

CLAMPING THE LID ON THE MELTING POT:
IMMIGRATION POLICY AND THE U.S.-MEXICO BORDER, 1965-1986

by

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Submitted to the Graduate Faculty of
AddRan College of Liberal Arts
Texas Christian University
in partial fulfillment of the requirements
for the degree of

Doctor of Philosophy

August, 2013

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Acknowledgements:

I have many people to thank for helping me through graduate school, teaching me, and supporting me as I completed this dissertation; I can only name a few of them here. I would like to thank the faculty of the history department at Texas Christian University for its consistent and enthusiastic support. Peter Worthing, Mark Gilderhus, and Peter Szok were generous with their time and advice and helped me shape my scholarly interests and develop professionally. My advisor, Gregg Cantrell, deserves my greatest thanks for his willingness to embrace me as one of his students, even though my research interests reach beyond the borders of Texas. I am indebted to the rest of my dissertation committee as well. Max Krochmal, Rebecca Sharpless, and Don Coerver taught me both in and out of the classroom, and I have learned much from them. Other teachers and professors at the International Highschool of Amsterdam, the University of Georgia, and the University of Alabama were instrumental in inspiring me and cultivating in me a love of history. I appreciate everything I learned from Tobin Bechtel, Lisa Lindquist Dorr, Joshua Rothman, Howard Jones, Helen Delpar, and Kari Frederickson.

I am grateful for the generosity of Paul Boller and the department of history at TCU for generous financial support of my research. I also benefitted from financial support from the Gerald R. Ford Presidential Foundation. My final year as a PhD student I received the Benjamin W. Schmidt Memorial Dissertation Fellowship. This was an honor for which I will always be thankful. On October 6, 2011, Marine Lance Corporal Benjamin W. Schmidt was killed while on sniper patrol in Helmand Province, Afghanistan. A former history student at TCU, Ben designated funds from his life insurance policy to support a graduate student in

history. I am grateful for Ben's service and sacrifice, and for his kind parents, Teresa and David Schmidt.

Many librarians and archivists helped me find the sources needed for this project. In particular I would like to thank archivists at the Lyndon Johnson, Jimmy Carter, and Gerald Ford presidential libraries, as well as the librarians at the United States Citizenship and Immigration Research Library in Washington, D.C. At TCU, Robyn Reid and Beth Callahan offered research assistance as well as friendship and encouragement.

My friends and family provided emotional support of the kind that is difficult to express gratitude for with words, but I will try nonetheless. My graduate student colleagues at UA and TCU helped me survive the perils of grad school, enjoy the wonderful life of being a grad student, and made me a better student and scholar. In particular I would like to thank my UA cohort and my TCU writing group. Other friends and my family offered yet more help and support along the way. To Melissa Baird, Wendy Hicks Manner, Amanda Irvin, Dan and Carol Byess, Jackie and Jason Barbas, Ken and Weylene Branscombe, and Alice Branscombe, I extend my greatest love and gratitude. Thank you.

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Introduction:

Loud Voices and Invisible People: The Immigration and Nationality Act of 1965 and the American Southwest

As work on this dissertation comes to an end, immigration issues are in the headlines almost daily as American citizens, politicians, and activists discuss the need to reform the nation's immigration policies. President Barack Obama called for immigration reform in his second inaugural address and 2013 State of the Union address.¹ A bipartisan group in the Senate is promising a legislative reform package.² Not long ago, a group of thousands of activists marched in a "Rally for Citizenship" in Washington D.C., calling for a path to citizenship for immigrants without status.³ In the wake of the bombing at the Boston Marathon on April 15, 2013, immigration critics are citing the bombers' foreign birth as a reason to seal the country's borders, restrict legal immigration, and/or limit a potential plan for a path to citizenship.⁴ Although this study focuses on the immigration debates in the 1960s and 1970s, the arguments articulated in the news recently are remarkably familiar. Why is immigration

¹ Transcripts available on the White House blog: <http://www.whitehouse.gov/the-press-office/2013/01/21/inaugural-address-president-barack-obama>, and <http://www.whitehouse.gov/the-press-office/2013/02/12/remarks-president-state-union-address>.

² David Nakamura, "Senators to release immigration plan, including a path to citizenship," April 15, 2013. *Washington Post Online*: http://www.washingtonpost.com/politics/senators-to-release-immigration-plan-including-a-path-to-citizenship/2013/04/15/67914cee-a5e2-11e2-8302-3c7e0ea97057_story.html. Accessed April 16, 2013.

³ Pamela Constable and Tara Bahrapour, "Immigration reform rally draws thousands to Capitol calling for path to citizenship," April 10, 2013, *Washington Post Online*: http://articles.washingtonpost.com/2013-04-10/local/38422803_1_immigration-reform-immigration-law-capitol-hill. Accessed April 16, 2013.

⁴ Robert Costa, "[After Boston, Congressman Urges Caution on Immigration Reform](http://www.nationalreview.com/corner/345691/after-boston-congressman-urges-caution-immigration)," April 16, 2013. *National Review Online*: <http://www.nationalreview.com/corner/345691/after-boston-congressman-urges-caution-immigration>. Accessed April 16, 2013.

still such a problem when politicians, activists, and journalists thought they had solved the problem in 1965 (and, again, in 1986)? This dissertation attempts to answer that question.

In his 1964 State of the Union address, President Lyndon Johnson proclaimed, “We must also lift by legislation the bars of discrimination against those who seek entry into our country.” He envisioned “a world made safe for diversity, in which all men, goods, and ideas can freely move across every border and every boundary,” and believed that “a nation which was built by the immigrants of all lands” should not be asking of those seeking entry into the U.S., ““In what country were you born?””⁵ Johnson realized his hope for immigration reform within two years. On October 3, 1965 he signed the Immigration and Naturalization Act of 1965 (INA), a law that he claimed would “repair a very deep and painful flaw in the fabric of American justice” by abolishing the national origins quota system that had regulated immigration in the U.S. since the 1920s.⁶ Johnson’s immigration policy was an important element of his larger progressive agenda that sought to improve society and expand civil rights.

Despite the egalitarian and humanitarian impulses behind the bill, the 1965 law failed to remove racism from immigration policies and exacerbated immigration problems along the U.S.-Mexico border. During the debates over the INA in the Kennedy and Johnson administrations, undocumented immigration was not of sufficient concern to elicit much discussion. The next time comprehensive immigration reform passed, however,

⁵ “State of the Union,” January 8, 1964, “Statements of Lyndon B. Johnson,” Box 92, Presidential Papers Collection, Lyndon B. Johnson Library, Austin, TX. Hereafter Johnson Library.

⁶ “Remarks of the President at the Signing of the Immigration Bill, Liberty Island, NY, 10/3/65,” “Statements of Lyndon B. Johnson” folder, Box 164, Johnson Library.

unsanctioned border crossings from Mexico and the population of immigrants without legal status living and working in the United States were the most discussed topics. This dissertation examines the provisions of the INA and analyzes how the law was implemented and enforced in the subsequent two decades. It centers on the U.S.-Mexico border and is particularly concerned with how and why undocumented immigration became the top immigration matter in the country by the time the Reagan administration passed new comprehensive immigration reform. Ultimately, a combination of belligerent rhetoric in the INS and a profound lack of knowledge on the subject made for uninformed opinions and ineffective policies based on unsubstantiated fears of a national crisis. Furthermore, there was a poor communication between Washington, D.C. and the border region. The disconnect between Washington and the Southwest explains how the fanfare that surrounded the passage of the INA devolved into an unworkable federal policy and inconsistent local implementation.

For the early part of the nation's history, much of the government's discussion on immigration focused on how to encourage more immigration to the United States.⁷ The nation was growing and it needed labor to help build it. Although the U.S. called for workers, in the words of Swiss writer Max Frisch, "there came human beings."⁸ To deal with the complications of large numbers of people immigrating to the U.S. for work and a new life from outside of northern and western Europe, the U.S. Congress began implementing increasingly restrictive policies. The federal government derives its power to

⁷ Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the INS*, (New York: Routledge, 1992), 8.

⁸ Quoted in Calavita, *Inside the State*, 6. Frisch was reflecting on the guest worker system in Europe in the 1960s and 1970s.

regulate immigration based on the principles of sovereignty and the protection and welfare of the nation, and it has traditionally interpreted these principles to mean immigration should be restricted. Even when limiting immigration, politicians generally welcomed temporary migrant workers from Mexico in order to appease southwest growers and ranchers eager for cheap labor.

There is growing scholarly interest in the challenges to effective immigration policy in the late nineteenth and twentieth century and in the experiences of immigrants, but the topic of immigration policy and enforcement has not attracted much attention from historians. Most historical works, such as those produced by Roger Daniels, Michael C. LeMay, Robert Divine, Erika Lee, and Mae Ngai, either provide an overview of immigration history since the late nineteenth century, or focus on the period surrounding the passage of the landmark 1924 National Origins Law.⁹ Studies that analyze the Immigration and Nationality Act of 1965 (INA), such as those by David Reimers and Reed Ueda, generally do so in a global context and suggest that the INA successfully abolished racially discriminatory policies.¹⁰ Although these scholars acknowledge that the INA limited opportunities for

⁹ Roger Daniels, *Coming to America: A History of Immigration and Ethnicity in American Life*, (New York: Harper, 2002 ed.); Roger Daniels, *Guarding the Golden Door: American Immigration Policy and Immigrants Since 1882*, (New York: Hill and Wang, 2004); Robert Divine, *American Immigration Policy 1924-1952*, (New Haven: Yale University Press, 1957); Erika Lee, "Immigrants and Immigration Law: A State of the Field Assessment," *Journal of American Ethnic History*, Vol. 18 No. 4 (Summer, 1999): 85-114; Michael LeMay, *Guarding the Gates: Immigration and National Security* (Westport, Conn.: Praeger Security International, 2006); Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004).

¹⁰ David Reimers, *Still The Golden Door: The Third World Comes to America*, (New York: Columbia University Press, 1985); David Reimers, *Unwelcome Strangers: American Identity and the Turn Against Immigration* (New York: Columbia University Press, 1998); Reed Ueda, *Postwar Immigrant America: A Social History*, (Boston: Bedford/St. Martin's, 1994).

immigrants from Mexico, they present the policy as a liberal departure from previous law that diversified the immigrant population in the United States. The consequences of the INA presented here contrasts to those discussed in the established literature on immigration policy. By focusing in depth on the 1965 law and its implementation in the Southwest, the complexities of the law and its enforcement become more apparent.

An emerging and exciting field of the last several decades explores immigrant communities. Such works illuminate the so-called push factors in sending countries, the immigrating experience, living and working conditions in the United States, and how U.S. policies affect immigrant communities. Excellent work has been done, in particular, on women in immigrant communities by scholars including Donna Gabaccia, Pierrette Hondagneu-Sotelo, Margarita B. Melville, Vicki Ruíz, Denise Segura, and Patricia Zavella.¹¹ Other scholars have done important work that investigates how immigration laws and their enforcement affect particular groups of immigrants and American attitudes towards them. Margot Canaday, Eithne Luibhéid and Lionel Cantú Jr. address rarely asked questions about

¹¹ Donna Gabaccia, *From the Other Side: Women, Gender, and Immigrant Life in the U.S., 1820-1990*, (Bloomington: Indiana University Press, 1994); Donna Gabaccia, "Immigrant Women: Nowhere at Home?" *Journal of American Ethnic History*, Vol. 10, No. 4 (Summer 1991): 61-87. Pierrette Hondagneu-Sotelo, "Overcoming Patriarchal Constraints: The Reconstruction of Gender Relations Among Mexican Immigrant Women and Men." *Gender & Society*, Vol. 6, No. 2 (September 1992): 393-415; Pierrette Hondagneu-Sotelo, *Gendered Transitions: Mexican Experiences of Immigration*, (Berkeley: University of California Press, 1994); Pierrette Hondagneu-Sotelo, "Feminism and Migration." *Annals of the American Academy*, 571 (2000): 107-120; Margarita B. Melville, "Mexican Women Adapt to Migration." *International Migration Review*, Vol. 12, No. 2 (Summer 1978): 225-235; Margarita B. Melville, "Mexican Women Adapt to Migration." *International Migration Review*, Vol. 12, No. 2 (Summer 1978): 225-235; Vicki Ruíz, *From Out of the Shadows: Mexican Women in Twentieth-Century America*, (Oxford: Oxford University Press, 1998); Vicki Ruíz and Susan Tiano, eds., *Women on the U.S.-Mexico Border: Responses to Change*, (Boston: Allen and Unwin. 1987); Denise Segura and Patricia Zavella, eds., *Women and Migration in the U.S.-Mexico Borderlands: A Reader*, (Durham: Duke University Press, 2007).

the larger meaning of immigration law in national identity.¹² This dissertation, like the work produced by these scholars, explores the myriad categories of exclusion codified in immigration law that seek to establish strict behavioral and moral guidelines for who is allowed in the country. Historically, morality clauses frequently targeted women, assumed to be entering the United States for sex work, and banned suspected gay immigrants altogether.

While the social aspects of immigration are important, it is still critical to the scholarship on immigration to understand the role of the state in making and implementing policy, and that is the primary focus of this study. Politics still matter in a field which is increasingly dominated—rightly so—by social history. The steps various administrations took on the topic of immigration—particularly the Ford and Carter presidencies—are a central focus of the story told here. In the words of former Speaker of the House Jim Wright (D-TX), “Every freeborn American looks to the President for the fulfillment of his hopes and dreams and the solution of his problems.”¹³ For good or ill, the American people looked to their elected leaders, and particularly the president, to provide answers as undocumented immigration became a growing national concern in the 1970s. Furthermore, the Immigration and Naturalization Service was a federal governmental body tasked with enforcing immigration laws and facilitating the immigration process and is central to the understanding of how federal immigration law is implemented on the local level. The INS (in its different

¹² Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America*, (Princeton: Princeton University Press, 2009); Eithne Luibhéid, *Entry Denied: Policing Sexuality at the Border*, (Minneapolis: University of Minnesota Press, 2002); Eithne Luibhéid and Lionel Cantú Jr., eds., *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings*, (Minneapolis: University of Minnesota Press, 2005).

¹³ “Remarks of Congressman Jim Wright in Presenting the President,” June 23, 1978, “Introducing President Carter in Fort Worth” folder, Box 695, Subject Files, Speaker Jim Wright Collection, Special Collections, Mary Coats Library, Texas Christian University, Fort Worth, Texas.

organizational forms) has been shuffled around to different departments since its creation in 1891 from Treasury to Labor to Justice to Homeland Security. From 1940 to 2003 the INS was housed in the Department of Justice.

This dissertation blends social and political history and examines the point where policy meets implementation to create a kind of “social history of the state.” For example, it does not present an institutional history of the Immigration Service, but rather it analyzes how different leaders in the organization helped or hindered the Service’s work, and explores how Service employees managed their difficult job. A few historians have already produced excellent example of this type of socio-political history. Margot Canaday “gets down on the ground with state officials” in her study on the effects of immigration, military, and welfare policies on gay people in the United States. Kelly Lytle Hernández’s work on Operation Wetback in 1954 and the history of the Border Patrol offers new insights into law enforcement on the border.¹⁴ This dissertation builds on and broadens Hernández’s work, which concludes in the early 1970s, by looking at the entire Immigration Service and continuing the investigation into an era that she labels the “embattled decades” of the late twentieth century. Hernández and other scholars like Sylvanna Falcón and Kitty Calavita broaden the exploration of immigration law enforcement by analyzing the social implications of an increasingly militarized border and Border Patrol, a process well documented by

¹⁴ Kelly Lytle Hernández, “The Crimes and Consequences of Illegal Immigration: A Cross-Border Examination of Operation Wetback, 1943 to 1954,” *The Western Historical Quarterly*, Vo. 37, No. 4 (Winter, 2006): 421-444; Kelly Lytle Hernández, *Migra!: A History of the U.S. Border Patrol*, (Berkeley: University of California Press, 2010).

scholars like Timothy J. Dunn in his book, *The Militarization of the U.S.-Mexico Border, 1978-1992*.¹⁵

Sources and research methods for this dissertation reflect the focus on the intersection of federal policy and local implementation. Main sources include INS records from the United States Citizenship and Immigration Historical Reference Library in Washington, D.C., archival materials in presidential libraries, INS publications, and congressional hearings and reports. These sources provide documentation of the policymaking process and INS rhetoric on the subject of immigration. INS records after 1952 housed in the National Archives are still largely closed to research, and my Freedom of Information Act Requests to view INS records from the 1970s were denied.

Regional newspapers, archival collections of immigrants' rights and Mexican American activist groups, and oral histories and Border Patrol officer memoirs illuminate the experiences of the people living and working in southwestern border states. These sources articulate the opinions of a sharply divided public on the topic of undocumented immigration, give a voice to the immigrants around whom the policies revolved, and reveal how local immigration officials felt about their jobs, co-workers, superiors, and the immigrants with whom they interacted on a daily basis.

This dissertation is arranged both chronologically and thematically. The first two chapters examine the background to and passage of the Immigration Act of 1965 and the short-term consequences of its implementation. Chapter one offers an overview of

¹⁵ Calavita, *Inside the State*; Timothy J. Dunn, *The Militarization of the U.S.—Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*, (Austin: University of Texas Press, 1996); Sylvanna Falcón, "Rape as a Weapon of War," In *Women and Migration in the U.S.-Mexico Borderlands: A Reader*, edited by Denise Segura and Patricia Zavell, 203-223, (Durham: Duke University Press, 2007).

immigration law up to 1965, emphasizing the increasingly restrictive character of the laws and highlighting how policies affected (or ignored) immigration from Mexico. This rather extensive overview is necessary to establish the historical precedents and patterns in immigration law, particularly as it pertains to immigrants from Mexico. It reveals the great ambivalence Americans felt towards immigrants entering the United States from Mexico, seeking their labor when needed but always on a temporary basis. Chapter One examines the goals and expectations of the 1965 reforms and the national climate in which it passed. Chapter Two analyzes the flaws in the law and the consequences—both intended and unintended—of its implementation in 1968. Chapter Two illuminates the dark side of immigration enforcement by discussing how the law targeted specific groups based on racial characteristics or moral behavior and how it contributed to the dramatic increase in undocumented immigration.

Chapter Three explores how the federal government and Immigration Service began to deal with the results of the INA, mainly the issue of undocumented immigration. The Ford administration was the first to take action but was hampered by a profound lack of information on the largely invisible population living and working in the country. The Immigration Service, under the leadership of a charismatic ex-military commander, launched a large-scale and hugely successful publicity campaign to spread the word about what it perceived as the menace of undocumented immigrants to the country.

Although the publicity campaign was successful in drawing national attention to the issue, the INS faced persistent problems throughout the 1970s, the subject of Chapter Four. The Service struggled with damaging accusations of corruption and abuse and its personnel suffered from low morale resulting from the bad publicity. Furthermore, immigration

officials faced the impossible task of enforcing vague and impractical policies. They had many obstacles to overcome ranging from budgetary restrictions and internal corruption to fraud and humanitarian crises along the border, and the difficulty in overcoming these obstacles contributed to ineffective border enforcement.

Chapter Five picks up the chronological narrative with the election of Jimmy Carter in 1976 and analyzes his administration's attempts to deal with the border situation. Armed with more information on immigrants collected during Ford's presidency, Carter went to work on a package of immigration reform proposals. He also appointed a new commissioner to head the INS in the hopes that it would change the tone of the conversation that previous leaders in the INS had established. Although Carter framed his reform proposals in human rights terms, his plan met with strong opposition from immigrants' rights advocates. Americans concerned with the potential for racial discrimination and violations of civil liberties launched a vocal campaign in the late 1970s to protest Carter's immigration plan and his proposals died shortly after being introduced in Congress. Although his attempts at reform failed, Carter played an important part in the shaping future immigration law in the country by forming a commission on immigration, and his role as a moderate immigration reformer is understudied and underappreciated.

Immigration history in the United States is indeed a fascinating subject. Americans have a deep pride in the "melting pot" image of their country and celebrate the bountiful opportunities available to immigrants. Oscar Handlin, the renowned historian and author of the Pulitzer Prize winning book, *The Uprooted: The Epic Story of the Great Migrations That Made the American People*, captured this sentiment when he wrote,

The story of immigration is a tale of wonderful success, the compounded biography of thousands of humble people who through their own efforts brought themselves across distances to plant their roots and to thrive in alien soil. Its only parallel is the story of the United States, which began in the huddled settlements at the edge of the wilderness and pulled itself upward to immense material and spiritual power.

While Americans frequently join with Handlin in expressing pride in the nation's immigrant past, there have been consistent efforts in the twentieth and twenty-first centuries to limit immigrant opportunities in the United States. Immigration matters present challenging and perplexing questions. The Immigration Act of 1965 and its enforcement reveal just how complicated immigration policies are. Johnson and his contemporaries proclaimed that the United States should be a land offering opportunity to those who would help to build it, but the bill he signed into law continued to discriminate blatantly in identifying who would be welcomed. American ambivalence towards immigration—from Mexico in particular—and the problems that ambivalence caused is part of the story that follows.

A Note on Terminology

This dissertation does not use the term “illegal alien” or any derivative thereof (“illegals,” “illegal immigrant,” etc.) unless directly quoting a source. The decision comes from the conviction that, although people may commit illegal acts, people themselves cannot be “illegal.” It is neither appropriate nor accurate to define an entire person based on an act or condition. Similarly, it avoids the use of the term “alien” unless in a quoted source.

Although a legal term and perhaps less controversial than “illegal,” “alien” connotes a being outside of a national community and has potential nativist implications.¹⁶

Finally, United States immigration law designates every person entering the country legally as having immigrant or nonimmigrant status based on the length of stay. Immigrant status (or permanent resident, resident alien, green card holder, etc.) indicates a permanent move to the United States. Nonimmigrant status indicates a temporary stay for work, school, business, tourism, etc, with an intention of returning to the home country. Nonimmigrants are restricted to the activity or activities for which they were granted a visa. By these definitions, persons entering the U.S. without authorization or who overstay their temporary visas are no longer considered an immigrant or nonimmigrant because they fall outside of these legal categories. This dissertation uses a broader definition of the term immigrant, however, as meaning simply a person entering the United States from another country, regardless of legal status, purpose, or length of stay.

¹⁶ For a thorough discussion of the implications of the term “alien” in U.S. immigration law, see Kevin R. Johnson, “‘Aliens’ and the U.S. Immigration Laws: The Social and Legal Construction of Nonpersons,” *The University of Miami Inter-American Law Review*, Vol. 28, No. 2, International Law, Human Rights, and LatCrit Theory (Winter, 1996/1997): 263-292. Johnson argues that terminology influences thinking in the United States about acceptance of immigrants from other countries, including refugees.

Chapter 1
*The Roots of Immigration Reform:
The U.S.-Mexican Border and the Background to the Immigration and Nationality Act of
1965*

The signing ceremony for the Immigration and Nationality Act of 1965 (INA) was a dramatic scene. On a clear and brisk fall day in October, a helicopter flew President Lyndon Johnson to Liberty Island while a ferry boat shuttled back and forth to Manhattan with scores of dignitaries arriving for the event. Hundreds of tourists and local observers joined them. Standing in front of the choppy waters of New York Harbor and in the shadow of the Statue of Liberty, Johnson referenced the historic symbol of welcome when he proclaimed, “we can all believe that the lamp of this grand old lady is brighter today—and the golden door she guards gleams more brilliantly in the light of an increased liberty for people from all countries.” Johnson was praising the legislation he had just signed into law, an immigration bill that abolished the national origins quota system. After the signing, tourists rushed passed the barricades to join politicians and other dignitaries in the scramble for one of the pens Johnson used in the ceremony. The president was clearly proud of his administration’s achievement.¹

This chapter provides the historical backdrop to the story of immigration reform that culminated in the Liberty Island signing ceremony, and explains the main provisions of the INA and why such great hope and optimism surrounded its passage. The purpose of the extended historical overview of immigration policy is twofold: to show how the INA was meant to mark a departure from the era of immigration restriction and racial and ethnic

¹ “President Welcomes Those ‘Who Seek Freedom’ as he Signs New Immigration Bill in New York,” *Arizona Republic*, October 4, 1965; “Johnson Opens Gates of U.S. to Cuba Refugees,” *Long Beach Press-Telegram*, Oct. 4, 1965; “Text of the President’s Speech on Immigration,” *New York Times*, October 4, 1965.

discrimination preceding it, and to underscore the special status immigrants from Mexico (and other countries in the western hemisphere) held prior to 1965. Historically, nativism and xenophobia characterized U.S. immigration laws, and the restrictive nature of immigration laws before 1965 is emphasized here.² From the end of the nineteenth century until 1965, one *de jure* category of exclusion was based on race and national origins. A second broad category of exclusion in immigration law encompassed restrictions based on other characteristics, including immigrants' health, education, class, and morality.

For much of the twentieth century, the United States based its immigration policy on a system that discriminated against immigrants based on race/ethnicity or country of origin.³ Federal immigration policies first targeted immigrants from Asia. Many Americans felt anxious about immigration in the nineteenth century, and, beginning at the end of that century, nativist sentiment had reached the point where the federal government responded with legislation restricting immigration.⁴ The nativist impulse and push for federal control over immigration at that time originated in California, where fearful American xenophobes argued that Chinese immigration posed national economic and cultural threats. Efforts to

² Lee, "Immigrants and Immigration Law," 89.

³ Many scholars of early immigration history have been quick to point out the nativist and racist nature of the law. For an excellent overview of the history of American nativism, see John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925*, (1955; repr., New York: Atheneum, 1985). For more on how nativism has resurged in recent years see Higham, "Cultural Responses to Immigration," in *Diversity and Its Discontents: Cultural Conflict and Common Ground in Contemporary American Society*, ed. Neil J. Smelser and Jeffrey C. Alexander, (Princeton, Princeton University Press, 1999), 39-62; Juan F. Perea, ed., *Immigrants Out: The New Nativism and the Anti-Immigrant Impulse in the United States*, (New York: New York University Press, 1997); and Dale T. Knobel, *America for the Americans: the Nativist Movement in the United States*, (New York: Twayne Publishers, 1996).

⁴ Lee, "Immigrants and Immigration Law," 89.

restrict Chinese immigration in California began as early as 1855, and the U.S. Congress intervened in 1875 with the passage of the Page Law, which banned Chinese, Japanese, other Asian laborers brought to the U.S. involuntarily, and all women brought for the purpose of prostitution.⁵ Bowing to nativist pressure, the federal government finally banned all Chinese from entering the United States with the passage of the Chinese Exclusion Act in 1882, and a diplomatic agreement between the United States and Japan in 1908 effectively curbed Japanese immigration. The Immigration Act of 1917 excluded all Asians from a “barred Asiatic zone” that ran from Afghanistan to the Pacific Ocean.⁶ Immigration laws passed in 1921 and 1924 further codified restrictive immigration policies based on national origins.

Categories of exclusion in immigration policy included not only racial and ethnic restrictions, but they also included bans on certain conditions and behaviors. Immigration scholars point out that policy from the earliest point when there was direct federal regulation of immigration designated certain classes of immigrants as excludable based on factors other than their race or national origin. “Thereafter,” one historian asserts, “exclusion developed into a major instrument of immigration policy.”⁷ In the 1880s, shortly after the U.S. federal government began exerting control over immigration by restricting Chinese entry, Congress passed an immigration law barring criminals, prostitutes, paupers, lunatics, idiots, and those suffering from contagious disease or likely to become public charges from the United States. With each subsequent law, the list of “undesirable”—and, therefore, excludable—immigrants

⁵ Ibid.

⁶ Ngai, *Impossible Subjects*, 18.

⁷ Lee cites the Page Law (1875) as the beginning of federal regulation of immigration. The Page Law forbade the entry of Chinese, Japanese, and other Asian laborers brought to the U.S. involuntarily and women brought for the purpose of prostitution. Lee, “Immigrants and Immigration Law,” 89-90.

grew. For example, an 1891 policy prevented polygamists and foreigners convicted of a crime of “moral turpitude” from immigrating; a 1903 law banned anarchists, epileptics, and beggars; and a 1907 policy excluded women coming to the United States for “immoral purposes,” as well as those deemed “feeble-minded” or suffering from “physical or mental defect.”⁸ Anti-radicalism and fears of communism led to the exclusion of radicals and anarchists in the Immigration Act of 1917. That law also required a literacy test for hopeful immigrants. In the early twentieth century, then, the list of persons prohibited from entering the United States included not only all Asians, but also “illiterates, prostitutes, criminals, contract laborers, unaccompanied children, idiots, epileptics, the insane, paupers, the diseased and defective, alcoholics, beggars, polygamists, [and] anarchists.”⁹

The 1924 (Johnson-Reed) National Origins Immigration Act, the culmination of the process of increasingly restrictive immigration policies, placed numerical limits on immigration and created a quota system that placed foreign nationalities in a “hierarchy of desirability.”¹⁰ Northern and western Europeans were acceptable to Americans, and therefore at the top of the hierarchy, because they shared similar cultural attributes, tended to be Protestant Christians, and had lighter skin tones. Conversely, the 1924 system limited the numbers of “undesirable” immigrants from eastern and southern Europe who were of darker skin tone and had divergent cultural and religious characteristics. Furthermore, the Supreme

⁸ Act of August 3, 1882, ch. 367, (22 Stat. 214); Immigration Act of 1891, (26 Stat. 1084); Immigration Act of 1903, (32 Stat. 1203, sec. 2); Immigration Act of 1907, (34 Stat. 898).

⁹ Hernández, *Migra!*, 27.

¹⁰ Ngai, *Impossible Subjects*, 17.

Court ruled all Asians ineligible for citizenship in the early 1920s.¹¹ Thus, from 1924 to 1965, the United States based its official immigration policy on a national origins quota system.¹²

Despite the obvious bias in early twentieth century U.S. immigration law in favor of racially “desirable” immigrants, government officials generally ignored immigrants entering the country through its southern borders. During much of the twentieth century, Mexican immigrants, both authorized and unauthorized, greatly contributed to the U.S. economy—particularly the agricultural economy—and the government paid little attention to how they arrived in the country.¹³ The 1917 Immigration Act exempted migrant workers from Mexico from head taxes and literacy tests applied to other immigrants. Between 1917 and 1920, some 51,000 Mexicans came to the U.S. under these exemptions (80 percent of whom were farm workers). The 1924 Immigration Act, furthermore, did not assign quotas to Mexicans, allowing for their continued unrestricted entrance into the United States. The enforcement provisions of the law, including visa requirements and border-control policies, did, however,

¹¹ *Ozawa v. United States* (1922) and *United States v. Thind* (1923). Subsequent cases upheld Chinese ineligibility for citizenship. Two cases, *In re Look Tin Sing* (1884) and *United States v. Wong Kim Ark* (1898) upheld Chinese birthright citizenship. Chinese immigrants were allowed the right of naturalized citizenship when the Chinese Exclusion laws were repealed in 1943. The Immigration and Nationality Act of 1952 finally did away with racial restrictions for naturalization. See Lee, “Immigrants and Immigration Law,” note 14.

