the authors found that high levels of realistic threat generated greater expressions of prejudice toward the fictitious immigrant group (Esses et al. 1998; Esses et al. 2001). All of these suggest that perceptions of threat lead to greater expressions of prejudice, and not vice versa (for an overview of all these studies see Stephan et al. 2005, pg. 3).

Perceptions of group threat have also been shown to be accurate predictors not only in terms of negative affect toward the target group, but also of preferences for immigration restriction. In a study of public attitudes toward immigration in the US, France and Germany, it was found that perceived cultural or economic threats from immigrant groups increased opposition to immigration in all three countries, despite significant differences in culture, history, and experience with immigration (Fetzer 2000). Further evidence for these finding was found in a 2001 study of the impact of group threat on immigration attitudes (Wilson 2001). In this study, Thomas Wilson notes that, “native-born Americans’ opposition to policies benefiting immigrants is based in large part on their perceptions that immigrants pose a direct threat to their interest” (Ibid, pg. 495). Research thus suggests that perceptions of immigrant threat play a significant role in determining policy preferences but nearly all focus exclusively on cultural or economic threats. The role played by perceptions of criminal threat in determining policy preferences remains largely unaddressed. With the increasing use of the rhetoric of criminality in the

immigration debate it is important to examine the effect that beliefs in immigrant criminality have on policy preferences.

Immigrant Criminality

While there is ample evidence of perceived economic and cultural threat from undocumented immigration, as well as fact that belief in these threats tend to lead to more restrictive preferences in regards to immigration, there is no evidence to date on the criminal threat frame. What proportion of the American public believes this frame? Does it have a significant effect on policy preferences? Luis Fraga points out that criminality among the undocumented is one of the arguments regularly trotted out in support of stricter immigration policy (Fraga 2009).

Proponents of Proposition 187 in California used the criminal threat frame in pushing for its passage in 1994 with one portion of the bill itself reading that the people of California, "...have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state" (Proposition 187, 1994). In *The New Nativism* Robin Dale Jacobson states that, "The struggle over Proposition 187 was a critical modern moment criminalizing Mexican migration. During the campaign, proponents connected notions of danger and criminality with the act of undocumented migration through race. What had been a discrete act of violating immigration law became, in the eyes of the measure's supporters, a criminal tendency in Mexicans" (Jacobson 2008, p. 47). Notions of criminality were attached to the race of the individual, rather than the act of illegal crossing, painting Latino immigrants as having a predisposition to crime more generally. A law that was under consideration in Florida mirrored SB1070 but was explicit in its racial profiling by exempting those from 32 European nations, Canada, and four Asian countries from having to produce anything beyond a passport to prove

they are in the United States legally, though ultimately this did not pass (Elfrink 2010).

Perceptions of criminality, and of undocumented crossing as a criminal violation are significant because this links immigration with law and order in the minds of Americans. Past research has found that law and order concerns and out-group biases played a significant role in determining whether individuals believed that undocumented immigrants should receive humanistic treatment. This bias was based on race rather than nationality, with Canadian immigrants ranked more highly on the humanistic treatment scale than were Latino immigrants, despite the fact that both had committed the same violation (Lee and Ottati 2002). Thus, a group of immigrants who are believed to be criminals, or to have tendencies toward criminal behavior, would be predicted to elicit a negative reaction in terms of treatment, which is tied to policy.

The Media and Immigrant Threat

What is likely to drive perceptions of criminal threat? The media would be a good prediction and this is tested in Chapter 4. Past research has examined newspaper coverage of SB1070 between February 23rd and June 23rd 2010 and found that the majority of the articles were published following passage of the bill in April of 2010 (Chavez and Hoewe 2012). Google Trends also showed a doubling in search interest for immigration related stories in between February and May of 2010. Both of these findings suggest that elite attention to issues like undocumented immigration tends to drive media coverage. In an examination of how Latinos are portrayed in American media, Leo Chavez (2008) argues that Latino immigrants are regularly portrayed as different from other immigrant groups, with a focus on what he terms the "Latino Threat Narrative". This characterizes Latinos as unwilling or unable to assimilate into American culture, and therefore threatening the dominant culture in the United States. Additionally, this narrative portrays Latino immigrants as criminals who drain social services and serve as an

invading force (Chavez 2008).

Domke et al. (1999) found that media stories could prime subjects to focus on some aspects of immigration over others and that this had a significant impact on their assessment of immigration's impact on the United States. When individuals were primed to think in material terms by having immigration presented in terms of economics, expedience, tangible resources and practicality they were less likely to believe that it would have a positive impact on the US economy. In addition, the material frame also activated racial perceptions and linked these to political judgments, so that perceptions of Latinos being violent led to a greater desire to reduce current immigration levels. When immigration was framed in ethical terms, this relationship was not present (Domke et al. 1999). Domke et al. concluded that these findings showed the direct impact that media stories, and framing, have on immigration attitudes. The portrayals of Latino immigrants in the media are therefore likely to have a significant impact on perceptions of threat, as well as immigration policy preferences and past studies have shown that the media tend to feature images of Latino immigrants being arrested in stories on immigration (Drier & Tabak 2009).

The Literature So Far and the Questions Ahead

Current literature on crimmigration thus far suggests that the criminal threat frame has become a regular part of the immigration debate, at least since the 1990s but tends to downplay the significance of the 1920s and S. 5094 in helping to shape a policy monopoly focused on deterrence through punishment and the treatment of undocumented immigration as a criminal offense. Amongst the American public, negative media coverage of immigration has been shown to have an effect on attitudes, making it likely this plays a role in perceptions of criminality as well. Finally, work on group threat theory find that both the economic and cultural threat frames

lead to more restrictive stances on immigration, not only in the United States but internationally as well.

In this dissertation, I flesh out the existing literature by examining the early years of policy on undocumented immigration and show that the roots of the modern crimmigration crisis can be traced back to the 1920s, with formal legal linkage of immigration to criminal law in 1929 through S. 5094. I argue that the path dependence associated with policymaking and the critical failure of IRCA has made changes to the criminalization regime difficult, with high costs for legislators. In turning to an examination of public opinion on immigrant criminality, I begin an exploration of ways to mitigate these costs by shifting public opinion away from notions of immigrant criminality. In order to do this, we must first understand why Americans subscribe to the criminal threat narrative that is so common in US politics, as well as the effect this has on support for specific policies. These findings will prove useful for future research looking to find ways to change public opinion on undocumented immigration, which will hopefully help in ensuring the next piece of immigration legislation to pass will be one that is truly comprehensive.

CHAPTER 2: From Open Borders to Locked Doors

Any attempt to understand the criminalization of undocumented immigration in the United States must grapple with the fact that historically policy has addressed this issue in a patchwork fashion. The Immigration Responsibility and Control Act (IRCA) remains the only attempt to comprehensively address undocumented immigration. IRCA sought to create a guest worker program to address labor needs, grant amnesty to undocumented immigrants in the US, levy penalties on companies found to be employing undocumented workers, and increase border security. Unfortunately, while IRCA did normalize the status of millions of immigrants through amnesty, most of the other provisions failed to stem the tide of undocumented immigration, marking IRCA as a critical policy failure and leading the debate to once again center on how to address undocumented immigration.

One of the inherent difficulties in looking at the evolution of policy on undocumented immigration is there was little in the way of Congressional action until IRCA in 1986. Immigration policy in the years preceding IRCA typically addressed immigration broadly, with undocumented immigration often ignored completely. There was, essentially, a 57 year gap between pieces of Congressional legislation aimed at addressing undocumented immigration. In 1929, riding on the success of immigration restriction in 1924 through the Johnson-Reed Act and increasing hostility towards Mexican immigrants, Congress passed S. 5094, also known as the Undesirable Aliens Act, which attached penalties to undocumented immigration and criminalized reentry after deportation, making it a felony. In the period between the S. 5094 and IRCA, undocumented immigration was handled in a makeshift fashion, which included increasing the size of the Border Patrol, Mexican repatriation between 1929 and 1939, the Bracero Program from 1942 to 1964, and Operation Wetback in 1954. With the exception of the

Bracero Program, undocumented immigration was treated for the most part as crime control, with a focus on deportation, deterrent penalties for undocumented crossing, and the creation of a climate of fear in order to push Mexican immigrants toward “voluntary” repatriation.

In this chapter I argue that the period of the 1920s, culminating in the passage of S. 5094 in 1929 set the convergence of immigration and criminal law in motion by explicitly linking undocumented immigration and crime in law. Before this time such linkages had existed in the discourse on immigration but lacked the weight of law. This formalized the linkages between immigration violations and crime, making increasing criminalization more likely based on the theory of path dependence put forth by Paul Pierson and others. They argue that choices in the early part of a process can play a role in limiting choices later through feedback loops and learning effects (Pierson 2000, 2004; Sewell Jr. 2005; Thelan 1999). The Undesirable Aliens Act remained the only piece of Congressional legislation specifically addressing undocumented immigration until the passage of IRCA in 1986.

In the following pages I detail the evolution of US policy on undocumented immigration between the Johnson-Reed Act of 1924, the first major piece of immigration legislation in the twentieth century and ending with the passage of S. 5094, which was the last major piece of Congressional legislation on undocumented immigration prior to the passage of IRCA in 1986. I argue that increasing criminalization was likely as a result of the increasing problematization of Mexican immigration in the 1920s and the passage of S. 5094, as successive Congresses came into session in a climate where the major tools used to address undocumented immigration were those frequently associated with crime control resulting in a rhetoric that painted Mexican immigrants as “illegals”. This tendency to treat undocumented immigration as a criminal act was linked to a longstanding tradition in American politics of viewing the foreign-born as generally

predisposed to criminality (Higham 2002; Zolberg 2009).

The Johnson-Reed Act, Criminality and the End of Unrestricted Immigration

The first landmark piece of immigration legislation in the 20th century was the Johnson-Reed Act of 1924. This piece of legislation was a breakthrough for immigration restrictionists who had long been searching for a means of limiting immigration from Southern and Eastern Europe. By basing quotas on the 1890 Census, most undesirable Europeans were restricted in regards to immigration, while Northern and Western Europeans were given a privileged position in regards to national quotas. Johnson-Reed also marked a turning point in US immigration policy, with its passage marking the beginning of a shift of attention away from European immigration to Mexican immigration for the first time.

One way of determining the relative importance of Mexican immigration in the debate around Johnson-Reed is to examine the frequency with which the term “Mexican” came up compared to other nationalities. Specific mentions of nationality are used here to denote that the speaker is discussing immigrants themselves, rather than their country of origin. Since I am interested in notions of criminality associated specifically with undocumented Mexican immigrants, this is a logical way to quantify the discussion surrounding Mexican immigration from hundreds of pages of Congressional debate. Congressional debate on Johnson-Reed was run through an online word frequency tool² and several nationalities were selected randomly and a manual word count was performed to ensure that the frequencies were accurate. No inconsistencies were found between the manual counts and the frequencies found with the online tool. Both chambers are examined separately. Table 2.1 shows the top ten nationalities, regional or racial groups mentioned in Senate remarks on Johnson-Reed.

² The website used can be accessed here: http://www.writewords.org.uk/word_count.asp

Table 2.1: Word count of national/regional identifiers in Senate debate over Johnson-Reed, 1924

Nationality	Word Count
Japanese	407
Mexican	107
European	81
Chinese	80
British/English	39
German	36
Canadian	36
Italian	35
Negro	27
Russian	20

Table 2.1 reveals that Japanese immigration was the primary concern of Senate members in the debate over Johnson-Reed, but this was followed by Mexican immigration. Mexican immigration was mentioned 107 times during Senate debate, which would seem to indicate that at least for the Senate, Mexican immigration was of great concern, at least in regards to immigration policy. While Japanese immigration came up much more frequently, this is not terribly surprising as Mexican immigration during this time was seen as a lesser problem than was Asian immigration. Asians had been barred from immigrating to the United States based on the Chinese Exclusion Act and the Asiatic Barred Zone but immigration from Japan was subject to the Gentleman’s Agreement of 1907, under which Japan agreed to issue no visas to laborers while the US agreed to allow the immigration of spouses and children of individuals already in the US.

This was viewed with suspicion by members of the Senate, with a number of individuals citing the lack of transparency in the Gentleman’s Agreement as a reason for applying quotas to Japan. Republican Samuel Shortridge of California noted that, “...it is very difficult, indeed, to determine how many come under the treaty and how many have come under this so-called ‘gentleman’s agreement’. Nor is it easy to ascertain how many have smuggled themselves in by

all sorts of subterfuges, on board ship or across the border” (65th Cong. Rec., pg. 5804).

Concerns with Japanese immigration typically were based on the perceived threat they posed to American labor, as well as the foreignness of their culture. The latter threat often did not paint the Japanese as a lower form of civilization, but focused instead on how Japanese individuals fundamentally differed from Americans. Democrat William Bruce of Maryland’s comments on the Japanese are emblematic of this, “They cherish different religious faiths from ours; their traditions, their customs, their habits of thought and feeling, their economic wants and standards are all utterly unlike ours” (65th Cong. Rec., pg. 6312). Thus, the large number of mentions of Japanese immigrants in Senate debate was largely based on a lack of satisfaction with the method that was being used to limit immigration from Japan. There were concerns about race mixing, the “foreign” culture of the Japanese, and the economic threat they posed, particularly in Pacific states like California, but the main push was for Japan to be subjected to the racial quotas of Johnson-Reed and treated as all other Asian countries were.

There were also discussions of applying the quotas under Johnson-Reed to Mexican immigration but there was resistance to this. On the side of restriction, the economic threat of Mexican immigrants was frequently cited. However, there were a number of concerns raised in reference to trying to apply quotas to Mexico. One was the sheer size of the border and the inability of the Border Patrol to actually stop undocumented immigration. Republican Senator David Reed of Pennsylvania, the Reed in Johnson-Reed, noted that, “Just imagine what the result will be if we pass this law. Obviously we are not going to pass it unless we mean in good faith to enforce it. Imagine trying to patrol thousands of miles of uninhabited country along that river, which can be waded along much of its length, with brush so dense that an officer cannot see a man more than 10 feet off, and imagine to yourselves what it will cost us to enforce that

border patrol to keep out these 62,000 Mexicans” (65th Cong. Rec., pg. 6624). The Border Patrol had just been formed in 1924 and was still in its infancy. As mentioned earlier, there was also a long-standing tradition of unfettered crossing between the Mexico and the United States for the purposes of labor.

Additionally, there were concerns that the inclusion of Mexican immigration in Johnson-Reed would endanger the bill, which was expressed during House debate. Citing Democratic Rep. James Box of Texas, fellow Democrat Cyrenus Cole of Iowa pointed out that, “The same gentleman confessed, or admitted, that the committee found the task so great that they did not dare to extend the restrictions to Canada and to Mexico, in fear of losing support for the bill” (65th Cong. Rec., pg. 6476). So while there were concerns in regard to Mexican immigration, there was no dedicated push for restriction. This differed from the Japanese, who many wanted to see restricted due to cultural and economic fears but also in large part due concerns over the Gentleman’s Agreement.

One way of examining how Mexicans were characterized when compared with other immigrant groups is to break down the positive and negative attributes assigned to a particular group in the debate over Johnson-Reed. To do so a number of words or phrases were isolated and classified as representing a positive or negative economic contribution, positive or negative cultural attributes, and positive or negative tendencies to criminality³. In order to better show the frequency of these characterizations, a point was assigned for each individual mention. For example, if a member of Congress mentioned an economic threat from Japanese immigration seven times during one comment in the debate, only one point was assigned. However, if the senator brought up this same concern later in the debate, another point was added to the

³ See Appendix 1 for coding.

economic threat cell. This was done to highlight the number of unique mentions since some senators made long speeches about particular immigrant groups that hit on the same threat trope repeatedly. Unique mentions are more representative of the immigration debate as a whole and don't allow one member of Congress to significantly bias the data. Table 2.2 also notes the number of senators who mentioned that particular threat or attribute.

Table 2.2: Number of unique attribute/threat mentions by number of senators, Johnson-Reed 1924

Characterization (mentions/senators)	Japanese	Mexican	Italian
Positive Econ.	0/0	8/6	0/0
Negative Econ.	4/3	6/4	0/0
Positive Cultural	7/5	6/4	3/3
Negative Cultural	14/9	9/5	0/0
Positive Criminal	0/0	1/1	0/0
Negative Criminal	5/2	4/4	2/1

Table 2.2 reveals some interesting trends. First, a number of senators praised the economic contribution made by Mexican immigrants to the United States, with this being mentioned 8 times by 6 individual senators during the debate over Johnson-Reed. However, this was followed by nine mentions of the cultural inferiority and the inassimilable nature of Mexican immigrants by five senators. Four senators argued that Mexican, particularly Spanish culture, posed no threat to US culture and that Mexicans made fine additions to the country. Democratic Senator Alva Adams of Colorado commented that, “He is not a bad citizen. He is not an anarchist. He is not lawless. As a matter of fact, the Spanish speaking people and those of Spanish descent are good citizens in our community, and they are citizens much needed” (65th Cong. Rec., pg. 6625). However, earlier in the debate Senator Frank Willis, a Republican from Ohio who pushed for national quotas to be applied to Mexico, argued that Mexicans were, “...unfortunately, practically without education, and largely without experience in self-government, and in most cases not at all qualified for present citizenship or for assimilation into this country” (65th Cong. Rec., pg. 6631). The criminal threat

trope, usually based on undocumented crossing, took third in both the number of unique mentions and the number of senators who mentioned it. This reflects the Senate debate on Mexican immigration as a whole during Johnson-Reed, which tended to be between the need for Mexican labor and the impact that Mexican culture would have on the United States. The criminal threat frame would be much more heavily relied upon in the debate over S. 5094.

The characterization of Mexicans was different in many ways from the characterization of the Japanese in the debate over Johnson-Reed. The Japanese were frequently praised for their culture but at the same time were also characterized as inassimilable, as an economic threat and as agents of a foreign power. In the course of Senate debate on Johnson-Reed not once were the Japanese mentioned as anything but economic threats to Americans, unlike Mexicans who were seen as economically necessary. Part of this was due to how both immigrant groups were perceived. Japanese culture, while seen as alien, was also praised for all its admirable characteristics, while Mexican culture was rarely constructed as either as foreign or as dangerous as Japanese culture was. Republican Senator Samuel Shortridge of California, in addressing the desire on the part of US labor groups to see Japanese immigration reduced or cut off entirely argued, "...all appreciate what I am poorly stating, namely, that inasmuch as these people can never become citizens, inasmuch as they are alien in tongue, in instincts, in habits, in mode of life, are ineligible to citizenship, it is undesirable that they enter this country to abide en masse in any State of the Union" (65th Cong. Rec., pg. 5745).

Mexican immigration was portrayed more often in terms of illegality and criminality than was Japanese immigration. Of the five mentions of Japanese criminality in the Johnson-Reed debate, all but one belonged to Senator Shortridge of California. On the other hand, Mexican criminality was mentioned by 3 different senators and one House member during the Johnson-

Reed Senate debate: Republican Senator David Reed of Pennsylvania, Democratic Senator John Shields of Tennessee, Republican Senator Frank Willis of Pennsylvania, and Republican Representative Cyrenus Cole of Iowa all touched on the criminality trait in discussions of Mexican immigration.

Illustrative of this is a statement that Sen. Willis requested be inserted into the Congressional Record that dealt with the smuggling of immigrants across the border by Mexican “coyotes.” This statement from 1924 parallels statements from people like Arizona Governor Jan Brewer today. In it, Senator Willis quotes the immigration inspector in charge of the San Antonio district as saying of the coyote,

“The Mexican border smuggler is an extremely dangerous person to deal with. He goes ‘armed to the teeth’ and does not hesitate to fire upon officers at sight. A number of Federal and State officers have been killed on this border in the recent past by these smugglers, and it has been more luck than anything else that many of our men have not been killed. There is hardly a week goes by that they are not fired upon” (65th Cong. Rec., pg. 6622).

The Japanese, when portrayed as criminals, typically saw them characterized as one of the groups being smuggled into the country by Mexican coyotes. Violence was absent from the negative characterizations of the Japanese, while Mexicans were portrayed not just as illegal entrants but also those responsible for the smuggling of both Asians and Europeans into US border states. For instance, Mr. Shortridge pointed out that for the Japanese, “...it is impossible to state accurately how many have been smuggled in, because they come in surreptitiously...” (65th Cong. Rec., pg. 5746). Japanese immigration was seen as criminal in that they entered the country “surreptitiously” but Mexicans were portrayed both as illegal and dangerous. Mexicans were the smuggled and the smugglers, those breaking administrative laws to pursue work and those violating criminal laws to bring them here.

The emphasis in the House debate was similar but had some important differences, which are reflected in Table 2.3. In the House Mexicans were only in the top ten for mentioned nationalities, coming in 7th overall in total individual mentions.

Table 2.3: Word count of national/regional identifiers in House debate over Johnson-Reed, 1924

Nationality	Word Count
Japanese	382
European	150
Italian	145
English	136
Chinese	121
German	116
Mexican	109
Irish	93
British	83
Negro	64

Once again, Asian immigration was one of the top concerns in House debate, though Italians received significantly more attention than they had in the Senate. Mexican immigrants were mentioned 109 times over the course of House debate on Johnson-Reed. In many cases, this was by representatives who were pushing for national quotas to be extended to Mexico and Canada, with an emphasis on the importance of these quotas for restricting the immigration of Mexican nationals. Indeed, a lot of the debate on extending the quotas to Mexico argued that if Europeans were to be excluded, Mexicans should be as well, particularly as they were even less desirable than the least desirable European. Republican Representative Martin Madden of Illinois pointed out that,

“This bill is reported by the rigid immigration restrictionists, and yet the bill leaves open the doors for perhaps the worst element that comes into the United States—the Mexican peon. He comes in without restriction, without regulation, without any attempted opposition. He comes in, and he does not go back. He gets into all the

southwestern section of the United States and the western section and he supplies these sections with such labor as they need—Oregon, Idaho, California, Washington, Texas, and the border States, like Arizona and New Mexico. They bring them in and employ them everywhere, and yet you refuse to let White men into other ports. The West and the Southwest take care of themselves (65th Cong. Rec., pg. 5887).”

These were not isolated comments in regards to Mexican immigration. Later in the debate Patrick O’Sullivan, a Democratic representative from Connecticut, made the same argument, not only arguing that Mexican immigration needed to be restricted but also making an explicit comparison between the groups that would be restricted under Johnson-Reed and Mexican immigrants. Mr. O’Sullivan stated, “I do not know what standard is used to measure desirability, but I do know that the average Italian is as much superior to the average Mexican as a full-blooded Airedale is to a mongrel. Yet this bill will permit every Mexican in Mexico to enter the United States, and the same bill limits the number of Italians to 3,912 immigrants (65th Cong. Rec., pg. 5900).” The lack of limits on Mexican immigration was obviously a concern to some, yet Mexican immigration still received less attention than did Asian or European immigration during the House debate over Johnson-Reed, which begs the question of why this was the case.

One potential answer comes from remarks made by Republican John Box of Texas, who was one of the most vocal advocates of restricting Mexican immigration and extending national quotas to Mexico. Box called into question why Mexican immigration had become an issue in the debate over Johnson-Reed and insinuated that those charging that quotas had to be extended to Mexico or that Johnson-Reed should in some way tackle Mexican immigration had an ulterior motive. Box pointed out that, “I will say that I never heard of these gentlemen who oppose this bill making any objection to Mexican immigration in all the fight I have for years been making here against it. They are much concerned now when we are proposing to keep someone else out.

I think that the record will show that some of these gentlemen who are complaining now voted against my every effort to keep them out at the time. They now want to kill this bill. I want the Mexicans kept out, but I do not want this bill killed by men who want these and all others admitted in unrestricted numbers (65th Cong. Rec., pg. 6132).” The concern on the part of some restrictionists, and one of the reasons there was no significant push for quotas on Mexican immigration, based on Box’s above statement was a concern that quotas on immigration from the Americas could be used as a way of killing the Johnson-Reed bill. There was strong opposition on the part of agribusiness, as mentioned earlier, to any legislation that would limit the availability of labor in the Southwest. The Southwest had, by the 1920s, also become one of the most profitable agricultural regions in the United States and relied heavily on Mexican immigration (Hernandez 2010, pg. 24).

Table 2.4: Number of unique attribute/threat mentions by number of representatives, Johnson-Reed, 1924

Characterization (mentions/senators)	Japanese	Mexican	Italian
Positive Econ.	0/0	1/1	2/2
Negative Econ.	13/11	8/4	1/1
Positive Cultural	5/5	0/0	2/2
Negative Cultural	11/10	10/7	1/1
Positive Criminal	0/0	0/0	1/1
Negative Criminal	2/2	10/5	1/1

Despite the lack of a strong push for restriction of Mexican immigration, there were numerous concerns expressed regarding illegality and Mexican immigration during the debate over Johnson-Reed as shown in Table 2.4. As in the debate in the Senate, there was more attention overall paid to Japanese immigration, and characterizations in the House matched those in the Senate, with the Japanese often portrayed as economic or cultural threats. Illegality and criminality were only mentioned twice in regards to the Japanese, while they were mentioned in

ten separate comments by five different representatives in regards to Mexicans.

