La montée du sanctuaire aux États-Unis en temps de crise politique : résistance des politiques locales face à la criminalisation des immigrés et à l'accroissement du contrôle fédéral

Jennie Cottle

The Rise of Sanctuary in the United States during Political Crises:

Local policy resistance in the face of immigrant criminalization and increasing federal enforcement

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La montée du sanctuaire aux États-Unis en temps de crise politique : résistance des politiques locales face à la criminalisation des immigrés et à l'accroissement du contrôle fédéral

Le mouvement du sanctuaire aux États-Unis, qui a débuté dans les années 1980 en réponse à l'octroi de l'asile aux réfugiés salvadoriens, a suscité un regain d'attention à la suite de l'élection du président Donald Trump en 2016. Le terme « sanctuaire » s'est depuis élargi afin d'incorporer plusieurs types d'actions, telles que la défense de l'accès aux droits pour les individus, la désenchevêtrement de l'application de la loi sur l'immigration entre les niveaux local et fédéral, et la résistance à des politiques fédérales spécifiques. Ces dernières visent à utiliser les ressources locales en vue d'appliquer un régime d'immigration restrictif, entraînant ainsi la criminalisation des immigrés. Mes recherches portent sur les politiques dites « de sanctuaire », qui incluent l'ensemble des législations de nature infra-fédérale constituant le lien entre les mouvements de sanctuaire et les villes sanctuaires. Cette thèse s'appuie sur la littérature portant sur le fédéralisme de l'immigration (Chacón 2012 ; Gulasekaram et Ramakrishnan 2015 ; Suro 2015 ; Varsanyi et al. 2012) et la criminalisation de l'immigration (De Genova 2004 ; Menjívar et Kanstroom 2014 ; Ngai 2004) – afin de soutenir que les politiques de sanctuaire surviennent à des moments historiques spécifiques, en tant que réponses locales à des mesures accrues de contrôle de niveau fédéral. Le travail de recherche se fonde sur une analyse qualitative et quantitative de la base de données sur les politiques du sanctuaire intervenues de 1979 à 2018 (Lasch et al. 2018), ainsi que sur l'étude de cas de Santa Ana, dans l'Etat de Californie, devenue une ville sanctuaire à la suite de l'élection de Donald Trump.

(1686 caractères)

Mots clés :
Villes sanctuaires, politiques migratoires, sans-papiers, fédéralisme, États-Unis, criminalisation

The Rise of Sanctuary in the United States during Political Crises: Local policy resistance in the face of immigrant criminalization and increasing federal enforcement

The sanctuary movement in the United States, which began during the 1980s as a response to provide asylum to Salvadoran refugees, gained renewed attention following President Donald Trump's election in 2016. The term sanctuary has since broadened to incorporate the actions taken by a wide range of actors to advocate for access to rights and services for immigrants, to disentangle local law enforcement from federal immigration enforcement and to express resistance to specific federal policies. These federal policies seek to use local resources to enforce an immigration regime that is viewed as increasingly restrictive, resulting in the criminalization of immigrants and other minority groups. My research focuses on sanctuary policies, which includes all subfederal legislation (state, county and city level) that falls within the sanctuary umbrella, and which serve as the link between the grassroots social movements and the actions taken by government actors to become sanctuary cities. This dissertation builds upon the literature on both immigration federalism (Chacón 2012; Gulasekaram and Ramakrishnan 2015; Suro 2015; Varsanyi et al. 2012) and immigration criminalization (De Genova 2004; Menjívar and Kanstroom 2014; Ngai 2004) to argue that sanctuary policies arise at specific historical moments as local responses to increased federal enforcement measures. Evidence for this is based on a qualitative and quantitative analysis of the sanctuary policy database from 1979-2018 (Lasch et al. 2018) and an in-depth case study of Santa Ana, California, which passed its first sanctuary resolution in the wake of President Trump's election in 2016.

(1661 characters)

Key words:
Sanctuary cities, immigration policy, undocumented, federalism, United States, criminalization

Dedication

To anyone, friend or stranger, who is or has ever been undocumented.

How many of you remember your birthday? Anybody remember their birthday? ...Nobody, because you were told that it's your birthday. But I remember my birthday! I was born in the United States, at Ellis Island! 1921, March the 30th, 11 o'clock in the morning, I arrived at Ellis Island. That's when I was born. This is my birth certificate.

—my great grandfather, Sam Lehrer on his 90th birthday

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List of Key Terms

287(g) program: deputizes state and local authorities to allow them to enforce immigration law, officially giving the police the ability to question one's immigration status during routine policing

BLM: Black Lives Matter, referring to the movement which led protests against police brutality and systemic racism in the United States, starting in 2012, and growing to a national movement in 2014

CAP: Criminal Alien Program

CBP: Customs and Border Patrol

CIR: Comprehensive Immigration Reform

DHS: Department of Homeland Security

ICE: Immigration and Customs Enforcement

IIRIRA: Illegal Immigration Reform and Immigrant Responsibility Act, 1996

ILRC: Immigrant Legal Resource Center

INS: Immigration and Naturalization Service

IRCA: Immigration Reform and Control Act, 1986

LEA: Local Enforcement Agency

LGBTQ+: Abbreviation for Lesbian, Gay, Bisexual, Transgender and Queer. The "plus" is used to cover all other sexual identities not listed in the original acronym

NSM: New Sanctuary Movement

PEP: Priority Enforcement Program

S-Comm: Secure Communities Program

Section 1373: often cited as a direct response to local sanctuary policies, states that local laws that prohibited information sharing between state and local agencies with the federal government were void (8 U.S. Code § 1373, 1996)

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Part 1: Introduction and Literature Review

Chapter 1: Introduction

a. Competing dynamics of immigrant criminalization and sanctuary policies

Immigration policy and enforcement have risen to the forefront as two central issues for many governments around the world, in particular following the election of President Donald Trump in 2016, and the ensuing wave of populist and authoritarian leaders in several other countries. Like the United States, other regions, such as the European Union's political contention toward migrants and refugees crossing the Mediterranean Sea, or South American countries' response to the exodus of Venezuelan citizens seeking refuge in neighboring countries, have seen how the topic of immigration occupies a central role in politics today. Whether by pushing immigration policy externally toward neighboring counties in an attempt to control migration flows, or by moving the border inwards to police and control immigrants residing within the country, the enforcement of expansive immigration policies and programs relies upon external actors, beyond the agencies and departments who are specifically designated for this role. Due to its large presence on the global stage, the United States' actions and policies towards immigration and the large, permanent undocumented population living within the country, underline the importance of studying both how immigration policies have criminalized immigration, relying upon local actors to implement enforcement programs, as well as how resistance toward this increasingly restrictive legislation has occurred at the local level. Sanctuary cities and the sanctuary movement in the United States represent key examples of this resistance, both through legal measures in the form of local policies, and through grassroots mobilization at different periods across the country.

Sanctuary, whether referring to the sanctuary movement, sanctuary cities, or sanctuary policies, does not have only one clear definition. Although the sanctuary movement in the United States began during the 1980s as a response to provide asylum to Salvadoran refugees, it has since broadened to incorporate the actions taken by a wide range of actors to advocate for access to rights and services for immigrants, and by expressing resistance to specific federal policies. These federal policies seek to use local resources to enforce an immigration regime that is viewed as increasingly restrictive, resulting in the criminalization of immigrants and other minority groups (De Genova 2004; Menjívar and Kanstroom 2014; Nevins 2010; Ngai 2004). To understand the actions, networks and policies tied to the sanctuary movement, I categorize sanctuary into three broad areas, which will be referred to throughout this dissertation: the sanctuary movement as a

grassroots mobilization (occurring in three main waves); sanctuary cities, which include localities ranging from towns, cities and counties that have enacted sanctuary policies; and my specific term of sanctuary policies, which includes all subfederal legislation (state, county and city level) that falls within the sanctuary umbrella. This subfederal legislation covers municipal resolutions and ordinances, in addition to executive orders by mayors and governors, state assembly bills, and local police regulations. My research in this dissertation will have a specific focus on the analysis of sanctuary policies as the link between the grassroots movements and the actions taken by government actors to become sanctuary cities. While some examples of policies and declarations explicitly mention sanctuary, others can be categorized as falling under the sanctuary umbrella because they share the common objective of disentangling local law enforcement and/or redistributing local resources away from federal immigration enforcement.

Existing research has looked at the study of sanctuary from several lenses, including an analysis of the different waves of the sanctuary movement as a grassroots mobilization, from its roots in the 1980s, through the second wave in the 2000s. Other studies provide a categorization of the main types of sanctuary policies and their rationales (Avila et al. 2018; Lasch et al. 2018), while further research focuses on how sanctuary policies and actions fit into the framework of immigration federalism, as a local policy response to federal immigration enforcement. However, little research has been conducted to question why sanctuary policies arise at certain times; what factors contribute to the development of different sanctuary policy periods; and what elements link them together as sanctuary policies spanning four decades. My dissertation will thus add to the existing research on sanctuary by responding to these questions, building upon the literature on both immigration federalism and immigration criminalization to argue that sanctuary policies arise at specific historical moments as local responses to increased federal enforcement measures.

To prove this argument, this dissertation first presents a historical analysis of the criminalization policies and enforcement programs in the United States, starting from the 1980s, in particular, and leading up through the first years of the Trump administration. It then illustrates how sanctuary, both the movements and the policies, react to the increasingly restrictive and hostile environment brought about by the rise of criminalization measures. To do so, I present and compare the three main waves of sanctuary that have occurred since the 1980s, starting with the first sanctuary movement as a response to the treatment of Salvadoran refugees, followed by the New Sanctuary Movement in the early 2000s, and concluding with the most recent wave of sanctuary which arose during the 2016 presidential elections and the first year of the Trump

presidency. In addition to the qualitative comparison of the waves of sanctuary, I include a quantitative and qualitative analysis of the entire sanctuary policy database, compiled by the authors of *Understanding Sanctuary* (Lasch et al. 2018).[1] By using this database, I provide an analysis and categorization of the main policy objectives, describing how they change over time, and identifying the common elements they share. Following this macro analysis of the sanctuary policy database, this dissertation concludes with an in-depth case study of the city of Santa Ana, California, which exemplifies a representative case (Seawright and Gerring 2008) of a sanctuary city and policy during the Trump era. Santa Ana serves as a representative case to study the most recent wave of sanctuary since it includes all of the main sanctuary policy objectives identified during the third wave, while also incorporating a local youth-led movement, with historical roots. In addition, the case study of Santa Ana confirms the ongoing struggle for sanctuary cities to redefine the role of local police and their cooperation with federal immigration enforcement, while also highlighting police unions' pronounced influence in local politics in many cities across the country (Unzueta 2017).

Main findings

From my analysis of the dual processes of criminalization and sanctuary, I show how sanctuary, as a local movement, responds to increasing federal pressures to implicate local law enforcement, and how the mobilization to pass local policies occurs during particular historical moments or critical junctures that provide political openings for policy change (Capoccia and Kelemen 2007; Collier and Collier 1991). Within the frameworks of immigration federalism (Boushey and Luedtke 2011; Chacón 2012; Chen 2014; Gulasekaram and Ramakrishnan 2015; Kanstroom 2016; Rodriguez 2017; Schuck 2009; Suro 2015; Varsanyi et al. 2012) and "uncooperative federalism" (Bulman-Pozen and Gerken 2009), it is possible to observe how local actors take advantage of a "niche-opening" to push forward their agendas, both in terms of finding the legal space to express their "interstitial dissent" as well as the political space to resist cooperation with federal enforcement (Bulman-Pozen and Gerken 2009; Nicholls 2013). From my analysis of the sanctuary policy database, I identify the main policy tools and legal mechanisms which are most often used by these localities to express their "interstitial dissent", confirming the primary objectives and common thread of disentangling local enforcement agencies from the federal enforcement agenda, as well as redefining the role of policing within their communities. In addition, these results reveal a progressive shift to expand the protection of rights and access to

[1] Full public access available online by the Westminster Law Library: https://libguides.law.du.edu/c.php?g=705342&p=5008711

services to a broader population, beginning with a specific focus on providing asylum for Salvadoran refugees (first wave), to efforts geared towards keeping mixed status families together[2] (second wave), to extending protection to all undocumented individuals and minority groups (third wave). This shift to expand protection during the third wave of sanctuary underlines how local actors involved in sanctuary and pro-immigrant advocacy have identified the shared challenges of over-policing, detention and prison with other minority groups (for example, the LGBTQ+[3] rights movement (Morgan and Rodriguez 2020), the Black Lives Matter protests[4] (Lebron 2017; Ransby 2018), and the Stop Asian Hate[5] campaigns (Tessler, Choi, and Kao 2020) since 2016). In doing so, sanctuary policies provide an important contribution for future reforms of the police and prison systems, by identifying the key local mechanisms at their disposal to respond to increasing federal pressures, and by advancing their policy agenda via niche legal and political openings within the federal system.

The main findings from the database therefore confirm that the peaks in the number and type of sanctuary policies occur most often in direct response to specific federal legislation, underlining the importance of a niche opening to express their dissent at the local level. Analysis of the database also underlines the trend, in particular starting from the 2000s, of prioritizing police reforms and noncooperation with federal enforcement, directly citing their disapproval of certain agencies such as ICE (Immigration and Customs Enforcement). In addition, the results reveal that sanctuary policies passed since 2016 are more likely to explicitly mention sanctuary in their declarations, calling upon the long history of the movement, and further confirming the emergence of the third wave of sanctuary in light of the 2016 elections. While my analysis of the database looks at specific time periods to examine the evolution of sanctuary policies over the years, four

[2] According to the National Immigration Law Center: “A “mixed-status family” is a family whose members include people with different citizenship or immigration statuses.”
[3] LGBTQ+: Abbreviation for Lesbian, Gay, Bisexual, Transgender and Queer. An umbrella term used to refer to the community as a whole. (UCSF). The "plus" is used to cover all other sexual identities not listed in the original acronym.
[4] According to Howard University Law Library: “Black Lives Matter began with a social media hashtag, #BlackLivesMatter, after the acquittal of George Zimmerman in the shooting death of Trayvon Martin back in 2012. The movement grew nationally in 2014 after the deaths of Michael Brown in Missouri and Eric Garner in New York. Since then it has established itself as a worldwide movement, particularly after the death of George Floyd at the hands of police in Minneapolis, MN. Most recently, #Black Lives Matter has spearheaded demonstrations worldwide protesting police brutality and systematic racism that overwhelmingly affects the Black community.”
[5] According to UNHCR: “Stop Asian Hate appeared in 2021 to denounce the violence targeting Asian American Pacific Islander communities (AAPI) in the United States during the COVID-19 pandemic. This denunciation has resonated in many other countries, where the rise of violence against Asians and people of Asian descent was also observed through deadly attacks, verbal and physical harassment, bullying in schools, workplace discrimination, and incitement to hatred in the media and on social media platforms.”

broad categories can be identified to present the main priorities of sanctuary policies as a whole. These include:

1. Policies focusing on disentangling local enforcement with federal immigration enforcement;
2. Policies that directly express dissent with federal immigration policies or programs that criminalize immigrants and minorities;
3. Policies that call for Comprehensive Immigration Reform (CIR);
4. Declarations of sanctuary, or welcoming cities guaranteeing access to public services to promoting diverse communities

In addition, studying the number of policies that address one or more of these priorities reveals that the focus on disentangling local enforcement outweighs the other categories by almost 3 to 1 when compared to the next closest category, the declaration of sanctuary, followed by policies expressing federal dissent, and finally by policies calling for CIR (Comprehensive Immigration Reform) as the smallest group. This high concentration of policies focusing on local police and noncooperation with federal enforcement emphasize that sanctuary policies have a clear role to play to redefine local police actions and implement initiatives to foster greater trust between local communities, police and municipal governments. Adding to this macro analysis of sanctuary policies, the case study of Santa Ana provides a concrete example of how these different forces play out on the ground. The case study exhibits how local activists and the municipal government used these same policy mechanisms to clearly state the areas in which local enforcement would not cooperate with federal enforcement, when legally permissible, while also declaring their dissent against federal immigration legislation and the Trump administration's hostile discourse towards immigrants and minority groups (Villazor and Johnson 2019). The case study, alongside the database results, confirms how sanctuary cities fit within the immigration federalism framework and the uncooperative federalism framework , by finding niche openings (Nicholls 2013) to assert their interstitial legal dissent (Bulman-Pozen and Gerken 2009, p. 1272), in order to take advantage of political openings brought about by key critical junctures (Collier and Collier 1991) or moments of crisis to push forward their agenda.

While these findings confirm much of the existing research on immigration federalism and sanctuary cities, it adds to the literature in several key areas. The first is by providing a comprehensive analysis of the entire database of sanctuary policies in order to clearly understand the main themes and objectives that link sanctuary policies over time; and to more precisely

understand how they evolved over the decades, responding to moments of political crises and broader national trends for more progressive and inclusive immigration policies. Second, analyzing the policies with a historical lens up through the first years of the Trump administration adds to the immigration federalism framework by revealing the important role of critical junctures which create political openings for local action, in this case, via sanctuary policies. More broadly, the framework of immigration federalism calls attention to the ongoing legal and political debates that coincide with the implementation of immigration policies and enforcement programs (Chacón 2012b; Gulasekaram and Ramakrishnan 2015; Rodriguez 2017). While immigration policy has been historically understood as falling under the domain of national governments, immigration federalism underlines the role that state and local actors play in the implementation or resistance of these policies. These subfederal actors include state and local governments, but also rely upon policy entrepreneurs (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996) and advocacy coalitions (Sabatier 1988) to frame the issues and advance certain agendas. While sanctuary policies promote a progressive integrationist agenda for immigration policies, restrictionist actors also play a role in immigration federalism by advocating for state and local policies which call for even greater enforcement and criminalization policies than those enacted by the federal government (Gulasekaram and Ramakrishnan 2015; Varsanyi 2010).

b. Methodology and research design

The methodology used within this thesis is based on a qualitative analysis of the three waves of sanctuary and a quantitative and qualitative analysis of the entire sanctuary policy database compiled by Lasch et al. (2018), in addition to fieldwork conducted in Santa Ana and Los Angeles California between 2017 and 2018. Prior analysis of sanctuary policies provides a categorization of the different types of policies and how expansive they may or may not be. However, my analysis of the database adds to this by applying specific time periods to show when certain priorities took precedence over others within each historical time frame. It also connects the main themes present throughout the four decades of sanctuary policies, and which specific local mechanisms were most prevalent. In addition, the quantitative component shows the number of policies and their distribution among the different categories and time periods. I also include a map to show the concentration of these policies by state to illustrate which have a more active role in passing sanctuary policies. Finally, the inclusion of a case study provides further evidence of the findings from the database analysis by utilizing a representative case which

encompasses all of the main goals and challenges of a third wave sanctuary city during the Trump era.

During my fieldwork in Santa Ana and Los Angeles, I met with the leaders, policy directors and teams of several local organizations, including Resilience OC, CARACEN (the Central American Resource Center), CHIRLA (the Coalition for Humane Immigrant Rights), the Community Health Initiative of Orange County, Santa Ana Building Healthy Communities, Orange County Immigrant Youth United, the CIYJA (California Immigrant Youth Justice Alliance) and Friends of OC Detainees. These consisted of semi-structured interviews with key representatives from these organizations, as well as informal conversations with other members and volunteers on-site or following city council meetings or protests. I also interviewed two professors from the University of California Irvine, Profesor Jennifer Chacón[6], and Professor Annie Lai, both experts of immigration policy from the UCI Law School, and who provided legal to the organizations involved in leading Santa Ana's sanctuary movement. The majority of these interviews took place in February and March of 2017. Phone interviews also laid the groundwork for on-site meetings, with initial contact starting in October 2016. The final round of interviews and field work in Santa Ana took place in August 2018.

The fieldwork conducted in Santa Ana and Los Angeles thus contributes to the analysis of sanctuary policies by revealing how local legislation played out on the ground. Semi-structured interviews with local actors, in particular with representatives of both national and local NGOs, and undocumented youth leaders in Santa Ana, confirmed the broader analysis on sanctuary by underlining the importance of several key factors, including: the role of timing via a critical juncture caused by the Trump election which created a political opening to take action; the importance of the antecedent years which laid the foundation for local pro-immigrant movements, including efforts from the #AbolishICE and #EndDetention campaigns; and finally, the ongoing struggles to regulate and redefine local police cooperation with federal enforcement, coupled with the police union's influence on local politics. Interviews confirmed that the deadlock and inability to enact comprehensive immigration reform contributed to spurring local action, alongside the existence of increasingly expansive enforcement programs.

[6] Professor Chacon is now a professor at Stanford as of 2022.

My fieldwork also showed that one of the key differences between earlier sanctuary movements and the third wave is the presence of undocumented youth leading the movement and framing the debates themselves. To further illustrate this point highlighted from the fieldwork, I include an analysis of the discourse used by a selection of local NGOs I met with to illustrate how they present themselves and their main objectives via social media and local news sources. Their discourse emphasized their strong focus on ending detention and deportation practices as part of the enforcement regime. In addition to interviews with key youth and NGO leaders, my observational fieldwork included attending city council meetings during the debates surrounding the local detention center, as well as protests towards the county level debate on sanctuary. These meetings further underlined how local efforts aligned with larger national movements focused on reforming detention and policing, as well as the high level of polarization towards these issues.

c. Contribution of the research

The scope of this dissertation centers upon the historical context leading up to the ensuing response of the third wave of sanctuary during the first years of the Trump administration. There is a specific focus on the time frame of 2016 and 2017, within the context of Trump's presidential campaign and first year in office. As has been widely noted, the Trump administration years have been characterized as an extremely hostile period towards immigration and diversity in the United States, both in terms of federal legislation and Executive Orders passed, and the political discourse utilized (Heyer 2018; Pham and Van 2019; Waslin 2020). Furthermore, during this period, there has been a significant rise in the number of subfederal immigration policies that have been passed at both state and municipal levels, and which have moved in a clear direction toward more pro-immigrant local policies, compared with prior periods in the early 2000s (Pham and Van 2019). As such, the analysis of pro-immigrant or integrationist local policies provides an important contribution to understanding the immigrant rights landscape across the country during these years. Despite federal discourse and policies creating one of the most hostile and volatile environments for immigrants in the United States in recent history, studying local policies and mobilizations reveals a bigger picture of the state of immigration policy and enforcement on the ground, by taking into account the level of resistance that occurred in cities across the U.S.

At the same time, the larger context of the historical criminalization of immigration in the U.S., as well as the earlier waves of sanctuary over the past 40 years, serve as the foundation for both enforcement and resistance actions, laying the groundwork for anti-immigrant policies during the Trump era, as well as providing the roadmap for local policy resistance. Looking back over four decades to questioning why the term sanctuary has persisted reveals how its use has had a unifying effect by creating momentum during periods where immigration policies and discourse were increasingly restrictive. By observing how sanctuary policies in the third wave reference earlier declarations of sanctuary, one can detect how this loose network of localities learn from and build off of one another. Finally, the study of sanctuary confirms the importance of local policies in the field of immigration legislation and enforcement. It contributes to the immigration federalism framework by underlining not only how the federal enforcement agenda relies upon localities to implement its programs, but also how local actors are able to push back and innovate in the face of hostile periods of crisis.

d. Structure of the dissertation

This dissertation is structured in three main parts. Part one provides the introduction and literature review of the academic frameworks used throughout the research. The theoretical groundwork relies upon the role of critical junctures (Capoccia and Kelemen 2007; Collier and Collier 1991), policy entrepreneurs (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996) and framing strategies (Boin, ’t Hart, and McConnell 2009; McCann 2003) and how these frameworks can be applied to understand key elements of immigration federalism (Chacón 2012b; Gulasekaram and Ramakrishnan 2015; Rodriguez 2017; Schuck 2009; Suro 2015), immigrant criminalization (De Genova 2004; Menjívar and Kanstroom 2014; Ngai 2004) and the sanctuary movement (Coutin 1990; Lasch et al. 2018; Ridgley 2008; Villazor 2010; Yukich 2013). The literature on police reform (Bell 2017; McLeod 2012) and abolition (Akbar 2020; Cházaro 2019a) also provides the foundation to analyze the main tools and outcomes from the sanctuary movement, and, in particular, its focus on redefining the role of local law enforcement and ending immigrant detention and deportation. Finally, the research on immigrant “illegality” provides the basis for the critical analysis of immigrant criminalization policies and their broad impact (Cházaro 2015; De Genova 2004; Menjívar and Kanstroom 2014; Ngai 2004).

Part two discusses immigrant criminalization policies and practices as necessary components to fully understand sanctuary as a response to the enforcement agenda. The first chapter in this section focuses on the political history of criminalization policies from the construction of the U.S.-Mexico border, to the internalization of criminalization via increasing interior enforcement programs, to the rise of detention and deportation practices through the Trump administration. It specifically looks at the emergence of ICE as the main agency for internal enforcement, detention and deportation, thanks to its broad mandate and resources, and the criminalization policies which require a high level of cooperation with local law enforcement and municipal governments. The second chapter of part two moves on to the application of immigration federalism via key examples of state level criminalization policies and the ensuing impact on the daily lives of immigrants and undocumented residents.

Part three explores the sanctuary movement history and policies, beginning with an introduction to the first sanctuary movement in the 1980s and continuing on to the New Sanctuary Movement, or the second wave of sanctuary, from 2007-2011. The second chapter in this section focuses specifically on sanctuary policies during the Trump administration, as the start of the third wave of sanctuary since 2016. Together, these two chapters incorporate the results of the quantitative and qualitative analysis of the sanctuary policy database, citing the main findings and conclusions drawn from examining the policies themselves alongside the different waves of the sanctuary movement. The final chapter presents the case study of Santa Ana, California, serving as a representative case of a new sanctuary city at the start of the Trump era. Here again, a historical and political overview of the city of Santa Ana, within the county of Orange, serves as a key element to understanding the role of immigration in shaping both the county and city level dynamics. The case study also provides a concrete example of the influence and relationship between local police unions and municipal politics, further underlining sanctuary policies' efforts to regulate local enforcement. The chapter concludes with an analysis of the local mobilization for sanctuary in Santa Ana; a close reading of the city's sanctuary declaration and ordinance; and its ongoing efforts for expanding immigration protection, redefining the role of local police, and ending detention practices more broadly.

Finally, I conclude by outlining areas for further research, in particular, exploring how sanctuary policies may serve as a local tool for police and prison reform, beyond the realm of immigration. This also ties into broader discussions on how immigrant rights reforms are inherently linked to intersectional identities that encompass questions related to citizenship, race, and gender politics. Further research may also add a comparative case to my analysis of

sanctuary in the U.S., by looking at the dynamics of criminalization and local resistance in other countries and regions, the existence of various interpretations of sanctuary in their own localities, and the application of immigration federalism to different contexts as well.

Chapter 2: Literature Review

a. Introduction of main academic frameworks

The study of sanctuary cities encompasses different fields of research on social movements and sociological studies to legal and judicial debates. Questions about sanctuary range from how it ties into the broader immigrant rights landscape and grassroots mobilizations to how sanctuary policies fit into the legal framework of federalism in the U.S.; to how the expectations and limits of these policies are defined and implemented. However, few studies have looked at the entire history of sanctuary policies, from its earliest manifestation in the 1980s, and the following waves of sanctuary throughout the 2000s, to the broadening and expansion of sanctuary during the Trump era. Furthermore, there has yet to be an in-depth analysis to understand how all of the different types of specific policies that fall under the sanctuary umbrella are linked, and why they occurred when they did. To answer these questions, this dissertation analyzes sanctuary policies from 1979-2017 in order to put forward a more precise understanding of how these policies manifested as a response to key historical political moments, how they are linked, and how they have evolved over time. In addition to the broader policy analysis, my research includes an in-depth case study of the city of Santa Ana to examine a sanctuary policy that passed in response to the 2016 elections, during an increasingly hostile political environment towards immigrants. It therefore provides a clear case study of a sanctuary policy within the third wave of sanctuary.

Thus, this dissertation adds to the existing literature by examining the policies and political context surrounding sanctuary. My research proposes that timing and political context are important elements to understand when sanctuary policies are passed at subfederal levels, as well as how they influence the type of policy and its main objectives. While the framework of immigration federalism and the existing research on sanctuary cities and policies provide a significant foundation to understand how sanctuary fits into the federal system in the U.S., less attention has been given to question why specific sanctuary policies were passed when they did, and what factors leading up to and surrounding them were key in influencing the outcome. Thus, I propose that by applying the theory of critical junctures (Capoccia and Kelemen 2007; Collier and Collier 1991) one can observe that understanding sanctuary surpasses the framework of immigration federalism by emphasizing the importance of timing and niche openings (Nicholls 2013) that contribute to the passage and implementation of sanctuary policies at municipal and state levels. Furthermore, I argue that the political backdrop of increasing criminalization of

immigration at the federal level, in particular since the 1980s and continuing through present day, serves as the "antecedent period" that set the stage for pro-immigrant grassroots mobilizations which resulted in local non-cooperation policies falling under the sanctuary umbrella (Collier and Collier 1991). Without this increasing criminalization in recent decades and federal legislation targeting specific aspects of immigration, the ensuing response from pro-sanctuary actors would not have been the same. However, these actions require a spark or critical juncture that incites policy entrepreneurs and other local advocacy groups to push their initiatives forward. In order to provide evidence to support this argument throughout this dissertation, I first lay out the historical context of criminalization, followed by a comparison of the different waves of sanctuary and an analysis of the sanctuary policy database (Lasch et al. 2018), and then provide a concrete example of how this has been developed on the ground via the case study of Santa Ana, California.

The study of critical junctures represents a useful framework to apply to the immigration federalism and sanctuary movement literature by helping to illustrate how the "antecedent" period (Collier and Collier 1991) of criminalization policies contributed to setting the stage that led to grassroots mobilization and protests by pro-immigrant actors to pass local sanctuary policies. Evidence provided via my analysis of the sanctuary policy database, reveals the "historical legacy" (Collier and Collier 1991) of earlier sanctuary policies, how they have built off of one another, and how the specific outcomes and mechanisms identified link them together. Building upon this, the literature on policy entrepreneurs (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996; Sabatier 1988) and policy framing (Boin, 't Hart, and McConnell 2009; van Hulst and Yanow 2016; McCann 2003) is key to understanding the central themes and objectives of the sanctuary policies and the different waves of sanctuary, in particular emphasizing the theme of public safety to influence the dialogue on immigration and sanctuary cities.

Alongside the policy entrepreneurs' efforts to achieve their goals and political agendas, many legal scholars look at sanctuary from the federalism lens, explaining how the movement and policies associated with sanctuary represent an ongoing struggle across the federal-state-local arena. However, building upon this, my research argues that these municipal and state policies, led by grassroots mobilization, and supported by a range of local and national actors and NGOs, manifest as a deliberate response to increased criminalization policies typically originating from the federal level. Furthermore, I illustrate how sanctuary in the Trump era forged links to larger movements against police brutality and anti-racism discourse, and how the movements and policies themselves became more intersectional, transcending immigration (specifically

Latino immigration) to form ties with other minority groups who are disproportionately policed and controlled, and susceptible to systemic racism and violence (Akbar 2020; Bell 2017; Cházaro 2015; McLeod 2012).

To support these arguments, my research relies upon several existing bodies of literature. First, in order to understand the context of illegalization and criminalization of immigrants in the U.S., it is important to consider the long history of deliberate political, rhetorical and legal mechanisms that created entrenched "crimmigration" policies and practices (Cuauhtemoc and Hernandez 2018; Garcia Hernandez 2013; McLeod 2012; Stumpf 2006) via a series of policy and enforcement mechanisms at its disposal that impact the daily lives of immigrants across the U.S. However, to grasp the complexity and evolution of these "crimmigration" policies and mechanisms, the immigration federalism framework must also be taken into account in order to portray how the increasing number of criminalization policies set up by the federal government rely more and more heavily upon states and municipalities' local enforcement agencies (LEA's) to implement these increasingly expansive enforcement programs. Within immigration federalism, scholars propose that the willingness to cooperate, or refusal to cooperate, with these federal programs represent important legal examples of the federalist system and how state and local actors express their dissent via specific policies. Existing research on sanctuary policies reveals how these local actors seek to test these limits and to clarify their cooperation or non-cooperation with federal immigration enforcement. These two main frameworks will be presented in-depth in the following chapter which presents an analysis of the historical and contemporary trajectory of criminalization policies towards immigrants, and how this is tied to the research on immigration federalism.

My research is therefore based on empirical evidence via mixed methods of qualitative and quantitative analysis of the sanctuary policy database, in addition to fieldwork and semi-structured interviews in Santa Ana and Los Angeles, California, with various NGOs and local activists. This research, building off the existing literature on sanctuary and immigrant criminalization allowed for the identification of main themes and trends surrounding sanctuary, in particular its dissent within the federal system, and the immigrant protection mechanisms that it employs. One of the key findings from my analysis is that the policy tool consistently used in a vast majority of sanctuary policies involves the regulation of policing activities and municipal resources, thereby revealing how localities effectively identified the tools within their jurisdictions to respond to increased federal pressures for blending LEAs and federal enforcement. Thus, just as the pro-enforcement regime (Rodriguez 2017) relies on local law enforcement and local

resources to implement the criminalization policies that produce widespread immigration enforcement, the resistance to enforcement actors (including sanctuary actors) use the same local tools at their disposal to show either their support for or against the federal policies.

Therefore, my central arguments underline how sanctuary has been a local response to various types of increasingly restrictionist anti-immigrant policies spanning several decades, alongside the implementation of federal criminalization policies, but that it requires a specific spark or crisis to gain momentum and force. As such, the critical juncture framework (Collier and Collier 1991) can help to explain the timing of niche openings (Bulman-Pozen and Gerken 2009; Nicholls 2013) utilized by sanctuary practices to pass local legislation. These local policies in turn fall under the immigration federalism framework, by not only illustrating how federal enforcement and policies rely upon LEAs, but also how local movements create their own municipal and state policy responses towards immigration enforcement. The results of my research and database analysis also show that there is a clear third wave of sanctuary starting in 2016 that sets itself apart from the earlier social movements in the 1980s and early 2000s by aligning with broader abolitionist networks, police reform and anti-police brutality movements (Avila et al. 2018; Cházaro 2019a; Lebron 2017).[7] In this third wave of sanctuary, undocumented youth activists led the movement, calling for broader protections, beyond immigration status, and recognizing the need to include intersectionality in pushing for the expansion of rights by focusing on the links among different groups and their own personal identities (race/ethnicity, gender identity, sexual orientation, among others). They also promoted a more far-reaching view of social justice as not only encompassing the decriminalization of immigrants, but moving past the criminalization framework towards social dignity and equality (Unzueta 2017). Therefore, by conducting an in-depth analysis of the policies themselves, it is possible to connect the legal scholarship on sanctuary, which focuses on a legal analysis and its boundaries within a federal system, with the literature presenting sanctuary as a social movement across various time periods. The study of these policies reveals the links between the legal and social movement research on sanctuary, as well as a better understanding of how the policies and movement evolved over time, while still remaining connected over the past 40 years since the first sanctuary movement.

In addition, sanctuary policies represent just one component of the broader immigrant rights' landscape across the US. Due to the use of local policy tools and its long history, sanctuary serves as an important resource for future immigrant rights movements and for broader calls against police brutality and discriminatory enforcement. The spark resulting from the 2016

[7] For example, see the campaigns: #AbolishICE, #DefundthePolice

elections attracted renewed attention to sanctuary in many communities, raising the question of how the elections contributed to a critical juncture or crisis that opened a space for the third wave of sanctuary to gain momentum. Did the tightening of immigration controls and increased criminalization rhetoric and policies incite the pushback by local movements? Although sanctuary may seem like a term to cover several different immigrant rights movements happening over different periods of time, what links them under the sanctuary umbrella? As discussed in greater depth in the following chapters, my results from the database analysis show that police and local enforcement, in addition to control over municipal resources, are two key policy mechanisms utilized by the sanctuary movement. However, in light of the rise of mobilizations against police brutality since 2016, and again in 2020, future research may consider questioning if the sanctuary movement and its policies could serve as a model for police reform and a response to racialized violence.

Responding to these questions, my analysis of the sanctuary movement and policies reveals a common thread, in particular regarding the types of concrete measures or tools that localities identified at their disposal, in particular, regulating and defining the role of local law enforcement, as well as their interactions or noncooperation with federal policies and enforcement. By examining the different policies over time, the common theme of guaranteeing, expanding or reaffirming the protection of rights for immigrants emerges as a constant, in addition to showing support or resistance to a federal policy. A comparison of the different time periods also underlines how the call for the expansion of rights within the sanctuary movement transformed to include larger groups, starting out with Central American refugees and growing today to include all undocumented immigrants, minority groups, and broad support for more diverse communities.

Therefore, this dissertation seeks to bridge the gap between the study of sanctuary movements and policy, by emphasizing the role of local law enforcement and by explaining why sanctuary actors tend to focus their attention on pushing local and state governments to regulate policing activities, and reform local detention and prison facilities. In doing so, these subfederal actors call for a separation between local and federal enforcement in order to show their dissent with immigration criminalization. I also present a clear link from the different waves of sanctuary by providing the evidence from the policies themselves, rather than focusing on the use of the term sanctuary as the primary connection among them. By revealing the specific commonalities among a broad range of local pro-immigrant policies, it is possible to better understand how they

fall under the sanctuary policy umbrella more broadly, and why the term sanctuary is still used today to protect immigrant rights.

The following sections will thus introduce the main theoretical frameworks to understand sanctuary in its political and policy context:

- Critical junctures: to explain the timing of sanctuary and its response to key historical moments;
- Advocacy coalitions and policy entrepreneurs: to recognize the role of existing networks, policy entrepreneurs and coalitions to develop and push forward sanctuary policies;
- Policy framing: to understand how sanctuary has been framed in different periods and its impact.

Moreover, while this literature provides the theoretical foundation to understand the main actors and timing involved in sanctuary policies, the research on immigration federalism (Chacón 2012b; Gulasekaram and Ramakrishnan 2015; Rodriguez 2017), immigrant criminalization (De Genova 2004; McLeod 2012; Menjívar and Kanstroom 2014; Nevins 2010; Ngai 2004), and police and detention reform (Akbar 2020; Cházaro 2015; McLeod 2012) provide the legal and sociological support of this analysis on sanctuary policies and the sanctuary movement. By applying the critical juncture framework, alongside the role of policy entrepreneurs and policy framing, this dissertation adds to the study of immigration federalism and criminalization by identifying the political elements that have influenced the timing and outcome of sanctuary policies, as well as the main mechanisms that they consistently utilize at their disposal.

b. The role of critical junctures and policy entrepreneurs within immigration federalism, criminalization and the sanctuary movement

The study of critical junctures has been conducted by scholars from various fields, but has been particularly rooted in historical research to understand the different phases and evolutions occurring throughout particular time periods, in addition to the crises and historical moments that shape them. In their seminal work on critical junctures, Collier and Collier (1991) explain that "a critical juncture may be defined as a period of significant change, which typically occurs in distinct ways in different countries (or in other units of analysis) and which is hypothesized to produce distinct legacies" (p. 29). They discuss the central components to consider in order to determine the presence of a critical juncture, including the "*antecedent conditions"* that should be considered in order to provide the "'*base line'* against which the critical juncture and the legacy are assessed" (Collier and Collier 1991, pp. 29-39). This principle can be utilized to consider the underlying

conditions of both increased criminalization policies, and the foundation of earlier waves of sanctuary, to understand the impact this had on the second and third waves throughout the 2000s. These underlying conditions are thus significant to question whether there is "considerable continuity and/or direct causal links with the preexisting system," in order to identify where and when the critical juncture specifically occurred (Collier and Collier 1991, p. 30). Furthermore, Collier and Collier discuss the existence of a "*cleavage"* or "crisis" that has its roots in the "antecedent conditions and in turn triggers the critical juncture" (p. 30). Within all three waves of the sanctuary movement, a crisis brought about by a specific policy or political event contributed to sparking local resistance. This is particularly evident during the third wave of sanctuary when the crisis of the Trump administration coming to power was cited as a key element in spurring local action and resistance (Garcia 2019; Pham and Van 2019; Pomerenke 2018; Villazor and Johnson 2019). Actors on the ground also noted that the 2016 president elections created a political opening for local politicians to change their views toward sanctuary, and for others to reassert their commitment to previously established sanctuary policies.

Collier and Collier (1991) also discuss the importance of establishing the "historical legacy" to determine whether a critical juncture has occurred in order to identify "the outcome to be explained" (Collier and Collier 1991, p. 33). In the case of the sanctuary movement, the outcomes include both the official declaration of becoming a sanctuary city, as well as the various policies and actions that fall under the sanctuary umbrella. In addition to analyzing the historical legacy tied to the critical juncture, Collier and Collier (1991) explain that the legacy should be compared with the "antecedent system" to more precisely define the outcomes of the critical juncture (p. 34). They note that "even in revolutions, political systems are never completely transformed, and in the study of revolution debates about continuity and change can be of great importance" (Collier and Collier 1991, p. 34). By keeping this aspect in mind, this framework helps to unpack the resilience of government institutions, despite the political crisis incurred by the Trump presidency. While there were various threats to the institutional integrity and the system of checks and balances, the core of the American political system was not entirely dismantled (Segal 2018; Villazor and Johnson 2019; Waslin 2020). Furthermore, at the local level, and in the case of Santa Ana specifically, extensive changes to the political institutions themselves did not transpire. Instead, there was a shift in perception and allegiance to different causes, and a push for municipal leaders to call for greater protection for minority groups in their communities, particularly undocumented residents.

Capoccia and Kelemen's (2007) work builds upon Collier and Collier's study of critical junctures to integrate the concept of path-dependency and choice when studying significant periods of change. They emphasize that critical junctures involve a "lasting impact of choices", which are similar to the historical legacies proposed by Collier and Collier, but underline that the result of these choices may "lead to the establishment of institutions that generate self-reinforcing path-dependent processes" (Capoccia and Kelemen 2007, p. 341). By emphasizing the link between the opening created by critical junctures and the concept of choice, they propose that:

> Critical junctures are characterized by a situation in which the structural (that is, economic, cultural, ideological, organizational) influences on political action are significantly relaxed for a relatively short period, with two main consequences: the range of plausible choices open to powerful political actors expands substantially and the consequences of their decisions for the outcome of interest are potentially much more momentous. (Capoccia and Kelemen 2007, p. 343)

Within their definition, the role of political actors, and their agency, is a necessary component for change to occur during a period of crisis or historical cleavage. Without this, there may or not be a significant historical legacy, "momentous" outcome, or rupture, to assess. Taking these different explanations into account, Capoccia and Kelemen thus propose their own definition of critical junctures "as *relatively* short periods of time during which there is a *substantially* heightened probability that agents' choices will affect the outcome of interest" (p. 348). They therefore build upon Collier and Collier's broader definition of critical junctures as a significant period of change, by adding in the condition of actors' choice to take advantage of the political opening and potentially change the outcome and historical legacy. This political opening provides more flexibility or freedom "during phases of change" than they would otherwise have during "phases of equilibrium" (Capoccia and Kelemen 2007, p. 349).

Furthermore, Capoccia and Kelemen (2007) explain that the institutions which may be affected by critical junctures can vary from "a single organization (for example, a political party, a union, or a corporation), to the structured interaction between organizations (for example, a party system, or relationships between branches of government) to public policies, to a political regime as a whole" (p. 349). In this study of sanctuary, the "units of analysis" can be considered as the sanctuary policies themselves, and how the various actors involved were able to influence the development of these policies during different periods of political crisis. Capoccia and Kelemen (2007) underline that in the field of political science, actors' decisions are even more relevant, since they are essential to "steer outcomes toward a new equilibrium" when faced with a period

of “institutional fluidity” (p. 354). This once again correlates to sanctuary actors' involvement in recognizing the political openings to push forward the changes they seek to implement. In the policy sense, it also corresponds to local actors’ identification of legal openings to express their “interstitial dissent” by enacting their own municipal policies to resist certain federal policies (Bulman-Pozen and Gerken 2009, p. 1272).

When applying this framework on critical junctures to the sanctuary movement, actors’ decisions and the political context or antecedent conditions (Collier and Collier 1991) play a key role in opening pathways for policy change. In addition, tying this to the concept of immigration federalism more generally helps to explain the timing of particular policies and enforcement programs at different periods. While criminalization policies and actions represent a central component of the historical context to which sanctuary policies respond, these niche openings for political change during a period of crisis can occur in both senses, with actors pushing for greater restrictionist policies on the one hand, and sanctuary and immigrant rights actors pushing for greater protection and access to rights and services on the other hand. Here once again, policy entrepreneurs and advocacy coalitions (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996; Sabatier 1988) are central in shaping the policy outcomes, in particular during periods of institutional change.

Building upon this theory of critical junctures, my research focuses in particular on how a national, and international, political cleavage that occurred with the election of Trump in 2016, impacted immigrant grassroots mobilization and local policies (Garcia 2019; Pham and Van 2019; Pomerenke 2018; Villazor and Johnson 2019). Rather than looking at how this crisis affected national institutions and international relations, I suggest that critical juncture theory could be applied at the level of local politics and policies. The critical juncture created by the Trump presidency and 2016 election created a period of uncertainty that, in some instances, opened a path for local actors to break with the previous paths and pass a sanctuary policy for the first time. For others, this period of uncertainty motivated local actors to reassert their commitment to sanctuary, while also having the opportunity to call for broader protections than they had previously declared. On the other hand, for those cities that did not pass these types of sanctuary policies, various factors can be considered that may have affected local politicians’ decisions to support or resist the sanctuary movement’s goals, including, for example, political partisanship, the presence of an immigrant population and youth movement, previous alignment with similar policies, economic context, and geographic location. As Capoccia and Kelemen (2007) note, a critical juncture does not necessarily have to result in a significant change, as illustrated by some

cities which only reaffirmed their commitment to sanctuary due to the presence of a national political crisis. Still, many other cities took advantage of the crisis to institute new policies, as in the case of Santa Ana, California. The case of Santa Ana therefore serves as an interesting example of change during periods of crisis, relying upon the groundwork already established by earlier sanctuary cities across the state and country, while simultaneously pushing the boundaries on passing one of the most comprehensive sanctuary policies in the country. Thus, the crisis of the 2016 presidential election, despite the hostile anti-immigrant rhetoric it propagated, also opened a new series of options or alternatives for state and municipal actors.

Supporting Capaccia and Kelemen's (2007) research, Sabatier's (1988) study on "advocacy coalitions" emphasizes the role of actors beyond merely "spectators" during a critical juncture, and provides a strong foundation understand both "policy change" and "policy-oriented learning." Sabatier (1988) poses a question that is particularly relevant to examine the sanctuary movement and policies over time, by seeking to answer the following: "How is one to understand the incredibly complex process of policy change over periods of one or several decades? What are the principal causal factors?" (p. 130). He cites scholars from different fields, including political demography, who underline the importance of the surrounding conditions that contribute to policy change, for example, "population migrations, the emergence of new social movements, critical elections, and macro-economic changes in inflation and unemployment" (Sabatier 1988, p. 130) While Sabatier notes that such factors have a role in setting the scene for potential shifts, he underlines the catalyst that strategic actors play, and how they are able to utilize various conditional changes at a macro level to push forward their policy agenda. Thus, there is an inherent focus on policy change over a certain period of time to understand both the reaction of the "policy community/subsystem" to these large-scale or "macro" political, social or economic shifts, and how these "advocacy coalitions" that form a part of the "policy subsystem" evolve over time and may change their views and objectives due to "policy learning" (Sabatier 1988, p. 130).

Sabatier's (1988) framework provides a definition to explain the emphasis on the role of "policy subsystems" to mean "those actors from a variety of public and private organizations who are actively concerned with a policy problem or issue" (p. 131). These subsystems, he contends, are better adapted to the analysis of "policy change" rather than focusing on institutions. Such subsystems provide a broader and more comprehensive understanding of how policies evolve over time by taking into account actors at different levels, both inside and outside the government, that may come from a variety of fields. While Sabatier's (1988) subsystems focus more on these policy "elites" (p. 130) who are involved in research and policy analysis, the role of NGOs and

local and national nonprofit organizations, as well as grassroots activists, who in turn may develop into policy elites, are also able to successfully advance their cause by utilizing similar strategies from the more traditional “policy elites”. Therefore, they may also be considered as active players in the “generation, dissemination, and evaluation of policy ideas” (Sabatier 1988, p. 131)

A second key component to Sabatier’s (1988) framework is the proposal that these subsystems have their own “belief systems” that contribute to the ways in which public policies are constructed and understood (p. 130). The policy subsystem can further be broken down according to these belief systems in the form of “advocacy coalitions” (Sabatier 1988, p. 133) These advocacy coalitions are defined as “people from various organizations who share a set of normative and causal beliefs and who often act in concert” (Sabatier 1988, p. 133). However, while they may share a common belief system, a coalition may also choose differing strategies or “institutional innovations which it feels will further its policy objectives” (Sabatier 1988, p. 133) These differences in strategies can be observed at multiple levels of analysis when applied to sanctuary policies and sanctuary cities.

By analyzing the sanctuary policies over several decades, aspects of “policy-oriented learning” as responses to “perturbations in non-cognitive factors external to the subsystem, such as macro-economic conditions or the rise of a new systemic governing coalition” can be detected (Sabatier 1988, p. 134). The different iterations of sanctuary policies and how they have changed over time clearly show how they are both responding to external events (most often restrictionist policies that limit immigrant rights), and are regularly linked to political changes like elections and foreign or domestic policies and programs. Furthermore, incorporating a specific case study of a sanctuary city into the broader analysis on sanctuary policies underlines the role that advocacy coalitions play in the push for a municipal sanctuary policy, as well as the expansion of rights for minority groups more generally. In both analyses, the macro and micro study of sanctuary, Sabatier’s (1988) research on policy learning is a useful framework to examine how the strategies of the advocacy coalitions to pass these policies evolve as a result of eventual changes in the “perceptions on the adequacy of governmental decisions and/or the resultant impacts, as well as new information arising from search processes and external dynamics” (Sabatier 1988, p. 133)

Sabatier also argues that a new subsystem will tend to develop when “a group of actors become dissatisfied enough with the neglect of a particular problem by existing subsystems to form their own” (Sabatier 1988, p. 138). Here again, this concept can be applied to both the social movement of sanctuary, as well as to the sanctuary actors and broader immigrant rights network. Sabatier (1988) notes that not all actors who may fall into this subsystem will be a part of an

advocacy coalition. Instead, these actors may join the subsystem in order to contribute in a specific way, but do not necessarily play a central role in advocating for a policy change. Others may also participate in the subsystem by serving as “policy brokers” whose role is “keeping the level of political conflict within acceptable limits and with reaching some 'reasonable' solution to the problem.” (Sabatier 1988, p. 141). Applying this to the sanctuary movement in Santa Ana, for example, some of the city council members preferred to take a more neutral position on sanctuary, and ending the city’s contract with ICE, as a mitigated solution to the different parties and interests involved.

However, linking policy subsystems and advocacy coalitions to the framework of critical junctures also reveals the importance for these actors to frame their policy objectives, and in particular, how they utilize the timing of a crisis or juncture to push forward their policy agenda. Boin et al. (2009) argue that such crises “generate framing contests to interpret events, their causes, and the responsibilities and lessons involved in ways that suit their political purposes and visions of future policy directions” (p. 81). They echo the idea that a crisis can open up “political space for actors inside and outside government to redefine issues, propose policy innovations and organizational reforms” (p. 82). However, Boin et al.’s (2009) study differs from the classical analysis of critical junctures by underlining the role of “frame contests” that occur as a result of this “crisis-induced opportunity space” and the resulting impact and potential changes that arise (p.82). The actors involved may be contending to control the “dominant narrative” (’t Hart 1993), while also seeking to “to defend and strengthen their positions and authority, to attract or deflect public attention, to get rid of old policies or sow the seeds of new ones” (Boin, ’t Hart, and McConnell 2009, pp.82-83) Thus, according to these scholars, the outcomes of the crisis are not necessarily the main elements that influence policy changes, but that it is “their public perception and interpretation that determine their potential impact on political office-holders and public policy” (Boin, ’t Hart, and McConnell 2009, p. 83) This argument can also be applied to the works of Massey (2008), Nevins (2010) and De Genova (2004) in immigration studies more broadly which illustrate how the reality of immigration, its numbers, impact and contribution (economic, political and social), are often widely exploited to advance a political agenda. Thus, the frame contest to become the dominant narrative has a long-lasting policy impact and influence on the public’s view towards immigration. This negative framing of sanctuary cities was particularly prevalent at the beginning of the Trump presidency, during which his administration deliberately circulated misconceptions around sanctuary cities as failing to comply with federal law (Alvarez 2017; Narea 2020b; Strickler and Silva 2020).

While framing represents an important component of understanding policy change, in particular during a crisis or critical juncture, Mintrom and Vergari's (1996) analysis provides a useful framework that links both long-term coalitions with specific change agents, labeled as "policy entrepreneurs." They propose that the "policy entrepreneurship model" (PE) can build upon Sabatier's (1988) advocacy coalition (AC) model by emphasizing the role that these policy entrepreneurs have in shaping the framing and perception of an external shift or shock. They thus challenge the view that these externalities serve as the main influential factor in how advocacy coalitions respond and push for policy change (Mintrom and Vergari 1996). Mintrom and Vergari focus specifically on how these policy entrepreneurs bring about policy change in order to examine "how innovative ideas get articulated onto political and legislative agendas." (p. 422).

As such, Mintrom and Vergari (1996) present the key characteristics of policy entrepreneurs as "interested primarily in selling ideas designed to bring about dynamic policy change" and that this takes place within their broader social networks, and not as isolated actors (p. 423). In order to achieve their goals, they may use several types of strategies, which range from "identifying problems, shaping the terms of policy debates, networking in policy circles, and building coalitions" (Mintrom and Vergari 1996, p. 423) The successful policy entrepreneur also needs to adapt the framing of the policy problem, depending on who they are addressing, as well as to identify "appropriate policy responses" (Mintrom and Vergari 1996, p. 423) In their efforts at framing the problem and proposed solution, policy entrepreneurs utilize different resources to push their agenda, particularly relying upon "coalitions" that can provide political backing, as well as from researchers or think tanks to provide academic or intellectual support for their policy solutions (Mintrom and Vergari 1996). Mintrom and Vergari (1996) also note that their policy entrepreneur model is focused on "brief periods of dynamic change" but that it is also "important to recognize that policy entrepreneurs may spend several years working to maximize the probability that, given the right timing, their desired policy changes will occur" (p. 424). This underlines how activists and policy entrepreneurs must dedicate time to building their coalitions and garnering resources during the "antecedent period" leading up to a crisis in order to successfully act during a period of "dynamic change" or to take advantage of a "critical juncture" that allows for a political opening (Collier and Collier 1991).