¹² Examples of excellent overviews of immigration policy in the United States until 1965 include: E.P Hutchinson, *Legislative History of Immigration Policy, 1798-1965*, (Philadelphia: University of Pennsylvania Press 1981); Divine, *American Immigration Policy*; Daniels, *Guarding the Golden Door*; LeMay, *Guarding the Gates*.

¹³ For an overview of Mexican labor in the United States see Frank D. Bean et al., eds., *At the Crossroads: Mexican Migration and U.S. Policy*, (New York: Rowman and Littlefield, 1997), and Part I of Antonio Ríos-Bustamante, ed., *Mexican Immigrant Workers in the U.S.*, (Los Angeles: Chicano Studies Research Center Publications of the University of California, 1981).

affect Mexicans.¹⁴ The 1924 quota system, in establishing a rigid regime of documents, created the class of “illegal aliens”—those who were in the country without formal permission and documentation from the U.S. government.¹⁵ Immigrants from Mexico, although outside of the quota system, still had to meet other immigration standards and the law placed restrictions on temporary migrants based on labor need.

Although immigrants from Mexico circumvented the bulk of the restrictive elements in immigration law, they did not escape the racist attitudes that constituted the spirit behind the law. In fact, the quota era of immigration law was arguably one of the worst periods for anti-Mexican sentiment in the United States. White politicians either advocated for unrestricted Mexican immigration so that their labor could be exploited by growers in the Southwest, or they pushed for laws banning immigration altogether in order to keep racially and culturally undesirable people out of the country. While there may have been a few policymakers supporting the exclusion of western hemisphere immigration from the quota laws based on the ideal of Pan-Americanism and keeping good foreign relations with hemispheric neighbors, it seems clear based on prevalent racist and nativist attitudes of the time that western hemisphere exclusion passed due to successful lobbying efforts of southwestern growers who wanted cheap and exploitable labor.¹⁶ Representatives from the

¹⁴ Ngai, *Impossible Subjects*, 7.

¹⁵ *Ibid.*, 57.

¹⁶ Robert A. Divine makes the argument that part of the motivation for western hemisphere exclusion was due to the Pan-American ideals in his classic *American Immigration Policy, 1924-1952*, specifically chapter 3: “Western Hemisphere and the Philippines.” Divine argues, “In the debate [over the 1924 National Origins Immigration Law] the majority clearly showed that they believed traditional American policy toward Latin America demanded favorable treatment of these countries in immigration policy. Senator [James] Reed, the leading restrictionist in the Senate, appealed to the ideal of Pan-

Southwest argued that Mexican limitations would create an “economic disaster” in the region, and they bitterly contested the efforts of the restrictionists to place a quota on Mexico.¹⁷ Growers thus convinced Congress to exclude Mexicans from the quota laws of 1921 and 1924. Supporters of quota exclusions for the western hemisphere still generally held nativist attitudes. John Nance Garner (D), who represented Texas growers in the U.S. House of Representatives, believed that Mexican migrant workers in Texas did “not cause any trouble, unless they stay[ed] there and [became] Americanized.”¹⁸ The vast majority of supporters of the use of Mexican labor, like Representative Garner, certainly did not want the workers to have civil rights nor their children to have access to American schools.¹⁹ In other words, they were welcomed for their labor, but on a temporary basis and not for naturalization. Another Congressman from Texas, Democrat John C. Box, was among those who pushed for the application of the quota system to the western hemisphere, or at least the inclusion of Mexicans. Box sponsored a bill in 1926 that would have applied the quota system to Mexico, but his efforts failed. His motivations seem clear; he blatantly proclaimed

Americanism as justification for exempting Canada and Latin America.” (Ibid., 52). Furthermore, Divine concludes that “the enduring principle of Pan-Americanism” proved too strong for restrictionists. (Ibid., 66). More recently, David Reimers has made this argument, citing Divine, in *Still the Golden Door* and *Unwelcome Strangers*.

¹⁷ Divine, *American Immigration Policy*, 53.

¹⁸ U.S. Congress, House Committee on Immigration and Naturalization, *Immigration from Western Hemisphere*, (Washington: Government Printing Office 1930), 61. Quoted in Daniels, *Guarding the Golden Door*, 62.

¹⁹ Timothy P. Bowman, “Race and Agriculture in the “New” South Texas, 1917-1930,” Texas State Historical Association Annual Meeting, February 28, 2013, Fort Worth, Texas.

in 1928 that Mexican migrants were “illiterate, unclean, peonized masses,” and he wanted to keep them out of the country.²⁰

During the 1930s, detecting and deporting undocumented immigrants was increasingly important for the U.S. government.²¹ New immigration issues emerged during that period that concerned Filipinos and political refugees from Europe. In addition, the U.S. government made its first mass effort to limit the numbers of unauthorized Mexican immigrants in the country through a “voluntary” government-sponsored repatriation program. The violence and instability of the Mexican Revolution had abated during the 1920s, and the devastating effects of the Great Depression in the U.S. deterred migrant workers, so the rate of immigration from Mexico had already naturally diminished. The 1930s repatriation program, then, was unprecedented for the time, but the numbers deported were not that dramatic. The status of unsanctioned immigrants was a highly divisive problem—especially for politicians and farmers in the American Southwest who had relied on undocumented Mexican labor for decades—but economic depression, political stability in Mexico, and a new focus in the U.S. on potential problems of undocumented immigration kept the numbers of Mexican immigrants entering the U.S. low during the 1930s.

²⁰ *Congressional Record*, (February 9, 1928) 2817-18. Quoted in Daniels, *Guarding the Golden Door*, 62. Mae Ngai cites another example of the common assumptions about race in an editorial in the *Saturday Evening Post*: “How much longer [are] we going to defer putting the Mexican Indian under the quota law we have established for Europe...Mexican laborers often have nine children, or even more. At the nine-child rate, any of these Mexicans who are coming in by the trainload might be expected to average 729 great grandchildren” (*Impossible Subjects*, 52-53). Robert A. Divine also offers examples of attitudes about Mexicans held by immigration restrictionists in the 1920s. On the social aspects of Mexican immigration, see Divine, *American Immigration Policy*, 56.

²¹ Daniels, *Guarding the Golden Door*, 59.

World War II marked a turning point in U.S. immigration policies by transforming Americans' attitudes towards race and by creating a labor need in American agriculture and industry. The War reinvigorated civil rights activism in the United States as international criticism of racial policies in the United States increased, and many Americans of color felt disgruntled, to say the least, about fighting in or supporting a war against a racist regime in Germany while their own government suppressed their rights.²² Consequently, during the War, overtly racist rhetoric in immigration and naturalization policies became less tolerable. As white Americans' attitudes on race moderated, Congress replaced some of the discriminatory immigration laws based on race with more liberal policies. In 1943, for example, naturalization laws gave Asian groups in the United States greater access to citizenship (all racial restrictions for naturalization were removed in 1952).²³ Legislation in 1948 and 1953 expanded settlement opportunities for refugees and displaced persons.²⁴

As overtly racist language in government rhetoric became less popular, the Immigration Service started focusing more on patriotism and stressed the benefits of good citizenship and "proper" moral behavior. Even before Congress abolished the racist national origins quota system in 1965, the Immigration Service began using more frequently language

²² See, for example, Ronald Takaki, *Double Victory: A Multicultural History of America in World War II*, (Boston : Little, Brown and Co., 2000); Mary Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy*, (Princeton: Princeton University Press, 2000); Thomas Borstelmann, *The Cold War and the Color Line: American Race Relations in the Global Arena*, (Cambridge: Harvard University Press, 2001).

²³ Japanese were still denied naturalization . The 1943 law passed as 120,000 citizens and residents of Japanese descent resided in internment camps, denied due process. The liberalization of the laws were a move, in part, to counter Japan's successful propaganda in Asia that the U.S. was racist, and a way to show support for the Chinese. Many who supported citizenship for all Asians, including Japanese, saw this act as a way to pave the way for the post-war incorporation of Japanese residents as well.

²⁴ Displaced Persons Act (1948); Refugee Relief Act (1953)

in its publications that stressed the positive aspects of the immigration experience in American society. In September 1948, for example, an article published in the INS newsletter praised “400 people of foreign birth” who had recently completed “night school classes in flag etiquette and Americanism” in Chicago, Illinois. The article, titled “Positive Americanism” went on to highlight the national benefits of instructing legal immigrants in “the fundamental principles of our Constitution and Government.” While idealizing the “melting pot” image of America’s past, the writer, INS Commissioner Watson B. Miller, clearly advocated the spread of certain American values and was quick to point out the intolerance for violators of those ideals. The article concluded unequivocally:

We must foster reverence for this temple [America] through citizenship education and we must guard our gates against those seeking entrance who are unworthy or incapable of our ideal. The Immigration and Naturalization Service is wedded to these views and I can assure you that it is maintaining day and night vigilance to prevent members of the subversive, criminal, and diseased classes from entering and destroying our beloved country.²⁵

Other articles and reports published by the INS in the late 1940s and early 1950s contained similar patriotic themes.

Although some policymakers hoped for sweeping reform in the (McCarran-Walter) Immigration and Nationality Act of 1952, the law reaffirmed the national origins quota system and upheld a long list of excludable behaviors and conditions. For example, the 1952 law continued the ban on immigrants entering the U.S. to engage in “immoral sexual acts”

²⁵ Commissioner Watson B. Miller, “Positive Americanism,” *INS Monthly Review*, Vol. VI No. 3 (September 1948), 29-31.

such as adultery, and barred hopeful entrants who were alcoholics or drug addicts and added “psychopathic personality” to the list of banned conditions.²⁶ This latter category included “persons with abnormal sexual instincts,” as well as “moral imbeciles, the pathological liars and swindlers, [and] the defective delinquents.”²⁷

During debates over the 1952 immigration law, reform-minded citizens and lawmakers fought hard to remove the racially restrictive elements in immigration policies, showing that the national origins system received a great deal of criticism years before Congress finally abolished it in 1965. Discouraged by the retention of the national origins quota system, President Harry S. Truman vetoed the bill, voicing his concern over the racist agenda of the legislation. The national origins policy was “false and unworthy” when it passed in 1924, he argued, and he was shocked and troubled by the thought of keeping such a policy in place in 1952. Truman lamented that Americans would “again be enacting into law such a slur on the patriotism, the capacity, and the decency of a large part of our citizenry.” The law would keep “out the very people we want to bring in,” he noted.²⁸ The protests of Truman and other antirestrictionists in Congress, however, were of no avail, and Congress overrode the president’s veto to pass the Immigration and Nationality Act of 1952.

²⁶ Immigration and Nationality Act of 1952, (66 Stat. 182 Sec. 212). For a discussion on the moral provisions in the 1952 and the regulation of adultery and homosexuality through immigration policies, see See Siobhan B. Somerville, “Sexual Aliens and the Racialized State,” in Luibhéid and Cantú Jr., eds., *Queer Migrations*, 75-91.

²⁷ Sana Loue, “Homosexuality and Immigration Law: A Re-Examination,” *Journal of Psychiatry and Law*, (Spring/Summer 1990), 110.

²⁸ Quoted in “U.S. Immigration Law and Policy 1952-1979,” *A Report Prepared at the Request of Senator Edward M. Kennedy, Chairman Committee on the Judiciary United States Senate Upon the Formation of The Select Commission on Immigration and Refugee Policy*, 96th Cong. 5 (1979).

The 1952 law made only slight policy changes and more than anything reflected the fears associated with Cold War tensions with the Soviet Union. It expanded security procedures and gave more authority to investigators. Senator Pat McCarran (D-NV) viewed immigration policy as a matter of “internal security” and believed that if “this oasis of the world shall be overrun, perverted, contaminated, or destroyed, then the last flickering light of humanity will be extinguished.”²⁹ In fact, the 1952 Immigration law worked to the detriment of the United States in the Cold War, and was one of many reasons it was amended in the next decade.

Specific policies towards immigrants from Mexico were left out of the 1952 law because western hemisphere immigrants were still exempt from quotas, and Congress had already dealt with the issue of Mexican immigration with a wartime worker program. Labor shortages during World War II generated a change in attitude for many anti-immigration American politicians as they began lobbying for and actively recruiting Mexican laborers. In an era defined by legal immigration restriction, the U.S. government encouraged western hemisphere immigration and overlooked immigrants entering the country from Mexico without inspection. The INS was fully aware of the employment of undocumented Mexican workers by American farmers during World War II, acknowledging that when acquiring workers through legal channels proved insufficient, “farm owners at times resorted to employing Mexican farm laborers who had entered this country illegally.” Because of the

²⁹ Quoted in Ngai, *Impossible Subjects*, 237.

dire need for labor, the INS reported “instances where farmers and ranchers were openly hostile to officers of the Service in their attempts to enforce immigration laws.”³⁰

Hoping to encourage legal immigration and to ease the difficulties caused by widespread labor shortages in the U.S., Congress implemented the Bracero Program in 1942, a temporary contract labor program negotiated with the Mexican government. The program, brokered by the Roosevelt and Ávila Camacho (Mexico) administrations, was a wartime agreement that would bring Mexican workers, mostly agricultural workers, to the U.S. to ease the problems caused by a widespread labor shortage. The U.S. recruited braceros from throughout Latin America and the Bahamas, Canada, Barbados, Jamaica, and Newfoundland. The majority, however, came from Mexico. Some U.S. policymakers were aware of the exploitation of undocumented foreign workers by their American employers and hoped the contract system would protect workers’ rights. Braceros, under the U.S.-Mexican agreement, were entitled to certain basic rights including: lodging, wages, insurance, water and fuel, employment guarantee, retail freedom, free meals, no discrimination in conditions of employment, and worker representation. Even with the contract program in place, however, non-contracted Mexican workers continued to cross the border throughout the 1940s, providing a cheaper alternative to the more expensive braceros. Indeed, the INS prioritized legalizing undocumented workers already in the U.S. over the processing of waiting workers in Mexico.³¹

By the 1950s, as the postwar economy boomed and wartime labor shortages eased, Congress re-evaluated its lax policy towards Mexican migrants and began to track more

³⁰ Robert Robinson, “Importation of Mexican Agricultural Workers,” *INS Monthly Review*, Vol. V no. 4 (October 1947), 41.

³¹ Calavita, *Inside the State*, 5.

diligently the numbers of workers entering the U.S. from Mexico without sanction. Recognizing the Southwest's dependency on Mexican farm labor, Congress extended the wartime Bracero Program in hopes that it would ensure a legal supply of Mexican migrant workers for southwestern farmers. In the early 1950s, members of Congress and INS officials faced the difficult task of improving the contract program and ridding the country of undocumented workers, who appealed to American farmers because they were numerous and worked for extremely cheap wages. The fact that the Bracero Program actually increased the flow of undocumented Mexican immigrants into the country made the situation more complex.³² Only young, healthy, landless men with agricultural experience were eligible for the program, excluding many Mexicans who were eager for work in the United States.³³ Furthermore, as braceros returned home to Mexico after their contracts ended in the U.S., they often encouraged their neighbors looking for work and a higher wage to apply to the program. Impatient with the slow documentation process or denied a contract outright, many of these anxious workers—even those who had been braceros themselves and were eager to return to the U.S. quickly—crossed the border without permission.

The Bracero Program received much criticism while in place. The INS identified the most serious limitation of the program in a 1951 report on “The Wetback Problem in Southeast Texas.” It noted that hindrances to curbing undocumented immigration were due to “the fact that many employers prefer[ed] to use that type of [undocumented] labor. . . wetbacks [would] work for less wages than the citizen or legally resident alien. They

³² See Eleanor M. Hadley, “A Critical Analysis of the Wetback Problem,” *Law and Contemporary Problems*, 21 (1956), 344, and Bean, et al., eds., *At the Crossroads*, 25.

³³ Hernández, “Crimes and Consequences of Illegal Immigration,” 425.

[would] put up with less conveniences and poorer living conditions.”³⁴ Others observed the inefficiency and impracticality of the contract program for the farmers. The program only survived because of the efforts of a very small—yet powerful—group of farm employers. Historian Ellis Hawley asserts that roughly 94 percent of braceros went to about fifty thousand growers in five states. These were larger growers in crops such as cotton, sugar beets, fruit, and vegetables, who could afford the workers. Over 98 percent of American commercial farmers received no workers at all, however, due to the high costs associated with hiring legal workers.³⁵ Another challenge to the contract program came from the Mexican government, which was displeased with the treatment of its citizens. The INS reported in 1947 that American farmers had “apparently failed to live up to the terms of the agreements and contracts under which they imported their Mexican laborers.”³⁶ Texas farmers proved to be the most egregious violators of their contracts; despite provisions that would prevent discrimination and ensure good pay and working conditions, the Mexican government delayed allowing legally imported workers into Texas due to overt discrimination and civil rights violations.³⁷

Although many American farmers failed to benefit from the contract labor program, Congress extended it in 1951 through Public Law 78. Despite protests from labor groups and

³⁴ William Whalen, “The Wetback Problem in Southeast Texas,” *INS Monthly Review*, Vol. VIII no. 8 (February 1951), 103.

³⁵ Ellis W. Hawley, “The Politics of the Mexican Labor Issue, 1950-1965,” *Agricultural History*, Vol. 40 No. 3 (July 1966), 157.

³⁶ Robert Robinson, “Importation of Mexican Agricultural Workers,” *INS Monthly Review*, Vol. V no. 4 (October 1947), 42.

³⁷ Hawley, “The Politics of the Mexican Labor Issue, 1950-1965,” 158.

humanitarian reformers, the Bracero Program remained intact until 1964. Part of the reason the program lasted for that long was the purge of non-contract Mexican workers from the Southwest in the mid-1950s, which left large-scale farmers with few alternatives to hiring contract workers. Debates among politicians and growers' representatives in Congress reveal that the decision to take such a dramatic step in policy toward undocumented workers was a difficult one.

Due to the clear preference for cheap, unauthorized labor in the post-war years, scholars of Mexican immigration have labeled the years 1944 through 1954 the “decade of the wetback.” Indeed, as one historian has explained, “the political forces clamoring for an ever more restrictionist general immigration policy were either strangely silent with respect to the situation on our southern border or openly condoned it.”³⁸ To illustrate that point, Senator Pat McCarran observed during a 1953 Congressional hearing that, in contrast to the perceived hassle of the contract program, “a farmer can get a wetback and he does not need to go through that red tape.”³⁹ Americans identified Senator McCarran—co-author of the 1952 Immigration and Nationality Act—with restrictionist immigration policies, yet he, and other immigration restrictionists in Congress like Senator James Eastland (D-MS), defended the unauthorized traffic over the southern border of the U.S. on the grounds of cost and convenience. The government’s silence on undocumented Mexican immigration reveals a paradox in American immigration history. In a time when politicians based formal policy on restrictive quotas and documentation, officials otherwise favoring such processes seemed

³⁸ Hadley, “Critical Analysis of the Wetback Problem,” 336.

³⁹ *Hearings before the Subcommittee of the Senate Committee on Appropriations on H.R. 4974*, 83rd Cong. 256, (1953). Quoted in Hadley, “Critical Analysis of the Wetback Problem,” 336.

willing to ignore them when it came to Mexican migrant workers. McCarran did not condemn unauthorized entry, contending that when prospective entrants to the U.S. were cheap laborers, there was “little patience for forms.”⁴⁰ As he noted, on the U.S. side of the border, there was “a desire for these wetbacks.” In reference to the farmers living along the border with Mexico, McCarran went on to opine, “They want this farm labor. They just cannot get along without it.”⁴¹ With this attitude, it is not surprising the 1952 Immigration and Nationality Act was a victory for American growers. Although an amendment passed making it illegal to willfully import, transport, or harbor undocumented immigrants, a so-called “Texas Proviso” stated explicitly that employment of undocumented workers did not constitute harboring. Employment of undocumented immigrants, then, was a totally legal action, according to the federal government.

The American public observed the apparent contradiction in immigration policy during the postwar years. One journalist noted that, in the time it took to read his article, “immigration laws will be violated more than twenty times. But no hue and cry will be raised about it—even by Senator McCarran.” He went on to observe, “While Congress has been debating the advisability of admitting 240,000 European immigrants, an equal number of aliens has been pouring into the United States every ninety days through the southwest gateway, without benefit of legal sanction.”⁴²

⁴⁰ Hadley, “Critical Analysis of the Wetback Problem,” 337.

⁴¹ *Hearings before the Subcommittee of the Senate Committee of the Judiciary on S. 1917*, 83rd Cong. 123 (1953). Quoted in Hadley, “Critical Analysis of the Wetback Problem,” 337.

⁴² Gladwin Hill, “The Wetbacks: McCarran’s Immigrants,” *Nation*, no. 177 (August 22, 1953), 151, 152.

Detractors of the contradictions in immigration policies of the United States helped convince the federal government to reexamine its lax policies toward undocumented workers in the Southwest. Throughout the “wetback decade” the Immigration Service had gradually built up its presence in the Southwest and the transformation culminated in a massive repatriation campaign in 1954 dubbed Operation Wetback. Public dissatisfaction with existing policy and the enduring practice among American farmers of hiring the cheapest labor available regardless of legality helped encourage the changes in INS policy that aimed to stop undocumented Mexicans from pouring across the border and making a “mockery” of immigration laws.⁴³ Operation Wetback was the culmination of a decade-long effort to crack down on unauthorized immigration in the American Southwest.⁴⁴ Out of national security, labor, and humanitarian concerns, government officials on both sides of the border worked to improve immigration enforcement.

Attorney General Herbert Brownell pushed for a massive round-up of undocumented Mexican workers after he embarked on an inspection trip of the California-Mexican border in the summer of 1953. A contemporary observer noted, “After he had made this trip the Attorney General was a very different person on the subject of illegal immigration than he had been a few months earlier.”⁴⁵ In fact, Brownell had supported budget cuts for the Border Patrol as late as the spring of 1953, following the congressional trend of cutting funding for the Border Patrol even as unsanctioned border crossings became a more serious problem

⁴³ Hill, “Wetbacks: McCarran’s Immigrants,” 152.

⁴⁴ In her work on Operation Wetback, Kelly Lytle Hernández was the first scholar to show the long-term, binational nature of border security in the 1940s and 1950s. Hernández, “Crimes and Consequences of Illegal Immigration;” and Hernández, “Uprising: A Farmers’ Rebellion,” and “The Triumph of ’54,” in *Migra!*, 151-195.

⁴⁵ Hadley, “Critical Analysis of the Wetback Problem,” 349.

along the southern border.⁴⁶ Apparently forgetting his own support of the cuts, Brownell reported to President Dwight D. Eisenhower following his 1953 inspection tour that the Border Patrol was “no longer able to cope with the increasing numbers of Mexicans who swarm across the sparsely guarded border every night.”⁴⁷ Furthermore, when asked about the responsibility of the Mexican government, Brownell commented that he believed it was safe to say “that neither government has been doing enough.”⁴⁸ Finally, Brownell summarized his opinion in a statement to the press: “The problem is shocking,” he said, “one way or another we are going to clean up this mess.”⁴⁹ President Eisenhower gave Brownell permission to proceed with plans to enforce immigration law along the border.

Attorney General Brownell wanted to change the relatively relaxed approach of the INS on the U.S.-Mexico border and tapped the militarily minded General Joseph M. Swing, a World War II airborne division commander, to head the Immigration Service.⁵⁰ Brownell contacted Swing during his tour of the California border in the summer of 1953, requesting

⁴⁶ For example, in 1944—the year of a substantial increase of unauthorized entrance into the U.S.—Congress cut 109 positions from the Border Patrol. Likewise, when an estimated half million Mexican migrants entered the U.S. without inspection in 1952, Congress slashed another 180 positions from the Border Patrol. See Hadley, “Critical Analysis of the Wetback Problem,” 348. Despite the cuts, the Border Patrol still increased its presence on the Southwest border by shifting the majority of its remaining resources and personnel there.

⁴⁷ “President Orders Crackdown on Illegal Border Crossings: Wetbacks Pose Crime Problem,” *El Paso Herald-Post*, August 17, 1953.

⁴⁸ “Brownell Says Border Patrol Unable to Halt Wetback Influx,” *Big Spring Daily Herald*, August 18, 1953.

⁴⁹ “Brownell Studies Wetback Problem,” *Harlingen (TX) Valley Morning Star*, August 16, 1953.

⁵⁰ The Immigration and Naturalization Service was at the forefront of immigration policy changes in the 1950s. Prior to that time the INS pursued a moderate strategy toward undocumented workers on Southwest farms and focused most of its energy on smugglers.

his military leadership in patrolling the southern border. Swing, citing potential diplomatic difficulties with the Mexican government, refused to transform his soldiers into Border Patrol officers. He also believed that his men were recruits “undergoing training for combat” with the idea that “anybody they had to stop, they had to kill him; and that to put these youngsters down along the border . . . with very little training, the impulse to shoot would be at any sound.” The consequences, according to Swing, would be the killing of “a few hundred Mexicans.”⁵¹ Like Brownell, President Eisenhower also saw the need for military-type action along the U.S.-Mexico border and originally intended to use regular army troops for border control. Swing, a West Point classmate of Eisenhower, convinced the president that deploying regular troops would be an inappropriate use of the armed forces. Eisenhower was still convinced of the necessity of a military-style operation and joined Brownell’s urging for Swing to head up the militarization process. Following his retirement from the army in 1954, Swing agreed to “come on and try” being commissioner of the INS.⁵² He was appointed on May 18, 1954. After a short tour through the Southwest in June, Swing decried the effect undocumented immigrants were having on the U.S. labor market because they could cross the border, learn a little English, get a social security card, and move to major cities with relative ease.⁵³

Commissioner Swing and Attorney General Brownell both realized that solving the problems associated with undocumented Mexican workers along the southern U.S. border

⁵¹ Joseph Swing, interview by Ed Edwin, June 21, 1967, Eisenhower Administration Project, Oral History Research Office of Columbia University, OH-154, Eisenhower Library, Abilene, KS, 2-3. (Hereafter Swing interview).

⁵² *Ibid.*, 3.

⁵³ “First Wetback Drive Begins in California,” *San Antonio Express*, June 18, 1954.

would require more than just a budget increase for the Border Patrol. Swing submitted his proposal for Operation Wetback to the House Appropriations Subcommittee, asking for an additional \$3 million to buy airplanes and jeeps and to increase the Border Patrol by 233 officers.⁵⁴ Preparing for a mass roundup and repatriation campaign, Swing created mobile task forces along the border and supplied them with equipment such as radio-controlled surveillance aircraft, radios, and jeeps. He also shuffled immigration officials to eliminate regional vested interest and corruption.⁵⁵

The INS launched Operation Wetback in California and Arizona in June 1954 and in Texas in mid-July. The goal of the program was to apprehend as many undocumented workers in border states as possible and return them to Mexico by bus, train, and even ship—often hundreds of miles into central Mexico to prohibit reentry. One Texas newspaper called it “the biggest drive against wetbacks ever attempted by the U.S. Immigration Service.”⁵⁶ Operation leaders were determined to rid the border region of unsanctioned immigrants.

⁵⁴ Swing’s original plan was an ambitious program dubbed Operation Cloudburst that would deploy four thousand men along the border and begin the construction of a border fence. Swing and Brownell scaled back the plan out of concern that it would damage diplomatic relations with Mexico. See Juan Ramon García, *Operation Wetback: The Mass Deportation of Mexican Undocumented Workers in 1954*, (Westport, CT: Greenwood, 1980), 171.

⁵⁵ Swing also received additional Congressional support in the form of new legislation that would aid his efforts in the Southwest. The Senate Judiciary Committee approved two bills in late July: the first measure authorized INS officials to search and seize any vehicle used to transport undocumented workers. The other bill created a procedure whereby immigration officials could obtain a court order to prevent individual employers from hiring workers without legal status. The INS described these measures as “must weapons in enforcing the nation’s immigration laws.” “Senate Group Okays Two Anti-Wetback Bills: Measures Will Allow Fines, Car Seizures,” *San Antonio Express*, August 6, 1954.

⁵⁶ “Mass Roundup of Wetbacks Starts: Border Patrol Assigns 800 to Pick Up Illegal Aliens,” *Corpus Christi Times*, July 15, 1954.

Border Patrol Chief Fletcher Rawls of McAllen, Texas, said that the drive would “continue until all the wetbacks are gone.”⁵⁷

Border Patrol Chief Harlon Carter headed the Operation, under the direction of INS Commissioner Joseph Swing, and helped to transform the Border Patrol during the course of the program. In his tour of the area, Swing expressed disappointment in the incompetence and corruption within the Border Patrol. He wanted to rid the organization of such problems through better training and communication between ground patrols.⁵⁸ Carter brought in and trained patrol officers from throughout the United States and sought to make the Border Patrol into an effective law-enforcement unit. A report published by the Texas Federation of Labor on the “wetback” situation following the Operation concluded that the Border Patrol, “still functioning as a law enforcement body, now functions with precision, timing and efficiency of a trained military or semi-military body.”⁵⁹

Growers in the Southwest were largely displeased with transformation in the Border Patrol and with Operation Wetback because it targeted their labor supply. Reporters following the progress of the Operation wrote about the aggravations it caused Southwest growers. One newspaper reported that “Lower [Rio Grande] Valley Farmers [were] grumbling openly about being deprived of wetback labor at cotton harvest time.” The article quoted one disgruntled farmer complaining about “being driven to the poor house” because he could not harvest his crops. The article also reported that a former farm bureau president

⁵⁷ “Big Wetback Roundup On,” *San Antonio Express*, July 15, 1954.

⁵⁸ Swing interview, 4.

⁵⁹ Texas State Federation of Labor, *Down in the Valley*, Austin, 1955. “Migrant Farm Workers Organizing Movement,” AR46-9-21, University of Texas at Arlington Special Collections Library. Arlington, TX.

acknowledged that some farmers were “very resentful.”⁶⁰ Another investigator reported that two Texas ranchers who testified before the Senate Judiciary Subcommittee “wanted easier laws for getting Mexican labor—not tighter ones against wetbacks.”⁶¹

Growers were also defensive about the accusations of exploitation that some members of the press and humanitarians lodged against them. In the summer of 1954, the *San Antonio Express* ran a series by Clarence LaRoche, a veteran reporter who had lived and worked in the Rio Grande Valley most of his life. His six articles defended the actions of the Border Patrol, condemned American use of undocumented labor, and highlighted the poor conditions under which the workers lived, the meager pay they received, the displacement of citizen workers, and the perpetuation of what he labeled a “colonial economy” by the “wetback” system.⁶² Many growers wrote the paper to defend the use of undocumented workers and accused LaRoche of faulty journalism. “I wonder just how interested your newspaper is in printing the truth?” asked an offended farmer from Carrizo Springs, Texas, “When a group of people [farmers] find themselves being presented to the public as two-headed monsters then I for one want to be heard.”⁶³ Other farmers and ranchers wrote to plead with the editor to present the “other side” of the labor situation. They argued that living conditions for undocumented workers were sanitary and that they earned a decent wage. One such letter asserted, “The squalid conditions which you describe so graphically

⁶⁰ “Operation Wetback in Texas: Another 2500 Aliens Grabbed,” *Galveston Daily News*, July 17, 1954.

⁶¹ “Texans Ask Easier Ways to Get Labor,” *San Antonio Express*, July 15, 1954.

⁶² Clarence LaRoche, “Wetback Series,” *San Antonio Express*, July 28 – August 2, 1954.