In the House, the debate over Mexican immigrant criminality largely revolved around concerns that Mexican immigrants were disobeying existing immigration laws, for instance by not paying the head tax. Democratic Representative John E. Raker of California argued that the laws were not being enforced in regards to Mexican immigration and that if these laws were enforced this in and of itself would significantly reduce immigration from Mexico. In particular, Rep. Raker held that most Mexicans were illiterate and thus ineligible to immigrate to the United States based on the Immigration Act of 1917 and that they often did not pay the required \$8 head tax. Under the contract labor law, according to Mr. Raker, none of these individuals should have been admitted and thus, "...95% of all the Mexicans that come to the United States...have entered illegally (65th Cong. Rec., pg. 5842)". Raker believed that of the approximately sixty-thousand undocumented immigrants who entered the United States in 1924, only one thousand would have been allowed to enter had immigration laws been properly enforced. Yet the focus of the what debate there was on undocumented Mexican immigration tended to focus not on the causal role of labor demands in the southwest but instead on the lack of enforcement. A fellow Democrat, Rep. Kunz of Illinois asked, "Why not deport them? Chicago is being filled with Mexicans. Why not deport them if they are brought here illegally?" to which Rep. Raker replied, "We do not deport them because we have not got money enough" (65th Cong. Rec., pg. 5887). The inability of the Border Patrol was also a concern to those who wanted the flow of Mexican immigration reduced. Speaking specifically of undocumented immigration, Rep. Raker asked Rep. Box to, "state whether or not the testimony was not presented to our committee that hundreds of thousands came across the Mexican line fraudulently, and also swam the river—they were called wet backs—and the only thing that can keep them out is a proper patrolling of the

border?”, to which Box responded that this was true (65th Cong. Rec., pg.6132). Democrat Adolph Sabath of Illinois had earlier pointed out that, “It has been impossible for the Immigration Service to maintain an adequate patrol on the Mexican border because of lack of funds, thus opening the way for illegal entrance” (65th Cong. Rec., 5935). The tendency in the House then was to treat the undocumented entry of Mexicans not as only an issue of labor demands but also one of enforcement.

Some members of the House argued vociferously against quotas being imposed on European immigration when Mexican immigration did not face any form of regulation beyond inspection and the head tax. Some believed that the lack of quotas on Mexican immigration was specifically meant to facilitate the exploitation of the cheap labor it provided. Republican Representative LaGuardia of New York argued that, “...the report of the Commissioner General of Immigration shows that 67,000 Mexicans entered the United States last year, also the Secretary of Labor has publicly stated that as many unlawfully entered. It is not disputed that several hundred thousands came in 1917 and 1918 and that they have not left the United States but are going from place to place where cheap labor is desired and where manufacturers or growers are specially calloused to want to exploit this peon at the expense of natives, yes, and of decent immigrants...” (65th Cong. Rec., pg. 5887). Mr. Sabath of Illinois similarly pointed out that not applying the quotas to Canada and Mexico gave those states bordering Mexico and Canada an unfair advantage because of their access to the labor both countries provided, both legal and illegal (65th Cong. Rec., pg. 5935).

Johnson-Reed, Criminality, and Shifting Perceptions of Mexican Immigration

When Johnson-Reed was passed, it marked the beginning of a significant shift in perceptions of Mexican immigration.⁴ Seen initially as relatively non-threatening sources of labor, by 1924 Mexican immigrants had begun to be seen by some as potentially problematic. In the Senate it was the cultural and economic threat of Mexican immigration that was emphasized, with criminality coming in third of the threat tropes often associated with immigration. There were concerns about violence, but more than this there were concerns with the illegality of the immigrants themselves. This latter concern with the unlawful presence of Mexican immigrants was echoed in the House, with concerns over illegality coming in second to negative cultural attributions.

This notion of illegality is important because this is what would serve as the organizing principal for the handling of undocumented Mexican immigration. While the employers of undocumented immigrants were sometimes criticized, the emphasis was not on criminal treatment for those exploiting undocumented labor but instead on the immigrants themselves. The Border Patrol treated undocumented immigration as a matter of criminal apprehension and the tendency on the part of lawmakers to concentrate on the illegality of Mexican immigrants rather than the employers exploiting them began the march toward the criminalization of undocumented immigration. In discussions of undocumented immigration during Johnson-Reed the focus was on their violation of the border, illiteracy, and willingness to work for low wages. Undocumented immigrants, because of the very nature of their presence, bore almost sole responsibility for the “problem” of undocumented immigration. Employers were criticized but faced no penalties for their exploitation and in the hundreds of pages of debate on Johnson-Reed

⁴ In the Senate the vote was 62-9, while in the House it was 323-71.

I could find no evidence that Congress even considered penalties for employers as a possible solution.

Mexican Immigration after Johnson-Reed

Despite the inherent difficulties in restricting Mexican immigration there was a significant push to apply quotas to the Western Hemisphere on the heels of the 1924 Johnson-Reed Act. This represented a realignment of restrictionist forces in Congress. Arguments about the racial inferiority of Mexican immigrants came to play a significant role in the debates over restriction. As noted earlier, American perceptions of Mexicans had long been colored by a certain racial paternalism, but restrictionists in the latter part of the 1920s turned toward narratives of racial threat to justify restriction.

On January 27th, 1928, Democrat Robert A. Green of Florida delivered a speech over the radio that was subsequently entered into the Congressional Record. In this speech, Rep. Green noted that, “Another reason why the quota should apply to any country south of the Rio Grande and the islands is because their population in the main is composed of mixture blood of White, Indian, and negro. This makes this blood a very great penalty upon the society which assimilates it. The United States already has sufficient race and blood troubles” (69th Cong. Rec., pg. 2462). Rep. John C. Box of Texas repeated this theme in pushing for quotas on Mexican immigration, arguing that, “One purpose of our immigration laws is to prevent the lowering of the ideals and the average of our citizenship, the creation of race friction and the weakening of the Nation’s powers of cohesion, resulting from the intermixing of differing races. The admission of 75,000 Mexican peons annually tends to the aggravation of this, another evil which the laws are designed to prevent or cure” (69th Cong. Rec., pg. 2818). Box had introduced bills beginning in 1926 that would have specifically applied quotas to Mexico and Latin America but they all died

in committee.

These narratives of racial threat did not just tap into notions of inferiority and fears of race-mixing though. By the latter part of the 1920s and early 1930s there was also a focus on the potential criminality of Mexican immigrants as the flow of immigration from Europe was reduced and the US headed into the Depression. A 1931 report by National Commission on Law Observance and Enforcement (also known as the Wickersham Commission), an 11-member group tasked by President Hoover with identifying the causes of criminal activity, pointed out that despite statistics suggesting otherwise, the foreign born were frequently portrayed as having greater inclinations toward criminality. The report itself also dedicated a whole section to specifically addressing the criminality of Mexican immigrants, finding that there was no conclusive evidence that Mexican immigrants were any more inclined toward criminality than were native Whites (National Commission on Law Observance and Enforcement 1931). A comment published in the *Michigan Law Review* in the same year stated that the findings of the report, “show that the continued indictment for criminality of those just arrived is as old as the history of our country, and has been directed, during each period, with greatest vehemence against that national group whose migration here has been most recent and most marked. The Irish, Germans, Italians, and Mexicans, to mention only some of the outstanding cases, have each in turn been charged with a high susceptibility to crime” (Cohen 1931, pg. 99). The report also pointed out that racial prejudice directed at Mexicans could very well play a role in these charges (National Commission on Law Observance and Enforcement 1931, pg. 412).

In addition to the threats of race-mixing and criminality, both Box and Harris, as well as other members of Congress, pushed the idea of Mexican immigration as a threat to American laborers. It was argued that Mexican laborers drove down wages and took the jobs of US

workers, as well as being a burden on social services and charitable societies. Democrat Eugene Black of Texas expressed his support for the Box Bill in order to protect American labor from unrestricted Mexican immigration and was careful to note that he took this position not because of racial prejudice or any ill will toward the Mexican people but simply because he believed it was in the best interests of American citizens (69th Cong. Rec., pg. 2860). Rep. Box commented multiple times of the threat posed to the American worker by Mexican immigrants, as did Democrat Senator Harris, with the former combining this with narratives of racial inferiority, criminality, and disease in pushing for strict limits (69th Cong. Rec., pg. 2817). Box requested that an address he gave at an immigration conference be entered into the record in which he explicitly links undocumented Mexican immigration to crime, stating, “Few, if any, other immigrants have brought us so large a proportion of criminals and paupers as have the Mexican peons” (69th Cong. Rec, pg. 2818).

While there had been discussion of the illegality of Mexican immigration and some information on violence associated with coyotes entered into the Congressional Record in 1924, the explicit language of criminality had rarely been used in discussions of undocumented immigration. However, what had started as a discussion focused primarily on the illegality on Mexican immigrants quickly shifted to one that linked this illegality to criminality. As demonstrated in the preceding quotes, by 1928, members of Congress had begun to use criminality as one of the justifications for restriction and increased border security. Rep. Box had, in the debate over Johnson-Reed, focused on the illegality of Mexican immigrants but later shifted to characterizing the “Mexican peons” as also being criminals beyond their violation of US immigration law.

Despite the attempt on the part of some to paint Mexican immigrants as criminals and

cultural and economic threats, this push for restriction was met with resistance. A number of Colorado Chambers of Commerce and agricultural interests sent in resolutions noting their opposition to the restriction of Mexican immigration. Many of these resolutions noted the dependency of Colorado agricultural interests (particularly the sugar beet industry) on Mexican labor and the positive characteristics of the Mexican workers (69th Cong. Rec., pgs. 1153-1157). Many members of Congress similarly opposed the restriction of Mexican immigration, with Rep. Olger Burtness, a Republican from North Dakota, arguing that they posed no threat to American labor, though he was careful to point out that he was not arguing that they were the best people on earth, just that they were necessary for agriculture (69th Cong. Rec., pg. 8467). Attempts to apply quotas to immigration from the Western Hemisphere were ultimately thwarted by, "...Southern Democrats and Western lawmakers who relied on cheap Mexican labor" (Tichenor 2004, pg. 146). These same forces ensured that restrictions on legal Mexican immigration were not passed until the 1970s.

As the economy of the United States began to slip towards the Great Depression, both the public and members of Congress began to see Mexican immigration as more a threat (Tichenor 2004). While there were no quota restrictions, Mexican immigrants could be excluded through administrative means and the enforcement of existing provisions of immigration law. Greater enforcement of the ban on contract labor, the literacy test, and the exclusion of any likely to become a public charge significantly reduced Mexican immigration between the late-1920s and early 1930s. Mexican immigration dropped from 58,747 a year in the late-1920s to 12,703 in 1930 as a result of these changes in enforcement (Ngai 1999, pg. 90). Yet this decrease in immigration did not account for undocumented immigration from Mexico, which remained largely unaddressed despite the formation of the Border Patrol in 1924. With the existing

resistance to quotas on Mexican immigration, restrictionists had to satisfy themselves with the reduction in Mexican immigration through greater enforcement of existing immigration law and a push to criminalize undocumented immigration. The second half of the 1920s was thus marked by increasing hostility towards Mexican immigration generally, with the Border Patrol deployed solely along the southern border and the increasing use of administrative means to reduce legal Mexican immigration. This hostility to Mexican immigration would culminate in the passage of S. 5094 in 1929.

The Undesirable Aliens Act of 1929

Senate Bill 5094 was introduced on December 22nd, 1928 by Democrat Coleman Blease of South Carolina, a known White supremacist, and referred to the Committee on Immigration (Simon 1998). The bill sought to criminalize undocumented entry, making crossing into the United States without inspection a misdemeanor, punishable by one year in prison, a one thousand dollar fine, or both. Undocumented reentry after deportation would be a felony under the act, punishable by two years in prison, a two thousand dollar fine, or both. Reentry, because it carried a felony charge, would also make the immigrant in question ineligible for future immigration to the United States.

S. 5094, also known as the Undesirable Aliens Act, was reported out of committee on January 18th, 1929. The committee's report included a memorandum from the Labor Department, which stated that, "It frequently happens that aliens of the criminal and other classes who are deported under the general immigration law reenter the country unlawfully" (S. Rpt. 1456). Included in the same report was a letter from the Secretary of Labor, James Davis, noting that without a deterrent penalty for reentry there was little hope of dissuading those who were deported from attempting reentry (S. Rpt. 1456). When debate for S. 5094 was opened Democrat

John J. O'Connor of New York had noted the racial undertones of the bill. In a long speech, Mr. O'Connor argued that, "I fear there is a spirit pervading our country today reflected in these immigration bills that is a menace to the country--a spirit of intolerance and bigotry not only to religions but to races" (70th Cong. Rec., pg. 3526).

S. 5094 was, without question, about Mexican immigration and more specifically undocumented Mexican immigration. The former is reflected in the number of times Mexicans were mentioned in the House debate over the bill, with the term "Mexican" or "Mexicans" being used with greater regularity than any other national or regional identifiers.

Table 2.5: Word count of national/regional identifiers in House debate, 1929

Nationality	Word Count
Mexican	29
Italian	8
European	7
Nordics	5
British	3

Table 2.5 shows that Mexicans were mentioned with far greater regularity during the House debate over S. 5094, more than three times as often as the next national/regional group to be mentioned. This is in contrast to the House debate over the Johnson-Reed Act, where mentions of Mexicans came in a distant seventh overall. Concerns regarding Mexican immigration were driven in large part by the inability of the government to control undocumented immigration in any real way, thus, one of the tools available to restrictionists in Congress was to attach criminal penalties to undocumented entry in hopes of this functioning as an effective deterrent.

S. 5094 was uncontroversial enough that there was little debate over the bill in the Senate where it was introduced. Thus, I draw on only the House debate in discussing the

characterization of undocumented immigrants and the threat frames used in pushing for the passage of the bill. Even in the House there were fewer than 40 pages of the Congressional Record dedicated to the House debate on S. 5094, which can be contrasted with the more than 300 pages of House debate that characterized Johnson-Reed, though the latter was of course a much more complex piece of legislation.

Criminality played a significant role in Congressional debate over S. 5094. In the House, Rep. Green of Florida noted that there were an estimated one million aliens in the United States who had entered illegally and that, “If you will examine the criminal records you will find that, in proportion to alien population, the percentage of criminals is largely foreign” (70th Con. Rec., pg. 3547). Republican John C. Schafer of Wisconsin challenged Rep. Green on this directly, noting that, “His speech indicates that only criminals are aliens. I would like to see him amend his views as to be willing to deport the notorious criminals in the Klu-Klux Klan organization” (Ibid, pg. 3548). The statements made by Rep. Green echoed those that were later made by Rep. Box, a long time proponent of Mexican immigration restriction.

Box had introduced one bill after another attempting to amend the Johnson-Reed Act to include quotas for Mexican immigration, though all of these ultimately failed in committee (Hoffman 1974, pg. 24). Box went beyond just painting Mexican immigrants as criminals though, stating “They are badly infected with tuberculosis and other diseases; there are many paupers among them; there are many criminals; they work for lower wages; they are objectionable as immigrants when tried by the tests applied to other aliens” (70th Cong. Rec., pg. 3620). Box also believed that Mexican immigrants constituted a threat to racial harmony in the United States, pointing out that through the continued admission of Mexican laborers (legal and otherwise) the United States was, “breeding another one of those great race questions” (Ibid). Following this

statement, Rep. Roy Fitzgerald, a Republican from Ohio, chimed in to agree and argue that Mexicans were, “poisoning the American citizen” (Ibid). Statements like these show that threat perceptions tied to Mexican immigrants were not simply the result of nativism but also of racism, despite the fact that legally Mexicans were considered White.

Republican Representative Thomas Blanton of Texas pointed out that Mexican immigrants posed a threat to the American worker as well, explicitly mentioning undocumented Mexican immigrants as a reason to include an amendment declaring reentry a felony, arguing that if undocumented immigration was not stopped, “...we are going to have Americans starving to death in the Hoover administration”(70th Cong. Rec., pg. 3619). This statement of Mr. Blanton’s, while addressing the economic threat potentially posed by undocumented labor, also suggests that undocumented immigration could be responsible for American deaths, even if unintentionally.

S. 5094 passed both chambers in 1929, becoming public law 1018 and marked the culmination of a crackdown on Mexican immigration which had begun in 1924 and would lead to a program of Mexican Repatriation between 1929 and 1939.⁵ The passage of S. 5094 meant that undocumented entry was now a misdemeanor, punishable by one year in prison and a \$1,000 fine, and reentry a felony, also punishable by one year in prison, along with a \$2,000 fine, and made the offending immigrant ineligible for future legal immigration. Driven in part by the Depression, both S. 5094 and Mexican Repatriation helped to create a climate of fear, complete with rumors of immigration raids, to encourage Mexican aliens to “voluntarily” repatriate. This resulted in the out-migration of approximately 500,000 Mexicans over a ten-year period (Ngai 2006). While there were no limits on Mexican immigration until 1976, S. 5094, together with the

⁵ There was no recorded vote for S. 5094 in the House or Senate.

Mexican Repatriation, locked in two trends that would henceforth be part of US immigration policy. First, there was the conflation of undocumented status with criminality beyond simple illegality, which had begun with the formation of the Border Patrol and passage of Johnson-Reed in 1924. This legitimized the long-standing rhetorical linkage between criminality and immigration, while also formalizing the status of reentrants as criminals. The Undesirable Aliens Act also instituted the adversarial relationship between the US government and Mexican laborers, despite the reliance of US industries on these very individuals.

The Legacy of S. 5094

S. 5094 was passed 47 years before Mexican immigration was subject to immigration quotas in 1976 and 57 years before undocumented immigration was comprehensively addressed for the first time via IRCA. This decision to formally criminalize undocumented reentry, while using the rhetoric of illegality to describe undocumented immigration, locked-in the tendency toward the criminalization of Mexican immigration that had first taken root in 1924 with the decision to deploy the Border Patrol solely along the Mexican border. In the 57 years between S. 5094 and IRCA the Border Patrol was expanded multiple times and undocumented immigrants came to be routinely portrayed as criminals. Media imagery, even today, frequently pairs stories on undocumented immigration with footage of immigrants being apprehended and handcuffed (Drier & Trabak 2009).

Politics, and policy choices, are composed of a number of processes that are path dependent and for these processes small events early on may have a larger impact than large events at a later stage because sequencing is important. Path dependence assumes that changes in the early part of a process result in positive feedback and further movement in the same direction.

As Orren and Skowronek (2004) have argued, this suggests that politics at any point in time is the result of path dependent processes from previous paths taken or choices made.

Congressional debate over Johnson-Reed and the formation of the Border Patrol in 1924 marked the beginning of the problematization of undocumented immigration, as well as the tendency to treat undocumented entry as an enforcement issue, which would lead to increasing parallels between immigration and criminal law. While the rhetoric of illegality was present in the debate over Johnson-Reed, the formal legal linkage between undocumented immigration and criminality did not become official policy until the passage of S. 5094. While still technically an administrative violation, a large number of undocumented immigrants who had previously been deported now faced felony charges and the loss of their ability to ever legally immigrate to the United States.

While undocumented Mexican immigration was, and is, in large part based on labor demands within the United States, the responsibility for undocumented immigration and label of criminality was placed entirely on the immigrants themselves, ensuring that a number of industries in the United States would have little incentive to end their exploitation of undocumented labor. Despite an acknowledgement that employers relied on the cheap labor provided, the emphasis was on preventing the Mexican immigrant from entering the United States, on increasing the size of the Border Patrol, and criminalizing the act of undocumented crossing. Sanctions for employing undocumented immigrants were not passed until 1986 and even then there were enough loopholes that there was no fundamental change in the dependence of various industries on undocumented workers.

S. 5094 was signed into law during a period of increasing hostility to Mexican immigrants and started the United States on its path dependent trajectory towards increasing

criminalization in two ways. Firstly, there was an emphasis on law enforcement as the first and only real answer to undocumented immigration. Members of the House, in debating Johnson-Reed, focused on the need for increased number of Border Patrol agents and an emphasis on enforcing existing immigration policies such as the literacy test and head taxes. This rhetoric of enforcement and illegality led five years after Johnson-Reed to the passage of S. 5094 and the beginning of the convergence of immigration and criminal law. Secondly, there was no attempt by Congress to address the labor demands that led to undocumented immigration or to place some responsibility on employers. There would be no real attempt to address labor demands and the effect they had on undocumented immigration until the beginning of the Bracero Program in 1942. The bulk of the responsibility was placed on the immigrants themselves, while allowing employers to continue their exploitation of Mexican labor. The labors themselves were spoken of as criminals and rhetorically referred to as “illegals” or “wetbacks” for a significant part of the nation’s history.

S. 5094 was important because it occurred very early in the policy process of immigration control. This resolution was passed at a time when immigration restriction was at its zenith, when Asians were for the most part completely excluded and Southern or Eastern Europeans faced strict quotas. The success of immigration restriction in 1924 led to Mexican immigration, and undocumented immigration, landing on the Congressional agenda for the first time as restrictionists turned from Asian and “undesirable” European immigration to another immigrant group that was perceived as problematic. The tendency to deal with undocumented immigration in a patchwork fashion became locked-in and the norm until the passage of IRCA in 1986, which itself was driven largely by an increasing public awareness of undocumented immigration and desire to see it addressed (Tichernor 2004). The label of illegality was assigned

to millions of Mexican immigrants in the decades between the passage of the S. 5094 and IRCA, a status that forced these communities into the shadows and made programs like Mexican Repatriation and Operation Wetback acceptable both to politicians and the public. Undocumented immigrants were criminals, had violated the sovereignty of the United States, broken its immigration laws, often deliberately. Little mention was made of the role of employers in this equation and they avoided the label of criminality so liberally applied to generations of laborers who helped in shaping the economic prosperity of this country. Senate Bill 5094 reveals that the convergence between immigration and criminal law began in the 1920s, setting policy on a path that would increasingly treat undocumented entry as a criminal act and leads us to the near complete convergence of immigration and criminal law, to what is now called crimmigration.

In the next chapter I examine the only attempt the United States has made to change course, the Immigration Reform and Control Act of 1986. This extended amnesty to millions of undocumented immigrants, created the first guest worker program since the end of the Bracero program in 1964, and sought to extend criminal penalties to employers for the first time. Despite these changes I show that ultimately IRCA can be characterized as a critical policy failure and that little changed in the long term as far as the characterization of the undocumented immigrant, presaging a return to the same policies that the United States had relied on in the 57 years between S. 5094 and IRCA.

CHAPTER 3: From the Path Less Traveled to the Path Best Known

In Chapter 2 I argued that S. 5094 created the formal linkage between the rhetoric of criminality and the legal treatment of undocumented immigrants that. Drawing on theories of path dependence I posited that this, along with increasing hostility towards Mexican immigrants in the 1920s, set that the United States on a path where the tools used to address crime control were the primary “solution” used in addressing undocumented immigration. The criminal penalties associated with undocumented reentry under S. 5094 entrenched deterrence through punishment of the immigrant, leaving the employer untouched. This would remain the case for 57 years until the passage of IRCA in 1986.

In this chapter I examine IRCA and argue that this represented a unique opportunity in the history of undocumented immigration in the United States. A growing frustration with the failure of deterrent penalties and an acknowledgment by government officials of both the value and necessity of Mexican labor meant there was a shift in the focus of immigration enforcement for the first time from the immigrant themselves to the employer. IRCA granted amnesty to millions of immigrants who had been working in the United States and set up a guest worker program in hopes of meeting labor demands. Employer sanctions became a part of immigration legislation for the first time, with deterrence now aimed not only at the immigrant through the Border Patrol, Immigration and Naturalization Services, and the threat of charges and deportation, but also at the employers who profited from the labor of these immigrants. Unfortunately though, IRCA’s promise of a new immigration regime never became a reality.

There were loopholes for the hiring of undocumented workers, since fines were only levied if the undocumented immigrant was employed directly, allowing many to sidestep

potential criminal penalties by hiring labor through contractors, who hired the immigrants and verified their employment eligibility before contracting these workers out to agricultural interests. There was also a “good faith clause” that employers only had to see a set of documents proving work eligibility, not ensure they were in fact legitimate. The guest worker program that IRCA set up was too difficult to navigate and did not address labor demands to the extent needed. The border itself remained porous, thus making true “border control” an impossibility. That said, IRCA did grant legal status to millions but therein lies the central problem of IRCA. While the amnesty program was a success, all of the other parts of the bill failed to reduce the influx of undocumented immigrants. IRCA became a CPF, with its shortcomings leading to a return to deterrence through criminalization in 1996 under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). IRCA’s failure also delegitimized its primary success in amnesty. As discussed earlier, critical policy failures are theorized as those that attempt a significant shift in how a particular policy problem is addressed and conceptualized, therefore carrying a heavy burden for failure. If these pieces of policy fail it can delegitimize the new approach attempted and make a regression to the previously existing policy monopoly and regime likely.