Furthermore, Mintrom and Vergari (1996) examine how both advocacy coalitions and the policy entrepreneur model can fit together. They explain that the advocacy coalition model can be used to take into account factors arising from the institutional and historical circumstances surrounding policy change, while the policy entrepreneur model provides a closer analysis based

on the behaviors, influence and framing of the actors involved. In addition, comparing these two models and analyzing them together shows how a crisis can be interpreted differently. According to Mintrom and Vergari (1996), “the AC suggests that crisis events are more likely to arise from outside the subsystem than from within it” (p. 425), in other words, the focus is on external historical moments that can create an opening for policy change. On the other hand, the PE model, by emphasizing the role of the policy entrepreneurs’ behaviors and goals, concludes that “crises can be developed by members of the policy subsystem itself” (Mintrom and Vergari 1996, p. 425), whether by “reframing” a policy problem, or by taking advantage of a political opening, which may or may not be caused by an external factor or shock to the system. Instead, it is up to the policy entrepreneur to determine how to interpret and present an opening in order to advance the policy solution he or she seeks to promote. As such, presenting these two models together reveals the importance of the long-term factors and context leading up to a crisis and potential policy change, how this crisis is interpreted and framed by policy entrepreneurs, and finally, the role of coalitions to maintain to promote their policy objectives.

Gulasekaram and Ramakrishnan (2015) also build upon this approach via their research on “issue entrepreneurs” and their influence on local policies within the context of immigration federalism. In order to identify the actors involved and their influence in bringing about policy change, they present their “polarized change model”, which “suggests that policy proliferation in the immigration sphere is the product of a coordinated networked system that is highly dependent on political factors” (p. 10). Both immigration “restrictionist” and “integrationist” actors, as defined by Gulasekaram and Ramakirshnan (2015), rely on coordinated networks, despite having different access to resources (restrictionist or anti-sanctuary actors have had historically more financial and political resources at their disposal), and yet their actions and strategies are played out within the same local sphere. As such, Gulasekaram and Ramakirshnan (2015) reveal that immigration federalism is not only a legal framework, focusing on the debates on the limits and jurisdiction of immigration legislation and enforcement agents, but also as the product of deliberate strategies by policy entrepreneurs on the ground on both sides of the spectrum.

In addition to Gulasekaram and Ramakirshnan’s (2015) work, within the field of immigration federalism, several different definitions have been developed. A broad definition by Elias (2013) states that it encompasses the “engagement by national, state, and local governmental actors in immigration regulation” (p. 5). Other scholars contend that immigration federalism arises from “federal inaction” which results in state and local responses to fill the “policy void” (Cunningham-Parmeter 2011; Filindra and Kovács 2012; Rodriguez 2017; Tichenor and

Filindra 2012). Gulasekaram and Ramakrishnan (2015) add to this argument by asserting that, in addition to the possibility of "federal inaction," party polarization and "ethnic nationalism" provide the foundation for issue entrepreneurs to push for subfederal policy action. These issue entrepreneurs are also active in framing these subfederal agendas to promote more restrictionist local immigration laws. While Gulasekaram and Ramakrishnan's (2015) research on immigration federalism focuses more intensely on the role of restrictionist local policies and issue entrepreneurs, similar strategies to spur local action can also be observed by integrationist actors promoting sanctuary policies. As such, applying this framework of immigration federalism to sanctuary policies reveals that local action is not only a result of federal inaction, but is the result of deliberate strategies developed by policy or issue entrepreneurs during critical openings for change and building upon existing local coalitions.

Along these lines, Rodriguez (2017) adds to the immigration federalism debate by presenting two broad types of subfederal involvement with federal immigration policy: enforcement federalism and integration federalism. Overall, enforcement federalism encompasses local actions that "assist or resist federal removal policies", while integration federalism includes policies that promote the integration of immigrants into the country, by guaranteeing access to rights and services (Rodriguez 2017 p. 509). These definitions taken together show that the decision to cooperate or not with federal policies incorporates actors on both sides of the political spectrum. In particular, it underlines the importance of local responses to specific instances of federal action or inaction, and how this contributes to building pressure for local actors to pass subfederal legislation and determine their role in defining local cooperation with federal enforcement.

Broader research on federalism argues that local resistance is an inherent element of the federalist system, by contributing to the checks and balances between different levels of government, which must respond to the various local, state and national pressures from their constituents (Amdur 2016). In Bulman-Pozen and Gerken (2009) model of "uncooperative federalism", they argue that dissent is built into the federal system. In particular, they note that local dissent tends to exist within the "interstices of federal mandates", via either a deliberate space created by the federal government to allow for local action, or as the result of an unintended "regulatory gap," allowing for local actors to express their dissent towards specific federal policies (Bulman-Pozen and Gerken 2009, pp. 1271-1272). Sanctuary policies represent a clear example of this aspect of uncooperative federalism by illustrating how policy entrepreneurs and their networks resist specific federal enforcement programs by searching for a "regulatory gap" within

the “interstices of federal mandates”. This dissertation adds to this foundation of immigration federalism and uncooperative federalism by revealing the role of timing and key political openings which may spur local action leading to interstitial dissent.

Gulasekaram and Ramakirshnan’s (2015) research also questions the role of political partisanship on immigration policy, at the federal, state and local levels. One of the main outcomes of their hypothesis challenges the observation that a rise in the number state and local immigration policies results primarily from a lack of clear federal actions or reforms. They contend that this argument of “policy pressures from below” as a direct response to “legislative action from above” does not provide the entire picture because it does not take political partisanship into account (Gulasekaram and Ramakrishnan 2015, p.88). Although my analysis reveals that the rise in local action for pro-immigrant or integrationist policies represents a clear response to federal immigration policies and enforcement (although not necessarily from federal inaction), Gulasekaram and Ramakirshnan’s (2015) work is important to add to this discussion in order to understand the baseline conditions that may explain why these policies are enacted in specific cities and states over others. The factor of political partisanship may also contribute to recognizing why California, for example, hosts the highest number of sanctuary policies, and why specific cities are more or less likely to pass a sanctuary policy at a given time, due to the political leanings of the local populations and political representatives.

However, another important insight by Gulasekaram and Ramakirshnan (2015), and corresponding to the argument from Mintrom and Vergari (1996), is their emphasis on the “perceived existence and importance” of a particular issue, which can take precedence over the existence of the problem itself (p. 92). It is thus essential for policy entrepreneurs to make sure this perception is spread to those “who are critical to the legislative process” (Gulasekaram and Ramakrishnan 2015, p. 92) On the other hand, politicians, bureaucrats and activists can also deny the existence of a problem or crisis by opting for “strategic silence” (Rohlinger 2006). It is therefore not only the existence of a real crisis that is in question, but also the perception of the crisis and its effects, and how political actors and issue entrepreneurs present the event as being of imminent importance for the values and structures of a community. The opportunities to ignore, exploit, or even create a crisis, are often accompanied by changes in the way public policies and the debates surrounding them are constructed by actors on both sides (McCann 2003). Therefore, this process is shaped by the political interests of key actors who build the narrative and framing associated with the political problem arising from a crisis, and seek to influence the institutional response to it (Boin, ’t Hart, and McConnell 2009).

While policy framing (van Hulst and Yanow 2016; McCann 2003) and crisis exploitation (Boin, 't Hart, and McConnell 2009) are useful to understand the specific timing and scope of sanctuary policies, it can also be used to analyze various types of framing around immigration more broadly. Yukich's (2013) research on the "New Sanctuary Movement" or the second wave of sanctuary in the early 2000s, explains how "the model movement strategy" which frames immigrants, and undocumented immigrants, in particular, in a positive light may have unintended consequences. More specifically, this strategy employs "the use of model cases to challenge negative stereotypes of members of disadvantaged groups" (Yukich 2013 p. 302). In addition to the policy framing literature mentioned above, Yukich (2013) chooses a "dramaturgical approach" which focuses on framing strategies, both rhetorical and non-rhetorical, to "cast" certain members of the group to become the model representatives used to advance a movement's goals. However, the binary of deserving versus undeserving, historically constructed by various actors and institutions, influences not only the public opinion on the rights and services made accessible to immigrants, but contributes to "creating a hierarchy of deservingness that has often exacerbated conflict and divisions between racial and ethnic minority groups" (Yukich 2013, p. 303). The actors involved in the construction of this binary include politicians and political parties, as well as the contribution of the media on shaping the discourse on immigration. However, even actors who put forward a more favorable image of immigrants tend to focus on those who are presented as "deserving", or "innocent", as shown by the example of undocumented youth who arrived to the U.S. at a young age (Nicholls 2013; Yukich 2013). The perception that it was not their "fault" because it was not their choice to immigrate as a young child creates broader public support for policies to allow them to continue to live, study and work in the U.S. (Abrego 2011; Gonzales and Chavez 2012). The construction of the image of the model immigrant has thus become part of the pro-immigrant discourse and framing strategies, even if it is often involuntary (Kim 2003; Nicholls 2013; Yukich 2013).

c. Linking police reform and abolition with ending immigrant detention and deportation

While the construction of the "model immigrant" is important to take into account, the role of criminalizing policies serves to further consolidate the concept of "legal" and ""deserving, while simultaneously reducing the number of individuals who are considered "legal" (Cuauhtemoc and Hernandez 2018; De Genova 2004; Garcia Hernandez 2013; McLeod 2016; Menjívar and Kanstroom 2014; Stumpf 2006). By utilizing the discourse that immigrants or unauthorized residents are "law breakers or public safety risks", politicians, media and issue entrepreneurs create legitimacy for an immigration enforcement regime, which relies upon local cooperation

(Rodriguez 2017 p. 515). However, often hidden behind this attempt to present the issue as a "rule of law" issue lies a "general resistance to the cultural change and racial diversity" (Rodriguez 2017, p. 515) and contributes to a systemically racist system that deliberately categorizes non-citizens according to demographic criteria (De Genova 2004; Menjívar and Kanstroom 2014; Rodriguez 2017). Under the guise of public safety against threats from 'illegals', these policies instead threaten the confidence of the local community and the police due to excessive control, ethnic profiling and other discriminatory or violent enforcement measures (Chacón 2012b; Cházaro 2015; Chen 2016a; McLeod 2016; Pomerenke 2018).

As the results of my analysis show, a majority of sanctuary policies, in particular in recent decades, serve as a direct response to the increased enforcement and criminalization of immigrants at the federal level. These expansive criminalization policies and enforcement programs rely heavily upon local law enforcement and municipal and state resources in order to implement these far-reaching programs (Arriaga 2016; Chacón 2012; Cuauhtemoc and Hernandez 2018; Garcia Hernandez 2013; McLeod 2016). As a result, since the key enforcement tool of federal immigration policy is the implication of local law enforcement and local resources, policy entrepreneurs within the sanctuary movement developed a counter response which focuses on reforming these same mechanisms by redefining the terms of cooperation between local and federal immigration enforcement. This is particularly evident from the most recent wave of sanctuary in the Trump era.

My research reveals that third wave sanctuary policies tend to broaden their objectives beyond immigration to recognize that policing and enforcement affect various minority groups regardless of immigration status. This is further observed by sanctuary actors' recognition that their efforts are part of a larger landscape of police reform and anti-police brutality movements (Arriaga 2016; Avila et al. 2018; Unzueta 2017). Since 2016, immigrant rights NGOs and local immigrant activist groups increasingly developed campaigns calling to "Abolish ICE" and "End Detention" (Cházaro 2019b; Hernandez 2017), in addition to supporting the Black Lives Matter movement, and Stop Asian Hate campaigns (Ransby 2018; Tessler, Choi, and Kao 2020). Furthermore, NGOs like the Immigrant Defenders Law Center, OC Rapid Response Network, National Day Laborer Organizing Network, and National Immigration Law Center (among many others) started drawing more attention to the discrimination faced by Black immigrants in particular, and the higher likelihood they have of facing police brutality and deportation than other immigrant groups in the U.S.

Thus, within this context, recent research on police reform and police abolition suggests that it is of central importance to address systemic and deep-rooted issues of police violence in order to end deportation and detention practices as well (Akbar 2020; Bell 2017; Cházaro 2015; Hernandez 2017; McLeod 2016). For example, Akbar's (2020) research addresses the legal and structural issues that have contributed to police violence and proposes an abolitionist approach to reform the systemic issues associated with police violence in the U.S. She explains that there is a growing body of research on police violence which "recognizes that it is routine, legal, takes many shapes, and targets people based on their race, class and gender" (Akbar 2020, p. 1781). However, she challenges existing legal analysis which tends to focus on ways to "repair and relegitimize" the police and policing systems without attempting to create "alternate frameworks for reform" (Akbar 2020,p. 1781). Instead, she proposes that the protests and social movements following the death of George Floyd by the police set the groundwork for rethinking police reform, in addition to the scholarship and objectives related to "prison abolitionist organizing" (Akbar 2020, p. 1814). In particular, these reforms concentrate on "the calls to defund and dismantle the police" and choose to "confront head-on the violence, scale and power of the police." (Akbar 2020, p. 1840). Together, the police and prison abolitionist movements argue that systemic reform can occur only by replacing these systems and "building modes of collective care and social provision where reform is one necessary strategy" (Akbar 2020, p. 1781).

Akbar (2020) also identifies the key actors that have laid the foundation for "abolitionist organization" and "Critical Resistance," which include scholars, practitioners, activists and organizers, and networks of local actors forming coalitions across several issues. The organizations include groups advocating to protect the Black community, to promote gender equality, LGBTQ and trans rights, and to guarantee immigrant rights. Some of these groups were also central actors during the 2016 sanctuary movement, such as Mijente and California Immigrant Youth Justice Alliance. Still, other organizations have a clear agenda related to ending detention and the prison system more broadly. While these groups have different community ties and primary objectives, they increasingly coordinate their policy framing and actions to address the root issues of police violence and the expansion of the prison and detention system. They do so by recognizing that these are transversal issues faced by their members who have multiple intersecting identities. Taking this into account, Akbar (2020) notes that:

> Their campaigns offer an approach to reform rooted in hope rather than cynicism: instead of giving more to police and the carceral state, they demand that resources be withdrawn

> from both and redistributed elsewhere as part of a larger strategy of transforming the state and society. (p. 1785)

She points out that these actions and campaigns target all levels of government, including local, state and federal policies for reform. This approach thus corresponds closely with that of the sanctuary movement, which incorporates national, state and local organizations and pushes for reforms at the municipal and state level, in response to federal policies.

Akbar (2020) also explains that police violence has a particular status since it occurs "under law's cover" and that thanks to this legal mandate to act, the law is not a "reliable demarcation device for proper and improper police violence" (p. 1786). Thus, rather than relying upon existing research that seeks to "govern policing", abolitionist actors and networks focus on the root causes that have allowed for the widespread use of police violence, coupled with a lack of substantive social policies and programs (Akbar 2020, p. 1786). Akbar (2020) therefore notes that one of the central roles that these social uprisings play is their strategic calls to defund the police. The goal of this strategy is to reimagine the role of police in society, as well as the types of alternative structures that could be established by redistributing funds and resources to address structural inequalities and socioeconomic disadvantages. Akbar (2020) summarizes this importance by explaining that "abolitionist demands speak to the fundamental crises of our times, challenge our siloed expertise as legal scholars, and invite us to reconsider our commitments to the status quo" (p. 1788). The actions and discourse of these movements further underline this argument, which has increasingly become a priority for immigrant rights groups, to reform and delineate the role of local police, and to abolish the practice of detention. My findings support this argument as well, by highlighting the policy focus established by communities and municipal governments to define their relationship with local law enforcement, and to expand the access to rights and services for vulnerable populations.

While the following chapter presents the history and policies of immigrant criminalization (Cuauhtemoc and Hernandez 2018; Garcia Hernandez 2013; McLeod 2012; Stumpf 2006), the research on police violence serves as an important link between both the immigration federalism framework and the scholarship on criminalization. Since police actions are part of a "combined municipal-state-federal legal architecture", local law enforcement has wide "discretion over when and how to arrest or deploy force in a wide variety of settings" (Akbar 2020, p. 1791). This applies to the field of immigration enforcement as well, since LEAs, which encompass municipal police and county sheriff departments, have the power to act in conjunction with federal enforcement, such as ICE or Border Patrol, unless there is a local policy which expressly forbids this.

Furthermore, Akbar (2020) underlines the rule of law under which police discrimination and violence occurs and permits "police to target poor, Black, and brown people" (p. 1791). Police violence is protected by "qualified immunity" which represents "an almost insurmountable defense against civil rights claims" (Akbar 2020, p. 1792). In addition to this, other tools like police unions and the ability to provide financial support to local politics and campaigns provides them with further protections that can "insulate police violence from review and consequence" (Akbar 2020, p. 1792). The role of police unions also received increasing attention in recent years as calls for police reform and defunding actions gained traction as well (Bell 2017; Cobbina-Dungy and Jones-Brown 2021; Martin 2021; McHarris and McHarris 2020; Taylor 2020b). As the case of Santa Ana reveals, reforms can be difficult to implement because of the stronghold that police unions play in local politics and their influence on city councils which control the budget and resources for public safety departments.

The police and carceral state and its consequences also echo the repercussions tied specifically to immigration control and enforcement. Just as the lack of legal citizenship or an person's undocumented status can block an individual from participating in certain political, economic and social aspects of daily life, he or she also faces a higher probability of contact with police violence and discrimination. Thus, the structural "nature of the carceral state" prevents large groups of people from participating in "formal political channels" while "incarceration removes a person from their family and community and undermines their ability to engage in civic and social life" (Akbar 2020, p. 1805). Thus, the carceral state, including both prisons and immigrant detention centers, coupled with increasing police and immigration enforcement practices, serve the same goal of "mass criminalization" that can block access to both political and legal rights (the right to vote for example); can increase the probability for "eviction, deportation, license suspension and the loss of custodial rights"; and contribute to drastically increasing the likelihood of contact between ordinary citizens and law enforcement (Akbar 2020, p; 1805). As a result, one cannot separate the study of immigration policy and enforcement from the police and prison systems in place (McLeod 2012). Similarly, one cannot analyze and identify the priorities and mechanisms of reform movements like the sanctuary movement and anti-police brutality protests without recognizing this central connection binding the two together.

The police abolitionist framework also has ties with immigrant movements that call for the end of deportation and to "Abolish ICE". Cházaro (2019) notes that the specific term "abolition" rose to the forefront of the public debate on immigration in the summer of 2018 because of the increasing number of children and parents separated at the US-Mexico border as part of a Trump

administration strategy. However, she points out that while the Abolish ICE campaign gained political support in Congress that year, particularly among progressive political candidates and representatives, the push for an end to deportation as a practice had less success. Instead, politicians focused on calls to reform or abolish ICE as an agency, with a possible reconfiguration of its responsibilities, rather than questioning the broader structure of enforcement and deportation under ICE's jurisdiction. Similar to the police abolition research, abolishing deportation as an accepted practice requires a more radical re-imagining of the structure of immigration enforcement and the use of deportation as a key mechanism for control. Cházaro (2019) explains that "this debate exposed that while the tactics ICE uses to apprehend, incarcerate, and deport immigrants have grown increasingly unpopular, the underlying logic – that the US government should have the right to continue deporting noncitizens – remains uninterrogated" (p. 3).

Like many countries, the use of deportation is seen as a widely accepted practice and a key element in a "functioning immigration system" that allows a government to "demonstrate its power" in choosing who to remove from inside its borders (Cházaro 2019, p. 4). However, it is important to note that within the U.S. legal system, deportation represents a civil procedure taking place in an immigration court, meaning that "deportation is not considered punishment, but rather, one possible outcome of an adjudication on the propriety of a non-US citizen's presence within or at the borders of the US" (Cházaro 2019, pp. 4-5) Thus, the act of deportation is not intended as a response to a criminal offense, although it is widely perceived as such. Because of this, organizations like Mijente and other deportation abolitionists call for ending deportation as a legitimate response to a civil offence since it "expands and swells the indefensible and illegitimate uses of state force" (Cházaro 2019, p. 6). This has also been a priority for pro-sanctuary actors in the Trump era, with activists and organizers supporting the #AbolishICE campaign as well as the dismantling of federal immigration enforcement agencies.

Representing one such response, Mijente's (2017) immigration policy platform lays out many of the priorities of the third wave of sanctuary with the following main objectives: defunding agencies like ICE and Border Patrol; ending detention and deportation; de-criminalizing immigration enforcement and "all criminal prosecutions of migrants"; a "ban on the use of military for immigration control purposes"; stopping private companies from participating in immigration enforcement via government contracts; and the "enactment of non-cooperation policies at the state and local level that eliminate any enforcement support to federal immigration agencies" (Unzueta 2017, pp. 6-12). These goals not only clearly outline the deportation abolition agenda, they also summarize the main priorities of pro-sanctuary and immigrant rights social movements,

which have gained increasing importance since 2016. Despite Mijente's earlier efforts during the #Not1More campaign that confronted the Obama administration's high number of deportations, these objectives received greater attention within the context of the crisis of the 2016 election, which provided a sense of urgency and a political opening to push for grassroots and local reforms. Mijente's policy platform also further confirms the broader results of my database analysis regarding the main trends among sanctuary policies since 2016, and mirrors many of the local actions taken in Santa Ana to show the use of collective action on the ground.

d. Defining "illegality": laying the groundwork of criminalization policies

While the next chapter provides a historical overview and policy analysis of the laws and enforcement practices that have institutionalized the criminalization of immigrants in the U.S., there is a significant body of literature that delves into defining immigrant "illegality" and the processes associated with "legalizing illegality" (De Genova 2004; Gonzales and Chavez 2012; Menjívar and Kanstroom 2014; Ngai 2004). This literature provides the theoretical foundation to examine the roots of criminalization policies throughout the history of the U.S. The criminalization of immigrants can be understood by utilizing the "lens of legal violence", defined as the "immediate and long-term harmful effects that the immigration regime makes possible" (Abrego et al. 2017, p. 695). However, this concept goes beyond "intentional acts to cause harm" to include the structural and institutional violence that is both produced and legalized (Abrego et al. 2017, p. 695). Abrego et al. emphasize that "this violence comes from structures, laws, institutions, and practices that, similar to acts of physical violence, leave indelible marks on individuals and produce social suffering" (Abrego et al. 2017, p. 695). This research also fits into the broader legal scholarship that lays out how civil immigration law has become increasingly linked to criminal law via specific legislation, policies and enforcement mechanisms. Thus, many scholars define this convergence of criminal and immigration law as the "criminalization of immigration" (Cházaro 2016; Douglas and Sáenz 2013; McLeod 2012; Menjívar and Kanstroom 2014), the "overcriminalization" of immigration (Chacón 2012a) , or "crimmigration" (Garcia Hernandez 2013; Stumpf 2006). The research on criminalization tends to focus on federal immigration enforcement, but includes increasing attention to the role of immigration federalism and the interpretation by state and local governments in developing their own immigration policies and practices.

In addition to the legal scholarship on immigration criminalization, many studies also address the ways in which immigrants are criminalized via political rhetoric and the media (Beyer and Matthes 2015; Lee, Ottati, and Hussain 2001; Nevins 2010; Sohoni and Sohoni 2014). The

representation and framing of immigrants by media outlets and politicians have negative consequences in the construction of the image of the “criminal alien” and the ensuing bias and discrimination that individuals may face as a result of this image, both in their interaction with law enforcement, and in their daily lives (Abrego et al. 2017; Macías-Rojas 2018; Steusse and Coleman 2014). While the anti-immigrant political discourse has been widely studied, Abrego et al. (2017) present “criminalization as an actually existing practice, and not just a legislative or perhaps policy-based speech act” (p. 696). Within this context, my research presents the policies used to criminalize immigrants, and the ensuing response of the local noncooperation policies developed by advocacy coalitions and policy entrepreneurs via the sanctuary movement. By studying both the increased criminalization and the local resistance to criminalization, it is possible to take into account the key policies developed, how these policies are enforced or implemented on the ground, and the impact that restrictionist and integrationist policies have on immigrants’ daily lives.

Abrego et al. (2017) also emphasize the deliberate nature of the construction of “criminal alienhood” rather than an unintended consequence of the legal system (p. 695). They underline that immigration criminalization serves as “a systematic legal violence, that is, a strategy coded into law and which uses legal language that not only permits various forms of violence against immigrants, but one that also makes abuses possible and acceptable” (Abrego et al. 2017, p. 699). This ties into the research on police and prison reform as well, by identifying the legal violence at the root of certain laws and policies and how these policies are enforced by sanctioned actors, which encourages discrimination as part of the system. As a result, the criminalization of immigrants is “embedded in legal practices, sanctioned, actively implemented through formal procedures, and legitimated” it therefore becomes “‘normal' and natural because it 'is the law'" (Menjivar and Abrego, 2012, p.1386). While Abrego et al.’s (2017) focus is on the criminalization of immigrants more specifically, there is a clear link with the research on police abolition and reform, and with detention and prison abolition.

De Genova’s (2004) research aligns with Abrego et al. (2017) through the emphasis on the intentional illegalization and criminalization of immigrants via specific legislation. However, he also underlines the importance of “the history of deliberate interventions beginning in 1965 that have revised and reformulated the law” and how this “has entailed an active process of inclusion through illegalization” (p. 173). He explains that the criminalization of undocumented migrants, categorized as “illegal aliens” results in an “‘illegality that does not involve a crime against anyone; rather migrant ‘illegality’ stands only for a transgression against the sovereign authority of the

nation-state" (De Genova 2004, p. 175). De Genova's (2004) research also analyzes the "legal production of immigrant 'illegality'" (p. 161), with a specific emphasis on how this has disproportionately impacted Mexican immigrants, resulting from the historical ties and relationship between the two countries. He explains that his use of the term "illegality" goes beyond a "juridical status" related to citizenship or naturalization, and instead can be understood as a "specifically spatialized socio-political condition" (De Genova 2004, p. 161) Therefore, to live in a state of "illegality" is to live with "the possibility of deportation, which is to say, the possibility of being removed from the space of the US nation-state" (De Genova 2004, p. 161).

Moreover, De Genova (2004) argues that the possibility of deportation, alongside the "militarized policing" of the US southern border, is key to unpacking migrant "illegality", since it allows for certain individuals to remain in the US as "un-deported" but in a permanent state of limbo or "illegality" (p. 161). This in turn allows for the US economy to profit from and exploit a permanent but "revolving" workforce that has little recourse to legal action or access to basic rights and services. De Genova (2004) notes:

> The operation of the 'revolving door' at the border that is necessary to sustain the 'illegality' effect, always combines an increasingly militarized spectacle of apprehensions, detentions, and deportations – as well as increasingly perilous and sometimes deadly circumstances required to evade detection – with the banality of a virtually permanent importation of undocumented migrant labor. (p. 177)

As a result, since the majority of undocumented immigrants are not actually deported, but are at permanent risk of deportation, they live with an instilled fear in their daily lives, in particular from any interaction with police or law enforcement.

Furthermore, within the context of the United States, De Genova (2004) presents how the construction and militarization of the US-Mexico border results in the "spatialized difference between nation-states of the US and Mexico" and thus is "enduringly inscribed upon Mexican migrants in their spatialized (and racialized) status as 'illegal aliens'" (p. 178). This is an important reminder of the historical role of Mexican immigration in the US, alongside the construction and enforcement of the border, and helps to explain why immigrant rights movements have historically tended to focus on Mexican and Latino immigration in particular (De Genova 2004; Douglas and Sáenz 2013; Durand and Massey 2019). However, by recognizing this historical significance and attention to Mexican immigration, it is possible to note how the third wave of sanctuary stands apart from previous movements. While Mexican immigrants still account for the highest total number of immigrants in the US (at 11.2 million, or 25% of all immigrants as of 2018), there is an

increasing recognition of the experiences and connections among other minority and immigrant groups (Budiman 2020; Diaz and López-Garza 2001; Lebron 2017; Taylor 2016). Furthermore, a rise in hate crimes during the Trump Administration and the COVID-19 pandemic also resulted in the development of the "Stop Asian Hate" campaign, calling attention to the discrimination and violence faced by Asian immigrants and Asian-Americans in the U.S. (Tessler, Choi, and Kao 2020). These shifts in framing and priorities are further analyzed in the case study of Santa Ana, where local, predominantly Latino-oriented community groups and NGOs formed new partnerships with Asian community groups in neighboring cities and expressed support and collaboration with the Black Lives Matter movement. Thus, it is possible to observe how the more historically vocal Latino immigrant rights groups are joining a broader fight for anti-discrimination and anti-racist policies and enforcement, while promoting greater diversity and inclusion.

These efforts for greater inclusion do not imply that all minority groups face the same shared experiences and difficulties. Instead, one can observe that "social cleavages shape not only how individuals experience illegality but how they have responded, organized, and mobilized to lobby for regularization efforts and to address the predicament in which they find themselves" (Menjívar and Kanstroom 2014, p.7). One clear example of this can be seen from the undocumented youth leadership of immigrant rights movements, such as the DREAMers in 2006 and the 2016 sanctuary movement. In general, these young leaders occupy a different space and have a unique understanding of their role and rights in American society than their parents' generation (Nicholls 2013). While the DREAMers achieved limited success with the passage of DACA[8] under the Obama administration, the temporary relief and ensuing challenges to DACA under President Trump ensures that "they will continue to live inside the country but in spaces of illegality, in a gray zone of nondeportability but also of exclusion" (Menjívar and Kanstroom 2014, p. 12). Therefore, without a permanent path to citizenship, they cannot receive the same basic rights as US nationals, even if they have lived most of their lives within the U.S. As such, this group faces its own particular challenges, as well as advantages, simultaneously lacking legal status, but also having a more detailed understanding of the U.S. after living a majority of their lives within the country (Gonzales and Chavez 2012).

[8] According to the ILRC, "Deferred Action for Childhood Arrivals (DACA) is a policy that allows certain individuals who meet program requirements to get request a grant of deferred action. Individuals who are granted DACA are able to renew their grant and are eligible for work authorization." The program was first passed in 2012 by the Obama Administration in order to allow "certain undocumented youth who came to the United States as children to be granted a type of temporary permission to stay in the U.S."(NILC).

This also leads to the difficulty in constructing clear definitions both in terms of legal definitions of citizenship but also in understanding "illegality across generations" as well (Chavez 2010). Chavez uses the term "1.5 generation" to describe those who have arrived in the US during their childhood up to their early teenage years, and have had "most or all of their school and much of their cultural and social development occur in the host country," but may remain undocumented (Chavez 2014, p. 93). Chavez (2014) explains that in many concrete ways this 1.5 generation shares similar experiences with second generation children[9], but do not have a pathway to regularize their unauthorized or undocumented status. Thus, despite also having grown up in the U.S., like second generation children, they are blocked by the barrier of citizenship status. While some scholars have presented this "illegality" as a socio-political and legal exclusion from participation in society (Cházaro 2015; Coutin 2007; De Genova 2004), Chavez (2014) argues that, in the case of the 1.5 generation, to be "illegally present is not to be 'outside of society' but to be allowed to participate in some aspects of society…but not others" (Chavez 2014, p. 93). Thus, while they are granted access to education, they may be blocked from accessing higher education, licenses, or employment. They are therefore confronted with facing "critical life decisions within the constraints caused by their status" (Chavez 2014, p. 94).

Menjívar and Kanstroom (2014) also discuss the different terms employed to describe the various categories surrounding immigration. They argue that the use of "binary categories" such as "undocumented" versus "documented" or "authorized" versus "unauthorized" do not adequately represent the different experiences and realities of individuals that are assigned these labels (p. 8-9). Instead, they choose to use a range of terms that can more accurately describe the "gray zones of illegality", (p. 9) utilizing concepts like ""liminal legality" (Menjívar 2006), "precarious statuses" (Goldring, Berinstein, and Bernhard 2009) or "permanent temporariness" (Bailey et al. 2002) in order to further challenge the use of limited "binary categories" (Menjívar and Kanstroom 2014, p. 94). In my analysis of the case of Santa Ana and the sanctuary movement under Trump, I select the use of the term "undocumented residents" to refer to a broad group of individuals who are permanent or long-term residents of the city, but lack legal status. I argue that this more accurately presents the situation of the pro-immigrant youth leaders, since one can question how long the use of the term "immigrant" should be applied to an individual who has lived the majority of his or life in the U.S. In other words, it is important to consider how and to what extent the label of immigrant evolves over time based on one's geographic presence within

[9] Children of immigrants who are born in the U.S., or who have become naturalized after coming to the US at a young age with their parents.

a country even without holding a permanent legal status. My use of the term “undocumented resident” also includes the subcategory of “undocumented youth”, which I also employ to specifically refer to the immigrant youth leaders of the sanctuary movement, but could also be defined as the 1.5 generation (Chavez 2010), or those with “precarious statuses” (Goldring, Berinstein, and Bernhard 2009).

My choice of this term is therefore linked to the inherently spatial aspect of immigration and the ensuing integration into one’s city or country of long-term residence (Bauder and Darling 2020). This aligns with a large body of research that discusses the different definitions of citizenship, identity and belonging, beyond a strict legal definition (Bauder and Darling 2020; Bloemraad 2015; Bosniak 2008; Coutin 2007; Isin 2009; Purcell 2003; Smith and McQuarrie 2012; Villazor 2010). For example, Bosniak (2008) illustrates that citizenship may be considered within four broad categories. The first category presents citizenship as a legal status, or the “formal juridical membership in an organized community” (Bosniak 2008, p. 19). The next level addresses citizenship as being tied to the “possession of rights” (Bosniak 2008, p. 19). The third level portrays citizenship as one’s involvement in the political process; and the final level considers citizenship as one’s emotional ties to being a part of a community (Bosniak 2008). Building upon this, Villazor (2010) contends that within Bosniak’s framework, “the definition of citizenship may not be fully understood without examining where it is located” (p. 581). She argues that while national governments typically have the exclusive right to determine the status of legal citizenship, local citizenship has a role to play, not only in one’s emotional sense of belonging to a particular local community, but even in access to rights and other services provided by the city. This body of research emphasizes that local citizenship is inherently tied to one’s physical presence, while national citizenship is a more abstract notion of belonging to a larger nation (Bauder and Darling 2020; Isin 2009; Kaufmann 2019; Purcell 2003; Ridgley 2008; Smith and McQuarrie 2012; Villazor 2010). Isin (2007) underlines this point by arguing that the city differs from the nation-state since it “exists as both actual and virtual spaces” (p. 212). According to Villazor (2010), this aspect of cities versus nations shows how “in this fundamentally unique way, local citizenship is acquired by mere presence in a particular space” (p. 582).

Tying this back to Menjívar and Kanstroom’s (2014) discussion on the limitations of binary categories, it is possible to identify that in the case of the past decade of immigrant rights movements, these organizations’ leaders, often youth leaders, are acting upon their de facto right to citizenship and claim on belonging to the country and city where they live. Their actions seek to address federal, state and local legislation to transform immigration policy to match their lived

experiences. Their demands are once again inherently spatial and territorial, since the proposed reforms would improve access to employment and services that could impact their daily lives, in addition to reforming, or dismantling, the policing, deportation and enforcement mechanisms that instill fear and serve as reminders of their precarious status. It is therefore important to underline and deconstruct the limitations of the use of binary terms of legal/illegal or documented/undocumented within the current immigrant rights landscape. As Menjívar and Kanstroom (2014) note:

> Recognizing these in between, gray zones of illegality helps us to capture today's experiences, questions taken for granted dichotomies that grow out of political maneuvers, and problematize -- following Bosniak (2000) -- approaches that seek to clearly demarcate citizenship and rights to territorial presence are key axes of analysis…because illegality can only be understood in relation to citizenship and belonging. (p. 9)

Menjívar and Kanstroom (2014) also explain that discussing illegality and the illegalization of immigrants is the result of an increase in the number of ways in which immigrants become illegalized through policies and enforcement practices, rather than an increase in the number of immigrants entering through irregular means. Furthermore, they note that even those individuals who hold an "in-between" legal status (which can include permanent legal residents or green card holders) are still susceptible to the punishment of deportation (Menjívar and Kanstroom 2014, p. 9). If for example, a person with an "in-between" legal status commits a crime, he or she can lose his or her legal status and be deported to a country that may be mostly unknown depending on the length of time spent in the U.S. Menjívar and Kanstroom (2014) describe this as the "possible shifts into categories of 'illegality' and a progressive erosion of rights among a larger group, beyond undocumented immigrants" (p. 9). This is reinforced by the types of federal immigration policies passed during the 1960s and 1970, and gaining greater momentum from the 1980s onwards, in addition to expansions made to the budget and resources for interior enforcement agencies like ICE to pursue and deport "illegal aliens". As a result, the increased interior enforcement operations within the borders of the US require closer collaboration among different levels of law enforcement (federal, state and local) in order to implement the increasingly expansive immigration enforcement regime.

e. Conclusion: linking the frameworks and methodology

Adding to the existing literature on immigrant illegality, my research therefore presents that within the framework of "legal violence" (Abrego et al. 2017; Menjívar and Kanstroom 2014)

and the deliberate criminalization of immigrants throughout the history of U.S. immigration policy, sanctuary cities represent both a social movement and a policy challenge to this legal violence. Just as the institution of such laws requires political backing, so does the passing of sanctuary policies necessitate political support. The role of policy entrepreneurs and advocacy coalitions (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996; Sabatier 1988) to push for sanctuary policies by working with their local governments and communities reveal how they obtained concrete policy outcomes during specific moments of political crises (Capoccia and Kelemen 2007; Collier and Collier 1991). The framework of immigration federalism (Chacón 2012; Gulasekaram and Ramakrishnan 2015; Rodriguez 2017; Varsanyi et al. 2012) is also central to understanding how states and municipalities manifest their dissent against federal criminalization via the passage of sanctuary policies.

Critical junctures (Capoccia and Kelemen 2007; Collier and Collier 1991) are therefore an important element to add to the immigration federalism framework to examine the timing of the different waves of sanctuary and to underline the role of political openings for policy change during a crisis. Policy entrepreneurs are then able to capitalize upon this opening and form coalitions responsible for framing their central issue in order to garner support for their agendas (Mintrom and Vergari 1996; Sabatier 1988). By adding critical juncture theory to immigration federalism and the sanctuary movement, it becomes possible to understand how the “antecedent” (Collier and Collier 1991) years of criminalization policies set the stage for the spark (or critical juncture) for local actors to mobilize and pass subfederal sanctuary policies (Abrego et al. 2017; Chacón 2012; Douglas and Sáenz 2013; McLeod 2016). My analysis of the sanctuary policy database provides concrete evidence to support this argument by illustrating when sanctuary occurs at certain historical moments; how the historical legacy develops from building off of earlier policies; and which specific policy mechanisms are identified and utilized by subfederal actors. In addition to presenting the results of the database analysis to respond to these questions, I then present further evidence via the case study of Santa Ana, California, to provide an in-depth example of how these specific policy outcomes may occur at key moments of political crisis. In doing so, I reveal that the common thread of the sanctuary movement, which has become particularly evident under the Trump regime, is the need to reform the role of local police and immigration enforcement. It is therefore key to connect the literature on police and detention abolition with the research on sanctuary policies during the Trump era.

Furthermore, the scope of this dissertation focuses on the sanctuary policies themselves, since these policies represent one of the central tangible outcomes from the movement and

networks associated with sanctuary. Ultimately, sanctuary can be understood as a policy battle across the federal-state-local arena, with pro-immigrant actors responding to increased criminalization policies, via grassroots mobilization, and supported by a coalition of national and local organizations. Since 2016, these efforts to reform immigration policy and enforcement are increasingly tied to larger movements against police brutality and anti-racism discourse. Local activists during the third wave of sanctuary promote an intersectional approach via their messaging campaigns and the sanctuary policies themselves, which tend to transcend immigration (specifically Latino immigration) as the primary issue. Instead, these local actors strive to work with other groups who are disproportionately policed and controlled, and who are more susceptible to systemic racism and "legal violence," all while aiming to implement reforms on the ground, at the local level.

Part 2: Criminalization Policies and Practices

Chapter 3: Criminalization Policies: History and Policies through the 2000s

a. Introduction: constructing illegality via criminalization policies

This chapter presents an analysis of the criminalization policies, the illegalization of immigrants and the construction of the U.S.-Mexico border in order to better understand the responses from the sanctuary movement and pro-immigrant rights actors. The history of this region and the origins of federal immigration policy contribute to the landscape of immigration federalism and enforcement at different levels of government. Following the political and historical construction of the U.S. southern border with Mexico, the Cold War, the War on Drugs and the War on Terror provided openings for political entrepreneurs to shape the public debate and to push forward a more restrictionist immigration agenda that criminalizes immigrants and places limits on their daily lives (Gulasekaram and Ramakrishnan 2015). These political entrepreneurs, including government officials, media outlets and local coalitions, helped to frame the public mindset to associate immigration with concerns for national security and public safety (Boin, 't Hart, and McConnell 2009; van Hulst and Yanow 2016). This, coupled with policies and new enforcement agencies that deliberately criminalized a higher number of immigrants, both at the border and in the interior of the U.S., further served to establish the "illegalization" of immigrants in the U.S. (Abrego et al. 2017; De Genova 2004). Starting with this federal level, the following chapters analyze how states and localities responded to this increased enforcement and policing, either through their own restrictionist agendas or via local policy resistance to promote a pro-immigrant integrationist platform.

b. Political history of the construction of the U.S.-Mexico border

The historical roots of the construction of the U.S-Mexico border provide key insights to understanding the context of immigration resistance and restriction in the U.S. under the Trump administration. As Nevins (2010) explains, the function of the modern state can be seen as the "monopoly over the making of rules binding all citizens and those within its territory," and therefore, "the modern state claims an absolute right to control who and what enters and leaves its territory" (p. 30). This definition of the modern state goes hand in hand with the development of the "immigration enforcement apparatus" (Nevins 2010, p. 30), which includes measures dedicated to identification and control, through passports, visa requirements, border patrols, militarized

actions at the border, and other externalized restrictions, in addition to internalized control via detention centers and deportation operations. A driving force behind such measures is the focus of the state on the security and protection of its citizens. According to Nevins (2010), security goes beyond the risk of physical harm by including threats to the economic status, social order and political composition of a country. However, modern states are also faced with the dichotomy of balancing economic benefits from immigration with closed door immigration policies (De Genova 2004; Douglas and Sáenz 2013; Durand and Massey 2019).

When the United States gained its independence, American presidents, including Thomas Jefferson, looked toward the west and south of the country's earliest borders as future U.S. territory (Nevins 2010). These lands included many Spanish settlements, but also incorporated territories under dispute among France, England and Spain (Nevins 2010). Following Mexican Independence in 1821, the U.S. capitalized upon Mexico's precarious political situation by encouraging American settlers to establish themselves to the west of the United States. The U.S. government encouraged the development of trade routes, as well as raids on Mexican communities by Native Americans to further increase instability (Nevins 2010). As the U.S. economy grew, so did the attraction for settlers to establish outposts further and further into these territories. However, until the 1870s, the U.S. government had no clear federal legislation on immigration (Ngai 2004). It was only in the decades that followed that the U.S. Congress became increasingly concerned with "passing laws barring entry of non-US citizens based on: race, national origin, physical and mental health and political beliefs" (Nevins 2010, p. 32).

The Chinese Exclusion Act passed in 1882 is the first federal law that enforced immigration policies based on the country of origin (Ngai 2004). The law represented Congress's reaction to the rise of Chinese migrants entering through Western ports to work in the growing agricultural and industrial sectors in that region. With greater restrictions at the western coastal ports, Chinese migrants and migrant smugglers started to enter the U.S. through the border with Mexico, which in turn resulted in shifting attention toward monitoring the U.S.' southern border (Nevins 2010; Ngai 2004). In spite of this, until 1910, immigration control focused on blocking both unauthorized Chinese migrants as well as European migrants. Prior to 1882, Europeans were encouraged to migrate, but after this period, they also began to face greater restrictions due to the growing concern toward the southern border (Nevins 2010). After 1910, the U.S. government began focusing its attention on Mexicans crossing the border, and started implementing border control measures based on health and literacy tests, followed by the first visa fee in 1924 (Nevins 2010). However, despite these efforts, at that time there were only a few official outposts along a large

border region, and many found it easy to pass through at “unofficial entry points” (Nevins 2010, p. 32).

In the period after World War I, the U.S. government passed additional travel restrictions and even sent military forces to the border with Mexico (Nevins 2010). These forces were charged with preventing primarily European and Chinese migrants from entering via unauthorized means (De Genova 2004; Nevins 2010). During this time, Congress passed the first legislation imposing immigration quotas based on nationality, starting with the 1921 Quota Act, which restricted entry of a particular nationality to three percent of that group’s population already present in the U.S. Calculation of the quota was at first based on the 1910 census, but was changed three years later under the Johnson-Reed Act, passed in 1924, which served to entrench the quota system by making quantitative restrictions permanent (De Genova 2004; Nevins 2010; Ngai 2004). It also altered the quota by basing the three percent calculation on the 1890 census rather than the 1910 census, as a way of further limiting the number of foreign entries into the U.S. (Nevins 2010). The Johnson-Reed Act thus included the earliest provisions for a visa policy and represented one of the first steps by U.S. actors to externalize border controls by requiring immigrants to request visas at U.S. consulates abroad before leaving their country of origin (Nevins 2010). However, as a result, many unauthorized immigrants, primarily arriving from Europe, continued entering U.S. territory via the Canadian and Mexican borders where there were no visa restrictions or national origin quotas in place.

Responding to this rise in unauthorized migration, the U.S. government further increased its border enforcement activities. Official government actions and political discourse began to create “an atmosphere of fear” from “undesirable aliens from China and Europe” (Nevins 2010, p. 33). Based on this “fear”, the first U.S. Border Patrol was officially created in 1924, immediately following the passage of the Johnson-Reed Act, and directed one million dollars to support the implementation of “additional land border patrol” (Nevins 2010, p. 33). Congress also raised the budget of the border control during this time to hire more personnel. One year after passing the Johnson-Reed Act, Congress enacted the Immigration Act of 1925 to further expand the jurisdiction of the border patrol to include the sea coasts, and in particular to patrol the waters between Cuba and the Florida coast (Nevins 2010). However, at this time, the border patrol still did not have a clear jurisdiction over immigration control actions, which remained exclusively with Congress. By passing the 1925 Immigration Act, Congress allowed the Bureau of Immigration, which included the border patrol, “to execute any legal warrant, concerning the admission, exclusion or deportation of immigrants” (Nevins 2010, p. 33). Furthermore, the Bureau was given

the power “to arrest without warrant, ‘any alien in his presence or view, [who] is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission of aliens’” (Nevins 2010, p. 33).

The Bureau of Immigration continued to grow throughout the 1920s and 1930s, focusing on blocking alcohol smuggling during the 1930s Prohibition era. However, when Prohibition ended, the Bureau turned its attention toward the border with Mexico, as public officials promoted the idea that the high unemployment and economic recession from the Great Depression were the fault of migrants from Mexico (Nevins 2010). During this time, there was an increase in “restrictionist sentiment” and “mass deportations” that were so extreme that a U.S. public official described them as “unconstitutional, tyrannic and oppressive” (Nevins 2010, p. 38). Between 1929 and 1935, estimates show that at least 415,000 deportations of Mexican nationals occurred, plus an additional 85,000 noted as leaving “voluntarily” (Nevins 2010, p. 38). However, this “voluntary” aspect was usually the result of pressure from local enforcement, even if not officially recorded as a federal deportation. Other estimates during that period claim that deportations reached up to one million people, primarily Mexican citizens, but also including U.S. citizens of Mexican descent (Nevins 2010).

Following the Great Depression years and up to World War II, the federal government under the Franklin Roosevelt administration began framing immigration and border enforcement as an issue of national security, often referring to the threats of “foreign agents” seeking to cross the U.S. borders illegally (Nevins 2010, p. 38). In addition to framing the discourse on immigration, the Immigration and Naturalization Service (INS), which replaced the Bureau of Immigration in 1993 under the Hoover administration, was moved from being housed within the Department of Labor to the Department of Justice (Ngai 2004). This reveals the broad shift in the perception of immigration from an issue related to the movement of labor, to one concerned with legal and security measures. It also exemplifies the ongoing debate of where to place the priorities of immigration policies; as a national security concern versus the need for foreign labor, and how this is often manipulated and managed according to the motivations of different political actors (De Genova 2004). A greater focus on security provisions continued to develop during the World War II era, leading to increases in the border patrol’s budget, the number of employees and the overall expansion of its role. Its responsibilities branched out to include “guarding against ‘enemy aliens’”, constructing “detention camps”, and “helping the U.S. military” (Nevins 2010, p. 38). Despite these increased security measures, the paradox of focusing on a security context remained at odds with the number of Mexicans who entered the U.S. as contracted workers, but

were still often “unauthorized” in terms of legal residency (Nevins 2010, p. 38). As tighter security restrictions created more unauthorized entries, Congress began paying even more attention to unauthorized immigration, and started associating “illegal” immigration with crime (De Genova 2004; Nevins 2010; Ngai 2004).

After WWII, the anticommunist movement of the Cold War also encouraged an overall “anti-immigrant sentiment” by focusing on closed borders and the perceived need for an even greater security apparatus to be put in place (Nevins 2010, p. 38). Capitalizing on the public’s fear of immigration and security, the Eisenhower Administration launched Operation Wetback with a clear target to apprehend and deport Mexican immigrants, particularly along the U.S.-Mexican border (Astor 2009; Hernández 2006). The operation received “highly sensationalized media coverage” to emphasize the show of force from the INS (Nevins 2010, p. 39). The INS claimed that thanks to the intense media coverage and violent images, the agency’s “force and power” would be reinforced and immigrants would voluntarily choose to leave the U.S. out of fear (Nevins 2010, p. 39). Once again, these measures did not yield the intended results. While Operation Wetback produced a record-high number of deportations, the functioning of the Bracero Program, which ran between 1942-1964, brought in an even larger number of contracted workers from Mexico for the agricultural industry (Nevins 2010). As a result, instead of lowering the number of immigrants from Mexico, Nevins points out that the real result of Operation Wetback was “to increase state and grower control over migrant labor” (Nevins 2010, p. 39).

Looking at such enforcement operations like Operation Wetback side by side with labor migration programs like the Bracero Program, one can observe how the actions of the INS were viewed as functioning on a “revolving door” basis (De Genova 2004; Nevins 2010). In other words, “the INS would open or shut the boundary depending on the needs of domestic economic interests” (Nevins 2010, p. 44). These actions illustrate the gap between the rhetoric for greater policing and securitization of border controls versus the demands and needs of powerful agricultural sectors. In addition to the disparate requests between the federal government and the agricultural sector, border states at that time also voiced their concerns against provisions for increased funding for immigration enforcement, due to their economic need for hiring low wage workers (Nevins 2010). Struggling with these competing interests, the federal government did not increase funding for the Border Patrol during these years, which contributed to a period characterized by ongoing conflicts between the federal government’s attempts to control the borders versus the border state governments who refused to comply. This example illustrates the framework proposed by scholars like De Genova (2004) arguing that the economic exploitation

of immigrant workers represents the driving factor behind U.S. federal immigration policy. It also introduces the concept of immigration federalism which challenges the earlier understandings of immigration policy and enforcement as a top-down approach, under the exclusive control of the federal government (Chacón 2012b; Chandler 2008; Chen 2014; Gulasekaram and Ramakrishnan 2015; Tichenor and Filindra 2012). As the following sections show, the immigration policy and enforcement apparatus in the United States consists of a "patchwork" of different policies, motivations, political wills and enforcement mechanisms that are constantly challenging one another (Varsanyi et al. 2012).

The result of these actions and policies up to the 1970s still had the overall effect of creating a full-fledged boundary between the U.S. and Mexico and a clear enforcement apparatus via the Border Patrol. As Nevins (2010) summarizes:

> In about 100 years, the governments of the U.S. and Mexico constructed an international boundary, with a physical presence characterized by entry and exit points, fences and patrols, and inspections by a variety of law enforcement bodies. However, alongside the political and legal formalization of the border, cultural and family ties continued to transcend these boundaries, further coupled with a rapidly growing population in the area. The backlash to this border region's development of its own cultural practices and transnational identity was to further emphasize the distinction between "desirable" and "undesirable" immigrants, as well as "citizens" versus "aliens." (p. 68)

However, this construction of the outsiders versus insiders or "citizens" versus "aliens", did not stem only from the United States, but can be understood as a dual process from both the U.S. and Mexico in the formation of their own national identities (Nevins 2010, p. 69). A clear example of this is the case of Tijuana. Nevins explains that "Mexico City generally viewed Tijuana with suspicion, as it was geographically and, to a significant extent, politico-economically and socio-culturally cut off from the Mexican heartland and economically dependent on (and subordinate to) the United States" (Nevins 2010, p. 69). Furthermore, until the 1970s, the U.S. dollar was the most used currency in the city, far surpassing the Mexican peso. Tijuana, along with other border cities, was also seen as too culturally close to the United States, and as having a greater likelihood to be a part of criminal cross-border networks (Nevins 2010). The Mexican government had ongoing "concerns of 'demexicanization'" toward the border region, leading them to build "cultural and education centers" in those states, and to create the "National Commission of the Defense of the Spanish Language to protect Spanish from the encroachment of English" (Nevins 2010, p.

69). The Mexican government also established its own entry and exit points and customs controls, and worked with the U.S. Border Patrol to police the border.

On the other side of the border in San Diego, the role of reporting, in addition to these government-led policies, had an impact on public opinion as well. From the 1920s until the 1940s, the local newspaper *The San Diego Union* rarely reported on incidents related to the border (Nevins 2010). However, in the 1950s, and following Operation Wetback in 1954, the newspaper increasingly covered immigration related topics, particularly focusing on unauthorized immigration to Southern California. As Nevins (2010) explains, "much of the focus for this newspaper in San Diego was the perceived threat that Tijuana represented to San Diego youths attracted to the 'vice-ridden' Mexican city" Yeah (p. 72). Examples in coverage like this and the shaping of public discourse toward "illegal" immigration helped create a dramatic rise in both the government and public's view to increase border controls and restrict immigration to the U.S., a feeling that resonated particularly strongly in southern California, and specifically San Diego. By the 1970s, these views led to further enforcement measures by the federal government, coupled with the emergence of the War on Drugs.

c. Constructing the crisis of "illegal" immigration: criminalization policies during the 1970s through the War on Drugs

The 1970s era focused increasingly on the crisis of "illegal" immigration. The War on Drugs, spearheaded by the Nixon Administration, contributed to the context of increased enforcement actions along the southern border. Once again, politicians and policy entrepreneurs were involved in framing a national perception of fear and the need to protect national security. The Nixon administration presented the war as a fight against drug trafficking coming from Mexico, further adding to the public perception that Mexico was primarily responsible for the violence and drugs entering the U.S. (Nevins 2010). By deliberately linking immigration and crime, they were able to push for even greater resources and enforcement toward the border, and within the interior of the U.S. as well. In addition, economic recession and the energy crisis stoked feelings of insecurity and instability, causing people to look toward a scapegoat to express their fear and frustration.