⁶³ Wallace W. Martin, letter to the editor, *San Antonio Express*, August 3, 1954.

are temporary camps that could be kept clean and neat if the occupants had a mind to do so The wetbacks are happy under their working conditions.”⁶⁴ These employers reasoned that Mexicans were better off in the U.S. than in Mexico.

Southwest growers had been expressing such sentiments since the INS first increased its activities in the region in the early 1950s. Senator Lyndon Johnson (D-TX) received numerous letters condemning the prying of Immigration officials into their business. One such letter sent to Johnson from a farmer at Ideal Farms is representative of the typical correspondence complaining about increasing Border Patrol activities in the area. The farmer described the difficulty growers in South Texas faced after losing their Mexican workforce: “We are going to need thousands and thousands of laborers to cultivate and harvest our cotton otherwise we are going to suffer great loss.” He appealed to Johnson to “do anything in your power to see that this interference with the labor along the border here in the [Rio Grande] Valley is not interfered with by the Border Patrol. We can get all the help we need here if only the Border Patrol can be stopped from picking it up and sending it back over the river.”⁶⁵ These farmers continued their protests through Operation Wetback in 1954.

The debate over Mexican labor in the 1950s echoed the arguments that had raged on the subject since the 1920s, pitting employers who sought cheap and exploitable labor against racist xenophobes like Congressman Box. The debates in the 1950s, however, also added the voice of humanitarians like Clarence LaRoche concerned with the plight of the

⁶⁴ Kenneth Thompson, letter to the editor, *San Antonio Express*, August 6, 1954.

⁶⁵ Letter, W. A. Mitchell to Lyndon Johnson, April 12, 1951, “Immigration and Naturalization—Mexican Labor” folder, Box 922, Senate Departmental Files, Box 922, Johnson Library.

undocumented workers. In 1953, the Texas State Federation of Labor and the American G.I. Forum co-published *What Price Wetbacks?*, one of the most widely read and condemnatory reports on the issues related to undocumented workers. By including interviews with and pictures of undocumented Mexican immigrants living and working in the Southwest, the writers of the report hoped to reveal “the danger of this wetback invasion” and to discredit defenders of the “wetback system.”⁶⁶ The report argued convincingly that the “invasion of wetbacks” hurt American farmers, was a threat to national security, and created a humanitarian crisis. A statement publicizing the release of *What Price Wetbacks?* asked, “What price do American people pay in disease, depressed wages, crime, lost business and human misery as a result of the invasion of the United States by hundreds of thousands of wetback workers employed at starvation wages?”⁶⁷ *What Price Wetbacks?* became an important guide for scholars and journalists interested in the undocumented immigrant situation. Its publication coincided with Attorney General Brownell’s tour of southern California and helped to bring the undocumented worker issue to national attention. Following the developments in the case mounting against the use of laborers without legal status, a contemporary scholar asserted that the social and economic consequences of unsanctioned Mexican immigration were “severe, disruptive, and harmful.”⁶⁸

⁶⁶ American G.I. Forum and Texas State Federation of Texas, *What Price Wetbacks?*, Austin, 1953, reprinted in Carlos E. Cortés, ed., *Mexican Migration to the United States*, (New York: Arno Press, 1976).

⁶⁷ Statement, American GI Forum of Texas and the Texas State Federation of Labor, 17 October 1953, “Migrant Farm Workers Organizing Movement,” AR46-8-1, University of Texas at Arlington Special Collections Library, Arlington, TX.

⁶⁸ Hadley, “Critical Analysis of the Wetback Problem,” 344. Specifically, Hadley cited the “displacement of American workers, depressed wages, increased racial discrimination toward Americans of Mexican ancestry, illiteracy, disease, and lawlessness.”

With the new attention to the plight of undocumented workers, and despite the grumblings of Southwest growers, the INS operation continued until September 1954, when it was deemed a success by the Immigration Service. Immigration officials personally encouraged positive coverage of Operation Wetback. Commissioner Swing attempted to alleviate any concerns over the effects of the roundup. He stated, “anyone who says there is a labor shortage in Texas because of the wetback roundup apparently doesn’t know what he’s talking about.”⁶⁹ Swing also repeatedly stressed the success of the Operation. In late June, he reported that the drive in California was “proving most successful” and that it appeared to be “not only ridding the area of wetbacks already in, but drying up the flow of others from south of the border.”⁷⁰ Other officials concurred. Border Patrol Chief Harlon Carter declared, “The day of wetback labor in the [Rio Grande] Valley is over.”⁷¹ The media reported estimates of the numbers of Mexicans crossing back into Mexico voluntarily, such as one July 17 article that declared, “Wetback ‘Flood’ Pours From Texas.”⁷² Swing and other officials stressed the numbers of voluntary repatriations as a sign of Border Patrol success, even though no exact figures of those leaving voluntarily were available.

In the weeks and months following Operation Wetback, it is clear that the program’s planners saw it as an unquestionable success. Commissioner Swing assured American

⁶⁹ Bill Burris, “No Let Up in Huge Valley Wetback Roundup Seen,” *San Antonio Express*, August 5, 1954.

⁷⁰ “Big Wetback Drive Said Successful,” *San Antonio Express*, June 28, 1954.

⁷¹ “Patrol Deploys by Hundreds: Today’s Total Expected to Reach 3,000,” *Brownsville Herald*, July 15, 1954.

⁷² *San Antonio Express*, July 17, 1954.

citizens that the “wetback problem . . . has been dealt with vigorously and effectively.”⁷³ An article in the INS newsletter, *I & N Reporter*, asserted, “The so-called wetback problem no longer exists.”⁷⁴ The Texas Federation of Labor wrote in 1955, “There is no major wetback problem today,” and explained that Texas farmers, who had “fought the Border Patrol bitterly during the wetback drives,” eventually admitted that “the patrolmen weren’t such a bad bunch of fellows.”⁷⁵ Taking advantage of the positive assessment of his plan, Swing made a point to reach out to farmers and ranchers in the years following 1954. He praised those involved in the farming industry for their contribution to the country and thanked them for their support during the mass roundup of undocumented workers.⁷⁶

Despite such confident declarations of success, it is difficult to determine the exact numbers of Mexicans deported during “Operation Wetback.” The *I & N Reporter* put the figure at 1,075,168 Mexican immigrants without legal status apprehended during the 1954 fiscal year.⁷⁷ Thousands more were reported to have left voluntarily. It is probable, however, that INS officials exaggerated numbers across the board. The Border Patrol, for instance, likely inflated the numbers of patrolling forces in order to increase the anxiety of unsanctioned workers and their employers. Some questioned the accuracy of the INS reports, such as one article that observed, “While officials of ‘Operation Wetback’ reported

⁷³ J. M. Swing, “A Workable Labor Program,” *I & N Reporter*, Vol. IV no. 2 (November 1955), 15.

⁷⁴ Gertrude D. Krichefsky, “Importation of Alien Laborers,” *I & N Reporter*, Vol. 5 no. 1 (July 1956), 8.

⁷⁵ Texas State Federation of Labor, *Down in the Valley*.

⁷⁶ Swing, “A Workable Labor Program,” 15.

⁷⁷ Krichefsky, “Importation of Alien Laborers,” 7.

thousands of aliens were returning to Mexico voluntarily, there is little indication that such was the case in the Brownsville area.”⁷⁸ Despite the questionable deportation figures, however, contemporaries viewed Operation Wetback as a huge success.

The long-term consequences of policy changes in the early 1950s are more elusive. By the early 1960s, the Bracero Program ended in part because growers were once again employing undocumented workers. Labor demands had decreased due to mechanization and farmers were not willing to pay higher wages for contract laborers when cheaper undocumented workers were available. Furthermore, it seems clear that the Bracero Program merely digressed into a form of “legalized wetbackism” in the years following Operation Wetback. In a report praising the efforts of the INS in Texas, the Texas State Federation of Labor admitted, “many of the evils of the wetback system have been transferred to the bracero system.”⁷⁹ The end of the “wetback era” did not mean an end of dependence on cheap foreign labor.

Operation Wetback, and the government’s strong stance against undocumented workers despite the loud protests of Southwest growers, was significant in the shaping of future immigration policies because it effectively took the issue of undocumented immigration off the table during the debates over the 1965 Immigration and Nationality Act. The boasting of the Immigration Service about the success of Operation Wetback in ridding the country of undocumented immigrants convinced law-makers that the issue did not need to be addressed in new immigration policies. Deportation numbers remained relatively low in the decade after Operation Wetback, serving as further evidence that the problem was

⁷⁸ “Patrol Deploys by Hundreds,” *Brownsville Herald*, July 15, 1954.

⁷⁹ Texas State Federation of Labor, *Down in the Valley*.

under control. While the topic of western hemisphere immigration in general received attention in the 1965 law, with national origins quota supporters pushing for numerical limits as a compromise measure for abolishing the quota system, the debates did not focus at all on unauthorized border crossings.

The issue of undocumented immigration from Mexico, then, drew little attention after Operation Wetback, but there was on-going opposition to the country's immigration laws based on the national origins system. Critics of the policy lost the debate in 1952, but numerous policymakers and concerned citizens agitated for reform in the thirteen years between 1952 and 1965, when the system would finally receive an overhaul. President Eisenhower's main concern was refugee policy, and during his term he successfully advocated for more generous policies to welcome refugees to the United States. In 1965, Attorney General Nicholas Katzenbach reflected that every administration since Truman's had "strenuously urged" revision of the law.⁸⁰ Congress consistently passed temporary and piecemeal legislation in the years after 1952, revealing the insufficiencies in the existing immigration policy.⁸¹ With such measures in place, the national origins system was weakened and ineffective, and by 1965 only one out of every three immigrants admitted to the country came in under the quota system.⁸² When Congress began moving, at President John F. Kennedy's and then Lyndon B. Johnson's urging, on immigration reform in the early

⁸⁰ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act, and For Other Purposes (Part 1), Before the Subcommittee on Immigration and Naturalization, 89th Cong. 11 (1965) (Statement of Nicholas Katzenbach, Attorney General of the United States).*

⁸¹ These immigration and refugee policies had the cumulative effect of allowing in more than twice the number of immigrants permitted under the 1952 Immigration Act.

⁸² Senate Committee on the Judiciary, *U.S. Immigration Law and Policy: 1952-1979*, 52.

1960s, its focus was on the national origins system and not on the morality clauses, undocumented workers, or other technicalities in the law. During congressional hearings on proposed amendments to immigration law, supporters of reform made clear that the focus of the proposed bill was to abolish the national origins system, a more feasible goal than attempting to “get every possible change that should be made in immigration law.”⁸³

President Kennedy made a serious attempt to get immigration reform passed. Long interested in immigration issues, he wrote a book in 1958 titled *A Nation of Immigrants* in which he praised the unparalleled contributions of immigrants to the creation and success of the United States. In the introduction to the 1964 edition of the book, Robert Kennedy observed, “I know of no cause which President Kennedy championed more warmly than the improvement of our immigration policy.”⁸⁴ In July 1963, Kennedy sent his immigration reform proposals to Congress for debate. His main interest was to phase out the national origins system because he found it highly discriminatory. Although many in Congress at the time recognized the unworkability of current immigration law and expressed frustration at the numerous temporary measures passed to circumvent the Immigration and Nationality Act of 1952, there was significant resistance to quick or drastic reform. Kennedy’s assassination in November 1963 and Johnson’s unclear position on immigration created further apprehension among immigration reformers. As a senator from Texas, Johnson had opposed Truman’s veto of the 1952 Immigration Act, but once Johnson made it clear that he intended to carry on with Kennedy’s more liberal agenda, advocates of a progressive immigration system embraced the opportunity.

⁸³ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 37-40 (Statement of Nicholas Katzenbach, Attorney General of the United States).

⁸⁴ Robert F. Kennedy, “introduction,” in John F. Kennedy, *A Nation of Immigrants*, (New York, Harper and Row, 1964 ed.), ix.

The Johnson administration succeeded in finally persuading Congress to reform the nation's immigration laws, but reformers still faced strong political resistance. Despite the decades-long struggle to overturn the national origins system, there were still those who favored the system. During congressional hearings to debate the proposed immigration amendments, some members of Congress and representatives from social organizations expressed concern over the repercussions of a dramatic change in immigration policy. Senator Sam J. Ervin (D-NC) sat on the Immigration and Naturalization Subcommittee of the Judiciary and was one of the most vocal and virulent opponents of the 1965 Immigration Act. Ervin cited the sonnet by Emma Lazarus engraved on the pedestal of the Statue of Liberty, which ends,

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!

and claimed that such a sentiment was “no longer feasible as an expression of the immigration policy of America.”⁸⁵ Ervin based his opposition to the abolition of national

⁸⁵ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 20 (Statement of Sam Ervin, U.S. Senator). The full text of Lazarus' poem, titled “The New Colossus,” reads: “Not like the brazen giant of Greek fame, / With conquering limbs astride from land to land; / Here at our sea-washed, sunset gates shall stand / A mighty woman with a torch, whose flame / Is the imprisoned lightning, and her name / Mother of Exiles. From her beacon-hand / Glows world-wide welcome; her mild eyes command / The air-bridged harbor that twin cities frame. / “Keep ancient lands, your storied pomp!” cries she / With silent lips. “Give me your tired, your poor, / Your huddled masses yearning to breathe free, / The wretched refuse of your teeming shore. / Send these, the homeless, tempest-tost to me, / I lift my lamp beside the golden door!”

origins on two arguments. First, he claimed that choosing immigrants based on their country of origin was legitimate because some people were more “assimilable” than others. During the congressional hearings on immigration reform, Ervin asked the assistant attorney general, a supporter of immigration reform, whether he agreed “that it would be vastly easier for us to assimilate into American life an Englishman than it would be to assimilate a person from Indonesia?”⁸⁶ On another occasion, he asked a Pennsylvania senator if he concurred that it was “much easier to assimilate into our Nation people who bear a likeness to those who are here?” Furthermore, Ervin cited an editorial from the *Christian Science Monitor* that “recognize[d] realistically that some nations are far closer to the United States in culture, custom, and standard of living, respect for law and experience in government.”⁸⁷ From the questions he asked during the hearings, it is clear that Ervin adhered to such beliefs.

Supporters of the national origins system like Senator Ervin also justified their position by arguing that discrimination would exist in any legislation that placed limits on immigration; the discrimination, then, should favor groups who made significant historical “contributions” to the country. The existing system, they reasoned, was fair. Ervin explained it this way:

Discriminations I would make are fair and righteous and wise Frankly, if it comes down to the choice of people from the Congo and from Ireland, I am going to discriminate in favor of the people from Ireland because they have made a greater contribution to [the United States].⁸⁸

⁸⁶ *Ibid.*, 276.

⁸⁷ *Ibid.*, 139.

⁸⁸ *Ibid.*, 20.

Ervin expressed this opinion on numerous occasions. Another time he opined:

The reason I say [the 1965 immigration bill] is discriminatory against those people [from northern and western Europe] is because it puts them on exactly the same plane as the people of Ethiopia are put, where the people of Ethiopia have the same right to come to the United States under this bill as the people from England, the people of France, the people of Germany . . . and I don't think—with all due respect to Ethiopia—I don't know of any contributions that Ethiopia has made to the making of America.⁸⁹

Senator Ervin and those of like mind, then, reasoned that the existing system was fair. Unless there were no limits on immigration, some group or another would face discrimination.

Not surprisingly, critics found several problems with Ervin's argument. First, as several of his contemporaries pointed out, Americans of African descent had contributed significantly to the creation of the United States through their forced labor as enslaved people and, after the passage of the Fourteenth Amendment to the Constitution, as American citizens. Secretary of State Dean Rusk made this observation when he asserted, "We cannot, by any stretch of the imagination, say that the twenty million Negroes here in this country have not made an enormous contribution to all aspects of American life." Rusk explained that the issue was about whether the person can make a contribution to the society moving forward, not "whether he came from Britain or Ethiopia."⁹⁰ Ervin's statements likewise ignored the historical legacy of immigration laws based on race and national origins in the

⁸⁹ *Ibid.*, 63.

⁹⁰ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 63 (Statement of Dean Rusk, U.S. Secretary of State).

United States. Naturally, groups and nationalities that migrated to the United States en masse were able to make more significant “contributions” than groups that did not or could not migrate in large numbers.

Some social organizations also spoke out against immigration reform and, specifically, the abolition of national quotas. The Association of American Physicians and Surgeons was among the groups that testified against the immigration amendments during the summer of 1965. Dr. Thomas Parker, representing the Association, asserted that that 1952 Immigration Act had served the country well and should “not be drastically altered without the most urgent reasons.” He lauded the national origins system for preserving “the racial composition of the country that existed in 1920” and warned against liberalizing policies that would allow too many people into the United States. He framed his comments in terms of divine providence, proclaiming that there were “differences between the various races of men,” and that American citizens had “all been placed in this country . . . by the hand of the Lord,” while “other people in other nations have been placed in other countries which rightfully belong to them.”⁹¹ The Anti-Communist League opposed the bill because of the potential threat to the “white American taxpayer,” and the Republican Committee of 100 expressed concern over what it saw as the likely flood of immigrants into the United States (the woman who testified on behalf of the Republican group had even authored a book titled *Invasion Alert*).⁹² The Daughters of the American Revolution (DAR) and the Sons and

⁹¹ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act, and For Other Purposes (Part 2), Before the Subcommittee on Immigration and Naturalization, 89th Cong. 763, 765 (1965)* (Statement of Dr. Thomas Parker, Association of American Physicians and Surgeons).

⁹² See *Ibid.*, (statements of Mrs. Anni M. Wagenfohr, representing the Baltimore Anti-Communist League in affiliation with the Catholic Anti-Communist Committee of Baltimore, 767 (full statement, 766-774); and Mrs. Ray L. Erb, President, Republican

Daughters of Liberty also sent members to testify against immigration reform.⁹³ The representative from DAR protested that the national origins quota system was the “first line of defense in perpetuating our institutions of freedom and the American way of life.”⁹⁴ Other opponents of immigration reform included the American Coalition, the American Legion, and the National Association of Evangelicals.⁹⁵ Despite the arguments of national origins supporters like Senator Ervin and these social organizations, Johnson and his congressional Democrats succeeded in passing legislative change to the nation’s immigration laws.

Thus, when Lyndon Johnson signed into law amendments to immigration policy on October 3, 1965, it was the culmination of the work of immigration reformers over the course of a decade and was a hard-won victory.⁹⁶ Senator Edward Kennedy (D-Mass) of the Immigration and Naturalization Subcommittee, commented that the passage of the (Hart-Cellar) Immigration and Nationality Act of 1965 (INA) accomplished the immigration

Committee of 100, 700-708). Erb explains that the Republican Committee of 100 has approximately 300 members and “was organized in 1920 and...is a member of the New York Federation of Republican Women and has been very active since 1920 in the support...of the policies of the Republican committee,” 700.

⁹³ See *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 2)*, (statements of Mrs. Etta Hulbert, Chairman, Legislative Committee, Sons and Daughters of Liberty, 691-692; and Mrs. William Henry Sullivan, Jr. President General, Daughters of the American Revolution, 709-714).

⁹⁴ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 2)*, 709 (statement of Mrs. William Henry Sullivan, Jr. President General, Daughters of the American Revolution).

⁹⁵ LeMay, *Guarding the Gates*, 156.

⁹⁶ For an overview of the activities leading up to the passage of the bill in the Kennedy and Johnson administrations, see Edward M. Kennedy, “The Immigration Act of 1965,” In “The New Immigration,” special issue, *Annals of the American Academy of Political and Social Science* 367 (Sep., 1966): 137-149.

objectives of four presidents, of both parties.⁹⁷ The amendments were very similar to the provisions proposed by President Kennedy in 1963 in that they set numerical limits to replace the quota system and gave preference to family members of citizens or permanent residents.

The Immigration and Nationality Act of 1965 was a set of amendments to the 1952 Immigration Act, and its primary purpose was to repeal national origins and replace it with a system of preferences.⁹⁸ The INA raised the overall ceiling on immigration to 290,000 (170,000 for countries in the eastern hemisphere and 120,000 to western hemisphere) with a hierarchy of preferences for family members (80 percent) and occupations (20 percent). Family reunification was a priority, but the new law also gave preference to workers with needed skills and allowed for conditional entrants, including refugees.⁹⁹ In the eastern hemisphere, the law stipulated that no more than 20,000 immigrants come from any one country, but there were no country-specific numerical limitations for the western hemisphere.¹⁰⁰ The greater flexibility in the division of western hemisphere immigration

⁹⁷ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 3 (Statement of Edward M. Kennedy, United States Senator).

⁹⁸ The preference system allocated immigrant visas within each country as follows: First preference: unmarried sons and daughters of U.S. citizens; Second preference: spouses and unmarried sons and daughters of permanent resident aliens; Third preference: members of the professions and scientists and artists of exceptional ability; Fourth preference: married sons and daughters of U.S. citizens; Fifth preference: brothers and sisters of U.S. citizens; Sixth preference: skilled and unskilled workers in short supply; and Seventh preference: refugees. From LeMay, *Guarding the Gates*, 157.

⁹⁹ House Committee on Conference, *Immigration and Nationality Act: Conference Report to Accompany H. R. 2580*, 89th Cong. (1965), H. Rep. 1101.

¹⁰⁰ Under the INA, immigration worked on a first-come, first-served basis until a country reached its 20,000 person limit (in the eastern hemisphere). This differed from the quota system, which gave preference to certain countries over others through the allocation of quotas, and in the exclusion of immigrants from Asia.

numbers reflected the fact that migration from Canada and Mexico made up one-half to two-thirds of western hemisphere immigration. Although a Select Commission on Western Hemisphere Immigration strongly recommended against setting numerical limitations on migrants from the western hemisphere, Congress voted to implement the first-ever limit on western hemisphere immigration. Many policymakers and immigration officials believed (correctly) that the numerical limit was too low and would lead to problems in the visa process and to an increase in undocumented migration. Furthermore, some members of the government feared the negative effects such limits would have on U.S. - Mexico relations. The western hemisphere numerical limit was one of the most hotly contested aspects of the bill, and an element that would have the most significant implications in the subsequent decades.

Reform succeeded in 1965 for several reasons. As previously noted, earlier administrations had been sympathetic to immigration reform, and President Kennedy had even submitted a proposal to Congress, where it met substantial resistance. Part of the success of the passage of amendments in 1965 was the landslide election of Lyndon Johnson and the Democrats in 1964, which brought several pro-immigration politicians to Washington, D.C.¹⁰¹ The election shook up the membership of congressional committees responsible for immigration. The House Judiciary Committee went from twenty-one Democrats and fourteen Republicans to twenty-four Democrats and eleven Republicans, and its subcommittee on immigration increased from five to nine with a majority supporting

¹⁰¹ Edward Kennedy made the argument that the Democratic majority in Congress was “generally responsive to the spirit, if not the letter of the administration’s proposal” in 1965. See Senate Committee on the Judiciary, *U.S. Immigration Law and Policy*, 71. Many conservatives lost their seats, replaced by liberal Democrats sympathetic to President Johnson’s Great Society programs. Democrats had a majority of 295 to 140 in the House and 68 to 32 in the Senate. See Reimers, *Still the Golden Door*, 66.

reform. In the Senate Judiciary Committee and Subcommittee on Immigration and Naturalization, reformers had less control but still held a majority.¹⁰² In addition to changes in the Congress, growing racial and ethnic toleration in American society and a healthy economy created an atmosphere that encouraged new immigration policies. Public opinion polls from the time also show that Americans expressed greater religious toleration, and two polls conducted in 1965 revealed that only a minority of Americans favored immigration laws based on country of origin. In turn, growing public tolerance of social diversity gave confidence to ethnic and religious groups advocating change, and shifting attitudes among Americans also encouraged rights groups concerned with immigration and refugee matters like the American Civil Liberties Union (ACLU), National Catholic Welfare Conference, and American Immigration Citizenship Conference to support legislative reform. Organized labor, most notably the AFL-CIO also helped the cause of reform.¹⁰³

Another factor that contributed to the success of immigration reform at the time was the assurance of only moderate change. Supporters of reform argued that the bill was a moderate, cautious proposal and claimed that overall immigration would not increase due to its passage.¹⁰⁴ Legislators at the time argued that the new policies would not alter drastically the racial composition of immigrants nor dramatically increase the numbers of immigrants entering the country. Senator Edward Kennedy, who presided over the hearings before the Subcommittee on Immigration and Naturalization of the Judiciary Committee, explained “in deference” to the critics of the proposed immigration amendments what the proposed bill

¹⁰² Reimers, *Still the Golden Door*, 66

¹⁰³ *Ibid.*, 81-86.

¹⁰⁴ *Ibid.*, 83; Daniels, *Coming to America*, 341-343.

would *not* do. “First,” he noted, “our cities will not be flooded with a million immigrants annually.” He attempted to appease the bills’ detractors by explaining that the “present level of immigration remains substantially the same.” He assured a congressional committee in February 1965 that the proposed bill would not “aggravate unemployment.”¹⁰⁵ Furthermore, although proponents of the national origins system like Senator Ervin had failed to preserve that system, they succeeded in assuring an overall numerical ceiling for western hemisphere immigration (rather than leaving it open, as many reformers wanted).

Senator Kennedy also sought to answer critics of the bill concerned with the racial repercussions of the proposed legislation. He stated that “the ethnic mix of the country will not be upset.” He argued that the increase in immigrants entering the country would be “insignificant” when measured against the American birthrate. “Contrary to the charges in some corners,” he continued, the amendments would “not inundate America with immigrants from any one country or area, or the most populated and economically deprived regions of Africa and Asia.” He concluded by asserting that “the ethnic pattern of immigration under the proposed measure is not expected to change as sharply as the critics seem to think.”¹⁰⁶ Kennedy summarized his statement on the proposed immigration amendments by proclaiming, “the bill will not flood our cities with immigrants. It will not upset the racial mix of our society. It will not relax the standards of admission. It will not cause American workers to lose their jobs.” These charges, he explained, were “highly emotional, irrational, and with little foundation in fact. They are out of line with the obligations of responsible

¹⁰⁵ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 1-2 (Statement of Edward M. Kennedy, United States Senator).

¹⁰⁶ *Ibid.*

citizenship. They breed hate of our heritage, and fear of the vitality which helped to build America.”¹⁰⁷

Events would prove the reformers mistaken in their predictions of only limited change. Overall immigration, for example, increased by nearly sixty percent in the decade after 1965.¹⁰⁸ As historian Roger Daniels contends, much of what the 1965 Immigration Act accomplished “was unforeseen by its authors, and had Congress fully understood its consequences, it almost certainly would not have passed.”¹⁰⁹ President Johnson, in his push for immigration reform, managed to capture both the profound symbolic change and cautious reform. He argued, for example, that the reform proposal was not a “revolutionary bill”; but the passage of the bill was nonetheless one of the most important acts of his administration and he frequently touted its benefits.¹¹⁰

It is clear that Johnson promoted immigration reform as part of his larger human-and-civil-rights agenda, and supporters of immigration reform stressed the connection between more liberal immigration laws and a less discriminatory society. Immigration scholar Nathan Glazer observes that three pieces of legislation—the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Immigration Act of 1965—“represent a kind of high-water mark in a national consensus of egalitarianism, one from which much of the country receded in subsequent years.”¹¹¹ Johnson claimed that the 1965 Immigration Act was “equitable” and

¹⁰⁷ *Ibid.*, 3.

¹⁰⁸ LeMay, *Guarding the Gates*, 157.

¹⁰⁹ Daniels, *Coming to America*, 338.

¹¹⁰ Quoted in Reimers, *Still the Golden Door*, 84.

¹¹¹ Quoted in Daniels, *Coming to America*, 338.

explained that “immigration reform is but one of many new and more compassionate beginnings.”¹¹² Time and again in his correspondence regarding immigration to Washington officials, such as to a member of the National Committee for Immigration Reform, he pointed out the “serious defects” in existing policies and urged reform that would “eliminate the discriminatory national origins quota system which is incompatible with our basic American tradition.”¹¹³ After passage of the bill, Johnson praised the fact that “we have at last made family relationships and individual capacity—not national origin—the benchmarks for our immigration system.”¹¹⁴

Similarly, immigration reformers in Congress talked about immigration law in civil rights terms. Senator Hiram L. Fong (R-Hawaii) advocated for immigration reform and, referencing the 1964 Civil Rights Act, noted that as Americans had reappraised the relationship “of citizen to citizen . . . it is also good for us to reexamine this same relationship of man’s equality to man with respect to peoples of the world.”¹¹⁵ Other members of Congress supported Johnson and his efforts to redress a detrimental policy that had existed for decades. Senator Robert Kennedy (D-NY) noted that the time for reform had come because “the follies and the random cruelties” of the current system had become too clear to be ignored. The immigration amendments, he observed, would “eliminate from the statute

¹¹² Johnson to Robert Murphy, May 17, 1965 and Johnson to Victor Carter, Oct. 11, 1965, “Immigration” folder, Box 1, White House Central Files, Johnson Library.

¹¹³ *Ibid.*

¹¹⁴ Johnson to Phillip A. Hart, Oct. 22 1965, “Immigration” folder, Box 1, White House Central Files, Johnson Library.

¹¹⁵ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 45 (Statement of Hiram L. Fong, United States Senator).

books a form of discrimination totally alien to the spirit of the Constitution.”¹¹⁶ Similarly, Secretary of Labor Willard Wirtz asserted that the proposed immigration amendments would “bring our immigration laws in harmony with the ideals and principles to which we are so fully committed—that is, that all people, regardless of their nationality, or ethnic origin, are entitled to equal respect and equal treatment.”¹¹⁷ Many supporters of the amendments promoted the idea that that people should not be discriminated against based on their nationality and argued that this was an outdated and prejudiced view of humanity. As one administration official put it, “one never knows and one can never ascertain with any degree of certainty from whence greatness is going to come.”¹¹⁸

Supportive policymakers and officials stressed the absurdity of existing discriminatory policies. Secretary of Health, Education, and Welfare Anthony J. Celebrezze even quipped, “I think Christ would be excluded under present law.”¹¹⁹ Philip Hart, one of the immigration bill’s sponsors, made the purpose of the amendments clear when he stated, “no matter how you slice it, [the National Origins System] is impossible to defend and it is offensive to anyone with a sense of the right of an individual to be judged as a good or bad person, not from which side of the tracks he comes.” He explained that many who wanted reform worked to eliminate “a mistake that was made in the twenty’s and has lived with us

¹¹⁶ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 216, 217 (Statement of Robert F. Kennedy, United States Senator).

¹¹⁷ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 85 (Statement of Willard Wirtz, U.S. Secretary of Labor).

¹¹⁸ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 347 (Statement of Anthony J. Celebrezze, U.S. Secretary of Health, Education, and Welfare).

¹¹⁹ *Ibid.*, 342.

ever since”¹²⁰ Hart, and others, found the notion of exclusion based on country of origin impalpable and emphasized instead the perceived character of immigrants.