A shift back to criminal penalties and increasing criminalization was due, in part, to the long history the United States had with criminalization as the solution to undocumented immigration. Again, there were 57 years during which the Border Patrol was increased in size, the goal of the INS became the apprehension and deportation of undocumented immigrants, and, perhaps more importantly, undocumented immigration became almost inextricably linked to criminality in the minds of many legislators and the American public. When the attempted pivot to a new way of dealing with undocumented immigration came up short, it was easy to return to the course that was well-known and much more politically safe, as well as politically ripe for the

right-wing of the GOP. Blame was shifted back to the immigrant and policy regressed back to a simple focus on crime-control, where fences and increases in the size of the Border Patrol and INS could be sold as being “tough on illegal immigration”.

In the pages that follow I examine the Congressional debate on IRCA to see how often the criminality frame was used in discussing undocumented immigration and compare this both to the earlier acts covered in Chapter 2, Johnson-Reed and S. 5094, but also to the rhetoric of IIRIRA. I argue that IRCA represented a moment of punctuated equilibrium, where restrictionist forces for the first time lost ground in immigration policy as a result of the continuing problem of undocumented immigration, the failure of criminal penalties, and a conservative administration that valued the labor of undocumented immigrants. I also argue that IRCA represented a critical policy failure and led to a re-entrenchment of crimmigration as Congressional policy. This was demonstrated in the passage of IIRIRA in 1996, where much of the discourse once again hinged on the rhetoric of immigrant criminality.

The Path to IRCA

What immediately followed the passage of S. 5094 and the formal criminalization of undocumented reentry was a campaign of “repatriation” that capitalized on the fears of Latino immigrants, both documented and undocumented in order to drive these individuals back to Mexico. High profile raids and the announcement of these raids in immigrant neighborhoods led many to “voluntarily” repatriate, reducing the size of the Mexican population in the United States by the hundreds of thousands. This campaign of forced Mexican Repatriation by the INS ran from 1929, the year that the Undesirable Aliens Act was passed, to 1939, as the country struggled with the Depression and the increases in nativism that are a regular occurrence during economic downturns.

Not long after the end of Mexican Repatriation the US was once again in need of Mexican laborers. To that end, an agreement was reached between Mexican president Manuel Avila Camacho and American president Franklin Roosevelt in 1942 and the Bracero Program was created. This was aimed at meeting American labor demands while providing a solution to undocumented entry, which remained a normal occurrence despite the ten-year period of repatriation. The Bracero program allowed Mexican workers to come to the United States as laborers under temporary contracts but also imposed minimal work conditions, wages and employment protections for laborers. This in many cases made it easier for employers to simply return to the old arrangement with undocumented workers since employers faced no real penalties as a result of hiring undocumented immigrants. Undocumented workers were targeted by the US government though, with Operation Wetback beginning in 1954 with the stated goal of 1,000 apprehensions a day (Dillin 2006; Ngai 2006). Like the Bracero Program this was a cooperative move by Mexican and American officials aimed at reducing the flow of undocumented immigrants through mass deportations and the threat of capture. The Bracero Program itself continued until 1964, when the program was terminated.

Yet, there was no concrete Congressional action on the problem of undocumented immigration. Mexican Repatriation and Operation Wetback were both campaigns on the part of Immigration and Naturalization Services (INS), while the Bracero Program was a treaty agreed to by the presidents of Mexico and the United States. Congress largely ignored the issue of undocumented immigration, allowing the existing bureaucracies that had been set up to address it, the Border Patrol and INS, to do their job while relying on penalties for undocumented immigration that were passed under S. 5094 to serve as a deterrent. The INS and Border Patrol largely treated undocumented immigration as a crime control issue through the threat of penalties

and deportation, as well as the use of neighborhood and workplace raids to create a climate of fear under both Mexican repatriation and Operation Wetback.

Unsurprisingly, enforcement had largely failed and as the United States entered the 1980s, the American public increasingly saw undocumented immigration as an issue that needed to be dealt with (Tichenor 2002). There was also a questioning of the strict reliance on enforcement, which had shown to be ineffectual at actually reducing the rate of undocumented immigration. Rates of immigration soared in the 1980s and undocumented immigration, though difficult to exactly quantify, increased alongside it. By 1980, the undocumented population was estimated to be between 2 and 4 million, with roughly 1-2 million from being from Mexico (Warren & Passel 1987). Wars and civil strife in Central America drove refugees to America's border and the Mariel Boatlift dropped an estimated 125,000 asylum-seekers on the shores of Florida (Tichenor 2002). This was a significant increase from the estimated 1,116,000 that had been present in 1974 (Ibid.).⁶ The increasing rate of undocumented immigration and multiple crises attracted media attention to the issue of immigration and with it the eyes of the American public.

At the same time, the Reagan administration that came to power in 1981 was known to be of a strain of conservatism that, "celebrated large-scale immigration and temporary worker programs" (Tichenor 2002). Reagan himself was known to have seen the solution to undocumented immigration as open borders as part of a free trade zone that would promote labor competition (Tichenor 2002). Undocumented immigration, while seen as problematic through the way in which immigrants entered, was seen as necessary and a boon for the American economy. This convergence of increasing public and media attention with an administration that did not demonize Mexican immigrants but instead saw their contributions as important created a

⁶ See Appendix 2 for estimated rates of undocumented immigration between 1974 and 2010.

moment of punctuated equilibrium in immigration policy, which allowed for a shift in the solutions to undocumented immigration.

In 1982, a first crack was taken at a comprehensive solution to immigration through the Immigration Reform and Control Act of 1982 (also known as the Simpson-Mazzoli bill), which would have addressed not only undocumented immigration but also legal immigration, placing family members under the annual cap and limiting visas to brothers and sisters of citizens. Simpson-Mazzoli also sought to implement employer sanctions for those employing undocumented immigrants (Tichenor 2002). While the bill sailed through the Senate, largely due to the majority held by Republicans and the leadership of Senator Simpson who had been appointed to the subcommittee on immigration by Strom Thurmond, it failed in the Democratically-controlled House (Tichenor 2002). Amendment after amendment was offered and there was resistance on the part of a coalition of business interests and civil rights organizations, the latter concerned with the potential discrimination as a result of employer sanctions and the elimination of the fifth preference category for visas to brothers and sisters of citizens (Tichenor 2002). The Rules Committee allowed an almost limitless number of amendments and this was used to amend the bill to death, with Democrat Edward Roybal of California proposing more than 200 (Ibid).

The failure of Simpson-Mazzoli made one thing obvious, a comprehensive overhaul of both legal and undocumented immigration would be difficult, if not impossible. To that end, the second Simpson-Mazzoli bill, which would become the Immigration Reform and Control Act of 1986, addressed only undocumented immigration. This was the first piece of Congressional legislation since the Undesirable Aliens Act of 1929 that sought to specifically address

undocumented immigration and was the first in US history to acknowledge the responsibility of both the immigrant and the employer.

While public perceptions of undocumented immigration were not necessarily sympathetic, the attention that was being paid to undocumented immigration meant that Congress and the Reagan administration were in search of a solution and many acknowledged that compromise would be necessary for any comprehensive solution. The decoupling of legal and illegal immigration in the final version of IRCA meant that some of the resistance that had been present for the 1982 Simpson-Mazzoli bill was missing.⁷ The Congressional debate on IRCA offers insight into elite perceptions of undocumented immigration and the shift that occurred in terms of the criminality frame and threat frames more generally in the 1980s, as a number of events converged to make both an overhaul of US policy on immigration possible for the first time since the 1920s. At the same time, the expectations that were hung on IRCA made it a potential CPF, with any failures likely to engender a re-entrenchment of immigration restriction and criminal penalties, as would be seen in 1996 with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).

After examining the Congressional debate on IRCA and how threat frames shifted, I turn to a discussion of why IRCA came up short and what this meant for the future of immigration policy. In the latter part of the chapter, I draw on debate on IIRIRA to show that both rhetoric and policy quickly returned to the path most traveled in US policy on undocumented immigration, marking IRCA as a critical policy failure.

⁷ This resistance was largely to limiting visas to the siblings of US citizens.

The Immigration Reform and Control Act of 1986

In examining the debate over IRCA one thing is immediately clear: it differed significantly from the earlier debates on undocumented immigration that were covered in the preceding chapter. Unlike Johnson-Reed and S. 5094, much of the debate on IRCA focused on the nuts and bolts of implementation, as well as an acknowledgement that this bill was the result of compromise and thus while not an ideal piece of legislation for most, was what was possible considering the divided nature of Congress, public opinion on undocumented immigration, and the need for action. In the House debate, Rep. Edward Roybal of California pointed out that, “Many have said that they would vote for the bill, but with mixed emotions. Others said that they would hold their nose to vote for this piece of legislation. Others just would vote for the bill simply because there was nothing else” (131st Cong. Rec., pg 30067). The bill, while not popular with everyone, was seen as a necessity, because immigration reform was seen as a necessity. This was stated clearly by Republican Representative Hamilton Fish of New York, who noted that, “We are at a time of crisis in the enforcement of our immigration laws. The public perception that immigration is out of control is, unfortunately, a correct perception” (131st Cong. Rec., pg. 29987). However, Fish went further than simply suggesting action was needed because of current public opinion on immigration. He also suggested that if nothing was done, it was very likely that a future Congress were revert back to restrictionism as a solution, continuing, “If we fail to enact reform in this Congress, I fear that when a later Congress considers immigration reform, it will produce a bill which will be narrow and restrictive. It will be driven toward passage by the pent-up frustration of the American people” (131st Cong. Rec., pg. 29987). Fish was expressing a feeling that no doubt many shared that this represented a unique opportunity to overhaul undocumented immigration in a way that was not driven by nativism or a reaction to

the anger of the public, but instead by bipartisanship and an acknowledgement of the need for Mexican labor.

This need was acknowledged over and over again in the debate over IRCA, as was the fact that this need played a significant role in drawing undocumented immigrants to the United States. In the Senate, Republican Pete Wilson of California echoed the sentiments of many when he argued that, “Nothing is going to change the need for these workers, who are willing to risk a great deal to come in, in the dead of night, fearing danger...in order to work. Now, is it right or is it fair, Mr. President, that these people, who are simply seeking to ear an honest living, should be compelled to do so illegally?” (131st Cong. Rec., pg. 24086). Similar sentiments were echoed throughout the debate in both the House and Senate over IRCA, in what was a significant shift from the way in which Mexican, and undocumented, immigration was discussed during debate on Johnson-Reed and S. 5094. There were some differences between the House and Senate that are worth noting though.

IRCA in the House

Debate in the House, where Democrats held a 253-182 majority, was much more contentious than it was in the Senate, where most of it focused on fine tuning the bill via amendments and questions about its implementation. Overall, there were approximately 48 pages of the Congressional Record dedicated to the House debate on IRCA. In these 48 pages there were almost an identical number of threat frame references as there were in the Senate’s roughly 118 pages. Overall, there were 31 unique mentions of phrases tied to the criminal threat frame during the House debate, though many of these were usage of the terms, “illegal alien”, “illegal immigrant” or “illegal” to describe the target group for the legislation. This was included in the past analysis because illegality was and continues to be linked to perceptions of criminality. As

will be discussed in Chapter 4, approximately 66 percent of the American public agree with the statement that, “Crossing the border illegally is a crime and immigrants who come to the US this way are criminals”. For this reason, references to the immigrants themselves as illegals or illegal immigrants/aliens was coded as a 1 for the criminal threat frame but for IRCA I coded for the criminal threat frame both with and without the term “illegal”. In addition, IRCA was almost exclusively concerned with Mexican immigration, so no coding for nationality was done. Table 3.1 below shows a breakdown for the various threat frames and the number of representatives mentioning that frame.

Table 3.1: Number of unique attribute/threat mentions by number of representatives, IRCA House, 1986

Characterization (mentions/senators)	Mexican
Positive Econ.	6/5
Negative Econ.	10/10
Positive Cultural	1/1
Negative Cultural	1/1
Positive Criminal	2/2
Negative Criminal (illegal)	31/27
Negative Criminal (no illegal)	10/10

As Table 3.1 reveals, with a designation of “illegal” included, there were 31 mentions of the criminal threat frame by 27 senators, giving this frame the highest overall number of unique mentions, which was followed by the economic threat frame with 10 unique mentions. Stripping out just use of the word “illegal” to describe undocumented immigrants still left me with 10 unique mentions in the House, tying it with the economic threat frame. Republican Ron Packard of California gave one of the more lurid descriptions of the crimes committed by undocumented immigrants, stating that, “In my district...we have a tragic increase in drugs, crime, prostitution,

and social problems. Now I read in the San Diego Union that the aliens are preying upon our schoolchildren and stealing their lunch money” (131st Cong. Rec., pg. 30008). Democrat Buddy MacKay of Florida later made a similar statement on the House floor, where he pointed out that, “...63 percent of the narcotics arrests in southern California are illegal immigrants. These are people going into a system that is already overfilled, they are being released; they are committing further crimes and we have a revolving door effect there” (Ibid, pg. 30069). Both of these statements harkens back to earlier statements about the potential violence of undocumented immigrants and the perception of criminality beyond just their status as “illegals”. Both Democrat Lawrence Smith of Florida and Rep. Dante Fascell, a fellow Democrat from Florida echoed these concerns, with both arguing that undocumented immigrants were involved in drug trafficking and crime and that states were receiving little assistance from the federal government in dealing with this problem (131st Cong. Rec., pgs. 30069-30070).

Some of the resistance to IRCA in the House was driven by a perception that the amnesty program rewarded criminal behavior with legalization. Rep. Barton of Texas, in an attempt to use the word “illegal” as many times as possible in a single sentence argued that, “...if we condone amnesty, we are condoning an illegal act of those illegal immigrants who have entered this country illegally” (131st Cong. Rec., pg. 30064). This sentiment was echoed by Republican Bill McCollum of Florida, who very similarly pointed out that, “We are going to be rewarding lawbreakers; people who have been here illegally who have no business becoming citizens and permanent residents...” (Ibid, pg. 30063). This perception that undocumented immigrants were being rewarded through amnesty was also drawn on to highlight the fact that legal immigrants still had to go through a long process to achieve what undocumented immigrants were getting by simply crossing the border and avoiding deportation. The criminality frame in the House then

revolved around notions that undocumented immigrants were involved with criminal activity and that, at the very least, amnesty would function as a reward for past illegal behavior.

The other major threat frame present in House debate, as noted in Table 3.1, were concerns about the economic threat posed by undocumented immigrants. Republican Jack Fields of Texas pointed out that, “I am a native of and represent a southern border state—Texas, I am well aware of the problems associated with illegal immigration: The costs to public hospitals, the costs for public health services, the increase in criminal activity and job displacement” (131st Cong. Rec., pg. 30004). Fellow Republican William Dannemeyer of California similarly spoke of his personal experience with the economic threat associated with undocumented immigration, stating that, “Though San Diego County has endured countless hardships in the course of the struggle with illegal immigration, Los Angeles County has not escaped its share of economic and social devastation” (131st Cong. Rec., pg. 30005). He would go on to cite a figure of \$200 million that was the supposed cost to the taxpayers of Los Angeles County of providing health, justice and social services to the undocumented community. Rep. Dannemeyer noted the burden imposed by birthright citizenship and the fact that the illegal mothers of children born on US soil could claim welfare benefits, costing county taxpayers an estimated \$8 million per month (Ibid).

This was typical of the economic threat frame in the House, though some also cited the potential costs of amnesty itself. Republican Hal Daub of Nebraska argued that amnesty would place a severe strain on state and local governments. He claimed that amnesty would result in a soaring welfare claims and a burden on the educational system as more undocumented children began attending school since their parents no longer had to fear deportation (131st Cong. Rec., pg.

30003).⁸ This fear that amnesty would lead to former undocumented immigrants becoming an even greater burden on the state was common to the economic threat frame and the concerns expressed by House members who opposed legalization.

What was surprising is that there were few references to cultural threat in the House, with only one statement coded as denoting a cultural threat, this being the statement that was cited earlier by Rep. Dannemeyer about the social “devastation” from undocumented immigration. There were also a number of positive comments made on behalf of the undocumented population, the most common being the economic contribution they made to the United States. Emblematic of this is the statement made by Democrat Henry Gonzalez of Texas, who countered claims of economic burden with, “The fact is, that with respect to taxation, work and productivity, many of these undocumented workers are contributing a great deal in a great many places..” (131st Cong. Rec., pg. 29993). As is reflected in Table 3.1, five members of the House specifically mentioned the economic contributions made by undocumented immigrants. There was also an interesting division in the House, with some individuals using the term “undocumented” while others used “illegal”. This suggests that there was at least some acknowledgement by the 1980s that the term “illegal” was a loaded one that carried with it connotations of criminality. That said, in some cases the terms “illegal” and “undocumented” were used interchangeably and by those who generally made positive statements about undocumented immigrants.

In the House, eliminating the use of the term “illegal” from the criminality frame resulted in exactly twenty-one unique negative framings of undocumented immigration. There were nine positive framings, as reflected in Table 3.1. The House debate on IRCA then, when not

⁸ Undocumented children had been found to have a constitutional right to a K-12 education as a result of the Supreme Court’s decision in *Plyler v. Doe* in 1982.

specifically concerned with the logistics of implementation or concerns about specific parts of the bill, was for the most part negative in its portrayal of the undocumented population, with more negative framings by a larger number of representatives than was found for positive framings, at least in terms of discussions of the immigrants themselves. Yet despite this, the discourse in the House was much less charged than I expected it to be. While there were a number of mentions of the threat posed by undocumented immigration, even many of the individuals citing these concerns also professed a support for immigration reform, though they typically also wanted significant changes to be made to IRCA.

IRCA in the Senate

Debate on IRCA in the Senate in many ways mirrored that of the House, though there was much more debate overall. Much of the Senate debate concerned amendments and implementation concerns about IRCA, particularly the possibility that employer sanctions could lead to discrimination against those who looked like they could be an undocumented immigrant. Table 3.2 shows the number of unique mentions of each frame, along with the number of senators mentioning that frame.

Table 3.2: Number of unique attribute/threat mentions by number of senators, IRCA Senate, 1986

Characterization (mentions/senators)	Mexican
Positive Econ.	7/5
Negative Econ.	10/6
Positive Cultural	1/1
Negative Cultural	2/2
Positive Criminal	3/2
Negative Criminal (illegal)	28/16
Negative Criminal (no illegal)	2/1

Table 3.2 reveals that there is a significant difference between the House and Senate characterizations of undocumented immigration in regards to criminality. Leaving in the coding of the term “illegal” as reflective of a criminality frame, there are 28 mentions of the criminality frame in the Senate by 16 senators, which is similar to the 31 mentions in the House, though Senate debate was significantly longer. However, if the term “illegal” was removed from the coded responses, there were only 2 mentions of the criminality frame. This is significantly less than the 10 in the House and makes criminality a distant second to the economic threat frame. The positive framing of undocumented immigration in the Senate largely focused on the economic contributions made by immigrants, as had House debate on IRCA.

Senator D’Amato (R-NY) was responsible for both of the criminal threat framings in the Senate debate. In both cases, he emphasized the burden that was placed on state and local governments in dealing with criminal immigrants and pushed for reimbursement of the cost of incarcerating these individuals. In one statement, Senator D’Amato argued that, “More than 3,000 illegal aliens and more than 1,700 Marielito Cubans felons released from Castro’s prisons in 1980, have been convicted of felonies and are now adding to the overcrowding in our state prisons”. (131st Cong. Rec., pg. 23832). The other statement made by the senator mirrored this, pointing out that undocumented immigrants were clogging the prison system at a cost to taxpayers.

Of the more than 100 pages of Senate debate coded, Senator D’Amato was the only individual to frame undocumented immigration in terms of criminality. This is a drastic change from the House, where there were both more mentions of the criminal threat frame, as well as a larger number of individuals referencing this frame in opposition to IRCA. In the Senate, it was the economic threat frame that was the most commonly referenced in opposition to IRCA or as a

reason to amend parts of the bill. Florida Republican Paula Hawkins cited the potential public outrage if, "...they knew how easy it is for illegal aliens to get benefits, aid for dependent children, unemployment compensation, Medicaid, and food stamps, at a time when we are...trying to come within the budget, trying to cut a million here and a million there" (131st Cong. Rec., pg. 23711). Senator Ted Kennedy of Massachusetts referenced the threat posed by "the flood of migrants coming to this country" to take the jobs of American workers if an amendment offered by Pete Wilson of California were to pass. This threat to the American worker was referenced frequently in debate over Wilson's amendment in the Senate, which would have set up a guest worker program that initially contained no explicit cap on the number of guest workers that could be brought in. The Wilson amendment would fail by two votes in the Senate but be revived with a cap of 350,000 and managed to squeak by, though this program was replaced in the final version of IRCA with the Seasonal Agricultural Worker (SAW) and Regional Agricultural Worker (RAW) programs (Baker 1990). While concerns with a guest worker program certainly accounted for a majority of the content in the 10 economic threat frames, as mentioned there were concerns about the burden on social services and the justice system. Senator James McClure of Idaho raised another concern entirely and this had to do with deportation itself. During debate, Mr. McClure responded to Senator Simpson's statement that most apprehended undocumented immigrants were not deported but instead were what is known as a "voluntary departure". In response to this, Senator McClure cited the economic burden imposed by these departures on taxpayers, arguing, "I understand a good many of them wait until the end of the season and turn themselves in so they can get their way home paid by the taxpayers of the United States" (131st Cong. Rec., pg. 23597). The economic threat statements in

the Senate were, as reflected in those cited above, much more moderate in tone than those of the House.

In the Senate there were a similar number of positive frames, with the positive economic frame dominating the discussion and the criminal and cultural frames at the lower end, with two mentions for the criminal and two for the cultural. One of the most impassioned positive statements came from Senator Ted Kennedy who pointed out that, “We are attempting, with this proposal, to make those individuals who have demonstrated from their past conduct a commitment to this country, a commitment to society, a commitment to their family and their community, and to insure there will not be a constant sense of fear and to be able to...adjust their status and move toward citizenship” (131st Cong. Rec., pg. 23724). This cultural framing focused on the positive attributes of undocumented immigrants in a way that was meant to challenge longstanding perceptions of this group as a cultural threat to the United States by acknowledging their work ethic and dedication to their families. On the positive criminal frame side, the two references that were coded for this frame both mentioned the honesty of undocumented immigrants, that they were honest workers despite the situation they found themselves in.

Indeed, one of the most interesting aspects of the debate on IRCA was how often it was mentioned that undocumented immigration was the result of not only the personal responsibility of the immigrant for the choice that was made to cross the border illegally but also of employers and the United States government for allowing a system to remain in place that both incentivized and encouraged undocumented immigration to meet labor demands. Republican Steve Symms of Idaho stressed that, “...out there in the real world, where the produce is being harvested, there is an illegal guest worker program in place right now. It is happening whether we like to think about it in the Senate or not” (131st Cong. Rec., 23592). Pete Wilson (R-CA) similarly offered,

“Now, is it right or is it fair, Mr. President, that these people who are simply seeking to earn an honest living should be compelled to do so illegally?” (Ibid, pg. 24086). This is an interesting about-face in terms of how the undocumented immigration problem was conceptualized between S. 5094 and IRCA 57 years later. In the debate on S. 5094, while labor demands were acknowledged, nearly all the responsibility for undocumented immigration was placed on the immigrant based on the argument that they were the ones choosing to flout US immigration law and come to the country illegally. This narrative favors deterrence through punishment, which is the policy the US had in place for most of the history of undocumented immigration. IRCA represented not only a novel approach to the problem of undocumented immigration but also a significant shift in beliefs about the causes of undocumented immigration. In the debate on IRCA it was acknowledged that the immigrant, employer, and US government all had contributed to create the problem of undocumented immigration and solving it would require a comprehensive solution that took these multiple layers of responsibility into account.

On the side of a positive economic framing of undocumented immigration, there were a number of statements that were similar to those cited above. In most, the necessity of immigrant labor was noted and in some, so was the difficulty of the labor. Pete Wilson in particular argued for the economic benefits of undocumented immigration. In one statement he made the point that, “...men and women who are willing to work, and work hard, in the sun and in the weather, will at least have the peace of mind to know that their hard work will not be interrupted by a raid, that there will be no swooping down upon them in the fields, that they will not be compelled to live in holes, like animals. This is a situation we should not tolerate in the United States” (131st Cong. Rec., pg. 23838). Democrat Dennis DeConcini of Arizona argued that in regards to agriculture and the harvest of perishable crops, undocumented immigrants were, “...the only workers

willing, able, and available to do this vital work” (131st Cong. Rec., pg. 23584). The other positive economic frames made similar statements in regards to the value and necessity of immigrant labor.