Playing into this mindset, the media and government cooperated closely to further influence public opinion. The media increasingly covered topics related to "illegal" immigration and border controls, along with stories "highlighting the problems associated with unauthorized immigration" especially from Mexico (Nevins 2010, p. 76). The former INS Commissioner,

Leonard Chapman was particularly vocal and adept at using the media to advance his opinions. Speaking in an official capacity, he publicly accused immigrants as sources of poverty and unemployment. He also claimed that “90% of ‘illegals’ were of Mexican origin” and that “he could reduce unemployment by 50% via deportations and stopping unauthorized migration” (Nevins 2010, p. 76). By using his office, he could easily spread these false claims, which were further reinforced by the media’s coverage of this issue and which took little action to question the evidence to support these alleged “facts.” His views were also supported by the U.S. Attorney General at the time, William Saxbe, who stated that unauthorized migration is a “severe national crisis,” and argued that 1 million “illegal aliens”, meaning Mexican immigrants, should be deported in order to fight against high unemployment, crime and welfare costs (Nevins 2010, p. 76). Nevins (2010) explains that the media continued supporting this idea of a crisis by “uncritically reporting INS reports stating that unauthorized migrants were producers of poverty, crime and joblessness” (p. 76). In doing so, the government, bolstered by public support, pushed for more measures to fund the Border Patrol and other immigration controls.

Stemming from this context, from the late 1970s to early 1980s, there was a widespread call from politicians to dedicate more funds to border control. In 1977, under the Carter Administration, efforts were made to double the Border Patrol’s size and resources, and the first bill to sanction employers for hiring unauthorized workers was proposed (Nevins 2010). Although it did not pass through Congress, an Immigration Commission was created whose mission was to review all immigration laws and make recommendations. The Commission’s findings concluded that “the problem of undocumented/illegal migration” was the “most pressing” issue (Nevins 2010, p. 83). Its recommendations to address this problem were to call for an increase in policing at the border, and in the interior of the country; to sanction employers for hiring unauthorized migrants; and to create an amnesty program for certain unauthorized migrants who were US residents (Nevins 2010, p. 83). While the Commission did not have the power to implement its recommendations, the report was used as the basis for Acts that were passed soon after in the 1980s.

One of the most important pieces of legislation passed in the 1980s was the Immigration Reform and Control Act, which formed the basis of immigration policy for the following decades. The Immigration Reform and Control Act, or IRCA, was first instituted in 1986 under the Reagan administration and “represented an intensified focus on enforcement, dramatically increasing resources for the INS “ (Ridgley 2008, p. 59). The original legislation included provisions to penalize employers for knowingly hiring employees without work authorization and called for

increased enforcement at the border. It also focused on the “policing and surveillance of the undocumented,” as well as encouraging local police to act as immigration officers (Ridgley 2008, p. 61). In addition, IRCA served as a tool to attack sanctuary policies or other local noncooperation measures that attempted to limit cooperation with the INS. However, it also set up a legalization program for undocumented residents who had been continuously present on U.S. soil since 1982 (Kamasaki 2014).

After the passing of IRCA, groups from various sectors expressed their dissent with the law. Immigrant rights groups argued that the sanctions on employees would cause higher rates of discrimination toward Hispanic workers (Gomez and Ewing 2006; Kamasaki 2014). Employers also felt that this would create greater difficulties and risks for them during the hiring process. The agricultural sector, as in the past, also opposed the law, fearing that they would not be able to attract or maintain a high enough number of workers. Meanwhile, labor unions also resisted the law, claiming that the “guest worker program” to address the agricultural sectors’ fears would have negative consequences for workers’ rights (Gomez and Ewing 2006). Finally, concerns were raised from privacy advocacy groups who were concerned about the creation of a government-wide database to identify, monitor and track migrants (Gomez and Ewing 2006).

Based on this opposition, Congress responded by establishing some measures to regulate discrimination in hiring, which resulted in the creation of the Office of Special Counsel for Immigration Related Unfair Employment Practices within the Department of Justice, to specifically respond to worker discrimination claims. IRCA also included a provision to make it “unlawful for an employer to discriminate against a job applicant based on his or her national origin or citizenship status” (Chishti, Meissner, and Bergeron 2011). Further effects from IRCA allowed roughly 1.6 million undocumented residents to gain legal status, and an additional 1.1 million to gain legal status via the Special Agricultural Workers provision. In addition, those with newly acquired legal status or citizenship could sponsor certain relatives as well (Gomez and Ewing 2006).

In spite of this, it can be argued that IRCA’s long-term consequences actually caused increases in unauthorized immigration in the future (Abrego et al. 2017; Inda 2013). This was due to several factors, including the five-year gap from the date with which one could qualify to maintain legal status versus the date when the law was implemented, which caused many people to be left in limbo without any access to regularizing their status. In addition, the ability to sponsor relatives was not accompanied by increased resources to process the requests, resulting in higher wait times for immigrants and family sponsorship. It is also believed that the wait times, reaching

up to ten years, may have led to increases in unauthorized immigration for those unable or unwilling to wait (Abrego et al. 2017; Gomez and Ewing 2006; Inda 2013). In addition, the law failed to set up a long term plan for immigration to the U.S. by including only immediate amnesty provisions and employee sanctions, and failed to look ahead to future immigration trends (Gomez and Ewing 2006). By not including a legal pathway for permanent residency via employment, the stage was set for an increase in unauthorized immigration to continue, in particular when coupled with the growing demand from the agricultural industry and for other low wage sectors. This trend continued throughout the 1990s and early 2000s, when the unauthorized population was estimated to reach its peak at 12 million people in 2007 (Abrego et al. 2017).

Another long-term effect of IRCA was the growing use of security and enforcement mechanisms, particularly in terms of staff, resources and overall funding. Although this expansion began slowly at first, IRCA established a pattern for ongoing requests for additional resources with a strong focus on both the border and interior enforcement. According to the Migration Policy Institute, between 1986 to 2011, the number of border patrol agents rose from 3,600 to 20,700 (Chishti, Meissner, and Bergeron 2011). In the same period, funding for U.S. immigration agencies rose from 575 million to 17.2 billion dollars. Furthermore, IRCA's provisions criminalized various actions like identification and transport for anyone using a false identification, or for anyone "knowingly bringing in, harboring, and transporting unauthorized immigrants," all of which "are vigorously enforced today" (Chishti, Meissner, and Bergeron 2011).

Throughout the 1980s, the perception of an immigration crisis, threatening both U.S. borders and identity, was increasingly widespread. This perception allowed the Reagan administration and Congress to once again expand funding for the INS, approving a 130 percent budget increase, and a 41% increase in INS staff during Reagan's two terms as president (Nevins 2010). Although the intended focus of this additional funding was directed toward the War on Drugs, it served to contribute to the establishment of a greater immigration enforcement apparatus, as well, in addition to linking the concepts of immigration and drug trafficking to one another (Nevins 2010). In doing so, new checkpoints and patrol stations along the border were built, with politicians arguing for the need to block drug trafficking routes. The INS even deputized Border Patrol agents as "Drug Enforcement Administration and Customs agents to fight drug and contraband smuggling" (Nevins 2010, p. 84). These changes strongly contributed to the increasing militarization of the U.S.-Mexico border. Meanwhile, inside the U.S. border, heightened collaboration between policing and military activities resulted in the formation of a "multiagency southwest Border Drug Task Force", including Border Patrol agents, as well as "the establishment

of joint Border Patrol-local police foot patrols in certain border locales" (Nevins 2010, p. 86). These actions thus brought the militarization and securitization into the interior of the U.S. border, and within border towns specifically.

The context of the civil wars in Guatemala and El Salvador during the 1980s also served as a target for the Reagan administration to warn the American population against "illegal" immigration to the U.S. from Central America (Ridgley 2008). The U.S. government argued that these civil wars could create the potential for similar instability to arise in Mexico, if the U.S. did not act quickly. The Reagan administration thus claimed that Central American refugees and asylum seekers had to be stopped from entering the United States, to prevent the spread of potential violence and instability. The administration also aimed to show U.S. support for the Guatemalan and Salvadoran governments who were fighting against groups supported by the Soviet Union. Therefore, the actions of the administration within the context of the Cold War showed a greater concern for geopolitical strategy in the region over respecting asylum laws for those fleeing from violence. As a result, the government authorized an INS-led operation in 1988 to stop Central American refugees from entering the United States via "the use of U.S. intelligence assets, the deployment of a large mobile Border Patrol task force, the detention of thousands of political asylum applicants, [and] strong public relations outreach" (Nevins 2010, p. 85).

Because of these measures and despite the presence of civil wars in both countries, few asylum seekers from Guatemala and El Salvador were granted refugee status in the U.S. (Ridgley 2008). Instead, they were labeled as "economic migrants" and as a result of the denial of their requests, faced imprisonment and deportation by the Immigration and Naturalization Service (INS). As Hess (2012) explains, political authorities' choice of categories like "asylum seeker" versus "labour migrant" have ongoing effects on the policies that are developed to control migration. Illustrating this concept, the political climate of the Cold War in the 1980's shows how these categories represented one such example of foreign policy decisions that have local policy consequences. Utilizing the term "economic migrant" and denying refugee status to individuals meeting the standards of international human rights law thus served as a strategic political move by the U.S. government to justify its actions' in the region. A 2006 report by the Migration Policy Institute explains:

> Characterizing the Salvadorans and Guatemalans as 'economic migrants,' the Reagan administration denied that the Salvadoran and Guatemalan governments had violated human rights. As a result, approval rates for Salvadoran and Guatemalan asylum cases were under three percent in 1984. In the same year, the approval rate for Iranians was 60

percent, 40 percent for Afghans fleeing the Soviet invasion, and 32 percent for Poles. (Gzesh 2006)

In El Salvador alone the Reagan administration provided support in the form of military and political aid that increased significantly throughout the Salvadoran civil war, beginning with 6 million dollars in 1980, rising to 197 million in 1984, and finally landing between 80-137 million dollars per year until the end of the war in 1992 (Dunkerley 1994). The U.S. also intervened in the Salvadoran elections in 1984 to ensure that the new Salvadoran President, Jose Napoleon Duarte, would continue to ensure U.S. influence in the region. The Reagan administration then used Duarte's victory to convince Congress to continue funding El Salvador's government, arguing that it was necessary to support a U.S.-backed president fighting against a rebel group the U.S. viewed as communist. All of this contributed to the need for the U.S. government to refuse recognition of refugee status to Salvadorans, since doing otherwise would force them to admit their questionable involvement in a violent civil war. Such rhetoric helped to bolster the U.S. government's refusal to grant asylum to these individuals by setting the environment that these groups of people represented "illegal immigrants" and were therefore criminals, rather than asylum seekers.

In line with this rhetoric, the Criminal Alien Program (CAP) was set up as part of the 1986 immigration reforms, serving as "an umbrella program for marshaling the agency's resources to identify and remove criminals and other removable aliens" and is still functioning today (Kandel 2016, p. 1). According to the American Immigration Council (AIC, 2013), although CAP has existed since the late 1980s, CAP's organization, staffing and oversight remains deliberately vague, and can be viewed as "a loose-knit group of several programs" (p. 1). In general, CAP's overall objective is to serve as a "jail status check", authorizing the INS (today replaced by Immigration and Customs Control, ICE) to "screen" those held in custody, at the federal, state or local level, and to determine if the individual may be subject to removability (American Immigration Council 2013, p. 2). The AIC explains that "CAP is by far the oldest and largest such interface between the criminal justice system and federal immigration authorities", and is therefore a key example of the foundation of immigrant criminalization programs and policies (American Immigration Council 2013, p. 2). Two prior programs, the Alien Criminal Apprehension Program (ACAP) and the Institutional Removal Program (IRP) served as CAP's predecessors and formed the basis to develop CAP's current structure in place since 2006, when ICE merged the two earlier programs under the CAP umbrella (American Immigration Council 2013). Currently, CAP represents one of the priority programs among ICE's fourteen "federal/local law enforcement

programs" under the ICE Agreements of Cooperation in Communities to Enhance Safety and Security or ICE ACCESS (American Immigration Council 2013, p. 2).

According to the Immigration Legal Resource Center, CAP remains ICE's largest deportation program, "responsible for 2/3 to 3/4 of all deportations from within the United States" (Immigrant Legal Resource Center 2016, p. 1). It does so by providing direct access to local and state jails to ICE agents, who are permitted to access database information, including personal information such as immigration status, a home address, if there is an ongoing criminal case, as well as the possibility to directly interrogate detained individuals. After gaining access to this information, ICE can then send a detainer request while the individual's status is undergoing investigation. This is then followed by a request to transfer the individual into ICE custody. Once in ICE custody, the removal proceedings for deportation can take place very quickly, either through a court removal proceeding, implementing a prior removal order, or via "voluntary departure" (Immigrant Legal Resource Center 2016a). This entire process is often referred to as the "jail to deportation pipeline."

A key characteristic of CAP is the reduced amount of time that it takes to deport individuals, in particular those who are already in local or state custody. States with the largest immigrant populations, notably California and Texas, which also host some of the largest prison populations, also see higher intensity of ICE activity, with actions taken under CAP to provide ICE access to local jails. Though the link between access to jails and deportation is clear, the AIC (2016) notes, "While CAP has existed in one form or another for decades, there is still much to be learned about the program, how it is organized, and how it works. What is known is that CAP extends to every area of the country and intersects with most state and local law enforcement agencies" (p. 1). Furthermore, the AIC explains that there a lack of regulation outlining cooperation between CAP and LEA's, stating that, "CAP appears to function as an ad hoc set of activities that operate differently across the country and across penal institutions, raising questions about the adequacy of oversight, training, and accountability of the personnel implementing CAP (American Immigration Council 2016, p. 1).

Despite the program's efficiency in removal proceedings, many of the immigrants classified as "criminal aliens" under the program were found to have no criminal conviction, or were convicted for "relatively minor criminal violations, such as traffic infractions or drug offenses" (Cantor, Noferi, and Martinez 2015, p. 2). From 2010-2013, only 3% of the individuals who had encountered ICE via CAP were "convicted of a violent crime or a crime which the FBI classifies serious" (Cantor, Noferi, and Martinez 2015, p. 3). During those years alone, the group of

individuals confronted by CAP's ICE agents accounted for 2.6 million immigrants. Furthermore, it was discovered that "83% of individuals removed through CAP during the same period...had no criminal conviction" (Cantor, Noferi, and Martinez 2015, p. 3). In spite of this, CAP's actions help to seed fear and insecurity among undocumented individuals, and to criminalize immigrants via the "social control" of immigration enforcement (Abrego et al. 2017).

Following the actions taken as part of the 1986 reforms and within the context of closed-door programs against Central American asylum seekers, the internalization of the border during the 1990s continued to spread. A clear illustration of the internally displaced border can be seen in the legal reforms passed by Congress in 1996 to the 1986 IRCA provisions (Ridgley 2008). These reforms enacted even stricter enforcement measures by making "immigrants ineligible for many federal assistance programs" in order to further limit access to public services and employment opportunities (Ridgley 2008, p. 59). As Ridgley (2008) explains, "IRCA did represent a new focus on expanding immigration enforcement beyond the country's borderlands to sites and scales not previously associated with border security" (p. 59). By holding employers and individuals "legally liable for the immigration status of those whom they hired, drove and assisted" immigration enforcement became "displaced from immigration officers to private citizens and local service providers" (Ridgley 2008, p. 59). On top of this, the legislation added a greater number of criminal provisions, even though immigration law violations are typically classified as civil violations. By increasing the criminal provisions and by mixing criminal and civil legislation, the administration succeeded in achieving the "criminalization of immigration law" and setting a new precedent for immigration enforcement (Abrego et al. 2017; Douglas and Sáenz 2013; Ridgley 2008).

This increase in interior enforcement went hand in hand with the renewed scrutiny toward the southern border of the U.S. Under the Bush administration, enforcement at the border consisted of an ever-growing focus on security, border patrol and militarized practices, and an ongoing fighting against drug trafficking. As Nevins (2010) explains, "although the US-Mexico boundary had long seen efforts by the US authorities to stem the flow of illegal drugs into the US, it was the 'sustained sense of urgency' that characterized this interdiction effort that made the Reagan-Bush 'war' unique" (p. 85). Such actions further linked the public image of drug trafficking and crime with immigration from the southern border.

d. The internalization of criminalization policies: increasing interior enforcement and local cooperation

Throughout the past several decades, such legislation and judicial decisions often served to bring local enforcement in closer cooperation with federal policy and enforcement. From the 1980s onwards, three major periods of policy changes are observed that helped to form the foundation of the Trump administration's immigration enforcement decisions. These include: the implementation of the Immigration Reform and Control Act in 1986, as discussed above; a major immigration policy overhaul in the mid-1990s, encompassing several new legislative actions; and the Homeland Security initiatives instituted as part of the War on Terror (Abrego et al. 2017). Although the Trump presidential campaign and administration greatly intensified the anti-immigrant public discourse and exceeded past enforcement and criminalization actions, the administration was able to rely upon decades of policy decisions that provided the legal and societal support for the difficult situation faced by many immigrants in the U.S. today.

As such, two key policies that contributed to the significant immigration reforms in the 1990s included the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and the Personal Responsibility and Work Opportunity Reconciliation Act or Welfare Reform (Abrego et al. 2017). These reforms expanded the limitations for immigrants to access many social assistance programs and facilitated the process for immigrants to be deported for committing a felony or misdemeanor. These actions thus resulted in a large increase in the number of people who were eligible for deportation under the new law. In addition, these laws include provisions to hold more people in detention, rather than allowing them to wait for their trial date at home, which further serves to limit immigrants' access to legal services, and contributes to fast-tracking the deportation process (Abrego et al. 2017).

The IRIRA also restricts immigration judges' degree of discretion in issuing deportations and makes it easier for families to be separated. Eligibility to remain in the U.S. based on having a spouse, immediate relative or child who is a U.S. citizen was modified to make it more difficult to stay under these conditions. An immigrant could be told to leave the country for a minimum of three years if he or she lived in the U.S. as an undocumented immigrant for up to six months. The timeframe could be increased to up to 10 years if the immigrant lived in the U.S. without papers for more than one year (American Immigration Council 2013). As a result, these measures had an important impact on immigrants' and undocumented residents' behavior by contributing to the fear of attempting to regularize their status due to the heightened risk of being separated from their families for long periods of time (Abrego et al. 2017; American Immigration Council 2013).

This legislation thus represented a key step in criminalizing the status of a large number of immigrants who had been in the U.S. for many years.

Two other provisions of the IRIRA that broadened local law enforcement's interaction with the federal government are the 287(g) program and Section 1373. The 287(g) program serves to deputize state and local authorities to allow them to enforce immigration law, officially giving the police the ability to question one's immigration status during "routine policing" activities (Graber and Marquez 2016). Section 1373, often cited as a direct response to local sanctuary policies, states that local laws that prohibit information sharing between state and local agencies with the federal government were void (8 U.S. Code § 1373, 1996). However, in response, some states and local governments countered that while they would be obliged to provide information when requested by the federal government under Section 1373, the law does not require them to collect information on the immigration status of the individuals with whom they come into contact. As such, if an agent of a city's government does not know the immigration status of one of its residents, or, for example, if there is a city policy that inhibits inquiry of a person's immigration status, then the agent would have no information to share. It also does not explicitly require cities to store information on immigration status to be accessed at a later time. As a result, sanctuary policies like San Francisco's "City of Refuge Ordinance" were still deemed to be legal because they only limit the collection and storage of information of a person's immigration status in addition to prohibiting local police from inquiring about one's immigration status when no other crime was involved (San Francisco Ordinance 375-89, 1989).

While the 287(g) program encourages local police to become deputized immigration enforcement agents, the success of the program is somewhat limited. Only 78 local jurisdictions across 20 states had 287(g) programs in place as of 2018 (ILRC 2018). Forty-nine of these jurisdictions signed 287(g) agreements at the start of the Trump administration, primarily in Texas and its bordering southern states, while a few localities terminated their agreements following local mobilization against the program. However, the enforcement of programs like 287(g) during these years was in part made possible due to the effects of the 9/11 attacks and the context of the "War on Terror" (Nevins 2010). This period provided another political opening for politicians and policy entrepreneurs to manipulate public fear and national security efforts in order to further bolster the immigration enforcement regime. In particular, policies like the Patriot Act (2001) allowed the federal government to gain access to more private and personal data on citizens and U.S. residents, promoting the mindset that it would enhance public safety. Furthermore, these efforts opened the path for the Executive branch to initiate the complete reorganization of

immigration and security departments at the federal level. This process began with the creation of the Office of Homeland Security within the White House, quickly replaced a few months later by the newly founded Department of Homeland Security (DHS). In November 2002, Congress passed the Homeland Security Act which officially recognized the DHS and its goal of implementing a more coordinated single strategy for national security in light of the 9/11 terrorist attacks. In doing so, Congress brought together 22 distinct federal departments and agencies under the domain of the DHS (Department of Homeland Security n.d.).

The first mission of the Office of Homeland Security in the immediate aftermath of the 9/11 attacks reflected a focus on national security in the context of terrorism. President George W. Bush stated that "The mission of the Office [of Homeland Security] shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks" (Executive Order 13228, 2001). With the ensuing formalization of the DHS, the first years of the Department's mission vision of national security was closely tied to improving airport security, ensuring protection from terrorism, and to "respond to any future attacks" (Department of Homeland Security n.d.). However, over the years, this emphasis on terrorism as the main threat to national security was replaced by the threat of "illegal" immigration at the border. This shift can be observed by reviewing the DHS' annual financial reports, publicly provided on the Department's website (DHS Budget Homeland Security n.d.).

The first annual report from 2003 lists the priorities as: "Supporting First Responders": "Defending Against Bioterrorism"; "Securing America's Borders"; and "Using 21st Century Technology to Secure the Homeland". While the report does mention the border, it does not establish an immediate link with immigration at the southern border, concentrating primarily on improving security within the context of travel and transport. In the 2004 report, the emphasis on "Securing the Nation's Borders and Transportation Systems" was still more heavily concerned with airport and transport security, rather than strictly immigration enforcement (DHS Budget Homeland Security n.d.) However, the DHS budget and staff continued to grow rapidly in the following years. By 2004, the budget reached 36.2 billion dollars, representing a 7.4% increase from 2003, and a 64% increase when compared to the 2002 budget for the prior agencies responsible for the same tasks. As the immediate threats following 9/11 became less evident over time, the budget and staffing for the Department clearly reflect the priority of President George W. Bush to continue funding and support for ongoing actions taken as part of the larger context of the "War on Terror."

By 2005, the DHS significantly broadened its mandate and responsibilities, stating its mission as the following:

> The Department of Homeland Security will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the nation. We will ensure safe and secure borders, welcome lawful immigrants and visitors, and promote the free-flow of commerce. (DHS Budget 2005)

While this might not immediately appear to be an extreme shift in priorities, the mention of “lawful immigrants and visitors'' illustrates how attention was increasingly being turned toward immigration as an essential aspect of guaranteeing “national security.” This change is also reflected in the budget requested for 2005, which sought a 10% increase, for a total of 40.2 billion dollars. When looking at how this budget increase would be distributed, the report also notes that Immigration and Customs Enforcement (ICE) would benefit from a 112% increase, citing that from 2004-2005 ICE successfully deported more than 150,000 people. According to the DHS, among those deported, 53% were “criminals” which represented an “all time record” (DHS Budget 2005). In addition, Border Patrol agents reported to have stopped over 1.2 million “illegal aliens between our official ports of entry” (DHS Budget 2005). That same year, the Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint System (IAFIS) were implemented at “all Border Patrol stations, every air and seaport of entry, and the 50 busiest land ports of entry” (DHS Budget 2005). These systems allow agents to use electronic fingerprint scans to quickly identify any person with a criminal warrant in the DHS or FBI databases. Taken together, these actions clearly illustrate the priorities and missions of the DHS, and ICE in particular, towards immigration control and enforcement.

In 2007 and 2008, the DHS continued to direct its attention toward the border, explaining that one of its five priorities was to “protect our nation from dangerous people” which required “more fencing at the border.” It goes on to say that the Customs and Border Patrol had “exceeded the goal of 145 miles of fencing” along the southern border, with the objective of reaching 670 miles by the end of 2008 (DHS Budget 2007, 2008). By the time President Obama took office, the groundwork for an intensified effort toward immigration enforcement as part of the DHS mandate was well established. In the 2010 budget report, another provision was added to include “Smart and Tough Enforcement of Immigration Laws and Improving Immigration Services – DHS welcomes legal immigrants, protects against dangerous people entering the country, and pursues tough, effective enforcement against those who violate the nation’s immigration laws” (DHS Budget 2010). Once again, the emphasis on immigration enforcement, both internally and at the

border, was increasingly apparent. The same year, the budget for the department grew to 55.1 billion dollars, representing a 4.9% increase from 2009. Over the next several years, the total budget continued to increase, reaching its peak in 2016 at 64.9 billion dollars (DHS Budget 2016).

The transition to the Trump administration did not have an immediate impact on the overall content of the 2017 report, but by 2018, the annual report notes that the DHS was henceforth responsible to "assertively implement the policies of the President's Executive Orders, Border Security and Immigration Enforcement Improvements, Executive Order No. 13767 (Jan. 25, 2017), Enhancing Public Safety in the Interior of the United States, Executive Order No. 13768 (Jan. 30, 2017)" (DHS Budget 2018). The DHS reports under the Trump administration also moved "Securing borders" to the top priority, placing it above the objective of fighting against terrorism. According to the 2018 report, the "President's Budget makes significant, critical investments in people, technology, and infrastructure for border security and enforcement of immigration laws, while ensuring that DHS's other operations are fully funded." This priority continues to be highlighted in the 2019, 2020 and 2021 proposed budgets as well, accompanied with incremental budget increases each year.

As part of the Congressional approval of the DHS, two new agencies, Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) were established to take on responsibilities that were previously distributed among various government departments. Together, these two agencies play a fundamental role in immigration enforcement and border control. ICE, in particular, was increasingly active in carrying out the interior immigration enforcement measures as part of the criminalization policies passed over the following years, and reflects the general trend of internal controls and domestic security measures in the post 9/11 context. Since its outset, ICE's mission is "to better protect national security and strengthen public safety in response to the deadly attacks perpetrated on 9/11" (History of ICE n.d.). As with the establishment of the DHS, ICE's original mission was also rooted in the context of protecting the country against "terrorist threats" (History of ICE n.d.). However, like the DHS, over the first years of the agency's creation, its focus became increasingly geared towards immigration enforcement, detention and deportation. At its start in 2002, former U.S. Attorney General John Ashcroft announced that alongside the DHS, local and state police had an "inherent authority" to enforce immigration law and urged local police to use that authority as part of the "fight against terrorism" (Macías-Rojas 2018, p. 389). By 2003, ICE's "Detention and Removal Operations" reported that the agency had initiated "eight Fugitive Operations Teams" which arrested "1,900 illegal aliens" (History of ICE n.d.). Quoted directly from its own website, the use of the term "illegal aliens",

without defining who falls under this category, further serves to merge the perception that all undocumented immigrants are potential criminals who may be detained and deported. Further contributing to this perception, in 2004, ICE launched the “Border Enforcement Security Task Force,” and in 2006 assisted in the creation of the 287(g) program to coordinate with and enlist state and local law enforcement to assist ICE in its enforcement operations (History of ICE n.d.). By 2007, ICE’s Detention and Removal Operations took charge of the Criminal Alien Apprehension Program (CAP), ICE’s largest deportation program today (Immigrant Legal Resource Center 2016a).

As of 2020, ICE had 20,000 employees and approximately 8 billion dollars as its annual budget (ICE Fact Sheets n.d.). The agency is divided into three directorates: Homeland Security Investigations, Enforcement and Removal Operations (ERO) and the Office of the Principal Legal Advisor (OPLA). ERO states that its mission is to:

> Uphold U.S. immigration law at, within, and beyond our borders. ERO's work is critical to the enforcement of immigration law against those who present a danger to our national security, are a threat to public safety, or who otherwise undermine the integrity of our immigration system. (ICE: Who We Are n.d.)

The directorate also states that its operations:

> Target public safety threats, such as convicted criminal aliens and gang members, as well as individuals who have otherwise violated our nation's immigration laws, including those who illegally re-entered the country after being removed and immigration fugitives ordered removed by federal immigration judges. (ICE: Who We Are n.d.)

Compared to the DHS and ICE’s initial mandate to protect against terrorist threats, the missions and operations associated with these agencies broadened to such an extent that ICE became responsible for removing all undocumented immigrants and residents, by coordinating police arrests, joint enforcement measures, detention, and deportations. Once again, their stated priorities to promote public safety and enhance national security by protecting the country against terrorism shifted to an overwhelming focus on removing “illegal” immigrants as “public safety threats” that must be “targeted” (ICE Fact Sheets n.d.).

With its large mandate, extensive budget, and aggressive enforcement approach, ICE has come under heavy criticism from immigrant rights groups in recent years due, with immigration rights activists and scholars calling attention to its increasingly harsh tactics and its role as a de

facto internal federal police force. In 2005, the Inspector General for the DHS noted that ICE's mission is broad, and perhaps deliberately vague. In his report, he states that:

> The rationale for the decision to create ICE by separating the inspection function from the investigation function was much more difficult to discern. Most CBP and ICE officials told us that they are still puzzled over the decision-making concerning ICE's structure. According to them, to this day, no one has been able to articulate the rationale for the current structure. All of the members of the transition team associated with border security advocated keeping the investigative and inspection functions unified. (Department of Homeland Security 2006, p. 17)

The Inspector General goes on to conclude that:

> We could not find any documentation that fully explains the rationale and purpose underlying ICE's composition. One senior official offered the following explanation described below. According to this portrayal, ICE was established not with a focus on supporting a particular mission but rather on building an institutional foundation large enough to justify a new organization. (Department of Homeland Security 2006, p.19)

This further suggests that the creation of ICE as a separate entity from Customs and Border Patrol (CBP) had much larger objectives set up internally as a justification to build an agency that could rapidly grow and form a basis to funnel resources for internal immigration enforcement. Border Patrol officials disagreed with the establishment of a separate interior enforcement agency and the ensuing division of its resources and mandate. According to the report, the initial proposal that ICE would direct its efforts only toward dangerous criminals, "immigration fraud," and "employee sanctions" was not enough to justify the creation of ICE as a separate entity and the resources needed for its operations (Department of Homeland Security 2006, p. 19). Specifically, the Inspector General confirms in the report that this narrow focus would result in an:

> Organization [that] would be too small to attain bureaucratic 'critical mass.' That is, the relative degree of support required to maintain this organization would be expensive and disproportional to the size of the operational element of the organization. The organization needed to be larger. (Department of Homeland Security 2006, p. 19)

Thus, he explains that a "sizing up" process was required for the proper functioning of the agency. The DHS was able to utilize this reorganization of federal agencies in order to establish ICE as a means to advance its own agenda for internal immigration enforcement. The growth of ICE's

budget and mandate provides further evidence to reflects the outcome and consequences from this report.

In 2009, ICE received additional Congressional funding for detention centers, with "arbitrary numbers of beds set by lawmakers," which as Timmons (2018) notes, "essentially established a quota of detainees for ICE agents to catch". Since then, the majority of ICE's annual budget is dedicated to detention and deportation operations, with its budget growing over the years to the 8 billion dollars it currently receives today (ICE: Who We Are n.d.). ICE's expansion into detention also resulted in the growth of a large network of private prison contractors to build detention centers or work with private prisons to set up detainee beds in existing prisons and jails. In 2017, *Quartz* reported that about 25% of Geo Group and CoreCivic's profits, two of the largest detention contractors, were gained from its contracts with ICE (Timmons 2018). While ICE does not have the highest number of employees within the DHS, it does have one of the largest budgets among the agency, particularly when compared to agencies like the Transportation Security Administration, responsible for airport, train and ground transit security (Timmons 2018).

ICE's increased enforcement and detention activities correspond with changing policies during those years as well. At the beginning of his administration, President George W. Bush supported the existing practice of allowing individuals awaiting immigration and asylum hearings to do so at their own homes, often representing very long wait times. However, in 2007 he changed his view and declared that this "catch and release" policy would be replaced by holding more individuals in detention and announced that 7,000 more beds would be allotted for ICE detention centers that year (Timmons 2018). This shift in policy therefore contributed to the expansion of the criminalization of immigrants via the collaboration with private contractors who gain large financial benefits from these policies, as well as political lobbying power. As a result of the growing intensity of detention and deportation practices, certain immigrant rights groups vocally criticized such measures, focusing their attention towards abolishing ICE and dismantling its close cooperation with local enforcement agencies.

e. The rise of detention and deportation mechanisms: merging the militarization of the border with internal policing

Following the Bush administration, the Obama administration continued to support and build upon the foundation of immigrant criminalization policies. In March 2008, the Obama administration launched the Secure Communities Act (commonly referred to as S-Comm), which represented another policy tool to support the measures set out by the IIRIRA and the 287(g)

program. Secure Communities' objective was to prioritize the deportation of immigrants with criminal backgrounds by allowing allowed federal immigration enforcement access to background information on arrested individuals' immigration records by screening their fingerprints (Chen 2016; Stumpf 2015). To carry out this policy, federal officials required the support of local enforcement agencies to share information and backgrounds of those arrested, which led ICE to heavily rely upon the use of "detainer requests". These detainer requests can order a jail to hold an undocumented individual past his or her release date so that ICE can investigate and potentially transfer the individual to an immigration detention center.

Although S-Comm's stated intent was to target undocumented residents with a criminal background, it faced criticism on several fronts. First, evidence was gathered by various immigration rights groups to show that the detainer requests were not issued only for those individuals with a criminal conviction. This suggested that ICE was prepared to enlist local enforcement to participate in its broader immigration operations, rather than fulfilling its mandate to focus only on those with criminal convictions (Gladstein et al. 2005). Data collected by TRAC Immigration also revealed that from U.S. fiscal year 2008 to 2012 only about one-third of the persons with detainers issued by ICE had any criminal violations, and only 8.6% had been involved in a "serious crime" (TRAC Immigration Reports 2013).

Other legal aid organizations, including the NILC and the Washington Defender Organization, also called into question the legality of the detainers to hold a person in jail without a court-issued warrant or probable cause. Eventually, a growing movement led by advocacy groups revealed the program's implementation issues and a general "skepticism of the trustworthiness of the federal government's motives" (Chen 2016, p. 27). This translated into political action by states and counties to express their dissatisfaction with the program and to seek greater legal clarification of their obligation to comply with the detainer requests. When the program first began, the detainer requests included a clause stating that local enforcement agencies were "required to obey federal requests" (Chen 2016, p. 23). However, after these policies were challenged in court, ICE officials were forced to backtrack on this, stating that the program was "voluntary" and local agencies could choose whether or not to "opt-in." The ensuing judicial decisions clarified that cooperation with the requests was indeed voluntary, which led to even more counties "seeking to opt-out" (Chen 2016, p. 24).

The same concept of voluntary compliance was applied to the implementation of the 287(g) program. As Abrego et al. (2017) explains:

> Although initially very few localities expressed interest in 287(g), later the practice took shape in the form of “"street" and "jail" programs; the former gives police the power to ask about immigration status during routine policing, whereas the latter's check for status was incorporated into the jail intake process. (p. 703)

However, as noted earlier, while the 287(g) program is an important tool for criminalizing immigrants, few localities have opted into the deputizing program. This is due in part due to the localities’ bearing the bulk of the implementation and training costs. However, although the outreach of the program is relatively contained, it still serves as a key tool for ICE to identify increasing numbers of people as “deportable.” In 2016 alone, roughly 400,000 people were classified as deportable due to 287(g) (Abrego et al. 2017). Programs like Secure Communities also contributed to these numbers, since the program was established “strictly as part of the jail intake process, but like 287(g), greatly increases the chances that people who encounter state and local law enforcement on an everyday basis will have their immigration status checked” (Abrego et al. 2017, p. 703). Furthermore, Secure Communities had a much more expansive presence, reaching 3,100 counties in 2012, and by 2014 had classified 2.4 million people as “deportable” before it was temporarily ended by the Obama administration that same year (Abrego et al. 2017).

The effects of the criminalization of immigration law can also be seen several years later in a move by the Department of Justice to add immigration warrants to a national database which had previously provided information primarily on wanted felons (Bilke 2009). By adding this information to the national database, police officers could access it whenever they stopped to question an individual. If a warrant was revealed during the database search, the police officer would be required to arrest the individual. As Bilke (2009) explains, “through this policy, police officers are inadvertently enforcing federal immigration law through the course of their day-to-day duties” (p. 177). As a result, discriminatory policing practices, coupled with inaccurate database information, or “false-positives”, resulted in lawsuits against certain cities. In one example, the city of Chandler, Arizona lost a lawsuit for violating the Equal Protection Clause and the Fourth Amendment of the constitution, which stipulates that an arrest must be made based on “probable cause” (Romero and Serag 2004). In the Chandler case, “plaintiffs alleged that they were stopped and questioned solely on the basis of their ‘apparent Mexican descent” (Bilke 2009, p. 185). The court ruled in their favor, and it cost the city 400,000 dollars to settle the case. This example further illustrates how the criminalization of certain groups and the enforcement of these policies encourages the administering of immigration law based on the perceived “risk” of an individual to

be in violation of immigration law, often translating to decisions based on racial profiling (Abrego 2011; De Genova 2004; Romero and Serag 2004). In addition, it shows how the image of an "illegal immigrant" is regularly perceived as a person of Mexican or Latin origin. Within this context, and tied into the 287(g) and Secure Communities' actions, Abrego et al. (2017) explain that "The hyper-policing of communities of color is compounded by the fact that even when no criminal charges are brought, individuals can be detained for suspected immigration violations and even removed" (p. 703).

Access to this database of immigration status caused other problems as well. The Migration Policy Institute notes that "information entered into this national database between 2002 and 2004 contained an error rate of 42%" (Gladstein et al. 2005). Other errors occurred when "false positives" arrests were made based on inaccurate information, or of individuals with names similar to someone in the database (Gladstein et al. 2005). While these mistakes resulted in legal expenses for some cities, an even greater cost is incurred when such errors foster distrust in local police. As Bilke (2009) explains, "even more damaging to the City was the deep distrust the police created in the local community" (p. 186). Reports from police departments and city officials also claim that these policies generate fear among individuals to report crimes or abuse, and argue that it would be more beneficial to community safety if local residents could report crimes without concern for their immigration status (Wong 2017). This argument is supported by a 2017 study in which found that cities with sanctuary policies in place to foster community trust and protect undocumented residents' sensitive information actually saw a decline in the crime rate (Wong 2017).

Following heavy criticism of Secure Communities' inaccuracy in targeting only "violent criminals", in 2014, the Obama administration transformed Secure Communities into the "Priorities Enforcement Program" or "PEP" (Chen 2016). However, the main objectives and strategies of PEP were very similar to those of Secure Communities, leading many immigrant rights groups to assert that it was essentially a "rebranding and reformulation of Secure Communities" (Rodriguez 2017, p. 527). Perhaps most importantly, PEP allowed ICE to continue its access to personal information and data of detained individuals by local law enforcement agencies. It also permitted the use of ICE detainer requests, just as Secure Communities had done. The differences with Secure Communities were therefore subtle, focusing on the technical details under which ICE could work with local jails and local police, regarding the types of detainer requests and specific forms to use (Chen 2016; Rodriguez 2017). For example, under Secure Communities, an ICE detainer request demanded that an individual be held 48 hours past the

scheduled release date to allow ICE to coordinate with the local jail and move the individual into its own custody. Following criticism from immigrant rights activists, a series of lawsuits, and refusal to collaborate by some cities and local enforcement agencies, PEP's main difference in detainer requests was to officially modify this provision to a "voluntary" collaboration (Chen 2016). As a result, under PEP, two new detainer requests were established: Form I-247D, Immigration Detainer - Request for Voluntary Action, which requests that an individual be held 48 hours past the release date (but not require the locality to do so); and Form I-247N, Request for Voluntary Notification of Release of Suspected Priority Alien, which requests that the local enforcement agency (state or local jail) notify ICE 48 hours in advance of an individual's expected release (Immigrant Legal Resource Center 2016). As the American Immigration Council (2017) emphasizes, "The current detainer and notification forms more clearly state that they are requests from DHS and that LEAs are not required to comply" (p. 2). This was a direct response to provide localities with greater leeway in determining their cooperation, or noncooperation, with specific federal programs, and resulting from the ongoing legal debate concerning the legal viability of detainer requests (American Immigration Council 2017; Chen 2016; Immigrant Legal Resource Center 2016b).

However, following the end of the Obama Administration, one of President Trump's first actions upon taking office January 2017 was to cancel PEP and return to the Secure Communities program. The reinstatement of Secure Communities was an element of Trump's two Executive Orders (EO) signed on January 25, 2017: the "Border Security and Immigration Enforcement Improvements" Executive Order and the "Enhancing Public Safety in the Interior of the United States" Executive Order. According to the ICE website page on Secure Communities while Trump was in office, the agency stated that "Secure Communities will utilize all available data systems and Criminal Alien Program resources to identify and take enforcement actions" (ICE: Secure Communities n.d. 2019). The ICE report states that, "Since its reactivation on January 25, 2017 through the end of Fiscal Year (FY) 2017…more than 43,300 convicted criminal aliens have been removed as a result of Secure Communities" (ICE: Secure Communities n.d. 2019). Furthermore, ICE notes that during Secure Communities' operational periods, from 2008 to 2014, and its reinstatement in 2017, the program deported more than 363,400 "criminal aliens from the U.S." (ICE: Secure Communities n.d. 2019).

TRAC Immigration Research shows that the number of deportations rose under the reinstatement of Secure Communities when compared to PEP, but still remained below the numbers than when Secure Communities was first enacted (TRAC Immigration Reports 2018).

This shows that PEP under the Obama administration effectively lowered the number of deportations per month between November 2014 to January 2017, at an average of about 5,000 per month, while under the initial Secure Communities program, those numbers ranged from 6,000 to up to 8,000 in one month. TRAC explains that the average of Secure Communities under Trump was about 6,200 deportations per month (TRAC Immigration Reports 2018). TRAC also notes that in addition to the strict numbers, there was a change in the types of profiles targeted by PEP under the Obama administration versus Secure Communities under the Trump Administration. While PEP was criticized for failing to target only immigrants who had committed "serious crimes", ICE under Trump went even further to "encompass essentially any immigrants who were present in the United States without papers authorizing them to be in this country" (TRAC Immigration Reports 2018). The chart below illustrates the effects of this change in priorities, showing the percentage increase of offenses that were targeted following the shift from PEP to Secure Communities. TRAC reveals that the "top 10 offense categories where Secure Communities removals grew the fastest since President Trump assumed office were generally misdemeanors or petty offenses" (TRAC Immigration Reports 2018). For example, the number of people deported for having committed a traffic violation rose from 1,323 in 2016, to 2,364 in 2017, within the first 9 months of Trump's presidency, showing a 138% increase.

Top 10 among offenses with at least 100 deportations during Trump Administration.			
Most Serious Criminal Conviction	Jan-Dec 2016	Feb-Oct 2017	Rate of Increase
Traffic Offense	1,323	2,364	138%
Public Order Crimes	465	759	118%
Disorderly Conduct	244	377	106%
Failure To Appear	159	295	147%
Licensing Violation	101	232	206%
Flight To Avoid (prosecution, confinement, etc.)	77	208	260%

Trespassing	144	193	79%
Drug Equip - Possession	123	183	98%
Liquor	72	161	198%
Prostitution	72	124	130%

Figure 1 Top Ten Secure Communities Offense Categories that Grew Fastest. Source: TRAC Immigration Reports 2018

The “Border Security” Executive Order also called for expanding the 287(g) program, increasing Border Patrol personnel by another 5,000 agents, and demanding that all immigrants who were “apprehended for unlawful entry” be held in detention (Border Security and Immigration Enforcement Improvements 2017). The “Public Safety” Executive Order also requested that 10,000 additional ICE agents be hired to carry out these increased enforcement measures (Enhancing Public Safety in the Interior of the United States 2017). President Trump issued further warnings specifically against sanctuary cities, threatening to defund any city with a sanctuary policy in place by withholding federal grants (Lai and Lasch 2017). With the return to Secure Communities and intensified focus on enforcement programs and resources, ICE also explains in detail the tools available to them as part of the overarching Criminal Alien Program and key initiatives. The Agency notes that the expedited removal processes directly from jails and prisons “decreases or eliminates the time spent in ICE custody and reduces the overall cost to the Federal Government” (ICE: Criminal Alien Program n.d.). However, this statement fails to take into account the increased budget, resources and staffing that the agency receives from the federal government, particularly since 2017 (ICE Fact Sheets n.d.). ICE also states that as part of CAP, the emphasis is on “the aggressive prosecution of criminal offenders identified by ERO [Enforcement and Removal Operation] officers during the course of their duties” (ICE: Criminal Alien Program n.d.). The mandate of ICE to carry out these programs thus appears to be quite broad, stating that ICE must “ensure that all efforts are made to investigate, arrest, and remove individuals from the United States that ICE deems priorities...” (ICE: Criminal Alien Program n.d.). The detail that ICE can determine who is a priority for deportation and “removal” further shows the large margin of operation provided to ICE in order to carry out its functions.

Furthermore, there are three key terms used throughout ICE’s description of its functions and activities. The first is the repeated framing of undocumented individuals as “criminal aliens”, or variations like “incarcerated aliens” and “criminal offenders” (ICE: Criminal Alien Program n.d.). Second, ICE underlines that the overall objectives of these programs are to ensure “public safety,”

wording that was also echoed by Trump's EO on "Enhancing Public Safety in the Interior of the United States." Once again, immigrants or undocumented residents are framed as "criminals" which threaten the "public safety," of the country. However, once the link is established between "criminal aliens" and the threat to "public safety," there is almost no mention of the word "deportation" in ICE's descriptions of their enforcement programs, preferring the use of terms like "removal", and "removal proceedings", which often go hand in hand with statements involving "identification" and "investigation." It also refers to its operations as "enforcement and removal" proceedings rather than "enforcement and deportation," and frames these activities as "removal management" (ICE: Removal n.d.). This could be a deliberate attempt to replace "deportation" with a less specific, and less aggressive term like "removal". Whereas deportation implies that a person is being forced to leave a country, "removal" corresponds to a migration management approach and logistical coordination of being "removed" (possibly with the individual's agreement) from one location to another.

However, despite what appears to be an effort to avoid using the word "deport" or "deportation," ICE continues to present their operations as "criminal" investigations, focusing on their responsibility to maintain public safety. ICE's prioritization of the use of the word criminal alien has its roots in earlier policies as well. A report from the Congressional Research Service explains that "the apprehension and expeditious removal of criminal aliens has been a statutory priority since 1986, and the Department of Homeland Security and one of its predecessor agencies have operated programs targeting criminal aliens since 1988" (Kandel 2016, p. 1). While the DHS and associated agencies cite "criminal aliens" as a priority for enforcement operations, they do not provide a specific or clear definition of who constitutes a "criminal alien". The same report notes that:

> The criminal alien population, to which such enforcement efforts are targeted, is complex. It is defined in broad terms, challenging to quantify, and sufficiently large and diverse in its criminality that priorities have been established or modified to direct law enforcement efforts. (Kandel 2016, p. 1)

The report continues to explain that,

> U.S. immigration law identifies certain crimes that make an alien ineligible for admission to the United States and/or subject to removal…Yet the term "criminal alien" is not specifically defined in immigration law or regulation, and people use it to refer to several different types of noncitizen offenders. At the broadest level, a "criminal alien" is any noncitizen who has ever been convicted of a crime in the United States. (Kandel 2016, p.

2).

While this explains that the first condition of being categorized as a “criminal alien” is having committed a “crime” in a very broad sense, the second aspect to the term “criminal alien” is the legal status of being “unauthorized.” However, defining and quantifying the “unauthorized alien” group in the U.S. is also a complicated task. Estimates show that about 50% of “noncitizens” (excluding immigrants who have become naturalized citizens) fall into the category of “unauthorized” (Budiman n.d.). This group may include individuals who entered the U.S. without proper authorization or documents, or who overstayed a visa or residency permit, but it can also include those who received “temporary protected status” or qualified for “deferred action” (Kandel 2016, p. 3). Excluding these specific groups, most undocumented or “unauthorized” residents are at risk of facing deportation, or in the words of DHS and ICE are “removable” (Kandel 2016, p. 3). They are “removable” even if they have not been convicted of a crime and are not within the specific category of “criminal aliens.” In addition, the repeated use of the word “alien” has a further dehumanizing effect on the individuals that are being targeted. The screenshot below taken from the ICE website page on EROs shows this emphasis on policing and criminalization, including its word choice and the type of images selected.

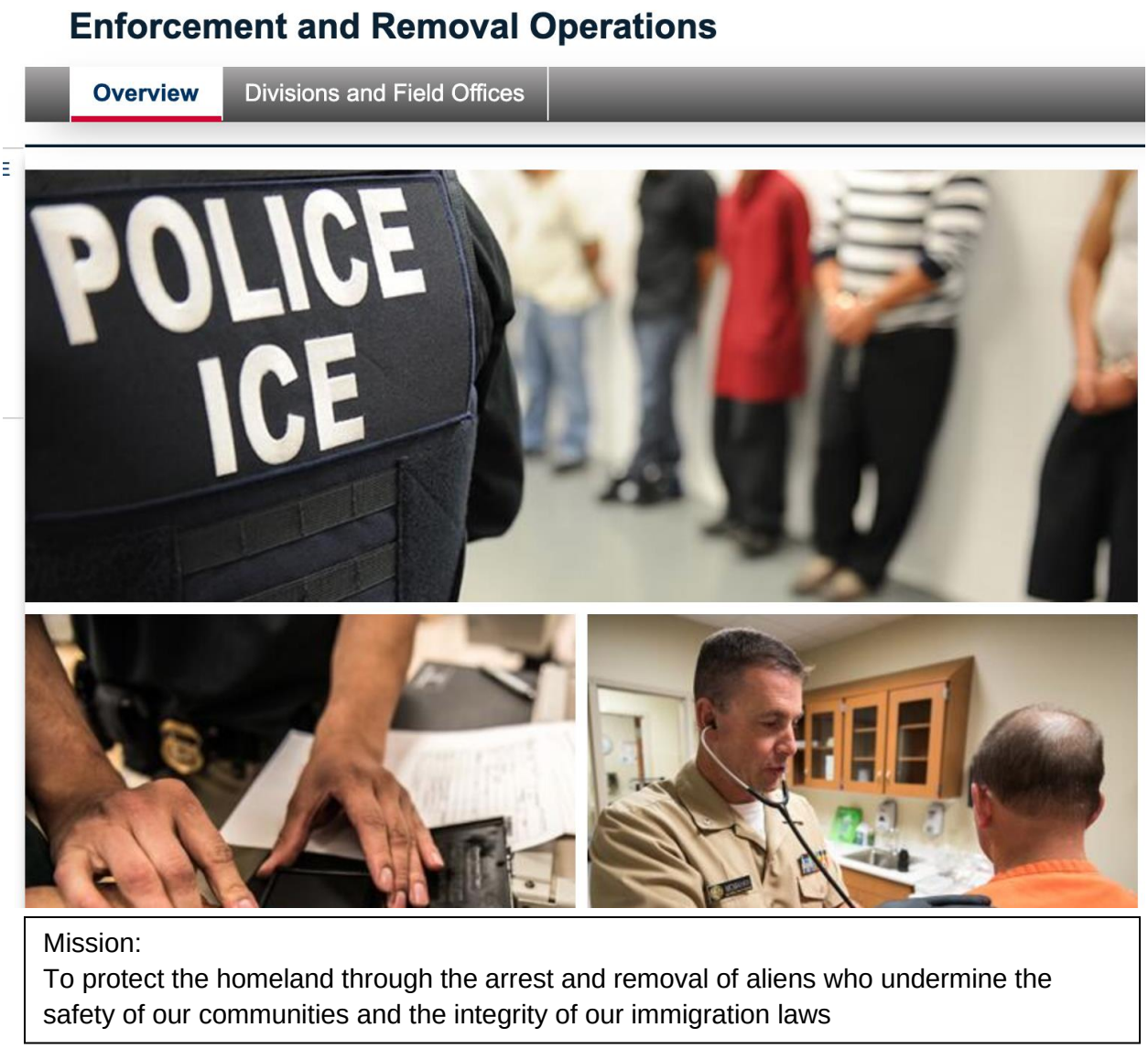

Figure 2 ICE Enforcement and Removal Operations. Source: ICE website as of July 2020

In addition to ICE's public mission and operations, the agency's presence was also able to expand thanks to programs like CAP and Secure Communities. With these programs, ICE is provided direct access to jails and prisons, with the potential to "interact with every municipal, county, state, and federal facility in the country" (American Immigration Council 2013, p. 5). Furthermore, reports state that "CAP boasts 100% screening of all self-proclaimed foreign-born nationals found within Bureau of Prisons (BOP) facilities and all state correctional institutions" (American Immigration Council 2013, p. 5). CAP continues to remain the largest program responsible for the highest number of deportations, and has been since at least 2012. These numbers have continued to rise overall in terms of apprehensions and removals by the DHS, and ICE agents specifically.

The most recent statistics reported by the DHS in 2018 state that the “DHS performed 17 percent more removals in 2018 than in 2017, with about 44 percent of removals involving aliens who had a prior criminal conviction” (Guo and Baugh 2019, p. 1). These numbers increased in spite of statistics showing that “a sizeable proportion of ‘criminal aliens’ have not been convicted of a crime, or have only committed relatively minor criminal violations, such as traffic infractions or drug offenses” (Abrego et al. 2017, p. 697). Research shows that “from 2010 to 2013, only 3 percent of the 2.6 million immigrants ICE encountered through the Criminal Alien Program (CAP) had been convicted of ‘a violent crime or a crime which the FBI [Federal Bureau of Investigation] classifies as serious’” (Abrego et al. 2017, p. 697). Furthermore, 83% of those deported had not been found guilty or charged with any criminal conviction or had been convicted of a “nonviolent non-serious offense” (Abrego et al. 2017, p. 697).

Such actions result in part from CAP’s strategy which states that the use of “detention and arrest of criminal aliens” utilizes a “risk based approach” focused on their “perceived threat to the community” (American Immigration Council 2013, p. 6). These “perceived threats” most notably contribute to discriminatory policing directed toward specific groups, in particular the Latino community (Romero and Serag 2004). CAP was also criticized for failing to provide details on this “risk-based approach” and for lack of a “standardized procedure” (American Immigration Council 2013, p. 6). Furthermore, these policing strategies encourage policy officers to stop and detain individuals who “appear to be foreign born” or are of “Latino descent” (American Immigration Council 2013, p. 6). According to Abrego et al. (2017), the “pre-existing landscape of police-civilian contacts results in newly disproportionate risks for communities of color, such that undocumented immigrants face the threat of deportation as a result of basic noncriminal activities related to work and social reproduction” (p. 704). These programs contribute to the public perception that immigrants are associated with crime, and that neighborhoods with higher immigrant populations are a greater risk to public safety. Because of this perception, such communities are then viewed as “legitimate objects of disproportionate policing” (Abrego et al. 2017, p. 704).