Much of the support for immigration reform focused on the image of the U.S. abroad and on immigration policy as an important element of foreign relations. Senator Jacob Javits (R-NY), for instance, observed in 1965 that the national origins system perpetuated by the 1952 law was a “target for Communist propaganda.” Secretary of State Dean Rusk was a prominent voice in making the connection between foreign policy and immigration law. Offering his support for the immigration amendments, Rusk explained that countries not favored in the national origins system felt discriminated against by the United States. He noted that they felt that they were “different than others” and that the U.S. viewed their people as “second-class citizens.”¹²¹ Senator Edward Kennedy highlighted the significance of foreign relations when he stated that he believed “America’s method of selecting immigrants reflects in the image we give abroad, and affects our daily relations with many foreign countries.”¹²² Acting Attorney General Nicholas Katzenbach also framed his support of the amendments in similar global terms. He explained that there was an “urgent” need to reform immigration policies in the U.S., “urgency first of all in terms of simple humanity . . . and there is urgency in terms of our self-interest abroad.” He bemoaned the fact that the current system deprived the country of needed skills and, significantly, created “an image of

¹²⁰ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 4 (Statement of Philip Hart, United States Senator).

¹²¹ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 51 (Statement of Dean Rusk, U.S. Secretary of State).

¹²² *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 43 (Statement of Edward M. Kennedy, United States Senator).

hypocrisy” abroad that could be used those wishing to discredit the United States.¹²³ Senator Fong echoed this sentiment when he advocated for an immigration policy better in line with the ideals of the U.S. because it would “enhance America’s image as leader of the free world in according to equal dignity and respect to all peoples of the world, and thus accomplish a significant forward stride in our international relations.”¹²⁴

Having advocated for immigration reform, Johnson was eager to stress the positive changes that would follow the passage of the bill, and many American citizens supported Johnson’s efforts to reform the immigration system. Johnson emphasized the humanity of immigration reform to the American public as well as Washington politicians. At the signing ceremony on Liberty Island in New York, Johnson praised the nation’s immigrant past and asserted the significance of immigration reform. The INA, he claimed, was “one of the most important acts of this Congress and of this administration,” because it “correct[ed] a cruel and enduring wrong in the conduct of the American nation.” The measure, he claimed, would “really make us truer to ourselves, both as a country and as a people,” and would strengthen the country “in a hundred unseen ways.” According to Johnson, the INA was remedying the “harsh injustice of the National Origins Quota System” that had “twisted” and “distorted” immigration policy for over four decades.¹²⁵

Civil rights activists were particularly vocal in their support. A letter sent to Johnson signed by dozens of religious, charity, and civil rights organizations, including the ACLU

¹²³ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 8, 9, 10 (Statement of Nicholas Katzenbach, Attorney General of the United States).

¹²⁴ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 45 (Statement of Hiram L. Fong, United States Senator).

¹²⁵ “Remarks of the President at the Signing of the Immigration Bill, Liberty Island, NY, 10/3/65,” “Statements of Lyndon B. Johnson” folder, Box 164, Johnson Library.

and the National Catholic Welfare Conference, offered support to immigration reform because the signers believed it was “consistent with our national philosophy that all men are entitled to equal opportunity regardless of race or place of birth.”¹²⁶ Groups like the Association of Immigration Lawyers and organizations representing various ethnic groups also testified in favor of immigration reform during the congressional hearings held months before the bill’s passage.¹²⁷

It is clear that supporters of the INA believed it represented American values and had high hopes for the humanitarian implications of the bill, and the symbolism surrounding the signing ceremony in the shadow of the Statue of Liberty emphasized the expanded liberty for people hoping to immigrate to the United States. Johnson and pro-immigration politicians and citizens looked to the future with hope and optimism after the INA passed. Soon, however, a dark shadow would fall on what Johnson described as the brilliant gleam of the America’s “golden doors.” Racism, sexism, and heterosexism continued to characterize immigration enforcement in years after 1965, and, despite the intentions of the law’s framers, the issue of undocumented immigration soon became one of the clearest and most problematic legacies of the 1965 Immigration Act.

¹²⁶ Various organizations to Johnson, Sept. 30, 1965, “Legislative Background ‘Immigration Law-1965’” folder, Box 1, Johnson Library.

¹²⁷ See *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 2)*, (Statements from Association of Immigration Lawyers (884-887); Sons of Italy in America (404-426); and Japanese American Citizen League (619-630)) as examples of groups that endorsed the immigration amendments in testimony before Congress.

Chapter 2
Enforcement and Exclusion at America's Borders: The INA and Failure of the "Great Society" for Mexican Immigrants

Democratic Senator Edward Kennedy of Massachusetts described the cause of immigration as a "career passion." In 1962, the chair of the judiciary committee and one of the most powerful men in the Senate, James O. Eastland of Mississippi (D), appointed the newly elected Senator Kennedy to the immigration subcommittee of the judiciary, noting that the Kennedys were "always talking about immigration." In 1965, Eastland offered Kennedy the job of managing the new immigration bill proposed to the judiciary committee, and he happily accepted.¹ Kennedy kept a close eye on immigration issues and was a careful observer of the consequences of the 1965 Immigration Act. Within a decade of the law's implementation, the results of its passage were clear. By the end of the 1970s, Kennedy had joined with scores of other politicians and American citizens and activists calling for a revision to U.S. immigration system. He bemoaned the fact that current policies were out of line with the nation's "humanitarian heritage." Kennedy sought reforms that would increase immigration ceilings, provide for the adjustment of status for undocumented immigrants, and abolish the thirty-three moralistic categories of exclusion.²

Kennedy was dissatisfied with the results of the INA, and the types of reforms he sought in the late 1970s reflect the problems he—and many others—found in the law's

¹ Edward M. Kennedy, *True Compass: A Memoir*, (New York: Twelve, 2009), 191-195; 232-233.

² "Kennedy Seeks Revision of Immigration Policies," *New York Times*, May 21, 1979; *Select Commission on Immigration and Refugee Policy Second Semiannual Report to Congress*, 319 (1980); Robert Pear, "Administration Opposing Ban on Homosexual Aliens: 33 Grounds for Exclusion," *New York Times*, June 24, 1980.

enforcement. Kennedy was among the many who had praised the passage of the INA and heralded it as the solution to the nation's perceived immigration problems. The great optimism for the bill, outlined in Chapter One, soon devolved into anxiety and cynicism. This chapter contrasts the hope surrounding the INA with the darker side of immigration enforcement that became apparent in the years after its implementation. Some of the results of the law were intended, such as the ongoing ban on immigrants with certain behaviors or conditions (such as those suffering from "mental defect"); other consequences were unforeseen. The most significant result of the INA was the dramatic rise in undocumented immigration from Mexico. Contrary to what its architects intended, the enactment of the INA coincided with an unprecedented rise in unsanctioned border crossings, and these soon overwhelmed the Immigration Service, which continued to rely on traditional tactics such as racial profiling in searches and sweeps. Mexican migration to the United States had been an important part of the history of the Southwest region since the creation of the border, but the rise in unauthorized crossings after 1965 signified a new phase in that history and established it as the most pressing national immigration issue of the late twentieth century.

Publicity and debate surrounding the passage of the INA in 1965 reveals what policymakers hoped to change through the law and what they determined leave in place. Law-makers wanted to assure concerned American citizens of the bill's moderate nature—that it would not lead to a flood of immigrants or upset radically the racial make-up of the immigrant population. Policymakers and immigration officials also wanted to assure American citizens and their representatives that the 1965 law would not abolish the traditional categories of exclusion that barred certain groups from entering the United States.

These categories of exclusion had been codified in federal immigration law from its inception.

Although it claimed to liberalize exclusions in immigration law based on race, the INA clearly intended to remain strict regarding morality, especially moral behavior related to sexuality. While presiding over a congressional hearing on the proposed immigration legislation in 1965, Senator Edward Kennedy asserted that the bill would “not permit the entry of subversive persons, criminals, illiterates, or those with contagious disease or serious mental illness.” He explained that the proposed legislation “rightly retains the general health, literacy, security, and public charge provisions of present law.”³ Similarly, a Senate report on the bill offered the assurance that “there is no substantial relaxation of the qualitative standards which determine the admissibility of immigrants.”⁴

Advocates of the 1965 Act assured anyone worried that immigration restrictions would be too lax that the morality provisions in the law would be retained. A circular distributed by the Department of Justice, titled “Common Misapprehensions About the Administration’s 1965 Immigration Bill, HR 2580,” made clear that the “bill makes no change whatsoever in the safeguards of our present immigration laws which prohibit the admission of Communists, other subversives, security risks, narcotics addicts, persons with criminal records, illiterates, and other undesirables. Persons with mental afflictions also will

³ *Immigration: Hearings on S. 500 to Amend the Immigration and Nationality Act (Part 1)*, 2 (Statement of Edward M. Kennedy, United States Senator).

⁴ Senate Committee on the Judiciary, *Amending the Immigration and Nationality Act, and for Other Purposes*, 89th Cong.. (1965), S. Rep. 748.

continue to be generally excluded”⁵ Immigration officials worked hard to explain that the numbers of immigrants entering the country would still be limited, even without national origins quotas, because there were still numerical limitations in place and other categories of exclusion. Immigrants would be denied entry if officials determined that they were members of “criminal, immoral, and narcotic classes,” were “likely to become a public charge” or could not prove that they had a job “waiting for them in the United States,” or “relatives in the United States . . . capable of supporting them.”⁶ As is clear from nineteenth- and twentieth-century immigration law, the fear of immigrants becoming a public charge caused much apprehension for U.S. citizens, but regulating behavior—particularly sexual behavior—was also a main concern, and continued to be so in the 1960s.

Some contemporaries of Johnson pushed to abolish exclusion categories based on sexuality and morality. Gay rights groups such as the National Gay Task Force began advocating for full equality for gay immigrants in the early 1970s.⁷ Some people simply were not convinced that it was possible to exclude immigrants for certain moral behaviors. For instance, Francis Biddle, former U.S. solicitor general, noted in a letter to President Johnson that a questionnaire for visa applications asked potential immigrants if they were coming to the United States to “engage in an immoral sexual act, in prostitution, or unlawful

⁵ Department of Justice, “Common Misapprehensions About the Administration’s 1965 Immigration Bill, HR 2580,” September 1965, “Legislative Background ‘Immigration Law-1965’” folder, Box 1, Johnson Library.

⁶ “Questions and answers,” 1965, “Legislative Background ‘Immigration Law-1965,’” folder, Box 1, Johnson Library. Annual Reports for the Immigration and Naturalization Service kept track of members of the “criminal, immoral, and narcotic classes” who were deported each year.

⁷ See “Group’s Findings Support Move in Homosexuality,” in *Abilene Reporter-News*, April 12, 1974.

commercial vice.” Biddle scoffed at such questions because they were “insulting” as well as “absurd since the applicant will not answer them in the affirmative.”⁸

Although some public officials like Biddle protested the inclusion of morality provisions in the 1965 law, legislators left them intact and, in doing so, reiterated decades of American attitudes about proper moral behavior. Policymakers formalized attitudes about appropriate behavior by crafting government policies around them, and immigration and naturalization laws were particularly important in delineating what was considered proper and moral activity.⁹ Some of the most recent scholarship on immigration history reveals how immigration laws historically affected specific groups of immigrants by subjecting them to greater scrutiny at the border or by excluding them altogether. This literature has shown how U.S. immigration policies had adverse effects, in particular, on female and gay immigrants. Even though immigration policies do not name them explicitly as excludable, law-makers and immigration officials discriminated against female and gay immigrants in the way they crafted and implemented immigration policies. A closer examination of these two groups is helpful in understanding how immigration law was (and is) interpreted and implemented, a central concern of this dissertation. In addition, exploring the application of law specifically to immigrant women and gay people reveals how the border functioned as a place where the government judged and assessed the value of hopeful entrants. Although Congress had the

⁸ Frances Biddle to Johnson, Feb. 26, 1968, “Immigration” folder, Box 1, White House Central Files, Johnson Library.

⁹ For example, see Luibhéid and Cantú Jr., eds., *Queer Migrations*, introduction. Luibhéid and Cantú argue, “Immigration and citizenship controls function in a double sense: as the means to delimit the nation, citizenry, and citizenship and, conversely, as the loci for contesting and reworking these limits.” (Ibid., xi). Similarly, Margot Canaday argues in that the government codified negative attitudes about homosexuality in its military, welfare, and immigration policies. See Canaday, *Straight State*.

power to regulate the nation's borders, it was up to the Immigration Service to interpret and carry out the law.¹⁰ Furthermore, the experiences of immigrant women and gay immigrants illuminate the importance of physical appearance at the border.

The nation's earliest federal policies regulating immigration, such as the 1875 Page Law and the 1903 and 1907 Immigration Acts, included bans on prostitutes, a group largely made up of women. As a result, women, particularly single women, poor women, or women of color (or some combination of those characteristics) drew special attention of immigration officials at the nation's borders, who suspected such women of entering the country for sex work. Not only were they suspect for being potential criminals themselves, many officials viewed such women as likely to corrupt the country's moral code by leading other immigrants or American citizens into supposedly immoral activities like gambling or excessive drinking. Public officials also perceived poor and single women and women of color as future burdens on society because it was unlikely they could provide for themselves without a husband. Immigration law explicitly banned immigrants "likely to become public charges" (LPC). Women's historians have long understood that American women historically were denied full equality, a denial codified in law and institutionalized in the everyday practice of discrimination.¹¹ Immigration scholars have likewise shown that the

¹⁰ Martha Gardner, *The Qualities of a Citizen: Women, Immigration, and Citizenship, 1870-1965*, (Princeton: Princeton University Press, 2005), 5-8, 255. Gardner makes a similar argument for naturalization and citizenship laws: "State-defined membership in the nation was categorical in procedure but fluid in practice. Shifting constructions of race, marital legitimacy, moral conduct, work skills, varying interpretations of citizenship law, and inconsistent enforcement of statutes constantly changed the terms and requirements of state-defined membership."

¹¹ Linda Kerber, for example, has argued the women's exclusion from citizenship activities like sitting on juries, or serving in the military meant that women were not full and equal members of the polity. See Kerber, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998); Nancy Cott, in her work on

shadow of immigration law fell differently on women and men, and that the policies subjected women to greater scrutiny at the border.¹²

The Immigration Service also used the LPC clause in early twentieth century immigration law to harass and exclude suspected gay immigrants, another group particularly affected by moralistic provisions in immigration law. Historian Margot Canaday has done groundbreaking work on the subject of how federal policies discriminated against gay people. She argues, in part, that legislation targeting gay immigrants was purposefully vague in nature in order to make it into a powerful weapon at the border. Immigration officials in the early twentieth century used the LPC, crimes of moral turpitude, and degeneracy clauses in immigration law to target many types of undesirable immigrants, including members of

women and marriage, argues that the place of women in society was historically structured by marriage law. See Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge: Harvard University Press, 2000).

¹² Gardner, *Qualities of a Citizen*, 2. Gardner argues that immigration and naturalization laws create a “system of belonging and not belonging.” She contends, “The place of immigrant women in this system has been judged by their work, their sexuality, their role in the family, and their race. By restricting how, why, when, and where women could enter, immigration law has protected a racially exclusive image of the American family, promoted a racially and sexually segmented labor force, and tied women’s role in the nation to their domestic responsibilities in the American home Historical debate over the law and its application make visible how Americans and would-be Americans, policy makers and immigrants, assessed the implications of women immigrants for the nation—their moral character, family status, race, poverty, marriage, citizenship, and alienage.” (Ibid., 3). Gardner contributes to the growing scholarly interest in women immigrants. See, for example: Segura and Zavella, eds., *Women and Migration*; Pierette Hondagneau-Sotelo, “Feminism and Migration,” *Annals of the American Academy of Political and Social Science*, no. 571 (2000): 107-120; Pierette Hondagneau-Sotelo, *Gendered Transitions: Mexican Experiences of Immigration* (Berkeley: University of California Press, 1994); Silvia Pedraza, “Women and Migration: The Social Consequences of Gender,” *Annual Review of Sociology* 17 (1991): 303-25; Olivia M. Espín, *Women Crossing Boundaries: A Psychology of Immigration and Transformations of Sexuality* (New York: Routledge, 1999); Donna Gabaccia, “Immigrant Women: Nowhere at Home?” *Journal of American Ethnic History*, Vol. 10, No. 4 (Summer 1991): 61-87; Michelle J. Anderson, “A License to Abuse: The Impact of Conditional Status on Female Immigrants,” *Yale Law Journal*, Vol. 102, No. 6 (1993): 1401-1430.

the community described today as Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ).¹³ The low evidentiary burden of these clauses, specifically the LPC clause, explained their prevalence in immigration cases, particularly those involving immigrants perceived as sexually deviant. While denial of entry based on a crime of moral turpitude required evidence of a conviction, the public charge clause was an assessment of an immigrant's status. As Canaday observes, the public charge clause "required no evidence that a crime had been committed, but only that a person *seem to be something* (likely to be poor)."¹⁴ Immigration law during the Progressive Era makes clear the connection between morality and race and poverty, with social policies that associated darker-skinned and poor people with amorality. Appearance, therefore, was an important element in determinations made at the border. By the middle of the century, law-makers saw the need to establish more explicit bans on what they perceived as immoral sexual behavior, regardless of the immigrants' race or social status. Race and class were still important in the process of exclusion, but border officials also looked for other physical indications of sexual deviancy. For example, weak physical appearance in men or under-developed sexual organs were signs of perversion, according to immigration and health officials.¹⁵

While immigration officials subjected women to greater scrutiny at the border, officials enforcing immigration law specifically barred gay immigrants from entering for

¹³ Canaday, *Straight State*, 24-33.

¹⁴ *Ibid.*, 25. Emphasis in original.

¹⁵ Perversion was typically detected in two ways. Once an immigrants was living in the U.S., perversion was based upon an act that he or she has committed (such as public exposure or sex between two people of the same sex). At the border, perversion was detected through a physical examination of the body for signs of abnormality. See Canaday, *Straight State*, 33-34.

most of the twentieth century.¹⁶ One of the earliest pieces of evidence that documents the U.S. government's concern about gay immigrants is a 1909 report written by an immigration official investigating prostitution and homosexuality in Europe. The author of the report, Marcus Braun, concluded his findings by urging a ban on prostitutes as well as “pederasts [Greek name for male pedophiles] or sodomites.” Upon reading Braun's report, the Commissioner General of the Bureau of Immigration (precursor to the INS) noted with alarm that the report identified a “new species of undesirable immigrants.”¹⁷ Although the language of the law never explicitly listed them, subsequent federal policies sought to ban gay immigrants from entry through the use of wide-ranging prohibitions on various types of supposedly immoral behaviors and mental illnesses.

The Immigration and Nationality Act of 1952 reflected the values of post-World War II America and was an important law that more deeply entrenched acceptable social behaviors and proper expressions of sexuality. Prostitution and other “crimes of a sexual nature” continued to draw special attention. For instance, a 1947 government publication, “Deportation of Aliens of the Immoral Classes,” reiterated that immorality included prostitution and reminded readers that, since 1917, deportation was required for “any alien who shall be found an inmate of or connected with the management of a house of prostitution

¹⁶ Works related to immigration law and the immigration experience for gay women and men include: Olivia M. Espín, “The Immigrant Experience in Lesbian Studies,” in *The New Lesbian Studies: Into the Twenty First Century*, edited by Bonnie Zimmerman and Toni A. H. McNaron, (New York: The Feminist Press at The City University of New York, 1996), 79-85; Luibhéid and Cantú Jr., eds., *Queer Migrations*; Canaday, *Straight State*; Loue, “Homosexuality and Immigration Law.

¹⁷ Canaday, *Straight State*, 20.

or practicing prostitution after such alien shall have entered the United States.”¹⁸ Cold War America envisioned itself as a nation of families. Advocates of family reunification provisions in immigration law argued that protecting the traditional family unit would prevent the country from becoming a nation of amoral people. Policymakers during the 1940s and 1950s viewed sex outside the boundaries of traditional heterosexual marriage as beyond the scope of a moral citizenry. Immigration officials applied preexisting sexual, gender, racial, cultural, and class categories to immigrants, but also participated in solidifying distinctions among immigrants and perpetuating the hierarchy of desirability for immigrants and naturalized citizens.¹⁹

The Immigration and Nationality Act of 1952 clearly targeted gay immigrants, among others of supposedly questionable morality. While an immigrant prior to 1952 could be excluded or deported for committing a crime of moral turpitude (including a sexual act between two people of the same sex) or because of the LPC clause, the 1952 Act included a prohibition barring immigrants afflicted with “psychopathic personality” in order explicitly to prevent gay women and men from entering the United States (the moral turpitude clause continued as a backup during the 1950s and 1960s). Canaday observes that the new provision was entirely different from the LPC clause, “not a preexisting device that officials tried to retrofit to police homosexuality, it was rather designed with that purpose in mind.” The psychopathic personality provision was more direct in its targeting of gay immigrants, but it was as equally as vague. “It was not an accidental ambiguity,” Canaday argues, “it was

¹⁸ Ernest J. Hover, “Deportation of Aliens of the Immoral Classes,” *INS Monthly Review*, Vol. V, No. 5 (November 1947), 62.

¹⁹ Luibhéid and Cantú Jr., eds., *Queer Migrations*, introduction, xvi.

an instrumental one.”²⁰ A 1952 U.S. Senate report on immigration reform noted that the exclusion of psychopathic personalities was broad enough to cover the exclusion of gay women and men (or “sex perverts”).²¹

Court cases during the 1950s and 1960s reveal how the INS used the ban on psychopathic personalities to exclude suspected gay women and men.²² A notable example is that of Sara Harb Quiroz, one of two homosexuality cases under the 1952 Immigration Law that dealt with women. Quiroz’s case is the earliest surviving example in the historical record of a woman migrant alleged to be gay. Immigration officials stopped her at the U.S.-Mexico border after a family visit in Mexico because, based on her appearance (she was wearing pants and had short hair), she “seemed to be a lesbian.” After interrogation, Quiroz admitted to the INS that she had felt “homosexual desires for at least a year, [and] had homosexual relations on numerous occasions over this period with two women.” Quiroz fought her deportation, claiming that being a homosexual did not qualify her as a psychopathic personality. She even got married just weeks before her scheduled deportation to prove that she had been “rehabilitated.” Her arguments and marriage were not sufficient, however, and the government deported her for being gay.²³

²⁰ Canaday, *Straight State*, 215.

²¹ S. Rep. 1137, *Revision of Immigration and Nationality Law*, 82nd Congr., (1952).

²² See a thorough discussion of the pivotal cases of *Flores-Rodriguez*, *Quiroz*, *Fleuti*, *Lavoie*, and *Boutilier* in Canaday, *Straight State*, 227-247.

²³ See Eithne Luibhéid, “‘Looking Like a Lesbian’: The Organization of Sexual Monitoring at the United States-Mexican Border,” in *Women and Migration in the U.S.-Mexico Borderlands: A Reader*, ed. Denise A. Segura and Patricia Zavella, 106-133; and Eithne Luibhéid, *Entry Denied*. See also Margot Canaday’s discussion of Quiroz’s case in *Straight State*, 232-234.

Congress upheld the morality provisions in the 1952 law when it passed the Immigration and Nationality Act of 1965, and further strengthened them. Family reunification elements of the Immigration Act of 1965, in particular, made the traditional heteronormative family the centerpiece of immigration policies. Not only did these policies reinvigorate the desire to exclude gay women and men, they also assured that women immigrants bore a greater burden to prove their future role in the American society and economy. Early twentieth-century immigration law ensured women immigrants' place in the country by favoring women whose primary work would be in the home. Later in the twentieth century, policy similarly defined women as wives and mothers rather than as individual immigrants. This is significant because of the way American society, articulated through the legislative process, viewed the centrality of the home—and a certain type of home—in American life. The traditional view of domesticity became even more important after 1965, when immigration law centered on families.²⁴ As the counterculture of the 1950s and 1960s challenged conventional social mores, American society came to terms with some limited sexual activity outside of marriage. But it would be decades before immigration policies considered same-sex relationships to be acceptable.²⁵

²⁴ Luibhéid, *Entry Denied*, 3, passim. Luibhéid argues that the preference for family reunification established by the 1965 immigration law “produced an exclusionary sexual order that was integrally tied to gender, race, and class inequalities.” The rigid heteronormative values placed on the idea of family, furthermore, excluded gay immigrants and relegated women to procreative roles within a patriarchal framework.

²⁵ The lack of recognition of same-sex marriages in the United States continues to cause problems for gay immigrants or gay American citizens married to foreigners. For an example, see Alicia A. Caldwell, “U.S. Back to Denying Same Sex Couples Visas,” March 30, 2011, *Associated Press*. <http://www.huffingtonpost.com/huff-wires/20110330/us-same-sex-couples-visas/>. Accessed April 29, 2013.

Supporters of the INA clarified language traditionally included in immigration policy to make it easier for immigration officials to exclude perceived “sexual deviates.” As one government official explained, “the bill adds ‘sexual deviation’ as a ground for exclusion because of a Supreme Court decision in 1962 which held that the term ‘psychopathic personality’ was unconstitutionally vague and did not sufficiently encompass homosexuality.”²⁶ In its official report on the bill, the Senate also highlighted the clarification: “The Public Health Service has advised that the provision for the exclusion of aliens afflicted with psychopathic personality or a mental defect . . . is sufficiently broad to provide for the exclusion of homosexuals and sex perverts.”²⁷ Because of the Supreme Court ruling and growing suspicions about the link between homosexuality and mental illness, however, the bill specifically included “sexual deviation” as a ground for exclusion.²⁸ The addition of terminology banning “sexual deviates” in the 1965 law gave the Immigration Service an even more powerful tool to regulate sexual behavior in the United States. Despite the use of the term “psychopathic personality” in the 1952 Immigration Act, psychiatrists in the 1950s proved increasingly resistant to the idea of equating homosexuality with

²⁶ Phillip Hughes to Johnson, memo, October 1965, “Enrolled Legislation P.L. 89-236—Immigration Act—signed 10-3-65” folder, Box 27, Johnson Library.

²⁷ Senate Committee on the Judiciary, *Amending the Immigration and Nationality Act, and for Other Purposes*, 89th Cong. (1965), S. Rep. 748.

²⁸ Immigration laws targeted gay people not only for their perceived perverse sexual behavior, but also for suspected fraudulent activity. For example, an August 12, 1975 article in the *El Paso Herald Post* titled “Homosexual-alien Marriages Probed,” reported that U.S. Immigration authorities were “probing into reports that homosexual U.S. citizens were being paid to enter into marriages of convenience with Mexican aliens in order to get the aliens preferred immigrant status.”

psychopathic behavior.²⁹ When drafting the 1965 Immigration amendments, Congress reacted to the criticism of the psychopathic personality provision by revising the legal definition of homosexuality as a criminal behavior rather than a mental condition.³⁰

The passage of the INA, then, had real and, frequently, negative effects on the ability of female and gay immigrants to enter the U.S. without harassment. Gay immigrants and women crossing the border into the U.S. continued to face strict policies in the decades after 1965. More women began immigrating to the United States after 1965 and their increased numbers amplified the effects of the law's enforcement. In some cases, the increase in female migration was itself a cause for alarm based on the role of women as reproducers. Especially following World War II, when concern over immigration from Latin American countries—and specifically Mexico—reached new levels, the threat of immigrant women's reproduction gave anti-immigration policymakers new reasons to shore up immigration policies to guard against the unwanted and those perceived to be resistant to assimilation.³¹ This put immigrant women, particularly those from countries south of the United States, in an untenable position; immigration policies sought to reaffirm the traditional heteronormative family while American xenophobes simultaneously feared women immigrants as reproducers. Population strains in the United States and population growth in Mexico made immigrants crossing the U.S.-Mexico border of particular concern. Latina/o Studies scholar

²⁹ See Canaday, *Straight State*. Canaday argues that from the case of Flores-Rodriguez (1956) on, the state produced homosexuality “as a legal status . . . and as a *status* rather than a behavior because . . . treating homosexuality as the latter opened immigration officials to charges that the psychopathic personality provision was ‘void-for-vagueness.’ That doctrine said that aliens were entitled to clear, adequate warning about *behavior* that rendered them deportable,” (Ibid., 235). Emphasis in original.

³⁰ Canaday, *Straight State*, 247.

³¹ Gardner, *Qualities of a Citizen*, 157.

Leo Chavez, in an insightful study of the characterizations of Latina fertility in popular U.S. magazines between 1965 and 1999, reveals that three main themes related to Latina fertility and reproduction occurred in the literature: high fertility and population growth; reproduction as a “reconquest” of the United States; and immigrant overuse of U.S. social services.³²

These perceptions of women led to increased criticisms of women immigrants as abusers of the American welfare system. Accusations that women immigrants used social services and that they entered the U.S. to have “anchor babies” have led to crackdowns on immigrant access to important emergency services.³³

Women were (and, indeed, still are) targets of violence at the border, and the problem grew worse as more women entered the United States from Mexico. One tragic yet understudied consequence of the militarization of the border in the 1970s and 1980s was the increase in such violence, especially sexual violence. Feminist scholar Sylvanna Falcón has investigated allegations of rape involving members of the INS or U.S. Border Patrol. She found multiple instances of abuse along the U.S.-Mexico border. Women crossing the border

³² Leo R. Chavez, “A Glass Half Empty: Latina Reproduction and Public Discourse,” in *Women and Migration in the U.S.-Mexico Borderlands: A Reader*, ed. Segura and Zavella, 67-91. Chavez explains that the magazines were selected if the cover mentioned immigration in image or text or alluded to immigration in some direct way.

³³ The most striking case of this was the approval in 1994 of Proposition 187—a ballot initiative in California to deny health services and public education to the children of undocumented immigrants. The initiative proved to be unconstitutional in the courts but its passage is an indicator of larger xenophobic organizations and campaigns targeting immigrant communities in the United States. Such efforts seek to limit public assistance and social welfare and the social reproduction of women, children, and families. Restrictions target women because they are usually married and are potential child-bearers and are therefore perceived as the primary signs of settlement and demographic transition. Proposition 187 reveals the ongoing legal challenges immigrant women face in American communities. For an analysis of Proposition 187, see Pierrette Hondagneu-Sotelo, “Women and Children First: New Directions in Anti-Immigrant Politics,” *Socialist Review*, 25 (1995): 169-190.

were frequently intimidated, harassed, and sexually assaulted. Falcón argues that sexual violence was a result of the militarization of the U.S. border policies and describes the borderlands region as a war zone. In such a hostile environment, militarized rape perpetuated colonialism, patriarchy, and hypermasculinity. Falcón shows that rape was and is a means of border control, and is a form of state violence against women. The convicted or suspected rapists she studied showed evidence of pre-planning, and used their position of authority over the women and threatened them with deportation if they failed to comply or reported the abuse. Falcón's study is important in illuminating a serious problem female immigrants faced upon crossing the border into the United States.³⁴

The 1965 law also perpetuated problems for gay immigrants, who were in the unusual position of being largely undetectable if they lied to investigators or, in some cases, altered their appearance. Identifying a gay immigrant, in fact, was a great challenge to the Immigration Service following the passage of both the 1952 and 1965 laws. Immigration officials enforcing policies targeting suspected gay women and men naturally faced the difficult task of identifying violators. The general counsel for the INS noted after the enactment of the new provision in 1952, "Apparently a homosexual or sex pervert is afflicted with a physical or mental disability which can be discovered by a medical examination," and he wondered, "is this so?"³⁵ Similarly, Representative Emmanuel Celler (D-NY) asked, "how in the world . . . is the inspector going to determine that the person before him is

³⁴ Sylvanna Falcón, "Rape as a Weapon of War," in *Women and Migration in the U.S.-Mexico Borderlands: A Reader*, ed. Segura and Zavell, 203-223. See also Luibhéid, "Rape, Asylum, and the U.S. Border Patrol," in *Entry Denied*, 103-135.