IRCA then differed significantly from either Johnson-Reed or S. 5094 in how Mexican immigration, and especially undocumented immigration, were discussed. While there were still statements made regarding the threat posed by undocumented immigrants, there was more of a focus on the actual difficulties of addressing undocumented immigration as a policy issue, instead of a reliance on the demonization of the immigrants themselves. In addition, there were few references to the cultural threat posed by undocumented immigrants, with a majority of threat frames being economic in nature. Analyzing the policy narratives used in the debate over IRCA, Lina Newton found that there were two rhetorical frames associated with undocumented immigrants in Congressional debate. The first of these was what she calls the “undeserving illegal” narrative, which focused on themes similar to the ones I have touched on when discussing threat frames earlier in this chapter. This policy frame constructed undocumented immigrants as lawbreakers, as a flood that would overwhelm American labor, and as undeserving of citizenship (Newton 2008, pg. 98). However, unlike in previous debates, she finds this was met with a counter-narrative of the “deserving illegal” which constructed undocumented immigrants as law-abiding, family-oriented, as valuable members of their community and as future taxpayers and American citizens.

Newton also cites another five policy narratives that were present in the debate over IRCA. These narratives had different targets than the immigrants though, most targeting employers and agricultural interests, while one very specifically target minority and foreign-born job applicants. These narratives reveal the complexity of debate over IRCA in what was a drastic

shift from the earlier debates I covered in Chapter 2, where at the very best the economic necessity of Mexican immigrants was noted but often while at the same time demonizing this group.

As mentioned earlier, this shift in rhetoric was the result of an acknowledgment that undocumented immigration was necessary and that dealing with the continuing issue of undocumented entry required a comprehensive response that also addressed US labor demands. The convergence of multiple events made IRCA possible by creating a moment of punctuated equilibrium in immigration policy. A divided Congress, the recognition of the Reagan administration of the need for immigrant labor, and the growing public and media pressure on the federal government all helped in opening up the possibility of change in US immigration policy. In addition, IRCA separated legal and illegal immigration, allowing for a true debate on the causes and solutions to undocumented immigration for the first time. While threat frames were still common, the debate over IRCA was surprisingly balanced when compared to the earlier debates covered in Chapter 2.

However, the fact that IRCA was the first piece of legislation to try and comprehensively address undocumented immigration also meant that its failure would have serious consequences for future immigration reform. While there was a shift in how the United States approached the problem of undocumented immigration under IRCA, a failure on the part of the programs made a return to criminalization as a solution likely, as the path most traveled would become, once again, the most appealing. IRCA would represent a critical policy failure if the flow of undocumented immigration was not reduced because of the massive shift it attempted to make both in terms of problem framing and policy approach. With a limited policy toolbox in relation to undocumented immigration and more liberal policies undermined by IRCA's shortcomings, the likelihood was

that in its wake the US would return to the policies of the past: an immigration regime based on criminalization and border militarization.

While amnesty was a success, the other parts of IRCA did ultimately come up short. The employer sanctions contained enough loopholes that there was never a serious reduction in the reliance on undocumented labor, while the SAW and RAW programs did not allow enough immigrants to come in nor streamline the process enough to make it a viable solution. Farmers and agricultural interests instead returned to their familiar reliance on undocumented labor and the size of the undocumented population began once again to increase (Tichenor 2002). By the 1990s, undocumented immigration was once again seen as a problem and public attention once again demanded action. Following IRCA, the estimated size of the undocumented population dropped from 3.2 million in 1986 to 1.9 by 1988, but by 1990 it had again risen above three million (Wasem 2012). The result of this critical policy failure on the part of IRCA led to a piece of legislation that returned to criminalization as the primary means of addressing undocumented immigration, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (Wasem 2012). In the section that follows I examine the debate on IIRIRA and argue that this returned this United States to the path of criminalization and led to the modern “cimmigration crisis” (Stumpf 2010). Despite IRCA’s amnesty program, by 1996 there were an estimated five million undocumented immigrants in the United States, despite the extension of permanent residency to approximately 2.7 million undocumented immigrants under IRCA (Cooper & O’Neil 2005; Pew 2013).

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996

As Bill Clinton entered the White House in 1992, law and order and undocumented immigration were both issues of public concern, with several events ensuring immigration control was front and center in American politics. According to Dawn Johnson the first of these was the heated debate around California's Proposition 187 in 1994, which sought to deny schooling to the children of undocumented immigrants and called attention to the number of undocumented immigrants in the California school system (Johnson 2001). Pete Wilson, who had been a staunch supporter of IRCA also led the push for Proposition 187 in a shift that presaged the debate over IIRIRA. The rhetoric around Prop. 187 focused heavily on narratives of criminality for justification of the bill (Jacobson 2008). Secondly, Johnson cites the passage of the North American Free Trade Agreement (NAFTA) as focusing the public's attention on immigration and its impact on the US economy. Finally, the 1993 bombing of the World Trade Center by someone identified as an immigrant heightened the public's perception of immigration as a potential terrorist threat (Johnson 2001).

To this must also be added the nativism that motivated Proposition 187. This nativism was likely driven, at least in part, by Census projections that saw the White population shrinking from a three-quarter share to just about fifty percent. An article in the Washington Post on December 4th, 1992 notes that the Hispanic population was set to quadruple by 2050 and would constitute more than a fifth of the population by that time (Vobejda 1992). For those concerned about the declining White population the news did not get better. An August 29th, 1995 article on the front page of the New York Times noted that a recent report by the US Census had placed the percentage of the country's population that is foreign-born at its highest level since World War II (Holmes 1995). The new Census report also noted a declining birth-rate amongst native-

born Americans while immigrant birth rates remained high. This raised the specter of an America where Whites were in the minority and triggered nativist reactions from right-wing writers such as Peter Brimelow who published *Alien Nation: Common Sense About America's Immigration Disaster* in 1995. However, nativist reactions were not limited to just academics. This was reflected in comments made by Representative Beilenson of California when IIRIRA was under debate in the House of Representatives. During the debate, Rep. Beilensen stated, "With twice as many people here in this country, and then more than twice as many, we can expect to have at least twice as much crime, twice as much congestion, twice as much poverty, twice as many problems in educating our children, providing health care and everything else." (142nd Cong. Rec., pg. 2365)

Thus, as 1996 neared a number of factors drove the convergence of immigration law and criminal penalties. The critical failure of IRCA delegitimized a more liberal approach to undocumented immigration while IRCA's shortcomings at the same time guaranteed that the undocumented population would continue to increase. Spikes in immigration rates in the 1990s, falling White birth rates, and an increasing Latino population led to increased nativism. Finally, there was a continued shift that had begun in the 1980s away from rehabilitation and toward punishment for criminal infractions as was detailed in Chapter 2. Increasing criminal penalties for undocumented immigration were part of this shift. Undocumented immigrants who came here illegally and in direct and deliberate violation of the law were unlikely to garner much sympathy from the American public, no matter what their reason was for coming. Criminal aliens were even worse off. Their criminal convictions ensured little sympathy from the public and little interest in their fate from politicians. Both groups made convenient scapegoats for the government who could use their punishment as a performance for the American people.

Two aspects of IIRIRA furthered the convergence between immigration and crime, the first being the fact that the act allowed for undocumented immigrants to be held in detention facilities while they awaited their deportation hearing. This long detention, often in prison facilities, meant undocumented immigrants essentially had to serve time while awaiting a hearing on what was a civil violation. Those in deportation proceedings also had no right to state-appointed counsel and had to either represent themselves or pay for a lawyer. Secondly, under section 287(g) of IIRIRA the Attorney General was given the ability to enter into agreements with states to allow their agents to perform, “the investigatory, arrest and detention functions of an immigration officer” with federal oversight (Miller 2003, pg. 627). The use of local law enforcement to enforce immigration law not only illustrated the increasing overlap of immigration and criminal law but also the increasing marginalization of undocumented immigrants. If local law enforcement was given the ability to enforce immigration law, those who were in the country illegally would be less likely to report crimes perpetrated against themselves or others.

IIRIRA in the House

The number of references to immigrant criminality in the debate over IIRIRA reflects this shift away from the relatively liberal programs of IRCA to the more draconian and crime-control oriented policies of IIRIRA. This “criminal alien narrative” was common throughout the House debate on IIRIRA, with a particular focus on the links between undocumented immigrants and drugs. Republican Lamar Smith of Texas suggested that, “We look at the drugs coming across, the flow, and on those drug ride-alongs, 99 percent have involved illegal immigrants” (142nd Cong. Rec., pg. 2380, as cited in Newton 2008). Rep. Smith also pointed out that, “Illegal aliens are 10 times more likely than Americans as a whole to have been convicted of a federal crime.

Think about the cost to the criminal justice system, including incarceration. But most of all, think about the cost in pain and suffering to the innocent victims and their families” (142nd Cong. Rec., pg. 2379). This later statement suggested not only a tendency to criminality on the part of undocumented immigrants, but violent criminality. The mention of “innocent victims and their families” suggests assault, homicide and other acts of violence, something that was not suggested in any of the earlier debates I examined with the exception of one mention of the potential violence of coyotes in debate on Johnson-Reed.

Representative Roukema (R-NJ), following up on the comments made by Lamar Smith argued that illegal immigration had a host of costs associated with it in addition to increased crime rates in terms of lost jobs, the burden imposed on the welfare, education, and health care systems (142nd Cong. Rec., pg. 2380). Another Republican, Rep. Bilbray of California mixed the narrative of immigrant crime together with one of concern for the immigrants themselves pointing out that he had, “...to live in my community not only with the crime, the destruction that has occurred from uncontrolled immigration and crime activity along the border, but also a human misery that in being imposed on the illegal immigrants. Our freeways are the scene of many people being slaughtered because smugglers are encouraging illegals to enter our country down the middle of freeways” (142nd Cong. Rec., pg. 2391). This blending of the narrative of immigrant criminality together with one of concern, or at least sympathy, for immigrants broadly conceived came up more than once in the debate over H.R. 2202.

Later in the debate, another representative, Republican Dana Rohrabacher of California, mixed statements of concern with thinly veiled threat narratives in stating,

“...some people may be deprived overseas, but we are not going to let criminals come into our society and commit crimes and not have our government act upon it and see our jails being filled with illegal aliens. Yeah, we love older people from other countries...but we do not want senior

citizens coming into America and draining all of the resources...Yes, we care about sick people wherever they come from. We do not want sick people coming here from every corner of the world breaking down our health care system” (142nd Cong. Rec., pg. 2393).

In this way compassion was expressed while also pressing for greater restriction in immigration policy, particularly concerning undocumented immigrants. Rep. Tate (R-WA) would tie the lax enforcement of immigration law explicitly to future criminal act when he later stated that, “Our current law sends the wrong message to would-be illegal immigrants—you won’t be penalized for breaking United States law. It is no wonder many so-called illegal immigrants are drawn to crime once they reach our country” (142nd Cong. Rec., pg. 2457). Mr. Tate would go on to cite the specific crimes illegal immigrants were associated with, “...bank fraud, credit fraud, check kiting, false marriages, assault, extortion, and drug dealing” (Ibid). Tate’s suggestion was that the lack of immigration enforcement conditioned undocumented immigrants to criminal behavior since there was a perception that US laws would not be enforced.

Republican John Doolittle of California related a personal anecdote regarding the potential criminality of the undocumented and the lack of protection for American citizens, stating, “...the first drive-by shooting in a rural town was in my district was committed by an illegal alien. He was convicted and served his sentence, and within one week after he was deported, he was back in the country. Now, it turned out he had committed another crime” (142nd Cong. Rec., pg. 2477). Rep. Doolittle cited that 98 percent of criminal undocumented immigrants returned after deportation and 40 percent of these committed further crimes, though he did not state where exactly he got these numbers from (Ibid). Similarly, Rep. Ganske (R-IA) cited the stabbing of a local boy at a party in his district in his support for the 287(g) program included in IIRIRA (Ibid).

Table 3.3: Number of unique attribute/threat mentions by number of representatives, IIRIRA House, 1996

Characterization (mentions/senators)	Mexican
Positive Econ.	0/0
Negative Econ.	39/25
Positive Cultural	3/3
Negative Cultural	2/1
Positive Criminal	1/1
Negative Criminal (no illegal)	37/27

As is reflected in Table 3.3 above, the number of mentions of the criminal threat frame in the House debate for H.R. 2202 was many times greater than the number for any of the other bills examined. This was also nearly tied with the economic threat frame at 37 mentions to 39 for the economic frame. Use of the term “illegal” was eliminated from the coding since this was used with a great deal of regularity by those both supporting and opposing IIRIRA. However, economic threat was only mentioned by 25 representatives while the criminal threat frame was mentioned by 27, meaning that for all intents and purposes the two frames were tied with one another. Positive frames were all but absent from the debate on IIRIRA, with no mentions of the positive economic contributions of undocumented immigrants, three mentions of positive cultural attributes, all of which were tied to be hard-working and/or family values, and a sole mention of a tendency to be law-abiding. Criminality on the other hand was a central concern for legislators in a way that it was not during debate on IRCA. Senate debate on IIRIRA was quite limited so was not included for the purposes of analysis. In the next section I examine the differences between the two debates and argue that IIRIRA represented a return to the path that had been set with the passage of S. 5094 in 1929.

IRCA and IIRIRA: A Different Discourse for Different Decades

One thing that is striking about the differences between the debate on IRCA and IIRIRA is the shift in the characterization of undocumented immigrants. During debate on IRCA many legislators used the term “undocumented” in describing immigrants, in some cases avoiding completely the more charged “illegal” or in some cases using them interchangeably. In the debate over IIRIRA almost all representatives used the term “illegal” in describing the undocumented population and the problems they posed for the federal government. While this difference may seem innocuous, it becomes clear how important it was when the characterization of the immigrants themselves is considered.

During the Congressional debate on IRCA, the contributions of undocumented immigrants were emphasized and many went out of their way to humanize this population, pointing out the draw of better paying jobs and the promise of a better life. Much of the ire in the debate over IRCA was directed not at immigrants, but at employers, as were the penalties that were aimed at reducing undocumented immigration. There were many mentions of the pull factors that drew undocumented workers to the United States and many exhortations for members of Congress to consider that these immigrants came not with the intent of being a burden on the state but instead to work, and work hard, in the hopes of improving their lives or the lives of their families. The exploitation these individuals experienced was mentioned multiple times and one of the stated purposes of IRCA had been to end this exploitation, to bring immigrants out of the shadows and that by doing so many of the problems associated with undocumented immigration would be addressed.

The debate over IIRIRA was the polar opposite. Almost any reference to the undocumented population referenced them as “illegals” or “illegal aliens/immigrants”. This shift

in the terminology used was matched by a significant shift in how undocumented immigrants were portrayed. Gone were the representations of this group as hard-working, family-oriented people who in many ways resembled the immigrants of yore, those groups of Irish, Italians, Poles, Jews, and Germans who had come to the United States to work hard and make a better life for themselves. Instead, most mentions of undocumented immigrants not only stated that they were lawbreakers, but went further, describing them as drug dealers and criminals. Lurid accounts of murder and shootings, as detailed earlier in the chapter, were used to show the necessity for draconian controls. All of this despite that fact that ample evidence suggests no linkage between criminality and legal status (Lee et al. 2001; Wadsworth 2010; Padgett 2010). In fact, many of these studies have found an inverse relationship between immigration and criminality from the one usually suggested. It is in fact the native-born that offend at higher rates and this makes sense when one considers that an American citizen does not need to fear deportation in addition to criminal charges for any illegal behavior, while undocumented immigrants do (Ibid).

IIRIRA marked an about face in how undocumented immigration was discussed and a return to the path of the 1929-1985 period, where the solution was seen as deterrence through punishment and increases in the size of the Border Patrol. Through the promise of enforcement, IIRIRA became a valuable political symbol, or as Newton puts it, “The utility of IIRIRA lay in the theater of government activity” (Newton 2008, pg. 135). As with crime-control, a simple increase in enforcement failed to address the myriad of factors that contributed to undocumented immigration, but it was also safe policy. Like the shift from rehabilitation to punishment during the severity revolution, IIRIRA was also driven by a recognition that symbolic politics often resonates more with the American public than does policy actually aimed at resolving the

problem in the long term (Simon 2001). Politicians who backed IIRIRA could point to the increasing number of undocumented immigrants sitting in detention facilities as an example of policy success, even if this had little real significance for resolving undocumented immigration in the long term. Detentions and deportations can be easily cited as examples of progress and being “tough on criminals”.

As was mentioned earlier, because of the convergence of a number of factors, IRCA had occurred at a moment of punctuated equilibrium in the history of immigration policy, when a shift away from the politics of scapegoating was a real possibility. However, when the programs established came up short, IRCA became a critical policy failure and there was a return to the policies of old as a result. Once again the responsibility for the “problem” of undocumented immigration was shifted almost entirely onto the immigrants themselves who were portrayed as potentially dangerous criminals. Path dependence can function not only at the level of what policies are passed or the relative ease or difficulty with which this occurs, but also at the level of policy discourse. Undocumented immigration had long been discussed as a crime control issue and immigrants scapegoated as potential criminals. IRCA had represented a shift, both in terms of policy and in terms of discourse, but both returned to criminalization and the rhetoric of criminality when IRCA failed to stop undocumented immigration. In fact, the rhetoric of criminality under IIRIRA became even more pronounced than what had previously been seen in any of the pieces of legislation considered in this analysis. As a critical policy failure, IRCA also colored all other immigration debates and has made amnesty one of the most unpopular policy options to address undocumented immigration (Gonzalez 2010).

After the passage of IIRIRA, there was no shift back toward policies acknowledging both the value of undocumented labor and the dual responsibility of both the immigrant and the

employer. Instead there has been increasing criminalization in the post-9/11 environment with the formation of Immigration and Customs Enforcement (ICE), who have posted record-breaking numbers of deportations year after year, even under the Obama administration, with 419,384 deportations for fiscal year 2012, though this dropped to 368,644 in 2013 (Pew 2014; Gonzalez 2013). Debates around Arizona's SB1070 and clone laws passed in a number of states afterwards show the enduring legacy of IIRIRA and the reinvigoration of the nativist discourse of immigrant criminality, as well as how significant the shortcomings of IRCA were historically. Polls showed high levels of support for SB1070, despite the likelihood of racial profiling, and the rhetoric used by Jan Brewer and other supporters of the law and its clones echoed many of the statements made by supporters of IIRIRA in 1996 (Pew 2012). Undocumented immigrants were linked to the drug war and often baseless comments were made about the threat they posed to the American people (Milbank 2010). Even political ads looked to capitalize on the perceptions of immigrant criminality, with ads by Sharron Angle featuring young Latino men skulking around a fence, walking threateningly toward the camera, and featured in fake mug shots in what could be described as gang attire while noting Harry Reid's opposition to SB1070.

Yet while these representations of undocumented immigrants have become part and parcel of elite discourse on immigration, it remains unclear whether or not the American public actually believes these narratives of criminal threat. With an unbalanced discourse where often the most sensational of claims are given airtime by the media and with representations of most undocumented immigrants often showing them being arrested, regardless of the channel in question, it would seem likely that the American public would believe these narratives of criminality (Uwimana 2012). In these last two chapters I have shown that these narratives have been a central part of elite rhetoric on undocumented immigration but it remains unclear if this

resonates to any degree with the American people. While criminal law and immigration policy have increasingly converged, leading to the current crimmigration crisis, two questions have not really been answered to date: Do the American people believe narratives of immigrant criminality and does this belief have an effect of their policy preferences? In the following chapters I address these questions.

Chapter 4: The Media Told Me to Be Afraid...

As was shown in the earlier chapters, Congressional debates have often relied on narratives of immigrant criminality in pushing for immigration restriction or increased enforcement. Additionally, this trope has become a frequent feature of media stories on undocumented immigration (Chavez 2008). Despite this, while public opinion polls have frequently asked participants about perceptions of cultural or economic threat few have asked respondents specifically about perceptions of immigrant criminality. Does the rhetoric of criminality that was previously shown to be part of elite discourse in Chapters 2 and 3 resonate with the American public? If the public does see undocumented immigrants as criminals, what makes this perception more likely?

While the two preceding chapters have examined elite discourse and the reasons for the convergence between immigration and criminal law, this chapter turns to an analysis of public opinion on undocumented immigration to determine whether the American public sees undocumented immigrants as a threat and if so, why this may be the case. As mentioned in Chapter 1, public opinion on immigration will play a significant role in both driving immigration reform, as it did in the 1980s, as well as determining what form this may take by creating political boundaries for legislators. I examine both White and African-American attitudes toward undocumented immigrants, as the latter group could serve as valuable coalition partners for Latinos in pushing for immigration reform, yet their attitudes remain understudied.

Threat Perceptions and Public Opinion

I draw on data from two surveys that were conducted in 2011 to examine the levels of belief in immigrant criminality amongst the general public and its potential ramifications for

policy preferences. The first survey is the Multi-state Survey of Race and Politics (MSSRP), conducted from January 24th through March 12th, 2011. This featured a nationally-representative sample of 1,504 adults from 13 states⁹ who agreed to participate in a telephone interview. In the survey 903 individuals self-identified as White and 379 as Black.

A second smaller survey by the University of Washington Institute for the Study of Ethnicity, Race and Sexuality (WISER) was conducted in the summer of 2011 with a national sample of 802 individuals over the age of 18. Of these 802 individuals, 643 completed the entire survey and 383 of these self-identified as White and 155 as Black. There was some bias in that both the African-American and White samples tended on the whole to be skewed in favor of higher levels of education and income. Summary statistics for the demographic variables in the WISER poll are presented in Appendix 3 while weights were used in the MSSRP poll to account for biases in the data. Since there were only a small number of Asian and Latino respondents, only African-Americans and Whites are included in the analysis of both polls.

All participants were asked a battery of immigration questions related to both perceived threat and policy preference. First respondents were asked if they recalled hearing a threat statement, or something similar, in the past. If they said yes, they were asked the source¹⁰ of the statement and their level of agreement. Afterwards, they were asked several questions regarding their policy preferences in regards to undocumented immigration which will be examined in chapter 5.

⁹ The states were AZ, CO, FL, PA, SC, WI, CA, GA, MI, MO, NC, NV, and OH. These states were chosen to be regionally balanced and were an expansion from the five states examined in the previous iteration of the MSSRP in 2010. Ideally, 50 states would have been included to allow for greater analysis of state or regional variation but these 10 were chosen as being broadly representative of the US as a whole, both in geographic and demographic terms.

¹⁰ The sources were from a friend, family, politician, television, other media or someone else.

Of the five 2011 MSSRP poll threat questions, questions 1-3 asked respondents if they agreed with collective threat statements regarding immigrants, with answers ranging from strongly disagree to strongly agree on a five-point Likert scale, with a neutral category denoting neither agreement nor disagreement. While the questions used in the MSSRP poll asked generally about immigrants, the immigration debate in the United States is largely about undocumented immigration and it is assumed that this is the group most respondents were reacting to in their answers. Responses were then recoded as dummy variables, with a 1 indicating agreement. Questions 5 and 6 were similarly scaled and recoded and asked respondents about their perceptions of personal threat from immigration in the form of direct job or political competition. These questions appear below in Table 4.1.

Table 4.4: Immigrant Threat Questions, Strongly/Somewhat Agree to Somewhat/Strongly Disagree with Neutral Category

1. New immigrants are a burden because they take up housing, health care, and jobs.
2. Immigrants today are less willing to adopt the American way of life
3. New immigrants have increased crime in the US
4. More good jobs for immigrants mean fewer good jobs for people like me.
5. The more influence that immigrants have in politics the less influence people like me will have in politics.

- Source: 2011 MSSRP Poll conducted at the University of Washington

The 2011 WISER poll featured five collective threat questions on undocumented immigration, one on economic threat, one on cultural threat, and three on criminal threat. As previously stated, because criminal threat has traditionally been understudied when it comes to immigration, a larger battery of questions on this specific trope was included. Responses were

coded in a similar fashion to the MSSRP poll, with a one indicating agreement with the statement in question. The questions appear below in Table 4.2.

Table 4.5: Immigrant Threat Questions, Strongly/Somewhat Agree to Somewhat/Strongly Disagree, No Neutral Category

1. Illegal immigrants are a burden on the US because they take housing, healthcare, or jobs.
2. The culture of the US is changing for the worse because of illegal immigration.
3. Crossing the border illegally is a crime and immigrants who come to the US this way are criminals.
4. Illegal immigrants are often involved with drugs and gangs.
5. Neighborhoods with lots of illegal immigrants have higher crime rates.

- Source: 2011 WISER poll conducted at the University of Washington

While the second poll asked specifically about illegal immigrants, it is expected that in the MSSRP poll respondents are making the assumption that they are being asked about undocumented immigrants as there is little controversy or debate over legal immigration in the United States currently.