The most recent statistics from the DHS cite that in 2018, “ICE Enforcement and Removal Operations (ERO) initiated 23 percent more intakes into immigration detention, with detentions of aliens from the Northern Triangle of Central America and Mexico accounting for 85 percent of total detentions” (Guo and Baugh 2019, p. 1). The rise in detention and the use of jails and prisons to hold unauthorized immigrants, or noncitizens accused of an offense, also represents a key tool used for criminalizing immigrants, and specifically minority groups from Latino backgrounds. The

thousands of deportations occurring on a daily basis, expedited via streamlined processes and access to prisons and jails, results in some U.S. residents facing deportation to Mexican border cities that they have never even been to. For example, studies show that “the typical repatriated Mexican migrant had spent a median of 6.5 years living and working in the United States, and nearly 27 % of respondents had lived in the country for a decade or longer” (Abrego et al. 2017, p. 700). Other survey respondents ranged from “first-time border crossers”, roughly 15%, and those who were apprehended closer to the borders, within a 100 kilometer range, who were typically quickly sent back to Mexico (Abrego et al. 2017, p. 700).

The contrast with apprehensions at the border versus internal enforcement mechanisms show that those arrested within the U.S. may be held for extended periods of time, even up to several years, before being deported back to “unfamiliar Mexican border cities” (Abrego et al. 2017, p. 700). These internal arrests and deportation proceedings for those who have lived and worked for many years in the U.S. also increased substantially in the past decade. Prior to this, many undocumented immigrants and residents who had committed no criminal offenses were allowed to continue living in the U.S. Abrego et al. (2017) explains, “In the past, it was generally considered easy to live and work inside the United States once migrants successfully crossed the border, meaning that only those who were "misbehaving" (i.e., violating criminal law) were removed” (p. 700).

However, coinciding with the increase in internal arrests and detentions, immigration enforcement policies at the border focused their attention to expediting deportations and removals as quickly as possible, as illustrated by “Operation Streamline” and other “Zero-Tolerance Policies” (Abrego et al. 2017, p. 700). Operation Streamline was first initiated in 2005 to pursue “criminal prosecution” of those crossing the border without the required documents. Under this policy, the first time a person crosses the border and is labeled as “entry without inspection”, they are considered to have committed a misdemeanor. However, if the same person enters a second time after having faced deportation, the second entry is charged as a felony (TRAC Immigration Reports 2011). The charges continue to increase each time the person re-enters the country without authorization. The objective of these charges is on “illegal entry” and “illegal re-entry” with the punishment increasing for each attempted crossing, and to “fast-track federal court proceedings that systematically criminalize recent border crossers” (Abrego et al. 2017, p. 700).

These types of “fast-track proceedings” are a key tool for expedited deportation strategies. While not all Border Patrol districts participate in Operation Streamline, they can still utilize fast-track proceedings. These proceedings function by "allow[ing] a federal prosecutor to offer a

below-Guidelines sentence in exchange for a defendant's prompt guilty plea and waiver of certain pretrial and post-conviction rights" (Gorman 2010, p. 479). The defendants accept to plead guilty to avoid being held in prisons or detention centers for long periods, while also waiving many of their rights to seek authorized residency within the U.S. This guilty plea can then be used against them if they attempt to re-enter the United States following this charge. As a result, such strategies serve to increase the number of individuals labeled as “criminal aliens” thanks to these fast-tracked court proceedings and lack of sufficient legal counsel to deal with the mass trials (Abrego et al. 2017). If the individual re-enters, the second trial can result in even longer detention sentences. It also immediately adds a criminal record to any person who has crossed and been charged with “illegal entry.” Researchers show that the punishment of “illegal entry” can start with a fine and a short incarceration period of several months, but can go up to 20 years in prison, in very rare instances (Abrego et al. 2017, p. 701). Surveys conducted with individuals who were detained and deported by Operation Streamline or fast-track proceedings show that 15% of those surveyed stated that “they would cross the border again within the next week following their most recent deportation” and an additional 47% responded that “it was possible they would cross again sometime in the future” (Abrego et al. 2017, p. 701).

These policies were criticized for several points related to the overall criminalization of migrants. Activist groups explain how such policies contribute to the growing number of individuals held in federal prisons, as well as private for-profit prisons and detention centers, by groups like Corrections Corporation of America and GEO Group (McLeod 2016). According to the ACLU, in 2020, 81% of people detained by ICE “were held in facilities owned or operated by private prison corporations” (American Civil Liberties Union n.d.). In terms of criminal charges and federal convictions, Operation Streamline was also responsible for increasing criminal charges by replacing earlier programs that focused on issuing administrative charges (for example, lacking the proper documentation and paperwork). As such, before Operation Streamline, most of the unauthorized crossings were provided a “Voluntary Return” representing an “administrative violation” only (Abrego et al. 2017, p. 701). According to the Bureau of Justice Statistics (2019), “The portion of total federal arrests that took place in the five judicial districts along the U.S.-Mexico border almost doubled from 1998 (33%) to 2018 (65%). Ninety-five percent of the increase in federal arrests across 20 years was due to immigration offenses.” Furthermore, apprehensions at the border, and those found to be “inadmissible at the border” increased 68% in 2019 compared to 2018 (ICE 2019). ICE (2019) also claims that 86% of the individuals arrested “had criminal convictions or pending charges.” These numbers show the clear effects of these mass criminalization policies where more and more of the individuals crossing the border face

immediate criminal charges, and are thus found to have prior criminal convictions in subsequent border crossings.

In addition, the increase in court proceedings also causes greater feelings of "social criminalization." As Abrego et al. (2017) explains, "Because immigrants prosecuted through the program are typically held in short-term detention facilities or federal prisons, and are shackled at the hands, waist, and feet, many report being treated as serious, violent, or chronic offenders" (p. 702). These feelings can also have negative mental health effects as those who have gone through this "dehumanizing" and criminalizing experience start to believe that they fit the label of "criminal alien" (Abrego et al. 2017, p. 702). Increased use of prolonged periods of detention also contribute to the criminalizing experience. Immigrants held in detention centers or prisons are placed alongside other incarcerated individuals, and some are "exposed for the first time to illicit social networks, including prison gangs and drug trafficking" (Abrego et al. 2017, p. 702). Further exacerbating the situation, the Trump administration's policies contributed to increasing the number of children held in detention and separated from their families. The average time frame for a child held in detention was reported to range from 100 to 240 days (Chalabi 2018). In 2019, journalists uncovered that roughly 3,000 children were "forcibly separated" from their parents (Jordan 2019), and in 2021, the New York Times estimated that 20,000 children were being held in detention centers or shelters (Jordan 2021). In addition, thousands of children separated from their families were lost in the system, creating chaos for their families and relatives who could not track where they had been placed or where they were being held (Jacobs 2019).

On top of this, inspections of these detention centers reported that they are "harmful" to children, resulting in physical and psychological damage, including weight loss, failure to receive medications when ill, and even sexual abuse by immigration officials (Human Rights Watch 2018). At least seven children died while being held in these detention centers (Pompa 2019). This rise in child detention was the result of policy changes under the Trump administration which allowed families and unaccompanied minors to be detained for indefinite periods of time, and permitted immigration enforcement agents to separate the children from families more easily (Shear and Kanno-Youngs 2019). Such measures go against the previous asylum regulations as part of U.S. asylum law. The argument of the Trump administration and conservative support for these measures is also rooted in the "criminalized" perception of immigrants, claiming that all those crossing the border in an unauthorized way are criminals. Thus, they assert that the children should not be kept with their families since they committed a crime by crossing the border through unauthorized means. This type of argument goes against past measures where the government

typically preferred to place unaccompanied and detained children in the custody of their family members living in the U.S. while awaiting the decision from immigration court (Shear and Kanno-Youngs 2019).

Such actions tie into the body of research on the use of prison and detention practices that contribute to the "mass criminalization" of immigrants and communities of color more generally (Abrego et al. 2017; Douglas and Sáenz 2013). This mass criminalization is underlined by many scholars as the deliberate use of "legal violence", via the construction of the "criminal alienhood" label and identity which occurs as an institutionalized and "systematic legal violence" (Abrego et al. 2017, p. 697). As this chapters, the historical trajectory of federal laws and policies laid the groundwork to provide the legislative tools and mechanisms for the "legal production of immigrant 'illegality'" (De Genova 2004). However, this process was not an accidental byproduct of policies, but rather the result of deliberate efforts by political actors and policy entrepreneurs who were able to capitalize upon moments of heightened insecurity and fear during certain periods of history. In particular, historical events like the Cold War, the War on Drugs, and the War on Terror, served as political openings for key actors to take advantage of framing immigration and border control as a question of public safety and national security.

Furthermore, this immigrant "illegality" goes hand in hand with the "militarized policing" of the U.S. border with Mexico to control the flow of immigrant labor and to expand policing and enforcement activities more broadly (De Genova 2004, p. 161). The agencies in charge of interior enforcement and border patrol, such as ICE, as well as their expanded resources and mandate, all contribute to the permanent state of limbo and possibility of deportation for many immigrants, while at the same time serving to maintain a workforce with a precarious status that can be exploited with little recourse. My analysis of the DHS and ICE websites and budget reports also reveals not only the shift in priorities to police and detain undocumented immigrants, but illustrates how their specific word choice, priorities and missions listed, coupled with the images of a militarized police force, contribute to the public perception of immigration and crime. Furthermore, the history of the origins of the construction of the border with Mexico underlines the unique role and attention the U.S. government directs towards Mexican immigrants, or those crossing the U.S.-Mexico border in particular. De Genova (2004) highlights that this disproportionate attention toward the southern border creates the "spatialized (and racialized) status as 'illegal aliens'" (p. 161) which can still be observed today, both along the border, and well into the interior of the United States.

f. Conclusion: the foundation of criminalization via policies of illegalization, detention and deportation

This chapter presents the foundation of criminalization via the historical construction of the southern border, the policies of illegalization, and the use of detention and deportation as key mechanisms for this criminalization. It also reveals the historical legacy of immigration policy and the effects of critical junctures at certain periods, for example the War on Drugs and the War on Terror to contribute to the public perception of instability and insecurity. These periods of uncertainty served as political openings for policy entrepreneurs and politicians to enact restrictionist policies that reinforce the perception of fear against outsiders and link immigration with crime (Gulasekaram and Ramakrishnan 2015; Macías-Rojas 2018; Sohoni and Sohoni 2014). These actions are further bolstered by the foundation of immigration law based on historically rooted discriminatory policies that date back to the earliest U.S. immigration policies (Nevins 2010; Ngai 2004). Analyzing these federal enforcement policies also lays the groundwork for understanding immigration federalism, since these expanded programs increasingly rely upon local enforcement agencies and police forces to help implement these extensive detention and deportation programs (Chacón 2012b; Rodriguez 2017; Varsanyi et al. 2012). The ensuing range of responses by different state and local jurisdictions to these federal policies further illustrates the importance of immigration federalism discussed in the following chapter.

Chapter 4: Criminalization Policies: Immigration Federalism and Criminalization of Daily Life

a. Introduction: the impact of immigration criminalization at the state and local levels

While the previous chapter focuses on federal policies tied to immigration criminalization, there are also various examples of state and local enforcement policies that utilize similar strategies and objectives. In addition to representing a battle over federal versus state and local jurisdictions in terms of legal considerations, these policies and their role in expressing dissent against specific federal policies should also be considered within a political framework, with actors on each side of the political spectrum changing their federalist arguments based on party lines and according to the political party in power's stance on immigration (Gulasekaram and Ramakrishnan 2015). The state-level policies presented in this section also form a part of the long history of criminalization of immigrants and discrimination toward minorities, as exemplified by the federal policies and historical timeline in the previous section (Varsanyi 2010). To illustrate this, two key examples of state-level policies of immigration enforcement are discussed in the following sections, Arizona's Senate Bill 1070 and California's state Proposition 187. These policies are then analyzed within the framework of immigration federalism to understand how criminalization and restrictionist policies occur at subfederal levels of government as well. It then connects this to the impact these policies have on the daily lives of immigrants and undocumented residents and their access to basic rights and services.

b. State criminalization policies and immigration federalism

Arizona's Senate Bill 1070 (or SB 1070), passed in 2010 and officially entitled the "Support our Law Enforcement and Safe Neighborhoods Act" is often cited as an important legal example of a federal-state conflict over immigration enforcement (Chacón 2012; Elias 2013; Rodriguez 2017). Arizona's law expressed a clear disagreement with the Obama administration's stance on immigration, reflecting the majority Republican state's view that immigration should be more heavily policed and sanctioned (Chacón 2012; Rodriguez 2017) The main objectives of the law were the following: to encourage local police to be more heavily involved in policing immigrants, by targeting individuals and requesting documentation on immigration status; to penalize undocumented workers with fines and sanctions; and to enact various other "state-level penalties for violations of certain immigration laws" (Rodriguez 2017, p. 515). The law was approved by Arizona's Republican governor expressly to show the disapproval of policies enacted during the

Obama administration. Rodriguez (2017) explains that “the law confirmed a partisan split on immigration policy writ large, with Republicans at the local level calling for maximum enforcement in the face of a Democratic White House that sought legislative legalization and priorities-driven enforcement” (p. 515). Republicans thus framed the argument as a state versus federal issue and pushed the discourse of a states’ rights argument. While Arizona’s law became one of the most well-known examples of immigration federalism due to the lawsuit between the Obama administration and the state of Arizona, other “pro-enforcement” local laws and regulations had been on the rise since around 2006, at both state and municipal levels (Rodriguez 2017). These laws gained momentum at the state and local levels due to the “networks of restrictionists and local policy groups wanting to push their agenda throughout the country” (Rodriguez 2017, p. 515).

In 2012, the Obama administration responded to the state-level challenge by filing a “preemption lawsuit” against Arizona and several other states that had passed laws similar to Arizona’s (Chacón 2012). The lawsuit from the federal government thus took precedence over other lawsuits at that time mostly from private individuals and the American Civil Liberties Union (ACLU). In doing so, the federal government sought to overtake the framing of state-led immigration policies, and to use this case as an example for other dissenting local governments to show that the federal government has the primary control over immigration policies and enforcement (Chacón 2012). In other words, the lawsuit provided the government the means to reaffirm “the authority of DHS and Department of Justice (DOJ) to determine the national enforcement agenda and to control the extent of the enforcement assistance local officials could provide” (Rodriguez 2017, 516).

This argument and the focus on preemption for this case also showed a deliberate decision to not base the case on the complaints of “discriminatory policing,” and “unlawful harassment, detentions and arrest” that represented a central aspect of those opposed to the law (Chacón 2012, p. 577). For example, Obama asserted that the law was “"undermin[ing] basic notions of fairness that we cherish as Americans, as well as the trust between police and our communities that is so crucial to keeping us safe” (Chacón 2012, p. 577). Other groups opposed to the law, like the Mexican American Legal Defense Fund, stated that the law was “a recipe for racial and ethnic profiling” (Chacón 2012, p. 578). Overall, immigrant rights activists and other advocacy groups centered their challenge on the law’s violation of the Fourth Amendment, which prohibits “unreasonable searches and seizures,” and the Fourteenth Amendment’s “guarantee of equal protection” (Chacón 2012, p. 578). In spite of this, the federal government chose to

challenge the law based on the concept of preemption, arguing that Arizona's law was void since it attempts to enact its own immigration laws which fall under the jurisdiction of the federal government. Thus, the federal law preempts the state law. As such, "preemption became a means through which the feared individual rights consequences of S.B. 1070 might be averted without the need to litigate the effects of the law on particular individuals" (Chacón 2012, p. 579).

According to Chacón (2012), the choice of utilizing the preemption argument is tied to the overarching objectives of SB 1070 regarding enforcement of undocumented migrants, which are not considered unconstitutional in and of themselves, and thus a legal decision could only determine if the means to accomplish these objectives were constitutional. As a result, unauthorized migrants "could not challenge the law on the grounds of its intended results; they could only challenge the means by which those results would be achieved under the law" (Chacón 2012, p. 579). Because of this, the legal challenge to SB 1070 focused on the argument that "Arizona was not 'the appropriate actor'" for instituting the law, or its objectives (Chacón 2012, p. 579). While the federal government affirmed that it did indeed depend on local cooperation to enforce its measures by working with local police, "it rejected autonomous state lawmaking as a viable strategy" (Rodriguez 2017, p. 516).

The ensuing decision by the Supreme Court represented a significant outcome in defining the cooperation between the federal and local governments regarding immigration enforcement, and served as the first decision by the Court on this question in over 30 years (Chacón 2012). Overall, the decision was viewed as a victory for the federal government, since the Court struck down most of the key regulations laid out by SB 1070. The outcome of the case thus had two long-term effects. The first is that the Court did not allow the state of Arizona to issue a misdemeanor to an undocumented person who applies for a job. While Rodriguez (2017) explains that the Court agreed that the objective of "the deterrence of unauthorized employment" was in line with federal law, it determined that the state could not apply its own means of enforcement of the law (p. 516). The second key outcome was the Court's "theory of preemption" which was broadened to include "federal enforcement priorities, and not just congressional statues" (Rodriguez 2017, p. 516). According to Rodriguez, "In other words, even if state enforcement provisions precisely mirror federal law, the latter would still be invalid because the federal executive necessarily uses its discretion in deciding to what extent to enforce the law" (Rodriguez 2017, p. 516). As a result, the Court's decision clearly determines that states and localities could not "adopt an enforcement agenda expressly and clearly more robust than the federal government's agenda" (Rodriguez 2017, p. 516).

However, of the four out of five provisions struck down by the Supreme Court, the decision did allow one provision to remain, SB 1070 section 2(B), which is also known as the “show me your papers” provision (Rodriguez 2017, p. 516). The provision states that local Arizona police must request to see any individual’s papers regarding his or her immigration status once a police officer has come into contact with an individual. Critics of the law and other civil liberties groups expressed their disagreement with this outcome, based on the likelihood that discriminatory policing would continue to occur, and be officially sanctioned to do so by the federal government. As Chacón (2012) explains, leaving this provision in place, “effectively green-lighted systematic state and local participation in immigration enforcement in a way that failed to account for the inevitable discriminatory effects of such participation” (p. 580). This provision could be revisited later if challenges arise to the preemption argument, meaning that there could be issues in the implementation of the provision, or based on the Fourth or Fourteenth Amendment due to “unreasonably lengthy stops or widespread racial profiling” (Chacón 2012, p. 580). Furthermore, leaving this provision in place reveals that the outcome of the case was also rooted in political grounds, to show the federal government’s strong stance towards unauthorized immigration, and the use of federal executive enforcement of immigration as a means to stop the increasing discontent and local and state policies which were emerging as a challenge to the Obama administration. As Rodriguez states, “even at the height of the conflict between Arizona and the federal government, the distance between the federal and state positions on enforcement policy was in large measure rhetorical rather than actual” (Rodriguez 2017, p. 517).

However, as the decision stands, the Supreme Court determined that states and localities can indeed enforce the provision to require their local enforcement agencies to request the immigration status of any individual they encounter. Therefore, while the choice to focus on preemption as the legal challenge may have been more immediately effective to win the lawsuit, it may also have been a missed opportunity to advance judicial decisions to protect individual civil liberties, and to counter police discrimination and harassment by making a clear statement to protect minority and immigrants’ rights (Chacón 2012b). Failing to take a clear stand may have instead pushed these issues to be considered at a later date, but did not erase their existence and evidence of systemic discrimination. As Chacón (2012) explains, “the Court's decision invites inevitable discrimination and harassment of minority citizen groups and lawful migrants in contravention of the requirements of federal immigration law” (581). Such actions contribute to creating mistrust and fear among minority groups who come into contact with police officers, which can result in less safe communities overall as individuals may fear to report crimes or abuse, or testify in court.

From the 1990s onward, states and localities took increasingly stronger stances on immigration enforcement. While the Arizona law exemplified a culmination of this and an ensuing confrontation with the federal government, other policies like the California Proposition 187, or the “Save our State Initiative” also illustrated states’ overzealous efforts to enforce immigration policies via a restrictionist and exclusionist view toward immigration (Varsanyi 2010). Specifically, the proposition attempted to exclude all unauthorized immigrants in California from access to public services and benefits such as healthcare and public education. Key provisions of the law included a requirement for the police to check the immigration status of any arrested person and to share this information with the federal government and the attorney general of California. The provision also expressly stated that local governments must comply with this requirement (meaning they could not have the choice to opt out of this provision). The Proposition passed in 1994 by a large margin, and the campaign for the proposition was reported to be “full of political rancor” (Varsanyi 2010, p. 1). The proponents of the proposition “conjured images of illegal immigrants flooding across the U.S. Mexico border to take advantage of California taxpayers (Varsanyi 2010, p. 1). Meanwhile, those opposed to the proposition that it would not have an effect on “illegal immigration”, but instead would cause undocumented immigrant workers, essential to California’s agricultural industry to go “further underground, where they would pull their children out of school, be afraid to contact the police when victimized by crime, and avoid medical treatment for life-threatening conditions or potentially communicable diseases” (Varsanyi 2010, p. 1). Activists, student groups and churches mobilized against the passing of Proposition 187 and argued that the bill was xenophobic and discriminatory, in particular toward the Latino community. Other critics explained that the citizenship screening system that was planned as part of the bill would actually have a much higher cost to implement than the costs of allowing undocumented residents to access public health services (California Journal’s Analysis of Prop. 187 1999).

Immediately following the passage of the proposition, several lawsuits arose to challenge its constitutionality. Concerning the restriction to access to public education, a previous lawsuit involving a Texas state bill had already been decided by the Supreme Court in 1982 in the case of Plyer v. Doe, confirming that all children, including undocumented children, have the right to a public education, and cannot be denied this right based on the question of legal residence status (Chacón 2012b). In November 1994, a Federal District Court judge blocked most of the provisions of Proposition 187, and in 1997, the same judge ruled that "California is powerless to enact its own legislative scheme to regulate immigration. It is likewise powerless to enact its own legislative scheme to regulate alien access to public benefits” (McDonnell 1997). While this case did not go

to the Supreme Court as in the Arizona case, the argument that the state of California did not have the legal jurisdiction to enact its own immigration laws or regulate immigration is in line with the Arizona outcome. In 1999, Democratic Governor Gray Davis closed the ongoing legal cases on the proposition by signing a mediation agreement ensuring that access to public education and healthcare would be guaranteed for all residents (McDonnell 1999). In 2014, Governor Jerry Brown officially repealed the remaining sections from Proposition 187, ruled unconstitutional and ultimately unenforceable. The following bill SB 396 brought about an official end to the Proposition, and State Senator Kevin de Léon, the bill's author, stated that this repeal "closes a dark chapter in our state's history and brings dignity and respect to the national immigration debate" (McGreevy 2014).

These policies based on the criminalization and exclusion of immigrants and undocumented residents reflect two clear examples of immigration federalism at the state level. The framework of immigration federalism illustrates the legal and political debates surrounding immigration law, its implementation, and the enforcement and impact of these policies. While the federal government has jurisdiction over immigration law and regulation, the role of states and localities is significant in several ways. Local governments and policy entrepreneurs are key players in bringing specific issues to the forefront of national debate and at mobilizing local and national networks (Gulasekaram and Ramakrishnan 2015). Furthermore, as immigration policies and enforcement become progressively stringent and targeted against certain minority groups, the federal government has also increasingly relied upon local actors to assist in the enforcement of these broad and far-reaching policies. According to Chacón (2012):

> The forces that have brought states and localities to this larger role have come from above and below. On the one hand, greater sub-federal involvement in immigration enforcement has been authorized by Congress, and, more importantly, instrumentalized by federal executive branch policies and pronouncements. On the other hand, some of this involvement has been generated by entrepreneurial efforts at the state and local level that have moved the baselines of acceptable state and local involvement in immigration policy. (p. 598)

Chacón (2012) also shows that while there were competing legal battles in terms of the jurisdiction of immigration policies and enforcement, the increasingly strict enforcement priorities and policies at the federal level require greater cooperation from states and localities. However, even while demanding greater local cooperation, the federal government still strives to ensure that it

maintains control over the type of subfederal enforcement efforts enacted by state and local actors (Chacón 2012, p. 600).

There are several different interpretations and definitions of immigration federalism. According to Elias (2013), immigration federalism should not only be narrowly applied as a term to describe the laws that focus on restricting unauthorized immigration at subfederal levels, but "should now be defined more broadly, to encompass all multi governmental rulemaking pertaining to immigrants and immigration-including rulemaking…" (p. 706). She argues that immigration federalism can instead be defined as "the engagement by national, state, and local governmental actors in immigration regulation" (Elias 2013, p. 707). Along the same vein, Rodriguez (2017) explains that while the interaction between state and local involvement with the federal government can vary greatly in terms of objectives and levels of cooperation, it is possible to observe "two basic categories of mutually dependent and re-enforcing policies: enforcement federalism and integration federalism" (p. 509). According to Rodriguez (2017), "enforcement federalism" deals with the interaction between localities and federal actions that "assist or resist federal removal policies", while "integration federalism encompasses measures designed to assist immigrants, regardless of status, to plant roots and acculturate to life in the United States" (p. 509). As these definitions and cases illustrate, resistance measures and refusal to cooperate with the federal government on certain issues can range from both sides of the political spectrum depending on various factors, including the party in power at each level, the national and local actors involved, and the broad political momentum or support at these multilevel layers. Thus, it can be argued that a certain level of resistance from states and localities can be seen as a properly functioning federalist system, to "ensure that federal policy is subjected to accountability checks by competing, external pressures" (Rodriguez 2017, 510).

This argument is line with the idea that federalism serves as a "laboratory for democracy" in the well-known statement from Supreme Court Justice Brandeis, which states, "It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country" (1932). While points of contention can be found within this statement, it reflects the view of the "autonomy" model of federalism which argues that states represent "sovereign policymaking enclaves," and that this in turn allows them to create "laboratories of democracy, diffuse power, foster choice and safeguard citizens" (Bulman-Pozen and Gerken 2009, p. 1261). In this model, scholars view the state as an independent actor, and often a "dissenter," whose primary role is to challenge the federal government. The other prevailing model, "cooperative

federalism" suggests that the role of states should be interpreted "as faithful agents implementing federal programs" (Bulman-Pozen and Gerken 2009, 1262). In this model, scholars argue that in the majority of cases, states choose to cooperate with the federal government to instate national programs and policies.

As Bulman-Pozen and Gerken (2009) point out, both models see state dissension as a "source of friction" in the system, and view friction as "a threat to an integrated regime" (p. 1263). However, they argue that state "dissent" can actually promote the federalist system, and propose a third model, "uncooperative federalism", to fill this gap. In this model, they view the state as the "federal servant," which, although lacking the level of autonomy and sovereignty presented by the "autonomy model", can still exercise a large degree of policy making discretion within its role as a servant. Bulman-Pozen and Gerken argue that the "power of the servant" has a distinct type of authority to that of an autonomous or sovereign state, and they identify three central aspects associated with this type of power. One aspect, "dependence", reveals how the federal servant has a level of "discretion" in determining how a policy is administered (Bulman-Pozen and Gerken 2009, p. 1266). The federal government cannot govern the local aspects of a policy, and so relies on its "servant" to administer the program and respond to the local needs of its residents. In this way, both local municipalities and states must govern themselves, even as they carry out a federal policy. It also provides local actors with the experience and evidence to challenge a federal policy that tries to override a successfully implemented local program or policy. As such, even within the role of a servant, states and cities have a degree of discretion in implementing federal policies (Bulman-Pozen and Gerken 2009).

Following this idea, this level of dependency can breed what Bulman-Pozen and Gerken (2009) refer to as "integration" (p. 1268). Integration results from regular interactions between federal-state and state-local actors to administer programs, thereby enhancing relationships so that state and local actors can better understand the system, request aid, and disperse overall knowledge on policy making. Finally, the third source of power proposed is that states serve "two masters," that of the federal government, and their local constituency (Bulman-Pozen and Gerken 2009, p. 1270). For example, a state may act as a faithful servant to implement a federal program, but if their local constituents do not support the program, they could push the state to challenge the federal government by voting for another candidate or by pressuring their own representatives. Because of this, the state, while still a "federal servant," is responsible for simultaneously responding to the needs of its constituency, in addition to pressure from the federal authority to enact certain policies.

Most importantly, Bulman-Pozen and Gerken (2009) explain how the “federalist servant” can express dissent within the system. They illustrate that “uncooperative federalism” typically occurs in the “interstices of federal mandates” (p. 1271). This can take the form of a deliberate space created by Congress to give states leeway in implementing a policy. However, states may respond to this leeway by acting in a way that the federal government had not predicted. “Interstitial dissent” can also be found within a “regulatory gap” that was not foreseen by the federal government, but which the local actor could take advantage of to express disapproval of a federal policy (Bulman-Pozen and Gerken 2009, p. 1272). A third type of dissent, “civil disobedience” goes one step further, describing a situation in which “states may simply refuse to comply with the national program or otherwise obstruct it” (Bulman-Pozen and Gerken 2009, p. 1272). In examples of “interstitial dissent”, states use their “discretionary authority” to challenge particular aspects of a law and policy, while states employing “civil disobedience” seek to completely resist and bring about an end to a particular federal policy (Bulman-Pozen and Gerken 2009, p. 1272). The authors mention that instances of “uncooperative federalism” can be seen in a range of policy issues, including immigration, health care and education (Bulman-Pozen and Gerken 2009, 1259).

While this model does not specifically focus on immigration and the framework of immigration federalism, it illustrates how the different levels of government in a federal system interact with one another. The argument that dissent is actually built into the U.S. federal system shows how immigration policies at different levels are applied and enforced in a myriad of ways. Along these lines, Rodriguez (2017) explains that within the category of enforcement federalism, the federal government should recognize “the reasons that localities might resist federal enforcement efforts, (at least as a matter of politics)” (p. 509). She also contends that the “federalism agenda should include efforts…to identify a manageable equilibrium that reconciles the federal government's constitutional and statutory responsibilities for maintaining an enforcement regime with the local politics of immigration and the lived realities of immigrant communities” (Rodriguez 2017, 512). However, as the following chapter illustrates, the increased criminalization and illegalization mechanisms can also have a destabilizing effect on this ideal federalism equilibrium, with a rise in local mobilizations and social protests resulting in state and municipal policies that resist the intensity of immigration enforcement and police actions in particular.

Immigration federalism, whether pro-enforcement or anti-enforcement, goes beyond many specific policy issues on jurisdiction to the root of multilevel policymaking because immigration is

“fundamentally spatial and territorial” and thus necessitates participation from multiple levels of government (Rodriguez 2017, 511). Furthermore, this multilevel relationship is also interdepartmental, meaning that immigration enforcement actions and policies occur as interactions between the federal government with states and localities (comprising counties, cities and towns), but also within the various branches and levels of government, via competing interests and interactions among the executive, legislative and judicial branches (Gulasekaram and Ramakrishnan 2016). These competing interests may result from political partisanship or diverging interests among actors due to the differences in local constituencies, resources, and public opinion.

However, as shown by the increasingly large enforcement apparatus and the historical trajectory of federal policies, the federalism framework is a necessary component for the implementation of these policies, in particular to carry out the federal government’s high rates of deportation and detention. The growth of enforcement and deportation policies requires more resources at the federal level, but also increasingly at the local level, in particular via the use of local enforcement agencies (LEAs) and local police. In other words, “to identify, apprehend, and remove noncitizens, DHS depends on the local, county, and state police and corrections officials who come into contact with noncitizens through arrests and other means” (Rodriguez 2017, p. 513). Because the federal government thus requires the participation and cooperation of states and localities, the question can also be raised regarding which states and localities are more likely to voluntarily cooperate with federal immigration enforcement. According to Rodriguez (2017), “Ideologically speaking, the mayors and police of large, immigrant-heavy cities such as New York are more likely to end up in conflict with a Republican executive than with a Democratic one,” and vice versa (p. 513). The Arizona v. United States Supreme Court case between the Obama administration and the state of Arizona and the lawsuit between the Trump administration and the state of California over California’s state Sanctuary Law (SB54) represent two clear examples of the role of political partisanship in immigration federalism (Chacón 2012b; Narea 2020; Tichenor and Filindra 2012).

On the other hand, Gulasekaram and Ramakirshnan’s (2015) research questions whether the presence of a large immigrant population is a key factor in determining the outcome of immigration policy. They illustrate “that partisanship has the strongest effect on the existence of restrictive state-level policies, and that factors such as the growth of the foreign-born population or the recency of the immigrant population do not matter” (p. 83). Here Gulasekaram and Ramakrishnan (2015) disprove the commonly held view that the rise of foreign born residents in

a city or state affects the type of policies and laws developed. They explain that it was widely believed that the number of immigrants in a particular area spurs anti-immigration sentiment due to competition in the workforce. Instead, they argue that the political partisanship of a city or state is the more significant factor in determining which type of immigration policies are passed, rather than the presence of a large immigrant population or a recent rise in immigration in a particular city or state. They prove this through a quantitative and qualitative analysis of U.S. cities and states with high and low numbers of foreign-born residents and show that the main commonality is based on whether the city or state has a Republican or Democratic majority. Furthermore, they also explain how the interactions among different levels of government occur as a "feedback loop", or a series of connections and interactions that exist among actors at different levels that circulate information and ideas, rather than as a vertical process beginning from a city or municipality and moving only up or down to state and federal levels (Gulasekaram and Ramakrishnan 2015, p. 91).

As such, Gulasekaram and Ramakrishnan's (2015) findings show that previously conceived factors such as an increase in immigrant population or "wage competition and economic stress" do not have a clear correlation with a higher tendency for a pro-enforcement or restrictionist immigration agenda (p. 82). Instead, they reveal that "Republican-majority areas are more likely to sponsor restrictive ordinances: such contexts provide ripe opportunities for policy entrepreneurs to propose and pass policies, by framing undocumented immigration as one of the most significant problems for local governance" (Gulasekaram and Ramakrishnan 2015, p. 82). In one of their examples, they evaluate six cities in California that passed "restrictive ordinances" between 2006 and 2007. These restrictive ordinances focused specifically on employment, housing, and regulation of day laborers (primarily immigrant workers). Each of these cities had a strong Republican electoral base, and according to registered political party affiliation, held a 16 to 30 percentage points advantage over the Democratic party registration. In addition, by comparing these Republican-leaning cities in a Democratic majority state like California, the specific effects of local party affiliation were able to be more clearly analyzed and assessed. The authors also selected six cities with varying backgrounds in terms of recent immigration to the city and levels of unemployment in order to isolate the common factor for comparison as having a Republican majority. Thus, their findings were able to show that political partisanship represents the most significant factor to determine the likelihood of whether a city will pass a restrictive immigration ordinance.

Gulasekaram and Ramakrishnan (2015) also emphasize the role of "policy entrepreneurs" in pushing through local ordinances, often in collaboration with larger national networks. In cases without a clear local "policy entrepreneur" leading the push for specific local legislation, politics still comes into play via political ambitions of different candidates. For example, "Republican-heavy districts offer the chance for primary challengers to mobilize party activists who care intensely about the issue of illegal immigration" (Gulasekaram and Ramakrishnan 2015, p. 82). Overall, in their study analyzing localities in different states across the country, they find that "partisanship has the strongest and most consistent effects" (Gulasekaram and Ramakrishnan 2015, p. 83). Republican-majority municipalities are "2.5 times more likely to propose restrictive ordinances, and 4 times as likely to have passed such ordinances compared to Democratic areas" (Gulasekaram and Ramakrishnan 2015, p. 83). At the state level they discover that:

> After controlling for various demographic factors, states with a majority of Republican voters have passed more than twice as many significant pieces of restrictive legislation (four, on average, during this period) as did those states with a high proportion of Democratic voters (1.6 on average). (Gulasekaram and Ramakrishnan 2015, p. 83)

They also assessed the likelihood for states with "multiple pieces of significant restrictive legislation (three or more) versus the rest" and found that in this group, Republican-majority states are 300 percent more likely to have passed several restrictionist and anti-immigrant laws (Gulasekaram and Ramakrishnan 2015, p. 83). Based on their data, they conclude that "restrictive responses of local governments to undocumented immigration are largely unrelated to the measurable demographic pressures credited in the conventional model of subnational immigration regulation" (Gulasekaram and Ramakrishnan 2015, p. 83). In addition, the density or proportion of Latino residents and the rising proportion of the Latino electorate does not have a clear role in determining whether a municipality will pass anti or pro-immigrant policies.

While on a macro level, their research provides a quantitative analysis of the primary role of political partisanship in determining local immigration policies, one could still raise the question of the link between demographics and their electoral tendencies. For example, studies that show which demographic groups are more likely to vote for a Democratic versus a Republican candidate illustrate that larger immigrant heavy cities have a higher likelihood of voting Democrat, versus rural, less diverse municipalities (Igielnik and Budiman 2020). Furthermore, analyzing other factors could also provide another layer of understanding immigration federalism to discover if Republican-heavy cities are more or less likely to pass a restrictive ordinance if they are located in a Democratic-majority state, as a way of showing their disagreement with state laws; or vice

versa, if they are more likely to pass restrictive ordinances in a Republican-majority state because they have the support (resources or financial) from the state government. This question could also be considered by analyzing the timing of their actions, (as the next chapter will present) with subfederal actors deciding to pass their own policies to either show support for or dissent with specific federal legislation, and for policy entrepreneurs to take advantage of a niche opening to frame the urgency of passing local policies as a response. However, this study by Gulasekaram and Ramakrishnan (2015) still serves as an important contribution because it disproves the argument that more restrictive policies are passed primarily as a result of a recent rise in the number of immigrants, creating wage or employment concerns. By disproving this argument, it is therefore possible to observe how the perception or framing of these issues, rather than the actual numbers or data, is often more important to the political outcomes (Boin, 't Hart, and McConnell 2009; van Hulst and Yanow 2016; McCann 2003). Policy entrepreneurs are able to then capitalize upon this fear and perceived threat to pass ordinances to fight against an issue that may not even exist.

Within the uncooperative federalism model, states and localities show their dissension by passing their own laws and policies that are not in line with those of the federal government (Bulman-Pozen and Gerken 2009). Particularly in the realm of immigration federalism, some scholars argue that there must be a "precondition of federal inaction" that spurs a subfederal response which "fills the federal legislative void" (Gulasekaram and Ramakrishnan 2015, p. 88). Gulasekaram and Ramakrishnan (2015) state that this argument over simplifies the circumstances surrounding subederal action because "it conveniently reduces the phenomena of immigration federalism to the combination of *policy pressures from below* that confronts *legislative action from above*" (p. 88). They argue that federal inaction on its own is not enough to create the momentum for localities passing restrictive immigration laws. Instead, they contend that "party polarization" and "ethnic nationalism" represent two primary factors needed to push these types of policies (p. 89). When these factors are then utilized by "issue entrepreneurs," there is a greater likelihood for the presence of "federal inaction" to spur "subnational legislation" (Gulasekaram and Ramakrishnan 2015, p. 89). Thus, issue entrepreneurs promoting restrictionist legislation will have a higher chance of support within municipalities with federal representatives from their same party. State and local representatives then utilize this momentum, framing federal inaction as the reason which pushed them to create their own policies.

The authors also underline that "immigration issue entrepreneurs" help to create the background conditions that allow for localities to support their own immigration regulation policies

(Gulasekaram and Ramakrishnan 2015, p. 91). These issue entrepreneurs are particularly apt at "framing the narrative necessary for judicial and political acceptance of restrictionist legislation, and the targeting of specific jurisdictions with partisan conditions that are ripe for enacting such regulation with an eye to more widespread adoption" (Gulasekaram and Ramakrishnan 2015, p. 91). As will be explored in the following chapter, some of these strategies are also utilized by pro-immigration or "integrationist" issue entrepreneurs as well. Still, in the decades leading up to 2011, the "restrictionists were the first to exploit the power of state and local action to create a new de facto national policy" (Gulasekaram and Ramakrishnan 2015, p. 92). Prior to this, pro-immigration activists and "integrationist" issue entrepreneurs tended to focus their attention and resources at immigration policy reform at the national level. Although less prevalent, there were still some organizations working at the state level that were primarily concerned with blocking restrictionist and pro-enforcement state laws which put immigrants at risk. However, as Gulasekaram and Ramakrishnan (2015) explain, "It was only after 2011 that national and state-level integrationists began to adopt a more concerted and organized strategy of state-level proliferation that had previously been the hallmark of immigration restrictionists" (p. 92).

Building upon this, pro-enforcement regimes are often supported by a variety of actors, from federal and state elected representatives, to governors and mayors, and local law enforcement agents, like police chiefs and sheriffs. However, Gulasekaram and Ramakrishnan (2015) contend that while government officials have a role in pushing forward such policies, they are "co-venturers" working alongside "policy entrepreneurs" who usually have little oversight and can act more freely, within the context of their own networks and organizations, outside the realm of electoral politics (p. 94). They also argue that the approach of these policy entrepreneurs is particularly important due to their ability to transcend multiple levels of government, by lobbying national legislators and framing national public debate around issues of border security and "ethnic nationalism," while simultaneously identifying "the places where opportunities are greatest, offering model legislation and political counsel to ensure legislative passage, and lending legal expertise" (Gulasekaram and Ramakrishnan 2015, p. 94). Broad definitions of these issue and policy entrepreneurs include a range of actors, encompassing "local representatives, law enforcement officials, state legislators, governors, representatives, advocacy groups, research organizations, national radio personalities, television personalities, legal advocates and other organizations whose concerns lie well beyond immigration" (Gulasekaram and Ramakrishnan 2015, p. 96). Under this broad definition, issue entrepreneurs could thus be defined as "actors who wield influence at both federal and subfederal levels, and have been

central to a strategy of state and local proliferation" (Gulasekaram and Ramakrishnan 2015, p. 96).

However, Gulasekaram and Ramakrishnan (2015) prefer to focus on immigration issue entrepreneurs who have a particular set of skills including their "multi-level reach and forward thinking strategy" that allow them to manipulate public sentiment and frame public debates around an issue for which the public is not particularly well-informed (p. 96). By doing so, they are able to utilize the discourse of states' rights and individual freedoms as an argument against cooperation with federal and state immigration laws that promote immigrant rights and greater integration. They are also able to attract more individuals to support their cause and create a national network with localized actions. As a result, "the issue entrepreneurs' key intuition--connecting these substantive misperceptions and subnational policy proliferation-- is exploitation of the discourse of state and local rights for their particular policy ends" (Gulasekaram and Ramakrishnan 2015, p. 97). It is possible for a policy entrepreneur to also be a state or local official or politician, since they are in a strategic position to frame public issues and to reframe a subject to garner public attention and concern (Carpenter 2010). They can then use this attention to "promote the issue entrepreneurs' message that demographic 'facts' cause urgent policy problems, and are experts in manipulating the perception of public policy crisis for political gain" (Gulasekaram and Ramakrishnan 2015, p. 99). The example of Arizona's restrictive immigration policy SB 1070 can also be applied here. While there was public support for these anti-immigration policies based on the rhetoric of "safety and security" against crime and "illegal immigration," the actual background behind these policy was set during a period where there was a "marked drop in violent crime" (Chacón 2012; Gulasekaram and Ramakrishnan 2015, p. 98). Despite this fact, the issue entrepreneurs based in Arizona successfully warped the perception of crime in their state, and were able to diffuse their own rhetoric as "purveyors and disseminators of immigration 'facts'", and to do so in jurisdictions that were already prone to believe their arguments of "the danger posed by migrants" (Gulasekaram and Ramakrishnan 2015, p. 98).

The coordination of these actors together contributes to the development of the pro-enforcement agenda. As outlined above, these policies have more and more intensely focused on controlling the daily lives of immigrants. This includes intensified policing, border patrol and detention stays, but also state policies that would punish employers and landlords who hire or rent to unauthorized immigrants, with repercussions as well for the immigrants themselves (Abrego et al. 2017; Menjívar and Kanstroom 2014). To convince local authorities, employers, schools and the local population more generally to support these types of measures, issue

entrepreneurs and pro-enforcement actors rely upon a long history of using the “rule of law rhetoric” with a focus on public safety (De Genova 2004; Douglas and Sáenz 2013; Massey and Pren 2012). By utilizing the discourse that unauthorized immigrants or residents are “law breakers or public safety risks,” local officials and issue entrepreneurs create the “basic legitimacy of an immigration enforcement regime, which would make enforcement cooperation a matter of systemic integrity” (Rodriguez 2017, p. 515). As a result, those who support such actions manage to manipulate the public in many areas to generate the belief that there is an urgent necessity to defend the entire system, and that they are acting in the best interests of protecting U.S. citizens and local communities. However, often masked behind this attempt to frame the issue as a “rule of law” question is a general “resistance to cultural change and racial diversity that immigration produces” (Rodriguez 2017, p. 515) and beyond that, a systemically racist system that deliberately establishes a category of noncitizens along demographic lines, as shown by examples of police brutality and violence toward minorities in the U.S. (Akbar 2020; Bell 2017; De Genova 2004; Massey and Pren 2012; Romero and Serag 2004)

Therefore, the illegalization of immigrants intersects directly with racism and discrimination toward people of color, whether via intensified policing, lack of access to public resources, and education and fair employment opportunities, all of which coincide with the same policies used to regulate immigration (Arriaga 2016; Chacón 2012; Cházaro 2016; Douglas and Sáenz 2013; Garcia Hernandez 2013). Moreover, within this “pro-enforcement” regime, many actions fall within the federal legal framework and attempt to act within the federal system to create their own enforcement policies, or to show their disagreement with federal or state legislation. However, pro-integration and immigrants’ rights groups also responded to this increasing criminalization and intensified enforcement regime by using similar legal strategies and political actions permitted under the federal system. As the next chapter will present, within the immigrant rights movement, there is a concerted effort to remain a part of the federal system while also “creating alternative legal regimes” (Rodriguez 2017, 522).

c. Effects of criminalization on daily life

The historical trajectory of these policies at the federal, state, and local levels greatly contributed to the criminalization of immigrants and immigration more generally and thus have enduring effects on the daily lives of immigrants and undocumented residents. These policies all relate to the criminalization of immigration via the "social control" of immigrants through increased surveillance of their daily lives, whether via a routine traffic stop, access to services, discriminatory

treatment, or paying a double punishment for committing any type of legal offense (Abrego et al. 2017; Coleman and Stuesse 2014; Douglas and Sáenz 2013; Garcia Hernandez 2013). As Abrego et al. (2017) explain:

> The attachment of new immigration consequences to a pre-existing landscape of police-civilian contacts results in newly disproportionate risks for communities of color, such that undocumented immigrants face the threat of deportation as a result of basic non-criminal activities related to work and social reproduction. (p. 704)

Because of this, they argue that "criminalization is based on the active presumption that immigrant communities are criminal enclaves and as such somehow legitimate objects of disproportionate policing" (Abrego et al. 2017, p. 704). Under the guise of public safety, many of these enforcement policies instead pose a threat to community trust and police confidence due to the over policing, racial profiling and other discriminatory and violent enforcement and detention measures (Akbar 2020; Bell 2017; Chacón 2012).

On a daily basis, the effects and ramifications of this can be felt in immigrants' and undocumented residents' interactions with police, but also with government bureaucracy, services, employment and licenses. As Abrego et al. (2017) explain, "Criminalization is evident in the experiences of immigrants, their relatives, and communities, within the home and as they interact with central social institutions in their everyday lives" (p. 704). Accessing higher education and employment opportunities can be especially challenging for young undocumented residents due to their irregular status. The effects of this difficulty can start even earlier in high school when students start to look into college applications which require a social security number, or when they are blocked from accessing financial aid opportunities to assist with tuition fees. This can create an environment where some students no longer see the point of continuing their studies or putting in effort at school if they know their future opportunities are limited (Abrego et al. 2017; Nicholls 2014).

To address this issue, some universities modified their admissions requirements to encourage undocumented students to enroll (California State Legislature 2001; California State University n.d.; University of California n.d.). Other universities even passed their own sanctuary resolutions to change the university-wide policies and lend support to the greater sanctuary movement (Simón 2016; UC PromISE and USEP 2020; University of California n.d.). Such policies typically range from eliminating the requirement to have a social security number to dedicating specific scholarships and financial aid opportunities for undocumented students. However, for public universities, certain requirements such as proof of being a legal state resident

could only be modified at the state level, rather than individual campuses. Responding to this challenge, the state of California changed its law in 2001 so that state residency would no longer be determined by a social security number or legal resident permit, but instead allowed students to prove state residency by completing at least three years of high school in California (California State Legislature 2001). Ten years later, California Governor Jerry Brown passed several state Assembly Bills (AB 130 and AB 131) to allocate specific scholarships from private donations or foundations be made available to undocumented students, as well as to allow them to apply for state financial aid (California State University n.d.). At the university level, the University of California system established an Undocumented Student Legal Services Center to provide legal aid and financial resources to students. The Executive Director, María Blanco, explained that universities could be encouraged to go a step further to "consider a sanctuary system that blocks campus police departments from collaborating with ICE agents. The administration could also commit to shielding students' records from law enforcement" (Levin 2016; University of California n.d.).

Despite these efforts at the university level, since Trump's election in 2016, a growing number of families became increasingly concerned with ordinary activities, including picking up their children from schools (Blitzer 2017; Castaneda 2017; Castillo 2017). While several lawsuits against restrictionist policies guaranteed that children are entitled to public education, their parents are still at risk.(Chacón 2012; Pham and Van 2019). When President Trump took office, the federal government encouraged ICE to increase enforcement in areas that typically were left alone, such as schools and courthouses. There were ensuing reports of children awaiting a parent to pick them up from school only to find that their mother or father was detained and facing deportation (Blitzer 2017; Castaneda 2017; Castillo 2017). Outside of courthouses, ICE started waiting for undocumented individuals on trial or acting as a witness for a trial, in order to arrest and detain them. Even if the court finds that the person was innocent or was not charged with a crime, ICE can still use the information provided from the court's database to arrest the person for immigration violations (ACLU 2018; Immigrant Defense Project 2019; Katkov 2021). Parents also reported their concerns to access health services or take their children to be vaccinated as required by schools for fear of being registered and found to be undocumented (Berk and Schur 2001; Boyd-Barrett 2018; Elejalde-Ruiz 2018; Lopez 2018). Such measures affect public health, safety and the guaranteed right to education for minors, regardless of their status, and create a stigma attached to these children and parents that is difficult to overcome.

Young undocumented residents also face further hardship when searching for employment opportunities. These difficulties include finding an employer who will hire an undocumented employee to being completely blocked from entering specific sectors of the workforce. Furthermore, these individuals are also susceptible to abuse and minimum wage violations from employers who know that they can take advantage of their vulnerable situation (Abrego et al. 2017). Even if an undocumented person is able to find a job, many also face the roadblock of being able to obtain a valid driver's license. In many cities and regions in the U.S., being able to drive and having access to a vehicle is the only mode of reliable transportation available. As a result, many people are forced to drive without a license on a daily basis in order to get to work and carry out their daily lives, knowing that they are at risk from any potential interaction or traffic stop from a police officer, which leads to a feeling of "constant stress" (Abrego et al. 2017, p. 705). As mentioned in the previous sections, police officers and local enforcement agents are found to disproportionately stop Latinos to request identification and check immigration status (Abrego 2011; Romero and Serag 2004). Resulting from these practices, "Even US-born Latinos may suffer negative consequences in the form of discriminatory treatment, denial of services, and infringement of their rights" (Abrego et al. 2017, p. 706). Responding to this, certain states passed laws allowing undocumented residents to obtain a driver's license in order to protect them from police investigation while driving (Guzman 2022; National Immigration Law Center 2021). Despite some progress at state or municipal levels to expand access to certain rights and services, the patchwork of legislation and enforcement practices remains varied, offering limited protection in many areas.

These criminalization and enforcement practices also generate a pervasive fear among many immigrant communities, and the Latino community in particular. According to a survey from the University of Chicago which interviewed Latino residents in Chicago, Houston, Los Angeles and Phoenix, researchers found that both documented and undocumented Latino immigrants, and even U.S.-born Latinos are more reticent to contact the police for various reasons (Theodore 2013). Their results presented the following data:

- "44 percent of Latinos surveyed reported they are less likely to contact police officers if they have been the victim of a crime because they fear that police officers will use this interaction as an opportunity to inquire into their immigration status or that of people they know." (Theodore 2013)

- “45 percent of Latinos stated that they are less likely to voluntarily offer information about crimes, and 45 percent are less likely to report a crime because they are afraid the police will ask them or people they know about their immigration status.” (Theodore 2013)
- “70 percent of undocumented immigrants reported they are less likely to contact law enforcement authorities if they were victims of a crime.” (Theodore 2013)
- “28 percent of US-born Latinos said they are less likely to contact police officers if they have been the victim of a crime because they fear that police officers will use this interaction as an opportunity to inquire into their immigration status or that of people they know.” (Theodore 2013)
- “When asked how often police officers stop Latinos without good reason or cause, 62 percent said very or somewhat often, including 58 percent of US-born respondents, 64 percent of foreign-born respondents, and 78 percent of undocumented immigrant respondents.” (Theodore 2013)

These results also support the research conducted on crime rates in counties which have passed sanctuary laws versus those that have not. The analysis conducted by Wong (2017) shows that “crime is statistically significantly lower in sanctuary counties compared to nonsanctuary counties,” with an average of 35.5 fewer crimes per 10,000 people (p. 1). Wong (2017) explains that the results align with the view of many law enforcement agents who argue that “communities are safer when law enforcement agencies do not become entangled in federal immigration enforcement efforts” (p. 11). Such viewpoints are also echoed by the International Association of Chiefs of Policy which states that “[S]tate and local law enforcement should not be involved in the enforcement of civil immigration laws since such involvement would likely have a chilling effect on both legal and illegal aliens reporting criminal activity or assisting police in criminal investigations” (Wong 2017, p. 3). Wong (2017) also notes that the Major Cities Chiefs Association supported these assessments stating that collaboration between local law enforcement with federal immigration enforcement “would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts” (p. 3). However, once again, these viewpoints from local enforcement vary greatly by municipality and state, with numerous examples of police chiefs and sheriffs who vocally declared their refusal to comply with state or municipal sanctuary policies, and choose to cooperate with federal enforcement policies, like the 287(g) program (Fang and Winston 2017; Henderson 2017; Mejia 2020; Rodriguez-Delgado 2022).

The constant stress and fear caused by the policing and control of daily life has ongoing effects on mental health for many immigrants and undocumented residents. Several studies reveal the effects of mental and developmental health of children growing up undocumented and living through the process of illegalization (Ro, Rodriguez, and Enriquez 2021; Stacciarini et al. 2015; Velarde Pierce et al. 2021). Analyzing the outcome of mental health studies provides insight into the ways in which these criminalization policies, policing, and lack of access to regularize one's immigration status affect individuals who grow up in the U.S. without a legal status. They are thus forced into a constant precarious legal situation, which translates as well into a "a state of developmental limbo in which they cannot vote, drive, or apply for a job, and are thus excluded from a natural transition to adulthood" (Stacciarini et al. 2015, p. 1225). Stacciarini et al. (2015) find that there tends to be a harsh transformation when these young people "leave the protective environment of school" to the reality of adulthood without papers (p. 1225). Such feelings of frustration and stress are further exacerbated by "the day-to-day feelings of helplessness combined with the intense fear of 'being hunted' by immigration officials… which can significantly affect their long-term mental health" (Stacciarini et al. 2015, p. 1225). These factors contribute to the likelihood of adolescents in this group facing higher rates of anxiety and depression. Based on Stacciarini et al.'s (2015) interviews, they describe that fear is a central and persistent factor for those growing up undocumented. There is not only a constant fear of deportation or of being separated from their parents and siblings, but also an internalized fear which "has become an integral personal feeling" (Stacciarini et al. 2015, p. 1228).