³⁵ Quoted in Canaday, *Straight State*, 219.

homosexual?”³⁶ In order to deal with the problem of evidence when barring or deporting a suspected gay immigrant, the INS attempted multiple charges to make exclusions stick and “compounded vagueness with vagueness.”³⁷

Similarly, enforcers of the 1965 law puzzled over how to implement the ban against “sexual deviates.” As Francis Biddle’s questions to President Johnson regarding the feasibility of a morality questionnaire suggest, gay immigrants and other supposed violators of morality provisions were difficult to detect. Questioning immigrants and analyzing their physical appearance were two critical ways to determine who was allowed in to or denied entry from the country. Both approaches left ample room for error and personal violations. The Border Patrol was at the forefront of efforts to determine the reasons an immigrant wanted to enter the country. As a government-issued information pamphlet about the Border Patrol explained, “undesirable aliens, who offer a threat to the security or welfare of our country, are barred, and therefore often attempt to enter surreptitiously. It is the job of the Patrol to anticipate their moves and to stop them at the borders.”³⁸ The task of the Patrol, according to official government documents, was to prevent unauthorized entry of excluded classes of immigrants including “convicts and prostitutes,” as well as “idiots, lunatics, and persons likely to become public charges.” Official training material warned Border Patrol officers about the persistence of “the criminal and immoral alien.”³⁹ The 1965 Immigration

³⁶ Ibid., 219-220.

³⁷ Canaday, *Straight State*, 226, 227.

³⁸ United States Department of Justice, Immigration and Naturalization Service, *The Border Patrol: Its Origin and its Work*, (Washington D.C.: Government Printing Office, 1965).

³⁹ United States Department of Justice, *Border Patrol*.

Act, like its predecessors, required Border Patrol officials to deny admission to anyone appearing indecent or as attempting to enter the country for “immoral purposes,” but they had little instructions on how to determine such cases. As a result, they created tests and measures to identify undesirable people. As one example, immigration officers stopped two Mexican men at the border because one wore an earring and the other carried what “looked like a woman’s handbag.”⁴⁰ As Margot Canaday concludes, the ambiguity of the law made it a powerful weapon. Morality provisions were “a vague tool to capture a vague target.”⁴¹

Due in part to the difficulty in enforcement, and also due to evolving American attitudes about sexuality, efforts to remove the ban on gay immigrants gained momentum during the 1970s, especially after the removal of homosexuality from the American Psychiatric Association’s Diagnostic and Statistical Manual in 1973 (thus declassifying it as a mental illness), and started gaining traction during the Jimmy Carter administration. Carter was sympathetic towards gay rights, and his public liaison Midge Costanza was an active supporter of gay rights organizations. The INS proved resistant to the changes in the medical field, however, and continued to turn away and deport immigrants suspected of being gay.⁴²

⁴⁰ Joseph B. Treaster, “Homosexuals Still Fight U.S. Immigration Limits, *New York Times*, August 12, 1979.

⁴¹ Canaday, *Straight State*, 232.

⁴² The *New York Times*, among other sources, covered the tensions between the Immigration Service, the Public Health Service, and the government. See, for examples, Joseph B. Treaster, “Homosexuals Still Fight U.S. Immigration Limits,” August 12, 1979; “U.S. Drops Rule Barring Suspected Homosexuals,” August 15, 1979; Robert Pear, “Ban is Affirmed on Homosexuals Entering Nation,” December 27, 1979; “A Mexican is Termed Possible Homosexual But Let Into the U.S.,” January 1, 1980; Wayne King, “Suit to Contest U.S. on Homosexual Ban: Lawyers Assail Immigration Office on Methods of Enforcing Law,” January 3, 1980; “Homosexuals at the Border,” January 4, 1980; and Robert Pear, “Administration Opposing Ban in Homosexual Aliens: 33 Grounds for Exclusion,” June 24, 1980. See also Canaday, *Straight State*, 250-254.

By 1980, the Immigration Service came up with a “partial concession” in a new policy in which investigators were instructed not to ask directly about an immigrant’s sexual practices (similar to the military’s controversial “Don’t Ask, Don’t Tell” policy of the 1990s and 2000s). The Service’s new policy, though, proved “far more lenient on paper than in practice.”⁴³ Legal change was also slow to catch up to the field of psychiatry and the formal ban on gay immigrants remained on the books until the 1990s.

The fact that the experiences of female and gay immigrants improved little after the passage of the INA is not surprising given that its supporters generally hoped to leave morality provisions alone or strengthen them. The investigation of women and suspected gay people at the border, however, also reveals how important physical appearance was in immigration investigations. Despite the calls in 1965 by President Johnson and others to stop the practice of judging an immigrant by where he or she came from—and by extension, in most cases, by what he or she looked like—the practice continued in force. In addition to race, an immigrant’s gender and manner, hairstyle, dress, and even accessories, influenced the level of scrutiny they received at the border and, indeed, could determine whether or not he or she was allowed entry. This remained true even after 1965, when lawmakers erased sex and race differences from the law; sex and race continued to be important at the border in the application of immigration policy. To complicate matters even further, Congress, the Immigration Service, and the U.S. court system could not always agree on the meaning or importance of certain characteristics. For female and gay immigrants, ambiguous immigration laws, subjective enforcement, and unclear consequences of legal challenges had profound implications for the experience of immigration. The INA did not expand

⁴³ See Canaday, *Straight State*, 252.

opportunities for gay immigrants, nor did it make the border crossing experience any easier for women.

The INA, then, perpetuated problems for female and gay immigrants, but perhaps the most significant legacy of the 1965 bill was the dramatic increase in undocumented immigration in the years after its passage. Indeed, undocumented immigration became the most important immigration issue after 1965 and still dominates immigration policymaking decisions today. Although the potential rise in unsanctioned border crossings did not receive any attention during the debates over the immigration amendments in 1965, it is clear that several provisions in the law led to an increase in undocumented immigration. Even before the INA went into effect in 1968, residents and immigration officials in the southwestern United States expressed concern that the bill would not fulfill the high expectations that many held for it along the border. Recognizing what was at stake, the INS made enforcement of the INA along the U.S.-Mexico border a top priority, with control of undocumented immigration as its primary goal. Immigrants from Mexico had historically enjoyed a special status in U.S. immigration laws, but that changed with the implementation of numerical limits in 1968.

Immigration officials and residents in the Southwest expressed anxiety that the first ever limits on immigration from Mexico would cause problems. The 120,000 numerical limit for western hemisphere immigrants, a figure many immigration officials feared would be too low and reached quickly, went into effect in the summer of 1968. Border residents anticipated the increase in immigrants attempting to enter their states from Mexico ahead of start of the new policy, but there seemed to be little that they could do to stop the influx. An Abilene, Texas, newspaper reported in 1966 that the state could “expect a rush of Mexican

immigrants during the next two years in an attempt to beat the 1968 deadline.” The article went on to forecast that visa applications would “rise in ‘flood’ proportions.”⁴⁴

Immigration officials also warned of the likely rush across the borders before the INA’s enactment and foreshadowed the inability of the INS to handle effectively the border situation. A local Texas immigration officer, for instance, explained to a reporter for the *El Paso Herald-Post* that the recently signed INA would “necessitate some drastic changes in procedures,” and he predicted a “great increase in visa petitions.”⁴⁵ When officials turned away applicants for failure to meet immigration criteria or because they exceeded the numerical limit, they joined a growing number of people committed to finding alternative extralegal means to enter the United States. Thus, increasing undocumented entry occurred alongside increasing visa applications. The Immigration Service tracked the increase in visa applications and reported that documents would be more difficult to obtain.⁴⁶ In 1969, the first full year that the INA amendments went into effect, the INS developed a first-ever waiting list for Latin American immigrant visas. Mexico’s list was the longest; people waiting to enter the United States from Mexico had to wait years for a visa, even if they met all of the other requirements for entry.⁴⁷ Those unable or unwilling to wait chose to enter the United States without legal documents.

The INA also contributed to the rise in undocumented immigration by strengthening restrictive elements in immigration law. All prospective immigrants in the western

⁴⁴ “New Influx of Braceros Anticipated,” *Abilene Reporter-News*, January 29, 1966.

⁴⁵ “Immigration Office Hours Changed,” *El Paso Herald-Post*, October 7, 1965.

⁴⁶ Reimers, *Still the Golden Door*, 124.

⁴⁷ *Ibid.*

hemisphere, excepting immediate relatives of U.S. citizens or legal residents, had to obtain Labor Department certification proving that they had a needed skill and would not be public charges.⁴⁸ It was not always fast or easy to obtain certification. In addition, immigrants in the western hemisphere were subjected to a literacy test and health exam, and they had to meet the standards of the lengthy list of morality provisions in immigration law. These provisions already successfully limited immigration before 1965. After the INA went into effect, Congress had effectively added new restrictions on immigration from Mexico. In broad terms, the INA had a liberalizing effect by increasing and diversifying overall immigration, but it was actually more restrictive than previous policies for some groups including Mexicans. Facing these new limitations, many immigrants attempted to circumvent the system. In 1965, before the western hemisphere limits even went into effect, the Border Patrol was reporting that its El Paso detention center was “bursting at the seams” due to already increasing apprehensions of undocumented immigrants and lack of resources.⁴⁹ The problem was just beginning.

In the years immediately after the INA went into effect, immigration and Border Patrol officers observed increased immigration across the border and noted a marked increase in apprehensions. The *Annual Report* of the INS reported a significant jump in apprehensions of undocumented immigrants after the enactment of the INA. From 1964 to

⁴⁸ This differed from the procedure for eastern hemisphere immigrants, of whom eight percent were relatives or refugees and exempt from labor certification. Only those coming under occupational preferences had to get Labor Department certification. See Reimers, *Still the Golden Door*, 123; Susan F. Martin, *A Nation of Immigrants*, (New York: Cambridge University Press, 2011), 201.

⁴⁹ “Border Patrol Detention Facility ‘Bursting at Seams;’ Arrests Rise,” *El Paso Herald-Post*, October 13, 1965.

1969, the numbers soared from 86,597 to 283,557. The INS serial publication, the *I & N Reporter*, noted that the year-to-year increase in apprehensions was even more striking in 1970. By 1972, apprehensions reached over half a million. The Service made particular note of the increase in the number of Mexican nationals entering without inspection.⁵⁰ The INS *Annual Report* provided information about the national origins of deportable immigrants and in the years following the implementation of the western hemisphere numerical quota, it reported a steady increase in the proportion of Mexican nationals deported from the United States. The 1972 *Annual Report* recounted that “of the total number of deportable aliens located, 430,213, or 85 percent, were Mexican nationals.” By 1973, the percentage rose to eighty-eight and by 1974, 90 percent of deported immigrants were from Mexico.⁵¹ Apprehensions of Mexican nationals in 1974 increased nine times the number located during 1964, the last full year of the Bracero Program.⁵²

Local reports in the Southwest bore out these statistics. In California, a local Border Patrol chief in Los Angeles reported a 23 percent increase in apprehensions from 1968 to 1969.⁵³ “We’re not making much progress, are we?” he mused. The Border Patrol chief also opined that current methods for immigration regulation were failing. “We’re trying to empty the ocean with a sieve,” he said. “We obviously can’t stop them from coming in. Our policy

⁵⁰ Donald Coppock, “Border Patrol Operations-1970,” *I & N Reporter*, January 1971.

⁵¹ Department of Justice, *1972, 1973, and 1974 Annual Report of the Immigration and Naturalization Service* (Washington D.C.: Government Printing Office).

⁵² Department of Justice, *1974 Annual Report of the Immigration and Naturalization Service*, (Washington D.C.: Government Printing Office, 1975), 1.

⁵³ *Annual Report of the Immigration and Naturalization Service*, (1969), 83.

is failing.”⁵⁴ A newspaper in Oxnard, California, reported a similar change in undocumented immigration, observing a five-time increase in apprehensions from 1965 to 1969.⁵⁵ In Texas, a Border Patrol Chief testified before members of Congress in 1971 that the Border Patrol in El Paso was apprehending twice as many immigrants without legal status *per month* as it did in entire years before the passage of the INA. He also noted a 32 ½ percent increase in apprehensions from 1970 to 1971, indicating that the numbers grew exponentially each year.⁵⁶ The chief also noted that apprehensions did not necessarily increase around a particular growing season, as it had previously, but that it was rather a “steady problem.”⁵⁷ Finally, an August 1974 edition of the *Baytown Sun* reported that immigration officials deported “a mere” thirty to forty thousand undocumented immigrants annually in the early 1960s, but “this year the total will be at least 800,000.”⁵⁸

⁵⁴ George K. Rosenberg, quoted in Charles Sutton, “Southland Wetback Invasion Increases,” *Long Beach Press Telegram*, March 26, 1970. The paper reported that the Immigration Service reported 283,000 undocumented immigrants in the country, of which 225,000—mostly Mexican nationals—were caught in the Los Angeles area, a twenty-three percent increase from the year before.

⁵⁵ Mike Otten, “Illegal Aliens from Mexico Costing Taxpayers Millions,” *Oxnard (CA) Press Courier*, October 29, 1970. The paper reported an increase from 22,205 apprehensions in 1965 to 107,269 in the previous fiscal year.

⁵⁶ *Illegal Aliens: Hearings (Part 2), Before the Committee on the Judiciary*, 92nd Cong. 500 (1971) (statement of Herman C. Moore, Chief Border Patrol Agent, Immigration and Naturalization Border Patrol, El Paso, Texas). Emphasis added. Moore stated that apprehensions in 1962 totaled 3,339 and testified that the current rate of apprehensions per month was almost twice that figure. In fiscal year 1971, he stated that the INS had apprehended 57,796 undocumented immigrants, and he testified that was a thirty-two and a half increase over fiscal year 1970.

⁵⁷ *Illegal Aliens: Hearings (Part 2)*, 500 (statement of Herman C. Moore, Chief Border Patrol Agent, Immigration and Naturalization Border Patrol, El Paso, Texas).

⁵⁸ Tom Tiede, “Officials Getting ‘Alienated’ Over Immigration Problems,” *Baytown, (TX) Sun*, August 7, 1974.

There was, then, an observable increase in undocumented immigration after the passage of the 1965 Immigration Act. As a reporter for the *New York Times* explained in 1971, the problem of undocumented immigration existed in part because the 1965 immigration policy was “unworkable.” He suggested that in many cases, the law seemed to “invite circumvention.”⁵⁹ Similarly, an article in a San Antonio paper reporting on the high number of apprehensions concluded, “What it all means, of course, is that immigration laws simply do not work.” The “main accomplishment” of the 1965 immigration law, according to the reporter, was “a rise in illegal passages.”⁶⁰

While there were several provisions in the law itself that increased the likelihood of increased undocumented immigration, the lack of enforcement also contributed to the problem. The Immigration Service—and the federal government itself—was ill-prepared to deal with the rising numbers of unauthorized immigrants in the Southwest. The INS did not have enough manpower to patrol the border, so if immigrants survived the challenges of the physical landscape of the border region, actual entry into the U.S. was relatively easy because the Service left miles of the border unguarded. Furthermore, if the Border Patrol stopped an unauthorized immigrant once they arrived in the U.S., they faced little or no punishment for crossing the border without inspection. In most cases, if the apprehended immigrant agreed to voluntary departure, the U.S. government sent them home quickly without holding them in U.S. jails or courts. A primary reason for this was the fact that the Service had already swamped U.S. courts. As one former investigator for the INS explained,

⁵⁹ Paul L. Montgomery, “Illegal Aliens Pose Ever-Deepening Crisis,” *New York Times*, October 17, 1971.

⁶⁰ Jacquin Sanders, “‘Promised Land:’ 2,000 Illegal Aliens Every Day,” *San Antonio Light*, December 10, 1971.

“If we tried to prosecute, as such, every alien that entered illegally, you’d never get it done because you wouldn’t have enough judges, wouldn’t have enough time.”⁶¹

The U.S. government preferred voluntary departures and even assisted the immigrants in their return trips to Mexico. Frequently, according to the INS, the repatriated immigrants simply attempted reentry again, sometimes on the same day.⁶² An Immigration Service officer testified in congressional hearings on undocumented immigration that the reentry problem was so prevalent that the INS was “on a first-name speaking basis” with some of the immigrants.⁶³ A Border Patrol chief in El Paso likewise testified that the “problem of repeaters” was a substantial one. “Most of the people we catch have been caught before,” he noted.⁶⁴ The lack of punishment for unauthorized entry and generally unguarded border encouraged repeat unauthorized border crossings.

Another enforcement problem that contributed to the problem of undocumented immigration in the Southwest was poor records management in the INS and the prevalence of fraudulent documents. Protecting against fraud was not something the Immigration Service could do without the help of Congress, but the inadequate record-keeping in the Service made the situation worse. The Service was clearly understaffed and underfunded throughout the 1960s and 1970s, but it did not seem to work efficiently or effectively with the resources

⁶¹ *Illegal Aliens: Hearings (Part 2), Before the Committee on the Judiciary*, 92nd Cong. 475 (1971) (statement of Jack L. Atkins, Former Investigator, Immigration and Naturalization Service).

⁶² See David Reimers’s discussion of the “repeaters” in *Still the Golden Door*, 209-210.

⁶³ *Illegal Aliens: Hearings (Part 2)*, 475 (statement of Jack L. Atkins, Former Investigator, Immigration and Naturalization Service).

⁶⁴ *Illegal Aliens: Hearings (Part 2)*, 501 (statement of Herman C. Moore, Chief Border Patrol Agent, Immigration and Naturalization Border Patrol, El Paso, Texas).

it did have. The chair of the Immigration Committee in the House of Representatives, Elizabeth Holtzman (D-NY), bemoaned the fact that record-keeping in the INS “was a disaster.”⁶⁵ Shifting to computers in the late 1970s did not help; keeping track of legal immigrants and visa abusers (overstays) was a perpetual challenge for the Service even through that was one of its primary jobs.⁶⁶ The inability of the INS to keep track of people crossing into the United States and living within its borders, whether due to its own inefficiency, lack of funds, or corruption—which it faced accusations of throughout the 1970s—compounded the undocumented immigration problem created by new provisions in the INA.

The long lines for visas, stringent immigration standards, and relative ease of entry without detection may have encouraged undocumented immigration from Mexico, but the experience was not without its challenges. The border crossing experience itself was filled with obstacles, and work inside the United States was often dangerous, difficult, and even deadly. While large sections of the border were left unguarded, immigrants still had to traverse desert, rough terrain, rivers, blistering heat, and sporadic border fences.⁶⁷ Dire

⁶⁵ Quoted in Bernard Weinraub, “Immigration Bureaucracy is Overwhelmed by its Work,” *New York Times*, January 17, 1980.

⁶⁶ One infamous case of poor record-keeping in the INS occurred after the start of the Iranian hostage crisis in 1979. The Carter administration sought information from the INS on the numbers and locations of Iranians living in the United States, and the Service could not provide sufficient or accurate information. See David Reimers’s discussion of records management problems in the INS in *Still the Golden Door*, 212-213.

⁶⁷ As border regulation improved in subsequent decades, the humanitarian crisis of immigrants getting injured or dying during the journey into the U.S. has reached new levels. A 2010 book, *Crossing With the Virgin: Stories from the Migrant Trail* (Tucson: University of Arizona Press), by Kathryn Ferguson, Norma A. Price, and Ted Parks, is an excellent book that outlines the humanitarian crisis along the border in recent years. Numerous humanitarian groups, such as Humane Borders, No More Deaths, and Border Action

conditions at home and the appeal of jobs in the U.S., however, encouraged immigrants from Mexico and the rest of Latin America to face the risks of crossing and apprehension in the United States.⁶⁸ Immigrants who turned to smugglers also faced danger, as well as an additional financial burden. Smugglers appealed to some potential border crossers because of their supposed knowledge of ways to avoid the U.S. Border Patrol and their connections to job opportunities and places to live. While some smugglers fulfilled their end of the bargain successfully, many took advantage of a vulnerable group of people and sought to increase profit at the cost of human dignity and safety. As just one example, the *New York Times* reported a story in 1968 in which a smuggler abandoned in San Antonio a truck load of forty-six Mexican immigrants en route to Chicago. The travelers were locked in the truck for more than thirteen hours; one died and another twelve had to be taken to the hospital. Immigration officers arrested those not hospitalized for unauthorized entry and took them to a local jail; the drivers were not found.⁶⁹

Once in the United States, undocumented immigrants often lived and worked in deplorable conditions. Generally lacking skills and education, undocumented immigrants

Network, have formed to help meet the physical needs of immigrants making the journey across the border.

⁶⁸ See David Reimers's discussion of conditions in Latin America, the "push factors," in chapter 5, "The Western Hemisphere: Mexico, Central and South America, and the Caribbean," *Still the Golden Door*, 123-156.

⁶⁹ "46 Locked in Trailer 13 Hours; One Mexican Worker Dies," *New York Times*, October 1, 1968. Smuggling was an ongoing humanitarian problem. For other examples of tragic smuggling cases see, "13 Aliens, Cast Off by Smugglers, Die in a Baking Desert in Arizona," *New York Times*, July 7, 1980; John M. Crewdson, "Aliens Tell of Their Desert Ordeal as Search for Smugglers is Pressed," *New York Times*, July 8, 1980 (this story recounts alleged rapes of three female immigrants by the smugglers); Peter Kihss, "Illegal Aliens Term 2,000 Miles Locked in Truck 'Hell'," *New York Times*, February 4, 1981; "Four Dead Among 16 Aliens Left in Truck on Texas Road," *New York Times*, October 6, 1982.

were vulnerable to exploitation in the labor market. Although they generally had connections to jobs through smugglers, family, or a social network, they were in a susceptible position due to their lack of legal status, unfamiliarity with American customs and culture, and lack of English language skills. Exploitation seemed to be the worst in agricultural businesses, as the work was difficult and there was relatively little oversight of working conditions. Concerned journalists and humanitarian groups, following in the tradition of Clarence LaRoche and the publishers of *What Price Wetback?* in the 1950s, sought to illuminate the conditions in which many undocumented workers labored. One egregious case involved a Louisiana chicken farmer who enslaved two Mexican workers and bound them around the neck with iron chains.⁷⁰ The *New York Times* reported that, by the end of the 1970s, “thousands” of undocumented Mexican laborers were being worked in slave-like conditions such as the two working for the chicken farmer.⁷¹ Immigration officials lamented the torturous conditions in which some immigrants worked, commenting that such cases were not isolated and that a significant amount of involuntary servitude existed for undocumented workers.⁷² Indeed, the problem was bad enough to warrant federal investigations that led to arrests and indictment of employers in agribusiness under peonage laws.⁷³

Adding to the difficulties for both immigration officials and the immigrants themselves was the lack of data on who the undocumented workers were, where they

⁷⁰ “Louisiana Man Admits Holding Illegal Mexican Aliens in Peonage,” *New York Times*, November 23, 1979.

⁷¹ John M. Crewdson, “Thousands of Aliens Held in Virtual Slavery in U.S.,” *New York Times*, October 19, 1980.

⁷² *Ibid.*

⁷³ Reimers, *Still the Golden Door*, 226-227.

worked, and how many of them lived in the country. One of the first actions various presidential administrations took in the 1970s to address the problem of undocumented immigration was to try to find out more about the immigrants. There was a persistent and thorough lack of knowledge about the characteristics of the undocumented immigrants and how many lived and worked in the United States. Due to the nature of the group—an essentially “invisible” population—accurate data was difficult to obtain throughout the decade. Experts did not agree on the numbers of undocumented immigrants and estimates ranged from under one million to over twelve million throughout the decade. Characteristics of the immigrants were difficult to summarize as well, but most experts concluded that the majority were poor, single, young men with little education who traveled back and forth between the United States and Mexico for work.⁷⁴

INS leadership, especially under the commissionership of Leonard F. Chapman (1973-1977) attempted to shape the debate and policymaking by publicizing information on numbers and social impact of undocumented immigrants, but experts criticized the Service’s data. For example, the INS estimated in 1975 that undocumented immigrants created a sixteen billion dollar tax burden on American citizens. The Labor Department and scholarly

⁷⁴ Reimers, *Still the Golden Door*, 224-5. One of the earliest large-scale studies of undocumented immigrants was conducted in 1976 by Marion Houston and David North on eight hundred apprehended immigrants without legal status (mostly Mexicans). Houston and North (*The Characteristics and Role of Illegal Aliens in the U.S. Labor Market; An Exploratory Study*) found that the immigrants were mostly young men with low levels of education and skills who migrated to the U.S. for work. Some had been to the U.S. before looking for work. The vast majority had paid taxes and few used any social services like schools and hospitals. Wayne Cornelius (*Mexican Migration: the View from the Sending Communities* and *Mexican Migration to the United States: Causes, Consequences, and U.S. Response*) and Jorge A. Bustamante (Bustamante and Martinez, “Undocumented Immigration” in Cornelius, *Mexican Migration*) reported similar findings in different studies after interviewing immigrants back in Mexico. Other studies also confirm these findings. See, for example, the Winter 1978 edition of the *International Migration Review*, devoted in its entirety to the topic of undocumented Mexican migration.

studies on the subject, however, found that this was a gross exaggeration.⁷⁵ The debate over the financial burden of undocumented immigrants, their effect on unemployment, and their use of social services was active throughout the 1970s. While most scholarly studies concluded that the vast majority of undocumented immigrants were not an economic burden, the findings did not always agree and could be interpreted differently.⁷⁶ Precise data was elusive and fueled contentious public debates on the issue.

It was precisely because evidence about immigrants without legal status was lacking, inconclusive, or contradictory, that it became such an important issue of public debate following the enactment of the INA. Congress held a series of hearings on “Illegal Aliens” from May 1971, through March 1972, in several U.S. cities (Washington D.C., Los Angeles, Denver, El Paso, Chicago, Detroit, and New York City) to assess the “impact aliens illegally in the United States have on labor markets, unemployment, public assistance, and Federal and State Services.”⁷⁷ At the start of the last session of the hearings in March 1972, Peter Rodino (D-NJ), who presided over the hearings, summarized the activities and findings of the hearings and investigations of the previous eleven months. The committee heard testimony from 166 witness, all attempting to answer questions such as: How many undocumented immigrants were actually in the United States?; why is that number increasing every year?; do they prevent Americans from getting jobs?; do they depress wages or abuse the welfare system?; what is the effect of undocumented workers sending money out of the country?; Are they victimized?; and what is the prevalence of fraudulent documents? Rodino

⁷⁵ Reimers, *Still the Golden Door*, 233.

⁷⁶ *Ibid.*

⁷⁷ *Illegal Aliens: Hearings (Part 2)*, 485 (statement of Peter J. Rodino, U.S. Senator).

explained, “These questions have been minutely explored by the subcommittee. Some questions have defied answers. On other questions, we have divergent views. In other areas, the hearings have helped us to reach conclusions.”⁷⁸ Although the experts disagreed on the influence of undocumented immigrants on the American job market and welfare system, they all agreed that they were a vulnerable population. Rodino summarized the humanitarian sentiment by acknowledging that immigrants without legal status were simply people seeking to better their situation. An undocumented immigrant was, according to Rodino, “really a person who is seeking to improve his lot in life. I suppose he is searching for gold at the end of the rainbow and believes the conditions are better here. Instead, it seems to me that he, of course, is victimized, exploited, as some of their live hearings have indicated, and as a result, is made a pawn.”⁷⁹

The lack of reliable data on undocumented immigrants slowed federal government action and as a result, many local governments attempted to address the problem. The results were inconsistent, confusing, and often contradictory policies.⁸⁰ In Texas, for example, the state courts ruled that undocumented workers had a right to receive workers’ compensation pay for injuries on the job. Indeed, only a few states denied benefits to undocumented workers for injury claims and temporary disability programs. In an apparent contradictory move, however, Texas also moved to bar undocumented immigrant children from public schools. In that case, Texas was in the minority, as most local school boards took the view

⁷⁸ *Illegal Aliens: Hearings (Part 5), Before the Committee on the Judiciary, 92nd Cong. 1255 (1972)* (statement of Peter J. Rodino, U.S. Senator).

⁷⁹ *Illegal Aliens: Hearings (Part 2)*, 489 (statement of Peter J. Rodino, U.S. Senator).

⁸⁰ See Reimers’s discussion of state and local policies, *Still the Golden Door*, 237-239.

that they should accept and teach any child, regardless of legal status.⁸¹ Medical care was another issue that state and local governments attempted to deal with while getting little help from the federal government. In one case, Los Angeles County sought (unsuccessfully) for reimbursements from the federal government for treatment of undocumented immigrants in local hospitals, claiming that immigration and the enforcement of policy was a federal issue.⁸²

In addition to social services, local and state laws sought to address the employment issues associated with undocumented immigration. Law-makers debated employer sanctions on the federal level long before Congress adopted them in the 1986 immigration law. At the state level, impatient supporters of employer sanctions as a deterrent to undocumented immigration sought to get them in place during the 1970s. About a dozen states passed employer sanctions but they were largely unenforceable and seemed to have no effect on employment patterns of undocumented immigrants. The first state law outlawing employment of undocumented workers passed in California in 1971. The public heralded it as a key policy in the effort to stem undocumented immigration; yet, after a decade, no prosecutions had resulted as a result of the law. There was a lack of resources dedicated to

⁸¹ Mexican-American and civil liberties groups protested when several Texas school boards attempted to enforce the law barring undocumented children in 1975. A 1982 U.S. Supreme Court ruling (a five to four decision) declared the law unconstitutional and held that undocumented children were entitled to public education. See Reimers's discussion of state and local policies, *Still the Golden Door*, 237-239.

⁸² Reimers, *Still the Golden Door*, 237. Hospitals had differing policies regarding treatment of immigrants without status. For example, in some communities, only emergency care was provided for people who could not prove legal status. A Davis Medical Center program in California required people to sign a statement informing them that their names would be forwarded to the Immigration Service. In general, most local communities and hospitals treated undocumented immigrants out of a desire to be humane and protect the public health.

the law's enforcement, and by 1974, it was entangled in legal challenges that made it to the Supreme Court. Although the Court ultimately ruled it constitutional, it was never really enforced.⁸³ State and local governments had various degrees of success with policies addressing the social and economic issues related to undocumented immigration. Ultimately, however, as immigration was a federal issue, states and cities had little choice but to wait for federal action.