What first needs to be examined is the rate of agreement with the various threat frames. As mentioned earlier, perceptions of criminality have not been examined in previous public opinion polls so there is currently little knowledge of the public's beliefs in immigrant criminality. Figure 4.1 shows the level of agreement with the collective and individual threat frames appearing on the MSSRP poll.

Figure 4.1: Agreement with threat frames by race, MSSRP poll

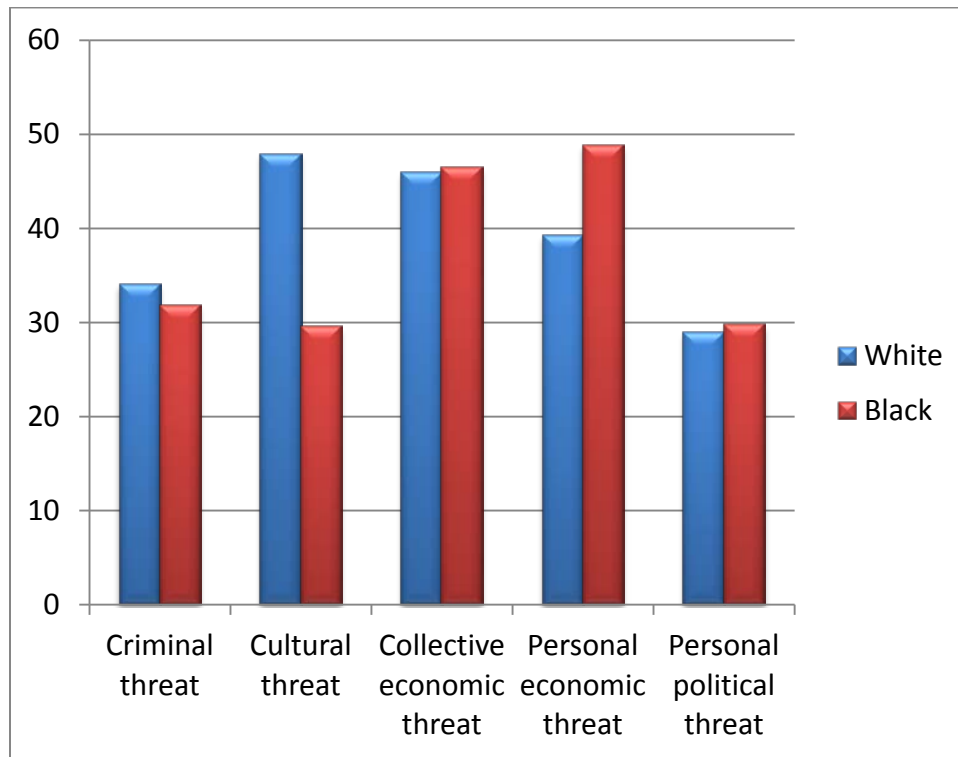
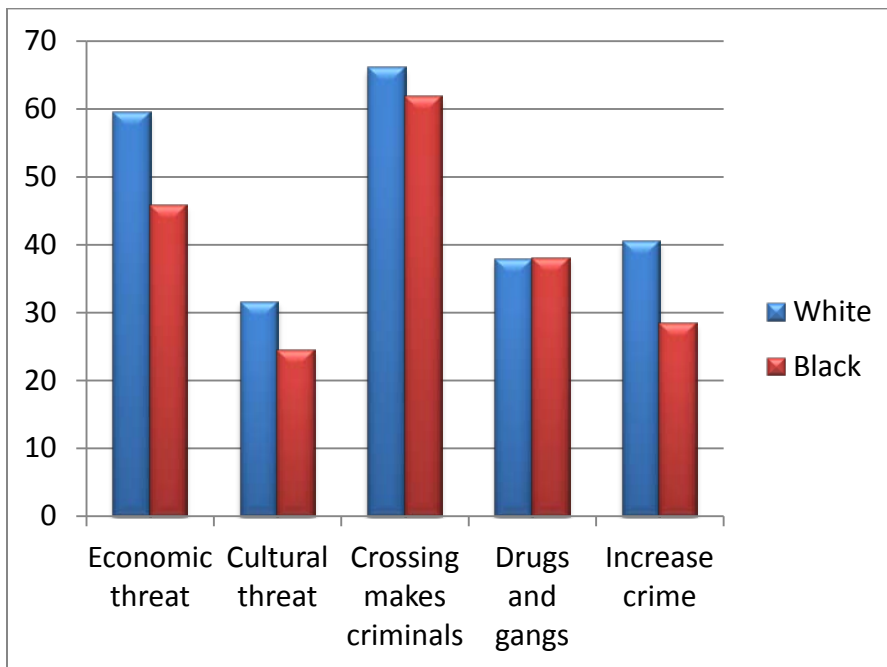


Figure 4.1 shows that support for the statement that new immigrants drive up crime rates received roughly equal levels of agreement from Blacks and Whites, with approximately 30 percent of all both groups agreeing. Similarly, both racial groups agree that immigrants pose a collective economic threat at approximately the same rate of 46 percent. Perceptions of personal political threat are also similar, with Whites agreeing at 29 percent and African-Americans at 30 percent. Where there is a difference is in beliefs that new immigrants do not try to assimilate to the American way of life and the personal economic threat that immigrants pose to the individual. Approximately 48 percent of Whites agreed with the cultural threat prompt, while for Blacks this was lower at 30 percent. These findings are not surprising considering that Blacks have been found to be more favorable to a open society and to express a historical feeling of alienation from US culture (Kaplan 2013). The other major divergence between Blacks and Whites is in regards to perceptions of personal economic threat in the form of job competition.

Approximately 48 percent of Blacks agree that good jobs for immigrants means fewer good jobs for them, while only 38 percent of Whites agree with this statement. African-Americans have been found in past studies to see Latinos and Latino immigrants as economic competitors, particularly as residential concentrations of Latinos and Blacks often bring them into direct competition (Alozie and Ramirez 1999; Kerr et al. 2000; Betancur and Gills 2000). Perceptions of competition are often in zero-sum terms, so if Blacks see immigrants as competitors it makes sense that they would believe that gains for immigrants would result in losses for themselves (Blalock 1967). The second set of questions on perceived threat more directly asked about illegal immigrants rather than immigrants generally or new immigrants.

Figure 4.2: Agreement with threat frames by race, WISER poll



As Figure 4.2 shows, for two of the three criminal threat frames there is little difference between Blacks and Whites. Asked if undocumented crossing is a criminal act and undocumented immigrants therefore criminals, approximately 66 percent of Whites and 62

percent of Blacks agree. When asked if undocumented immigrants were likely to be involved with drugs or gangs Whites and Blacks again agreed at approximately equally at 38 percent. There was a difference between the two groups when they were asked whether neighborhoods with large numbers of illegal immigrants were likely to have higher crime rates. In this case, Whites agreed at approximately 40 percent, while Black agreement was significantly lower at 28 percent. This finding is surprising considering the earlier study found African-Americans and Whites to largely be in agreement regarding the role of new immigrants in driving up crime rates. However, despite this one divergence, what can be said overall is that Whites and Blacks have remarkably similar perceptions both of the criminality of undocumented entry and of a tendency of undocumented immigrants to be involved in criminal activity.¹¹

The Role of Media in Perceptions of Criminality

As was detailed in Chapter 1, research suggests the media plays a significant role in perpetuating stereotypes of undocumented immigrants, as well as Latinos more generally. Yet it remains unclear whether the media is the source of threat perceptions in regards to undocumented immigration. One way of determining the role of media is to ask respondents if they recalled hearing a given threat statement before and if so where. This was done on the 2011 WISER poll, with respondents asked if they had heard a given statement from friends, family, television, a politician, other media source, or elsewhere. These were collapsed into 4 categories for sources: media, politicians, friends or family, and elsewhere. A majority of respondents reported that they heard economic, cultural and criminal threat statements about immigration from either television or some other media source. Table 4.3 below shows the percentage of

¹¹ While the 57 participants identifying as Latino was too small to include for the purposes of analysis, a quick examination of this group showed some differences with Blacks and Whites. Approximately 54 percent agreed with that crossing was a crime, a lower percentage than either of the other groups, as was a belief that undocumented immigrants were involved with drugs and gangs at 33 percent. For the question on crime rates, Latinos fell in between, with a higher percentage agreeing than did Blacks, but a smaller percentage than Whites.

respondents that reported hearing a threat frame from each source.

Table 4.3: Reported Source of Threat Frame

Source	Crossing is criminal	Drugs and gangs	Crime rate
Media	Whites: 53.7	51.6	49.2
	Blacks: 62.3	56.3	55.2
Politician	Whites: 6.3	4.9	3.8
	Blacks: 1.9	3.1	6.00
Friends & Family	Whites: 12.1	11.9	15.2
	Blacks: 14.2	11.5	9.00
Elsewhere	Whites: 28.0	31.7	31.8
	Blacks: 21.7	29.2	29.9

- Source: 2011 WISER poll conducted at the University of Washington

These findings suggest that members of the public are largely being exposed to tropes regarding immigrant criminality through the media, which is not surprising based on past findings (Chavez 2008; Santa Ana 2002; Santa Ana 2013). There was also little difference between Blacks and Whites in regards to where they reported hearing the various threat frames, though a slightly larger percentage of Blacks did ascribe these to the media.

Looking at the frequencies in the data, it becomes very obvious that media consumption plays a role in agreement with perceptions of immigrant criminality, at least amongst Whites. Those who reported watching television news “often” were more likely to agree that new immigration drives up crime rates. Of White respondents who stated that they watched television

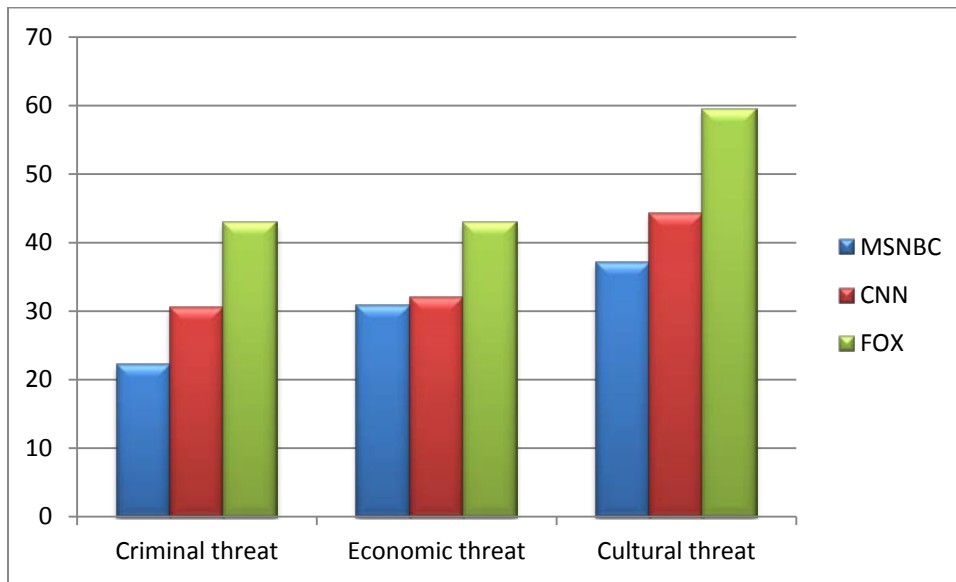
news often, 34 percent agreed that new immigrants increased the level of crime in the United States while only 27 percent who reported being consumers of television news less frequently did so.¹² A chi-squared test found this to be significant at the $p < .05$ level. While the Black sample in the poll did see an increase based on television news consumption, from approximately 27 percent to 30 percent this was not enough of a shift to be statistically significant based on a chi-squared test. Media consumption did not have the same effect for either of the other threat frames, for which being a frequent consumer of television news had no significant impact. This suggests that perceptions of criminality may be uniquely affected by news consumption, unlike the other two threat frames. With the media's obsession over crime stories, this is not terribly surprising since stories of immigrant crime are likely to be featured more so than say, the potential economic burden of undocumented immigrants or the cultural threat frame, which is racially fraught (Bennett 1996).

Determining the Effect of Cable News Sources

The source an individual got their news from was also found to have an effect on perceptions of immigrant criminality. Figure 4.3 below shows the level of agreement with the cultural, economic, and criminal threat prompts based on the cable news station from which White respondents reported getting most of their information.

¹² 2011 MSSRP poll

Figure 4.3: Agreement with threat prompt by cable news station, Whites



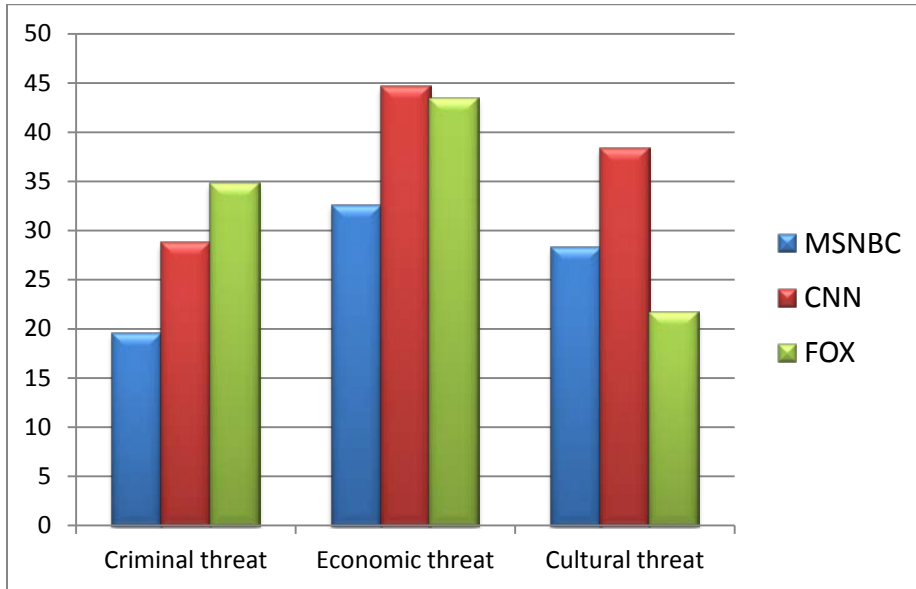
- Source: 2011 MSSRP poll conducted at the University of Washington

Fox News viewers who were White were more likely to agree with all collective threat frames and were twice as likely to agree that new immigrants drove up crime. This of course does not imply causation, as those who get most of their information from Fox are also more likely to subscribe to anti-immigrant views. Fox News has been shown to overwhelmingly feature guests who hold anti-immigrant views, despite Rupert Murdoch's claim in 2010 that Fox was not in fact anti-immigrant (Uwimana 2011). Individuals have been found to be more likely to choose stations that fit with their existing ideologies so it is very unlikely that those who disagree with the anti-immigrant rhetoric of Fox News would report Fox as being their main source of news (Prior 2007). On the other end of the spectrum, those holding anti-immigrant views would be less likely to watch a liberally-slanted station like MSNBC.

For Blacks the findings in regards to immigrant criminality were similar to those for Whites. African-Americans who reported watching Fox were more likely to agree that new

immigrants drove up crime rates. However, this was not the case with either of the other two collective threat tropes. This is shown in Figure 4.4.

Figure 4.4: Agreement with threat prompt by cable news station, Blacks



- Source: 2011 MSSRP poll conducted at the University of Washington

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A belief that new immigrants drive up crime rates shows the expected station effect, with Black Fox News viewers agreeing with this statement more often than those who reported watching CNN or MSNBC. For both cultural and economic threat the findings for Blacks diverge from those of Whites. Blacks who reported watching Fox News actually agreed less often that new immigrants refused to adopt the American way of life. For perceptions of economic threat, Blacks who reported CNN and Fox had similar levels of agreement, while viewers of MSNBC were less likely to agree. However, of the 160 African-Americans in the sample, only 13 reported being Fox News viewers, which makes it difficult to draw any conclusions from the findings for this station.

Fox News alone is not to blame though, as is reflected in the fact that Whites report watching television news frequently, despite the station, have higher rates of agreement with the criminal threat prompt in the MSSRP poll, as was discussed earlier on page 97. In 2009, Drier and Trabak found that all three cable news stations featured coverage of individuals illegally crossing the border and/or being pursued or detained by law enforcement following an announcement from Barack Obama that he would begin addressing immigration that year (2009). This imagery frames undocumented immigration in a way that emphasizes the criminality of the individual and fits with the finding that those who report watching television news frequently are more likely to believe that undocumented immigration will raise neighborhood crime rates.¹³

It is important to note that television was found to only have a significant impact on the criminal threat trope and not perceptions of economic or cultural threat and only for Whites. The depth of the data in both polls does allow for a deeper analysis than the exploratory one presented above. Using a regression model to examine the predictors of agreement with the criminality frames will allow me to better assess the role the media plays in public perceptions of immigrant criminality.

Criminality and Immigrant Resentment

Before embarking on the multivariate analysis one issue needs to be addressed. It has been argued that threat perceptions in regards to undocumented immigration may actually be part of a larger underlying construct that parallels what has variously been called racial resentment, symbolic racism, or modern racism. The crux of these theories, which to date have largely been used to predict attitudes toward policies such as Affirmative Action, is the perception that Blacks in some way violate the norms of American society (Kinder and Sanders 1996; Henry and Sears

¹³ See page 87.

2002; Mendelberg 2001). For instance, perceptions that Blacks are not trying hard enough to succeed or are lazy are seen as violating the American work ethic.

Similarly, immigrant resentment is driven by a belief that immigrants do not behave in line with American values, though the original study did not include adherence to laws or criminality in the battery of questions, instead focusing on cultural assimilation and economic contributions. Yet adherence to the law is also a norm of American society and therefore it would be expected that propensity towards crime or drug use and the perceived criminal act of undocumented crossing would also play a role in immigrant resentment.

To test this theory, Cronbach's alpha scores for the two sets of collective threat questions were computed. The personal threat frames were excluded since these hit on perceptions of competition rather than norm violation. Cronbach's alphas run from 0 to 1, with an alpha score over .65 generally denoting enough internal consistency between different items to suggest a single construct underlying the various items. For the three questions on perceived collective threat on the 2011 MSSRP, the alpha score is .76, indicating that the three questions can be used to create a dependable scale of immigrant resentment. Of the three, a belief that immigrants increase crime rates contributed the most to the scale, with removal resulting in a drop of approximately .13 in the Cronbach's alpha score. This suggests that any study examining immigrant resentment more broadly should include questions on perceptions of criminality. The scale created from the second set of five questions demonstrated even greater internal consistency, with a alpha of .78. Adherence to the law appears to be a central component of immigrant resentment based on the Cronbach's alphas and perhaps a central one.

This would suggest that it may be more useful to examine threat tropes together rather than individually since they all contribute to immigrant resentment. Yet loading all threat tropes

into a scale may obfuscate some of the nuances in anti-immigrant beliefs. Using logistic regression to model agreement with the three threat tropes amongst White and African-American respondents shows that they do in fact have unique predictors. This is significant because any strategies attempting to address anti-immigrant attitudes will have to tackle specific threat perceptions to reduce more generalized anti-immigrant feelings. The unique predictors associated with the different threat frames also suggest they could have different effects on policy preferences, which will be examined in Chapter 5.

Predicting Beliefs in Immigrant Criminality

Employing logistic regression models, I find that despite the high internal reliability of the scales created from the five threat frames¹⁴, there are predictors that are both shared and unique to perceptions of immigrant criminality, suggesting that people may pick up or have these beliefs reinforced through different channels than economic or cultural threat tropes. This makes examining them individually quite valuable. While this does not mean that they are not part of a larger underlying construct, which is suggested by the high Cronbach's alpha scores, it does mean that scholars should consider them both independently and together when examining anti-immigrant attitudes. Underlying psychological constructs such as immigrant resentment are still made up of a number of individual beliefs that undocumented immigrants violate specific norms of American society. Studying these independently can give us better insight into what reinforces or challenges beliefs not just in immigrant criminality, but also cultural and economic threat.

Five logistic regressions were run with ordinal dependent variables where a 0 indicated disagreement with the statement and 1 agreement. Logistic regression is appropriate as the dependent variable, agreement with the threat frames, is binary, making standard regression

¹⁴ Collective economic, collective cultural, collective criminal, personal economic, personal political

inappropriate. Through logistic modeling, I can assess the effects of individual predictors while controlling for all other potential independent variables. Variables for frequent consumption of television news, social dominance orientation, economic anxiety, political knowledge and feelings towards Latinos are included, as well as the standard demographic variables.¹⁵

The primary variable of interest in the models is the effect of media consumption on perceptions of criminality, as well as economic and cultural threat. As was detailed earlier, criminality has long played a role in the push for immigration restriction and in driving the convergence between immigration and criminal law. The final question that remains to be answered is how exactly this impacts perceptions of immigrant criminality in the American public.

Frequency of television news consumption was constructed as a dummy variable, with a 1 denoting a response that the individual watched television news “often”, while all other responses were coded as a 0. The scale was constructed in this manner based on the responses, with nearly all respondents stating that they watched television news sometimes or often. The other options (“seldom”, “never”, and don’t know/no answer) comprised only 14 percent of the total.

To measure the impact of underlying psychological constructs on threat perceptions social dominance orientation was included in the models . Social dominance orientation is a personality trait that centers on a belief in a hierarchical and zero-sum conceptualization of society, which results in preferences for maintenance of existing hierarchies and in-group dominance of out-groups (Sidanius 1993; Pratto et al. 1994; Sidanius & Pratto 2001). This has

¹⁵ Demographic variables include age, gender, income and education.

been shown to be a predictor of both racism and anti-immigrant attitudes and is included to assess the effect of psychological traits on belief in the various threat frames (Sidanius 1993; Pratto et al. 1994; Sidanius & Pratto 2001; Esses et al. 2001). The social dominance orientation scale is constructed by combining seven questions on the 2011 MSSRP poll and ranges from 1 to 7, with a one indicating individuals low in social dominance and a 7 indicating high levels of social dominance. These questions appear in Appendix 4.

To examine the role of racism in predicting anti-immigrant attitudes, a variable was included that measured the relative coolness or warmth of Blacks and Whites towards Latinos. This was scaled from -10 to 10 based on a feeling thermometer question that appeared on the MSSRP poll. Respondents were instructed that ratings between 5 and 10 degrees meant they felt favorable while ratings between 0 and 4 meant they felt unfavorable. To get the relative warmth of Whites or Blacks toward Latinos, the scores respondents assigned their own racial group were subtracted from the score they gave Latinos and the scale then reversed. This resulted in a scale ranging from a -10, denoting a very favorable feeling toward Latinos to 10 denoting a very unfavorable feeling. It is expected that those with more unfavorable feelings toward Latinos generally will also be more likely to agree with the threat frames.

A variable for economic anxiety was included in the models and should be significant for the personal economic threat question if perceptions of threat are in fact driven by economic considerations. Respondents were asked how anxious they were with their own economic situation, with possible answers ranging from not at all to very anxious on a four-point scale. A dummy variable was created from the original variable, with a one denoting respondents who reported being very anxious regarding their own economic situation.

Finally, a dummy variable was created to measure political knowledge. If respondents answered three questions on American government correctly, they were considered high in political knowledge and coded as a 1, all other individuals were coded as 0. Previous research has shown that knowledge can moderate the effects of racially-biased news stories on stereotypes and that individuals low in knowledge were more likely to be affected by racially-biased reporting and priming effects (Pettigrew 1997; Huber and Lapinski 2006).

White Predictors of Perceived Threat

The findings of the logistic regression models suggest that beliefs in criminality may be reinforced in a way that is unique to this threat frame, at least for Whites. Results from the models appear below in Table 4.4.