The role of school is also a significant factor in the transition for undocumented youth, since on the one hand, they are a part of the U.S. public school system, and therefore form a strong identity and connection to their country, community, and peers, but, on the other hand, may be blocked from accessing opportunities available to the students around them. While younger children are typically shielded from some of the effects of living undocumented, the disparity between undocumented and documented students becomes greater starting around adolescence, when, for example, they cannot apply for a driver's license, internship or job, or pursue higher education (Abrego 2011; Gonzales 2011; Stacciarini et al. 2015). They increasingly find that moving from the public school system into adulthood results in further challenges to access basic rights, public services and employment. Gonzales (2011) describes this transition as the:

> Move from protected to unprotected, from inclusion to exclusion, from de facto legal to illegal. In the process, they must learn to be illegal, a transformation that involves the

> almost complete retooling of daily routines, survival skills, aspirations, and social patterns. (p. 602)

This transition also tends to result in increasing social isolation as they confront the reality of unequal opportunities when compared to their classmates (Gonzales 2011; Gonzales and Chavez 2012). As discussed earlier, the Supreme Court case Plyler v. Doe ruled that all children are guaranteed access to public education through high school, and coupled with the Family Educational Rights and Privacy Act, which protects students' immigration status and records from authorities, schools are able to provide a safe space for many when compared to other aspects of their daily lives, and prior to entering adulthood (Abrego 2011; Gonzales and Chavez 2012). However, upon leaving school and finding themselves blocked from obtaining a driver's license, university degree, or the right to vote, undocumented youth reported feeling a "stigmatized" identity that studies have shown "can harm their long-term mental and emotional health", further exacerbated by the constant fear of deportation for themselves or members of their families (Stacciarini et al. 2015, 1229).

Thus, in addition to legal processes of criminalization, there are ongoing social processes of criminalization and illegalization that occur in varying degrees at different moments of an immigrant or undocumented person's life. This further illustrates how immigration is both fundamentally spatial and temporal; it can change over time and alters the daily lived realities of those affected (Bauder 2017; Bauder and Darling 2020; Rodriguez 2017). Such factors have strong consequences on identity and belonging, with the possibility of creating both greater exclusion and restriction versus integration and inclusion. While this dissertation focuses on the policies and political agendas that contribute to the social processes of criminalization, it is important to understand the effects of these policies to better understand the motivations behind the grassroots mobilization and local policies that seek to protect and promote immigrant rights. The history of deliberate criminalization via policies, policing and restrictions on individuals' daily lives reflect the consequences of decades of anti-immigrant legislation and framing. However, these periods of intensified restriction also generated social mobilization and local resistance at different key political moments. As the next chapter will illustrate, the history and the different stages of the sanctuary movement reveal how such policies and practices can be challenged at various subfederal levels, from street-level protests, to municipal ordinances, to state level legislation.

d. Conclusion: local policy activism on both sides of the political spectrum

The analysis of the history of criminalization towards immigrants and minorities in the United States provides the basis to understanding the responses from the different waves of sanctuary. Building upon this history of local sanctuary mobilization, activists and immigrant rights groups are increasingly choosing to align themselves more closely with protests against police brutality, the privatization of the prison system, and discriminatory policing, recognizing the shared challenges with non-immigrant minority groups. In some instances, these actions result in policy innovation at the local level, directly challenging federal immigration enforcement programs, with some cities and politicians using the momentum from municipal policies to pass state level sanctuary laws. At the same time, criminalization policies, which often stem from the federal government's actions, may also occur at state and local levels in various capacities. Local policy activism in these instances focuses on restricting immigrant rights with the help of issue entrepreneurs working within different levels of the federal system. In doing so, they capitalize upon the discourse of public fear and security, coupled with the perception of federal inaction to take a tough stance on enforcement, and thus argue that there is a policy gap which needs to be filled. As the next chapter will show, sanctuary and pro-immigrant activists use similar tactics and tools to express their own resistance to federal policy, as a deliberate response to criminalization and enforcement at all levels.

Part 3: The Sanctuary Movement, Policies and Practices

Chapter 5: The History and Policies of the First and Second Wave of Sanctuary

a. Introduction: defining the sanctuary movement and policies

As the previous chapter illustrates, criminalization policies and illegalization processes of immigrants in the United States have been at the root of immigration enforcement since the construction of the U.S.'s earliest borders. Since the 1980s, these enforcement measures grew extensively, simultaneously contributing to the growth of a large undocumented population of roughly 11 million individuals, manipulating the public perception of these individuals as "illegal aliens" or "criminal aliens", and finally, using these policies, enforcement agencies and public support to heavily police and control significant aspects of their daily lives (Abrego et al. 2017; Budiman n.d.; Chacón 2012; De Genova 2004). However, while some states and localities, with the support of policy entrepreneurs and advocacy networks (Mintrom and Vergari 1996; Sabatier 1988) use their role in the federal system to continue this trend of restrictionist and criminalizing policies, pro-integrationist localities, states and activist groups counter with their own local movements as well (Gulasekaram and Ramakrishnan 2015; Lasch et al. 2018; Varsanyi et al. 2012). Observing these trends, leads one to question which factors contribute to the passage of subfederal policies and spark grassroots movements during particular time periods or moments of crisis (Boin, 't Hart, and McConnell 2009; Collier and Collier 1991). In the case of the sanctuary movement, several scholars and responses from immigrant rights groups suggest that there is a greater tendency to look toward the local and state governments to act when they perceive that the federal government has failed to do so (Gulasekaram and Ramakrishnan 2015; Pham and Van 2019; Rodriguez 2017). In addition to the perception of federal inaction as a factor, policy entrepreneurs, with the support of advocacy coalitions and local and national networks, work to frame the issue and utilize a political opening or crisis in order to call greater attention to their cause and to enact local legislation in line with the sanctuary movement.

Although the Trump campaign and administration brought renewed attention toward U.S. immigration policy, the incendiary, anti-immigrant rhetoric characterizing the Trump presidency was not only driven by recent political shifts, but rather was built upon decades of federal policies aiming to criminalize immigrants. Responding to this heightened enforcement and deportation agenda, the sanctuary movement served, and continues to serve, as a platform for resistance

and mobilization of some of the most vulnerable and most greatly affected groups, particularly Latino immigrants and undocumented residents. Dating back to the 1980s when religious organizations and local activists fought to protect Salvadoran and Guatemalan refugees, the sanctuary movement today has broadened to include city councils, community activists, universities, private businesses, and state governments, among others (Lasch et al. 2018; Villazor and Gulasekaram 2019). While those involved in the movement employ different tactics, they share a common objective of dissenting against a system that they believe does not function for millions of undocumented residents in the United States. By taking part in the movement towards sanctuary, these actors strive to improve the daily lives of undocumented residents by increasing their access to employment, education, healthcare, and other public services, and by recognizing their contribution to the country's development overall (Graber and Marquez 2016; Unzueta 2017).

Historically, certain issues have had greater success in reaching the federal level and national stage, for example, the DREAMers and DACA program to provide temporary residency to undocumented youth (Flores 2016; Nicholls 2013), as well as the push for agricultural immigrant workers to gain legal residency (Lofgren 2021). The sanctuary movement, however, represents a particular movement and collection of policies to study because the movement and use of the term "sanctuary" has endured over time, adapting its goals to respond to changing priorities on the ground. The movement, which began as a single-issue cause to provide asylum for Guatemalan and Salvadoran refugees, has transformed into a much broader coalition for undocumented residents' rights and local protection from over policing more generally. While the different waves of the sanctuary movement occurred alongside various immigrant rights advocacy mobilizations in the US, the sanctuary movement is also unique in its specific focus to work with local and state governments, rather than targeting federal Comprehensive Immigration Reform from the top down, resulting in subfederal policy outcomes including sanctuary city resolutions and ordinances. In this way, sanctuary cities and the sanctuary movement serve as clear examples of immigration federalism; rather than viewing immigration policy as the sole domain of the federal government, sanctuary networks choose to concentrate their actions at the local community and municipal level (Coutin 1990; Lasch et al. 2018; Villazor and Gulasekaram 2019).

Despite different waves of sanctuary since the 1980s, the sanctuary movement has always shared the common approach of starting at the level of local government, to show its disapproval of the federal or state policy in place, or to voice a concern with the lack of a cohesive structural reform overall. In some ways similar to the approach taken by restrictionist policy

entrepreneurs (Gulasekaram and Ramakrishnan 2015) discussed in the previous chapter, these pro-sanctuary activists focus on local mobilization and municipal level policies, eventually working upwards to collaborate with state and national networks. Just as certain periods saw greater criminalization due to external conditions like the Cold War, post 9/11 and the establishment of the DHS, and the Trump campaign and election, immigrant rights movements responded in kind to policies and measures that contributed to unacceptable and unlivable conditions, starting with the 1980's sanctuary movement in the context of the Cold War and leading up to the most recent sanctuary movement since 2016 and its alignment with protests against police brutality and immigrant detention.

Defining "sanctuary"

The term sanctuary, and sanctuary cities in particular, encompass both a broad social movement, local and state policies, and also measures taken by non-governmental actors, including universities, employers, and community groups. While the focus of this dissertation centers on the policy outcomes of the sanctuary movement, particularly subfederal sanctuary policies, it is important to understand the network of actors involved that contribute to the municipal policy, and the local resistance to federal immigration enforcement more generally. The term "sanctuary city" is applied to broadly include localities that declare their intention to disentangle certain aspects of federal and local immigration enforcement (Lasch et al. 2018). However, there is not one precise definition of sanctuary cities, and it can be understood as a nebulous term, with many counties and county-level policies included or categorized as sanctuary "cities" due to the presence of a specific ordinance or provision that seeks to protect undocumented residents in their county. Furthermore, sanctuary policies have also been scaled up to the state level as well, with states like California passing the "California Values Act" or SB 54, which is commonly referred to as the state's sanctuary law (California State University n.d.; Narea 2020a; Raphelson 2018; Savage 2020). While this may seem to imply that all cities and counties within the state should act accordingly, falling under the state sanctuary umbrella policy, sanctuary, as with local enforcement, is an inherently spatial issue , and conflicts continue to arise among different cities and counties, and even within the same county and state (Elias 2013; Filindra and Kovács 2012; Rodriguez 2017; Varsanyi et al. 2012).

In addition, some cities that align themselves with the most recent sanctuary movement and its objectives made the deliberate decision to avoid using the term sanctuary, preferring to use labels such as "welcoming city" or "inclusive city" (Lasch et al. 2018). While there are different motivations for doing so, some municipalities select to use a distinct term in order to avoid the

misconceptions that the federal government and media have created around sanctuary, or to avoid being targeted by the Trump administration or their own state governments (Alvarez 2017; Cooke and Hesson 2020; Narea 2020b). Villazor and Gulasekeram (2019) argue that the study of sanctuary cannot only focus on questions related to the legal framework or jurisdictions within the context of immigration federalism, but instead should encompass all the actors participating in sanctuary today (including churches, universities, companies, private individuals, and more). However, as my research shows, rather than referring to the specific or formal sanctuary networks in place, it is possible to understand how all of these actors and institutions fall under the sanctuary "umbrella" due to their shared disagreement with specific aspects of federal immigration policy and enforcement, and the use of common strategies and tools at the local level to express their dissent. Furthermore, the most recent developments of the sanctuary movement since 2016 reveal an increasing alignment with mobilizations against police discrimination and brutality, as well as their opposition to the widespread use of imprisonment and deportation against minority groups. As such, the scope of my research centers upon local sanctuary policies, while providing a historical overview of the different waves of sanctuary and its changing goals, motivations, and priorities.

In attempting to define the third and most recent wave of sanctuary, some scholars recognize that President Trump's targeting of sanctuary cities via his announcement of a "nationwide crackdown on sanctuary cities," and ensuing threats of defunding, resulted in one of the only federal definitions of what a sanctuary city actually is (Lasch et al. 2018). As Lasch et al. (2018) point out, "Although President Trump's definition of 'sanctuary jurisdictions' has been imprecise, he has generally used the term to refer to those local jurisdictions that choose not to cooperate with federal deportation efforts" (p. 1705). In Trump's Executive Order No. 13768 on interior enforcement (2017), "sanctuary jurisdictions" are defined as municipalities that "willfully refuse to comply with 8 U.S.C. 1373." Other scholars interpret that his Executive Order is directed towards any sanctuary jurisdictions that "decline to comply with immigration detainers or have 'a policy or practice that hinders the enforcement of Federal law" (Lasch et al. 2018, p. 1705). In another instance, the Department of Justice defined sanctuary cities as "jurisdictions that may have state laws, local ordinances, or departmental policies limiting the role of local law enforcement agencies and officers in the enforcement of immigration laws" (U.S. Department of Justice 2007).

While these definitions of sanctuary cities are shaped by various political factors, other scholars like Motomura (2018) prefer a broader definition of sanctuary policies to include any

policies that “protect or integrate unauthorized migrants” (pp. 81-85). This expansive view includes any legislation or programs that support undocumented migrants and residents, such as university tuition assistance, access to driver’s licenses, and other social benefits. According to Spiro (2010), sanctuary policies “may also spring from some sense of locally-delimited community,” but still maintain a focus on refusing to comply with federal immigration enforcement (p. 566). Markowitz (2015) also follows this line of research by concentrating on policies at the state and local level that are dedicated to making their cities and states more inclusive for immigrants. Most recently, certain activist groups like the Fair Punishment Project and Mijente emphasize the sanctuary movement’s goal to include reforms to the criminal justice system, as well as illustrating the negative effects of this system on minority groups in general, including communities of color and LGTBQ+ individuals.

Ultimately, it is possible to observe how researchers and activist groups center upon two main areas in attempting to define sanctuary. One is the legal definition in a federal system, showing local dissent by passing municipal or state policies to protect undocumented residents (Lasch et al. 2018, McCormick 2016). The second area focuses on sanctuary as a “practice” in addition to a policy, which includes any actions taken by local actors, including employers, universities, religious institutions, among others (Wiebe 2017). This approach corresponds with the research on “sanctuary networks”, which seeks to recognize all of the actors and stakeholders involved in efforts to protect local undocumented residents from police control and deportation, and to help them more easily carry out their daily lives (Villazor and Gulasekaram 2019). Overall, one of the most commonly accepted definitions of sanctuary includes policies and practices that “seek to disentangle federal immigration enforcement from local criminal justice systems” (Lasch et al. 2018, p. 1706). Adding to the discussion on defining sanctuary, Lasch et al. (2018) emphasize the importance of analyzing the “rationales” behind sanctuary policies and cities, concluding that “although the specific rationales of different jurisdictions are varied, they generally agree that immigrant protective policies are an important way to preserve local sovereignty, define local priorities, and enhance community trust in law enforcement” (p. 1709). In their research of policy rationales, they find that these states and localities aim to promote more inclusive policies for immigrants and minority groups, while protecting residents from discriminatory practices resulting from law enforcement and policing.

As such, while many scholars agree that there is no single definition of sanctuary policies or cities, they have not yet questioned what links the sanctuary movement’s goals and priorities to one another, how the policy outcomes evolve over time, and how the historical context and

political openings contribute to local action during critical junctures or moments of crisis (Boin, 't Hart, and McConnell 2009; Collier and Collier 1991). The following sections will therefore provide the historical overview of the different waves of sanctuary to better understand the roots of the movement and how it has grown and expanded its efforts over the past four decades. My research presents three main waves of sanctuary: the first wave of the 1980s, as a response to providing asylum for Salvadoran and Guatemalan refugees; the second wave in the 2000's, which sought to address the large undocumented population and the failure to achieve "Comprehensive Immigration Reform" (CIR); and finally, the third wave of sanctuary beginning in 2016, which arose in response to the Trump campaign and the first years of his administration. Adding to this historical account, the following sections include my analysis of the entire database of 523 sanctuary policies dating from 1979 to 2018, compiled by Lasch et al.'s (2018) research and made publicly available by the Westminster Law Library.[10] My analysis provides further concrete evidence to support the observations and research previously compiled on the sanctuary movement and policies, while also illustrating the main themes, arguments and common threads of the sanctuary movement and the changes it has seen over the past 40 years.

Database Analysis and Methodology

Although sanctuary can take many different forms, whether via social movements and grassroots activism, institutional networks, and policies, my analysis focuses specifically upon sanctuary policies, which I define as referring to any policies or legislation that fall under the sanctuary umbrella. This includes any policies that strive to separate federal immigration enforcement from local enforcement practices, via municipal declarations of resistance or to express their discontent with federal immigration law or practices, and/or through declarations of support for inclusive communities and immigration reform. While Lasch et al. (2018) provide a clear categorization of the main types of state and local ordinances associated with sanctuary and their rationales, notable historical differences in the different waves of sanctuary dating back to the 1980s, including their primary objectives, as well as the measures they seek to enact, may also be taken into account to better understand sanctuary as a significant example in the history of immigrant rights movements, spanning several decades, and adapting to shifting local and national priorities. In doing so, one may also question how these policies, with varying objectives and mandates, may all be viewed as forming a part of the sanctuary movement and falling under the same sanctuary policy umbrella. To respond to this question, my analysis of the policy

[10] For access to the full database from the Westminster Law Library: https://libguides.law.du.edu/c.php?g=705342&p=5008843

database establishes the main factors linking the policies to one another, illustrating how they may still be categorized as sanctuary policies, despite their differences. This database analysis adds to the existing literature and classification of the main types of policies and their rationales, as well as their frequency and location, by utilizing a qualitative and quantitative approach to demonstrate the central themes that tie these policies together under the sanctuary umbrella. It also illustrates how these policies change and evolve over time, and determines which policy tools and legal mechanisms are utilized most often by localities within the immigration federalism framework. Ultimately, these results reveal an ongoing struggle to provide a broader expansion of rights for immigrants and other diverse groups, alongside efforts to redefine the role of policing and local regulation as the central policy tool to advance these priorities.

When reviewing the policies over time, I determined that analyzing the policies within time periods of varying intervals, rather than a set uniform number of years for each group, provides a more accurate presentation of the different waves of sanctuary by more clearly illustrating the types of policies that arose in response to specific federal legislation and enforcement actions at key historical moments. Since I demonstrate that sanctuary is most often a response to increased enforcement via federal level policies at specific critical junctures, it is therefore more precise to examine the sanctuary policies as a response to time periods characterized by distinct legislative actions, rather than by a set number of years. In addition, this analysis further adds to the literature by providing a quantified presentation of the peaks in the number of policies during different periods and the specific federal legislation and national context that sparked a response from local actors. My analysis also extrapolates some geographic significance by providing the number of policies per state, and noting that California's sanctuary policies, in addition to having the highest concentration of sanctuary jurisdictions, tend to have a more progressive and broader reach, and more openly assert their disagreement with federal policies or specific presidential administrations, in particular with the Trump presidency.

As such, while sanctuary may at first appear to be a term or label to cover several distinct immigrant rights movements that occurred over different periods of time, the database analysis reveals important links to illustrate how these policies can indeed be categorized as falling under the sanctuary umbrella. By focusing on the policies themselves, in addition to sanctuary as a social movement, it is possible to more clearly observe a common thread throughout the different time periods, in particular regarding the types of concrete measures and tools that localities have at their disposal. Furthermore, by examining the different policies over time, one can observe the consistent themes of guaranteeing, expanding or reaffirming the protection of rights for

immigrants throughout the different waves of sanctuary, corresponding to activists' and policy entrepreneurs' efforts to support or resist federal policy by delineating the role of local law enforcement. In addition, the historical analysis from the 1980s leading up through the first years of the Trump administration illustrates how actions dedicated to the expansion of immigrant rights have transformed to incorporate increasingly larger populations, starting with Central American refugees and growing to encompass all undocumented immigrants and minority groups as a way to encourage more diverse and inclusive communities.

b. The historical context of sanctuary cities and the first wave of sanctuary

The first wave of sanctuary cities has its roots in the 1980s sanctuary movement and has also been referred to as the "US-Central American sanctuary movement" (Perla and Coutin 2010). The movement began in response to the refusal by the U.S. government to recognize Guatemalan and Salvadoran asylum seekers as refugees fleeing civil war (Ridgley 2008, p. 65). The Reagan administration contended that they were "economic migrants" who could not benefit from refugee status and could thus be detained and deported (Ridgley 2008). The context of the Cold War in the 1980s, coupled with the U.S.' support of regimes that were fighting against groups supported by the Soviet Union, provided both the justification for U.S. military intervention abroad and for stricter immigration controls inside its own borders. Furthermore, the U.S. government attempted to justify its refusal of refugee status through the use of incendiary rhetoric, which sparked a response from refugee advocates and activist groups, especially when reports from organizations like the ACLU publicly revealed the number of Central America deportees who were killed after being sent back to their home countries (Ridgley 2008).

Further revelations contributing to the creation of the sanctuary movement included reports of lack of due process and legal services, in addition to personal testimonies of the conditions at INS detention centers. These reports and testimonies helped to spark the first sanctuary movement, originally led by a group of religious organizations in California and Arizona (Coutin 1990; Ridgley 2008). These organizations, along with protestors of the U.S. military involvement in Central America, formed the basis of the movement, and were later joined by universities, civil rights groups and human rights organizations. Their primary goal aimed to provide basic services and legal assistance to Central American asylum seekers. In addition, these "sanctuary workers", often working in conjunction with a church or synagogue, expressed their views on the "immoral refusal" of the U.S. government to appropriately respond to the situation (Coutin 1990).

Under the umbrella of the sanctuary movement, the local governments in favor of sanctuary responded by providing resources to the organizations involved in the movement. Following this, some cities started to pass sanctuary city policies “to limit the use of local resources, particularly those related to policing, to support the enforcement activities of the INS and to challenge the federal government for its failure to uphold its domestic and international legal obligations” (Ridgley 2008, p. 66). Within three years, from 1984-1987, twenty cities and two states passed resolutions to provide sanctuary for Central Americans, with many including “statements of noncooperation with the INS” (Ridgley 2008, p. 66). One of the most significant sanctuary cities to come forward at this time was San Francisco. In 1985, the city passed its first resolution as a “City of Refuge,” and the then mayor of San Francisco, Diane Feinstein, stated, “the resolution has one purpose and that is to emphasize that persons are not going to be discriminated against or hassled in San Francisco because of their immigration status as long as they are law-abiding” (CBS Bay Area 2015). In 1989, San Francisco passed its first sanctuary city ordinance, making it the only city at that time to go beyond symbolic resolutions and statements and to issue a specific law related to the protection of immigrants. The law states that:

> No department, agency, commission, officer, or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information as defined in Chapter 12 in the City and County of San Francisco unless such assistance is required by Federal or State statute, regulation, or court decision. (San Francisco Administrative Code 1989)

Just as these policies and actions of non-cooperation began to occur, so did the disapproval from federal agencies. Some activists involved faced legal prosecution due to their work providing shelter and legal assistance to asylum-seekers (Coutin 1990). Sanctuary cities as well were criticized by INS officials and by some members of Congress who suggested withholding federal funds from these cities, thus providing an early model for President Trump’s Executive Order a few decades later. An article by the LA Times from 1985 shows direct criticism from the INS Western Regional Commissioner of the U.S. Referring to the Los Angeles city council vote on its Sanctuary City Resolution, the Commissioner claimed, “Los Angeles is the illegal (alien) capital of America in the first place…This would send a message out that 'L.A.'s the Place' to be free from the INS. . . . How can city officials promote the violation of federal law?” (Becklund 1985).

Although some of the initial outcomes of sanctuary resulted in local municipal resolutions, when compared to the later periods of the sanctuary movement, the first activists involved started their mobilization as a transnational humanitarian effort focused on asylum seekers coming from El Salvador in particular. Thus, despite the expansion of sanctuary in later decades, the movement has its roots in a more narrowly defined humanitarian context with religious organizations and local actors concentrating on aid and relief during a civil war. As the following waves of sanctuary illustrate, the sanctuary movement has grown in its scope and objectives, but still shares its roots in stemming from a disagreement with the federal government's policies and actions towards a specific group of immigrants.

While the movement's efforts at this time concentrated on "securing refuge, condemning human rights abuses, and preventing U.S. military intervention abroad," (Perla and Coutin 2010, p. 8) the effects of these actions, in both the legal jurisdictions of local immigration policy and the moral justifications tied to local actors' dissension with federal policies has an ongoing impact on the U.S. immigration landscape today. Two important differences when compared to the following waves of sanctuary have to do with the transnational nature of the movement, as well as the issue entrepreneurs and movement leaders who were involved. Perla and Coutin (2010) explain that although Central American revolutionaries were implicated in the movement both in Central America and in the U.S., to gain traction on the U.S. side, "Salvadoran immigrants had to be willing to strategically stay quiet, become invisible, or abstain from taking on certain leadership roles in the movement" in order to support the framing of their image as "refugees" or "victims" (p. 9). This strategy of creating a "deserving" immigrant or "victim" and of focusing on the frame of "refugee" was also utilized in proceeding immigrant rights' movements, including the New Sanctuary Movement during the early 2000s. While some Central American participants felt that this made them appear "weak", the proponents of this strategy believed that it was the most effective way to realign the public image of Central American immigrants, by calling upon the legal obligation to provide asylum, and underlining the moral argument to protect individuals fleeing from violence (Perla and Coutin 2010, p. 8).

While such strategies have some success in achieving limited protections for specific groups, they can also have the unintended consequences of creating a binary of "deserving" versus "undeserving" that can become difficult to alter, and can result in the exclusion of those who do not fit into this narrow yet vague category (Flores 2016; Nicholls 2013; Yukich 2013). However, in the short term, the advantage of utilizing this strategy is viewed as a more effective way of reaching immediate or urgent objectives by taking into account existing public perceptions

and opinions and pushing for incremental changes rather than large systemic reforms. Relying upon this, Perla and Coutin (2010) recount that the "success of the 'refugee' framing created legal benefits that, in the postwar context, allowed the many years that Central Americans had lived in the US to be recognized as grounds for granting legal permanent residency" (p. 9). This legal permanent residency in turn contributed to economic benefits for Central American countries in the form of remittances, and also provided incentives for nonprofit and other NGOs to support causes among similar lines and using similar advocacy strategies (Perla and Coutin 2010).

Salvadorans first began to come to the U.S. in increasingly higher numbers starting from the late 1970s to the first half of the 1980s. As Perla and Coutin (2010) explain, "the rise of the US–Central American sanctuary movement was directly related to the dramatic increase in the numbers of undocumented Salvadorans fleeing political repression, social upheaval, and economic distress caused by the Salvadoran Civil War" (p. 9). By linking their research to both the Salvadoran and U.S. context, they demonstrate that the heightened violence in El Salvador pushed its citizens to leave the countryside to flee from the violence, which brought them to reside in cities, that in turn helped form the networks to lead them to leave the country. Individuals in El Salvador were moving in such large numbers, that it was reported by 1984 that 9.75 percent of the population was displaced internally, and another large portion of the population had left the country entirely, primarily to Mexico, the U.S. and to neighboring Central American countries (Perla and Coutin 2010). Reports showed that in total, there were "more than 1.2 million displaced and refugees (25 percent of the population)" (Perla and Coutin 2010, p. 10).

With the high concentration of Salvadorans arriving to the U.S., Perla and Coutin (2010) recount that "the reality is that the massive influx of Salvadoran refugees arriving daily throughout the decade, some with papers but most without, quickly overburdened the capacity of established kinship and friendship social networks to provide adequate assistance to the new arrivals" (p. 10). Furthermore, the U.S. government's involvement and support of the Salvadoran government, both in military and economic resources, clearly impacted the policies in place to host the Salvadoran asylum-seekers arriving to the U.S. (Ridgley 2008). By the end of the Salvadoran civil war, the U.S. support to the Salvadoran government reached over $6 billion, in both military and economic resources (Gzesh 2006; Perla and Coutin 2010). At the same time, the civil war and the Salvadoran government were creating harsher and more repressive conditions in the country, pushing more and more people to leave. This situation thus helped to initiate the first sanctuary movement, referred to by Perla and Coutin (2010) as the "US-Central American sanctuary movement" to underline the importance of the involvement from both regions. While many reports

of this first sanctuary movement focus on the role of religious organizations in the U.S. and American volunteers (Ridgley 2008), Perla and Coutin (2010) also emphasize the role that "Salvadoran immigrant-based organizations" played in building the movement (p. 10). In the U.S., the leaders of these nonprofit organizations were typically Salvadoran activists, including those who had migrated to the U.S., and Salvadoran-Americans who were born in the U.S. Their initial priority in forming these organizations was to "denounce the lack of democratic freedoms in their home country, the Salvadoran military's human rights violations, and US aid to the Salvadoran government under these conditions (Perla and Coutin 2010, p. 10).

These organizations included groups like the *Comité de Salvadoreños Progresistas*, which was started in 1975 in San Francisco, and was followed by other Salvadoran-based organizations including the *Casa El Salvador,* the *Movimiento Amplio en Solidaridad con el Pueblo Salvadoreño* and the *Comité Farabundo Martí* (Perla and Coutin 2010). They were formed in cities in the U.S. with large Salvadoran populations, and typically had connections with groups based in El Salvador as well. However, as the sanctuary movement developed, and taking into account the political backdrop in the U.S. regarding U.S. military intervention abroad, the cause to support Salvadoran refugees started to spread among non-Salvadoran groups as well, gaining traction among liberal progressives in the U.S. and Canada who contributed their own efforts. Perla and Coutin (2010) explain that "the North Americans brought with them prior experiences, such as involvement in anti-war activism during the Vietnam War, the freedom rides of the civil rights movement, and church-based refugee resettlement work" which helped to solidify the sanctuary movement and broaden its network (p. 10).

With this growing support, the objectives of the movement also began to change from the initial focus on human rights abuses and military intervention abroad, to the treatment of groups of Salvadorans, and also Guatemalans, who continued to arrive in large numbers to settle in the U.S. In order for the U.S. government under the Reagan administration to justify its support of the Salvadoran government, despite its documented human rights abuses, Salvadorans were largely framed by the federal government as "economic migrants" as a way to delegitimize their requests for asylum (Gzesh 2006). Responding to this, activists had to focus on changing the frame of the discourse to one focused on providing refugee status to this population fleeing a repressive regime and to drawing greater public attention to the situation occurring in El Salvador (Boin, Hart, and McConnell 2009; van Hulst and Yanow 2016). As a result, activists realized the advocacy strategy with the highest impact would be to use "new arrivals' testimonies" in order to "serve as

extremely compelling education tools for North American audiences unfamiliar with US complicity in what was happening in El Salvador" (Perla and Coutin 2010, p. 11).

As the cause drew more and more attention thanks to the testimonies of recent arrivals to the U.S., Salvadoran organizations also expanded their missions by "providing housing and social, and legal services for refugees in the late 1970s…" (Perla and Coutin 2010, p. 11). These services are still offered by some of these same organizations that exist today, particularly through the participation of religious institutions, and nonprofits providing legal aid to immigrants. For example, the organization CARACEN, or the Central American Resource Center, was created as part of two new organizations originating from the Casa Farabundo Martí. In an interview with the former Policy and Advocacy Director of CARACEN Ana Garcia, she recounted CARACEN's historical legacy and ongoing work today:

> CARACEN has been around since the 80´s and was started by Salvadoran refugees fleeing the civil war in El Salvador and it really has grown into a large nonprofit organization, with I would say most of its work doing low-cost immigration legal services, serving low income immigrant communities specifically in the LA County, southern California area. Another part of our work is advocacy and community programs… whether it be at the state, or county level, or even at the federal level, on Comprehensive Immigration Reform. And then another part of our work is a community program where we have a youth program and a parent program. (Personal communication, 25 October 2016).

While their mission has expanded to focus on various community and legal services, organizations like CARACEN, alongside CRECEN and *El Rescate* "would each go on to play a key role in the development of the national sanctuary movement" (Perla and Coutin 2010, p. 11). At that time, sanctuary actors focused heavily on working with churches and different religious organizations like the Southern California Interfaith Task Force to help spread the message on Salvadoran refugees' precarious legal status in the U.S. In cooperation, groups like the *Comité de Refugiados Centroamericanos* in the Northern California Bay Area, would send a "representative to the monthly steering committee meetings of the East Bay Sanctuary Covenant" while also arranging for "Central Americans to speak publicly about their experiences to US audiences" (Perla and Coutin 2010, p. 11). The emphasis on sanctuary and the cooperation with religious organizations, and churches in particular, played a key role in the next phase of the movement, which spread to "sanctuary communities" in cities based in Arizona, Texas, New York, and Washington D.C. (Perla and Coutin 2010, p. 11).

The movement's priorities and the growth of sanctuary cities concentrated on creating more local "chapters" and networks (Perla and Coutin 2010). These activist organizations and "sanctuary communities" focused on pressuring their local and national politicians based in cities across the U.S. to push the federal government to change its policy toward Salvadoran immigrants (Perla and Coutin 2010). These "solidarity activists", coming out of sanctuary churches and new sanctuary local chapters, contributed to the "strategic framing of the 'refugee identity" (Perla and Coutin 2010, p. 12). This framing was also viewed as beneficial to the Salvadoran activists, who realized that it was "essential to create empathy, to spark a sense of urgency and obligation or responsibility that would motivate North Americans to take a stand against their own government on behalf of an 'other' with whom they were largely unfamiliar" (Perla and Coutin 2010, p. 12). Thus, in order to adapt to the North American liberal vision, the framing of "refugee" and "sanctuary" was necessary to align with the dominant narratives established by "shared Judeo-Christian traditions regarding exile, oppression, and refuge," alongside the criticism of both the Central American and U.S. governments' actions in the region (Perla and Coutin 2010, p. 12).

The use of the refugee frame during the first sanctuary movement thus helped to provide the "legal dimension that countered accusations of lawlessness and therefore was central to the movement's claim to legitimacy" (Perla and Coutin 2010, p. 12). At its root, the sanctuary movement during this time centered on both the "moral and legal" obligation from the U.S. government to provide sanctuary and political asylum to these immigrants (Perla and Coutin 2010, p. 12). As Perla and Coutin (2010) explain:

> In other words, activists suggested that since the US government was failing to live up to its moral and legal obligations to grant political asylum to those deserving it (i.e. Central American refugees), then it was the obligation of congregations to set the moral example by doing so (i.e. providing sanctuary under God's authority), in the process using their moral credibility to openly defy what they considered unjust legal practices until the injustice was formally recognized. (p. 12)

While this strategy was effective in reaching a larger audience, it also took away the agency of the Salvadoran activists to lead the movement themselves, and instead relegated them to providing testimonies and playing the role of the victim in need of assistance (Perla and Coutin 2010). This "refugee" identity became entrenched in the movement via two key tools: "granting sanctuary" by providing housing, notably in churches, synagogues, or the members' homes; and through the use of the refugee testimonies (Perla and Coutin 2010, p. 12). This dual approach allowed Central Americans immigrants to access the emergency services they required, including

housing, health services, and networking for finding jobs, while also connecting members of the churches, synagogues and their volunteers with Central American asylum seekers, in order to "raise congregants' and others' consciousness to spur them to action" (Perla and Coutin 2010, p. 12). However, in doing so, Central Americans involvement in the movement became subject to U.S. citizens' efforts to "help" a victimized group in need (Perla and Coutin 2010, p. 12). Sanctuary activists during the first movement believed that presenting the Central Americans as "innocent victims", and as "poor and the oppressed" would have the most success in garnering public support (Perla and Coutin 2010, p. 13). However, this type of framing was also "unconsciously strategic", because it served to separate the political and social activism backgrounds of the Central American organizations (Perla and Coutin 2010, p. 13). This moved the public debate away from the ties that some Salvadoran members had with opposition groups in El Salvador in order to respond to criticism from U.S. government officials claiming that the sanctuary movement was based on political motives rather than humanitarian aid and support.

While the first sanctuary movement did not include a plan for a single cohesive outcome, its overall goals included the following: to provide refugee status or legal residency to Central American immigrants; to work to change the view of the U.S. government in how it determines granting asylum by removing political influences; to reveal on an international level the human rights abuses occurring in those countries; and to show their disapproval of US military intervention more broadly (Coutin 1990; Perla and Coutin 2010; Ridgley 2008). In terms of concrete legislation, one of the main outcomes of the first sanctuary movement at the federal level was the passing of the 1990 Immigration Act, which included the provision of "Temporary Protected Status" or "TPS" (Perla and Coutin 2010). Salvadorans were the first to benefit from TPS, and this is often attributed as a direct result of the efforts from the sanctuary movement (Perla and Coutin 2010). Overall TPS was used as a tool for the US government to provide "temporary immigration status" to individuals coming from countries facing "an ongoing armed conflict, environmental disaster, or extraordinary and temporary conditions" (American Immigration Council 2017b). Recipients of TPS were able to thus gain access to a work permit and to receive a "stay of deportation" to remain in the US.

While TPS only provided temporary protection, Salvadorans and Guatemalans who came to the U.S. during the civil wars in their countries were able to benefit from a pathway for permanent residency in 1997 (Perla and Coutin 2010). However, while this may be seen as another success of the sanctuary movement's efforts, this legislation was also set against the backdrop of the criminalization policies passed throughout the 1990s. For example, one year

prior, the passage of the Illegal Immigration Reform and Immigrant Responsbility Act (IIRIRA) served to block many other immigrants from obtaining legal status, even while TPS was being granted to specific populations. Furthermore, the peace accords signed in El Salvador in 1992 and Guatemala in 1996 made it "more difficult for applicants to demonstrate a well-founded fear of persecution, given that the wars in their homelands were officially over," despite the fact that many asylum interviews for these requests were not scheduled until 1997 (Perla and Coutin 2010, p. 14).

While TPS provides only a temporary protection, it can still be seen as a long-term effect of the first sanctuary movement since it continues to exist today, and is available to individuals coming from different contexts and countries. TPS has been used as a legislative tool by Congress, and more often as an emergency protection provision by the Executive Branch (Wilson 2022). It was later utilized by the Department of Homeland Security, which selects the countries that fall under the TPS umbrella, and whether its recipients can stay for periods of "6 to 18 months and can extend these periods if the country continues to meet the conditions for designation" (Wilson 2022, p. 3). Regarding Central American nationals in particular, TPS was granted in 1998 to Salvadorans, Guatemalans and Hondurans, officially due to the destruction from a hurricane that caused severe damage. In January 2001, the Clinton administration continued TPS for Salvadorans because of earthquake damage, and renewed again by the Bush Administration upon taking office. However, the rationale to focus on environmental disasters rather than civil wars, violence, trafficking, corruption or political issues appears to be an attempt to avoid taking a political stance toward those countries' governments, or a recognition of the US' role abroad (Wilson 2022).[11]

Compared to the later sanctuary movements, this original push for sanctuary and the effects it had show that "sanctuary practices thus helped to set in motion a complex set of legal developments in the United States" (Perla and Coutin 2010, p. 13). The first wave of sanctuary therefore started out as more outward looking, focusing on U.S. actions abroad and the efforts to

[11]According to CRS Report R43616, El Salvador: Background and U.S. Relations; CRS Report R44560, Nicaragua: In Brief; and CRS Report RL34027, Honduras: Background and U.S. Relations: During the Trump Administration, repeated attempts were made to end TPS, starting in September 2017 when the DHS announced that citizens from El Salvador, Nicaragua and Honduras (among others) could no longer access TPS. This announcement was challenged by several lawsuits, which were still ongoing at the end of the Trump Administration, but allowed for TPS to continue awaiting the final decision from the courts. According to the Congressional Research Service, "Supporters have argued that ongoing violence and political unrest have left these countries unable to adequately handle the return of their nationals and that a large-scale return could have negative consequences for the U.S. economy and labor supply, American families, foreign relations, and the flow of remittances sent by Central Americans living in the United States to their relatives in Central America."

guarantee the right to asylum for Guatemalans and Salvadorans in the U.S. The coalition building and social movement strategy concentrated on raising awareness among liberal American groups, activists, college students and religious organizations. However, over the years, the network of sanctuary actors expanded to include national NGOs and other nonprofit organizations advocating for immigrant rights. These earlier networks of organizations helped to lay the foundation for the ensuing waves of sanctuary, with undocumented youth and immigrants progressively taking the lead. This in turn contributed to changing the paradigm from the original sanctuary movement's focus on the victim and refugee frame to undocumented youth activists coming out as "undocumented and unafraid", while also building upon existing coalitions (Wong and Ramos 2011). Thus, while the sanctuary network of religious and community groups, universities, and government actors has remained in place, the leaders and policy entrepreneurs involved in the movement have changed over the years. In particular, the leaders of the third wave of sanctuary seek to speak for themselves and claim their own identity, while also going beyond the focus on immigrant rights, to form partnerships with Asian immigrant and Asian-American activist groups, and aligning with larger protests against police brutality and discrimination, such as the Black Lives Matter movement (Pomerenke 2018; Suro 2015; Unzueta 2017).

These shifts also correspond to Perla and Coutin's (2010) conclusions which call "attention to the specificity of the particular immigration flows that give rise to sanctuary in a particular social and historical context" (p. 17). They note that further research should seek to understand why sanctuary is offered to some individuals over others, and to question "what particular laws or policies are sanctuary practices designed to address? And are sanctuary practices geared primarily toward a local or national context…?" (Perla and Coutin 2010, p. 17). Responding to these questions in the context of the ensuing waves of sanctuary reveals how the movement represents a clear response to increasing criminalization policies starting from the 1980s through the mid 2000s, finding a legal space at local and state levels to challenge federal laws, and bolstered by a grassroots movement led by undocumented youth activists, who have lived most of their lives in a state of legal limbo.

In order to more clearly present these shifts from the first sanctuary movement to later waves and to understand the policy foundation established, the graphs below created from my analysis of the sanctuary policy database illustrate the main classifications of the types of sanctuary policies passed during the first wave of the 1980s, and the first shift in the movement's priorities by the 1990s. This policy categorization seeks to identify: the primary objectives of sanctuary policies, the main types of local sanctuary policies passed over different time periods;

and the national or state policies are they reacting to. The analysis below thus provides the main types of policies and objectives for the earliest sanctuary policy time periods and leading up to the second wave of sanctuary in the 2000s.

From 1979-1988, the main types of policies and their priorities centered upon three main areas:

1. **Human Rights/refugees:** Sanctuary discourse is tied to El Salvador and Guatemala. The human rights discourse centers on refugees, a humanitarian approach and the role of churches and religious groups. These policies also mention legal frameworks like the Geneva Convention and Refugee Act.
2. **Policing/separation of local enforcement:** Policies focus on the role of policing and separation of immigration inquiries from local police activities, and some specifically mention INS raids. They declare a separation of public resources from immigration enforcement and a refusal to share information with the INS.
3. **Access to public services:** These include declarations by municipalities that they will guarantee access to public services for immigrants.

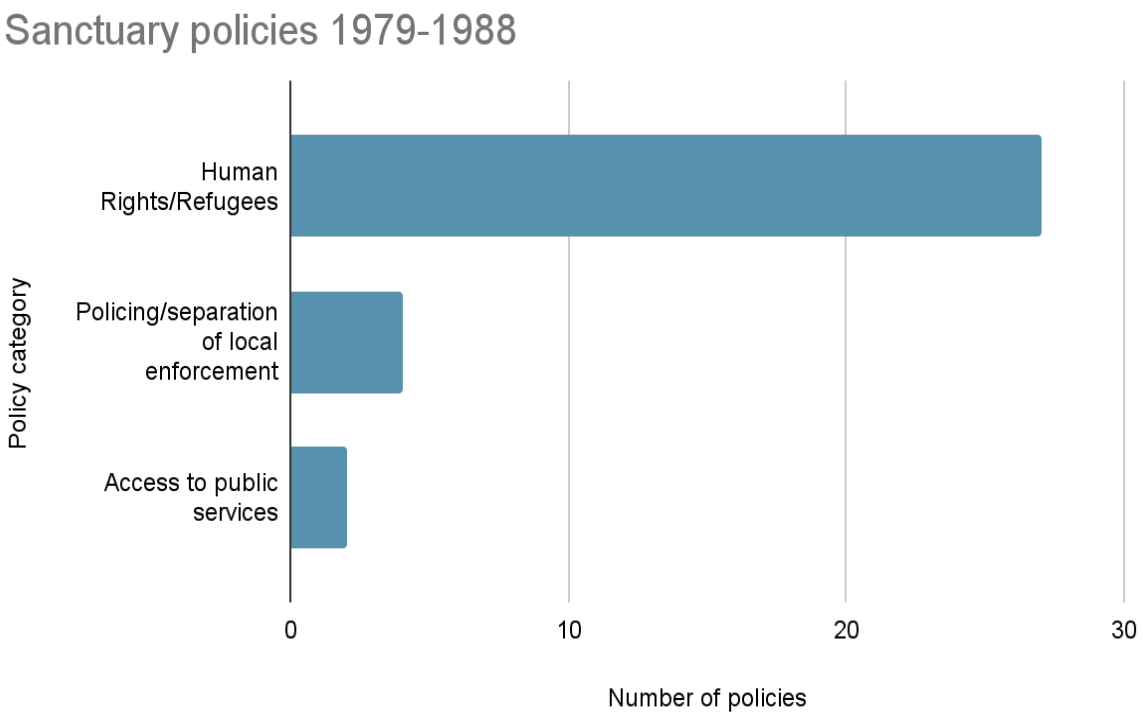

Figure 3 Sanctuary policies 1979-1988

Analysis: These findings clearly align with the first wave of sanctuary's initial goals and priorities, and the efforts to provide protection for the target group of Central American refugees. However, the results also show that some policies already sought to delineate the role of local enforcement with federal immigration enforcement, and specifically localities' interactions with the INS, the primary enforcement body at that time. This also provides the first indication that this separation of enforcement jurisdictions will serve as a key mechanism for states and localities within the later waves of sanctuary to show their dissent with federal policy, while also implementing concrete measures that fall within their domain to do so. These early policies to express their noncooperation with a federal agency provide a basis for the expansion of immigration federalism as well. By expressing their dissent with a federal mandate, these local actions fall within the "uncooperative federalism" model (Bulman-Pozen and Gerken 2009). While this model also applies to more recent examples of state and local policies outside the realm of immigration, it is possible to observe how even the earliest sanctuary policies, with an emphasis on providing refugee status to Salvadorans, utilized strategic local mechanisms to enact this legislation on the ground.

The next time period from 1989-1999 focused on the following two policy priorities:

1. **Policing/separation of local enforcement:** The policies center upon the separation of immigration inquiries from police activities; the refusal to cooperate with INS raids; declaring a separation of utilizing public resources to aid in immigration enforcement; and/or a refusal to share sensitive information with INS.
2. **Access to public services:** These policies specifically call for all immigrants to be guaranteed access to public services (education, health care, judicial system) regardless of their residency status. Many policies during this period state that they are specifically responding to the restrictions established by the federal government's Personal Responsibility and Work Opportunity Act (PRWORA) passed in 1996.

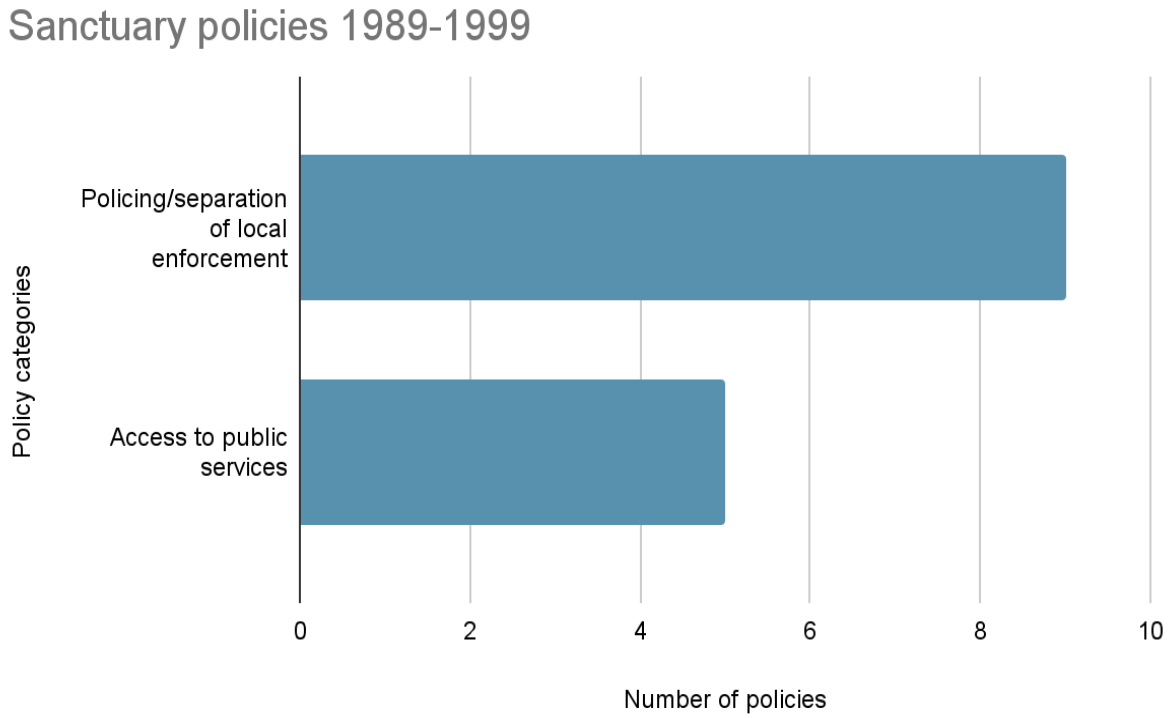

Figure 4 Sanctuary policies 1989-1999

Analysis: While this period saw fewer policies stating their explicit ties to sanctuary, some links can still be drawn. First, there is a notable shift away from the initial concentration of policies focused on human rights and refugee status for Central Americans. This may be due in part to the end of the Salvadoran Civil War in 1992, as well as to the passage of the 1990 Immigration Act, and the implementation of "Temporary Protected Status" (TPS). As such, one can observe how a clear policy response from the federal government served to at least partially address one of the main priorities of the initial sanctuary movement. Second, while certain groups benefited from TPS and received temporary legal residency status, many immigrants were still confronted with legislation like PRWORA which sought to limit access to basic public services, including health care and other social welfare benefits (Chesser 1997). In addition, federal policies and the 1996 series of immigration reforms[12] further contributed to the criminalization of immigrants, which in turn helped to shift local resistance toward attempts to separate local enforcement activities with immigration enforcement. During this period, there are also some local policies that include declarations of appreciation for the diversity of their communities and underline their disapproval of the national legislation that frames immigrants as criminals.

[12] See: Illegal Immigration Reform and Immigrant Responsibility Act of 1996

Before moving on to the following major wave of sanctuary in 2007 as part of the New Sanctuary Movement, the next time period of policies passed during the early 2000s were more rooted in their response to the post 9/11 context and the War on Terrorism. While still a part of the sanctuary umbrella, due to the focus on protecting civil liberties and sensitive information for immigrants, as well as declarations of opposition to federal policies like the Patriot Act, this period is marked by new categories, including official declarations of dissent, as well as calls for national Comprehensive Immigration Reform.

As such from, 2000-2005, the main policy categories and objectives include:

1. **Policing/separation of local enforcement:** Policies center upon the separation of police and immigration enforcement, specifically: not allowing police inquiry into immigration status; and not dedicating resources or sharing sensitive information. They also include statements fostering trust between police and residents, and declarations of dissent against INS/ICE raids (some also mention specific opposition to H.R. 2671, the Clear Law Enforcement for Criminal Alien Removal Act (CLEAR), and S. 1906, the Homeland Security and Enhancement Act (HSEA).
2. **Access to public services:** These policies specifically call for all immigrants to be guaranteed access to public services (education, health care, judicial system) regardless of their residency status.
3. **Comprehensive Immigration Reform:** These policies demand immigration reform at the federal level to provide work authorization for undocumented residents, and to express support for other federal legislative reforms including the DREAM Act and a pathway for citizenship. Some mention their specific support for the Secure America and Orderly Immigration Act of 2005, also known as the McCain-Kennedy Bill.[13]
4. **Opposition to the Patriot Act/Protection of civil liberties:** These policies declare their opposition to the Patriot Act, by guaranteeing civil liberties during the War on Terror and stating their refusal to comply with surveillance of individuals.

[13] S.1033 - Secure America and Orderly Immigration Act: in particular, support was expressed for the provision which would provide a pathway for citizenship for undocumented immigrants (under certain conditions).

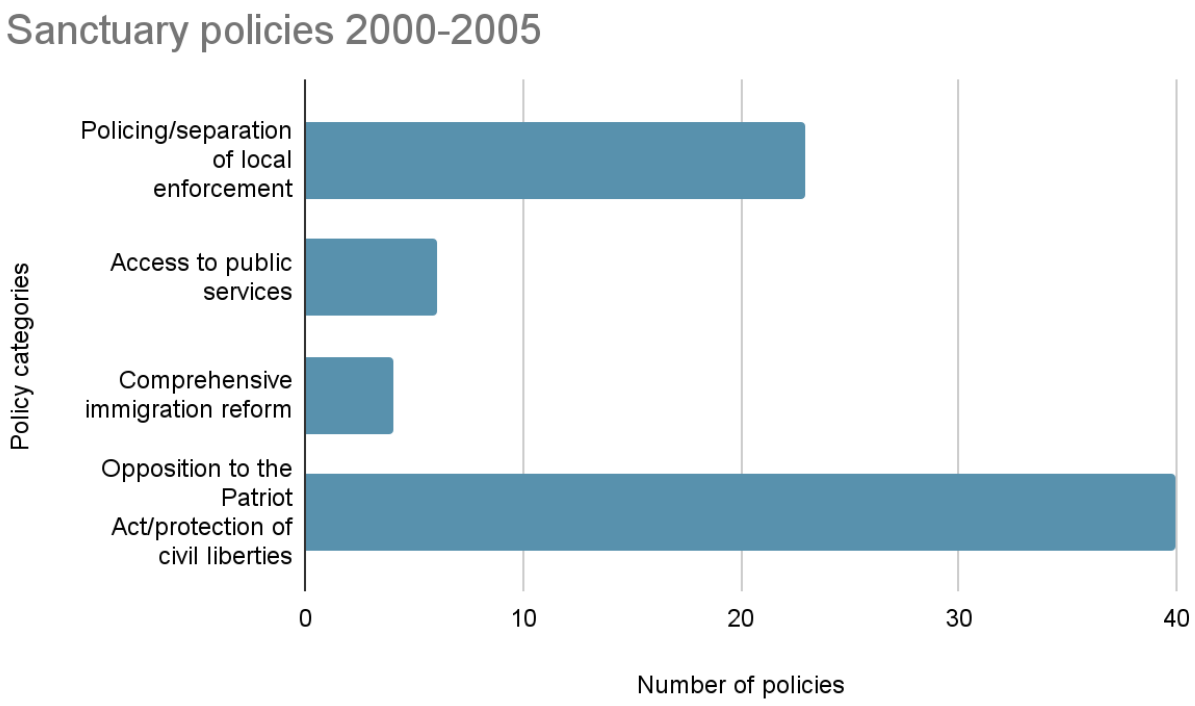

Figure 5 Sanctuary policies 2000-2005

Analysis: This period has a clear focus on two primary issues and responses, as well as an increase in the overall number of policies passed than the previous time frames. As stated above, many of the policies address the context of the War on Terror and the Patriot Act, by specifically opposing the Act's surveillance measures and stating their refusal to comply with this policy to share private and sensitive information. They also declare their commitment to ensure civil liberties and express their dissent against imprisoning non-citizens based only on suspicion of illicit activities related to terrorism. Although this time frame appears to address issues that could fall beyond the sanctuary umbrella, and do not necessarily include an explicit declaration of sanctuary, the emphasis on the Patriot Act still provides a clear link to guaranteeing the rights of immigrants and civil liberties for all residents of the U.S. For example, many policies specifically mention the 14th Amendment, and the basic right to legal counsel for all people in the U.S., which closely aligns with sanctuary actors' efforts to provide legal rights and representation to all immigrants. Some policies also state that the local police should not be involved in enforcing this type of federal policy related to non-citizens because it falls under the domain of federal immigration enforcement and the Department of Homeland Security, which is also a characteristic of sanctuary policies. Furthermore, within the context of increased surveillance and targeting of specific populations, many policies state their disapproval of police profiling or discrimination.