Another result of the lack of accurate data on undocumented immigrants and the inactivity of the federal government on the issue was the emergence of alarmists voicing strong concerns about the dangers of undocumented immigration. Opponents of immigration in general, unauthorized immigration, or Mexican migrant labor had always been around in the Southwest, but they took advantage of the growing national attention to the border after 1965 to voice their opinions with renewed fervor. In 1965, for example, a concerned citizen wrote to the *El Paso Herald-Post* to protest undocumented immigration. "Come on El Paso let us wake up," he chided, "don't let these wetbacks run our lives." He complained that "the only way we are going to fight poverty here in El Paso is by getting our unemployed people a job, and the only way that can be done is by running these wetbacks back across the river. . . ."⁸⁴ Another border resident wrote to the editor of the paper to explain, "I am a taxpayer. I would like to see the city progress, but it can't unless it spends the taxpayers' money the right way, that is give work to the American people, not to the people across the river."⁸⁵

Expressing racist and xenophobic sentiments, a man from Blanco, Texas wrote to the *San*

⁸³ Reimers, *Still the Golden Door*, 238-9.

⁸⁴ Juan Morales, letter to the editor, *El Paso Herald-Post*, February 1, 1965.

⁸⁵ Paul T. Crank, letter to the editor, *El Paso Herald-Post*, February 5, 1965.

Antonio Light complaining that the twentieth-century Mexican migrants “don’t care about integrating, or even learning the language.”⁸⁶ Similarly, in a letter to the editor of the *San Antonio Express* on the subject of hiring of undocumented workers, a woman wrote that it is “a shame that we can’t go back to when America had a beauty—before all these minority groups made slaves out of the white man.”⁸⁷

One voice that grew louder and more virulent than most in the anti-immigrant rant belonged to journalist and radio personality Paul Harvey. Like many others taking a strong anti-immigrant stance, Harvey relied on inaccurate or inconclusive information on the undocumented immigrant population in the United States. Many of the vocal nativists, xenophobes, and anti-immigrant organizations relied on the data offered by the Immigration Service, which was often sensationalized or, at least, exaggerated. In an article titled, “Clamp Lid on the Melting Pot?,” Harvey exclaimed that “the pill [was] not enough” to control population and that the nation should “pull up the gangplank” to stop immigration to the United States. Harvey asserted that current problems in the U.S.—“unemployment, pollution, welfare, housing, education, depleted resources”—all derived “from ‘too many people.’”⁸⁸ In another editorial, Harvey stated that “Uncle Sam [was] the unwilling host to a horde of unwelcome visitors.” He asked if his readers wanted to know one reason that the nation’s improving economy was unable to put Americans to work. “It’s because there are millions of immigrants in the United States,” he complained. While some of them held jobs (which might otherwise go to American citizens), there were “tens of thousands maintaining

⁸⁶ Edwin Read, letter to the editor, *San Antonio Light*, November 2, 1967.

⁸⁷ Ruth Hill, letter to the editor, *San Antonio Express*, May 30, 1972.

⁸⁸ Paul Harvey, “Clamp lid on the Melting Pot?,” *Port Arthur News*, March 18, 1974.

themselves on ‘welfare’ with forged credentials.”⁸⁹ In another op-ed, he contended that the nation was “suffering most from an overload of outsiders” and claimed that if all undocumented immigrants were sent home, “unemployment in the United States would be zero.” Immigrants not only take jobs, he opined, but they also “end up on welfare rolls.”⁹⁰

Grassroots organizations also formed to demonstrate against immigration.⁹¹ While many opposed immigration generally, undocumented immigrants were an easy target because a case could be made against them that they did not respect American laws and customs. These groups argued for better policies based on a wide variety of traditional arguments about social resources and employment, but also out of new concerns like population strain and environmentalism.⁹² The Zero Population Growth (ZPG) lobby, for example, studied whether U.S. welfare programs were “part of the magnet that is attracting immigrants.” To stop immigration, the ZPG lobbied for the denial of tax-supported welfare to illegal immigrants and even suggested that low-paying jobs in the U.S. “be eliminated even if that means going without products arising from them.”⁹³ The *National Parks and Conservation Magazine*, and environmentalist publication, observed:

The continued degradation of the environment, a growing national awareness of the adverse effects of increased population pressures upon our natural resources and the

⁸⁹ Paul Harvey, “Millions of Unwelcome Visitors,” *Port Arthur News*, December 22, 1975.

⁹⁰ Paul Harvey, “Price of ‘Outsiders’ Comes High,” *Port Arthur News*, April 28, 1975.

⁹¹ For a thorough discussion of the anti-immigrant movement during the 1970s and 1980s, see David M. Reimers, *Unwelcome Strangers*.

⁹² Reimers, *Still the Golden Door*, 236.

⁹³ “Zeroing in on Migrants,” *Pampa Texas Daily News*, April 29, 1975.

ensuing decline of the quality of life, the swelling stream of immigrants landing on our shores and crossing our borders, and an immigration policy incapable of coping with this invasion have changed our perspective during the last decade.⁹⁴

These groups and individuals put pressure on public officials in Washington D.C. and on the Immigration Service to look for a solution to the problem. While the Nixon, Ford, and Carter administrations slowly began to move on the problem, the Immigration Service flailed in its efforts to regulate immigration on the southern border.

The Immigration Service continued trying to do its job throughout the late 1960s and 1970s, despite the federal government inaction, growing public pressure from vocal anti-immigrant Americans, and the lack of information of undocumented immigrants. Feeling underfunded and underequipped in the face of new waves of undocumented immigration, INS officials generally sought to do the best they could with what they had. For many, this meant reliance on what one retired border patrol called a “sixth sense” about who was in the country without authorization. This involved an intangible feeling about a person’s appearance and behavior that was based on years of experience tracking down undocumented immigrants.⁹⁵ Regardless of how much an individual officer relied specifically on racial appearance in this process, the INS as a whole faced numerous challenges during the 1970s related to accusations of racial profiling and discrimination. Although the 1965 Immigration Act officially removed race as a factor in admittance to the U.S., it was still a part of daily investigations along the border and in the interior of the United States. Congress charged the Border Patrol with detecting and apprehending immigrants without legal status, but the

⁹⁴ Quoted in Reimers, *Still the Golden Door*, 237.

⁹⁵ Interview by author with retired Border Patrol officer Armand E. Olivera, May 26, 2012, in author’s possession.

guidelines for this process were lacking and the laws themselves were ambiguous. As a result, appearance, specifically racial appearance, continued to play a key part in INS investigations. Officials were under pressure to do something about the border situation, so they relied on traditional search and seizure methods. It was a situation that clearly frustrated immigration officials. In the words of INS Commissioner Leonard Chapman, it was imperative that the Service “find and implement ways to halt the illegal flow of persons into the United States.”⁹⁶

For officials screening immigrants at the border and officers tracking down undocumented migrants already living and working in the country, enforcing the 1965 Immigration Law was a difficult undertaking. In a 1973 statement before the House Committee on the Judiciary, a member of the Subcommittee on Immigration, Citizenship, and International Law crystallized the problems immigration officials faced: “Congress has given [INS officials] an almost impossible task. You are required to enforce the immigration laws and to arrest and remove from the United States aliens with very little guidance on how you identify them. That is the crux of the problem.”⁹⁷ The Immigration Service’s failure to keep up-to-date training manuals added to the problems caused by the lack of guidelines in immigration laws. In 1980, the United States Civil Rights Commission found that outdated training materials exacerbated the problems related to questionable INS search tactics. At the time of publication of the Civil Rights Commission report, the INS had not updated its 1967

⁹⁶ Leonard Chapman, Jr., “Illegal Aliens: A Growing Population,” *I & N Reporter*, fall 1975.

⁹⁷ *Review of the Administration of the Immigration and Nationality Act: Hearings Before the Subcommittee on Immigration, Citizenship, and International Law on Legislative Oversight of the Immigration and Nationality Act*, 93rd Cong. 9 (1973) (statement of Charles Wiggins, United States Representative from California).

handbook, *Authority of Immigration and Naturalization Service to Make Arrests*, even though several Supreme Court cases interpreting the Fourth amendment had restricted conditions under which law enforcement officers could conduct searches.⁹⁸ The traditional tactics used by INS officials involved stopping a suspected immigrant without legal documents, based on their appearance or perhaps their location, and then asking them a series of questions about their status

During a congressional oversight hearing of the Immigration Service, INS Deputy Commissioner James Greene attempted to explain the process of questioning immigrants to Representative Harold Sawyer (R-MI). Sawyer asked Greene, “when you pick up an alien, does the alien have the burden of proving that he has citizenship, or do you have to establish that he does not?” Deputy Commissioner Greene responded that the burden was entirely “on the Immigration officer.” He went on to explain the ability to handle such situations and determine the status of an immigrant depends on the officer’s experience and training. “There is no set pattern,” Greene stated, “So long as a man will keep talking, we have the chance of catching him in some discrepancy, so it is done 90 percent on astute questioning.”⁹⁹ In another congressional hearing on the administration of the INA carried out in 1973, concerned congresspersons questioned the efficacy of interrogating immigrants. Representative Joshua Eilberg (D-PA), for instance, commented that the Subcommittee on Immigration, Citizenship, and International Law had received “numerous allegations from

⁹⁸ United States Commission on Civil Rights, *The Tarnished Golden Door: Civil Rights Issues in Immigration*, (Washington D.C.: U.S. Government Printing Office, 1980), 137-138.

⁹⁹ *Oversight of INS Programs and Activities: Hearings Before the Subcommittee on Immigration, Citizenship, and International Law on Oversight of the Immigration and Nationality Service*, 95th Cong. 153 (1977-1978) (statement of Immigration and Naturalization Service Deputy Commissioner James F. Greene).

citizens and Members of Congress that in performing this job [of locating and deporting unauthorized immigrants] INS officers [had], on several recent occasions, infringed upon the constitutional rights and civil liberties of individuals.”¹⁰⁰ The potential infringement upon civil liberties of immigrants was an ongoing point of criticism of immigration laws that the Johnson administration believed would improve immigrants’ rights. The issue of race further complicated the question of civil liberties for immigrants.

The implementation of the INA did not significantly transform the racialized nature of U.S. immigration policy, thus failing to alter fundamentally the experience of many immigrants post 1965. Immigration historian David Reimers argues that lawmakers actually intended for the INA to have continued racial implications. In establishing a preference system based on family reunification, Reimers suggests, policymakers expected that vast majority of immigrants after 1965 would be the close relatives of current legal American residents or citizens and would therefore all come from the same parent countries.¹⁰¹ Because immigration from certain areas—namely Asia and Africa—had been banned or restricted previously, there would be fewer people from such places in the U.S. to help encourage further immigration through family bonds. Whether intentional or not, the INA worked, in reality, to extend the racialized characteristics of previous immigration law.

The failure of the INA to deracialize immigration policy had implications for migrants of Mexican descent crossing into the U.S. from Mexico. Politicians in Washington acknowledged the ongoing significance of race in enforcement of immigration restrictions.

¹⁰⁰ *Review of the Administration of the Immigration and Nationality Act, 2* (statement of Joshua Eilberg, Member of U.S. Congress).

¹⁰¹ Reimers, *Still the Golden Door*, 72-73.

In congressional hearings on the implementation of the INA, for example, Representative Joshua Eilberg noted that when stopping and questioning immigrants, there had been “complaints that one characteristic is, by profile, the color of the individual; that is if he is browned skinned he is more likely to be questioned than if he is white skinned.” Eilberg acknowledged the existence of grievances because the INS tended to detain indiscriminately those who were “dark skinned and Spanish-speaking.”¹⁰² Although policy no longer formalized racial discrimination, it remained an important element in the administration of immigration procedure. Race further problematized the immigration situation in the Southwest, where increasing undocumented immigration complicated existing American attitudes towards migrants of Mexican descent.

The INS struggled throughout the 1970s to justify its use of race in investigations based on the statistical correlation between Mexican appearance and undocumented status.¹⁰³ In 1975 the U.S. Supreme Court held that Mexican appearance alone was not enough to count as reasonable suspicion for an INS official to stop a person, but immigration officials consistently pushed the limits of that ruling by arguing that their tactics fell outside its parameters.¹⁰⁴ At the center of the debate over the use of race in immigration investigations

¹⁰² *Review of the Administration of the Immigration and Nationality Act*, 7 (statement of Joshua Eilberg, Member of U.S. Congress).

¹⁰³ Robert Alan Culp, “The Immigration and Naturalization Service and Racially Motivated Questioning: Does Equal Protection Pick up Where the Fourth Amendment Left Off?” *Columbia Law Review*, Vol. 86, No. 4 (May, 1986), 800.

¹⁰⁴ *United States v. Brignoni-Ponce* (1975). In the case, two Border Patrol officers admitted to pursuing and stopping a car near a closed checkpoint in the Southwest solely on the fact that the occupants of the vehicle looked Mexican. The vehicle did have undocumented immigrants as passengers, but the driver claimed that the stop was illegal and the Court agreed. On fourth amendment grounds, the use of racial appearance alone was not sufficient enough reason to stop and question a person.

was the Fourth Amendment to the U.S. Constitution, which provides “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause. . . .”¹⁰⁵

Most challenges to INS search procedures used the Fourth Amendment to condemn the Service for unreasonable searches.

Federal courts ruled that much of the activity carried out by the INS in its search for undocumented immigrants fell outside of the parameters of the Fourth Amendment. Arrests and full searches, under the Fourth Amendment, required substantial proof of probable cause, while less intrusive stops did not require the same burden of proof. The courts deemed INS activities like car searches near the border as less intrusive, and therefore the burden of proof was low for immigration officials seeking to establish reasonable suspicion for stopping a particular person or car. Questioning at checkpoints in the interior of the country or even during a factory raid likewise had a low burden of proof of probable cause because the courts ruled questioning as a non-intrusive procedure. As a result of the fact that many INS tactics fell below the threshold of the Fourth Amendment, immigration officials were free to stop vehicles and question occupants or question workers at a factory based solely on race.¹⁰⁶

Much of the criticism of the Immigration Service’s use of race came from civil libertarians and human rights activists who claimed that the problem of using race in investigations had less to do with physical intrusiveness—the point of the Fourth Amendment clause—and more to do with stigmatization of a racial group.¹⁰⁷ Organizations

¹⁰⁵ U.S. Constitution, amendment IV.

¹⁰⁶ Culp, “Immigration and Naturalization Service and Racially Motivated Questioning,” 802-804.

¹⁰⁷ *Ibid.*, 805.

like the Mexican American Legal Defense Education Fund argued that if a person of Mexican descent was stopped in a car or at a factory and questioned for no other reason than their appearance, a violation of that person's civil liberties had occurred even if no physical detention resulted from the questioning. These groups pushed for the use of the equal protection clause of the Fourteenth Amendment, which provides "nor shall any state . . . deny to any person within its jurisdiction the equal protection of the laws."¹⁰⁸ Mexican Americans were violated as a group by INS tactics that relied on race, which established them as second class citizens. Attorneys for the American Civil Liberties Union and members of the Chicano Federation in Texas, for example, protested the potential for immigration officials to violate civil liberties based on racial discrimination. Civil libertarians expressed frustration that border patrolmen to used "extraordinary police power . . . to stop and search Americans simply because they look Mexican. . . ."¹⁰⁹ Chicano Federation director Mateo Camarillo similarly complained that "having a brown skin is not just cause for being suspected of committing a crime. . . ."¹¹⁰

In response, it was relatively easy for the INS to claim other, nonracial, reasons for stopping a suspected undocumented immigrant such as clothing or behavior. These characteristics, however, still may have targeted a specific group of people. People living as legal residents or citizens on both sides of the U.S.-Mexico border shared a great deal in common in terms of appearance. Furthermore, the reasons INS officials gave for the cause

¹⁰⁸ U.S. Constitution, amendment XIV.

¹⁰⁹ Dan Tedrick, "Watch for Illegal Aliens Relaxed by Court Ruling," *Lubbock Avalanche-Journal*, July 25, 1975.

¹¹⁰ *Ibid.*

of reasonable suspicion were often ambiguous. Different types of behavior caused suspicion and placed American citizens and legal residents in a difficult position. For example, INS investigators testified that cars driving too fast raised suspicion, but so did cars driving too slowly. Likewise, immigration officials suspected people who looked directly at U.S. law enforcement, but people who avoided eye contact were equally suspicious. Finally, the presence of luggage on a vehicle could be cause for stopping it, but so could the lack of any luggage.¹¹¹ The common factor in all of the cases, critics observed, was the racial appearance of those stopped.

The use of race in INS stops and sweeps put the civil liberties of U.S. citizens and legal residents in jeopardy. The Immigration Service often claimed that dragnet style sweeps were the most efficient way to detect and apprehend undocumented workers. Civil libertarians, however, made the point that Americans' rights should not be violated because Congress was not doing its job to fund the Immigration Service properly or find effective policy solutions to undocumented immigration.¹¹² The Service was clearly in a difficult position; 90 percent of undocumented immigrants by the mid-1970s were, indeed, Mexicans. To protect the constitutional rights of American citizens, and to limit racial discriminations in immigration investigations, however required that the INS be diligent in how it carried out its searched. It had only limited success in avoiding criticism related to racial profiling. In a report published in 1980 on civil rights issues in immigration, the U.S. Civil Rights Commission condemned INS search tactics because they relied too heavily on racial profiling or otherwise lacked reasonable suspicion. The Commission recommended a cessation of all

¹¹¹ Culp, "Immigration and Naturalization Service and Racially Motivated Questioning," 818.

¹¹² *Ibid.*, 820.

its area control operations until the Service could establish better search criteria.¹¹³

Therefore, keeping race from being the sole factor in investigations was, therefore, an obstacle to the work of the Immigration Service in the Southwest.

As a result of this difficult situation, the INS attempted to focus its effort on the border itself, where everyone was subjected to questioning as a condition of entry. As immigrants moved into the interior of the country, it was more difficult for immigration officers to seek them out without potential civil liberties violations. In its focus on the points of entry, the INS tuned increasingly to military-type surveillance and search tactics along the border in the 1970s.¹¹⁴ Following up on the precedence set by Commissioner Swing during Operation Wetback, the INS and Border Patrol functioned more and more like a military body. These tactics, however, also drew criticism from human rights activists and American citizens concerned with the creation of a military zone along the nation's borders.

With the Immigration and Naturalization Act of 1965, Lyndon Johnson attempted to humanize and deracialize immigration policy, but the legacies of the Immigration Act show that it fell short of Johnson's goals. Senator Edward Kennedy—one of the bill's most adamant supporters—had also believed that the INA stood “with legislation in other fields—civil rights, poverty, education, and health—to reaffirm in the 1960's our nation's continuing pursuit of justice, equality, and freedom.”¹¹⁵ Unfortunately, rather than be a watershed moment in immigration history and civil liberties, the implementation of the law revealed that little actually changed for the better for immigrants entering the United States from

¹¹³ United States Commission on Civil Rights, *Tarnished Golden Door*, 138.

¹¹⁴ For an account of this process, see Timothy J. Dunn, *Militarization of the U.S.-Mexico Border, 1978-1992*.

¹¹⁵ Kennedy, “Immigration Act of 1965,” 138.

Mexico. While the INA offered some potential immigrants greater opportunities, it resulted in stricter limitations for other groups—namely immigrants from the western hemisphere and groups that were subjected to scrutiny because of the long list of excludable conditions and behaviors in immigration law. If the 1924 (Johnson-Reed) National Origins Act ushered in the most restrictionist era in American immigration law, the 1965 INA, which ended that period, “altered and refined but in no way overturned the regime of restriction.”¹¹⁶

For much of the history of U.S.-Mexico border crossings, the government paid little attention to how many people made the trek, where they lived and work, and how long they stayed. This was due almost exclusively to the fact that U.S. employers desired the cheapest workforce available and Mexican workers were eager for work north of the border. The numerical limitations placed on western hemisphere immigration caused a dramatic increase in the number of undocumented immigrants entering the U.S. from Mexico—a phenomenon that has continued into the twenty-first century. Undocumented workers were not considered a national problem because their employers no longer wanted their labor. Mexicans workers, documented or undocumented, were welcomed in the U.S. as long as their labor was needed.¹¹⁷ Economic trouble in the 1970s and humanitarian concerns for undocumented workers, however, in combination with the increasing numbers, brought new national attention and scrutiny to the issue. The Immigration Service was not prepared for the situation or the attention and had a difficult time adjusting to the policy changes in the years immediately after the 1965 law went into effect. Indeed, the Service would continue to struggle throughout the 1970s. The Service, under the leadership of Leonard Chapman,

¹¹⁶ Ngai, *Impossible Subjects*, 265.

¹¹⁷ García, *Operation Wetback*, xvi.

launched a publicity campaign to prompt government action. The federal government was slow to act, but by the time Gerald Ford took office in 1974, it was clear that something needed to be done about the situation. Ford's first task was to gather much needed information on the subject.

Chapter 3
“A Lack of Basic Information”:
The INS and Federal Government Address Immigration

Leonard Fielding Chapman, Jr. immediately stirred controversy when President Richard M. Nixon nominated him to head the Immigration and Naturalization Service in the fall of 1973. Recently retired from a distinguished military career, Chapman had established himself as a man who “epitomized everything it [meant] to be called a Marine,” and he brought a reputation of tradition and discipline to the Immigration Service. When Chapman entered a room, the handsome, ramrod-straight general with a touch of silver hair at his temples immediately drew attention, and that was not something from which he shied away. Civil rights activists reacted to Chapman’s appointment negatively, claiming that he had no background or training needed for the post. Others believed that his qualities as “a gentleman and a leader” would be enough for him to lead the INS effectively. When starting in his new position, it was unclear what kind of leader Chapman would be, but his appointment to the Immigration Service was one of the most pivotal events to occur in U.S. immigration matters after the passage of the 1965 Immigration Act.¹

Chapman was such a significant figure because he took over leadership of the INS at a time when the issue of undocumented immigration across the U.S.-Mexico border became a nationally debated subject. The INS—always on the front lines of all things related to immigration—would be the first government agency to see the effects of the 1965

¹ Profile of Leonard F. Chapman, buried in Arlington National Cemetery, <http://www.arlingtoncemetery.net/lchapman.htm>, accessed May 2, 2013; “Marine to Head Immigration,” *El Paso Herald-Post*, October 6, 1973; Gene Goldenberg, “End of Open Door for Immigrants Gets Consideration,” *Albuquerque Tribune*, December 14, 1973; “Selection Opposed,” *California Press-Courier*, October 10, 1973.

Immigration Act on the border. The Service predicted an increase both in sanctioned and unsanctioned border crossings in the aftermath of the INA's implementation in 1968 and, as those predictions came true, the INS was also the first agency to raise public awareness of the "dangers" associated with unsanctioned immigration. The publicity campaign launched by the INS in the early 1970s caught the attention of the Gerald R. Ford administration and the national media. Political figures and the press credited INS Commissioner Leonard Chapman with bringing the issue to light.² This chapter examines the early efforts of the INS to raise awareness of the situation along the border and the Ford administration's response to the immigration issue, as it was the first presidential administration to give the subject serious attention. Ford's administration took a more moderate approach to the issue than the INS did under Chapman's leadership, and the conflicting perspectives on undocumented immigration hindered agreement on an effective solution.

By the early 1970s, the INS was frustrated by the difficulty of carrying out its mandate and eager to inform policymakers and the general public about its difficult job and some of the unforeseen consequences of the 1965 Immigration and Naturalization Act, and the Service found a person to vocalize their concerns in the new commissioner, Leonard Chapman. Controversy surrounded Chapman's appointment, and observers watched intently to see what sort of leader Chapman would make as a civilian. The Florida native and 1935 University of Florida graduate had seen combat at the battles of Coral Sea and Midway and as a battalion commander in the brutal Battle of Peleliu during World War II. He was later awarded the Bronze Star at Okinawa. An artillery officer by training, he rose through the

² Bob Duke, "Ford Deeply Disturbed by 'Invasion,'" *El Paso Herald Post*, January 8, 1975.

postwar Marines, culminating in his appointment by Lyndon Johnson as commandant of the Marine Corps in 1967, whereupon he received his promotion to four-star general. When he became the commandant of the Marines at the height of the Vietnam War, Chapman faced many of the new and daunting challenges that conflict presented to the military. Many Vietnam-era officers could have—and did—respond to those challenges by trying to impose their World War II mindsets on their men. Chapman himself resisted efforts to relax the strict and Spartan atmosphere of the Marines for recruitment purposes. But perhaps as a consequence of being the son and grandson of Methodist ministers, Chapman also seemed to possess sensibilities that might not have been expected of man in his position.³

Following a 1969 race riot at Camp LeJeune, North Carolina, Chapman declared that “Every marine must understand that the Marine Corps does guarantee equal rights, equal opportunity, and equal protections, without regard to race.” Later, confronted by racial conflicts between black and white Marines in Vietnam, he responded by combining discipline with “a broad range of programs designed to recognize black cultural symbols, promote understanding between the races and eliminate discrimination in assignments and promotions.” One of these programs was a “human relations school” that he established at the San Diego Marine Corps Recruit Depot. Said to have possessed a wry sense of humor, he nonetheless was known as an “organization man,” noted for his “cool efficiency.”⁴

So upon taking over the INS, it was difficult to say which Leonard Chapman would emerge: the by-the-book commander who was accustomed to issuing orders and having

³ Elizabeth Becker, “Gen. L. F. Chapman, 86, Dies; Former Marine Commandant,” *New York Times*, January 11, 2000.

⁴ Elizabeth Becker, “Gen. L. F. Chapman, 86, Dies; Former Marine Commandant,” *New York Times*, January 11, 2000; “Obituary: Leonard Chapman; Headed Marines, INS,” *Los Angeles Times*, January 11, 2000.

them obeyed, or the more flexible innovator who instinctively knew how to adapt an organization to changing circumstances. The picture of Chapman as a leader of the INS emerged soon enough. Within two weeks of taking office, he made it clear that he would depart from convention by taking positions on policy matters, unlike his predecessors who preferred to avoid politics and serve only as administrators. Although he occasionally expressed sympathy for the plight of undocumented immigrants, he took a hard line on the issue and compared unauthorized immigration to an attack on the United States. Chapman's time as commissioner of the INS proved him to be a tough and proactive leader who supported his men and found an enemy on whom to focus attention and energy.⁵

The tone of the Immigration Service's public awareness campaign reached a new level of urgency under Chapman's direction. Initially, Chapman took a moderate approach to the situation along the border, but his tone and tactics changed quickly, as did his use of facts and figures. For example, soon after Chapman took over as commissioner in November 1973, he estimated that the number of undocumented immigrants in the country was about three million. By the spring of 1974 he had raised that figure to between five and six million at the low end of the estimate (with the upper range varying from eight to twelve million). Better information may have accounted for the change in Chapman's estimate, but given the general consensus among government officials and other experts that there was an astounding lack of reliable data on the subject, it seems more likely that Chapman adjusted his numbers to help push his case for more support and legislative change. Other statements from Chapman support this speculation. For instance, he conceded before a congressional

⁵ "Immigration Chief to Do Duty: Notes on People," *New York Times*, December 15, 1973; Gene Goldenberg, "End of Open Door for Immigrants Gets Consideration," *Albuquerque Tribune*, December 14, 1973.

subcommittee on immigration in April 1974 that the suggested figures of unauthorized immigrants in the U.S. numbering in the five million range was “a personal estimate” and acknowledged it was “just a guess, that is all. Nobody knows.”⁶ Before Chapman, INS estimates of undocumented immigrants hovered around one million. Raymond Farrell, Chapman’s predecessor as INS commissioner, testified before a congressional hearing in 1972. He acknowledged, “There are many illegals here,” but he also stated that he did not “know whether it is in the millions.”⁷ Another predecessor of Chapman, James Greene, who served as temporary acting commissioner before Farrell and was chief of operations in 1972, told *U.S. News and World Report* that “the situation is not out of control despite some scare stories—but the problem is growing and causing concern.”⁸ During Chapman’s time as commissioner, the Service itself would be a source of the “scare stories.”

Another example of Chapman’s evolving use of the facts related to the perceived dangers of undocumented workers to the U.S. job market. In July 1974, Chapman admitted that undocumented workers “do occupy a number of jobs that it’s difficult, if not impossible, to find an American to fill.”⁹ By the fall of 1976, Chapman was asserting that it was “not true” that most American workers would be unwilling to perform the jobs usually held by

⁶ *Immigration and Naturalization Service Oversight, Hearings Before the Subcommittee on Immigration, Citizenship, and International Law, 93rd Cong. 27 (1974)* (Statement of Leonard F. Chapman, Commissioner, Immigration and Naturalization Service).

⁷ *Illegal Aliens Hearings (Part 5)*, 1309 (statement of Raymond Farrell, Commissioner, Immigration and Naturalization Service).

⁸ *U.S. News and World Report*, January 17, 1972.

⁹ *U.S. News and World Report*, July 22, 1974. Chapman blamed the lack of American interest in certain jobs, in part, on the welfare system.

undocumented workers.¹⁰ Some of Chapman's changing rhetoric and tone is certainly due to his becoming more informed on the issue, but part is also likely due to his efforts to gain more attention to the subject as he grew increasingly discouraged by the huge job with which his Service was tasked.

As commissioner, Chapman opined repeatedly on the negative influence of undocumented immigration in both economic and social terms and consistently characterized it as a bad problem that was getting worse. Stressing the economic and social costs of undocumented immigration, Chapman told the Maryland Chiefs of Police Association and the Advertising Club of Baltimore that undocumented immigration cost the U.S. billions per year in "jobs taken by illegal aliens and taxes that they often fail[ed] to pay, in wages earned in this country and sent out of the country and in the cost of welfare and other services."¹¹ In 1975, Chapman outlined some of the ways immigrants "drained" the economy. They used "social and welfare services," he wrote, and sent "their children to schools, often at considerable additional costs to taxpayers." Even more problematic, according to Chapman, was the fact that the immigrant children spoke "little if any English," so "special courses and additional teachers [were] required to assist them." Chapman concluded by declaring that there were "many examples of how illegal aliens utilize welfare and public services without paying a share of the cost."¹² Chapman hit on the same theme on other occasions when he insisted that "illegal aliens routinely avoid[ed] hundreds of millions of dollars in both state

¹⁰ *Readers Digest*, October 1976.

¹¹ "Chapman Urges Legislation for Curbing Illegal Aliens," *New York Times*, November 17, 1974.

¹² Chapman, "Illegal Aliens," *I & N Reporter*, fall 1975.

and federal taxes,” and that they sent out of the country “more than \$3 billion in wages each year.” He also argued that “Illegal aliens and their offspring also benefit[ed] from public services such as welfare, medical care and free education. Few, if any, [paid] their share of the cost.”¹³

Getting his message out was a clear part of Chapman’s agenda as head of the INS. He explained in the Service’s newsletter, *Open Line*, in 1974,

Service officials nationwide are getting the message before the public with newspaper, TV and radio interviews. As a result, the news media is reporting daily on many areas of our activities, with the major story being the illegal alien situation, our lack of necessary resources to cope with the problem . . . and the alleged corruption of the INS.¹⁴

Chapman skillfully used public speaking engagements and the national press to spread his views on immigration. He was a busy man his first full year in the job, making numerous public appearances and giving interviews. In the fall of 1974 he did an interview with the *New York Times* on unauthorized immigration and appeared in an ABC documentary on undocumented workers that aired in January of 1975. He also spoke in December to the New York Chamber of Commerce and Industry in New York City. All of these things Chapman reported to INS personnel through the *Open Line*.¹⁵ In these appearances and interviews, Chapman pushed the urgency of the situation. For example, he labeled undocumented

¹³ *Readers Digest*, October 1976.