Table 4.4: Logistic Regression Models by Threat Type, Whites Only¹⁶

	Collective Economic Threat	Cultural Threat	Criminal Threat	Personal Economic Threat	Personal Political Threat
Social Dominance	.376***	.297***	.331***	.579***	-.458***
	(.059)	(.055)	(.058)	(.064)	(.067)
Economic Anxiety	.498***	.292	-.072	.618***	.182
	(.161)	(.154)	(.164)	(.168)	(.185)
Political Knowledge	-.719***	-.307*	-.717***	-.646***	-.160
	(.178)	(.168)	(.186)	(.189)	(.209)
Latino Unfavorability	.246***	.212***	.220***	.130***	.177***
	(.050)	(.046)	(.045)	(.046)	(.046)
Frequent Television	-.082	.129	.396**	.086	-.027
	(.156)	(.147)	(.160)	(.164)	(.182)
Tea Party	-.476**	.031	.211	-.119	.753*
	(.197)	(.184)	(.193)	(.206)	(.222)
Republican	.287	.430**	.221	-.113	.082
	(.206)	(.193)	(.209)	(.217)	(.243)
Independent	.460**	.180	.111	-.126	.077
	(.194)	(.179)	(.197)	(.203)	(.225)
Male	.174	.267*	.573***	.041	.627***
	(.158)	(.148)	(.160)	(.164)	(.183)
Age	-.255***	-.085	-.002	-.352***	.076
	(.087)	(.082)	(.087)	(.094)	(.099)
Some College	-.152	-.049	-.002	-.200	-.196
	(.189)	(.184)	(.192)	(.196)	(.226)
College Grad.	.782***	.270	-.022	-.710***	.044
	(.206)	(.197)	(.211)	(.219)	(.240)
\$40-60K	-.129	-.619***	-.222	-.618***	-.108
	(.211)	(.210)	(.219)	(.226)	(.252)
\$60-100K	-.013	-.327*	-.265	-.855***	-.920***
	(.210)	(.198)	(.211)	(.223)	(.259)
\$100K+	-.263	.381*	-.612***	-.386	-.092
	(.233)	(.214)	(.236)	(.241)	(.260)
Constant	.046	-.872	-1.318	-.273	-2.735
	(.355)	(.342)	(.369)	(.375)	(.446)
R2	.1820	.0961	.1304	.2174	.1641
N=797	*=p<.10	**=p<.05	***=p<.01		

¹⁶ All demographic variables other than age are categorical. Age was divided into 4 ranges: 18-34, 35-54, 55-74, and 75+.

The most striking of the results in Table 4.4 is that being a frequent television news viewer is significant only for perceptions of immigrant criminality amongst Whites. When asked for the frequency with which they watched television news programs, those who reported doing so often were more likely to agree that, “new immigrants have increased the level of crime in the United States” at $p < .05$. Holding all else equal, being a frequent consumer of television news increased the predicted probability of agreeing with the criminal threat trope from 30% to 37%. While seven percent may not seem like that large of an increase, it is significant in that it suggests that simply watching television news increases perceptions of immigrant criminality, even when things like cool feelings towards Latinos are taken into account.

While this is in line with expectations, it was also expected that being a frequent consumer of television news would be significant for some of the other threat tropes. Without knowing the frequency of television news stories on immigrant criminality compared to those about economic or cultural threats, it cannot be said for certain why media consumption only matters for beliefs that immigrants drive up neighborhood crime rates. That said, the economic and cultural threat tropes are already deeply embedded in the psyche of the American public and therefore media stories about these threat tropes do not reinforce them in any way. After all, both of these are regularly discussed and could be considered mainstream narratives of immigrant threat. Perceptions of criminality on the other hand are not quite as regularly discussed because of the racist undertones that these statements could be seen as carrying. However, these claims have become a more frequent part of media coverage since the debate began over Arizona’s SB 1070. Considering the existing evidence for the role of media in reinforcing notions of Black criminality, my findings suggest something similar is happening here (Entman 1994; Gilliam &

Iyengar 2000; Peffley & Williams 1996). Perceptions of economic and cultural threat are sufficiently entrenched that there is little movement in attitudes as a result of media consumption.

Social dominance orientation was significant across all models for White respondents, with a 41 percent increase in the predicted probability of agreement with the criminality frame from the lowest (1) to highest (7) levels of social dominance orientation. This was significant at the level of $p < .001$ for all models, suggesting that social dominance orientation plays an important role in anti-immigrant attitudes. This fits with the role that social dominance has been found to play in anti-Black attitudes and is in line with expectations (Sidanius 1993; Pratto et al. 1994; Sidanius & Pratto 2001). Yet, consumption of television news is significant for perceptions of criminality even when controlling for social dominance orientation. This is evidence that beliefs in immigrant criminality, while certainly impacted by personality, are also affected by media narratives and imagery.

On the other end of the spectrum, White individuals high in political knowledge, measured by correct answers to three factual questions about the US government, were less likely to agree with all but one of the threat tropes. Beliefs that immigrants gained political power at the expense of Whites was not impacted by political knowledge. The variable is a measure of general political knowledge rather than issue-specific knowledge of immigration and it was expected to reduce the likelihood of agreement, as individuals high in general political knowledge are also assumed to have a greater understanding of the nuances of the immigration debate. For the criminality frame, a high level of political knowledge reduced the predicted probability of agreement by 15 percent. For perceptions of collective economic threat the predicted probability of agreement was reduced by 14 percent, while perceptions of cultural threat saw a smaller effect at 7 percent. For beliefs in a personal economic threat from

immigration, the predicted probability was reduced by 12 percent.

Across all models, White respondents who reported more unfavorable feelings toward Latinos than fellow Whites were much more likely to agree with the threat prompts in regards to immigration. While the questions asked generally about threat perceptions in regards to “new immigration”, the immigration debate in the United States is almost exclusively about undocumented Mexican immigrants. The working assumption, as mentioned earlier, is that those with more unfavorable feelings toward Latinos vis-à-vis Whites are more likely to agree with the threat frames. In all models this was significant at the $p < .001$ level. The effects on the predicted probability were also consistent across models. For the collective threat frames, going from a neutral score (0) to the highest unfavorable rating for Latinos (10) increased the predicted probability of agreement with the threat frames by approximately 40 percent. For the personal threat frames the effect was smaller but still quite large at approximately 30 percent.

What the models reveal is that the criminality frame appears to be unique from all other threat tropes in that media consumption has a significant impact on agreement, at least amongst White respondents. Perceptions of immigrant criminality do share a number of predictors with the other threat frames but is the only one that is impacted by the respondent’s consumption of television news. Stereotypic attitudes toward immigrants have been found to increase as a result of negative news coverage (Schemer 2012). As mentioned earlier, the criminality frame has increasingly become common in the debate around Arizona’s SB1070 and its subsequent copycat laws. As a result, it has also received a great deal of media coverage due to the high level of controversy associated with the laws.

Having a second set of data allows me to see if the media effects for Whites could be replicated in a second poll. The findings in the second poll once again suggest that media plays

an important role in driving perceptions of criminality. Being a frequent consumer of television news was significant for both perceptions that crossing was a crime and thus undocumented immigrants were criminals and for a belief that undocumented immigrants are often involved with drugs and gangs. Amongst Whites, being a frequent viewer of television news raised the predicted probability that respondents would agree that illegal crossing was a crime and undocumented immigrants criminals from 54 to 74 percent, an increase of 20 percent. For a belief that undocumented immigrants were likely to be involved in drugs or gangs, the predicted probability increased by 14 percent, from 29 to 43 percent. In the case of the third question that asked if undocumented immigrants drove up neighborhood crime rates, media consumption had no effect.

This is interesting considering that it was found that frequent viewers of television news were more likely to agree that new immigrants drove up crime rates. There were two differences between the questions that could explain this though. The first is that the question on the MSSRP poll asked if “new” immigrants drove up crime rates, while the WISER poll asked specifically whether “illegal” immigrants did so. The term “illegal” may already be charged enough for Whites that media consumption cannot really have much effect. In other words, many Whites may already feel that “illegals” drive up crime rates, so media consumption has little effect. The second difference is that the MSSRP poll asked about crime rates in the United States, while the second poll asked about neighborhood crime rates. White respondents could have interpreted this as meaning crime in *their* neighborhood rather than more generally and media may not have a reinforcing effect on perceptions of criminal threat from immigration at the individual level. Results from the models appear in Appendix 5 along with the results for African-Americans for the same models.

Black Predictors of Perceived Threat

With an oversample of 355 African-Americans in the MSSRP poll, the models run for White respondents above can also be replicated for Blacks. Black beliefs in immigrant criminality and perceived threat are even more understudied than these same beliefs amongst Whites, though the initial analysis earlier in this chapter found that Blacks believe in immigrant criminality at approximately equal rates as do Whites, though media consumption, at least based on a chi-squared test, did not seem to have the same significance for African-Americans as it did for Whites. Table 4.5 presents the findings for the logistic regression amongst Blacks.

Table 4.5: Logistic Regression Models by Threat Type, Blacks Only

	Collective Economic Threat	Cultural Threat	Criminal Threat	Personal Economic Threat	Personal Political Threat
Social Dominance	.523***	-.139	.98	.329***	.337**
	(.134)	(.124)	(.122)	(.125)	(.133)
Economic Anxiety	1.272***	.769**	.354	.759***	.590*
	(.305)	(.303)	(.301)	(.284)	(.318)
Political Knowledge	-.006	.139	-.518	.131	.690
	(.429)	(.395)	(.450)	(.392)	(.444)
Latino Unfavorability	-.036	.138*	-.122	-.023	-.174
	(.082)	(.083)	(.086)	(.080)	(.092)
Frequent Television	.387	.067	.424	-.055	-.248
	(.316)	(.298)	(.159)	(.290)	(.315)
Tea Party	.155	.814*	.423	.493	.858*
	(.474)	(.434)	(.434)	(.430)	(.438)
Republican	-.875	.565	.112	-.207	.830
	(.630)	(.541)	(.568)	(.536)	(.555)
Independent	.599	.616*	1.328***	.513	-.042
	(.372)	(.354)	(.350)	(.342)	(.394)
Male	-.758**	-.833***	-.026	-.410	-.581*
	(.305)	(.295)	(.287)	(.278)	(.305)
Age	.400**	.374**	.320*	.626***	.656***
	(.183)	(.175)	(.177)	(.175)	(.187)
Some College	-.356	.340	-.085	-.234	.012
	(.350)	(.335)	(.334)	(.320)	(.355)
College Grad.	-1.046***	.349	-.472	-1.574***	-.569
	(.487)	(.445)	(.490)	(.465)	(.526)
\$40-60K	.063	.237	-.866*	.721*	-.081
	(.421)	(.410)	(.448)	(.397)	(.447)
\$60-100K	-.111	-.150	-.675	.351	-1.029**
	(.419)	(.409)	(.414)	(.394)	(.477)
\$100K+	-.758	.078*	-.493	.996*	.327
	(.611)	(.530)	(.592)	(.513)	(.561)
Constant	-2.462	-1.990	-1.334	-2.491	-3.726
	(.840)	(.782)	(.799)	(.792)	(.879)
R2	.2316	.0820	.1188	.1262	.1289
N=347	*=p<.10	**=p<.05	***=p<.01		

To first address the primary variable of interest, there are significant differences between predictors of a belief that immigrants drive up national crime rates for Whites and African-Americans. For Blacks, media consumption played no role this belief, while for Whites being a frequent viewer of television news was significant. Social dominance orientation, political knowledge and feelings toward Latinos also played no role in predicting a belief that new immigrants drove up crime rates. This is intriguing considering that Blacks and Whites expressed beliefs in immigrant criminality at approximately equal rates. In fact, of all the variables included in the model, only identifying as an independent, older age and earning between forty and sixty thousand dollars a year were significant. Identifying as an independent increased the likelihood of agreement from 27 percent to 55 percent, more than doubling the predicted probability of agreement, though only 72 of the 379 African-Americans in the sample identified as independents. Making forty to sixty thousand dollars a year drove down the predicted probability of a belief in immigrant criminality by 18 percent. Older Blacks were more likely to express concerns with immigrant criminality, with the predicted probability increasing 20 percent from the 18-34 year old age group to those 70 and older.

The other finding of interest is the large role played by economic anxiety¹⁷ in all other threat perceptions for African-Americans. Economic anxiety was significant in predicting belief in every threat trope with the exception of criminality. For Whites, economic anxiety only played a role in beliefs that immigrants posed a collective or personal economic threat, but for African-Americans this also significantly impacted perceptions of personal political and collective cultural threat. This supports studies that have shown that economics play a large role in perceptions of competition for African-Americans and between minority groups more generally (Blalock 1967; Bobo 1988). The exception for criminality suggests that criminality and

¹⁷ Participants were asked, "How anxious are you about your own economic situation?"

economic anxiety exist independent of one another, at least for African-Americans, while a belief that immigrants are a burden on social services or are less willing to adopt an American way of life are linked to personal economic anxiety. If we considered what could the “American way of life” could be interpreted as, it could also be interpreted as things like working for a minimum wage, abiding by labor laws, etc. These norm violations, while arguably a cultural threat, could also result in lost work opportunities for Blacks.

However, in examining the questions on the second poll that asked specifically about illegal immigrants, media consumption is in fact significant for a belief that undocumented immigrants were likely to be involved in drugs or gangs (see Appendix 5). Again, being a frequent consumer of television news had no impact on beliefs that neighborhoods with a large number of undocumented immigrants had higher crime rates, or any effect on a belief that undocumented crossing was a criminal act. This suggests that Blacks are not immune to the effect of media, but that this may not generally raise beliefs in criminality but instead in very specific beliefs regarding involvement in drugs or gangs, which would likely be due to the tendency of media to focus on crime stories (Bennett 1993).

Blacks did report hearing threat statements from media sources at a slightly higher rate than did Whites (see Table 4.1) so it is not a matter of lack of exposure to these statements through media. Blacks also reported watching television news just as often as Whites (63 vs. 62 percent). Yet the data suggests that African-Americans are not being as heavily influenced by media in regards to immigration and crime rates, despite holding stereotypes of criminality at approximately the same rate as Whites. My findings suggest that media consumption, and the negative framing often used in discussing undocumented immigration, may have a different impact on Blacks and Whites for perceptions of immigrant criminality but that it does in fact

increase these perceptions in both groups.

Criminal Threat, Media, and the American Public

One thing is clear from the results, a significant number of Americans, over 60 percent of Blacks and Whites, do believe that undocumented crossing is a crime and that undocumented immigrants are criminals. Additionally, more charged statements such as undocumented immigrants likely being involved with drugs and gangs or that they drive up crime rates also received support from approximately 30 percent of African-Americans and Whites. The label of “criminal” in the United States is one that justifies exclusion, fear, and often harsh treatment. Already outsiders in America, undocumented immigrants are also seen by many as criminals. Undocumented immigrants have long been seen as anti-citizens because of this perceived criminality and that as anti-citizens they are seen as having, “...failed to embrace their responsibilities as subjects of the ‘moral community’ and must consequently be subject to permanent and despotic administration in the name of preserving the public’s safety” (Inda 2006, pg. 53). Perceptions of immigrant threat, whether these are cultural, economic, or criminal, may help in justifying draconian policies toward immigration, such as Arizona’s SB1070 and move us further from the comprehensive immigration reform that this country, and its roughly twelve million undocumented immigrants, so desperately need.

This chapter reveals the impact that media consumption has in perpetuating and reinforcing the notion of the immigrant-as-criminal in the United States. Even when personality characteristics, demographics, and anti-Latino sentiment are all accounted for, being a regular viewer of television news still increases the probability that White respondents will agree that immigrants are criminals. Media consumption had the largest impact for Whites but it also raised the probability that Blacks would believe that undocumented immigrants were likely to be

involved in drugs or gangs. Beliefs in tendencies to criminal activity make it more likely that there will be a desire to treat undocumented immigration as a crime control issue, through detention and deportation. In the next chapter I examine the role that perceptions of criminality play in policy preferences amongst the American public and compare this to the effect of the economic and cultural threat frames.

CHAPTER 5: The Policy Effects of Undocumented Threat

In the preceding chapter I provided evidence that members of the American public do harbor perceptions of criminality when it comes to undocumented immigration and that this is at least in part driven by television news. However, it is unclear whether this has a measurable impact on policy preferences. This chapter builds on Chapter 4 by looking at the impact of threat perceptions on four different policy preferences aimed at addressing undocumented immigration. Traditionally, solutions to undocumented immigration have ranged from deportation and felony charges to amnesty and there is a good deal of evidence for the role of perceived threats in anti-immigrant attitudes. As detailed in Chapter 1, a number of studies have found that threat perceptions lead to increased hostility toward immigrant groups (Sears et al. 2004; Stephen et al. 1999; Stephen et al. 2005). Perceptions of group threat have also been shown to be accurate predictors of immigration restriction (Fetzer 2000; Wilson 2001). These findings suggest that perceptions of criminality also are likely to play a role in policy choices, increasing the likelihood of support for deportation for instance, yet this has yet to be given the attention it deserves in the literature.

Recent debates over state immigration laws such as Arizona's SB1070 have drawn on the familiar narratives of cultural and economic threat that have been part and parcel of the immigration debate since the 19th century but also have increasingly relied on narratives of immigrant criminality in pushing for tougher laws. Jan Brewer, in defending SB1070, pointed out time and again that undocumented immigrants were not just coming to the US for work but to sell drugs and terrorize families (Sanchez 2010). The criminality frame is thus of particular importance because of its increasing use in the debate over immigration reform and the lack of

study it has received thus far. Few public opinion polls ask respondents specifically about perceptions of immigrant criminality and we therefore know little about the effects of this frame on policy preferences. We do know, based on evidence presented in Chapter 4, that perceptions of criminality seem to be unique amongst the threat tropes in that media has a significant influence.¹⁸ The goal of this chapter is to determine not only whether perceptions of criminality contribute to more restrictive policy preferences but also if the effects of this threat frame differ in any significant way from perception of threat largely driven by cultural or economic frames.

Measuring Policy Preferences

To measure the effect of threat perceptions on policy preference, respondents were asked four questions on immigration policy after being asked for their level of agreement with the various threat frames. The policy questions appear below in Table 5.1. Responses were on a 4-point Likert scale ranging from strongly agree (1) to strongly disagree (4), with no neutral category.

¹⁸ See pages 101, 108.

Table 5.1: Policy Preference Questions:

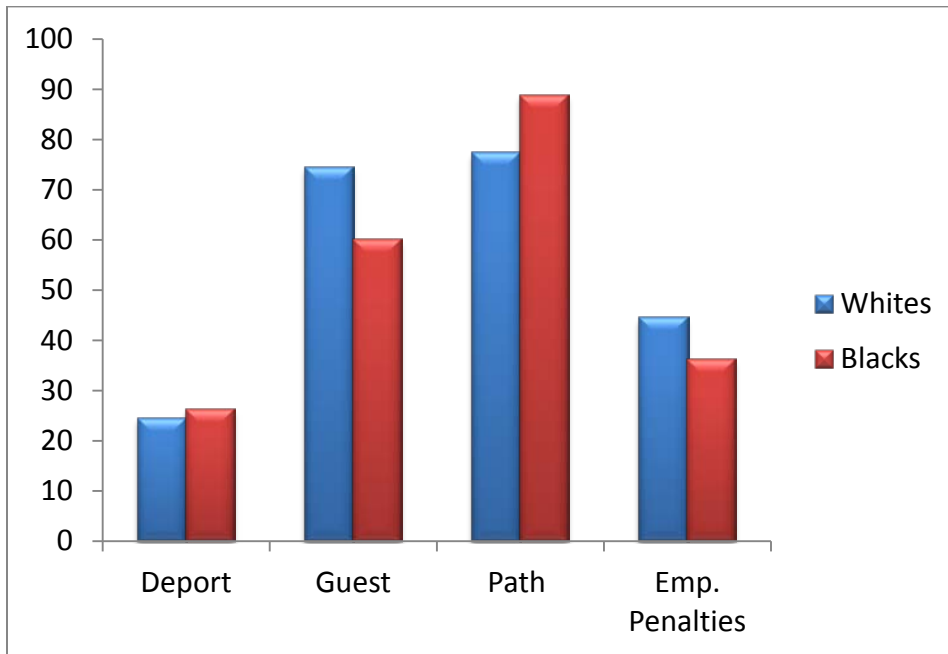
“The United States government is currently debating immigration reform. For each of the following policies please tell me if you strongly agree, somewhat agree, somewhat disagree or strongly disagree”:

1. Charge all illegal immigrants as felons and send them back to their home country.
2. A guest worker program that allows immigrants to remain in the US to work legally, but only for a limited amount of time.
3. Illegal immigrants already living in the US should be allowed to legally remain in the country if they have a job, pay back taxes and learn English, and eventually become eligible for citizenship.
4. Permanently closing down any American business or company that knowingly hires illegal immigrants.

- Source: 2011 WISER poll conducted at the University of Washington

Those who responded that they somewhat/strongly agreed/disagreed were grouped together to create a dummy variable. Frequencies were examined for both Whites and Blacks. Figure 5.1 shows the distribution of agreement/disagreement with each policy position. The columns add up to over 100 percent due to the fact that respondents were asked for their response to each position independent of the others, allowing them to express agreement or disagreement with multiple policy choices.

Figure 5.1: Policy Preference by Race



- Source 2011 WISER poll conducted at the University of Washington

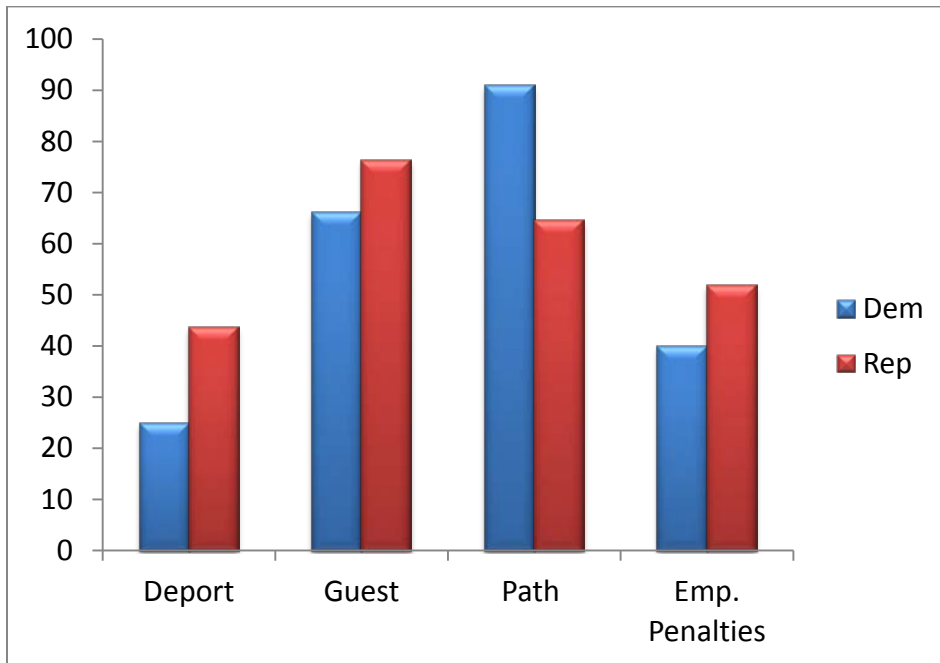
Figure 5.1 reveals a couple of things. First, deportation and employer sanctions are the least popular policies for both Blacks and Whites. Deportation and felony charges only received support from 24 and 26 percent of Whites and Blacks respectively, while 44 percent of Whites and 36 of Blacks agreed with employer penalties. Secondly, Blacks express greater favorability toward a path to citizenship than Whites at 89 to 77 percent, while Whites express higher levels of agreement with a guest worker program than do Blacks at 74 to 60 percent. It is heartening that a majority of both Blacks and Whites express support for a policy other than deportation, with support for this position only in the 20th percentile for both groups. This suggests that despite the rhetoric, there is little support for a program of mass deportation and that a majority of Americans support more moderate policy solutions.

Since each question was asked independently it is also useful to determine whether there

were strong correlations between any of the answers. For Whites, agreement with deportation was negatively correlated with support for a path to citizenship, though this correlation was not especially high at .20. The largest correlation was, somewhat surprisingly, between deportation and penalties for employers of undocumented immigrants at .35. One way to explain this is that both support for deportation and support for employer penalties are premised on the belief that undocumented immigration is a law and order issue. Therefore, both employers and the immigrants themselves are seen as being engaged in unlawful behavior that should carry significant deterrent penalties.

There are of course likely partisan effects for support of the various policies. Self-identified Republicans are expected to be more supportive of restrictive positions like deportation and less supportive of a path to citizenship. The finding for Whites are reported in Figure 5.2 below.

Figure 5.2: Policy Preference by Party ID, Whites Only



- Source: 2011 WISER poll conducted at the University of Washington

The findings largely support my expectations. White Republicans supported deportation at twice the rate of Democrats, were less supportive of a path to citizenship and more supportive of a guest worker program. However, somewhat surprisingly it was White Republicans who were also more supportive of employer penalties. This ran counter to my initial expectations since closing businesses that were found to be employing undocumented immigrants seemed to conflict with traditional GOP support for business and my expectation was a high support for deportation paired with low support for employer sanctions. This effectively shifts all responsibility to the immigrant, while ignoring the role of business practices is perpetuating undocumented immigration. However, as stated above, if we think of undocumented immigration in terms of a law and order issue, this finding makes sense. Both employer and employee are seen as breaking the law and therefore a legitimate target for deterrent penalties.