Others go a step further and declare that they will not collect sensitive information, in order to foster greater trust between local police and the community. These policies once again provide a clear link with the sanctuary movement's central goals to oppose certain federal immigration policies and to disentangle cooperation between local and federal immigration enforcement.

c. Sanctuary during the New Sanctuary Movement from 2007-2011

As the sanctuary movement and policies continued to evolve, local policies during the second wave of sanctuary shifted from seeking protection for Salvadoran and Guatemalan refugees to include other immigrant groups as well. The transition from a movement based on community networks and activists to broader efforts to change the local landscape of city ordinances and laws also illustrates how the sanctuary movement and policies expanded their priorities over time. However, before transforming into the grassroots mobilization and policies associated with sanctuary cities since 2016, the sanctuary movement took a different form from the early 2000s, known as the "New Sanctuary Movement" (NSM), which gained momentum starting in 2007. While the NSM has several differences from the 1980s movement and today's most recent movement, it still serves as an important link between the two, in particular by continuing its focus on providing rights and services to undocumented residents in the U.S.

Like the first sanctuary movement, the NSM started among churches and religious organizations who disagreed with a federal policy, in this case, Federal Bill H.R. 4473, the Border Protection, Antiterrorism and Illegal Immigration Control Act passed by the House of Representatives in 2005 (Wild 2010). Although the Bill did not ultimately pass into law, it proposed that any resident living in the U.S. "illegally" or anyone assisting an "illegal" resident would be charged with a felony. In response, religious organizations became concerned that they would be limited from carrying out their work to help those in need. This Bill, coupled with individual stories of families separated by deportation, or fearful of threats of deportation, helped to spark the NSM. As Wild (2010) explains, "On January 29, 2007, 'representatives from [eighteen] cities, [twelve] religious traditions, and [seven] denominational and interdenominational organizations' joined to strategize over how to keep immigrant families together until immigration reform became a reality" (p. 995). Several months later in May of 2007, they formally announced the creation of the "New Sanctuary Movement" (Wild 2010, p. 995). Wild (2010) recounts that the members of the NSM saw their movement "as a natural extension of the original SM [sanctuary movement], with no genuine break in between" (p. 996). The first sanctuary movement and the NSM both mobilized around churches and religious organizations with specific advocacy goals and strategies that

“required each organization to make a public statement,” while also highlighting “illegal immigrants whose stories fit their mission” (Wild 2010, p. 996). Thus, while both waves promoted the use of specific strategies and public testimonials, the context and focus of the NSM changed from the original sanctuary movement’s goal of providing sanctuary for Central American refugees to protecting families who were either mixed-status or undocumented.

With this broader focus, the NSM also faced a more challenging public audience, which remained increasingly convinced that “illegal” immigrants were threatening the country and that “economic” migrants were less deserving than asylum seekers fleeing from war. According to Wild (2010), “Whereas the SM enjoyed strong public support for its actions, the NSM faces a public that is wary of illegal immigrants in light of their rapidly increasing numbers and perceived negative impact on society” (pp. 996-997). The NSM also declared very broad goals, ranging from fighting against “hate” and “discrimination”, to stopping “unjust deportation,” and to "reveal the actual suffering of immigrant workers and their families” (Wild 2010, p. 997). However, similar to the first sanctuary movement’s strategy, the NSM’s members looked for immigrants who would garner the most public sympathy for their mission. They thus believed that to be strategic, only certain cases should be highlighted. As such, to illustrate the “moral injustice of our current immigration system,” the NSM concluded that “the families involved must be in the deportation process; they must include citizen children, and the adults must have good work records” (Wild 2010, p. 997). By defining these requirements, the NSM had an increasing emphasis on showcasing families as a way to present a moral argument for the push to keep mixed-status families together and to portray the concept of the “model citizen” or “model immigrant” (Wild 2010; Yukich 2013). Although they presented only specific examples as part of their advocacy strategy, NSM members also demanded a broad legislation overhaul to provide legal status to undocumented immigrants in the U.S.

In Yukich’s (2013) study of the NSM, she further utilizes the concepts of the “model immigrant” and the idea of “deservingness” to unpack the objectives and strategies of the NSM. Yukich (2013) explains that much of the research surrounding “deservingness” focuses on how this concept is used by “anti-immigrant forces, the media and policymakers”, but that it is important to understand how it is also used by pro-immigrant actors to put forth a controversial or polarizing issue and make it more palatable to the public at large (p. 302). Yukich (2013) discusses how the framing by pro-immigrant activists in the NSM used what she refers to as “the model movement strategy,” to mean “the use of model cases to challenge negative stereotypes of members of disadvantaged groups” (p. 303). In addition to the framing of the issue, she utilizes a

"dramaturgical approach to highlight the non rhetorical framing practices involved in creating these distinctions: in particular, the casting of select members of stigmatized groups and their public and visual association with more powerful actors" (Yukich 2013, p. 302). Similar to Nicholls' (2010) research on the DREAMers and DACA legislation, Yukich (2013) illustrates how even pro-immigrant movements can have unintended consequences from the model immigrant framing and rhetoric. She also emphasizes that:

> The model movement strategy is my term and account of their strategy, not theirs. In fact, the activists would have hesitated to describe what they were doing in this way, as they did not want to make distinctions between deserving and undeserving immigrants—it was an unintended consequence of their strategy. (Yukich 2013, p. 303)

Yukich's observations from following the NSM closely and the interviews she conducted also reveal how the short-term goals and strategies used can impact ensuing immigrant advocacy efforts. It also underlines the importance of analyzing the actions and messaging of social movements to better understand the outcomes and the next steps for activists and researchers in different fields.

One of the key issues of the "model immigrant" rhetoric, that is only recently being challenged by pro-immigrant rights groups, is the strategy of dividing minority groups to offer deferential treatment for certain groups, while criticizing others with negative stereotypes. For example, Yukich (2013) mentions how Asian Americans are often portrayed as having successfully adapted to "dominant American values such as hard work and self-reliance," and that such groups are set apart from Latinos and African Americans "who are unfairly and inaccurately perceived as rejecting those values" (p. 303). It is only since third wave sanctuary movement that minority groups and pro-immigrant groups intentionally started drawing links to the shared discrimination and biased treatment and discrimination they receive.

This binary of deserving and undeserving constructed by various actors and institutions, not only influences the public's view towards the rights and services made available to immigrants, but contributes to "creating a hierarchy of deservingness that has often exacerbated conflict and divisions between racial and ethnic minority groups" (Yukich 2013, p. 303). The actors involved in constructing this binary include politicians and political parties, as well as the media's contribution to the discourse surrounding immigrants (Beyer and Matthes 2015; Gulasekaram and Ramakrishnan 2015; Nevins 2010; Yukich 2013). However, even the pro-immigrant actors putting forth a favorable image of immigrants tend to concentrate on those that are framed as "innocent" and "deserving" of becoming a "legal" immigrant. In addition to these advocacy strategies, and

the framing by the media and political actors, the role of criminalization policies should also be noted, since such policies further serve to entrench the concept of "deserving", while simultaneously reducing the number of individuals who are able to obtain and maintain a legal status. The construction of the image of the model immigrant has thus become an integral, if unintended, part of several pro-immigrant movements (Chavez 2010; Nicholls 2013; Yukich 2013). Because of this, the role of framing and "casting" represents an important element of the NSM's social movement and advocacy strategy (Yukich 2013, p. 305). Yukich (2013) defines her use of the term "casting" in order to "refer more specifically to the intentional selection of particular concrete, embodied individuals for a specific set of roles in a movement or movement organization" (Yukich 2013, p. 305). Yukich (2013) argues that this strategy was employed in other social movements, as well, including the Civil Rights movement and the legal battle for same-sex marriage.

When the NSM took shape in 2007-2008, it was formed alongside other immigrant rights movements at that time, in particular, the student immigrant marches in 2006. Together with these marches, Yukich (2013) notes that "New Sanctuary was a relatively small part of the larger immigrant rights mobilizations" (p. 306). These marches, which mobilized college students and residents of large cities across the nation, were organized in response to the same Border Protection, Antiterrorism and Illegal Immigration Control Bill opposed by the NSM (Hondagneu-Sotelo Pierrette 2008; Voss and Bloemraad 2011; Yukich 2013). However, by particularly focusing on sanctuary for mixed-status families, the NSM made a strategic choice to align with the moral and religious roots of providing sanctuary to those in need, which in this case, concentrated upon keeping mixed-status families together. As Yukich (2013) summarizes, "in the New Sanctuary Movement, religious activists 'gave sanctuary' to mixed-status immigrant families, in which at least one person was undergoing deportation proceedings and the others were citizens or legal residents of the United States" (p. 306). In doing so, the NSM wanted to influence the outcomes of legal proceedings and deportations, and to change the immigration policies to allow families to legally reside and work in the U.S. In doing so, they also hoped to alter the image of undocumented immigrants and to "challenge negative cultural stereotypes" (Yukich 2013, p. 308). Despite the more conservative strategy of focusing on families and "deservingness", the goal of transforming the public's perception of undocumented immigrants represented a more progressive element of the NSM. Some of the immigrants who willingly put forward their voices to contribute to this positive image of the model immigrants felt that "it was the first time they had been affirmed by native-born whites as being assets to American society" (Yukich 2013, p. 307).

It also confirms why the NSM selected specific individuals and stories to highlight which would be the most widely accepted and influential to the majority of American citizens at that time.

As such, the NSM concentrated its attention on two primary audiences which closely aligned with its objectives: policymakers who would be able to reform immigration laws; and religious groups and community members of religious organizations who they believed would be more compassionate to the cause (Yukich 2013). However, because of the NSM's focus on religious groups as one of its primary audiences, the movement supported the tendency "to define deservingness based on characteristics that would resonate with religious groups," which in this case was translated as an emphasis on "family values" (Yukich 2013, p. 309). As a result, the emphasis on presenting mixed-status families as the most deserving groups to be exempt from deportation was then further fortified by the NSM's religious leaders, who were also seen as having public legitimacy thanks to their respected status in many communities. In addition, the actors who had been "cast" to portray the model immigrant to the target audience were provided with "scripting", as a tool to ensure they portrayed the correct messaging and wording to sway the public (Yukich 2013). The choice to focus on family values as part of the scripting was a significant shift from the first sanctuary movement in the 1980s, which sought to provide sanctuary and legal residency for those fleeing from civil war and included many individuals traveling alone and without families. However, as Perla and Coutin (2010) point out, even in the first sanctuary movement, certain individuals were selected, or "cast", to use Yukich's (2013) term, and the testimonials, or "scripting", still played a large role in the messaging that was presented to the public they were aiming to convince.

Whereas the NSM is in some ways closer to the current sanctuary movement with its focus on undocumented immigrants, both earlier waves of sanctuary share the strategies and advocacy models of casting and scripting, with specific testimonials and framing put forward to the public. In addition, the first sanctuary movement and the NSM share another common factor of being led by religious groups, and spearheaded by U.S born citizens, versus the third wave of the sanctuary movement, where undocumented youth, partnering with local organizations and policymakers utilized their own platforms and voices to promote their cause. Still, a commonality among all three movements shows that the risk of deportation was and is a driving factor (Abrego et al. 2017; Cházaro 2019a; Graber and Marquez 2016). Whether due to being blocked from receiving refugee status, being a member of a mixed-status family, or belonging to the 1.5 or DREAMer generation (Abrego 2011; Gonzales and Chavez 2012), sanctuary has served as both a short-term tool to provide emergency protection to detention and deportation, and as a long-term effort

to protect immigrants and undocumented residents affected by criminalizing policies to live and work without fear and to guarantee access to rights and services.

Yukich (2013) also recounts through her observations of the NSM that the immigrants "cast" to represent the movement tended to fit certain categories. Her findings show that they most often met the following three criteria: first, that they formed "part of heterosexual, nuclear families in line with mainstream cultural and religious norms" (p. 309); second, that they had to present their stories in a certain manner so that they could appear "sad about the difficulties of his immigration situation, but not too angry or threatening,"(p. 310); and finally, the individuals highlighted must not have any criminal record or background, in order for the story to showcase one of "reform, redemption, and forgiveness to be used in garnering sympathy" (310). In other words, Yukich (2013) explains, "sanctuary immigrants had done everything 'right'—they had tried to assimilate into mainstream American society but were prevented from being or becoming good citizens solely because of their undocumented status" (p. 311). However, as this example, and others have shown, by categorizing individuals into certain groups, a division is once again created between the "deserving" immigrant, versus the "illegal" or "undesirable and even dangerous" immigrant (Yukich 2013, p. 311). Thus, this framing continues to contribute to the binary of not only citizen and non-citizen, but further delineations within the non-citizen group as well.

Another theme from the NSM is the attempt to bring together individual stories to garner sympathy, while also revealing the structural flaws in the larger system, such as structural inequality and racism. Within the NSM, immigrants who were at a disadvantage were presented as "victims of the system", or as "victims of injustice rather than as willing perpetrators of crime" (Yukich 2013, p. 312). This strategy was once again similar to that of the first sanctuary movement to show that Central American asylum-seekers were victims of the violence caused by civil wars, rather than "economic migrants" who were "undeserving" of protection (Coutin 1990; Perla and Coutin 2010). In a similar way, the NSM utilized the argument that the immigrants who were searching for a better economic future for their families, and who may have needed to do so through irregular means to hold their families together, were deserving of legal residency, as victims of economic instability. NSM members therefore argued that this search for economic security and safety, while being hindered by criminalization policies and federal enforcement, therefore "ostensibly forces good people to make difficult decisions" (Yukich 2013, p. 312). Such rhetoric can also be applied to the DREAMers movement, where the argument is often based on "fault", meaning that the children who were brought "illegally" at a young age, were not at "fault"

and thus were merely victims of their parents' decisions (Chavez 2010; Flores 2016; Nicholls 2013). However, by framing the DREAMers as victims, it also inadvertently frames their parents as the "perpetrators" of the crime of crossing the border without authorization or overstaying a visa or residence permit (Nicholls 2013; Pérez 2009; Yukich 2013). Yukich (2013) further underlines this point by explaining that:

> In distinguishing undocumented children from undocumented adults and rooting their deservingness in their lack of control over the decision to migrate, the DREAM Act mobilization has constructed distinctions between undocumented immigrants brought to the United States as minors and all other people without papers, who are seen as less deserving due to their perceived culpability in the decision to migrate or stay in the United States without authorization. (p. 316)

Thus, within the NSM, and looking back at the first sanctuary movement, unintended consequences of the "victimhood" rhetoric contributed to the image that many immigrant groups were in need of charity or charitable actions, and it therefore resulted in diminishing a certain level of their agency to speak for themselves. These actions may also paradoxically take away from the goal of addressing the larger structural issues by relying upon the concept of charity and the participation of religious or aid groups, rather than a systemic overhaul of the policies and agencies in place. For the NSM specifically, Yukich (2013) also notes that "as other critics of victimhood language have argued, framing immigrants as victims also unintentionally depicts them as helpless, dependent people in need of charity. For this reason, over time, New Sanctuary activists increasingly avoided the language of victimhood" (p. 312). In spite of this, the very structure of the NSM, by casting specific immigrant families alongside the religious leadership of the movement, continued to promote, to a certain extent, the idea that immigrants must be supported by native-born Americans, rather than having the opportunity to lead the movement themselves.

Within this context, the analysis of the policies during this period and leading up to the third wave of sanctuary in 2016 have a clear emphasis on addressing deportation strategies and federal enforcement programs that contribute to high numbers of deportation proceedings which increase family separation (such as Secure Communities); as well as an emphasis on disentangling the role of local and federal enforcement by refusing to participate in programs like 287(g). Policies passed during this period also show ongoing calls for federal legislation reform, like the DREAM Act, which further aligns with the immigrant rights movements that took place during these years. In addition, there is a return to the use of the word "sanctuary" in municipal

resolutions and ordinances, often deliberately echoing commitments to sanctuary from the 1980s, as well as mentioning the movement's foundation of offering protection to immigrant groups. This also corresponds to the efforts made by the NSM to present itself as an extension of the first sanctuary movement. Furthermore, an overall increase in the number of policies passed during this period can be observed, with a peak in 2014 characterized by a refusal to comply with ICE detainer requests.

As such, for the 2006-2010 period, five central categories and priorities emerged from the analysis, with notable differences from the previous period. It also is the first time period in which some policies may be placed in more than one category:

1. **Policing/separation of local enforcement:** These policies include a separation of police and immigration enforcement, for example, by not allowing police inquiry into immigration status. Some policies include a refusal to dedicate municipal resources to immigration enforcement activities or to share sensitive information with ICE. Policies also tend to include a motivation to foster trust between police and residents. In addition, there is an increasing number of declarations of noncooperation with ICE raids and with federal immigration enforcement more generally. Beginning in 2009 and 2010, there are also specific mentions of a refusal to participate in 287(g).
2. **Access to public services:** These policies specifically call for all immigrants to be guaranteed access to public services (education, health care, judicial system) regardless of their residency status.
3. **Opposition to border control policies:** These include declarations against increased border control legislation (specifically the Border Protection, Anti-Terrorism, and Illegal Immigration Control Act - HR 4437). It is also the first time that opposition is directed towards a state-level policy rather than a federal policy, with declarations against Arizona state law SB1070 in 2010 (with some going beyond symbolic declarations to call for a boycott or block of official travel to Arizona among other services).
4. **Comprehensive Immigration Reform:** These policies include calls for Comprehensive Immigration Reform at the federal level to provide work authorization for undocumented immigrants, among other federal legislative immigration reforms. They express support for bills like the DREAM Act and a pathway for citizenship, and also include declarations against family and community separation.

5. **Reaffirming earlier sanctuary status and overall immigrant protection:** The majority of these policies, including sanctuary declarations, refer to earlier declarations made by their municipality, dating back to the 1980s and 1990s. Others do not announce a clear sanctuary status, but express commitments to protecting the rights of immigrants.

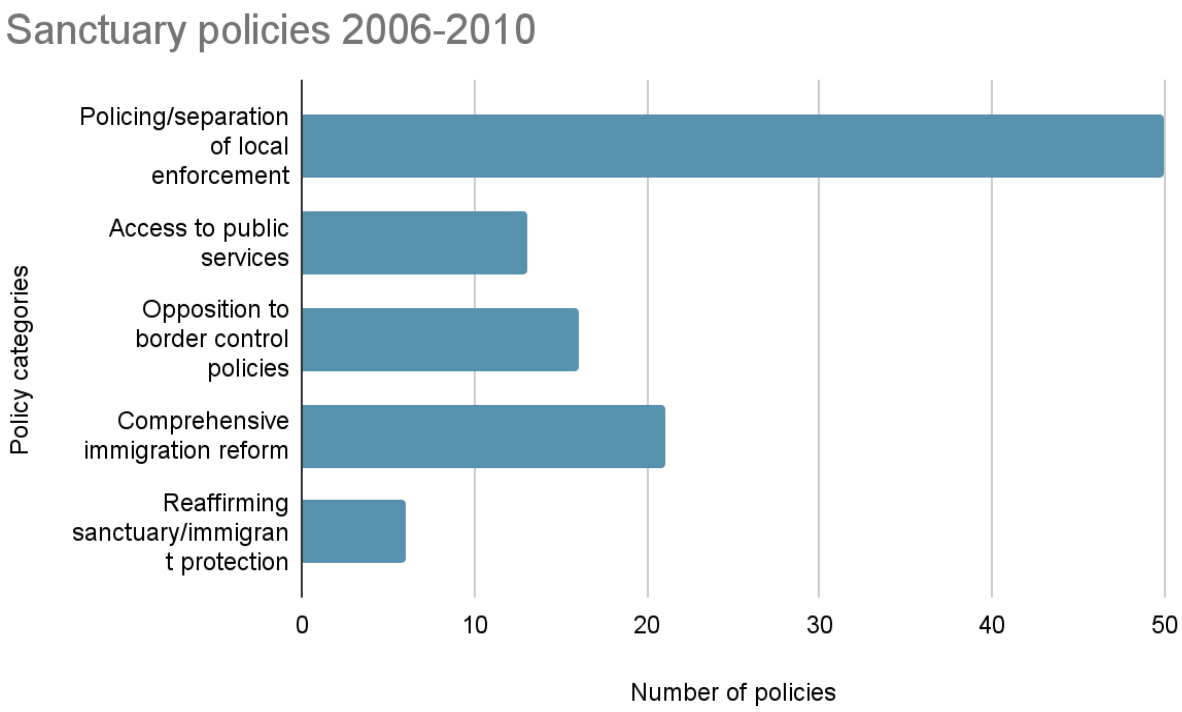

Figure 6 Sanctuary policies 2006-2010

Analysis: During this period, there is a greater emphasis on the term sanctuary and aligning with the sanctuary movement. This is a notable difference from the early 2000s period when many policies addressed issues falling under the sanctuary umbrella, but did not use the specific term "sanctuary." In addition, policies begin to address multiple issues in a single ordinance or resolution and thus may be included in multiple categories. However, this does not necessarily imply that these policies include a more comprehensive or progressive stance. For example, a policy that falls under the category of "separation of policing activities" as well as "access to public services" may only provide very limited protection by declaring that the police may not stop an individual based solely on his or her immigration status, and may even underline a commitment to cooperate with ICE and other federal legislation. Still other policies go much further in providing concrete measures by calling for a complete separation from federal enforcement activities, coupled with commitments to establish task forces or other immigrant services. Finally, some policies focus their attention toward declaring their disagreement with border security legislation

or other federal or state enforcement policies, for example, Arizona state legislation SB 1070. Overall, during this period, there was a greater emphasis on the separation of local and federal enforcement and regulating local policing, with a significant increase in the number of policies passed compared to previous years.

During the next time frame from 2011 to October 2016, the main categories of policies leading up to the November 2016 elections include:

1. **Policing/separation of local enforcement:** These policies include a separation of police and immigration enforcement, for example, by not allowing police inquiry into immigration status. Some include a refusal to dedicate municipal resources to immigration enforcement activities or to share sensitive information with ICE. Policies also tend to include a commitment to foster trust between police and residents. There is also an increasing number of policies that state a clear declaration of noncooperation with ICE raids specifically and noncooperation with immigration enforcement more generally. Starting in 2011, there are more mentions of the refusal to comply with enforcement programs like Secure Communities and demands for a mechanism to “opt out” of such programs.
2. **Access to public services:** These policies specifically call for all immigrants to be guaranteed access to public services (education, health care, judicial system) regardless of their residency status.
3. **Comprehensive Immigration Reform:** These policies call for immigration reform and support a pathway to citizenship, sometimes referring to their support for the DREAM Act or DACA.
4. **“Welcoming cities”, inclusiveness and diversity:** These declarations state their commitment to serving as a "welcoming city" or a safe haven for immigrants. In addition, these policies may include statements of appreciation for their diverse cities and commitments to promote inclusiveness towards immigrants and minority groups as part of the community.
5. **Promoting unbiased policing:** These policies range from guides for police training programs, or symbolic declarations against discriminatory policing practices. The policies listed here tend to include fewer concrete measures than the separation between local enforcement and ICE, for example, but still mention unbiased policing within the context of anti-discrimination measures towards immigration status or nationality.

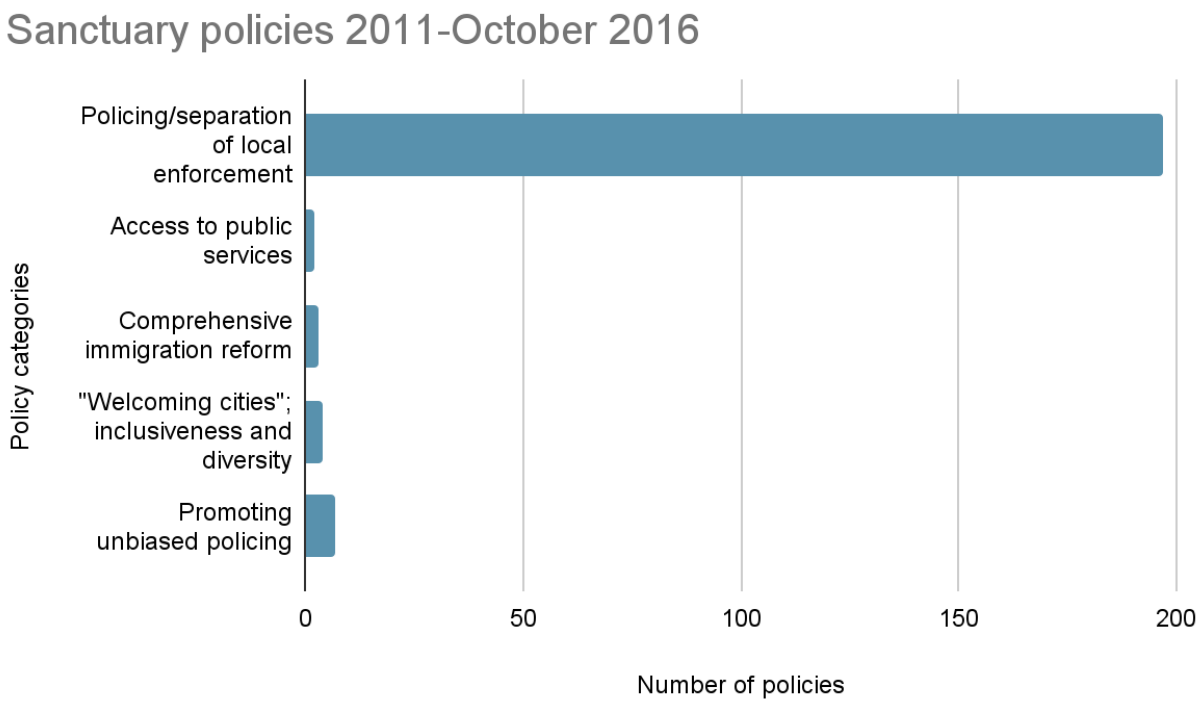

Figure 7 Sanctuary policies 2011-October 2016

Analysis: As the graph above illustrates, this period is even more heavily characterized by the emphasis on local enforcement and noncooperation measures. It is also the period with the highest number of policies passed overall. However, compared to the next and final period in this analysis, these policies tend to focus more specifically on enforcement, and less on commitments to sanctuary and diversity. As opposed to previous time frames, there is also less emphasis on opposition to border legislation. Instead, many policies specifically state their refusal to comply with ICE detainer requests, either when certain conditions are not met, or as a blanket refusal. Because of the focus on detainer requests, the policies also tend to include more discussion on detention and detention holds, as well as defining the relationship between local prisons and immigration detention. Some policies still remain very narrow, and only state that the county sheriff has the discretion to determine whether or not to comply with an ICE detainer request, while other policies provide much more expansive measures and commitments towards the separation of local and federal enforcement. With the peak number of policies passed occurring in 2014, the main goal of many policies that year was to determine their response to ICE detainer

requests, with some citing the Clackamas County vs Miranda Olivares court case as the primary motivation to refuse the requests in order to avoid potential lawsuits and costs to the city.[14]

d. Conclusion: Local mobilization and immigration federalism as the basis for the third wave of sanctuary

Based on the analysis of the first two waves of sanctuary and the various legislation passed during these time periods, there is a clear overall trend toward policies which address local police and include measures to disentangle their enforcement practices from federal programs that they either disapprove of; that they fear will have harmful financial repercussions to the city; or that will further erode trust between local police and residents. In addition to this, local actions within this timeframe also reveal the increasingly important role of immigration federalism, with growing enforcement and criminalization policies demanding closer cooperation with local authorities and being met with the ensuing response of local noncooperation policies and a refusal to comply with these measures. Overall, in the face of heightened controls and regulation on undocumented residents' lives, coupled with the ongoing risk of detention and deportation, sanctuary actors have searched, and continue to search, for spaces to enact local legislation that do not directly contradict federal policy, but find ways within or around a federal mandate to push their own policy agendas to protect immigrant rights. Sanctuary policies thus provide a clear example of "interstitial dissent" within the framework of "uncooperative federalism" (Bulman-Pozen and Gerken 2009), and exemplify how this has played out across the country over several decades.

In addition to the policy analysis, the historical comparison of the first two sanctuary movements reveals how the target populations, leaders, issue entrepreneurs and activists from evolved over the years. As the next chapter will illustrate, when analyzing the sanctuary movement and policies from the mid-2000s, undocumented youth activists moved to the forefront of the advocacy campaigns, supported by local and national NGOs with a long history with the sanctuary movement. This allowed for youth activists to speak out on behalf of their own communities, with greater individual agency. However, as the first wave of sanctuary and the NSM illustrate, immigrant rights' movements faced and continue to face challenges to overcome

[14] This case determined that ICE detainer requests violate the Constitutional Fourth Amendment Right. According to the case, "A federal magistrate judge in Oregon concluded that county officials violated a woman's Fourth Amendment rights when they kept her in custody solely on the basis of an immigration detainer." Miranda-Olivares v. Clackamas County, No. 3:12-cv-02317-ST, slip op. (D. Or. April 11, 2014) (Stewart, Magistrate Judge).

the “innocent” or “deserving” frame as part of their strategy for legalization and protection. In order to combat the restrictionist and anti-immigant discourse presenting immigrants as criminals and threats to public safety, immigrants and undocumented residents often have to show that they are either “deserving”, because they are fleeing from violence, or seeking to keep their families together; or as “innocents”, because they were brought to the U.S. as children, and therefore did not intentionally brake any law based on their actions (Flores 2016; Nicholls 2013). These young people are often portrayed as “model” immigrants, contributing to advocacy strategies which highlight undocumented youth who are also college students or recent graduates to serve as the public face of the movement, emphasizing their contribution to their community and the country (Flores 2016; Nicholls 2013; Wong and Ramos 2011; Yukich 2013). However, this in turn provides a way for politicians and government programs to exclude any undocumented person who has committed even a minor crime, as well as the parents of undocumented youths who are seen as unlawfully bringing their families across the border (Chavez 2010; Nicholls 2013). Just as these binary relationships of “illegal” versus “legal” and “innocent” versus “guilty” were observed in the 1980s sanctuary movement, the third sanctuary movement underlines the debate and struggle to change the dominant frame by transcending this binary and to form ties with a diversity of immigrant and minority groups.

Chapter 6: The Third Wave of Sanctuary: Sanctuary Policies during the Trump Administration

a. Introduction: local policies of noncooperation with federal enforcement

Following the New Sanctuary Movement of 2007, and the subsequent policies focusing on noncooperation with ICE throughout 2014, a third wave of the sanctuary movement gained momentum during the 2016 presidential campaigns. The movement continued to solidify its objectives to serve as a clear response to the Trump administration taking office in January 2017. Based on my research and fieldwork, there are several key differences with this third sanctuary movement, compared to earlier movements. While the commitment to protect undocumented residents continues, as well as the focus on local action at both a city policy level and by mobilizing a network of local actors, the most recent sanctuary movement builds upon previous years of immigrant advocacy with a solidified, detailed and complex set of demands, which although may vary, tend to focus on developing specific local level legislation dissenting against federal enforcement practices. This local legislation thus acts as a policy mechanism to respond to the federal and state level criminalization of immigrants, making sanctuary city policies an important example of immigration federalism. It also highlights the role of local and state policies in both enforcement and protection of immigration policy and immigrant rights. Two other factors that I identify which differentiate the third wave of sanctuary from the NSM and the first sanctuary movement of the 1980s include a change of voice and agency from the movement's leaders, as well as deliberate efforts to form more intersectional ties across communities in order to recognize shared experiences of police discrimination, abuse and detention practices (Akbar 2020; Bell 2017; Cobbina-Dungy et al. 2022; Taylor 2020). Although the most recent sanctuary movement has specific policy goals, the overarching message presents a broader more all-encompassing theme to promote diversity and inclusion. By calling for the protection and inclusion of undocumented immigrants and U.S. residents, the root of sanctuary remains the same, while simultaneously branching out to recognize the shared struggles across diverse minority groups, in addition to the experiences of Latino immigrants in particular.

b. The third wave of sanctuary: a patchwork of noncooperation policies within immigration federalism

Compared to earlier movements, the third wave sanctuary movement exhibits a clear focus on enacting dissent at the local level, while at times pushing for state level policies, all as a response to federal legislation that seeks to criminalize immigrants and undocumented residents.

Unlike the first sanctuary movement, there is less of a transnational focus on international events taking place outside of the U.S. Instead, the movement and policies look inward to respond to internal policing, enforcement and deportation; to combat the criminalization of daily life; and to meet the needs of a large and permanent undocumented population in the U.S. Current sanctuary actions also emphasize coalition building with local governments and city councils, local, state and national NGOs and nonprofits, immigrants' rights groups, legal aid societies, religious organizations and universities. In particular, the sanctuary movement and other pro-immigrant groups made an effort to respond to gaps in their own messaging as well. Since Latino immigrants comprise the largest group of immigrants to the U.S., many of the sanctuary actors, in particular in states like California with a large Hispanic population, tended to focus their actions on immigrant rights for the Latino community (Abrego 2011; Avila et al. 2018; Igielnik and Budiman 2020; Theodore 2013; Voss and Bloemraad 2011). With the rise of the Black Lives Matter movement, these groups started publicly speaking out and sharing new messaging to rectify the gap of those that are included as immigrants, and those that are more likely to face deportation coming from African countries (Lebron 2017; Ransby 2018; Resilience OC 2021; Taylor 2016). In addition, coalitions started to form with Asian-American communities as well, which have historically been less vocal for immigrant rights (Korean Resource Center n.d.; VietRISE n.d.; Tessler, Choi, and Kao 2020).

This more recent approach to sanctuary illustrates how the actors involved in the movement responded to increased enforcement and criminalization policies of immigrants by mobilizing at the grassroots level to push for passing "noncooperation policies" within cities, and some states, to disentangle local and federal law enforcement (Lasch et al. 2018). Sanctuary activists argue that local enforcement agents should view their role as ensuring public safety, and should thus respond first to the needs of the community (Avila et al. 2018; Lasch et al. 2018). For example, they contend that in order to build trust between citizens and local law enforcement, local police should not be permitted to request the immigration status of individuals, so that these individuals feel safer to report crimes and abuse, participate in local efforts to better the community and share information with the police. At the state level, policymakers are left to consider whether the federal policies they work to administer will help to foster community trust and legal legitimacy (Chen 2016; Cooke and Hesson 2020; Wong 2017). As a result, the federal government's efforts to increasingly solicit state and local actors to engage in federal immigration enforcement incurred a wide range of responses tied to the current sanctuary movement (Chen 2016; Stumpf 2015). Some state actors and local enforcement agencies who hold a normative belief in the enforcement

of these policies willingly comply with broader immigration enforcement, while others who challenge the legitimacy of the federal policy work to find ways around it.

The 2016 elections in the United States also brought such challenges of legitimacy to the forefront because of an administration that faced repeated confrontations about the legality of its actions (Cooke and Hesson 2020; Savage 2020; Segal 2018; Waslin 2020). The resulting rise and attention given to sanctuary cities thus appears to be a natural response on the cooperation continuum, as states and local actors exercise their own policymaking strategies and responses to border control initiatives which are increasingly displaced from the territorial border (Chen 2016b; Durand and Massey 2019; Gulasekaram and Ramakrishnan 2016; Heyer 2018). Applying this cooperation continuum within the U.S. federal system, it is possible to see how sanctuary cities in the third wave seek to delineate their role within the realm of immigration enforcement. In Bulman-Pozen and Gerken's (2009) "uncooperative federalism" model, "dissent" typically occurs in the "interstices of federal mandates", via either a deliberate space created by Congress to give the states flexibility to test their own policies or via a "regulatory gap" in existing federal legislation (p. 1261). Placing the third wave of sanctuary within this model reveals how these policies express dissent in the federal system by finding spaces where compliance is voluntary or not regulated, for example, via a refusal to collect sensitive personal information, or restricting police officers from inquiring about a person's immigration status.

While the local ordinances and resolutions vary from symbolic declarations of sanctuary to more concrete legal actions, they typically include a clause which explicitly recognizes the authority of federal immigration policies and programs. In doing so, they take advantage of the interstice awarded to them in the federal policy to find a space where they can express their dissent. This dissent is based on the claim that there is a gap in the federal law which allow them to enact their own local legislation. For example, U.S. Code 8 IIRIRA Section 1373, demands that information sharing not be prohibited between federal, state and local entities. However, while refusing to share information is prohibited, it does not expressly require state and local entities to collect, update and store this information. Therefore, some sanctuary city policies simply refuse to collect and maintain information, or state that they will not use city resources to assist in federal immigration enforcement (Chen 2016; Lasch et al. 2018). As a result, their actions deliberately avoid breaking the law and instead fall within the realm of "interstitial dissent" (Bulman-Pozen and Gerken 2009).

The following chart from the Immigrant Legal Resource Center (ILRC) displays the different types of sanctuary policies that characterize the sanctuary policies from the mid-2000s

onward, and shows the different ways in which sanctuary localities and states attempt to govern their interactions with ICE and federal enforcement.

Policy Option	Description	Reasons
Declaration of Sanctuary	Statement by city officials, or resolution by elected board, declaring the town or city to be a sanctuary city.	These declarations set a general tone for the city and expectations for residents. Without specific policies attached, such declarations are just political statements, but nonetheless they are an important part of the dialogue and a message to the immigrant community that they are welcome
Prohibitions on inquiries into immigration status and/or place of birth	Cities can prohibit their officers and employees from inquiring into immigration status or place of birth, in the context of access to city services or during law enforcement action.	Prohibitions on asking about immigration status are meant to discourage profiling and discrimination, and to ensure access to local government services regardless of immigration status. This kind of policy is very common in cities across the country.
General prohibitions on use of resources to assist immigration enforcement	Some jurisdictions enact more general policies to prohibit the use of local resources in assisting with immigration enforcement.	These prohibitions often focus on preserving local resources for local priorities and drawing a clear line between local agencies and federal immigration authorities
Limits on immigration based detentions, including ICE holds.	Cities can direct their officials and employees not to contact ICE or CBP [Customs and Border Protection] during traffic stops or other encounters, nor to detain individuals on ICE holds.	Local law enforcement officers do not generally have authority to stop or arrest people for civil immigration violations. Nonetheless, more explicit instructions from city government can mitigate racial profiling or illegal detentions based on immigration status.

Acceptance of various forms of identification	Cities can instruct their agencies and law enforcement officials to accept non-governmental forms of ID, and in many cases develop their own municipal ID forms.	In many states, immigrants cannot obtain drivers' licenses, which are the most common form of ID in America. To accommodate this, cities establish policies to offer other municipal ID or instruct their agencies and law enforcement officials to accept foreign or non-governmental ID, and prohibit discrimination on that basis.
No 287(g)	The 287(g) program is a program that specifically deputizes certain local law enforcement agents to enforce immigration laws.	287(g) is the exact opposite of protecting immigrant safety. It turns local police into immigration agents, meaning that contact with local public safety officials could be a direct route to deportation. Furthermore, all the costs of this work fall on the city or county, so the locality is paying to do the federal government's job.

Figure 8 Sanctuary City Policy Rubric. Source: Immigrant Legal Resource Center

Although many localities have policies of non-cooperation, the types of policies and the measures they choose to enact vary as well. For example, many localities have decided not to participate in a 287(g) agreement with the federal government. This is partially due to the high cost of training and implementation for cities to initiate such a program to deputize local officers. On the other hand, relatively few counties actually take steps to limit ICE access to jails or inhibit local law enforcement from requesting the immigration status of individuals. As such, among the counties that have policies of noncooperation with ICE, the majority choose not to participate in the 287(g) program (partially because it is a costly program to enact), but few limit ICE's access to information, jails, or inquiries into immigration status, which requires a more proactive stance (Avila et al. 2018; Fair Punishment Project 2017; Lasch et al. 2018).

The frequency of sanctuary policies also varies greatly by state, with California taking the lead by far in the number of sanctuary policies, having passed 156 sanctuary policies since the 1980s (Lasch n.d.). Part of this can be attributed to the profile of California, which has the highest number of immigrants of all states, as well as being home to almost one quarter of all undocumented immigrants in the country, at just over an estimated 2.2 million as of 2016 (Hayes

and Hill 2017; Pew Research Center 2019). After California, Texas has the next highest estimated undocumented population at 1.6 million, but has passed fewer sanctuary policies due to the political stance of the state as majority Republican. As Gulasekaram and Ramakrishnan (2016) note in their research, political partisanship plays a key role in determining whether a state or locality will pass integrationist or restrictionist immigration policies. This can also be applied to the likelihood of states and localities passing sanctuary policies, as illustrated by the map below (Gulasekaram and Ramakrishnan 2016; Pew Research Center 2019). Rather than a uniform response among local agencies, activists and governments, both enforcement practices and noncooperation measures take on many different forms. The type of sanctuary policy, and even the decision of whether to use the word sanctuary in a city policy, versus "welcoming policies" or "non-cooperation" policies result from a myriad of different factors that can be placed within the specific context of that city, county and state.

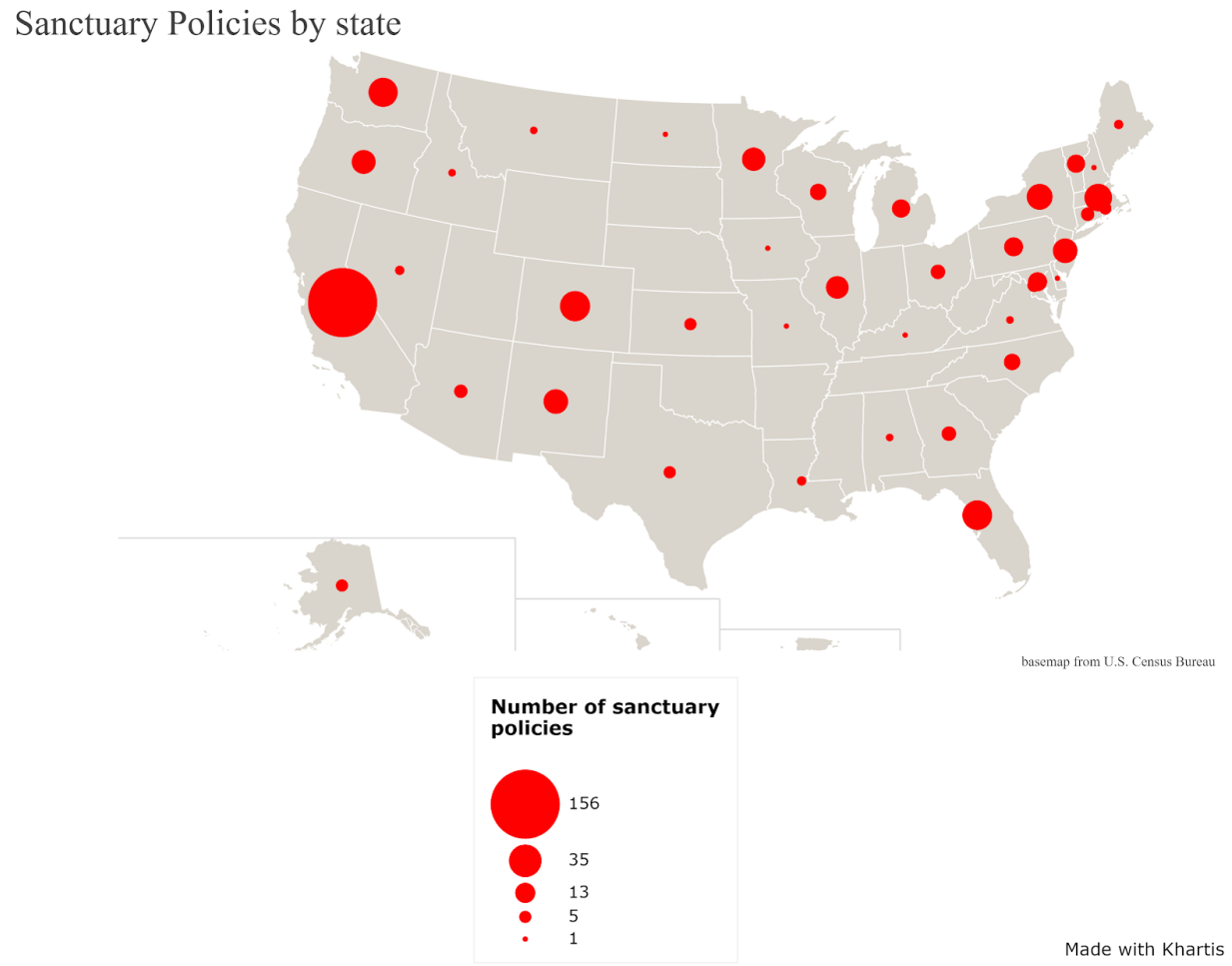

Figure 9 Number of Sanctuary Policies by state. Map by Jennie Cottle. Data from Westminster Law Library

While there are many different types of sanctuary city policies, Lasch, et al. (2018) presents five main categories of sanctuary policies. The authors acknowledge that sanctuary policies encompass a range of declarations and specific actions, but for the purpose of their research, they define sanctuary policies as "adopted by jurisdictions to resist entanglement of state and local law enforcement in federal immigration enforcement" (p. 1707). As such, their analysis focuses on the role of non-cooperation by local entities and utilizes the framework of immigration federalism to present their findings. With this in mind, they present the following five main categories of sanctuary policies as:

> (1) barring investigation of civil and criminal immigration violations by local law enforcement, (2) limiting compliance with immigration detainers and immigration warrants, (3) refusing U.S. Immigration and Customs Enforcement ("ICE") access to local jails, (4) limiting local law enforcement's disclosure of sensitive information, and (5) precluding local participation in joint operations with federal immigration enforcement. (p. 1707).

Lasch et al. (2018) explain that the first category of policies is the most recurrent among sanctuary policies and that the effort to separate police actions from immigration enforcement is a key foundation for a sanctuary city to protect its undocumented residents. These policies can also be understood as "'don't police' policies", and are aimed at preventing police and local law enforcement from becoming "deportation 'gatekeepers' when they arrest noncitizens" (Lasch et al. 2018, p. 1739; Motomura 2011). Specifically, this means that local law enforcement are not allowed to inquire about a person's immigration status during routine policing, and are prevented from "enforcing civil immigration law violations" (Lasch et al. 2018, p. 1739). Some "don't police" policies go further and prevent police from enforcing both civil and criminal violations of immigration law (Lasch et al. 2018, p. 1739). One of the earliest local policies in this "don't police" category was passed even before the first sanctuary movement began, and although it wasn't defined as a sanctuary city at that time, the policy can still be categorized as falling under the sanctuary umbrella. The local policy was the Los Angeles Police Department's "Special Order Number 40" which the L.A. Chief of Police instated in 1979 to limit police inquiry of immigration status. Another early example of this category is the first San Francisco sanctuary policy entitled "City and County of Refuge" discussed in the previous chapter. As part of the sanctuary movement, the San Francisco city ordinance clearly states that local enforcement agencies "have no duty...to enforce the civil aspects of the federal immigration laws" (Lasch et al. 2018, 1739; Motomura 2011; San Francisco Administrative Code 1989).

The second category of "limiting compliance with immigration detainers and administrative warrants" goes a step further by delineating the role of local enforcement with a specific federal enforcement action. As the previous chapters explain, enforcement and deportation programs like Secure Communities regularly use mechanisms like detainer requests in order to fast track deportation efforts and to identify undocumented individuals who are being held in jail for non-immigration violations. As such, localities and states that assert a clear refusal with these requests send a strong message of dissent and resistance to the federal government. At the state level, California and Connecticut passed "TRUST Acts" which establish that "localities decline detainers unless issued against persons with certain criminal charges or convictions" (Lasch et al. 2018, p. 1741). At the county and city level, other examples include Cook County, Illinois (home to Chicago), and New York City which refuse compliance with immigration detainers, but allow "numerous criminal history-based exceptions" which makes their non-cooperation with detainer requests less expansive and effective (Lasch et al. 2018, p. 1741). Responding to this, recent local ordinances include provisions that a detainer request will only be carried out if there is an additional warrant issued by a judge. This additional requirement is more difficult for local law enforcement to obtain because the court must confirm that there is "probable cause of a crime" (Lasch et al. 2018, p. 1741). Furthermore, a series of lawsuits determined that compliance with ICE detainer requests was no longer mandatory, and thus localities were granted the choice to decide to cooperate or refuse the request (American Immigration Council 2017a; Chen 2016b; Stumpf 2015). The courts' decisions were based on the constitutional right to not hold someone beyond the legal timeframe without probable cause and therefore to legally detain someone "amounts to a new arrest that must comply with the Constitution" (Lasch et al. 2018, p. 1742).

The third category of sanctuary policies deals with the refusal to allow ICE to access local jails. This is again another clear response to the criminalization policies outlined in the preceding chapters. For example, enforcement mechanisms like CAP (Criminal Alien Program) primarily function by identifying and interviewing individuals held in local jails. This allows programs like CAP and Secure Communities to deport immigrants more quickly as part of the "prison to deportation pipeline" (Immigrant Legal Resource Center 2016). Thus, by refusing to allow ICE into jails, sanctuary cities with this provision in place can provide further protection to undocumented individuals held in police custody. Several cities also set up provisions to block ICE from local jails. New York City closed access to its Riker's Island Jail, citing its Local Law 58 which affirms that the Department of Corrections has full authority over its jail and that federal agents cannot "maintain an office or quarters on land over which the [Department of Corrections] exercises jurisdiction, for the purpose of investigating possible violations of civil immigration law"

(Lasch et al. 2018, p. 1743). Similarly, Richmond, California, and Cook County, Illinois passed policies which block ICE agents's access to jails "without a criminal warrant or other legitimate law enforcement purpose other than civil immigration enforcement" (Lasch et al. 2018, 1741; Ordinance No. 11-O-73, Code of Ordinances, Cook County, IL 2011). In the District of Columbia, ICE is not permitted to have any type of permanent office or station set up within a jail in order to make it more difficult for them to search or conduct interviews of those being held. In a related move at the state level, California Governor Gavin Newsom signed AB32 in 2019 to phase out private prisons and immigration detention centers in the state and block any new private prison or detention centers from opening (State of California, Office of Governor Gavin Newsom 2019). Although not specifically related to ICE access to jails, the law reduces the number of ICE detention centers and for-profit contracts for immigration detention in the state (Bill Text - AB-32 Detention facilities: private, for-profit administration services. 2019).

The fourth type of sanctuary policy involves cities' limits on sharing "sensitive information," which can range from information of one's immigration status to sexual orientation, whether someone was a witness to a crime, or has reported abuse (Lasch et al. 2018). In some cases, it can also include whether the person receives some type of public assistance or welfare services. As the next chapter will present, the case of Santa Ana, California very clearly states that its ordinance provides a broad coverage of sensitive information (Ordinance No. NS-2908, Code of Ordinances, Santa Ana, CA 2017). One of the rationales behind this provision, and corresponding to another main theme for sanctuary policies, is the goal to promote public safety. While the public safety argument has been used by both anti and pro-immigrant groups, in the case of sanctuary policies, the rationale for protecting sensitive information, such as one's immigration status, is to encourage an undocumented individual to feel more at ease reporting a crime or other types of domestic abuse (Wong 2017). Many sanctuary jurisdictions therefore seek to impose limits on the unnecessary sharing of sensitive information about their residents to help promote greater community trust and public safety. In addition to personal sensitive information, some cities and counties also use this provision to include the non-disclosure of an individual's release date from local jails. As Lasch et al. (2018) explain, "by not notifying immigration authorities about the time and place of an individual's release from custody, these jurisdictions are refusing to facilitate the individual's arrest by ICE" (p. 1746). Localities like New York City and Cook County, Illinois, for example, require that a "criminal warrant" or "judicial warrant" be obtained before complying with a request to reveal an inmates' release date from a local jail (N.Y.C. Local Law No. 62 2011; Ordinance No. 11-O-73, Code of Ordinances, Cook County, IL 2011).

The final type of sanctuary city policy includes ordinances that prohibit "participation in joint operations with federal immigration enforcement (Lasch et al. 2018, p. 1748). These joint operations with local enforcement are a cornerstone of federal immigration enforcement actions. As presented in the immigration federalism framework, federal enforcement agencies depend on participation from localities, local government officials, businesses and private individuals, and most importantly local enforcement bodies and police officers (Gulasekaram and Ramakrishnan 2015; Rodriguez 2017; Schuck 2009). Such joint operations aim to use LEAs to help implement a widespread identification, detention and deportation scheme. This effectively causes "local law officials [to] become participants in the federal government's deportation efforts" (Lasch et al. 2018, p. 1748). One of the key tools for the federal government to implicate local law officials in federal enforcement is through the 287(g) agreements, which although not widely implemented, have the power to deputize local officers as federal immigration enforcement agents (Chen 2016; Immigrant Legal Resource Center 2016; Stumpf 2015). Pro-immigrant groups argue that this contributes to the public's fear of interactions with police officers. Responding once again to this criminalizing aspect of federal enforcement and entanglement with local law officials, many sanctuary cities include a clear statement to refuse to sign any such agreements. In Seattle, Washington, for example, the city's "Welcoming City" resolution clearly objects to cooperation with this program and specifically cites the 287(g) agreements in the resolution (Lasch et al. 2018; Seattle City Council- Record No: Res 31730 Welcoming City Resolution 2017). Oakland, California and the state of New York also issued policies including provisions to separate the role of local enforcement from cooperation with federal immigration enforcement, and emphasize that their roles and actions should remain distinct from one another (Oakland - Res. 80584 2007; State of New York Attorney General 2017).