¹⁴ *Open Line*, INS Central Office, Vol. 1 No 24, Dec. 11 1974, United States Citizenship and Immigration Services Historical Reference Library, Washington, D.C. (hereafter USCIS Library).

¹⁵ *Open Line*, INS Central Office, Vol 1. No. 23, November 27, 1974, USCIS Library.

immigration as “an alarming problem that is totally out of control” before a Miami audience in 1975.¹⁶ In an article published in *Reader’s Digest* in October 1976, Chapman once again pushed for action: “When I became commissioner . . . in 1973, we were outmanned, under-budgeted, and confronted by a growing, silent invasion of illegal aliens,” Chapman wrote. “Despite our best efforts, the problem – critical then – now threatens to become a national disaster.”¹⁷ Chapman also utilized language that heightened national security fears by repeatedly referring, for instance, to an “invasion” of undocumented immigrants.

Chapman also spoke before anti-immigrant groups like the Zero Population Growth and the Population Institute that were taking advantage of the growing concern over undocumented immigration to push a xenophobic agenda. He told a meeting of those two organizations in July 1976 that undocumented immigration was “one of the most serious problems our nation is facing.” Chapman lamented that the “problem” of undocumented immigration was “clouded by considerable rhetoric and emotion.” He explained that there were many who attempted “to cover up the facts through emotional and humanitarian appeals,” and he suggested that the appeals often carried weight “because of the generous and sympathetic nature of the American public.” In addition to chiding the American public for its sympathy, Chapman also defended himself against attacks on the Immigration Service, claiming that there were “many attempts, also, to try to hide this problem by making unfounded, non-specific charges of ‘police state tactics’ on the part of the Immigration Service.” Revealing a hint of his more compassionate side, Chapman conceded,

¹⁶ “Immigration Head Voices Alarm over the Problem of Illegal Aliens,” *New York Times*, Dec. 21, 1975.

¹⁷ *Readers Digest*, October 1976.

I wish this country could accommodate the millions who wish to come here. It is impossible not to feel sympathy and want to help persons who are without work, are living in poverty and can do little to earn income to support their families. However, when the immigration situation in this hemisphere and in the United States is looked at under the cold light of reason, and the emotion is stripped away, we are left with some very bitter and frightening facts. These are facts which no amount of argument will change, and which foretell a very grim future for this country's well being.¹⁸

In this statement Chapman outlined two conflicting views of immigration that could drive policymaking: the humanitarian perspective and the economic/national security perspective. Of the two, Chapman's approach was clear. He worked hard to urge that approach in the legislative and executive branches of government.

To accomplish greater government involvement, Chapman reported to Congress his opinions on the serious consequences of undocumented immigrants living in large numbers in the United States, and he elaborated on information the INS had presented to Congress before he became commissioner. The INS submitted a report to Congress in July 1973, for instance, titled "More Needs to be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States" in which it clearly outlined problems typically associated with undocumented immigration including "dollar drain, health, crime, tax drain, energy

¹⁸ Statement by Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, Before the Zero Population Growth and The Population Institute, National Press Club, July 27, 1976, "Illegal Aliens (4)" folder, Box 8, Domestic Council Dawn Bennett-Alexander files, Gerald Ford Library, Ann Arbor, Michigan (hereafter Ford Library).

drain, subversives, and welfare.”¹⁹ In testimony before the House Committee on Immigration in March 1975, Commissioner Chapman followed up on that report and observed, “We have also taken action over the past year to inform the American public and the Congress as to the scope, characteristics and economic impact of the illegal alien population on the American society. This has been done in the hope that public knowledge of the seriousness of this problem will result in action to resolve it.”²⁰

In a letter that was forwarded to Alan Greenspan, chairman of the Council of Economic Advisers under President Ford, Chapman once again made the case for the devastating influence of undocumented immigration on the U.S. economy and explained, “Even if we suppose that the present population of illegals does no serious damage to our society—something I do not believe—can we allow it to double? To triple? . . . I think no reasonable person can deny that we must take quick, decisive action to halt this flood. The problem will not go away by itself.”²¹ These comments supplemented repeated requests for more funds and manpower from Congress that frequently went unfulfilled.

The press helped spread the image of an “invasion” and other dangers associated with undocumented immigration by largely adopting the rhetoric of the Immigration Service. The *New York Times*, for example, reported, “illegal aliens have mounted what immigration

¹⁹ Report to the Congress, “More Needs to be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States,” July 31, 1973, “Illegal Aliens (2)” folder, Box 3, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

²⁰ Statement by Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, Before the House Subcommittee on Immigration, Citizenship and International Law, March 19, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

²¹ Leonard Chapman to Mel Laird, September 23, 1974, “IM 10/1/74- 11/30/74” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

authorities call a ‘silent invasion.’”²² Many people living on the “frontlines” of the undocumented immigration situation in Border States likewise echoed the fears and frustrations of INS officials. Members of the local press paid special attention to the pressure that immigration placed on state resources. An article in the Texas *Baytown Sun* bemoaned the “severe drain on our society” caused by high numbers of undocumented migrants. The article cited that fact that unsanctioned immigrants paid no taxes and went on welfare. The reporter complained that Americans spent “millions every month supporting people who are not supposed to be here at all,”²³

The efforts of the INS, and Leonard Chapman in particular, to spread the message about the problem and repercussions of undocumented immigration were successful. They had the immediate effect of helping to draw federal attention to the issue and, in the longer term, influenced how much of the national media covered the subject, and shaped some public opinion on the topic. The INS believed that President Ford was “deeply disturbed” after hearing reports about the immigration situation.²⁴ The INS also suffered from this growing attention, however, as public scrutiny on the agency compounded its enforcement problems. Reflecting this transition, the tone of the intra-agency newsletter shifted in 1978 from highlighting efforts to educate the public to emphasizing specific actions taken by the Service to diminish the perceived problem of undocumented immigration. Editions after 1978, for instance, contain a section titled “enforcement highlights.” Interestingly, the name

²² M. A. Farber, “Million Illegal Aliens in Metropolitan Area: ‘Silent Invasion’ paralyzes Immigration Law-Enforcers,” *New York Times*, December 29, 1974.

²³ Tom Tiede, “Officials Getting ‘Alienated’ Over Immigration Problems,” *Baytown (TX) Sun*, August 7, 1974.

²⁴ Bob Duke, “Ford Deeply Disturbed by ‘Invasion,’” *El Paso Herald Post*, January 8, 1975.

of the newsletter changed as a reflection of the shift. After 1978, the newsletter was called *Commissioner's Communiqué* rather than *Open Line*. Although the purpose of the newsletter remained the same—to communicate information from INS leadership (generally the commissioner or deputy commissioner) to all employees of the Service, the name reflected that this was intended to be a one-way, top-down effort. This approach differed from the earlier version of the newsletter, which promoted a more democratic line of communication.

For its part, the Ford administration listened to the INS with a degree of skepticism and preferred to find out more information before taking action, even though Chapman and others pushed for urgency in the matter. As the agency in charge of immigration, the INS was the first governmental body to observe how immigration policies crafted in Washington worked along the nation's borders. Indeed, the INS was the organization charged with the law's implementation and was thus in a unique position to report on the efficacy of policy and to identify obstacles to successful enforcement. Although INS leadership, followed by many in the media, used extremely aggressive rhetoric in its discussion of undocumented immigration, the federal government was reserved in its own reaction. First under Nixon and then under Ford, federal response was moderate and calculated. Both presidents preferred to study the issue before action. By the time Ford became president after Nixon's resignation in August 1974, the INS and other groups interested in immigration from Mexico pushed for more assertive leadership on the issue. Ford took some initiative by forming two cabinet-level committees, strengthening relations with Mexico, and including Mexican Americans in his administration.

Immigration became an increasingly significant subject during Ford's term in office, though initially he was burdened with many pressing issues; clearly, healing the nation after

the Watergate scandal took priority. Immigration from Mexico, especially unsanctioned border crossings, however, required attention. And as a president during a time when the nation looked to presidential leadership on immigration, the issue required specific attention from the executive branch.²⁵ Ford's first step, therefore, was to assure those concerned with immigration issues that it was an important subject in national security, economic, and humanitarian terms. Ford's press secretary described undocumented immigration from Mexico as "a severe national problem" that was particularly serious for "those cities and states nearest the Mexican border."²⁶ The Ford administration also observed the disconnect between the law and reality along the border. "Actual immigration," a statement from a committee created by Ford to study immigration acknowledged, "bears little relation to the program prescribed by law."²⁷ National developments on immigration during the Ford administration are important for several reasons. First, the issue of undocumented immigration—particularly from Mexico—crystallized as a national problem during Ford's presidency and would remain so for subsequent decades. Second, congressional hearings on the implementation of the INA, the functions of the INS, and the topic of undocumented

²⁵ Hans P. Vought argues that Americans look to their political leaders, especially presidents, to mediate public debates over immigration. Presidents need to take seriously the concerns of residents in states with large immigrant populations who may feel overwhelmed by the social and economic costs of large immigrant populations, but presidents also represent the entire country and should therefore celebrate diversity. See Vought, *The Bully Pulpit and the Melting Pot: American Presidents and the Immigrant, 1897-1933* (Macon: Mercer University Press, 2004), ix-x.

²⁶ Ron Nessen to J.J. McGrath, January 24, 1975, "IM 1/1/75-4/76/75" folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

²⁷ Domestic Council Committee on Illegal Aliens, "Background and Proposed Organization Plan," undated, "Illegal Aliens, January-November 1976" folder, Box 18, Domestic Council James M. Cannon files, Ford Library.

immigrants held while Ford was in office revealed the complexity of the issue and shaped policy discussions in future administrations. Finally, the tone the Ford administration took towards undocumented immigration represented a potential for civil debate on the issue that became less feasible the longer it took to find effective and humane policies because opinions and attitudes hardened over time. Ford remained a moderate on the issue and in his rhetoric. His administration, for example, acknowledged that undocumented immigration was a problem that needed a solution, but also explained that the nation looked “with compassion upon these economic refugees, who come to the United States seeking a better life.”²⁸ The rhetoric of those around Ford, however, particularly in the INS, became more radical as Ford stressed patience.

Ford’s primary contribution to immigration issue was to press for better understanding of the situation along the border and the conditions of those living in the United States without legal status. He accomplished this by gathering background information from studies initiated by the Nixon administration and, most significantly, forming his own Domestic Council Committee on Illegal Aliens in January 1975. Ford also took concrete action on the issue of immigration in notable ways. He sought to maintain good relations with Mexico during his administration, recognizing that immigration policy was an element of foreign diplomacy. Ford also supported legislative action on topics related to immigration, including proposals for employer sanctions legislation and the passage of amendments to the 1965 Immigration Act in 1976. Ford was willing to act on matters that he

²⁸ Ron Nessen to J.J. McGrath, January 24, 1975, “IM 1/1/75-4/76/75” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

believed needed immediate attention while he awaited more information on issues he thought needed more time and information before action.

In office, Ford and members of his administration fielded questions and weighed advice on the topic of undocumented immigration from government officials, local politicians, and the general public—especially residents living along the U.S.-Mexico border. These conversations helped inform the Ford administration and shape its policies. Much of the government communication came from the Department of Justice, of which the Immigration Service was a part. The attorney general, for example, submitted a memo to Ford on the topic as a follow-up to a brief meeting between the two men when Ford took office in August 1974. Using language characteristic of the INS, Attorney General William Saxbe affirmed that he believed the presence of “massive numbers of illegal aliens” in the country constituted “a severe national crisis” and contributed to troubling problems like inflation and unemployment. The memo also bemoaned the “substantial drain on state and local social services” and the sending of U.S. money abroad in the form of wages earned by undocumented immigrants.²⁹ Direct communication from the Justice Department and INS as well as the rhetoric disseminating from them to the general public ensured that immigration would receive growing attention from the Ford and subsequent administrations.

Ford heard from politicians concerned with the issue as well. Senator John Tunney (D-CA) and Representative Edward Roybal (D-CA) wrote the administration to request that no action be taken which would increase the flow of immigrants into the United States from

²⁹ William B. Saxbe to Gerald Ford, memo, undated, “IM Immigration and Naturalization 8/9/74-9/30/74” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

Mexico.³⁰ Senator Tunney argued that California, in particular, faced “a crisis of major dimensions brought on by a mounting wave of illegal entrants into the state.”³¹ Senator Howard Cannon (D-NV) also wrote Ford to complain about potential cuts to immigration detention and deportation funds. Cannon stated that he found Ford’s announcement in November 1974 that he wanted to rescind \$1.3 million “very disturbing, especially in view of your recent statements on the nation’s serious unemployment problem.” He wrote again to report that “Illegal alien arrests [had] almost completely terminated” as a result of the proposed rescission.³² Similarly, Congressman Robert Mollohan (D-WV) opined, “it would be most unfortunate if the flow of such [Mexican] workers were increased,” because of the employment situation in the U.S. and the exploitation of documented and undocumented Mexican immigrant workers.³³ State Senator Manuel Pena (D-AZ) expressed consternation for the potential that he saw for the administration to propose plans that would “permit the displacement or dislocation of American citizens and legal resident aliens from jobs they

³⁰ Tom C. Korologos to John V. Tunney and Max L. Friedersdorf to Edward R. Roybal, October 21, 1974, “CO 100 Mexico 8/9/74-10/31/74” folder, Box 37, White House Central Files Subject File Mexico; John Tunney to Gerald Ford, telegram, October 18, 1974, “IM 10/1/74-11/30/64” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

³¹ John Tunney to Mr. and Mrs. Steele, June 5, 1974. “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

³² Howard W. Cannon to Gerald Ford, January 10, 1975, “IM 12/1/74-12/31/74” folder, Box 1, White House Central Files Immigration File; and Howard W. Cannon to Gerald Ford, February 21, 1975, “Illegal Aliens (1)” folder, Box 36, Domestic Council Frederick Lynn May Files, Ford Library.

³³ Robert Mollohan to Gerald Ford, October 17, 1974, “IM 10/1/74-11/30/74” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

hold or seek to hold” and allow those jobs to go to temporary Mexican workers.³⁴ Local leaders like Santa Ana Mayor Jerry Patterson also wrote to Ford to share his worries about increasing immigration and potential problems.³⁵ California congressional candidate Wes Marden proposed his own solutions. “The responsibility of a solution must be shifted to where it belongs, the Mexican government,” he wrote. To achieve this, Marden proposed the U.S. government seal the border with Mexico, which would cause a back-up of potential Mexican immigrants to build in Mexico along the border and thus “transfer the problem to where it belongs, forcing the Mexican government to take the necessary steps toward a solution of their problem.” Marden maintained that such actions were necessary because “our congressional representatives have failed miserably in their attempt to solve the problem.”³⁶ A member of the American Federation of Government Employees wrote in support of Marden’s proposals, acknowledging that they “may be politically unpopular at this time,” but were nonetheless important to consider because the Border Patrol no longer had “the means to enforce U.S. immigration laws.”³⁷

American citizens shared their opinions as well. Ruminating on the subject that was doubtless on many American minds in the aftermath of Watergate, the Steele family from California wrote to Ford and reasoned, “If a President of the United States (Richard M.

³⁴ Roland L. Elliott to Manuel Pena, October 14, 1975, “IM 9/1/75-12/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

³⁵ Jerry M. Patterson to Gerald Ford, November 26, 1974, “IM 1/1/75-3/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

³⁶ Wes Marden to Gerald Ford, April 9, 1976. “IM 6/21/75-9/30/75” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

³⁷ H Randolph Williamson to Gerald Ford, April 9, “IM 6/21/75-9/30/75” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

Nixon) can be called to account for his actions and suitably dealt with, there can be no reason why the illegal alien should not be called to account for his actions and suitably dealt with.”³⁸ However one might judge the relative sins of Richard Nixon versus undocumented immigrants, the opinion of the Steeles enjoyed much support. A New York resident wrote the president with his straightforward plan that consisted of three parts: 1. Close the border for an entire year; 2. Deport undocumented immigrants in the country during that year; 3. Make the INS more efficient.³⁹ Many Americans would likely have supported such a plan, but it was much easier said than done. Ford rejected demands that he seal the border. He also dismissed the idea of a moratorium on immigration and toyed with the notion of amnesty for immigrants living in the United States without status. Everyone, however, appeared to be in agreement about making the INS run more efficiently.

In general, discussion of the INS and its problems and mandate was a popular topic for citizens writing the administration regarding immigration matters. The wife of a U.S. Border Patrol officer from Bonita, California described the INS as a “little-known agency” with a “great responsibility laid upon it” and explained that the Border Patrol was “a small key that holds together the basic framework of our Nation.” She criticized Congress for

³⁸ James W. and Grace S. Steele to Gerald Ford, August 19, 1974, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

³⁹ Edward Ledesma to Gerald Ford, September 29, 1974, “IM Immigration-Naturalization 8/9/74-12/31/71” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

hesitating to fund the INS and claimed that the INS was “so ill-served by Congress that the functions of the Agency [were] endangered.”⁴⁰

Much of the correspondence, however, expressed concern about the recent questionable activities of the INS (which will be addressed more fully in the next chapter) and its leadership. Some immigration supporters focused on the rhetoric coming out of the INS and criticized Leonard Chapman. Immigrants’ rights activist Fred Ames asserted that Chapman had “actually poisoned the minds of the entire American public with exaggerations and outright lies, just for the sake of attracting more funds to his operation.” Ames went so far as to call for Chapman’s arrest.⁴¹ Sean Ferguson, a staff member for Concerned Citizens for Justice for Immigrants, sent an open letter to U.S. Senators titled “The Illegal Alien: An Artificial Problem.” The letter alleged that the INS had “been portraying the impact of illegal immigration into the United States as being a crisis of increasingly dangerous proportions.” The letter noted that INS officials had “promoted the image of a ‘silent invasion’ of illegal aliens in such outrageous terms and with such outlandish statistics that it would be humorous if it were not for the tragically unjust effects they have been having upon immigrants of *legal* as well as illegal status.” Ferguson also described the “reckless leadership of General Leonard F. Chapman” and sought to illuminate the “deceit being perpetrated by the Chapman-led INS.” Ferguson’s letter concluded that Chapman and others in the Immigration Service had

⁴⁰ Muriel C. Watson to L. William Seidman, December 2, 1974, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁴¹ Fred Ames to Gerald Ford, February 25, 1976, “Illegal Aliens (2)” folder, Box 3, Public Liaison Office Thomas Aranda files 1976-1977, Ford Library.

deliberately placed political, bureaucratic and personal motives above justice and honesty. For the sake of aggrandizing his power and persuading the Congress to grant his agency an additional \$50 million in appropriations, General Chapman has organized an outrageous WAR against a small minority of industrious people whose only sin has been their valiant quest of the American Dream.⁴²

Government proceedings also reflected some concern for the data from and tactics of the INS. Upon review of testimony from Commissioner Chapman before the House Committee on Immigration on March 19, 1975, for example, White House aides Frederick Lynn May and Dick Parsons took issue with some of Chapman's conclusions. While they found the entirety of the statement to be "essentially . . . unobjectionable" they did point out areas of concern. In response to Chapman's pushing for employer sanctions legislation, Parson suggested, "endorsement of specific legislation should be avoided" because of "current efforts to develop a cohesive Administration policy on the illegal aliens question." Parson also asserted that Chapman's claims that enforcement of employer sanctions legislation would add a million jobs for unemployed Americans was "factually unsupportable."⁴³

Other individuals and groups joined in the challenge to the "facts" coming out of the INS. Activist Fred Ames targeted what he described as Leonard Chapman's "unethical maneuverings." He maintained that the media had been "duped" since "there has been no

⁴² Sean Ferguson to unidentified Senator, undated, "Ames, Fred" folder, Box 7, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁴³ Dick Parsons to Jay P. Brenneman, memo, March 18, 1975, "Illegal Aliens (2)" folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

proper ‘substantiation’ and the general public has been ‘poisoned’ 100%.”⁴⁴ Similarly, the Center for Migration Studies lamented that in recent weeks, the national media had “focused on the presence of illegal immigrants in the United States associating them with either criminality or the sabotage of the national economy.”⁴⁵ There were numerous such examples of concerned citizens writing to criticize existing laws and enforcement, but not everyone supported policies that were more stringent.

Some people wrote in support of lenient immigration provisions, such as California Controller Houston Flourney, who contacted Ford to suggest easing requirements for citizenship. He also advocated for a “temporary moratorium on immigration” in order to “address ourselves to the problems and inequities continually experienced by law-abiding citizens who have worked and lived in our country without citizenship documentation.”⁴⁶ Advocates of more lenient citizenship requirements suggested changes such as decreasing the time of residency from five years to two, and allowing immigrants to test in their native language. Charities frequently spoke on behalf of immigrants’ rights. The Most Reverend James Rausch, general secretary of the United States Catholic Conference, for example, wrote to members of the Ford administration to express support for “legislation which would grant meaningful amnesty to those aliens who had been residing in this country for some

⁴⁴ Fred Ames to Maurice Kiley, February 27, 1975, “Illegal Aliens-Dr. Marrs’ Files-Background Information (2)” folder, Box 4, Public Liaison Office Thomas Aranda files 1976-1977, Ford Library.

⁴⁵ Center for Migration Studies to “Friend”, February 19, 1975, “Immigration-Aliens” folder, Box 4, Public Liaison Office Fernando E. C. De Baca files 1974-1976, Ford Library.

⁴⁶ Gerald Ford to Houston Flournoy, December 3, 1974; Houston Flournoy to Gerald Ford, October 27, 1974, “IM 12/1/74-12/31/74” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

time and in particular to those who had established family here.” Rausch also stressed “our opposition to any punitive measures by the Federal government against these persons,” and protested current employer sanctions legislation pending in Congress. “If enacted in this form, this legislation [would] create a serious civil rights problem,” and it could have resulted “in inhumane and immoral treatment of large numbers of very poor people who have been residing in this country for a number of years, many of whom have established families here,” he wrote.⁴⁷ The Catholic Conference also wrote to Attorney General Laurence Silberman, chairman of the Domestic Council Committee on Illegal Aliens, to state that the Conference stood with President Ford in indentifying the issue of immigration as one involving “not only economic but also moral and social problems for millions of our residents whether they be citizens, permanent resident aliens or undocumented aliens.”⁴⁸

Some wrote to appeal to influential members of Congress. A vocal activist from Concerned Citizens for Justice for Immigrants complained that congressional inactivity on immigration issues was “truly tragic—for one million poor defenseless human beings are in complete panic.” The letter called out Senator James O. Eastland (D-MS), chairman of the Senate Judiciary Committee, for not holding a formal immigration meeting for ten years “because of a conflict of interest or . . . just plain stubbornness.” The writer asserted, “all fears expressed heretofore by skeptics on granting relief to those who have overstayed their stay are unfounded. The gloom and doom artists who have caused all the past difficulties

⁴⁷ James S. Rausch to Gerald Ford, September 2, 1975, “IM 9/1/75-12/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

⁴⁸ United States Catholic Conference to Laurence H. Silberman, January 31, 1975, “Illegal Aliens-Dr. Marrs’ Files Correspondence (2)” folder, Box 4, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

and have ruined our cherished good neighbor policy should be ignored.”⁴⁹ While some citizens and politicians had called for a moratorium on immigration, many immigrants’ rights advocates called for a moratorium on *deportation*, such as Fred P. Ames, a former social worker and president of the Concerned Citizens for Justice for Immigrants.

In addition to writing regarding policy positions, some groups were concerned with the quality of living for undocumented immigrants in the United States. The Diocese of Tucson released a press statement on April 12, 1976 raising the issue of neglected *indocumentados* in American society. “Their personal dignity has to be recognized and their human rights have to be equally respected,” the statement read, and urged people to “examine closely the plight of our brothers among us without documentation, especially in view of the personal and family trauma that sudden deportation brings.”⁵⁰ Similarly, a counselor from the Compton Unified School District opined, “For the most part, the Mexican Nationals who come to the United States are honest, hard-working, decent people who want to have the opportunity to live and eat on a regular basis. They are not criminals or social outcast and, in no way, can they be classified as undesirable human beings.”⁵¹ These appeals most clearly illuminate the humanitarian concerns of many Americans.

In response to statements and correspondence on immigration, Ford chose to wait for reports from his committees studying the issue. “Until the joint commission has had an

⁴⁹ Fred P. Ames to James O. Eastland and Peter W. Rodino, undated. “Illegal Aliens (2)” folder, Box 3, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁵⁰ Diocese of Tucson, Press Statement, April 12, 1976, “Illegal Aliens-Dr. Marrs’ Files Correspondence (1)” folder, Box 4, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁵¹ Thomas E. Alexander to Charles Wilson, October 31, 1974, “Immigration-Aliens” folder, Box 4, Public Liaison Office Fernando E. C. De Baca files 1974-1976, Ford Library.

opportunity to study fully the entire question, I would not wish to take action to restrict immigration into the United States,” he explained.⁵² This sentiment had support from many Americans, particularly those in Border States, who feared a humanitarian crisis resulting from strict new policies. The director of the Southwest Regional Office for the Spanish Speaking, for example, wrote to the special assistant to the president on Mexican American affairs to express her “serious reservations” about pending immigration legislation. She supported the idea of public hearings on the issue before any legislative action be taken.⁵³ Still others remained unconvinced that legislative action was possible. One concerned couple in California, for example, acknowledged that many fellow citizens were “apathetic” and therefore not likely to support immigration reform.⁵⁴ In the meantime, Ford decided he needed more information on the subject.

To supplement and, perhaps, to challenge the information coming out of the Immigration Service, and to formulate a response to congresspersons and American citizens interested in the issue, Ford sought information on immigration from a wide range of experts. In this pursuit, Ford followed the example set by his predecessor. President Richard Nixon and Mexico’s President Luis Echeverría Álvarez met in 1972 and both governments subsequently formed groups to study the issue. In Mexico, government officials interviewed

⁵² Gerald Ford to Houston Flournoy, December 3, 1974, “IM 12/1/74-12/31/74” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

⁵³ Lupe Anguiano to Fernando de Baca, December 9, 1974, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁵⁴ James W. and Grace S. Steele to Leonard Chapman, April 26, 1974, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

voluntary returnees at the border to find out more about their experiences.⁵⁵ When he took office, Ford began by creating two governmental committees to study the issue. These groups conducted a broad study of immigration and set forth recommendations for action. Ford's administration also gathered information directly from other knowledgeable groups on the matter to inform its position, including Border State mayors as well as immigration scholars and advocates. Ford formed the first committee, the Inter-Agency Committee on Illegal Mexican Migration, after his meeting with President Echeverría of Mexico in October 1974, during which it was agreed that more information was needed. This committee combined members from the U.S. Departments of State, Treasury, Justice, Agriculture, Commerce, Labor, Health, and Education and Welfare, and had a counterpart committee in Mexico made up of Mexican officials from various state departments. Both of these committees considered the issue of undocumented immigration and any potential government action "in the specific context of U.S.-Mexican relations."⁵⁶ A second committee, the Domestic Council Committee on Illegal Aliens, considered primarily domestic implications of government action. The Domestic Council worked for months to gather information and produced a report that informed future policymaking decisions.

On January 6, 1975, Ford announced the creation of the Domestic Council Committee on Illegal Aliens "to develop, coordinate and present policy issues that cut across agency lines to provide better programs for dealing with the national problem of illegal aliens." The

⁵⁵ Domestic Council Committee on Illegal Aliens, December 1976, note, 127, "Illegal Aliens, December 1976" folder, Box 18, Domestic Council James Cannon files, Ford Library. (Hereafter DCCIA Report).

⁵⁶ Henry Kissinger to various government departments, memo, March 5, 1975, "IM 9/1/75-12/31/75" folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

Council was made up of the attorney general (chair), the secretaries of State, Treasury, Agriculture, Commerce, Labor, Health, Education, and Welfare, Assistant to the President William J. Baroody and the director of the Office of Management and Budget. Ford clearly thought the committee was necessary because of the lack of information on the subject of undocumented immigrants. INS Commissioner Chapman and other immigration officials took credit for the formation of the Domestic Council Committee. Assistant Commissioner Verne Jervis argued that the formation of the committee indicated “a growing support for INS’ campaign to stop the flow of illegal aliens into the United States.”⁵⁷ Among the first findings of the Domestic Council Committee was “the current total lack of solid data on the problem and the difficulty in obtaining it.” Others shared this opinion, including members of the United States Catholic Conference on Welfare, who observed, “There seems to be little doubt that the government itself recognizes its lack of basic information.”⁵⁸

Due to the complexity of the topic Ford gave it to study, and the wide range of opinions on both the scope of the problem and potential solutions, the Domestic Committee accomplished little initially and struggled to find a clear direction at first. Although the Committee concluded, “a dramatic lack of reliable information makes thorough analysis of illegal immigration impossible at this time,” it nonetheless made an attempt at an evaluation

⁵⁷ Bob Duke, “Ford Deeply Disturbed by ‘Invasion,’ *El Paso Herald Post*, January 8, 1975. See also Chapman’s testimony in March 1975 where he states that the creation of Ford’s Domestic Council Committee on Illegal Aliens “can be at least partially attributed” to the INS publicity campaign, Statement by Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, Before the House Subcommittee on Immigration, Citizenship and International Law, March 19, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

⁵⁸ “United States Catholic Conference Statement on ‘Illegal Alien’ Legislation,” August 20, 1975, “IM 9/1/75-12/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

of current policies and proffered several policy recommendations.⁵⁹ The Committee sought the advice of immigration officials and experts. Concerned citizens also hoped to have a voice in the Committee's deliberations. The director of Migration and Refugee Studies for the United States Catholic Conference, for instance, wrote to Ford troubled with the news that the Committee did "not include any representation from the private sector. The Church and other organizations," he continued, were "very concerned over the humanitarian aspects of this problem." He hoped that input from citizens like himself would help to find "a viable, humanitarian and permanent solution to the problem."⁶⁰

The Domestic Council committee published its findings in December 1976, and the publication reflected the breadth and depth of topics considered by the group's members. The report provided "an overview of the policy questions, assesse[d] current programs and knowledge and present[ed] recommendations for further action."⁶¹ Overall it struck a moderate tone, noting, for instance, that the border between the U.S. and Mexico was made without attention to cultural continuity and that great similarities existed between the southwest U.S. and northern Mexico even though an arbitrary land border separated them. Before getting into the substance of its findings, the Committee reiterated the fact that accurate data was difficult to gather. To judge the influence of undocumented immigrants on society—both in economic and social terms—required "sketchy" information, the report

⁵⁹ "Illegal Alien Panel Says: Prevent, Not Enforce," *Abilene Reporter-News*, January 9, 1977.

⁶⁰ John E. McCarthy to Gerald Ford, telegram, January 17, 1975, "IM 1/1/75-4/26/75" folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁶¹ DCCIA Report, v.

observed.⁶² The study analyzed several aspects of the economic side of the debate including wages, unemployment, and taxes, but the final report noted that it was particularly difficult to judge accurately the repercussions of undocumented immigration for the labor market.