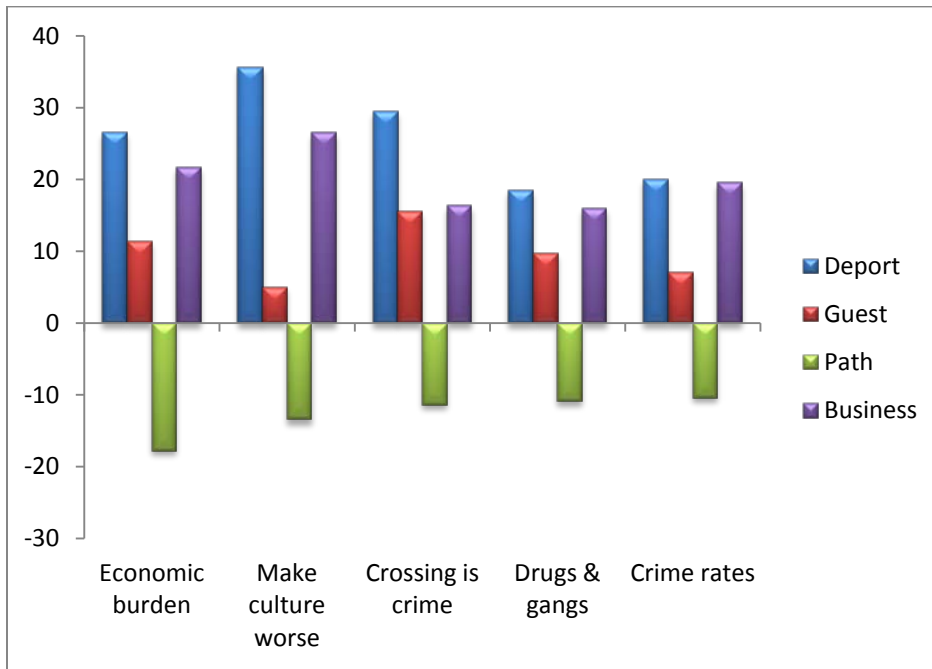
Support for business penalties was in fact higher than support for deportation amongst Republican respondents.

The Black oversample only contained a very small number of African-Americans who self-identified as Republican and therefore the frequencies of support vary little from those presented in Figure 5.1. Black Democrats were little different from White Democrats in their support for the various policy positions, the most significant difference being in support for a guest worker program, where 66 percent of White Dems expressed support versus 57 percent of Blacks. The lack of a significant difference between Black and White Democrats suggests that policy positions are driven by party identification, with race playing little role.

Perceived Threat and Policy Preferences

The next question is whether agreement with any of the threat questions is related to changes in support for a given policy. To calculate this, I ran a cross-tabulation for each policy dummy and threat frame dummy for all Whites in the sample. To calculate the change the percent disagreeing with a given threat frame and supporting the policy was subtracted from those agreeing and in support of the policy. The findings suggest that there is a significant influence on policy position for perceptions of criminality, as is show in Figure 5.3.

Figure 5.3: Change in Preference by Threat Frame, Whites Only



- Source: 2011 WISER poll conducted at the University of Washington

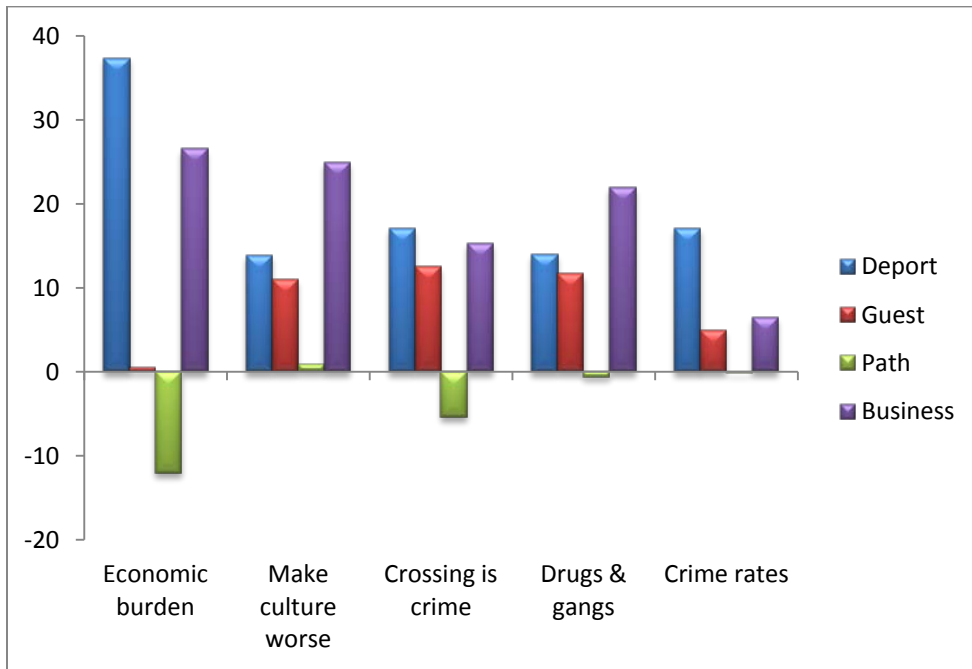
Figure 5.3 reveals that perceptions that undocumented immigrants are an economic burden is associated with the largest drop in support for a path to citizenship for Whites. A belief that undocumented immigrants change American culture for the worse resulted in the largest shift in favor of deportation, as well as the largest increase in support for employer penalties. A belief that undocumented crossing is a crime and undocumented immigrants therefore criminals came in second in support for deportation and first in levels of support for a guest worker program. Interestingly, support for both of the two more extreme statements that undocumented immigrants drive up crime rates or are involved with drugs and gangs both saw the smallest differences in policy preferences between those who agreed and disagreed.

This is difficult to explain as these are two of the more extreme positions and it was expected that agreement with either threat frame would lead to increased support for deportation,

which does occur, but at significantly lower levels than with the other three frames. It may be that these other three, more traditional frames, are simply more linked to specific preferences than ones than the latter two but there is no explanation in the data that immediately presents itself. I checked to see if perhaps individuals who answered either of these prompts positively were disagreeing with all prompts more often, which could in part explain the findings but this was not the case. One possibility is that the three more traditional frames function more effectively as a prime for particular policy positions, whereas the latter two are ones that respondents have not been exposed to as often and thus are weaker overall in their ability to prime respondents to think about particular policy choices. However, it could also be that individuals who agree with either of these frames do not have their preferred policy represented in the four choices.

I also examined changes in policy preferences for African-American respondents based on their agreement with the various threat tropes and it was immediately apparent there were some significant differences between Whites and Blacks. As reflected in Figure 5.4 below, the largest difference in preferences for deportation was for those who agreed that undocumented immigrants were an economic burden on the United States. Those who agreed also agreed that undocumented immigrants should be charged with a felony and deported 37 percent more often than those who did not agree with the economic threat frame. The other significant finding is that with the exception of the economic threat frame, agreement with all the others resulted in a relatively negligible shift in preferences for a path to citizenship. In fact for three of the threat frames this resulted in a less than one percent shift in preference. This suggests that a pathway to citizenship is a relatively stable preference for African-Americans even if they believe that undocumented immigrants worsen American culture or pose a threat in terms of criminality.

Figure 5.4: Change in Preference by Threat Frame, Blacks Only



- Source: 2011 WISER poll conducted at the University of Washington

Modeling White Policy Preferences and the Role of Perceived Threat

A more thorough way of examining the effects of specific threat frames on policy preferences is to use a regression model, which allows me to examine the specific influence of each frame on policy preference while holding all else equal. With the dependent variable, agreement with a specific policy preference, coded as a dummy variable, a logistic regression model is appropriate. Four logit models were used to assess the effects of specific threat frames on policy preferences. The independent variables in the 4 models consisted of the 5 frames, traditional demographic variables (age, gender, education, income), party identification, a dummy variable for support of the Tea Party, as well as a variable for levels of media consumption. Models were run independently for Black and White respondents. The results for Whites appear in Table 5.2 below.

Table 5.2: Logistic Regressions for Policy Preference, Whites Only

	Deport	Guest	Path	Business
Economic burden	.408 (.329)	-.017 (.323)	-1.064*** (.381)	.454 (.291)
Cultural threat	1.00*** (.285)	-.270 (.314)	-.180 (.308)	.671** (.270)
Crossing is crime	1.395*** (.374)	.747** (.323)	.063 (.400)	.081 (.303)
Drugs & gangs	.066 (.315)	.376 (.319)	.039 (.334)	-.014 (.283)
Crime rate	.188 (.301)	.089 (.302)	-.050 (.324)	.383 (.268)
Female	.226 (.275)	-.315 (.275)	.389 (.288)	-.046 (.245)
Media	-.932*** (.296)	.292 (.281)	.541* (.309)	-.149 (.255)
Rep.	-.152 (.364)	.298 (.357)	-1.595*** (.424)	-.296 (.329)
Ind.	-.397 (.343)	.391 (.316)	-1.272*** (.400)	-.381 (.297)
Tea Party	.498 (.310)	.127 (.328)	-.017 (.317)	0.568** (.284)
Age	-.086 (.159)	-.018 (.149)	-.323* (.182)	-.147 (.139)
Some college	-.104 (.370)	1.020*** (.362)	.326 (.406)	.022 (.327)
College grad	-.182 (.332)	.694** (.307)	-.144 (.354)	-.499* (.293)
\$40-60K	-.201 (.372)	.219 (.343)	-.412 (.383)	-.030 (.323)
\$60-100K	-.833** (.344)	.048 (.325)	-.057 (.378)	.105 (.295)
\$100K+	-1.261*** (.435)	1.267*** (.499)	.296 (.438)	-.910** (.383)
Constant	-1.561 (.731)	.172 (.690)	3.047 (.835)	-.000 (.628)
R2	.1980	.0930	.1364	.1068

N=376 *= $p < .10$ **= $p < .05$ ***= $p < .01$

To begin with a preference for deportation, a few things immediately jump out from the findings. Firstly, of the threat frames, only two are statistically significant in predicting agreement with deportation and felony charges for undocumented immigrants amongst Whites: a belief that they change American culture for the worse and that undocumented crossing is a crime and therefore they are criminals. This suggests that these two statements represent the more extreme end of anti-immigrant attitudes in the United States. Researchers in the past have

found that perceptions of threat to national identity predict anti-immigrant attitudes but the effect for perceptions of criminality and threat to law and order has not been studied in the past (Fetzer 2000; Sniderman et al. 2004). What is found when this is examined alongside the cultural threat frame is that a belief in immigrant criminality has the slightly larger of the two effects, though there is little substantive difference. Perceptions of cultural threat increase the predicted probability of agreement with deportation by 19 percent while a belief in immigrant criminality increases the predicted probability by 21 percent amongst White respondents.

However, the two more extreme criminal threat frames did not have the expected effect on a preference for deportation. Neither a belief that undocumented immigrants increased crime rates, nor that they were involved in drugs and gangs led to the expected effect on endorsements for deportation amongst Whites. Based on the earlier crosstabs, this was expected. Neither of these were linked to a preference for deportation based on the data and as mentioned it is difficult to determine why exactly this may be the case. It could perhaps be due to the respondents preferred policy on immigration not be represented, so while these two frames may not be significant for deportation, they could be significant for something like an increase in the size of the Border Patrol and greater militarization of the border.

The effect of media consumption is another interesting finding. In Chapter 4 it was shown that being a frequent viewer of the news, regardless of source, was linked to an increased probability of agreement with the criminal threat frame. However, the deportation model shows that it is also, and somewhat contradictorily, linked to a decrease in support for deportation and felony charges. The predicted probability of agreement with deportation as a policy drops by 16 percent if White respondents also reported being a frequent consumer of television news. These two findings seem somewhat hard to reconcile. That said, one potential explanation is that while

frequent consumption of the news may on the one hand increase feelings of criminal threat from undocumented immigration, on the other news reports on immigration rarely stress mass deportation as a potential solution. So while these findings seem contradictory on their face, they are less so when we think through what viewers are likely exposed to in news reports on immigration. However, further research is needed to determine if this is in fact the case since it is not possible to explicitly make this connection with the current data.

The other two variables that were significant in the deportation model for Whites were both income-related. Higher levels of income were associated with lower levels of agreement with deportation, though the effect was not as great as the positive effect of the threat frames. Making \$60-100,000 decreased the predicted probability of agreeing with deportation by 1 percent and was statistically significant at $p < .05$. Making over \$100,000 decreased the predicted probability of agreeing with deportation by 12 percent, the largest negative shift associated with any of the independent variables. This is not surprising considering the findings of previous research that higher income levels are associated with lower levels of anti-immigrant attitudes (Schildkraut 2008).

Like deportation, a preference for a guest worker program was also positively related to a belief that crossing was a crime and undocumented immigrants criminals. Of the threat frames, this was the only one that was significant. Outside of deportation, a guest worker program is the second most restrictive of the policy choices provided, so it was expected that the criminal threat frame would lead to an increase in preferences. Agreement with the crossing-is-a-crime frame led to a 14 percent increase in the predicted probability of agreement with a guest worker program.

Of the demographic variables, income and having some college education or a college

degree were all statistically significant. Making over \$100,000 a year had the largest overall effect on the predicted probability of agreement with a guest worker program. Being in this income bracket increased the predicted probability of agreeing with a guest worker program by 19 percent, the largest effect of any of the variables in the study for Whites. Having some college education resulted in a 16 percent increase in the predicted probability of expressing a preference for a guest worker program, while being a college graduate increased the predicted probability by 12 percent.

Perceptions of criminality had no significant effect on preferences for a path to citizenship, though a belief that undocumented immigrants were an economic burden did significantly decrease the predicted probability of agreement with this policy. There was a 17 percent decrease in the predicted probability of agreement with this policy for those who agreed with the economic threat frame. This makes sense considering that if you believe that undocumented immigration imposes an economic burden on the United States it would seem unlikely that you would support the legalization of a large number of these individuals. Like criminality, the cultural threat frame had no effect on preferences for a pathway to citizenship for Whites.

Party identification for the first time had a significant effect on policy preference amongst Whites, with self-identification as a Republican or Independent driving down support for a path to citizenship. Party identification actually had a larger effect than perceptions of economic threat. Self-identification as a Republican resulted in a 25 percent decrease in the predicted probability that respondents would express support for a path to citizenship. There was a smaller but still significant decrease of 19 percent in the predicted probability of agreement for those who identified as Independents. The findings for self-identified Republicans are not by any

means shocking, as a path to citizenship is the most liberal of the four policies. The finding for independents also is not surprising when it is taken into account that of those identifying as independents, approximately 30 percent identified as moderates, 30 percent as conservatives and only 21 percent as liberals. At least in terms of ideology there was a greater leaning toward conservatism amongst independents and therefore it would be expected that identification with this label would lead to a decrease in preferences for a path to citizenship. Essentially, the independents in the sample were closer ideologically to Republicans than they were to Democrats.

The last single-policy model to consider for Whites is a belief that businesses employing undocumented immigrants should be closed down. As shown in Figure 5.1, this ranked high with deportation as the least popular of the four choices, coming in second with only 44 percent of White respondents agreeing with this policy. Only three variables were statistically significant in predicting a preference for business penalties for employing undocumented workers. Of the threat frames, a belief that undocumented immigrants changed US culture for the worse was the only one that was significant. This frame increased the predicted probability of agreement by 15 percent. This was also the only model that found support for the Tea Party to be significant. Those who said they considered themselves a supporter of the Tea Party saw a 12 percent increase in their predicted probability. This finding makes sense considering the hard line often taken by Tea Party representatives in holding government accountable, which here also seems to extend to businesses and is likely interacting with strong law and order preferences, as was touched on earlier in this chapter. Tea Party supporters have been shown to place a high value on obedience to the law, and this makes it likely that they would support significant penalties for businesses that were seen to be flouting the law and exasperating problems with undocumented

immigration.

Across all four models for the different policy preferences, neither a belief that undocumented immigrants were involved in drugs and gangs nor that they drove up neighborhood crime rates was significant. This finding is somewhat perplexing given that 38 percent of Whites agreed with the former and 40 percent with the latter. As mentioned in the discussion of preferences for deportation, this may be due to those who express these beliefs not having their preferred policy represented. Perhaps they are in favor of increased border security but are much more mixed in their feelings toward the other policies included. As is shown in Figure 5.3, the pattern of change is similar to the other threat tropes in that agreement drives down preferences for a path to citizenship and increases preferences for all other policies. However, the association between agreement with these two frames and changes in preferences is weaker. In future studies I will explore these two frames in more detail, perhaps through the use of open-ended responses regarding policy preferences since respondents were limited in their options here.

What is clear from the single-policy models is that the different threat tropes are associated with shifts in different policy preferences for Whites. A belief that undocumented entry is a crime and undocumented immigrants therefore criminals was associated with an increase in preferences for both deportation and a guest worker program for Whites but was not statistically significant for either a path to citizenship or business penalties.

Modeling Black Policy Preferences and the Role of Perceived Threat

I next ran the same set of models for the Black oversample and found that the variables predicting agreement with a given policy, as well as the effects of the criminal threat frames, differed from those in the models for Whites. These appear below in Table 5.3.

Table 5.3: Logistic Regressions for Policy Preference, Blacks Only

	Deport	Guest	Path	Business
	(n=156)	(n=156)	(n=131)	(n=156)
Economic burden	2.460***	-0.412	-1.918***	1.187***
	(.575)	(.423)	(.730)	(.436)
Cultural threat	-0.491	0.710	0.557	0.595
	(.573)	(.519)	(.842)	(.509)
Crossing is crime	0.145	0.445	-0.302	0.343
	(.551)	(.395)	(.714)	(.429)
Drugs & gangs	-0.429	0.045	0.608	0.723
	(.530)	(.463)	(.765)	(.469)
Crime rate	0.994**	0.077	0.555	-0.587
	(.541)	(.463)	(.795)	(.492)
Female	-0.510	-0.476	-0.133	0.164
	(.454)	(.375)	(.616)	(.402)
Media	0.167	-0.426	-1.320	0.016
	(.552)	(.461)	(.914)	(.502)
Rep.	-0.249	-1.412	-3.438*	0.035
	(1.44)	(1.547)	(1.993)	(1.367)
Ind.	0.056	.0503	-1.279	0.815
	(.587)	(.504)	(.758)	(.505)
Tea Party	0.585	-0.745	-0.679	-0.431
	(.736)	(.654)	(.918)	(.673)
Age	-0.070	0.054	-0.185	-0.109
	(.251)	(.205)	(.356)	(.217)
Some college	0.988*	0.012	-0.144	-0.099
	(.582)	(.466)	(.754)	(.515)
College grad	0.757	-0.493	-0.411	0.567
	(.585)	(.484)	(.735)	(.504)
\$40-60K	-1.691*	-0.491	Omitted	0.115
	(.998)	(.624)		(.641)
\$60-100K	0.107	0.664	1.406	-0.047
	(.567)	(.476)	(.881)	(.499)
\$100K+	-0.879	2.108*	Omitted	-2.704**
	(.888)	(1.24)		(1.233)
Constant	-2.221	0.463	4.784	-1.841
	(1.225)	(.962)	(1.906)	(1.087)
R2	.2229	.0953	.1899	.1593
*=p<.10 **=p<.05 ***=p<.01				

As shown in Table 5.3, for deportation the significant variables were perceptions of economic threat, a belief that undocumented immigrants drove up neighborhood crime rates, some college, and making \$40-60,000 a year in income. Of these variables, all but income increased the likelihood of support for deportation. A belief that undocumented immigrants were an economic burden increased the predicted probability that a Black respondent would agree

with deportation by a whopping 39 percent, by far the largest effect of any variable in any of the models. Some researchers have argued that because many African-Americans live near or compete with Latino immigrants for work, they are more likely to see Latino immigrants generally as a threat (Alozie and Ramirez 1999; Kerr et al. 2000; Betancur and Gills 2000). My findings further suggest that these perceptions of economic threat or burden also play a significant role in preferences for the most restrictive of immigration stances. For Whites, as shown earlier, there was no effect for agreement with the economic threat frame on preferences for deportation.

In another interesting divergence from the model for Whites, Blacks who believed that undocumented immigrants drove up neighborhood crime rates were also more likely to agree with deportation. Agreement with this criminal threat frame increased the predicted probability of support for deportation by 18 percent overall. When paired with the findings on economic threat, two things are suggested. Firstly, Blacks seem more likely to react to what are likely being perceived as immediate threats. In other words, past scholarship has supported the idea that many Blacks see Latinos immigrants as potential competitors for jobs and that African-Americans are more likely to live in close proximity to Latino immigrant neighborhoods, making these two threat frames “realistic threats” to borrow from Bobo (1988). It is surprising to find that after having no effect in any of the White models, beliefs that immigrants drive up crime rates are significant for African-Americans. If it is in part due to Blacks being more likely to live near (or in) Latino immigrant neighborhoods than similar findings are expected of Whites living under similar conditions but unfortunately the data does not allow me to test the effects of proximity.

Of the education variables, only having some college increased the likelihood of

agreement with deportation. For those respondents who reported having taken college classes the predicted probability of support for deportation was increased by 16 percent. This finding was unique to the Black deportation model, as some college was not statistically significant in the White model but also had negative coefficients. This is a somewhat curious finding as education has, as mentioned earlier, been shown in the past to decrease negative affect for immigrants, as well as support for restrictive policies. Because of the relative lack of attention that is typically paid to Black attitudes on immigration, it is hard to explain these findings without further data. The last variable that was significant for the deportation model was making \$40-60,000, which reduced the predicted probability of support for deportation by 20 percent. However, it should be noted that because of the size of the Black oversample, some of the effects of the demographic variables may be exaggerated and this is especially the case with this particular income category. Of the 160 African-Americans in the sample, only 15 reported making between 40 and 60 thousand a year in income.

For a guest worker program, none of the threat frames was statistically significant, nor any of the demographic variables outside of the income dummy for those making over \$100,000 a year. This increased the predicted probability of support for a guest worker program by 31 percent, a similar, though larger, effect as that which was found for Whites in the earlier guest worker model. The guest worker models in the case of both Whites and Blacks had the lowest pseudo-R2 scores, indicating that these were the weakest in terms of goodness-of-fit. This is reflected strongly in the African-American model as only one variable is statistically significant.

The issue of sample size comes up again for the path to citizenship model, where both the \$40-60,000 and \$100,000+ income variables were omitted because they predicted success perfectly. In other words, because of the small number of African-Americans falling into these

two income groups, there was no variation in outcome. Only two variables reach statistical significance in this model, the economic threat frame and being a Republican. However, only 4 African-Americans in the sample self-identified as Republicans and therefore the effect this had on preferences for a path to citizenship can be ignored. For those who believed that undocumented immigrants were an economic burden, the predicted probability of expressing favorability for a path to citizenship decreased by 20 percent. This was similar to the effect found for Whites.

For the last of the four policies, closing down businesses found employing undocumented immigrants, earning over \$100,000 had the largest effect but as there were only 10 Blacks who fell into this category this must be interpreted cautiously and requires more research. The other significant variable was the economic threat frame, which increased the predicted probability by 24 percent. For Whites, the threat frame of significance in this model was the cultural frame. These findings suggest that a belief that businesses should be penalized for employing undocumented immigrants is driven by different concerns for Blacks and Whites. Whites seem to be driven by cultural threat to employer sanctions, while for Blacks it is concerns about the economic burden imposed by undocumented immigrants that makes leads to support for employer sanctions.

For the single-policy models a few things are clear. Firstly, the criminality frames, holding all else equal, increases support for deportation for both Whites and African-Americans. All threat frames have a significant effect in one of the models with the exception of the two more extreme of the criminal threat frames. Both the drug & gangs and crime rate frames had no impact on policy preferences for Whites, while a belief that undocumented immigrants increased crime rates did have a significant effect for Blacks, amongst which it increased support for

deportation. As discussed earlier more research is needed on criminal threat frames specifically, since it has been shown that beliefs in criminality do have an impact on policy preferences.

Respondents in the survey were not limited to a single choice though and in the following section I examine the impact of the criminality frame on agreement with multiple policy options.

Criminal Threat and Policy Combinations

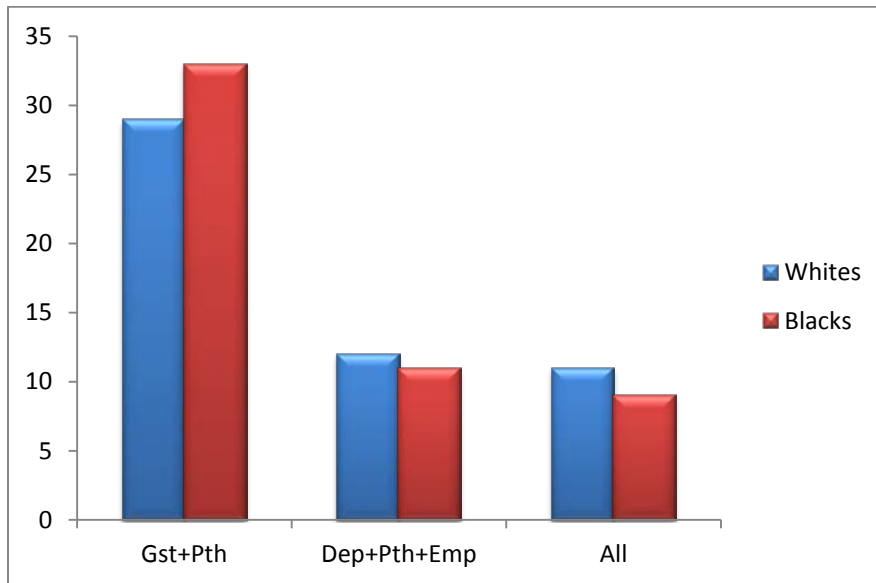
In previous work (Gonzalez 2010) I examined policy preferences based on perceptions of group size but after the survey was completed I realized there were some serious shortcomings in how I had constructed the questions. One of the biggest was that respondents were forced to choose a single policy, which in many ways assumed that policy choices ran along a continuum from deportation on the right to amnesty on the left. With something as complex as undocumented immigration this is an oversimplification. For instance, a path to citizenship for those already here does not really address how we address future undocumented immigration. Thus, one could favor a path to citizenship for those here while also being in favor of a guest worker program to address future labor demands. Similarly, one could favor deportation for those who are here illegally, while also agreeing with penalties for businesses found employing undocumented immigrants to reduce the availability of jobs.