Also of note is the timing of these declarations, with Seattle's resolution passed just after President Trump taking office, or in the case of Oakland, with a declaration renewing its sanctuary policy when Trump was elected, after already renewing it in 2007 during President George W. Bush's administration (Lasch et al. 2018; Oakland - Res. 80584 2007; Oakland - Res. 86498 2016). Both of these renewals follow Oakland's original sanctuary resolution during the first sanctuary movement of the 1980s (Oakland - Res. 63950 1986). It is thus a clear example of how sanctuary policies serve as a response to political turmoil and federal enforcement measures and how they can even be reaffirmed or re-established when there is a feeling of threat or crisis, contributing to a political opening for local action. The city of Santa Ana's actions also represent a clear response to the political crisis of the 2016 elections, as illustrated by its passage of a sanctuary city resolution and ordinance in December 2016 and January 2017 respectively. Local

actors in Santa Ana were able to use this political opening and momentum for sanctuary to push for ending the city's intergovernmental agreement between its local jail and ICE, in which ICE rented a part of the jail to serve as an immigration detention center (Carcamo 2017; Kwong 2017). To do so, they argued that the city could not be considered a true sanctuary city if the government still benefited financially from detaining its local undocumented residents (Carcamo 2017; Personal communications, March 1-7, 2017).

Lasch et al. (2018) also illustrate the importance of understanding the "rationales" and objectives of sanctuary policies which influence the type of policy that a city has passed. The authors explain that "sanctuary policies themselves have an important expressive function. They are statements made by local officials to their communities, and the words that are used indicate the expressive function being served" (Lasch et al. 2018, p. 1752). As such, even for sanctuary resolutions that provide a more symbolic statement versus those which include concrete provisions via a binding ordinance, there is still an important resonance when elected officials and the community at large publicly declare their support for sanctuary. Furthermore, there is also a difference in the symbolic significance of a local jurisdiction's declaration to disentangle local enforcement from federal enforcement with the goal of limiting city resources for immigration enforcement versus one that aims "to foster community trust" (Lasch et al. 2018, p. 1753). While both provisions may have similar concrete outcomes, the message transmitted to the community and city residents is distinct and may also signal the type of city actions that activists and pro-immigrant actors may expect from their local officials in the future. Lasch et al. (2018) also explain that differences in rationales can strengthen or weaken sanctuary policies. For example, a policy that states its primary objective as promoting public safety via "a desire to encourage crime victims and witnesses to report crime" is more likely to include provisions that do not cover individuals with criminal backgrounds (Lasch et al. 2018, p. 1753). In contrast, a sanctuary policy "grounded in a commitment to diversity and inclusion" can provide a foundation rooted in community trust and freedom from discrimination for a person with a criminal record (Lasch et al. 2018, p. 1753). While there is certainly a strong argument for this difference in policy rationales and influencing outcomes, my field research shows that for some advocacy groups and activists, the presence of more specific and concrete measures, even when they are less all-encompassing, is at times viewed as having a stronger impact and message, versus broad statements which may be received as empty declarations (Personal communications, March 1-7, 2017).

From their analysis of the sanctuary policy database, Lasch et al. (2018) identify the six most prevalent "policy rationales":

> (1) the conviction that localities (and not the federal government) should control their own criminal justice priorities and resources; (2) a desire to avoid unlawful arrests and detentions; (3) the concern that entangling police with immigration enforcement erodes trust among minority community members; (4) a commitment to preventing improper discrimination in policing based on race, ethnicity or national origin; (5) a desire to further diversity and inclusion; and (6) a wish to express disagreement with federal immigration policy. (p. 1753).

Policies may encompass one or several of these rationales, with some resolutions or ordinances clearly stating their rationale or motivation for passing the legislation within the text itself. Furthermore, as the example of Oakland, California illustrates, rationales may also change over time, with the city reaffirming its sanctuary declaration as a response to key political and enforcement decisions. This also can be seen in particular with cities that include their "disagreement with federal policy" after the 2016 election, since they clearly assert their resistance to Trump's campaign rhetoric as well as his Executive Orders targeting sanctuary cities (Lasch et al. 2018, 1753; Waslin 2020). Richmond, California, for example, also reasserted its commitment to sanctuary in 2016, stating that "President-elect Donald Trump ran a campaign on a message of hate and bigotry," and that they would not change their stance, underlining that, "no matter the threats made by President-elect Trump, Richmond will continue our sanctuary policies" (Lasch et al. 2018; Richmond - Res. 106-16 2016). Santa Ana's sanctuary resolution passed in 2016 just after the election also includes this rationale of expressing dissent, in addition to several other commitments to promote diversity, disentangle local resources from immigration enforcement, and foster public safety and community trust (Ordinance No. NS-2908, Code of Ordinances, Santa Ana, CA 2017).

c. Policy database analysis during the third wave of sanctuary

The policy analysis of the third wave of sanctuary provides further evidence of the different objectives and rationales presented above. Compared with the prior time periods in the 2000s, sanctuary policies passed within the context of the November 2016 elections through mid-2018 show a clear focus on three main areas: police guidelines and separation of federal and local enforcement; declarations of sanctuary and access to public services; and commitments to fight discrimination and hate crimes in the wake of the 2016 elections. Further setting these policies apart from earlier time periods, many tend to fall under multiple categories, especially when compared to the heavy concentration on policing and noncooperation policies from the 2011-2015

time period. There is also a renewed attention to passing sanctuary declarations, or reaffirming prior sanctuary commitments, which was less prevalent in the interim years since the NSM period. The category of policing and local noncooperation also expanded to include more in-depth and comprehensive commitments to protecting sensitive information and refusing to allocate local resources for federal immigration enforcement. Finally, certain policies also include clear statements of dissent to the 2016 election of Trump. This also differs from past opposition to federal actions, which focused more on their disapproval of specific policies, versus their opposition to a particular president and the anti-immigrant rhetoric propagated during this timeframe.

Within this context, the final time period analyzed from November 2016-May 2018, during the post 2016 election and the first years of the Trump administration, center upon three main priorities:

1. **Policing/separation of local enforcement:** These policies tend to include declarations of non-cooperation with ICE. Some state that they will not allocate any local resources to federal immigration enforcement; that they will not participate in joint raids with ICE; that there can be no questioning on the basis of immigration status; and that they will protect sensitive information.
2. **Declaration of sanctuary or welcoming city and access to public services:** These declarations include commitments to promoting inclusiveness and diversity (regardless of race, sexual identity, immigration status, religion). Some are more symbolic statements, while others also state that they will ensure access to public services.
3. **Response to the 2016 elections (against hate crimes and discrimination):** Many of these policies specifically mention their disapproval of Trump's statements and actions. Others address the topic more indirectly by including declarations against hate crimes, hate speech and discrimination. Some policies in this category include a response to Trump's threats to defund sanctuary cities and cite their disapproval of the two Executive Orders issued on January 27, 2017 (Enhancing public safety in the interior and Border security). Within this context, they also state their objection to funds going to the construction of the border wall, as well as the need for Comprehensive Immigration Reform to fight against the Executive Orders.

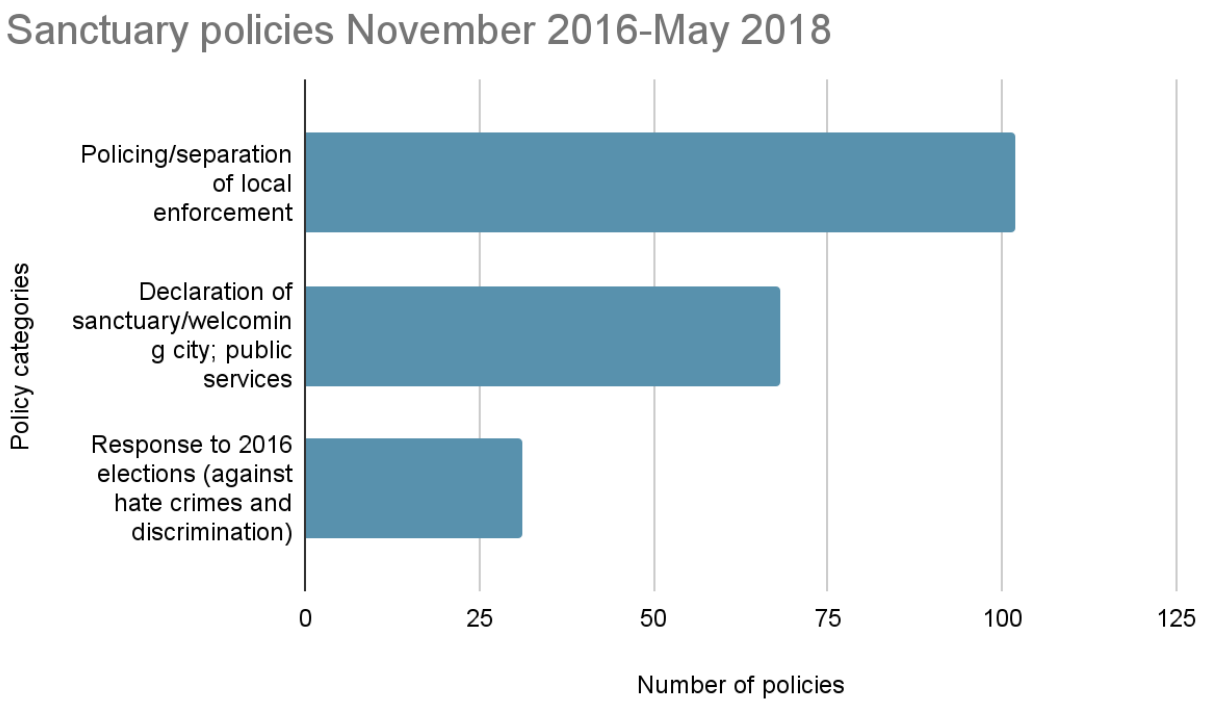

Figure 10 Sanctuary policies November 2016-May 2018

Analysis: The results of this final time frame illustrate a clear policy shift in 2016 to confirm the presence of a new sanctuary movement, taking the form of official declarations of sanctuary, or of serving as a welcoming or inclusive city. This period is also characterized by comprehensive ordinances regarding local jurisdictions' non-participation in federal enforcement activities and the division of power between local, state and federal programs. In addition, many policies commit to not utilizing resources or municipal funds to participate in immigration enforcement. There is increased attention given to the goals of promoting greater trust between communities and LEAs, often citing that this will encourage individuals to report crimes or provide testimony in court and will foster greater confidence to access public services. Overall, this theme of trust and promotion of public safety as a central component of policies during this time is increasingly prevalent. In addition, a significantly higher number of policies during these years include measures related to policing and non-cooperation in addition to a declaration of sanctuary or inclusiveness. There is also a tendency of the California-based policies to include more comprehensive measures related to non-cooperation and public safety that fall under all three categories for this period. Furthermore, the California policies are more likely to include stronger statements of their disapproval of Trump and his January 2017 Executive Orders.

d. Conclusions from the policy database analysis and historical comparison of the sanctuary movements

Based on this policy database analysis, several conclusions can be drawn to understand the evolution of sanctuary policies over the past 40 years, as well as the common themes and practices that they share. By studying these policies over several decades, one can first observe clear shifts in the number and types of policies that fall under the sanctuary umbrella. For example, starting in the mid-2000s, an increasing number of localities utilize almost identical language in their policies, in particular, those within the same state or region. This suggests that in the absence of a clear declaration of sanctuary, or a local activist movement pushing specifically for sanctuary, there appears to be an informal network of municipalities that are able to build from the legal and policy frameworks set up by nearby municipalities (Villazor and Gulasekaram 2019). Second, analyzing the policies in specific time frames, rather than a uniform five or ten year period, further reveals how these policies respond to a distinct historical moment, or critical juncture, in federal policy and politics. It also portrays how local priorities shift in response to various social and political movements, as well as state and federal legislation. By the mid-2000s, an increasing priority on local policing, separation of federal and local enforcement measures and non-cooperation with ICE operations can also be observed. Coupled with these measures, policies during this time tend to add more justifications for this separation of powers as a means of fostering trust between local enforcement and the community and encouraging local residents to report crimes or access public services without fear of potential consequences related to their immigration status. Finally, there is also a clear evolution in 2016 to renew the focus on sanctuary specifically, calling upon its long history of working towards protection for immigrants and protesting policies that fail to guarantee basic rights. This move also goes hand in hand with more political statements against the anti-immigrant rhetoric of the Trump campaign in 2016 and the rise in hate crimes and speech during this period (Abramson 2017; Feinberg, Branton, and Martinez-Ebers 2019; Segal 2018; Villazor and Johnson 2019).

Looking at the entirety of the policies and time periods together, four broad categories and priorities of sanctuary policies emerge. These include;

1. **Policies focusing on disentangling local enforcement with federal immigration enforcement**: including local resources, opting out of federal programs, protecting sensitive information, promoting unbiased policing
2. **Policies that directly express dissent with federal immigration policies or programs that criminalize immigrants and minorities**: examples include the Patriot Act, the Clear

Law Enforcement for Criminal Alien Removal Act of 2003 and 2009, the Border Protection, Anti-Terrorism, and Illegal Immigration Control Act, Trump's January 2017 Executive Orders on Enhancing public safety in the interior and Border security

3. **Policies that call for Comprehensive Immigration Reform (CIR)**: examples include expressing support for a pathway to citizenship, and for programs like the DREAM Act and DACA
4. **Declarations of sanctuary, or welcoming cities**: including guaranteeing access to public services to promote diverse communities.

The graphs below illustrate how these policies are distributed among these four themes, first within their specific time frames, and then presented all together.[15]

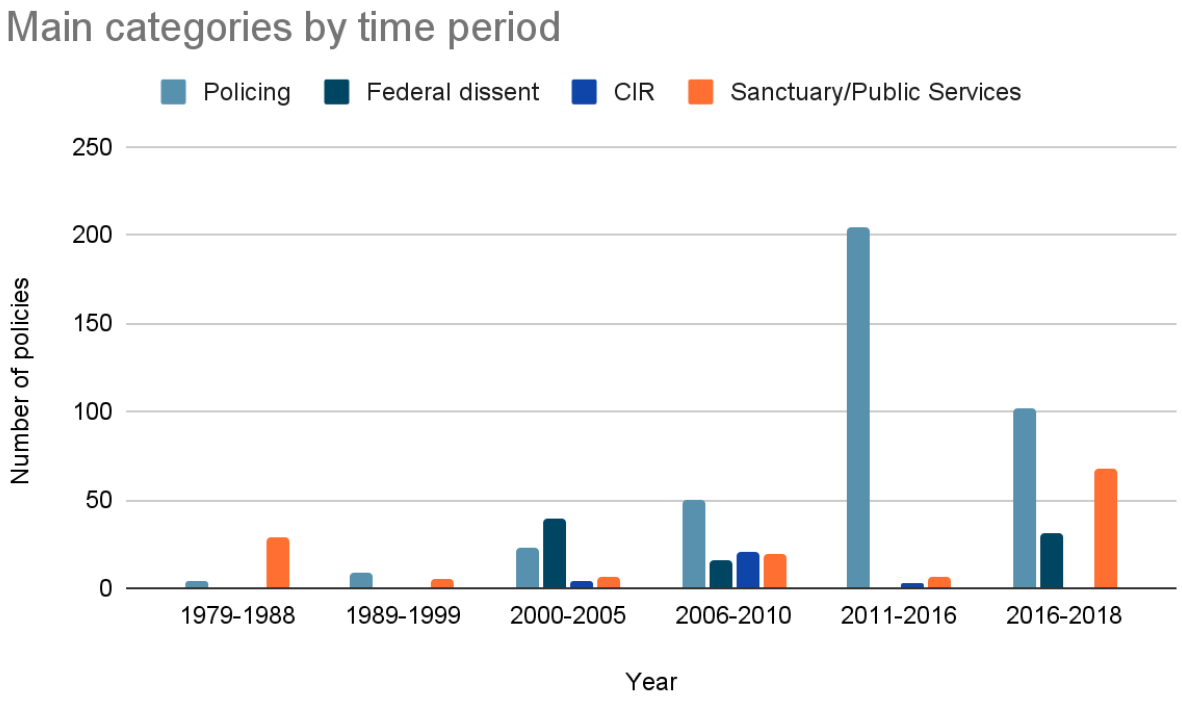

Figure 11 Main sanctuary policy categories by time period

[15] Note that some policies may be classified in multiple categories.

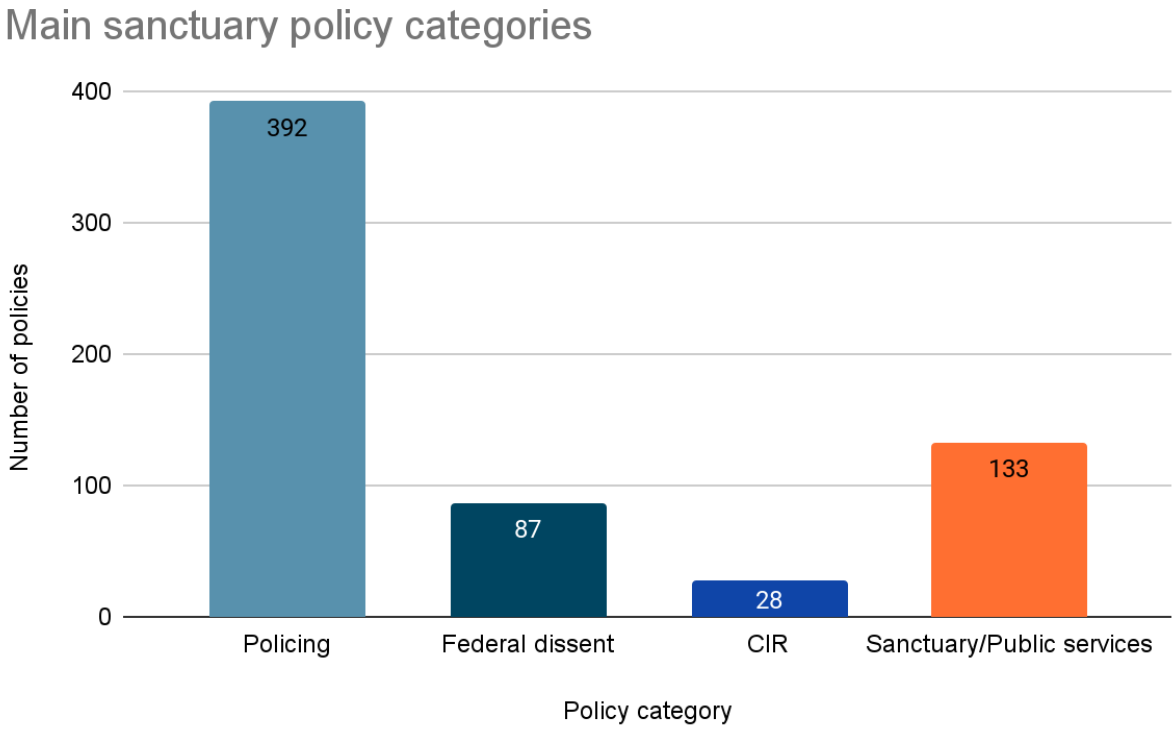

Figure 12 Main sanctuary policy categories

While my analysis of the 523 policies within the sanctuary database shows how these policies evolve over time, it also reveals two key commonalities across the past four decades. First, my analysis confirms that sanctuary policies set clear priorities related to policing and disentangling local enforcement with federal immigration enforcement. This may take the form of a refusal to participate in certain federal programs; of defining the policing measures that may be taken (for example protecting sensitive information like immigration status or promoting unbiased policing); or by prohibiting the use of city resources for immigration enforcement. Second, it underlines the sanctuary movement's commitment to fostering trust between local governments and LEAs with vulnerable communities. While policies from the second and third wave of sanctuary exhibit even greater efforts to expand protection for local residents (either via access to public services, calling for Comprehensive Immigration Reform and a pathway to citizenship, or expressing dissent with federal policies), the theme of protection for vulnerable groups is present throughout.

The second commonality among these policies is how they have chosen to resist or express their dissent via two primary mechanisms. The first is the very act of passing a local or state policy (be it an Executive Order by a mayor or governor, a public declaration by a city council,

or binding legislation via local ordinances or state laws), which serves as one of main tools for localities to act within the federal system to express approval or dissent with federal (or state) policy, and to further determine what legal actions are available to them. The second mechanism that these policies overwhelmingly employ is the regulation of local police and the distribution of municipal resources. The use of this mechanism underlines how municipalities are able to identify an essential policy tool that allows them to pass concrete measures falling within their jurisdiction.

The case study of the city of Santa Ana in the next chapter will provide further evidence to support these conclusions by presenting how local activists and the municipal government utilize these mechanisms within their own sanctuary policy, and how some of the most difficult challenges they faced centered precisely upon the role and influence of the police union and the allocation of the city budget. One can then demonstrate the significance of these two main policy mechanisms for sanctuary cities to work towards their objectives to provide greater protection for vulnerable communities and to guarantee the rights of minority groups in general. As a result, it becomes clear that the larger picture of sanctuary is inherently tied to the broad federal and local enforcement landscape, alongside the criminalization of immigrants and minority groups across the country. It is also a relevant example of how these subnational policies act within the U.S. federal system, allowing for varying levels of cooperation and dissent.

These findings also provide further support to the conclusions made by Lasch et al. (2018) in *Understanding Sanctuary*:

> Although the specific rationales of different jurisdictions are varied, they generally agree that immigrant protective policies are an important way to preserve local sovereignty, define local priorities, and enhance community trust in law enforcement. Such policies are also understood as crucial to protecting fundamental rights, such as the right to live free from racial profiling, illegal searches and stops, and arrests without probable cause. More to the core, many sanctuary city laws and policies are designed to embrace a diverse and inclusive vision of community. (p. 1709)

By adding a quantified and historical analysis to their conclusions, it is possible to more precisely grasp the myriad of topics addressed by sanctuary policies; how and when these topics appear across different time periods; and how these topics are distributed across several main categories and themes. My analysis also establishes that localities' primary mechanisms of both dissent and protection takes place via the regulation of local and state enforcement practices and municipal resources. Furthermore, I illustrate how the priorities of these policies evolve over time, both

substantially increasing their numbers and concentration in certain regions and broadening their objectives over recent years.

While this policy analysis provides important insights into the objectives and mechanisms for sanctuary actors, other contextual factors can be taken into account to understand the groundwork for such policies to be successfully passed by local and state governments. These contextual factors include:

- the percentage or type of immigrant or minority population present in the city, as well as the primary nationalities, backgrounds, length of time in the U.S., and specific challenges facing their communities
- the local political climate of the city or county, whether there is a Democrat or Republican majority at the city, county and state level, and how these different levels reinforce or block local actions
- the historical background of the city, which may include its traditions of protecting workers' rights and/or protection for immigrants and other minorities
- the economic situation of a city and its primary industries that may impact the likelihood of passing a sanctuary policy, as well as the prominence or wealth of a city which may provide it with the financial means to withstand threats to funding or may have a stronger voice within the state to determine its own local jurisdiction decisions.

To address these factors in greater depth, the following chapter will explore the case of Santa Ana, California, to better understand the significance of the background and composition of a third wave sanctuary city, and how it was able to pass a sanctuary resolution and ordinance at the start of the Trump era. These questions may also be considered for further research and in-depth case studies of different municipalities to compare Santa Ana's experience with other cities across the country.

Chapter 7: The Case of Santa Ana, California: Becoming a Sanctuary City in the Trump era

a. Introduction: the political history and role of immigration in shaping the city of Santa Ana and Orange County

In December 2016, Santa Ana became one of the first cities to pass a sanctuary city resolution within the wake of the 2016 presidential elections, joining several cities across the country in their efforts to declare sanctuary or to reaffirm their commitment to previously passed declarations (Lasch n.d.). The city represents an interesting case study for several reasons. Santa Ana has a long history with immigration, and hosts a population that is 78% Latino. Because of this, local community members felt a direct effect of discrimination from immigration policies and local policing which regularly target Latino immigrant populations (Abrego 2011; De Genova 2004). On the other hand, its location in Orange County, California, a historically Republican district, distinguishes it from progressive enclaves found in areas like San Francisco, which passed its first sanctuary declaration in the 1980s. Thus, the study of this case aims to provide greater insight into understanding how the changing political climate contributed to a critical juncture (Collier and Collier 1991) that opened a political opportunity for the city and its residents to fight for sanctuary city policies (Boin, 't Hart, and McConnell 2009; van Hulst and Yanow 2016). However, in addition to the timing of the resolution, the preexisting foundation of grassroots organizing led by issue entrepreneurs helped create an advocacy coalition of local organizations that played an essential role in laying the groundwork for the city's sanctuary policy (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996; Sabatier 1988). Community members and activists reported a sense of urgency due to the 2016 presidential elections that had not been present in the past and explained that this helped them to achieve concrete objectives that had not previously been attainable (Personal communications, Santa Ana, California, 2016-2017). Thus, Santa Ana's passage of a sanctuary resolution in December 2016 can be understood as the result of various factors, from the timing provided by the critical juncture of the 2016 presidential election, to the historical foundation of both the sanctuary movement and grassroots mobilization in the city.

While the timing of Santa Ana's sanctuary policy was an important factor in passing the local ordinance, the city's demographic and political composition also help to explain the grassroots mobilization that occurred there. Santa Ana is located in southern California and is the second largest city in Orange County, and eleventh largest in California. It is home to a population of 342,930 people, with a majority of its residents identifying as "Hispanic", at 78.2%, followed by

10.4% identifying as “Asian”, and 9.2% as “White” (State of California n.d.).[16] In addition, about half of the city’s residents are foreign born. The mayor and all six members of the city council are consistently of Latino origin. However, the council regularly includes both Republicans and Democrats. Despite having a majority Hispanic population for several decades, the city’s sanctuary resolution reveals the culmination of a long and slow struggle for political representation and protection of Latino immigrants.

To develop a deeper understanding of the role of grassroots mobilization in laying the groundwork for Santa Ana’s sanctuary policies, it is necessary to understand the history of both Orange County, and Santa Ana’s specific role within the county. Orange County was formed in 1889 after the California Senate voted to create a new municipal area from the southern section of Los Angeles County. Voters in the area followed this Senate vote by approving the creation of Orange County two months later (Kling, Olin, and Poster 1995). The original tracts of land in this area were primarily new farmlands whose growth provided an incentive for the Southern Pacific Railroad to extend its reach to connect the city of Santa Ana with Los Angeles County (Marsh 1994). When Orange County separated from Los Angeles County, its population was described as “fiercely independent ranchers, sheepherders, beekeepers, citrus growers and crop farmers who had bristled under the control of a rich city 30 miles up the rail line” (Mozingo 2018) These ranchers had taken over land that was left behind when the “Californios”, ranchers and landowners of Spanish origin, left the area after a long drought period. Following its independence from Los Angeles County and the construction of the railroad connection, Santa Ana became the center of several Orange County institutions that it still houses today, including the County Courthouse, all of Orange County’s major departments, as well as Orange County’s local newspaper, the OC Register, originally called the Santa Ana Register (Marsh 1994).

By the early 20th century, several families purchased large plots of farmland in Orange County, which they would later develop into the extensive suburban center that it is today (Kling, Olin, and Poster 1995). However, in order to function these farmlands also required the presence of low-wage workers in the area, a majority of whom were from Southern California and were of Mexican descent. Many lived in “segregated barrios” in cities including Santa Ana, Westminster, Anaheim and Garden Grove (Eng and Schwartz 1991). In the 1940s, Santa Ana’s Hispanic

[16] California State Department of Finance, Demographic Research Unit. January 1, 2016. Note: the U.S. Census methodology for this data collection uses the following categories for demographic origins: “White alone; Black or African American alone; American Indian and Alaska Native alone; Asian alone, Native Hawaiian and Other Pacific Islander alone; Two or More Races; Hispanic or Latino; White alone, not Hispanic or Latino”

population was reported to be about 15%, and an article from the LA Times explained that at that time “they were forced to attend ‘Mexican” schools, not allowed to eat in certain restaurants, and segregated into five barrios” (Eng and Schwartz 1991). Since then, Santa Ana’s Latino population grew rapidly in the post-World War II period, mirroring Orange County’s overall population growth as well. From 1950-1960, the city’s population doubled from 45,333 residents to 100,350, increasing to 156,601 in 1970 (Kling, Olin, and Poster 1995). By the 1990s, Santa Ana’s ethnic composition had already become very diverse from different periods of immigration. The city was home to residents coming from El Salvador, Guatemala, Mexico, Cambodia, Laos, and the Philippines, in addition to a large Vietnamese population that settled in Santa Ana, Garden Grove and Westminster as part of a refugee resettlement program by the U.S. government (Marsh 1994). This contributed to the 1990s census results which revealed that 50% of Santa Ana’s population was foreign born, the majority of whom had arrived during the 1980s.

While Santa Ana’s ethnically diverse population continued to grow, Orange County became the center of conservatism in California. During World War II, the construction of the Santa Ana Army Base, among other military bases, attracted thousands to the southern California area. Many major aircraft manufacturing firms based out of Los Angeles also moved further south to Orange County where land was cheaper, further cementing the drive for those to either stay in the area after the war, or continue flocking to Orange County for job opportunities (Kling, Olin, and Poster 1995). The rise in the number of huge defense companies like Boeing, Hughes Aircraft, Ford Aeuronutronic, and others attracted conservative populations from the Midwest to work at these rising industries (Mozingo 2018). Eventually, the owners of the farms started turning their tracts of land into housing or retail developments, or selling off their farms for large profits. As the LA Times reported, “At its core, Orange County held a tension between Midwestern traditionalism and California’s drive for reinvention” (Mozingo 2018). This created an overall tendency toward libertarianism, calling for low taxes and regulations for land development, and conservative religious views focused on “family values.”

The construction of the county’s first megachurch in 1980, one of the first in the country, corresponded closely to this conservative and religious trend (Kling, Olin, and Poster 1995). This megachurch, followed by several others led by conservative preachers, reaches millions of residents in the county. Throughout the 1980s, further development in Orange County also led to the construction of the country’s first theme park, Knott’s Berry Farm, followed by Disneyland, which quickly became an international destination. The construction of South Coast Plaza, an expansive shopping mall, became another international destination, at times attracting larger

crowds than Disneyland (Kling, Olin, and Poster 1995). Cities like Irvine, owned by the Irvine family, one of the original landowning families in the county, transformed into such a huge development project that it became the largest planned city in the U.S., all designed around the founding of a large public university, the University of California Irvine (Piggot 2012).

The defense industry in Orange County also continued to grow in the Cold War period throughout the 1960s, and consistently attracted conservative populations with strong anti-communist sentiments (Kling, Olin, and Poster 1995). Due to the success of the industrial development, Orange County's overall postwar population increased from 200,000 in 1950 to 2 million by 1987, eventually reaching over 3 million today (U.S. Census Bureau n.d.). Particularly in newer cities built along the southern coast of Orange County, many areas became predominantly white and politically homogeneous, with little organized labor and diverse interests to push for more left leaning policies. It also made Orange County a center of support for the Reagan gubernatorial campaign, and later the Reagan and Nixon presidential campaigns (Mozingo 2018). Newer cities in the southern part of Orange County also attracted white and wealthy Republicans from the older northern cities in the county. The Orange County brand of conservatism and anti-minority views in certain areas helped boost the political careers of congressmen with extreme right views (Mozingo 2018)

Bolstered by higher concentrations of white, wealthy residents, "planned communities," built by commercial and development companies in cities like Irvine, Laguna Niguel and Mission Viejo, continued to grow as well, offering a "utopian promise" to their affluent residents (Kling, Olin, and Poster 1995, p. 3). The increase in development in these areas mirrored the earlier growth in agriculture in the county by once again utilizing a primarily low-wage Latino workforce to construct new more expensive cities. These housing developments also contributed to the "gated community" phenomenon of planned neighborhoods, allowing wealthy conservative residents to further increase the divide between lower income areas by constructing physical, demographic, and financial barriers to block outsiders' access. However, unlike most conventional suburbs, by the mid-1970s to 1980s Orange County encompassed "a complex and decentralized mixture of urban, suburban and rural spaces" that also included "large poor neighborhoods", such as those located in cities like Santa Ana, mixed in with wealthier districts (Kling, Olin, and Poster 1995, p. 3). Orange County's development can be summarized as moving from "an almost indistinguishable part of Los Angeles's suburban fringe" in the 1950s and 60s into a "a self-sustaining, complex economy and cultural life, which is sufficiently interesting and significant to make Orange County a distinct object of study" (Kling, Olin, and Poster 1995, p. 5).

As the historical center of the county, Santa Ana did not have the same trajectory of inward-looking gated communities that characterizes many areas in other parts of Orange County. Instead, it was able to maintain closer neighborhood and family ties built around a strong Latino community base. The longer history of the city and close-knit feeling among the neighborhoods in Santa Ana allowed it to develop a different response to new housing development projects, based on grassroots mobilization that is rarely seen in other parts of Orange County. For example, from 1976-1988, a series of protests mobilized by the neighborhoods took place against the urban development plans to tear down older houses and apartment complexes in the city (Haas 1995). Haas (1995) explains how undocumented immigrants led the protest against the city council's plans to knock down their houses and replace them with higher income development projects. This mobilization was possible in part because of the "acute racial and class tensions that characterize politics in this older city" when compared to other parts of Orange County" (Haas 1995, p. 254).

Santa Ana's role in Orange County also corresponds to demographic changes in the city. In 1950, over one third of the county's population resided in Santa Ana, but as the county grew, residents migrated to newer city developments. This internal migration into newer cities in Orange County also had the effect of pushing Latinos into lower rent areas like Santa Ana, which saw its Latino population double from 40,000 to 90,000 in the 1970s (Haas 1995). In the decades that followed, the city's Latino population continued to grow so that by 1980, 41% of all of the Latino immigrants in Orange County were living in Santa Ana (Kling, Olin, and Poster 1995). As Haas (1995) explains, "contrary to the intent of planners and city politicians, by the 1980s, Santa Ana had become the Latino center of the county" (p. 256). Latino immigrants tended to choose Santa Ana partially because of the network of the established Latino neighborhoods, coupled with relatively lower housing rents than other parts of the county.

The Latino workforce in the area also historically formed a major segment of certain, often low wage, industries, such as agriculture, construction, and other blue-collar sectors, and were often further separated by the urban divide and the type of opportunities that were available. This resulted in a "consistently low level of income for Latino families" which by the late 1970s and early 1980s had become so entrenched that "88% of Orange County's Latino population earned below the median income" (Haas 1995, p. 259). This wage gap also contributed to Santa Ana being home to "eight out of the county's ten poorest census tracts in 1980s" (Haas 1995, p. 259). It is thus important to understand how the historical particularity and ethnic division between Santa Ana and many other parts of the county resulted in the city's profile as a lower-income and

primarily Latino district. However, the differences in the demographic makeup and use of urban space also encouraged greater community alliances and grassroots mobilization, ultimately contributing to the immigrant youth-led mobilization for sanctuary. These differences reveal how a Democratic enclave, with lower income neighborhoods and a large historically Latino population, continued to grow as the center of the county, surrounded by majority Republican districts. As Haas underlines, "history of this ethnic segmentation helps to explain the social basis of the urban movement" (Haas 1995, p. 259). Although she is referring to the urban movement against the housing demolitions of the 1980s, it is possible to observe the presence of neighborhood associations and community mobilization in Santa Ana today as well.

The city of Santa Ana continued to grow and solidify its image as the Latino stronghold of Orange County. In October 2016, Santa Ana was featured in a New York Times article, described as being the "face of a New California" (Nagourney and Medina 2016). As the article explains, "These days, Santa Ana stands as the face of a new California, a state where Latinos have more influence in everyday life — electorally, culturally and demographically — than almost anywhere else in the country" (Nagourney and Medina 2016). In 2016, the city council had been made up of all Latino members for 10 years, and small transformations such as the passing of a law to provide simultaneous translation into Spanish at all city council meetings reflected a cultural shift to provide greater access to Latino residents. More generally, the law represents an effort to show how the city values its Latino identity, which has been a long struggle for its residents. As former Santa Ana City Councilwoman Michele Martinez, quoted in the New York Times, explained, "A lot of my friends, my colleagues, they grew up here in a time when they weren't allowed to speak Spanish…" (Nagourney and Medina 2016). Thus, by integrating Spanish into the city council meetings, the local government not only attempted to rectify the previous denial of the city's Latino heritage, but showed the city's symbolic recognition of its cultural pride.

These shifts in political and cultural representation since the 1990s were mirrored in other government departments in California as well. As of 2021, the overall state population is close to 40% Latino, a number which is expected to continue rising (U.S. Census Bureau n.d.). As the Latino voting base in California grew, so did their political representation at local and state levels. Several leaders of the California State Legislature and the current and previous mayor of Los Angeles, the state's most populous city, are all Latino. According to the Pew Research Center, 25% of all Latino voters in the U.S. reside in California (Passel, Lopez, and Cohn n.d.). However, although the Latino community has seen gains in political representation, Latinos in California still face higher unemployment rates than the state average, lower numbers enrolled in higher

education, and higher poverty rates (23% compared to the state average of 16%) (Employment Development Department, State of California n.d.). These numbers correlate closely to the situation in Santa Ana as well, with 22% of its residents reported to be living in poverty (Employment Development Department, State of California n.d.).

While interviews suggested that the feeling of a national crisis was a key factor in influencing local politics in Santa Ana to pass a sanctuary policy, the history of community associations and involvement of undocumented Latino immigrants in the city's policies did not arise solely as a result from the Trump campaign and resistance to his presidency. Just as the history of immigrant criminalization shaped the policy responses encompassed by sanctuary cities, in the case of Santa Ana, compared to the neighboring, more conservative cities of Orange County, the factors of wealth disparity, a large undocumented population and community ties also contributed to the groundwork for future mobilizations. The local protests against the city's urban development plans, that occurred from the late 1970s through the 1980s, represents one such example of this dynamic in Santa Ana. More recently, the sanctuary movement and its efforts to close the city's immigrant detention center reveal further elements of urban politics and policies that contributed to the success of passing Santa Ana's sanctuary policies in 2016 and 2017.

b. Grassroots mobilization in Santa Ana: the renters' strike and protests against urban development

While the 1980s saw the rise of criminalization policies against immigrants nationally, locally, in Santa Ana, the grassroots movement focused on fighting against urban development plans that threatened to destroy existing neighborhoods and community ties. The result was the formation of a local mobilization that took place over the course of eight years. As Haas (1995) states, "between 1976-1987 tens of thousands of Latinos in Santa Ana, the former urban center of Orange County, organized to oppose the policies of city government that threatened to destroy their neighborhoods and homes" (p. 254). She explains that a coalition of "working-class residents", "organized neighborhood associations" and "undocumented Latino immigrants" organized to fight against the urban development plans and demand changes to the city planning policies, ultimately bringing together "tens of thousands of Latinos in Santa Ana" (Haas 1995, p. 254). In particular, the movement gained traction in 1984 with the organization of a tenant rent strike, mobilizing more than "five thousand immigrants in a struggle to establish and protect their rights as renters" (Haas 1995, p. 254). When the strike was at its largest, in addition to the tenants and neighborhood association leaders, "middle-class residents" joined the movement in an effort to "democratize municipal politics" (Haas 1995, p. 254). Haas (1995) explains that "this coalition

was the most radical of similar organizations that had formed in the county," precisely because it came about at a later stage of the origins of the grassroots mobilization that had started earlier in the decade, and because this was one of the only coalitions addressing the social, economic and ethnic gaps between Santa Ana and other cities of Orange County (p. 254).

Haas's (1995) analysis of the Santa Ana mobilizations reveals that one of the factors missing from the geographical and urban studies of Orange County is the intersection of both race and class in "in the planning and politics" of the region (p. 255). She argues that it was both the threat to the older city's traditional urban center and neighborhoods, coupled with the Latino community's marginalized role in politics, including undocumented immigrants and the "nonwhite working class" which sparked an "unprecedented mobilization" unseen in other parts of the county (Haas 1995, p. 255). When comparing the urban movement of the 1980s to the third wave sanctuary movement in 2016, similar themes of grassroots organizing and coalition building emerge to explain why the sanctuary movement occurred in Santa Ana, and how it was able to succeed in passing a municipal ordinance. It also shows how undocumented members of the city continue to play a role in local politics and community empowerment in significant ways.

In the 1980s, the city initiated an urban development design that focused on building new industrial zones, "modern corporate convention and hotel centers", and a plan to "'revitalize' more aggressively than before the downtown and civic center area for use by a middle-income residential and commercial population" (Haas 1995, p. 262). This plan would have taken over 20% of Santa Ana's land and would have decentralized the city's urban center as was done in other cities in Orange County, like Anaheim, Fullerton and Newport Beach, and mirroring the plans of newer suburban centers like Irvine. (Haas 1995, p. 255). Thus, the urban development efforts in Santa Ana were regarded as a way to compete with these newer cities which had grown and developed more quickly and were attracting more investment and business expansion than in Santa Ana. Within this context, the plans centered on reforming "the old urban core," and in doing so, would demolish "three well established barrios" (Haas 1995, p. 256). The threats to the *barrios*[17] elicited a response from the neighborhood associations that sought to prevent these areas from being torn down. As such, from 1976-1982, the movement focused on the organization of neighborhood associations to block the plans to destroy the neighborhoods and the city's historical downtown center. This initial protest contributed to the development of "a political consciousness among the city's established Latino residents" (Haas 1995, p. 256).

[17] Translation from Spanish: "neighborhoods"

By 1982, the redevelopment plans shifted from the historic center to the outer limits of the city to construct more industrial and commercial areas. The grassroots mobilization fought once again for the city's residents by demanding that a portion of the taxes generated from the redevelopment go towards a city fund to assist "low and moderate income housing and on protecting small businesses from removal" (Haas 1995, p. 256). Despite the protest's demands, in 1982, the city established a "a code-enforcement program" that was implemented over the following years and whose goal was to evict "the largely undocumented immigrant population out of substandard rental units" (Haas 1995, p. 256). This program spurred even greater protests and the start of the renters' strike, with several thousand immigrant tenants who either "refused to move from or pay for substandard housing" while also pushing for their apartment buildings to be renovated to comply with the housing codes (Haas 1995, p. 256). When the rent strike gained momentum, small business owners, primarily Latino, also joined the protest in order to fight against attempts to push them out of the "revitalized" downtown" (Haas 1995, p. 257). A second group of middle-class Santa Ana residents also joined the protests, sharing the view that these plans would negatively affect their existing communities. The result of this was that from 1982 to the end of 1985, "a large coalition against the city government formed with the objectives of restructuring municipal government and making the city council, planning commission, and mayor more directly responsible to the electorate than they had been" (Haas 1995, p. 257). The goal of both working with city government, while also pushing to reform it, is an element that recurs as well in the push for sanctuary 30 years later.

The success of the protests against the urban development plans resulted from a coordination among "professional organizations" that contributed to the movement's strategy, while creating a coalition of community members not typically involved in political issues (Haas 1995, p. 257). This also echoes the strategy used by the sanctuary movement in Santa Ana as well, by calling upon contributions from local nonprofit organizations, supported by universities and legal aid groups, and from community members more broadly. However, once again similar to the sanctuary movement's achievement in passing a local ordinance, both the urban development and sanctuary movements faced ongoing hurdles. As Haas (1995) explains, "power of the redevelopment agency over the city's fiscal and administrative life has posed an increasingly complex problem for the urban movement" (p. 258). These entrenched issues and power of the city government were also present during the struggle for sanctuary, where concrete victories in the form of municipal policies to protect migrants were countered by longer term obstacles, in particular, stemming from the political and financial power of the police union in influencing local politics and the city budget. On the other hand, the gains from the rent strike and

the ensuing grassroots mobilization against the development plans can also be attributed to Santa Ana's history as an immigrant destination. Several decades later, this historical demographic basis and community ties played a clear role in the sanctuary movement's success in Santa Ana, when compared to many other cities in Orange County.

c. The Santa Ana police union and its relationship with local politics

As the previous chapters showed, the policing of immigrant communities and criminalization policies is not a recent phenomenon, and the legal and political frameworks of immigration federalism highlight this ongoing debate of defining the role of local and federal enforcement agencies in immigration policy. Santa Ana, with its history of immigrant and community organizing, exemplifies a case of how grassroots mobilization, responding to increasingly strict national policies and local influence from the police department, has an important role to play in city politics and policies. The city council remains split among those members in close cooperation, and conflict, with Santa Ana's police union. This union, officially called the Santa Ana Police Officers Association (SAPOA) has an outsized presence in local politics, both by influencing the city budget and pressuring council members to vote in certain ways on local issues. This in turn impacted the push for sanctuary and the efforts to define and delineate police enforcement of immigrant communities. This close relationship also shows how the police chief and the county sheriff represent key actors in the decisions on how to police communities and define public safety priorities.

One of Santa Ana's most well-known police chiefs, Ray Davis, who served from 1973-1987, had more progressive views towards collaboration between the police department and the immigrant and Latino community of Santa Ana. However, in recent decades, this collaboration was replaced by numerous controversies and accusations of corruption and political lobbying (Fausto 2018; Skolnick and Bayley 1986). For example, voting records reveal that candidates backed by the police union are less likely to vote in favor of policies and ordinances to protect immigrants (Kopetman 2019; Municipal elections in Santa Ana, California (2016) n.d.; New Santa Ana n.d.). This division among the council shows that despite an ambitious and progressive sanctuary policy in Santa Ana, implementation to ensure that the police will comply with the measures regulating enforcement, and will be held accountable, remains an ongoing struggle. Furthermore, Santa Ana is only one of 34 cities in Orange County, making the division of enforcement also part of the sheriff's department as well. The former Orange County Sheriff, Sandra Hutchens, who served from 2008-2017, stated that her department disagreed with the

sanctuary measures and would continue cooperation with ICE enforcement activities (Carcamo, Branson-Potts, and Tchekmedyian 2018). The same attitude was echoed by the Orange County Board of Supervisors who announced that they officially "condemn" the California state law SB 54 or the California Values Act, in addition to Santa Ana's sanctuary policies and its public support of the state bill (Carcamo, Branson-Potts, and Tchekmedyian 2018). These examples show how the patchwork of enforcement plays out at various levels, with different agendas and political partisanship that influences the implementation and impact. However, it also reveals why the roots of the sanctuary movement and its policies begin at the local or city level, where undocumented residents have a voice to express themselves at the city council meetings and within their local neighborhoods.

Another one of the key issues surrounding the sanctuary movement in Santa Ana centered on limiting the use of city resources dedicated to enforcement activities, in particular, the police budget and the revenue from the city's immigrant detention center. However, prior to this, the city of Santa Ana was already facing budgetary concerns and financial difficulties throughout the early 2000s leading to a financial crisis in 2011. By 2012, Santa Ana's public deficit had reached an all-time high of 30 million dollars (Voice of OC 2011). This deficit began in the early 2000s, resulting from the economic recession in the U.S., and exacerbated by the increasingly high budget allotted to public safety costs. The Voice of OC, a local news source, states that it, "was also a period during which Santa Ana politicians were eager to cut deals with public safety unions that gave politicians public-safety-first credentials" (Voice of OC 2011). This resulted in budget increases for public safety costs which rose from 60 to 70 percent in the course of ten years, from the 1980s to 1990s. In the decades that followed, the public safety budget continued to grow, accounting for over 70% of the total city budgetary funds by 2011.

Critics of the close relationship between the public safety unions and local candidates, including local newspapers and local community activists, underline the feedback loop between public safety unions and local candidates. In return for public and financial support of their campaigns, elected candidates allocate higher funds and budget increases for the public safety unions. John Acosta, a former city council member quoted in the Voice of OC, explains, "They [public safety groups] support and endorse candidates. They say, when negotiations come around, remember us, we supported you" (Voice of OC 2011). One clear example of this relationship is that of former Mayor Miguel Pulido, who served as mayor from 1994-2020. Mayor Pulido had strong support from both public safety unions, the police and firefighter unions, and consistently aligned himself with the unions' goals and demands for more resources (Gerda

2016b). As a result, part of the budget deficit during the first decade of the 2000s was attributed to this close relationship, which provided higher pensions and increased benefits for the SAPOA. The Voice of OC notes that “those costs rose from a projected $96 million in fiscal year 2000-01 to an actual $161 million in fiscal year 2008-09” (Voice of OC 2011). According to another local newspaper, the Orange County Register, some of the rising costs were also due to increases in salary, primarily for police and firefighters, with about half of the total number of city employees at that time found to have been earning $100,000 per year (Galvin 2011). At the same time, other public services suffered from the disproportionate budgetary measures, creating what has been described as a “disastrous” situation contributing to the “worst streets in the county” (Voice of OC 2011). Local residents concerned with crime and safety were generally supportive of public services like the police and firefighters, without realizing that the funds were primarily distributed towards higher salaries, benefits and pensions. Furthermore, budget increases did not result in hiring more police officers throughout those years, as the public expected. The police union chief in 2010 stated that, to the contrary, the number of police on staff actually decreased between 2000 and 2010, from 335 officers to 318 (Voice of OC 2011).

Following the budget crisis from 2011-2012, the city managed to stabilize its costs and reduce the deficit by 2014 (Voice of OC 2014). Part of the reason for this stabilization and eventual surplus was the result of outsourcing the fire department to the Orange County Fire Authority. The contract with the Orange County Fire Authority also set the condition that Santa Ana would “set aside $2.8 million — equal to one month’s worth of authority services — as financial security should the city miss a payment” (Voice of OC 2014). The city council also worked with an outside consulting agency to achieve the balanced budget, but local reporting emphasized that the roots of the deficit were still present in the percentage of the budget dedicated to public safety costs, as well as the lack of preparedness for future economic downturns and recession. As the Voice of OC reported in 2014, “Even with the cost-cutting measures taken, the budget for the next fiscal year is more than 72 percent dedicated to public safety costs…” This further underlines the strong role that the police union played and continues to play in the attribution of Santa Ana’s resources and in shaping local policy.

While some concessions were made by the SAPOA to help balance the budget in 2014, in 2016, another “clash” was reported between the council and union leaders (Gerda 2016b). The clash stemmed from the police union’s public proposal during the city council meeting, which requested further pay increases for its officers. The meeting was reported as “descending into attacks from each side” since the police union had signed a new contract outlining the salaries

and benefits of its members only six weeks prior to this new request (Gerda 2016b). Councilman Sal Tinajero summarized the reaction from the council members, stating that, “it is unprecedented to see an organization come and say, ‘we just finished our negotiations, and now we want you to give us some more money.’ That is not the correct procedure” (Gerda 2016b). In addition, only a few months prior, the union elected a new board and a new president, and thus, this decision was viewed as “driven by a desire by officers to pursue a more aggressive approach in dealing with city leaders” (Gerda 2016b).

The approach of the union to achieve its goals has also been its ability to contribute to shaping public opinion, emphasizing a need to reduce “crime spiraling out of control in the city” (Gerda 2016b). As the union had done in previous years, they strongly emphasized public safety and crime as the city’s main problems and continued to focus on pay raises and benefits as essential strategies to attract more officers to join the police force. The union’s more “aggressive” approach also focused on pinning the crime levels to the lack of action from the city council, arguing that, “crime has reached “unprecedented” levels due to a lack of leadership by the City Council...” (Gerda 2016b). The union president was quoted in an email to local business associations and leaders as stating:

> Since our current city leadership, City Manager Cavazos and Chief Rojas, violent crime/shootings have sky rocketed over 500% percent [sic] since 2012...It is common for our community to wait hours for a police officer response to a 911 call. Nothing has been done and this has fallen on deaf ears. (Voice of OC 2016)

He then was noted as “urging the email’s recipients to support the police union-backed election challenger to Councilman Roman Reyna” (Gerda 2016b). However, this data was subsequently challenged as “exaggerated” and a follow up comment from the former Police Chief Carlos Rojas explained that the data reported in the police’s internal system had a large margin of error due to “data entry errors” and issues with the “methodology used to compare shooting data” (Gerda 2016b).

Another local media source, Chispa OC also covered this close relationship and influence between the SAPOA and city council. Along with information found from public files from the police union, Chispa OC found that in 2016 over 400,000 dollars was spent by the union association to support three city council candidates and in addition to their ongoing support for former Mayor Miguel Pulido (Cortes 2018). The police union’s financial support and political backing thus helped to put two out of three candidates running for city council in office, and to allow Mayor Pulido to maintain his position. According to Chispa OC, “Even with just three loyalists in the seven-member

council these past two years, the SAPOA exerted an unprecedented level of influence on our city's politics and priorities" (Cortes 2018). This influence contributed to shaping the council's decisions to continue increasing the budget for the police, while also pushing the police-backed council members to vote against proposals to increase "police oversight and accountability" (Cortes 2018).

The debates surrounding the over policing of communities of color, and their disproportionate representation in prisons and detention, also reveals increasing links with the immigrant rights activists and pro-sanctuary actors to address these issues (Akbar 2020; Chacón 2012a; Cházaro 2016; Cobbina-Dungy and Jones-Brown 2021; Coleman and Stuesse 2014; Douglas and Sáenz 2013). Against this national backdrop, Santa Ana shows how this plays out in municipal level politics. Although the council did ultimately pass a progressive sanctuary ordinance, its members remain divided and polarized over several topics. There was therefore a clear discrepancy between the city council members who voted to pass the sanctuary resolution and ordinance, with those who opposed it. Opposition to the sanctuary resolution contributd to the ensuing debate over the city's immigrant detention center. Chispa OC emphasizes this point, claiming that:

> Whereas progressive elected leaders across the country sought to limit collaborations with ICE, police union-backed council members Miguel Pulido, Jose Solorio, and Juan Villegas spent the better part of their first three months in office defending and trying to revive the city's immigrant detention business. (Cortes 2018)

The arguments made by both sides (pro and anti sanctuary) in Santa Ana, also mirror the debates found more broadly across the country during this period as well, in particular, on the theme of public safety. Proponents of sanctuary policies argue that the disentanglement between local police and federal immigration enforcement can reduce crime by fostering greater trust and eroding the fear between local law enforcement and immigrant and minority communities. This is supported by evidence provided by a study from the NILC and the Center for American Progress which found that cities which passed sanctuary policies saw crime rates go down, and that undocumented residents, or those with undocumented family members, felt safer to report a crime, abuse or domestic violence (Wong 2017). Advocates further contend that this trust helps to build more resilient communities overall, by encouraging residents to access health and education services without fear of being located and deported by ICE. This has become particularly relevant since the start of the 2020 Covid-19 pandemic which highlighted

undocumented residents' unequal access to health services and treatment, while simultaneously occupying the majority of jobs in "essential" and high risk sectors (Kerwin and Warren 2020).

However, on the other side of the political spectrum, anti-sanctuary actors also utilize crime data and manipulate public fear in order to garner support for restrictionist policies and to call for more resources for both local police and federal immigration enforcement. At the national level, this argument can be seen in the discourse by Trump and his supporters, claiming that "illegal" immigrants are overwhelmingly criminals who threaten the country's security and calling for the construction of a border wall with Mexico (Alvarez 2017; Feinberg, Branton, and Martinez-Ebers 2019; Narea 2020b; Shear and Kanno-Youngs 2019). The effects of this rhetoric can also be observed in the increasing number of people held in detention, in particular children, via family separation policies, as well as a myriad of other executive orders to limit the number of refugees, or block them from entering the U.S. (Castaneda 2017; Heyer 2018; Shear and Kanno-Youngs 2019; Waslin 2020). At the local level, "illegal" immigration is also framed as a threat to the city's safety due to criminal activities. As this quote from a Santa Ana resident ahead of the 2018 municipal elections explains:

> They'll focus on inflated crime stats because fear mongering is at the center of their strategy. They'll say you should elect these people because they'll throw all the money at the police department to deal with very real problems the same way they've always dealt with them–by cracking down on young, brown kids instead of extending a helping hand. Then they'll come back in 2020 shocked that nothing improved and offer us a new group of saviors. (Cortes 2018)

While the view cited in the article has a clear stance, public statements by the police and manipulation of crime statistics have contributed to creating a perception of fear and the need to vote for council members who will pass legislation increasing the police budget and detention efforts. In essence, there is a clear incentive for the SAPOA to continue demanding budget increases for higher salaries and benefits, and to achieve this by publicly supporting and financially backing certain candidates and council members, who in turn push for measures to achieve these goals. In doing so, they further promote the argument that these actions are necessary in order to respond to the crime statistics cited by the same SAPOA members. As a result, although the council adopted two progressive sanctuary policies in November 2016 and January 2017, the struggle continued over the next year to end the city's immigrant detention contract with ICE and to create a local community task force, open to undocumented residents as well (Kopetman 2019; Kwong 2017). These ordinances were also reopened several times for

city council debate and added to the council meeting agendas to be re-voted upon. The OC Register explains that the president of the SAPOA, with the support of its members, “have been accused of forcing the ouster of top city officials and attempting to coerce council candidates to do their bidding” (Kopetman 2019, 2020). In 2017, for example, the police union led campaigns to replace certain candidates, in particular by publicly endorsing candidates to oppose council member Roman Reyna and Jose Sarmiento by utilizing “an intense stream of ads during the election accusing them of misspending city funds and causing a spike in crime” (Gerda 2016a). Further accusations of the over-extended power of the SAPOA also manifested into two lawsuits against the city and resulted in the city owing over $650,000 to settle the cases (Kopetman 2020). As Carlos Perea, formerly Policy Director for Resilience OC and member of the Measure X Citizen Oversight Committee, stated, “They’re [police union] the biggest obstacle to the democratic process in Santa Ana” (Kopetman 2020).

One of the most recent, and viewed as one of the most blatant, examples of the SAPOA influence over the council was the successful recall election of council member Cecilia Iglesias. Iglesias was elected in 2018 and served only two years on the council. Although she was criticized by pro-immigrant and Democratic groups for her conservative stances and support of Trump, even those who voted against her agreed that she “was kicked out because she opposed giving police a $25 million pay raise” (Kopetman 2020). The recall election that was organized following her refusal to support the police pay raise was financed primarily by the police union, which was estimated to have spent at least 341,000 dollars on the recall campaign. The costs included hiring “professional signature gatherers and a flyer that included a photo that was digitally altered to create the false impression that Iglesias was next to a sign favoring President Donald Trump” (Kopetman 2020). Fred Smoller, Chapman University Associate Professor, was quoted by the OC Register as describing this recall election as “a professional hit job,” and a “real misuse of the recall process” (Kopetman 2020). He also underlined that this was a clear example of “the tremendous clout that police unions have in city politics” (Kopetman 2020). A former city councilman, Sal Tinajero, who was a strong supporter of Santa Ana’s sanctuary resolution and ordinance, also echoed similar sentiments, stating that as a Democrat, his viewpoints differed from Republican council member Iglesia’s policies, but that he did support the decision to vote against the police pay raise. He was also quoted by the OC Register as stating that the recall election “was a message from the police union to all members of the City Council: ‘You cross us and we will come after you’” (Kopetman 2020). Carlos Perea stated that while he did not support former council member Iglesias for her conservative policies and lack of support for immigrant rights, the process by which she was removed revealed entrenched corruption in city politics due

to the police union's overrepresented influence. Perea explained that "When you have a special interest that has so much power, not just in electing people to the city council but to the extent (that) a city manager and police chief were fired, that raises a red flag anywhere" (Kopetman 2020). Despite this, the union's recall election of Iglesias was successful, and resulted in the council's approval of its requested increase of 25 million dollars for police salaries in 2019.

The influence of the SAPOA can also be observed in the ways in which the city council members presented their arguments on several key issues related to sanctuary, policing and immigration. From 2016-2019, the council voted on three such topics: the sanctuary resolution in December 2016, the termination of the city contract with ICE in March 2017 and increasing the police budget by 25.6 million dollars (over 3 years) in February 2019. As the table below illustrates, the mayor, supported by the police union, abstained for sanctuary, while two new SAPOA supported council members and the mayor voted against ending the ICE contract. The 2019 vote on increasing the police budget was somewhat mixed and was revisited over the next several years, following changes in the city council and the election of former councilman Vicente Sarmiento as mayor in 2020. Sarmiento switched his vote against ensuing proposals to increase the police budget in 2020, as the only dissenting member of the seven person council, which voted 6-1 in favor of the increase (Brazil 2020; Pho 2020). The budget increases were met with protests from local activists in Santa Ana who called for decreasing spending on policing, and aligning with the nationwide "Defund the police" movement (Brazil 2020; Cobbina-Dungy and Jones-Brown 2021; Pho 2020; Taylor 2020a).

Figure 13 Santa Ana City Council Voting Record

	Vote yes	**Vote against**	**Absent**
2016: declaring sanctuary status	Ward 1: Vicente Sarmiento Ward 3: Angelica Amezcua Ward 4: David Benavides Ward 5: Roman Reyna Ward 6: Sal Tinajero	-	Mayor: Miguel Pulido Ward 2. Michele Martinez

2017: ending ICE contract	Ward 2. Michele Martinez Ward 4: David Benavides Ward 6: Sal Tinajero	Mayor: Miguel Pulido Ward 3: Jose Solorio Ward 5: Juan Villegas	Ward 1: Vicente Sarmiento
2019: increasing police budget	Mayor: Miguel Pulido Ward 1: Vicente Sarmiento Ward 2: David Penaloza Ward 3: Jose Solorio	Ward 5: Juan Villegas Ward 6: Cecilia Iglesias	Ward 4: Roman Reyna
Table Key: SAPOA endorsed (in red), Not SAPOA endorsed (in black)			

The role and influence of police unions goes beyond the example of Santa Ana as well. A key factor cited by critics of police unions and policing activities is the lack of transparency and accountability for officers, who despite citizen complaints and oversight committees, or measures like the installation of body cameras, have historically only rarely faced consequences for misconduct or brutality (Anzia and Moe 2015; Dharmapala, McAdams, and Rappaport 2022; DiSalvo 2022; Greenhouse 2020; Taylor 2020a). Studies point to two underlying factors preventing successful police reform and oversight: the use of collective bargaining by police unions (despite many other public unions being blocked from using collective bargaining); and their ability to play a role in local politics by publicly endorsing and providing financial support to certain candidates (Anzia and Moe 2015; Dharmapala, McAdams, and Rappaport 2022; DiSalvo 2022; Greenhouse 2020). Because of this, many cities are prevented from passing stricter responses to police misconduct, or instituting budget reforms, with examples ranging from New York, San Francisco, Austin, Seattle, and Chicago, among others (Blumgart 2020; DiSalvo 2022; Greenhouse 2020; Scheiber, Stockman, and Goodman 2020). In addition to the use of collective bargaining and political and financial endorsements, there are also reports of police unions implementing “work slowdowns” or threatening to perform only certain areas of their responsibilities in order to “turn up the pressure” in their negotiations with local governments (Blumgart 2020; Scheiber, Stockman, and Goodman 2020). Furthermore, when adding these tools to the police unions’ ability to manipulate public perception as the sole defenders of public

safety, they are prepared to challenge any attempt at reform by “play[ing] on the public’s fear of crime”, in particular to receive higher funding and benefits, and even going so far to block legislation in certain instances (Blumgart 2020; Scheiber, Stockman, and Goodman 2020).

In Santa Ana, after years of this close political collaboration and influence between the SAPOA and its support of certain council members, the political backdrop of national protests against police brutality also played a role in catalyzing many of the same groups who were involved in mobilizing for the passage of the city’s sanctuary policies. In May 2020, this resulted in a call for the council to propose a “police oversight commission,” as well as a push by Santa Ana’s community to demand a redistribution of public funding away from police spending and toward the development of other community services and programs (Kopetman 2020). It also represents a logical outcome from the 2016 sanctuary movement, characterized by its priorities to disentangle local enforcement with federal immigration enforcement, enhance protection for vulnerable and minority groups, and promote diverse and inclusive cities. The sanctuary measures in Santa Ana also call for a redistribution of the city budget away from collaboration with ICE or immigration enforcement programs, similar to the “Defund the police” measures called for during the anti-police brutality movements in the years following (Cobbina-Dungy et al. 2022; Martin 2021; Taylor 2020a). This link between sanctuary policies and local law enforcement also underlines the key role of activist groups and municipal governments in their ability to identify the structural components blocking police reforms, to push forward policies to redistribute funds and to redefine the relationship between local police and their communities.

In the case of Santa Ana, several factors and competing interests contributed to the grassroots movement to become a sanctuary city. On the one hand, the city’s history of community organizing and active neighborhood associations helped to build the coalition needed to work with the city council in creating and passing the sanctuary resolution and ordinance. In addition, the timing of the 2016 election also provided a political opening for policy entrepreneurs and the local government to underline the urgent need to express their dissent with President Trump’s anti-immigrant rhetoric. On the other hand, the Santa Ana police union’s financial and political support of certain candidates reveals systemic issues that allow the SAPOA to block the implementation and advancement of further reforms. As a result, one can understand why the sanctuary movement in Santa Ana set priorities that focus on policing and detention practices as a way of expressing their noncooperation with both local law enforcement and federal immigration enforcement. Furthermore, as a historically immigrant city with a diverse population, activists and local residents involved in the movement also demanded the expansion of rights and protection

for all members of minority communities. Therefore, the national backdrop of the Trump administration's anti-immigrant discourse and policies, coupled with the presence of experienced local coalitions, contributed to the timing that pushed experienced immigrant rights advocates to emphasize the urgency for immigration enforcement and local police reform through a redefinition of public safety and community trust.

d. The sanctuary movement in Santa Ana: local actors' mobilization for protection and ending immigrant detention

As the previous sections showed, the role and coordination among local groups and their coalition building efforts provided an important foundation for the success of the sanctuary movement in Santa Ana. However, the organizations that contributed to the movement include a diverse range of actors ranging from immigrant youth associations, legal clinics and religious groups. These groups and their priorities also differ according to their local, regional or national status. To provide an overview of the diversity of actors on the ground, the chart below presents a categorization of groups involved, according to the type of organization they represent and whether they operate locally or nationally. For example, within Orange County and Santa Ana, the Legal Aid Society of Orange County as well as the UC Irvine Immigrant Rights Clinic provided important legal support to work with the activists and the council in developing a sanctuary policy that would ensure compliance with existing laws and regulations, while also identifying legal areas where action could be taken. In addition, like earlier sanctuary movements, local religious groups like Friends of OC Detainees and Catholic Charities of Orange County contributed to the movement by offering various services for immigrant communities, including free legal aid, housing support and emergency services. Other groups focused more on emergency support against ICE raids and anti-deportation efforts by creating a network of organizations including NGOs, legal aid services and lawyers, such as the OC Rapid Response Network and NotOneMoreDeportation network, and their partnerships with the Orange County Dream Team and Los Amigos de Orange County. National organizations also contribute to the immigration protection landscape in Orange County, via community organizing and legal support, including: Central American Resource Center (CARACEN), Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), National Day Laborer Organizing Network (NDLON), Immigrant Legal Resource Center (IRLC) and National Immigration Law Center (NILC).

Figure 14 Nonprofit Groups and Associations involved in the Santa Ana Sanctuary Movement

Immigrant, Latino, minority rights (local)	**Immigrant rights (state and national)**	**Legal aid (local and national)**	**Religious (local and national)**
Resilience OC	Central American Resource Center (CARACEN)	National Immigration Law Center (NILC)	Clergy and Laity United for Economic Justice (CLUE OC)
Orange County Immigrant Youth United (OCIYU)	Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)	Immigrant Legal Resource Center (ILRC)	Friends of OC Detainees
Community Health Initiative of Orange County	National Day Laborer Organizing Network (NDLON)	Public Law Center (PLC)	Interfaith Immigration Coalition
Santa Ana Building Healthy Communities (SABHC)	California Immigrant Youth Justice Alliance (CIYJA)	Legal Aid Society of Orange County	Faith in Action
LGBTQ Center of OC	Ready California	UC Irvine Law Immigrant Rights Clinic	World Relief of Southern California
OC Rapid Response Network	Community Initiatives for Visiting Immigrants in Confinement (CIVIC)	ACLU SoCal	Catholic Charities of Orange County
MayDay Coalition and NotOneMore Deportation Campaign			
Colectivo Tonantzin			
OC Dream Team			

El Centro Cultural de Mexico			
Los Amigos de Orange County			
Chicanxs Unidxs de Orange County			

Among these groups, their priorities and strategies overlap on certain issues and differ on others, allowing them to work together for their shared goals, while also challenging the status quo and collaborating with local officials in various ways. To further illustrate this point, the chart below provides a selection of some of the main local actors' goals and perspectives, both within the sanctuary movement and the broader immigrant rights movement. While it does not provide a comprehensive list of all the actors involved on the ground, the groups below represent some of the key players that pushed the city council to take action on sanctuary. The groups below were also selected to provide an overview of the types of local groups who mobilized for sanctuary, and who were also the most active during city council meetings with the community.

Figure 15 Local Organizations in Santa Ana: Goals and Priorities

Local organization	**Goals and priorities**	**Groups targeted**	**Background**	**Position toward immigration enforcement/sanctuary**
Resilience OC	Delivering public services and developing policy making by and for Santa Ana's youth. Seeks to empower youth via leadership skills and civic engagement, to speak and fight for their needs	Focus on youth institutions and environments adapted to their specific needs. Notes Santa Ana residents' unique experience which can include personal and family trauma tied to their vulnerable	Created in 2016 by merging RAIZ (Resistencia Autonomia Iguladad y Liderazgo) and Santa Ana Boys and Men of Color. Both organizations dealt with anti-deportation strategies and	Taking a strong stance against policing practices, critical of the targeting of communities of color, and the exclusion of those with criminal backgrounds from accessing the same rights

	and the needs of their families.	immigration status.	dismantling the institutions involved in deportation processes. A particular focus on the “school to prison pipeline” by working early on with youth to help them break the cycle.	and protections, but willing to work with existing institutions like the city council, active in mobilizing local residents to vote and participate in local politics.
LGBTQ Center OC	Setting up programs focused on identity and providing a safe space for anyone in need. Dedicated to defending LGBTQ rights in a conservative county and promoting their goals to address intersectional discrimination.	LGBTQ+ OC community. Due to its location in Santa Ana, their goals also address multiple issues for those participating in their programs, including socioeconomic background, cultural differences and immigration status.	Registered non-profit association since 1971, one of the oldest community centers for gay and lesbian populations in Orange County. Sponsored by organizations like Planned Parenthood. Criticized by other local groups for its collaboration with the Santa Ana Police Department and OC Sheriff’s department for the Pride month organization.	Less focused on criticizing systemic racism or deconstructing enforcement institutions. Emphasis on providing information and promoting awareness about these criminalization policies and discrimnation laws.
Santa Ana Building Healthy Communities (SABHC)	Working towards developing a “healthy” community and reducing	Programs dedicated to adults and youth in Santa Ana. Encourages	The organization was launched after being selected to participate in the	Some mention of police reform and working against oppressive

	inequalities within Santa Ana in a comprehensive way. Focusing on physical and mental health services and public social services including rental assistance, legal aid and access to healthy food.	partnerships among “community residents, youth, public entities, schools, businesses, service providers, and non-profit organizations” (SABHC n.d.)	California Endowment's Building Healthy Communities Initiatives in May 2009, alongside 14 other recipients to develop a ten year plan to improve their communities.	conditions, claiming “unfair practices” by local enforcement that target specific immigrant groups. Strong supporter of the sanctuary movement and other immigrant protection initiatives.
Orange County Immigrant Youth United (OCIYU - no longer active since 2019)	Grassroots organization with the goal of protecting immigrant youth, providing scholarships and other services and leading local campaigns to reform immigration policies. Particularly focused on abolishing ICE and detention centers and active in pushing for sanctuary policies.	Focusing on immigrant children and teenagers, and providing access to legal aid, deportation protection, educational workshops and a nationwide scholarship program for undocumented immigrant students.	The organization was founded in 2004 out of a broader immigrant youth movement. They contributed to the local newspaper in Orange County, the OC Weekly, with a column entitled “Deport This” in order to garner greater public attention toward deportation practices, political issues and protest movements against widespread deportation.	Takes a stronger, more divisive stance than the other groups, focusing more on dismantling the entire system of enforcement and implementing an anticapitalist agenda to help immigrant communities advance.

In addition, analyzing the same groups' discourse and rhetoric offers further insight into their different stances and priorities. The chart below provides examples of the ways these groups present themselves via their institutional websites, social media platforms (Facebook in particular) and their representation in local media sources (such as the OC Register and the Voice of OC). By looking at how they choose to present their missions and goals, their priorities on social media and how they are quoted in local media sources, it is possible to better understand how they contribute to the overall framing and debate around sanctuary and immigrant rights, and how they view their own role in pushing forward the agenda for the expansion of rights.

Figure 16 Local Organizations in Santa Ana: Discourse

Local Group	**Discourse from institutional websites**	**Social media discourse**	**Discourse via media coverage**
Resilience OC	"promotes resilient youth leaders that engage in building youth-oriented institutions in OC that advocate for social-systemic change, healing and that embrace trauma-informed, culturally relevant practices."	"#FreeThemAll "to build collective power" "There is brilliance and boss moods among the undocumented and immigrant community." "Remain Strong. Stay Connected. Abolish ICE." "... we must remain committed to dismantling and abolishing these systems of oppression."	"we cannot gloss over the effects of failed systems and paint those affected, as the ones who caused the problem" "Trump is asking to deport the most vulnerable. For us, Santa Ana will stand strong and be there for us, for the most vulnerable." "we will not leave anyone behind" (Voice of OC)

		#AbolishICE #EndDetention (Facebook page)	
LGBTQ Center OC	“all members and allies of the Lesbian, Gay, Bisexual, and Transgender community of Orange County join together in a network of support and unity. Our life-affirming programs focus on empowerment, and our advocacy efforts focus on speaking out against hate and discrimination.”	“The immigration detention system is unprepared—if not unwilling—to safely care for LGBTQ immigrants.” “unfair placement in solitary confinement, inhumane housing conditions, medical negligence, harassment, overprescription of psychotropic medications, and physical and psychological abuse.” #LGBTQimmigrants #ICE #DetentionCenter #DACA #LGBTQLatinx	“‘Our pride is [...] about bringing people together.’” “to create a sense of community and visibility.” (LA Times) “we’re constantly discussing important issues and fighting the fight.” (OC Register)
SABHC	“understands that health is directly shaped by the circumstances in which people are born, raised, live, and	“... it is a city with culture, with passion, with youth and with Community POWER to Transform the future of its	“Last night showed us that the community of Santa Ana is here to stay, and here to thrive. With overwhelming

	work. Improving these circumstances is a collective responsibility and one that must be led by those directly affected." "change should be led by those most directly impacted, which is why most of the collaborative work and campaigns are resident-driven."	residents." "We celebrate with City Council on taking the steps to make Santa Ana a TRUE Sanctuary. And while we celebrate we remind City Council that Sanctuary also means Affordable Housing, Sanctuary also means good healthy food, Sanctuary also means a just economy and Sanctuary is also means no contract with ICE." #Sanctuary4All #SantuarioParaTodos #ICEoutofSantaAna #ICEoutofOC #DefendSanctuary	support, our city will be a national leader in the fight for not only protecting our immigrant communities, but also creating opportunities for community wealth building for a healthier, more inclusive Santa Ana." (Voice of OC)
OCIYU	"OCIYU was born out of the community's profound need to help its talented undocumented youth" "undocumented youth-led	"Deport This! Column where activists and organizers hold Sheriff Don Barnes accountable and relay the message that every detained	"the column is a rebuttal of Donald Trump's politics and his OC cheerleaders who will no doubt be triggered every week [...] by the

	organization that advocates for the rights of immigrants to live free from exploitation and persecution.”	individual needs to be freed!” #freethemall #fuckcapitalism, #fuckdeportation, #fuckgentrification #fuckdisplacement	undocumented community” Weekly Deport This! Column in Voice of OC

The discourse from these groups further emphasizes their focus on ICE, enforcement practices, detention and deportation, even though their strategies may take different forms (encouraging residents to vote, working with or against the city council, implementing educational programs and scholarships, or leading protests and advocacy campaigns). As a result, alongside the mobilization for Santa Ana to become a sanctuary city, one of the central campaigns of these local activists was dedicated to ending the city’s contract with ICE. Although the contract with ICE was not explicitly addressed in the sanctuary city resolution or the ensuing ordinance, mobilization to shut down the ICE detention center in the city dates back to May 2016, several months before passing the sanctuary resolution in December 2016. The #NotOneMore campaign, organized by the May Day Coalition that led this grassroots effort to shut down the detention center included several of the local groups that were key players in pushing for sanctuary, including RAIZ (later forming Resilience OC), Chicanxs Unidxs, El Centro Cultural de México and Colectivo Tonantzin (Sarmiento 2017). The campaign focused on exposing the “overlaps between development processes, the budget, the jail, and deportations” and drawing attention to “the failure to prioritize the growing needs of low income families in Santa Ana and inversely, profit from their criminalization” (Sarmiento 2017). Despite the alignment of these goals with the priorities of the sanctuary movement, the decision to terminate the city’s contract with ICE was not taken until several months after passing the sanctuary resolution. Interviews with representatives of Resilience OC and SABHC in Santa Ana in March 2017 underlined that the symbolic importance of declaring sanctuary following Trump’s election took precedence at the time, and that they believed the sanctuary resolution and ordinance would be able to serve as the guidelines which could later be used as a basis for closing the detention center.

The reason behind the local government’s contract with ICE has its roots in Santa Ana’s investment in constructing a municipal jail in 1994, at a time when crime rates in the city were rising. The city council believed that investing in the construction of a jail would provide the

security and infrastructure needed to respond to this rise in crime. As a result, the council borrowed approximately 24 million dollars, plus interest, through 2024, to construct the jail (Kwong 2017). However, over the next ten years, crime rates decreased, and large sections of the jail remained empty. In order to cope with the debt and expenses from a partially empty jail, the city entered into an "Intergovernmental Service Agreement" (IGSA) with ICE in 2006, which leased a part of the jail for ICE to use as an immigrant detention center, and set the maximum number of beds for immigrant detainees at 200 (Santa Ana City Jail IGSA 2006). The city of Santa Ana earned 340,000 dollars per month from its agreement with ICE until the contract was terminated prematurely in 2017. The termination of the contract can be largely attributed to the mounting pressure from the May Day Coalition and protest which resulted in the city council vote in May 2016 to phase out its contract with ICE by 2020, when it would be up for renewal. However, the coalition continued to demand the earlier closure of the detention center, and this, coupled with the election of President Trump in November 2016 and the passage of the sanctuary resolution in December 2016, made it more politically difficult for the city council to align themselves with immigration detention and federal enforcement agencies like ICE. This then helped to influence the council to vote on December 6, 2016 to close one of ICE's jail modules and reduce the number of beds to 128 (Kwong 2017). In response, ICE quickly reacted to the city's actions on February 25, 2017 by declaring that it would completely end its contract with the city in the next 90 days. According to local news, a representative from ICE stated:

> U.S. Immigration and Customs Enforcement (ICE) values its longstanding relationship with the City of Santa Ana, but recent actions by the city to drastically curtail the number of beds available at the city's jail to house immigration detainees meant the existing detention contract was no longer viable or cost effective. (ICE Agency Representative, quoted in Replogle 2017)

The news was met with a positive response from immigrant rights advocacy groups who viewed this as another success for the sanctuary movement. However, the issue remained volatile over the following months when discussion to renew the contract was reopened by council member Jose Solorio who added it to the city council meeting agenda for March 7, 2017. The same groups who had been key in pushing for sanctuary were once again mobilized to protest the potential reopening. They encouraged residents and their members to voice their opinions against the proposal to reopen the contract and handed out flyers ahead of the meeting for residents to show their disapproval of the detention center. The majority of local residents who spoke during the meeting utilized the passage of the sanctuary ordinance as a way to emphasize

the city's obligation to protect its undocumented population, illustrating how the presence of a municipal ordinance did indeed provide a legal foundation that helped to bolster their arguments to maintain the closure of the detention center. Residents argued that the city could not fulfill its obligations to sanctuary if it profited from immigrant detention, which incited those present at the meeting to chant "Immigration is not your business!" in order to show their support for the closure (Personal observations, Santa Ana City Council, March 7, 2017).

The framing of their arguments during the meeting also included the themes of promoting social justice, protecting the community, and providing personal testimonies from family members, or based on their own personal experiences, of being held in detention or as victims of police discrimination or violence. The backdrop of Trump's inauguration in January 2017 was also visible, with residents shouting that council member Solorio's proposition that "ICE should be local and families should be local" equated him to being a "Latino Trump." Once again, the timing behind both the push for sanctuary and ending ICE's contract with the city was a key factor, serving as the critical juncture for the grassroots campaign to emphasize the need for local action in response to the anti-immigrant discourse from the Trump administration.

Figure 18 Flyer (side 1) from Santa Ana City Council Meeting, March 7, 2017

Figure 17 Flyer (side 2) from Santa Ana City Council Meeting, March 7, 2017

Figure 19 Santa Ana City Council Meeting March 7, 2017. Photo credit: Jennie Cottle

Thus, although the efforts to close the detention center and to pass a sanctuary policy occurred at different stages, the presence of the sanctuary resolution and ordinance showed how it could be used to support earlier efforts to protect immigrant protection rights. In doing so, Santa Ana's sanctuary policies serve as both a public declaration of solidarity with the city's immigrants and diverse community, and as a clear legal framework for the city to follow regarding its enforcement practices and cooperation with ICE. In addition to the mobilization to close the detention center, the central policy outcome of the sanctuary movement is exemplified in the sanctuary city resolution and ordinance, against the backdrop of the 2016 presidential elections. Despite the success in passing its sanctuary policies, long term issues and systemic limitations continue to hinder the full implementation of the ordinance, in particular, the strong role of the police union, the conservative stance of Orange County's Board of Supervisors, and the ensuing anti-sanctuary movements in surrounding cities (Arellano 2018; Gulasekaram, Su, and Villazor 2019). However, the existence of a sanctuary declaration and binding municipal ordinance still represent important advances in Santa Ana's efforts to protect immigrant rights, while serving as a roadmap for other cities across the state and country. The sanctuary policy itself reflects many

of the views and discourse from the local coalitions involved, while also illustrating the larger themes of the sanctuary movement, such as fostering greater community trust, promoting public safety and social justice, and protecting diversity and sensitive information.

e. Santa Ana's Sanctuary City Resolution and Ordinance

I don't think that any other city, in the nation to be honest, has had the amount of wins that we had gotten here in Santa Ana, and not only symbolic but actually meaningful ones. The thing is that we're the light of hope, of how things can get done.

- Carlos Perea, Resilience OC (Personal Communication. Santa Ana, California. 1 March 2017)

The national and local media coverage of Santa Ana following the passage of its sanctuary city ordinance both lauded and criticized the city for having passed one of the most ambitious and far-reaching sanctuary ordinances in the country (Arellano 2018; Carcamo 2016; Gerda 2016a; Nagourney and Medina 2016; Sarmiento 2017). The provisions in Santa Ana's sanctuary policies address both long term structural goals and concrete measures to redefine local and federal immigration enforcement in the city, while covering each of the sanctuary policy categories identified from the database in the third wave of sanctuary. The ordinance calls for broad commitments to "implement policies to prevent biased-based policing", to promote "social justice and inclusion" for all residents, including its immigrants, and to establish a commission or task force to carry out these policies. The initial sanctuary resolution issued a series of ambitious, but mostly symbolic statements (Santa Ana City Council 2016). However, on January 17, 2017, the city approved an ordinance which turned the resolution into law. This also meant that the more concrete provisions established in the resolution were now part of a contractually enforceable city ordinance. The ordinance lays out the following central provisions for the city to implement:

The city of Santa Ana:

- Will not comply with immigration detainer requests
- Will not assist the federal immigration enforcement (ICE) with any joint operations
- Will not notify ICE of release dates
- Will not arrest a person based only on violation of immigration law
- Will not dedicate any city resources to enforce immigration law

- Will not maintain or request sensitive information[18]
- Will not enforce any program on registration of individuals based on ethnic, national or religious backgrounds

In addition to these provisions, the ordinance also includes a section which states that it will "not conflict with any Federal law" (Ordinance No. NS-2908, Code of Ordinances, Santa Ana, CA 2017). The ordinance therefore does not create a new immigration policy, but rather emphasizes that it is not within the city's jurisdiction to implement federal immigration enforcement or use city resources to do so. Acting within its role in the federal system, the city is primarily exercising its power not to cooperate with a voluntary federal program to which it opposes. The ordinance states that its intent is to "clarify the communication and enforcement relationship between the City and the federal government" and its purpose is "to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws." This differs from other types of immigrant rights advocacy strategies, which direct their efforts to changing the federal immigration policies themselves (Gomez and Ewing 2006). In contrast, interviews conducted with local non-profit associations in Santa Ana focused more on the immediate protection of their community members through the city's interactions with ICE and the role of local police enforcement. The atmosphere at organizations like CARACEN became increasingly geared towards crisis management, including conducting "know your rights" workshops, managing responses to the large number of requests for legal aid, and working to respond to people's fear of coming to events. Georgina Maldonado, Executive Director of the Orange County Community Health Initiative, also explained that one of the organization's biggest struggles at the time was addressing community members' fear of immigration raids. Within this context, during one of the city council meetings, a youth organizer echoed this sentiment, stating that "with Trump... there's no middle ground. We have to be bolder. Here in our local communities, we have to be bolder than Trump" (Sarmiento 2017).

Responding to these political changes and increased atmosphere of fear, Santa Ana's sanctuary resolution begins with a summary of the political situation and the growing trend of sanctuary cities. It references Donald Trump's opposition to other sanctuary cities, but also calls attention to those cities which have reaffirmed their status since the 2016 election despite threats

[18] In this ordinance sensitive information includes: "any information that may be considered sensitive or personal by nature, including a person's status as a victim of domestic abuse or sexual assault; status as a victim or witness to a crime generally, citizenship or immigration status; status as a recipient of public assistance; sexual orientation; biological sex or gender identity; or disability."

from the administration to cut federal funding (Lai and Lasch 2017). The resolution states that Santa Ana joins these other cities by committing to “social justice” and that it “will provide a sanctuary to all residents who are fearful by assuring them that the City will not expend any funds, nor use its resources, including staff, to administer federal immigration law which is the exclusive authority of the federal government.” The resolution also specifically states that it recognizes the jurisdiction of federal laws and policies, including U.S.C. 1373 on information sharing of immigration status.

The introduction addresses straightaway the main issues discussed thus far. First, its immediate aim is to clarify the relationship between the federal government and local city employees in terms of immigration enforcement. There is a deliberate recognition to act within the boundaries established by the federal government. The focus lies in the city’s reluctance to be involved in federal enforcement policies and represents an attempt to define the relationship between local police and federal agents. Because of this, one can observe a moral opposition and legal reaction to increased policing and surveillance of their communities. Moral, in terms of the city’s commitment to “social justice”, which establishes their belief that cooperation with federal enforcement would not promote social justice in the city; and legal, by highlighting the specific legal authority of their own city staff and resources versus the jurisdiction of the federal government. Santa Ana’s ordinance, coupled with the termination of the detention contract, can be considered as one of the most comprehensive and progressive policies, compared with other localities, by covering all of the main types of sanctuary policies from the most recent period of 2016-2018: reforming policing and the separation of local and federal enforcement; including a declaration of sanctuary; and citing a response to the 2016 elections against hate crimes and discrimination. It also includes provisions that can be more passively implemented, for example, opting out of a 287(g) agreement, as well as those which require further action, such as limiting the sharing of sensitive information and public resources designated for enforcement.

As this chapter illustrated, passing the resolution and ordinance required the presence of and collaboration among a range of different actors, including grassroots organizing groups, legal aid societies and law schools, community members, and the city council. These links between public officials and the community were essential in pushing the city to develop its own policy of noncooperation with federal immigration enforcement. In addition to existing coalitions, the sanctuary movement’s efforts helped foster connections among different networks which continued to grow beyond Santa Ana’s city limits. In particular, Santa Ana associations, which are primarily Latino, began forming new ties with Asian-American associations, like the Korean

Resource Center in Fullerton, and VietRise in Garden Grove (both neighboring cities in Orange County). During interviews with Carlos Perea from Resilience OC and Ruben Barreto from SABHC, they asserted that their organizations would continue pushing for change at home and in neighboring cities. Perea explained that they planned to continue their work by helping to pass a sanctuary city resolution in nearby cities in the county like Westminster, Garden Grove and Anaheim. Perea reiterated that Santa Ana and Orange County should serve as a model for grassroots change and as a blueprint for demanding concrete actions from local city councils.

Santa Ana also serves as an example of local integration and belonging, regardless of one's immigration status. During city council meetings, community members who had been detained by ICE in the city jail spoke out against the contract and shared their own personal experiences within the detention system. Whether or not the member of the community was documented or undocumented was not the central issue. Instead, these individuals spoke directly to their local community leaders, expressing their views and concerns, and hoping to influence local policy decisions. Furthermore, debate within the city council did not address whether these community members had a right to speak, but rather focused on the costs and benefits to the city, and of those detained in the local detention center. This assertion of the right to voice their views and participate in city politics also helped to lay the groundwork for a municipal policy allowing undocumented residents to participate in city boards and task forces in 2021 (Kopetman 2021). In addition, the continued mobilization to shut down the detention center after the sanctuary ordinance was passed further highlights how the umbrella of sanctuary encompasses a range of policies, that can move from local to county and state laws, and that continue evolving and transforming over time. As Jon Rodney, Communications Director with the California Immigrant Policy Center, stated:

> Sanctuary is a process and a verb. It's something that is always developing and not limited to one particular policy. It's about how are we developing relationships in and among communities. How are we always expanding this concept and moving it in new directions to extend our values? (quoted in Muñiz-Pagán 2017)

As this case study, supported by the sanctuary policy database analysis shows, Santa Ana is an important example in a long history of municipal governments, grassroots actors, and local policies falling under the sanctuary umbrella. The case of Santa Ana corresponds to the responses by localities to express their resistance or disagreement with certain federal policies, ranging from symbolic statements or declarations to more concrete measures. While the specific measures vary, depending on the decade and the local context of each city or state, the common

thread of sanctuary can be seen within the grassroots resistance to federal measures that seek to criminalize immigration and limit the expansion of rights and protection to vulnerable groups, particularly immigrants. Santa Ana is therefore a key example for understanding sanctuary, in terms of its comprehensive policy, its timing as part of the new wave of sanctuary in the Trump era, and its long history as a center for Latino immigration.

f. Conclusion: local mobilization and sanctuary as a response to increased enforcement

The example of Santa Ana, and other sanctuary cities in the Trump era, reveals how the increased criminalization of immigrants at the federal level can spur local action, especially with the presence of a critical juncture or political opening to act. As the sanctuary movement and the case of Santa Ana show, undocumented immigrants organize for their rights and do so through "niche-openings" that allow them to put forward their own discourse and demands despite potentially restrictive or hostile environments (Nicholls 2014, p. 24). At times, this local dissent arises from a normative basis in which local actors view the increasingly restrictive environment as morally unacceptable (Coutin 1990). Eventually, such resistance can create a growing mobilization and the potential to scale out and up, as illustrated by the growing number of state sanctuary laws passed during the third wave since 2016.[19] This momentum from the sanctuary movement and undocumented residents' mobilization can also be seen as reaching the federal level, when the House of Representatives debated and passed the American Dream and Promise Act in 2021 (H.R. 6).[20]

Based on my analysis and research of sanctuary cities, one can observe that the historical legacy of criminalization policies, punctuated by moments of crisis leading to a critical juncture, can cause a pushback by local movements, particularly in regards to local policing. These local movements can, at times, mobilize public support and search for an "interstitial" policy gap (Bulman-Pozen and Gerken 2009) that allows them to fight for the expansion of rights and protections for immigrants and undocumented residents. At the same time, looking specifically at the case of Santa Ana shows that grassroots mobilization to become a sanctuary city may be more likely to occur when there is a strong history of coalition building, supported by a dynamic

[19] Examples of state level policies include: Oregon - Office of the Governor - Exec. Order 17-04 (Feb. 2, 2017); Washington - Office of the Governor - Exec. Order 17-01 (Feb. 23, 2017); Illinois - State legislature - Public Act 100-0463 ("Illinois TRUST Act") (Aug. 28, 2017); New York - Office of the Governor - Exec. Order 170 (Sep. 15, 2017); CA - State legislature - Senate Bill 54 ("California Values Act") (Oct. 5, 2017)

[20] According to the House of Representatives: "H.R. 6, the American Dream and Promise Act, would provide a pathway to citizenship for 'DREAMers,' undocumented immigrants brought to the U.S. as children, and those with temporary protected status." On March 18, 2021, the Bill passed through the House but has not yet passed through the Senate (as of 2021).

youth immigration movement directly affected by an increasingly restrictive national environment. In this way, just as sanctuary activists responded to what they believed was an unjust policy in the late 1980s toward Central American refugees, local advocacy groups and associations were again essential in creating the push for a new sanctuary movement in 2016. The shift from grassroots activism to policy reveals how collaboration between community members, legal organizations and law schools, non-profit organizations and city councils can produce tangible policy outcomes. While their tactics can take the form of protests, city-approved working groups and information sessions, these local actors all work within the realm of the federal system to enact change in their own communities.

Part 4: Conclusion

Chapter 8: Conclusion: Local Resistance during Political Crises

a. The rise of sanctuary during the Trump era

The research on sanctuary for this dissertation took place during a key historical moment in time, with a new wave of sanctuary policies and cities emerging in the wake of the 2016 presidential election, and the beginning of a tumultuous period for many immigrants and immigrant rights advocates across the country. Throughout Trump's presidency, immigrant and minority groups across the country were subject to a rise in the number of hate crimes, over policing, and discriminatory political rhetoric and policies (Brooks 2019; Cobbina-Dungy and Jones-Brown 2021; Feinberg, Branton, and Martinez-Ebers 2019; Garcia 2019; Hassan 2019; Warren-Gordon and Rhineberger 2021). However, at the same time, local actors organized and mobilized in response, using various forms of resistance. This resistance ranged from lawsuits led by NGOs like the American Civil Liberties Union, or other legal challenges from lower circuit and state courts (ACLU 2020; Al Jazeera 2020; Litigation Tracker 2022; Lyons 2021), to grassroots protests against the deaths of Black Americans at the hands of police violence (Black Lives Matter n.d.; Lebron 2017; Rickford 2016; D. B. Taylor 2021, 2021), to many other types of concerted efforts to form coalitions and push back with progressive subfederal policy agendas, as witnessed during the sanctuary movement. Within this context of extreme polarization and division across the country, my research aims to understand the timing and evolution of the sanctuary movement and policies by answering the following questions: why do sanctuary policies arise at certain times; what factors contribute to the development of various waves sanctuary policies; and what elements have linked these waves to one another over the past forty years?

By focusing my analysis on critical political moments, this thesis addresses these questions through several key findings. The first is the role that increasing criminalization of immigrants, via federal immigration policies, state level legislation, and local enforcement cooperation has in establishing the political and policy foundation that contributes to the ensuing reaction from pro-sanctuary actors. As my analysis of the database of sanctuary policies illustrates, these local policies most often represent a direct response to federal or state legislation, either as a clear declaration of dissent or resistance, and/or by acting within the "interstices" of federal mandates to disentangle local and federal cooperation (Bulman-Pozen and Gerken). Therefore, without the context of immigrant criminalization at the federal level, sanctuary

policies at the local level would not have occurred in the same way. The second key result from this research underlines the importance of local policing and identifies the efforts to reform and transform local enforcement agencies as one of the primary tools utilized by sanctuary localities to redefine their cooperation with federal immigration enforcement. For many, this also serves as a way to foster greater trust between the police and their communities. Evidence from the analysis of the sanctuary database reveals that policies focusing on disentangling federal and local immigration enforcement far outnumber the other main categories of sanctuary identified. Finally, studying these policies over time demonstrates the ties between the different waves of sanctuary, and how they have evolved over the years. In particular, my findings show that each wave of sanctuary expands its focus to provide protection and access to services to increasingly larger groups, starting with a specific goal to provide refugee status to Salvadoran asylum seekers during the 1980s; to pushing for policies to keep mixed-status families and undocumented family members together in the 2000s; and finally, to calling for protection and inclusion for all undocumented residents and vulnerable populations from 2016 onward.

The third wave of sanctuary also has a notable shift in leadership when compared to the two prior periods, with undocumented youth at the head of the grassroots mobilization, pushing a more progressive and expansive view of sanctuary, and proposing concrete reforms to detention and enforcement practices. Their focus on transforming policing and ending detention has also led the third wave sanctuary movement to broaden its ties with other minority groups, emphasizing the intersectional and overlapping identities, in particular when confronted with local enforcement and the carceral state. As a result, this dissertation adds to the existing research on sanctuary by identifying a clear link between sanctuary and broader calls for police and prison reform, while also demonstrating how the sanctuary movement and policies act within the immigration federalism framework to express their “interstitial” dissent to federal legislation during key political openings (Bulman-Pozen 2014; Collier and Collier 1991; Nicholls 2014).

My fieldwork and the database results thus underscore the common ties between the literature on prison and police abolition with that of immigration and sanctuary. My approach using mixed methods of quantitative and qualitative analysis of the database, supported by the in-depth case study and fieldwork in Santa Ana, provides both a macro view of sanctuary policies over time, while also revealing how these efforts played out on the ground in a key sanctuary city during the early years of the Trump administration. By utilizing mixed methods, this dissertation broadens the scope of discussion on sanctuary and sanctuary cities from prior studies which tend to focus on the sociological or urban geography dimensions from a grassroots movement perspective, or

on the legal debates surrounding the jurisdiction of sanctuary policies within a federal framework. However, by including the role of politics and applying the theory of critical junctures, it is possible to link these prior bodies of research to one another and to better understand when and why sanctuary policies manifest during key political openings, and how they evolve over time to take into account shifting political views and leadership at both the federal and local levels.

b. Defining the sphere of research

The scope of this research centers upon a historical approach to sanctuary leading up through the contemporary enforcement of immigration, including an overview of the foundation of immigration policies in the U.S. and the construction of the southern border; how this led to the development of increasing efforts to criminalize immigration during the 1980s; and how such efforts gained renewed momentum throughout the first years of the Trump administration. The analysis of sanctuary as a response to immigrant criminalization thus begins with its first iteration in the context of the 1980s, and concludes with the most recent data available through 2018. In addition to this macro analysis of the sanctuary database, the case study of Santa Ana, California provides a representative case, with a municipal ordinance that exemplifies one of the most progressive sanctuary policies of the third wave, covering all of the main categories of sanctuary identified during that time period. It also provides a concrete example of the large role of local policing and detention in municipal politics, and how this is countered by grassroots efforts to reform immigration control and policing and improve the daily lives of the city's residents.

While this dissertation concentrates on analyzing the policies themselves, supported by the in-depth case study, there are certain constraints which limit the scope of the research. One such limitation is the ongoing policy changes that occurred throughout the Trump administration and into the first years of the Biden administration at the time of writing. For many researchers and immigrant rights groups, keeping up with these changes has demanded a high level of vigilance and a recognition that these policies will continue to evolve and respond to changes in politics at all levels of governments. At the local level, city council elections held in 2020 in Santa Ana also brought an end to the 26 years that former Mayor Miguel Pulido held office, resulting in more recent political shifts within the council to redefine the role of local police and the police union's influence in city politics. As a result, in order to take into account these constant and ongoing evolutions, the scope of this research focuses on the first years of the Trump administration, as both a key political moment and period of crisis to study immigration policies in

the United States, while also providing a clear point of reference for this particular study of the third wave of sanctuary.

These constraints, however, open the way for further research to examine how sanctuary and the demands for immigration reform continue to progress following the Trump Administration and into the Biden Administration. The role of the COVID-19 pandemic, coupled with the change of presidential administration in 2020, also had an impact on opening renewed discussions for the possibility of federal immigration reform, with the proposal of the U.S. Citizenship Act of 2021 by President Biden, and the proposal of two Congressional bills to provide pathways for permanent residency and citizenship to essential agricultural workers and DREAMers/DACA recipients, which, in 2022, are still under consideration in the Senate.[21] While these federal reforms remain limited in their scope and target population who would benefit from this legislation, across the country, grassroots advocates for sanctuary continue pushing for more radical and progressive views that would protect all undocumented residents, regardless of criminal backgrounds or other exclusionary provisions. These advocates call for an end to all deportation and detention activities, focusing in particular on the movement to "AbolishICE". Thus, while the scope of this research remains bound to its particular moment in time, it provides a foundation for ongoing efforts to reform the police, prison and deportation systems more broadly, starting at the local level, from the ground up.

A second constraint can be identified from the type of actors interviewed during my fieldwork. My interviews focused on speaking with the local activists, associations and NGOs that supported the push for sanctuary in Santa Ana, coupled with informal conversations and interviews with local residents at city council meetings and protests. While this provided important insights into the movement's leaders and the role of policy entrepreneurs in shaping the discourse and framing their agenda, it would have been a complementary addition to include further interviews with the city council members themselves. However, although attempts were made, they remained inaccessible, either by not responding to any efforts to contact them, or by refusing to be interviewed. This lack of participation from council members may in part reveal some members' lack of commitment to take an active stance towards sanctuary, or, in other cases, may underline their attention toward other priorities. Furthermore, attempts to contact local and federal enforcement actors were also unsuccessful, receiving no responses to inquiries for interviews. While this would have added a further component to gain the institutional perspective of

[21] H.R.6 - American Dream and Promise Act of 2021 and H.R.1603 - Farm Workforce Modernization Act of 2021

enforcement agencies, the focus on local resistance remains the primary objective for this dissertation, and as such, primary importance was given to conducting interviews with local activists, community associations, university professors and NGOs who represented the key players in framing sanctuary and pushing forward their agenda with the city council.

The research for this dissertation also reveals the importance of including a representative case study, which provided additional support to test the findings from the database and allowed for the possibility to observe and analyze how a sanctuary policy was developed, passed and implemented on the ground. Debates around sanctuary, police reform and ending detention in Santa Ana, as well as the city ordinance's emphasis on promoting greater diversity in a broad sense, reflect the goals of progressive immigration and minority rights movements across the country during this period. As such, Santa Ana represents both a key example of sanctuary during the Trump era, and an ongoing case to study as it attempts to reform the role of its local police union, to disentangle its cooperation with federal enforcement and deportation practices, and to support the representation of undocumented residents within city task forces. While studying a comparative case of an "anti-sanctuary" city within the same county could add to the robustness of the findings, it would ultimately serve to further confirm the results of the fieldwork. Santa Ana's foundation of grassroots mobilization, political affiliation and demographic trends in the antecedent years leading up to the sanctuary ordinance, coupled with local actors' ability to identify and act upon a key political opening, reflect the policies and responses by liberal cities in other parts of the country during this period. In doing so, these centers of resistance served as a direct contrast to more politically conservative-leaning cities, which sought to deepen the divide and polarization by supporting the Trump administration and its stance towards immigration.

c. Future research for the study of sanctuary: expanding the scope and field

There are several areas to consider for further research on this topic. One of the next steps that I would propose for upcoming research projects is to continue analyzing the links between the role of policing and police abolition with the sanctuary movement and other immigrant rights mobilizations. This would allow me to be able to further explore the priorities and strategies developed by undocumented youth leaders and the ties that they are developing with other minority groups and social movements from different backgrounds, underlining the shared intersectional identities from various communities. This research could contribute to a broader reflection on reimagining the police and carceral systems, alongside detention and deportation practices in this country, and the different ways to examine possible alternatives. In addition,

studying the sanctuary movement in parallel to other immigrant rights movements in greater depth would allow for comparisons between the similarities and differences in their priorities, leadership, and framing, for example, by comparing the Chicano rights movements of the 1960s and 1970s (Bauman 2007; Hernandez 1983; Muñoz 1989, 2018; Ortiz 1984), to the Dreamers movement during the early 2000s (Fiorito 2019; Flores 2016; Nicholls 2013; Nicholls and Fiorito 2015), with the different waves of sanctuary (Avila et al. 2018; Coutin 1990; Lasch et al. 2018; Perla and Coutin 2010; Villazor and Gulasekaram 2019; Yukich 2013). This research could contribute to understanding the bigger picture of the immigrant rights landscape over the past fifty years, by comparing the critical junctures and crises that incited these movements, and analyzing the outcomes in terms of federal, state and local policies.

Finally, comparing federal systems and immigration federalism in other countries and regions would also add an interesting perspective for further research on this topic. A comparative study could help to identify what factors have made sanctuary and immigration federalism unique to the United States, given its large, permanent undocumented population and particular history with its southern neighbors, as well as its prominent role on the global stage. Comparative cases with other federal systems could include countries like Brazil or Germany, also home to large immigrant populations, and representing two different regional contexts. Determining whether local policies of noncooperation have an impact on federal immigration enforcement would bring greater insight to the topic of immigration federalism and the sanctuary agenda by identifying the common and divergent factors compared to the United States. This could also reveal whether the role of local police and detention and deportation practices represent the main areas of focus for local noncooperation policies, as in the case of the United States sanctuary movement.

d. The impact and future of sanctuary in the United States

This dissertation seeks to highlight the importance of understanding the dual processes of criminalization and resistance of immigrant groups in the United States. By looking at both the increasingly hostile legislation and criminalization policies passed over the past forty years, it was possible to identify when and how dissent was enacted at the state and local levels, in the form of sanctuary policies. This in turn revealed the innovative tools that local policy entrepreneurs and activists identified at their disposal, even when faced with restrictive policies and regulations. My research further contributes to that of immigration federalism by examining the side of local resistance towards federal enforcement, adding to the study of subfederal policies which aim to implement more restrictive policies for immigrants in the U.S. In doing so, it is thus possible to

understand how both sides of the political spectrum respond to key historical moments, relying upon a foundation of prior policies and political discourse to enact change.

Finally, this dissertation underlines the importance of grassroots mobilization, and how the role of timing, political crises, policy entrepreneurs and advocacy coalitions can impact policy outcomes which may spread to other cities, and scale upward to the state level (Gulasekaram and Ramakrishnan 2015; Mintrom and Vergari 1996; Sabatier 1988). Throughout my research, I have aimed to provide a clearer understanding and analysis of sanctuary following the renewed attention toward sanctuary cities after President Trump's election. I chose to address this period, characterized by the spread of misinformation on this topic by many media sources at the time, with the hope of providing a foundation for future research and reporting on this subject. Overall, my research calls attention to the importance of the role of local dissent in challenging federal policies and emphasizes how sanctuary actors on the ground are able to express their resistance while enacting their own vision of a more inclusive future for their country.

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La montée du sanctuaire aux États-Unis en temps de crise politique : résistance des politiques locales face à la criminalisation des immigrés et à l'accroissement du contrôle fédéral

Le mouvement du sanctuaire aux États-Unis, qui a débuté dans les années 1980 en réponse à l'octroi de l'asile aux réfugiés salvadoriens, a suscité un regain d'attention à la suite de l'élection du président Donald Trump en 2016. Le terme « sanctuaire » s'est depuis élargi afin d'incorporer plusieurs types d'actions, telles que la défense de l'accès aux droits pour les individus, la désenchevêtrement de l'application de la loi sur l'immigration entre les niveaux local et fédéral, et la résistance à des politiques fédérales spécifiques. Ces dernières visent à utiliser les ressources locales en vue d'appliquer un régime d'immigration restrictif, entraînant ainsi la criminalisation des immigrés. Mes recherches portent sur les politiques dites « de sanctuaire », qui incluent l'ensemble des législations de nature infra-fédérale constituant le lien entre les mouvements de sanctuaire et les villes sanctuaires. Cette thèse s'appuie sur la littérature portant sur le fédéralisme de l'immigration (Chacón 2012 ; Gulasekaram et Ramakrishnan 2015 ; Suro 2015 ; Varsanyi et al. 2012) et la criminalisation de l'immigration (De Genova 2004 ; Menjívar et Kanstroom 2014 ; Ngai 2004) – afin de soutenir que les politiques de sanctuaire surviennent à des moments historiques spécifiques, en tant que réponses locales à des mesures accrues de contrôle de niveau fédéral. Le travail de recherche se fonde sur une analyse qualitative et quantitative de la base de données sur les politiques du sanctuaire intervenues de 1979 à 2018 (Lasch et al. 2018), ainsi que sur l'étude de cas de Santa Ana, dans l'Etat de Californie, devenue une ville sanctuaire à la suite de l'élection de Donald Trump.

(1686 caractères)

Mots clés :
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The Rise of Sanctuary in the United States during Political Crises: Local policy resistance in the face of immigrant criminalization and increasing federal enforcement

The sanctuary movement in the United States, which began during the 1980s as a response to provide asylum to Salvadoran refugees, gained renewed attention following President Donald Trump's election in 2016. The term sanctuary has since broadened to incorporate the actions taken by a wide range of actors to advocate for access to rights and services for immigrants, to disentangle local law enforcement from federal immigration enforcement and to express resistance to specific federal policies. These federal policies seek to use local resources to enforce an immigration regime that is viewed as increasingly restrictive, resulting in the criminalization of immigrants and other minority groups. My research focuses on sanctuary policies, which includes all subfederal legislation (state, county and city level) that falls within the sanctuary umbrella, and which serve as the link between the grassroots social movements and the actions taken by government actors to become sanctuary cities. This dissertation builds upon the literature on both immigration federalism (Chacón 2012; Gulasekaram and Ramakrishnan 2015; Suro 2015; Varsanyi et al. 2012) and immigration criminalization (De Genova 2004; Menjívar and Kanstroom 2014; Ngai 2004) to argue that sanctuary policies arise at specific historical moments as local responses to increased federal enforcement measures. Evidence for this is based on a qualitative and quantitative analysis of the sanctuary policy database from 1979-2018 (Lasch et al. 2018) and an in-depth case study of Santa Ana, California, which passed its first sanctuary resolution in the wake of President Trump's election in 2016.

(1661 characters)

Key words:
Sanctuary cities, immigration policy, undocumented, federalism, United States, criminalization

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