To examine the rates of agreement with multiple policies, twelve new dummy variables were created for the various combinations of the four policies. The first question that needs to be answered is the rate at which respondents agreed with more than just a single policy. In examining the frequencies for this one thing becomes immediately clear, agreement with multiple policies, especially if one agrees with deportation, is very rare. There were only three cases where the rates of agreement topped 10 percent for multiple policies amongst Whites and none of these included deportation except for the variable that included agreement with all

policies.

Among Whites, 29 percent agreed with both a guest worker program and a path to citizenship, 12 percent agreed with a guest worker program, a path to citizenship, and employer penalties, and 11 percent agreed with all four policies. For African-Americans there were only two multiple-policy options that topped 10 percent, a guest worker program and a path to citizenship garnered the support of 33 percent of the African-American oversample, while a guest worker program, path to citizenship and employer sanctions was supported by 11 percent. These findings are reflected in Figure 5.7 below.

Figure 5.5: Agreement with Select Policy Groupings



- Source: 2011 WISER poll conducted at the University of Washington

Agreement with these multiple-policy options can be modeled using logistic regression, though the relatively small number of people agreeing with all but the combined guest worker and path to citizenship models led me to only specify Black and White only models for this

combination. The findings of the applicable models are reported below in Table 5.4.

Table 5.4: Preferences for a Guest Program and Path to Citizenship, Blacks and Whites

	White only (n=376)	Blacks only (n=156)
Economic burden	-0.563*	-1.268***
	(.323)	(.466)
Cultural threat	-.0723**	-0.187
	(.348)	(.554)
Crossing is crime	-0.198	0.368
	(.329)	(.418)
Drugs & gangs	-0.013	0.037
	(.334)	(.482)
Crime rate	-0.577*	-0.011
	(.320)	(.499)
Female	-0.287	-0.007
	(.279)	(.396)
Media	0.335	0.283
	(.291)	(.505)
Rep.	-0.115	-0.643
	(.395)	(1.341)
Ind.	0.490	0.136
	(.313)	(.515)
Tea Party	-0.648*	-0.927
	(.350)	(.860)
Age	-0.037	-0.087
	(.157)	(.223)
Some college	0.297	-0.812
	(.422)	(.498)
College grad	0.637*	-1.311**
	(.364)	(.528)
\$40-60K	-0.122	0.534
	(.400)	(.658)
\$60-100K	0.788**	0.437
	(.330)	(.487)
\$100K+	1.299***	-2.488***
	(.386)	(.876)
Constant	-0.534	-0.086
	(.724)	(1.032)
R2	.1687	.1207
*=p<.10 **=p<.05 ***=p<.01		

Of the 383 White respondents, 222 agreed with both a path to citizenship and a guest worker program. Model 1 reveals that for Whites, a number of threat frames drive down the likelihood of agreement with both a guest worker program and a path to citizenship. The economic threat frame dropped the predicted probability of support by 9 percent, while the cultural threat frame dropped this by 12 percent. Of the findings for the threat frames, what is the

most interesting is that the perception that undocumented immigrants drive up crime rates is for the first time significant for Whites. If you recall, this frame was not significant among Whites for any of the single-policy models. Like the economic threat frame, this variation on criminal threat dropped support for the combined policy of a guest worker program and path to citizenship by 9 percent. If someone sees undocumented immigrants as an economic burden, a threat to American culture, or as potential criminals it makes sense that these individuals would not support a pair of policies that would both legalize the undocumented population already here but also bring a number of immigrants in as guest workers.

Of the identification and demographic variables, being a supporter of the Tea Party reduced the predicted probability of support for the two policies by 10 percent, the only non-threat variable to reduce support. Being a college graduate increased the predicted probability of support by 12 percent, while making \$60-100,000 raised it by 14 percent and making over \$100,000 by 25. Thus, those who were better educated and made more money were much likely to favor a more comprehensive approach to immigration.

For African-Americans who agreed with both a guest worker program and a path to citizenship, the variables of significance were economic threat, being a college graduate, and making over \$100,000. However, as there were very few African-Americans who reported being in this income bracket, this latter finding is disregarded. Unlike the same model for Whites, the criminal threat frame here had no influence on the predicted probability of support for both policies. A belief that undocumented immigrants posed an economic threat to the United States reduced the predicted probability of support for the two policies by 24 percent. This seems like a commonsense finding, as the two policies would result in permanence for the undocumented population already here and a yearly influx of immigrants to meet labor needs. A college degree

for African-Americans actually had the inverse of the effect it had for Whites. For Whites, having a college degree increased the likelihood of agreement with both a path to citizenship and a guest worker program, while for Blacks it actually reduced the predicted probability by 20 percent.

Criminality and Policy Preferences

The preceding findings suggest that belief in immigrant criminality has a significant effect on policy preferences for both Whites and African-Americans. A belief that undocumented crossing is a crime amongst Whites was associated with both an increase in support for deportation and a guest worker program. This framing of immigrant criminality did not seem to resonate with Blacks though. Instead, it was the perception that undocumented immigrants drove up neighborhood crime rates that was associated with increased support for deportation. Whites and Blacks agreed that crossing was a crime at very similar rates, with approximately 66 percent of Whites and 61 percent of African-Americans agreeing with this position. However, the rates of agreement differed greatly for a belief that undocumented immigrants drove up crime rates. Approximately 40 percent of Whites agreed versus only 28 percent of Blacks. Despite the differences in agreement, those Blacks who agreed with this position were much more likely to also favor deportation, while this was not the case for Whites. One possible explanation that was touched on earlier is that many African-Americans live in closer proximity to communities with undocumented immigrants and thus see criminal behavior as a “realistic” threat, which is leading to support for deportation as a means of reducing what is perceived to be immigrant-related crime. Unfortunately, the data do not provide any means of further confirming this conclusion, though future studies could use a more open-ended survey format that could allow respondents to answer more freely. Even the addition of open-ended follow-ups would be useful to tease out not

only why particular threat frames resonate with Blacks or Whites, but also the reasons they believe are behind their agreement or disagreement with a particular policy.

Strangely, the only one of the three criminal threat frames to fail to achieve statistical significance in any model and for either group was the belief that undocumented immigrants were involved with drugs and gangs. This was not due to a lack of agreement with this frame, as 38 percent of both Whites and Blacks agreed with this statement. Of the findings on criminality this is one of the more difficult to explain. It was expected that this frame would be significant, at least for Whites, and associated with greater support for deportation but this was not found to be the case. In discussing the lack of significance of both this and the crime rate frame for Whites earlier in the chapter, I mentioned one potential reason for this lack of significance: perhaps those respondents who agreed with this frame simply did not have their policy of choice represented. For example, there was no policy option included for border security, with all the options instead largely aimed at addressing the undocumented immigrants already residing in the country. Looking at a simple cross-tabulation, it would seem that agreement with the drugs & gangs frame would lead to increased support for deportation, as there is an 18 percent increase in agreement with deportation for those Whites who also agreed with this statement. A chi-squared test found this was significant at the $p < .01$ level. However, all of the other threat frames with the exception of crime rate, had significantly larger shifts associated with them. The cultural threat frame saw a 36 percent increase, the economic threat a 26 percent shift, and the crossing is a crime frame a 30 percent change. The drugs & gangs variable thus contributes far less to the potential support for deportation than any of the other frames, with the exception of the crime rate frame which had a near identical 20 percent change associated with agreement. The findings for African-Americans were the same. Overall, both this and the crime rate frame had the

smallest effects across all models, though the latter was significant in the case of African-American support for deportation.

In the White single-policy models, a belief that crossing was a crime was tied with the cultural threat frame in terms of the number of models for which it was statistically significant. The cultural threat frame was significant in the deportation and employer penalty models, while the criminal threat frame was significant in the deportation and cultural threat models. Economic threat was only statistically significant for one policy model amongst Whites. To return to a discussion from the Chapter 4, these findings suggest that the criminal threat frame deserves more attention than it has received thus far and that the various threat frames should not, as has been suggested by some such as Deborah Schildkraut, be combined into a single variable, despite the high Cronbach's alpha score which would seem to indicate these are all part of a single underlying disposition. In Chapter 4 I argued that the unique predictors for the various frames meant that loading these into a single scale of "anti-immigrantism" would obfuscate the fact that agreement had a different set of predictors from model to model. The findings here reinforce this point. Not only would loading the threat frames into a single scale make it impossible to determine their unique predictors but it also would not allow us to determine the individual policy effects of each frame.

This chapter has shown the significance of the criminal threat frame for policy preferences, not only for Whites, but also for African-Americans. At the same time, it has shown that there are differences based on the focus of the criminal threat frame. For Whites, a more law and order oriented belief that crossing was a crime and undocumented immigrants therefore criminals increased support for the two more restrictive policy options, deportation and a guest worker program. For African-Americans, it was not this frame that had an effect on policy

preferences but instead one that focused on the criminal threat of immigrants at the local level by driving up neighborhood crime rates. These effects were independent of any of the other frames, suggesting that much more research needs to be done on criminal threat perceptions which I Chapter 4 I showed were uniquely influenced by media consumption and in this chapter have shown do have the predicted effect of increasing agreement with restrictive immigration policies.

Conclusion: Crimmigration and Comprehensive Reform

In the preceding chapters I have shown that the convergence between immigration and criminal law began much earlier in the nation's history than is typically cited by most scholars. The culmination of a period of increasing hostility to Mexican immigrants, Senate Bill 5094 helped to set the US on a path where today undocumented immigration is largely handled as a crime-control issue, with a focus on border militarization and the apprehension of undocumented workers. In the 85 years since the passage of S. 5094, there was but one attempt to change course, in a moment of punctuated equilibrium created by the election of a president in favor of open borders, an increasing undocumented population, a divided Congress, and an increasingly frustrated public.

However, as was shown in Chapter 2 IRCA became a critical policy failure. CPFs, as argued in Chapter 1, are policies that attempt a significant shift in how problems are addressed and a change in the policy monopoly associated with them but are marked as failures due to their shortcomings. This leads to a return to the previous policy monopoly and reinforces the path dependence associated with this monopoly and earlier policy regime. When IRCA's pivot came up short, when the guest worker programs and employer sanctions failed to have their intended effect of slowing undocumented immigration, the United States returned to the path most traveled. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 reintroduced the rhetoric of old, with an emphasis on nativist characterizations of the undocumented population as a threat to Americans. There was a focus on criminality, on the supposed role of immigrants in drug smuggling, theft, gang activity and even murder, despite evidence to the contrary. IIRIRA was a return to what was politically safe, what Simon calls "governing through crime" (Simon 2001). Undocumented immigrants were lumped in with

criminals so that politicians could justify a one-dimensional but ultimately politically safe response. More Border Control, more INS (and later ICE), more raids, more deportations. All of which, even if they did little to truly address undocumented immigration, could be sold as being, essentially, “tough on crime”. Nevermind that in the 57 years between the passage of S. 5094 and IRCA this was shown to be ineffectual at reducing undocumented immigration or the reliance of the United States on undocumented labor. The politics of nativism were embraced once again and the angry rhetoric that characterized undocumented immigration as a matter of personal responsibility, as a decision to deliberately flaunt the laws of the United States, returned.

This of course ignored what had been highlighted in the debate over IRCA, the role of employers. Going all the way back to 1924, agricultural interests had defended their access to undocumented labor, while the immigrants were scapegoated for working for low wages and in poor conditions, for coming in search of a better life and a way to help their families. Until the passage of IRCA, the US Congress had looked the other way when it came to American companies often deliberately violating the law in order to increase profits. IRCA changed this, briefly. In debate, employers were criticized more than immigrants and it was their role that was emphasized. As in much of policy though, IRCA’s great ambitions to overhaul US policy by discouraging the hiring of undocumented immigrants and the creation of a guest worker program for legal access to Mexican labor ultimately and unfortunately came up short. Instead of reflecting back on IRCA as good policy, as a flawed attempt at actually comprehensively addressing undocumented immigration, it is now seen by many as a policy that did little more than reward illegal behavior while also insulting all those who had gone the legal route in the first place.

IRCA, and the concept of CPFs generally, have implications for other policy areas. Path

dependence assumes the early events in a process can have a great amount of influence on the development of that particular policy, while moments of punctuated equilibrium open up opportunities to change an approach to a particular policy area. However, neither of these account for regression in a policy process, a return to a previous policy monopoly and regime as a result of critical policy failure. This does not only apply to immigration, as a number of policy areas could have pieces of legislation passed that represent critical policy failures, an example being the Affordable Care Act (ACA). This is, based on many polls, unpopular with a large segment of the US population and has been fought tooth-and-nail by the GOP. Should the ACA collapse, due either to court decisions, policy shortcomings, or a dismantling by Republicans, this would mark the ACA as a critical policy failure. The likely outcome of this, particularly considering its current unpopularity, would be a regression to the previous state of health care in the United States and a delegitimizing of many of the programs associated with the ACA, as happened with IRCA. Critical policy failures help to explain why we see policy regression and a rebirth of path dependence when some pieces of legislation come up short. As a result of IRCA we have seen increasing criminalization of undocumented immigration over the last 18 years and a pivot away from this will be both difficult and politically risky.

Crimmigration has long been part-and-parcel of US policy and path dependence suggests that it will be very hard to break out of this cycle. Yet, the convergence of factors that occurred in the 1980s, creating a moment of punctuated equilibrium where real change in immigration policy was possible, could occur again and by recognizing these windows of opportunity, reformers will have a better shot at getting immigration reform that is truly comprehensive and not simply focused on restriction and criminalization. One important component in these moments of punctuated equilibrium is public opinion.

As I showed in Chapter 4, a large number of Americans do believe in narratives of immigrant criminality, particularly that undocumented crossing is a crime and unauthorized immigrants criminals, which saw over 60 percent agreement amongst both Blacks and Whites. Though the other two criminal threat frames had lower levels of agreement, approximately 40 of both Blacks and Whites agreed that undocumented immigrants are involved with drugs and gangs, while the same number of Whites and roughly 28 percent of Blacks agreed that they increased neighborhood crime rates. These findings are troubling to say the least. For comprehensive immigration reform to become a reality, Americans must trust that at least a good number of the approximately 12 million undocumented immigrants currently in the United States are law-abiding, hard-working, and non-threatening. If they believe these individuals are criminals, legalization will be resisted and comprehensive reform can only take place with legalization.

As the data showed in Chapter 4, the media must play a role in helping to change public opinion and immigration advocates must find creative ways of using the media to push for reform instead of restriction. Most Americans reported that they heard immigrant threat frames from some media source and the logistic regressions revealed that even holding all else equal, news consumption increased perceptions of criminal threat. The media's obsession with crime is really nothing new but like African-Americans, undocumented immigrants are disproportionately portrayed in ways that suggest criminality and danger. These portrayals were shown in Chapter 4 to have a significant effect on attitudes toward the undocumented population and perceptions that this group is predisposed to criminality. In the right-wing soundbites of headless bodies and kidnappings we can see the echoes of Ronald Reagan's welfare queens and crack babies, both scare campaigns aimed to tap into nativist or racist tendencies in the American public. Media is

the conduit through which these messages reach the public and it is clear in my findings that they have their intended effect. Reformers must find a way to counteract both the narratives and imagery of immigrant criminality and in future work I will be examining the impact of different counter narratives in undermining belief in the immigrant-as-criminal narrative.

While more Americans believe this narrative than would be desired, it should be pointed out that a majority of Americans do not believe that undocumented immigrants drive up crime rates or are involved in drugs and gangs. While a majority do believe that undocumented crossing is a crime, this is likely also tied up with law and order beliefs and is not as extreme as the other two frames examined here. Optimism can also be drawn from the findings in Chapter 5 where a majority of Americans were found to support a path to citizenship or guest worker program, with a minority in support of deportation and felony charges.

Notions of immigrant criminality do have an effect on these preferences though and a belief that undocumented crossing is a crime increased support for deportation, though it did not reduce support for a path to citizenship. Criminality, though in different forms, was significant for both Blacks and Whites. Chapter 5 suggests that perceptions of criminality help to drive further crimmigration by increasing support for restrictive policies and therefore counter-narratives must be developed that focus on what is supported by study after study, that undocumented immigrants are not criminals.

This suggests a number of valuable paths forward for future research with the most significant lying in further research on public opinion toward immigrant criminality. In future studies positively-valenced frames should also be included to determine if the American public believes, for instance, that undocumented immigrants are law-abiding or less likely to be involved in crime. In addition, survey experiments could be used to analyze counter-narratives to

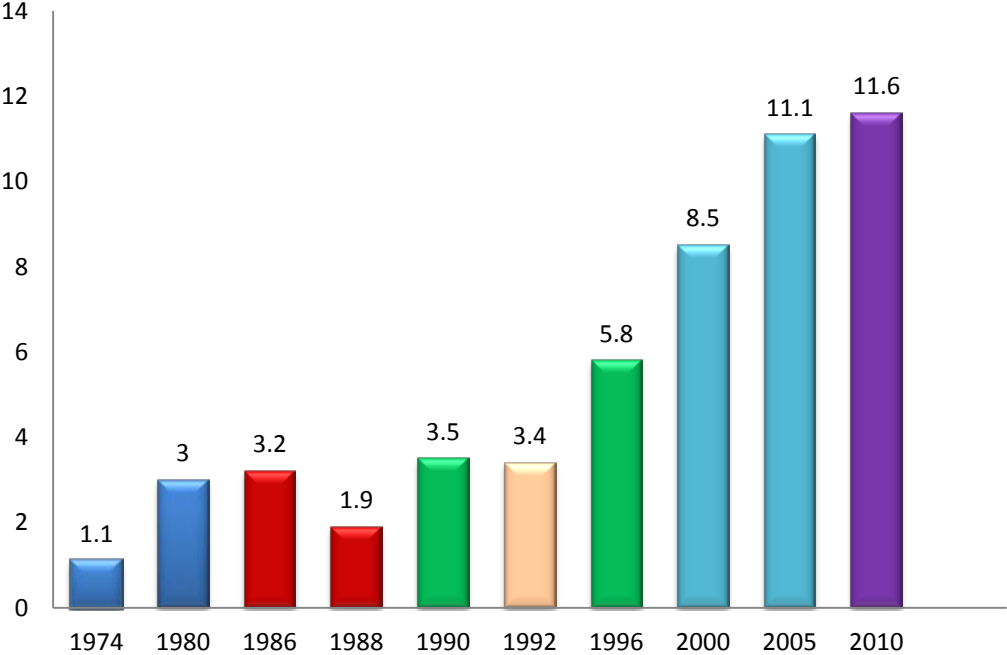
the criminal threat frame. Does, for instance, citing figures of low-offense rates have any impact on policy preferences? How can perceptions of criminality be challenged in a way that does not result in a backlash effect but instead to actual attitude change?

There were also some limitations to the polls drawn on for this study. Both had smaller sample sizes and only a short battery on criminal threat for instance. Larger national studies would allow for an examination of geographic effects, as well as ones of proximity. Does living close to a large Latino community have any effect on perceptions of criminality? Future work could also include a wider range of policy options than were available here, the most significant of these likely being increasing the size of the Border Patrol and security on the border. Another policy question would be to also ask participants whether they believe local police should play a role in immigration enforcement. Including these as options could also help in answering why a belief that undocumented immigrants were involved with drugs or gangs had no effect on policy preferences. Crimmigration remains an understudied area, though the literature at least on the policy side is growing, but what is often ignored is the role played by public opinion both in driving this convergence, as well as potentially opening windows for this to be reversed. I hope the findings of this study have shown the importance of this as a research area and perhaps will encourage others to do further research on crimmigration but in terms of its history and its interaction with public opinion. This dissertation is meant as a starting point, there is much more work to be done.

Appendix 1: Frame coding for Senate/House debate

Pos. Econ.	Neg. Econ.	Pos. Cult.	Neg. Cult.	Pos. Crim.	Neg. Crim
Improve economy	Take jobs	Contribute to culture	Don't assimilate	Law-abiding	Stealing
Labor demands	Burden on services	Assimilate	Racial threat	Follow the rules	Theft
Hard workers	Don't pay taxes	Shared values	Different values	Obey laws	Fraud
	Work too hard	Family-oriented	Undesirable	Honest	Violence
	Hurt unions		Illiterate		Crime
	Lower wages				Criminals
					Drugs
					Gangs

Appendix 2: Estimates of the Undocumented Population 1974-2012 (in millions)



- *1974, 1980 (Warren & Passel 1987)
- *1986, 1988 (Woodrow & Passel 1986, 1990) as cited in Wasem (2012)
- *1990, 1996 (Warren 2000) as cited in Wasem (2012)
- *1992 (Warren 1996) as cited in Wasem (2012)
- *2000, 2005 (Passel, et al. 2008) as cited in Wasem (2012)
- *2010 (Hoefler et al. 2012) as cited in Wasem (2012)

Appendix 3: Descriptive Statistics, WISER Poll

	White	Black
Age in Years		
18-34	10	15
35-54	30	26
55-74	42	43
75+	17	17
Percent Female	60	59
Percent Dem	35	74
Percent Ind	32	19
Percent Rep	29	3
Percent High School Education	22	32
Percent Some College	24	30
Percent College Grad	34	25
Percent Post Grad	20	13
Percent Less than 40K	24	36
Percent 40-60K	17	9
Percent 60-100K	22	23
Percent 100K +	15	6
Percent Income Missing	16	20

Appendix 4: Social Dominance Orientation Scale Questions, MSSRP poll

If certain groups of people stayed in their place, we would have fewer problems

Inferior groups should stay in their place.

Sometimes other groups must be kept in their place.

We should do what we can to equalize conditions for different groups.

Group equality should be our ideal.

We should increase social equality.

Appendix 5: Criminal Threat Models, 2011 WISER Poll

	Crossing is Crime (Whites)	Crossing is Crime (Black)	Drugs/ Gangs (Whites)	Drug/ Gangs (Blacks)	Crime Rate (Whites)	Crime Rate (Blacks)
	n=376	n=156	n=376	n=156	n=376	n=156
Frequent Television	1.146***	.203	.714***	.886*	.154	.543
	(.259)	(.452)	(.261)	(.535)	(.245)	(.544)
Tea Party	.856***	.329	.943***	2.878***	.409	.311
	(.319)	(.605)	(.277)	(.847)	(.268)	(.617)
Republican	.826**	-.975	.252	-1.300	.805***	-.448
	(.345)	(1.237)	(.334)	(1.668)	(.314)	(1.372)
Independent	.550*	.333	.527*	.040	.084	.982*
	(.297)	(.480)	(.299)	(.525)	(.288)	(.512)
Male	.612**	.330	.768***	.638*	.655***	.195
	(.263)	(.354)	(.243)	(.383)	(.234)	(.397)
Age	-.072	-.213	.218	-.134	.167	-.233
	(.146)	(.199)	(.146)	(.212)	(.139)	(.220)
Some College	-.047	-.107	-.140	-.698	.123	-.775
	(.359)	(.445)	(.337)	(.487)	(.331)	(.490)
College Grad.	-.017	.297	-.555	-.703	.188	-1.086**
	(.319)	(.453)	(.304)	(.483)	(.294)	(.514)
\$40-60K	-.669**	-.092	.028	.382	-.317	1.023*
	(.327)	(.605)	(.332)	(.638)	(.324)	(.610)
\$60-100K	.367	-.454	.466	.211	.289	-.602
	(.265)	(.443)	(.310)	(.486)	(.292)	(.559)
\$100K+	.362	1.441	-.070	-.800	-.759**	-1.533
	(.392)	(1.123)	(.381)	(.901)	(.366)	(1.163)
Constant	-.634	.648	-2.238	-1.003	-1.650	-.472
	(.530)	(.739)	(.537)	(.798)	(.879)	(.812)
R2	.1384	.0461	.1225	.1403	.1289	.0949
*=p<.10 **=p<.05 ***=p<.01						

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