“Illegal migration in times of prosperity tends to be viewed as a handmaiden of economic growth,” the report proclaimed, “but it becomes transformed into a threat in times of economic downturn.”⁶³ This helps to explain the developing fear expressed by the INS, in the media, and among some Americans, as the country faced difficult economic times.

The report also examined social issues raised by undocumented immigration including population growth, INS enforcement, “anti-alien sentiment,” and federal-state-local relations. The social issues, the report stated, were “most keenly felt at the community level where they affect in the very basic ways thousands of individuals and institutions daily.”⁶⁴

Federal-state-local tensions, especially where the INS was involved, was a topic of note.

“INS enforcement causes community resentment and hostility in many areas, particularly in ethnic communities,” the report insisted. The report determined that “The greatest degree of support [was] to be found with employer targeted enforcement; serious difficulties accompany residence based efforts. This potential for strife [was] also apparent in anti-illegal alien organizing in some large urban areas.”⁶⁵ On social issues, the committee concluded that there was less use of social services because most immigrants were young and male, but the report noted that these statistics could change in the future. Within only a few

⁶² *Ibid.*, *x*.

⁶³ *Ibid.*, *xi*, 2.

⁶⁴ *Ibid.*, 188.

⁶⁵ *Ibid.*, *xiii*.

years, undocumented immigrants' use of social services became an increasingly significant issue.⁶⁶

In its assessment of current programs and legislation, the report concluded that interagency cooperation was lacking overall, which hindered enforcement. The principal goal of the Committee's recommendations, however, was prevention, not enforcement. The report recommended new legislation targeting disincentives—measures such as employer sanctions and the prevention of “dilatory tactics” by deportable immigrants who could ask for a lawyer if they were familiar with the law (and thus delay deportation). After expressing support for employer sanctions, the report emphasized the myriad opposition to such measures. It found,

The opposition comes principally from employer groups such as the American Farm Bureau Federation, which feel employers are to be compelled to become enforcement ‘agents’ of federal law; from minority groups, principally Hispanic, who feel their members will be discriminated against in employment practices and religious groups including the United States Catholic Conference which also cannot accept sanctions without protection against discrimination and without a meaningful amnesty provision to protect the aliens and their families from mass exodus or deportation. Many others are concerned, about the difficulties inherent in enforcing this type of law, and feel it may be unwise from a policy standpoint accordingly. However, the most thorny issue seems to be in the perceived problem of discrimination in hiring practices that such legislation may bring about.⁶⁷

⁶⁶ Ibid., 171, 186, 199.

⁶⁷ Ibid., 114-115.

These observations were quite accurate, and the conflict between and among supporters and detractors of employer sanctions played out more fully when President Jimmy Carter offered his immigration reform proposals in 1977, a subject of Chapter Five. The report made some interesting comments on the use of “dilatory tactics”:

The longer the illegal alien is able to remain in the United States, the greater is his reward. For this reason, it has been said by immigration lawyers, ‘the name of the game is time.’ The alien of course needs time to work so he can earn a sufficient amount of money to employ a lawyer or travel agent to help him become a lawful permanent resident alien so he will not become a public charge, and to support his family abroad until he is able to bring them to the United States.

Time was also necessary for a job-seeker to obtain labor certification, to marry, or to acquire equities. The report therefore affirmed that delays, “frivolous appeals,” dilatory tactics and other techniques of evasion should be lessened.⁶⁸

The Committee also recommended sanctions on undocumented immigrants, the denial of social benefits, and the enhancement of enforcement, all acting as “disincentives to illegal migration.”⁶⁹ Interestingly, the Committee also suggested modernizing, in effect, immigration policy. The report suggested that any revision

include consideration of the extent to which these laws no longer reflect contemporary standards and thinking. As current conditions exist, immigration investigators may spend considerable time investigating allegations involving the use

⁶⁸ Ibid., 116.

⁶⁹ Ibid., 118-120.

of marijuana or moral turpitude for an applicant for naturalization. These efforts are counterproductive and detract from more important enforcement tasks. Thus, consideration must also be given to those changes which would streamline the immigration process of its anachronistic provisions and thereby free manpower and resources. Some examples would be: the elimination of mandatory excludability and deportability for possession of small amounts of marijuana. . . .⁷⁰

The Committee thus made several concrete suggestions for future legislative action. It would be nearly a decade before legislators addressed them seriously. The delay in action was largely due to the ongoing need for more information and the persistent inability of policymakers to find a consensus for a potential solution. As the Committee report explained, “. . . immigration matters lead to large philosophical and policy questions for the society which will only be answered over time.”⁷¹ A statement crafted by agency representatives on the Domestic Council Committee helped clarify the wisdom of waiting on legislative proposals: the issue of immigration was “one on which there are so many partially or totally divergent views that the Government might well find itself in a most difficult position if it became identified with a specific legislative proposal before public debate on the question had begun.”⁷² Ford embraced the position that time would help make policymaking decisions on immigration easier. Unfortunately, that proved not to be the case.

⁷⁰ *Ibid.*, 121-123.

⁷¹ *Ibid.*, *xiii-xiv*.

⁷² “Domestic Council Committee on Illegal Aliens Preliminary Thoughts,” February 28, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

While Ford and the members of his administration and committees studied the issue, they also worked on a formal level with Mexican government officials to maintain and strengthen relations between the two countries. As the Domestic Council Committee on Illegal Aliens explained, Mexico was “the only country with which the ‘illegal alien’ phenomenon—as opposed to migration policy in the broader sense—[had] become an important foreign policy issue,” and, therefore, the issue of migration into the U.S. from Mexico had “become the principal bilateral issue” between the two countries.⁷³ Ford was careful to maintain good relations with Mexico and met with the Mexican Secretary of Foreign Relations Emilio Rabasa Mishkin within days of taking office. Secretary of State Henry Kissinger counseled Ford that the meeting with Secretary Rabasa was necessary to “emphasize the importance you plan to give to continuing the progress made in improving relations . . . with Mexico.” Kissinger believed that Rabasa would “undoubtedly raise the need to find a solution to the problems created by Mexicans entering the U.S. illegally in search of work,” and would “press for a bilateral agreement . . . permitting legal entry into the U.S. of temporary workers.” In a memo to Ford on the meeting, Kissinger pushed the president to be diplomatic with Rabasa, but to explain the difficulty of working towards a bilateral temporary worker plan. “You can assure him that Congressional opposition to any such agreement would be very strong,” Kissinger advised, and he warned, “political conditions and serious economic problems in the U.S. at this time would preclude a bilateral

⁷³ “Domestic Council Committee on Illegal Aliens Preliminary Thoughts,” February 28, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

agreement for the importation of foreign workers.”⁷⁴ Ford did indeed reject a new version of the Bracero program and concentrated his efforts on preventing unsanctioned border crossings. Ford followed up his meeting with the Mexican secretary of foreign relations with a meeting on October 21, 1974 with Mexico’s President Echeverría to discuss immigration and other topics. The two presidents agreed to study the problem of undocumented immigration to the United States, and they established the government committees to study the issue from a bi-national perspective. Ford also defended Mexico against American Cold Warriors who claimed Mexican immigration constituted a communist threat, and members of his administration met with the Mexican Inter-Secretarial Commission on Undocumented Workers to promote bi-national cooperation.⁷⁵ To see the situation for himself, Ford took a trip to the U.S.-Mexico border in October 1974 and considered a plan proposed by a Texas state congressman to offer intensive economic aid to develop the U.S.-Mexico border region.

These actions and meetings highlighted the issue for American leaders and citizens. A California state official, for example, noted that Ford’s “recent meeting with Mexico’s President Echeveria [*sic*] brings into focus significant problems facing ‘citizens without documentation’ in California and elsewhere.” Specifically, the official cited the problem of assimilation and employment for immigrants from Mexico. He suggested a temporary moratorium on immigration in order to focus on the issue of the existing undocumented population, and argued that relaxing restrictions on immigration would be bad for the

⁷⁴ Henry Kissinger to Gerald Ford, memo, August 29, 1974, “CO 100 Mexico 8/9/74-10/31/74” folder, Box 37, White House Central Files Mexico Subject File, Ford Library.

⁷⁵ “Summary of Mexican Memorandum on U.S.-Mexican Talks Dealing with Non-Documented Workers,” undated, “Illegal Aliens (4)” folder, Box 8, Domestic Council Dawn Bennet-Alexander files, Ford Library.

country.⁷⁶ While no concrete or formal plans of action came out of the meetings between U.S. and Mexico officials, it was important for President Ford to maintain good relations with Mexico while working on the domestic implications of undocumented immigration. Ford's emphasis on foreign relations showed his recognition that unsanctioned border crossing was a two-state problem and that potential solutions should be palatable to both nations.

Ford also urged concrete legislative action on some issues related to immigration. In September 1974, shortly after taking office, he had expressed support for the Rodino employer sanctions bill, stating publically that proposed legislation that would sanction employers of undocumented workers was "necessary to establish clear guidelines regarding the law for employment of aliens in this country." In November, he stressed "prompt action" on the proposed bill because it "would help solve this critical problem."⁷⁷ Despite apparent widespread support, particularly from immigration officials, the measure did not pass the Senate during Ford's time in office.

Ford did, however, sign into law amendments to the Immigration and Nationality Act in 1976 that sought to equalize immigration between the eastern and western hemispheres by applying the preference for family reunification—that was in place for the eastern hemisphere—to the western hemisphere as well. Its purpose was to help alleviate the backlog for western hemisphere immigration and establish uniformity in the policies

⁷⁶Houston I. Flournoy to Gerald Ford, October 24, 1974, "IM 12/1/74-12/31/74" folder, Box 1, White House Central Files Subject File IM, Ford Library.

⁷⁷"Statements by President Ford on Illegal Aliens," September 12 and November 18, 1974, "Illegal Aliens-Domestic Council Committee, Jan.-Dec. 1975" folder, Box 9, Domestic Council Richard D. Parsons, Ford Library.

regulating immigration in both hemispheres. A persistent criticism of existing legislation was that it used preferences in visa issuance for the eastern hemisphere, but not for the western. So, for example, a U.S. citizen could petition for a preference classification for an unmarried child in Germany, but not for one in Argentina.

The controversy surrounding the 1976 amendment revolved around whether it would exacerbate the problem of unsanctioned border crossings from Mexico into the United States. The legislation placed a preference system and annual country quotas for western hemisphere immigration, modeled on the system in place for the eastern hemisphere. Prior to the amendment, immigration from countries in the western hemisphere was on a first-come, first-served basis. The new legislation placed a 20,000 annual limit on each country, and critics of the amendment argued that a limit on *authorized* immigrants from Mexico would worsen the pressures for *unauthorized* immigration from Mexico.⁷⁸ The Ford administration responded with the argument that the country had “a continuing illegal alien problem despite increasing enforcement of immigration law” and the problem would not worsen with it “the imposition of the foreign state limitations.”⁷⁹ The assistant attorney general also explained, “The imposition of the 20,000 per country limitation on all countries will have the effect of reducing total immigration from Mexico. However, the bill will make immigration easier for

⁷⁸ A version of the bill proposed a preferential limit to Canada and Mexico of 35,000 annual visas, but this provision was not in the final version that passed.

⁷⁹ James T. Lynn to Gerald Ford, memo, October 18, 1975, “IM 10/8/76-10/31/76” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

Mexicans who are close relatives of United States citizens or lawful permanent residents, or who have needed job skills.”⁸⁰

Congressman Edward Roybal (D-CA) noted that the passage of the bill would “unnecessarily strain friendly relations that have existed between Mexico and the U.S.” and pointed out that the amendment would encourage a rise in undocumented immigration.”⁸¹

Congressman Lionel Van Deerlin (D-CA) also complained that the bill “would be most discriminatory in its applications toward our neighboring Republic of Mexico” and would “further exacerbate illegal alien problem.”⁸² The National Congress of Hispanic American Citizens raised similar concerns by claiming that, despite the amendments’ supporters’ claims that it would “eliminate the inequities in the existing law” it would effectively “deter many people interested in entering the United States, and cause an even greater flow of illegal aliens into this country.”⁸³ Immigrant attorney Peter Schey wrote Thomas Aranda, special assistant to the president, to challenge the notion that the amendment would ease the process of family reunification for Mexican relatives of U.S. citizens or permanent residents. “During the past two weeks I have received numerous calls from throughout the United States concerning the possible signing into law” of the 1976 immigration amendments, he

⁸⁰ Michael M. Uhlmann to James T. Lynn, October 14, 1976, “IM 10/8/76-10/31/76” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁸¹ Edward Roybal to Gerald Ford, telegram, October 15, 1976, “IM 10/8/76-10/31/76” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁸² Lionel Van Deerlin to Gerald Ford, telegram, October 18, 1976, “IM 10/8/76-10/31/76” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁸³ Manuel D. Fierro to Gerald Ford, October 8, 1976, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

explained. “Due to the tremendous number of calls that I received, [the National Center for the Study of Aliens’ Rights] prepared an analysis of the proposed law” and found that it would “extend the current waiting period for quota immigrants with relatives in the United States” by two and a half years. He concluded that there was “little doubt in my mind that this would in turn increase the entire undocumented person problem in this country.”⁸⁴

Despite the objections, Ford announced on October 21, 1976 that he had signed the Immigration and Nationality Act Amendments of 1976 into law, and declared that the legislation would bring “immigration procedures for the Western Hemisphere into line with those for the Eastern Hemisphere.” He also revealed his concerns with the new amendments, however, by acknowledging that the new policy would cut in half the number of Mexicans allowed to immigrate legally each year. He made a point to extol the “very special and historic relationship” with Mexico and pledged to increase the number of quotas for Mexico.⁸⁵ The amendments equalized immigration between the eastern and western hemispheres, and the inclusion of family preferences for western hemisphere immigrants is significant. The imposition of an annual limit on immigrants from Mexico, however, exacerbated the problem of undocumented immigration in the U.S. in the late 1970s and early 1980s. Congress’ legislative action on immigration during the Ford administration, made the undocumented immigration problem worse in subsequent years.

⁸⁴ Peter A. Schey to Thomas Aranda, October 17, 1976, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁸⁵ “Statement by the President”, October 21, 1976, “Immigration” folder, Box 8, Domestic Council Dawn Bennett-Alexander files, Ford Library.

One of Ford's most significant decisions was to appoint more Mexican Americans to his cabinet and as advisors. Perhaps the most influential was a Fernando de Baca, who served as special assistant to the president on Hispanic affairs. Like Ford, his advisors were generally moderate. De Baca, however, was quite outspoken on the issue of immigration and pushed for amnesty and lenient immigration policies. During the winter of 1974-1975, De Baca made headlines for recommending citizenship for some undocumented immigrants. "There is no way that the federal government can deport five million aliens, even if it could find and arrest them," he insisted, "It just isn't possible." He argued that the government should instead "bring the millions of aliens illegally in this country under the law."⁸⁶ His proposition received some opposition from the public and the INS.

Some Border State residents were displeased with De Baca's positions, most notably his support for amnesty. One New Mexico citizen wrote to De Baca that he had read "with amazement" De Baca's article stating that "worthy" undocumented immigrants should be given a chance for citizenship. The letter-writer balked at the idea and proclaimed, "dear Sir, I don't believe there is such as a 'worthy' illegal alien, how can anyone be worthy if they are illegal to start with" He went on to outline the problems he saw with undocumented workers including the fact that they did not pay taxes and sent a lot of money "back home." He was also worried because he had "read where a chicano wanted to move the Mexican border 1000 miles north." De Baca's critic suggested splitting Mexico into four parts that would become a part of California, Arizona, New Mexico, and Texas so there would be "no more Mexico as they don't know how to treat people." The letter concluded, "lets [*sic*] take

⁸⁶ Bob Duke, "Ford Advisor Recommends Giving Some Illegal Aliens Citizenship," *El Paso Herald Post*, January 10, 1975; "DeBaca Wants Illegal Alien Taken in by U.S. as Legals," *El Paso Herald Post*, December 11, 1975.

care of the Devil's invasion forces in the U.S.A. the illegal aliens, who ever heard of a 'worthy' illegal alien . . . this is a deliberate conspiracy to help bankrupt this country."⁸⁷ Similarly, El Paso resident Charles Leslie complained to De Baca, "how can someone who has broken our laws by illegal entry be considered worthy?" He asked, "Why in heaven's name should a law breaker be allowed to remain?" and complained that amnesty would encourage more unsanctioned border crossings.⁸⁸ Another man avowed that if Congress adopted De Baca's proposals, it "could lead to one of the gravest mistakes in the history of the United States immigration." He dismissed De Baca for being more concerned with the economy of Mexico than that of the United States.⁸⁹ A former police officer from Texas also targeted De Baca, who, "by his name, I assume wants to take care of his own nationality, but I don't think he needs to worry about that as illegal aliens as well as legal aliens seem to get all the welfare rights and benefits" as less fortunate American citizens.⁹⁰ Finally, in a letter to the *Albuquerque Journal*, C. W. Webb called De Baca's statement "surely the most stupid recommendation anybody in Washington has made in recent months." He alleged that "American sovereignty" was "too cheap already" and asked, "Why reward law violators who

⁸⁷ Josiah Richard Atkinson to Fernando de Baca, undated, "Illegal Aliens-Correspondence" folder, Box 4, Public Liaison Office Fernando E. C. De Baca Files 1974-1976, Ford Library.

⁸⁸ Charles Leslie to Fernando de Baca, March 27, 1975, "Illegal Aliens-Correspondence" folder, Box 4, Public Liaison Office Fernando E. C. De Baca Files 1974-1976, Ford Library.

⁸⁹ Walter Butts to Gerald Ford, January 16, 1975, 2480 See also J. E. Stanton's letter to De Baca in which he states that he disagrees "violently" with De Baca's position. December 15, 1975, "Illegal Aliens-Correspondence" folder, Box 4, Public Liaison Office Fernando E. C. De Baca Files 1974-1976, Ford Library.

⁹⁰ Chris P. Fox to Gerald Ford, January 14, 1975, "Illegal Aliens-Correspondence" folder, Box 4, Public Liaison Office Fernando E. C. De Baca Files 1974-1976, Ford Library.

have managed to evade our immigration and naturalization officers for five years with American citizenship?”⁹¹

INS leadership also targeted De Baca for countering the official Immigration Service line. In a letter to Special Assistant Theodore C. Marrs, Commissioner Chapman explained, “the comments of Mr. Fernando E. C. Debaca [*sic*] seem to be at odds with efforts to find viable solutions to the problem.” He further complained, “Statements such as those made by Mr. Debaca only tend to stir emotions, and I believe, accomplish little in the way of constructive effort to find answers.”⁹²

De Baca had his supporters as well. LULAC National Chaplain James Novarro wrote to the president to praise De Baca for being “a person of high principles and a high degree of personal dedication.” Novorro went on to characterize De Baca as someone who had “earned the respect and appreciation of all Spanish-speaking people in the nation” and who was “a symbol of advocacy in behalf of their ideals, sentiments and aspirations.”⁹³ Despite the mixed reaction of the public to his positions, De Baca remained a significant figure in Ford’s administration and helped inform Ford and the country on immigration matters.

Ford’s response to immigration matters is important because he was in office while the subject of undocumented immigration drew increasing public attention. As shown here, this was due in large part to the Immigration Service and, in particular, the efforts of INS

⁹¹ C. W. Webb, “Recommendation ‘Stupid,’” *Albuquerque Journal*, March 12, 1975.

⁹² L. F. Chapman to Theodore C. Marrs, Feb 18, 1975, “Illegal Aliens-Dr. Marrs’ Files Correspondence (2)” folder, Box 4, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁹³ James Novarro to Gerald Ford, telegram, undated, “Special Assistant to the President for Hispanic Affairs” folder, Box 13, Public Liaison Office William J. Baroody files 1974-1977, Ford Library.

Commissioner Leonard Chapman. Chapman was pleased with the results of his public awareness campaign, and a 1976 Gallup Poll, commissioned by the INS, revealed that a high percentage of the public had become interested in undocumented immigration. Gallup measured the attitudes of 1,549 Americans on several topics related to immigration. The survey found that 74 percent termed the “illegal alien problem” as “very serious” or “somewhat serious.” On the issue of undocumented workers taking jobs away from American citizens, a popular talking point for Chapman, the poll found that 87 percent of respondents thought it was a “serious problem” or a “somewhat serious problem;” similarly, 83 percent agreed that it was a “serious” or “somewhat serious problem” that undocumented workers suppressed wages. Eighty percent agreed that there should be a law that penalized employers of undocumented workers.⁹⁴ These results suggest that people were paying attention to the rhetoric coming out of the INS, even if its information was misleading or unsupported.

Chapman, then, was an important figure in creating the atmosphere in which the debate over undocumented immigration occurred. His background certainly contributed to the successes he had in bringing a regional issue to national attention. His successor as INS commissioner, Leonel J. Castillo, said it aptly when he ruminated on Chapman’s background and influence: “You know, when you speak with a general, you’re speaking with a GENERAL, you know? And he’s wearing his Marine Corps buttons and his insignia, and he sits very straight and very formal. He speaks in a very commanding voice, you know. He

⁹⁴ “The Gallup Study of Attitudes Toward Illegal Aliens Conducted for the Immigration and Naturalization Service,” June 1976, “Illegal Aliens-Domestic Council Committee, Apr.-Nov. 1976” folder, Box 9, Domestic Council Richard Parsons files, Ford Library.

sounds like he really knows the data.”⁹⁵ The conflicting initial responses to the undocumented immigration situation in the Southwest coming from the INS and the federal government were striking. The *New York Times* puzzled over the different reactions in 1971. “In Washington, officials limit themselves to the minimum expression of concern about the problem,” the paper observed, “but immigration officers in the field continually use words like ‘fantastic’ and ‘unbelievable’ to describe the situation.”⁹⁶

While the INS reacted to undocumented immigration like it was a national security crisis, the initial response of most policymakers and administration officials to the situation in the early and mid-1970s was to gather data on the issue. Accurate data on undocumented immigrants was needed because it was severely lacking, as the Domestic Council’s report explained, “research on illegal aliens is very much in its infancy.”⁹⁷ While law-makers needed this information to craft an informed and effective new policy, the time it took came at the cost of finding a solution while most interested parties were still willing to cooperate. During the time of Ford’s presidency, two divergent paths on potential immigration reforms emerged, crystallized by immigrants rights’ advocates on one hand and the Chapman-led INS on the other. Human- and immigrant-rights activists urged a more humane approach and pushed for amnesty; Chapman and his supporters stressed the economic and national security repercussions of immigration, even without reliable data on the issue, and argued in favor of more resources and tighter control. As the INS was a government agency and the Ford

⁹⁵ Leonel J. Castillo, interview by Oscar J. Martínez, June 23 and 24, 1980, interview transcript number 532, Border Labor History Project, University of Texas at El Paso Institute of Oral History, 12. (Hereafter Castillo interview).

⁹⁶ Paul L. Montgomery, “Illegal Aliens Pose Ever-Deepening Crisis,” *New York Times*, October 17, 1971.

⁹⁷ DCCIA Report, 152.

administration did not publically or explicitly challenge the Service's information, most observers assumed that the president was complicit with the strategy of the INS. A 1973 edition of *U.S. News and World Report*, watching the INS closely, concluded that current federal procedures ran "in the opposite direction" of humanitarian proposals.⁹⁸ In reality, the Ford administration pursued a balanced approach to immigration matters and attempted to resolve the issue with both humanitarian and practical principles in mind. Given the dearth of information, Ford's primary task was to better understand the situation, which he attempted to do through the formation of cabinet-level committees. He also took concrete steps by working on relations with Mexico and supporting legislative reforms. Ford and his advisors believed time would help illuminate an effective solution, but this did not prove to be true. Time, in fact, may have been their enemy. As a government report on immigration law and policy prepared at the request of Senator Edward Kennedy (D-MA) in 1979 explained, Congress had struggled with the "problem of how best to reduce the numbers and adverse impact of illegal or undocumented aliens, but has not yet arrived at an agreement on how to remedy the problem. In fact," the report continued, "positions appear to have hardened over the passage of time, and the complexity of the issue has become increasingly apparent."⁹⁹

As the issue grew more complex and positions became more entrenched, the Immigration Service was increasingly unable to cope with its work at the border. Despite a successful publicity campaign, the INS faced numerous crises during the 1970s that created further obstacles to finding and enforcing humane and effective border policies. Lack of

⁹⁸ *U.S. News and World Report*, July 1973.

⁹⁹ Senate Committee on the Judiciary, *U.S. Immigration Law and Policy*, 71.

support and funding, low morale, and persistent accusations of fraud, corruption, and abuse damaged the Service's reputation and added another challenge to effective enforcement of the INA along the U.S. border with Mexico.

Chapter 4

Bribes and Brutality: Internal Dysfunction in the INS

For the intrepid *New York Times* journalist John M. Crewdson, the assignment of investigating the Immigration and Naturalization Service in the late 1970s was a career highlight. Having gotten his start covering Watergate, Crewdson pursued stories about corruption and misdeeds with tenacity. Other reporters compared Crewdson's careful and thorough reporting style to that of a prosecutor laying out a case for a jury. A hefty man with a deep and calm voice, his investigation style was also compared to that of the affable, if at times infuriating, detective character played by Peter Falk in television's *Columbo*. Crewdson was Houston bureau chief for the *Times* when he wrote a Pulitzer Prize-winning series on the Immigration Service in 1980, which he expanded into book form in 1983. He wrote about the INS because it was drawing severe criticism for ineptitude and brutality and, as Crewdson determined, had been "on the brink of collapse" for much of the 1970s. In addition to finding the Service rife with corruption, Crewdson proclaimed that the INS was the "most mismanaged and most archaic federal agency in Washington." The *Times*' reporting on the internal workings of the Service and the numerous and persistent charges of corruption launched against it provided some of the most illuminating information on the INS during one of the Service's darkest times.¹

As shown in Chapter Two, flaws in the 1965 Immigration and Nationality Act complicated enforcement along the U.S.-Mexico border. This chapter will demonstrate that

¹ Jon Cohen, "John Crewdson: Science Journalist as Investigator," *Science*, New Series, Vol. 254, No. 5034 (November 15, 1991): 946-949; John M. Crewdson, *The Tarnished Door: The New Immigrants and the Transformation of America*, (New York: Times Books, 1983), 114, 116.

internal problems in the Immigration and Naturalization Service, described by journalists such as Crewdson, compounded the difficulty of enforcing immigration policy in the 1970s. Most troubling were persistent accusations of abuse and corruption within the Service ranging from bribery and fraud to rape and murder. The accusations led to criticism and investigations of the INS throughout the decade. At the root of the internal problems of the INS was low morale among immigration officials and Border Patrol officers. This chapter considers the roots of low morale in the INS and its subsequent problems. Furthermore, it analyzes other criticisms of the Service that emerged during the 1970s, including allegations that immigration officials shirked their responsibilities and that they cooperated with vigilantes. It is clear that turbulence within the Service tasked with implementing the nation's immigration laws contributed to the Service's very mixed results in carrying out its mandate following 1965.

The causes of low morale in the INS varied but revolved around the difficulty of the task assigned to the Service and a lack of guidance and effective communication between Washington D.C. and regional immigration offices. A lawyer for the American Federation of Government Employers provided a striking, if bleak, general picture of the difficult job assigned to Border Patrol officers in the Southwest:

I would say that when you put people in this kind of an impossible situation where they are charged with enforcing the law and they are unable to enforce the law, then you see an erosion take place. I mean, all kinds of things spin out of that condition. . . . And then the border patrol, the people charged with patrol of the borders, which is impossible to administer, kind of feel like they are shoveling sand into the ocean and they see it flop out onto the beach. So they get to the point that

they are not so concerned about one or two people slipping through. And it just creates a situation that is fraught with opportunities to engender corruption.²

Testimonies from local immigration officials and Border Patrol officers echoed this sentiment and shed light on the conditions that led some immigration and Border Patrol officers to accept bribes or to participate in other forms of abuse. As one report on the INS by a watchdog group observed, “Many INS people [were] aware, and resentful, that they [were] being asked to solve a social problem, virtually to stem a mass migration, with the simplistic techniques of police action.”³ Most local immigration officials, when expressing concern about their difficult job, also complained about a lack of support from the public and from their superiors, suggesting that the causes of low morale in the INS were multifaceted. An article in the *New York Times*, for example, reported that the task assigned to Border Patrol officers was “largely thankless.” It observed that many officers felt “strongly that their agency [was] underequipped and shorthanded because they lack[ed] support for their mission from the public and the rest of the Federal Government, and that they [were] being asked to enforce an immigration policy that [was] ambiguous at best and, therefore, largely unenforceable.”⁴ To illustrate that point, one INS investigator admitted with exasperation that he was “coming to the conclusion that nobody except us [INS officials] gives a damn,

² *Immigration and Naturalization Service Regional Office Operations (Part 5): Hearings Before a Subcommittee on Government Operations, 93rd Cong. 463 (1974)* (statement of Louis Pellerzi, general counsel, American Federation of Government Employers).

³ Trudy Hayden, “The Immigration and Naturalization Service and Civil Liberties: A Report on the Abuse of Discretion,” American Civil Liberties Union report, July 1974, New York, 61-61. USCIS Library.

⁴ John M. Crewdson, “Violence, Often Unchecked, Pervades U.S. Border Patrol,” *New York Times*, January 14, 1980.

and we don't have the money or the men to carry out the law.”⁵ The difficulty of the job for INS employees, then, was associated with the availability of support and resources to do it effectively.

Local politicians and immigration officials complained frequently to the Ford administration that they were underfunded and underequipped. The Santa Ana, California, mayor, for example, wrote to President Ford to inform him that local INS authorities and the Border Patrol were “experiencing a manpower shortage in their attempts to keep pace with this rapidly rising problem.”⁶ A March 20, 1975 report on the problem of undocumented immigration submitted to President Gerald Ford by Jim Bates, a San Diego county supervisor, likewise noted “low morale” and “high turnover” in the Border Patrol because of the organization being underfunded.⁷ What was especially frustrating to local officials was not having the resources to carry out specific provisions in the law. California, for example, required verification through the INS of the status of Medicaid and Aid to Families with Dependent Children applicants. In a letter to Domestic Council Committee on Illegal Aliens member James Falk, a Los Angeles official complained, “we have been able to secure very few responses to our referrals due to INS manpower problems.” He noted, “It does not

⁵ Henry E. Wagner, quoted in M. A. Farber, “Million Illegal Aliens in Metropolitan Area: ‘Silent Invasion’ paralyzes Immigration Law-Enforcers,” *New York Times*, December 29, 1974.

⁶ Jerry Patterson to Gerald Ford, November 26, 1972, “IM 1/1/75-3/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

⁷ Jim Bates to Jim Falk, report, March 20, 1975, “IM 5/1/75-5/6/75” folder, Box 1, WHCF Immigration subject files, Ford library.

appear that INS will be able in the foreseeable future to provide the manpower needed for the manual search of their records to complete the verification process.”⁸

With the lack of funds for the INS, the task of immigration enforcement frequently fell on local public officials. The Los Angeles Board of Supervisors informed the Domestic Council Committee on Illegal Aliens that “the burden of proof” was placed on public agencies “to show that any alien seeking public assistance is not in the country legally.”⁹ These situations ran contradictory to the procedures outlined in immigration law, which placed the responsibility of determining an immigrant’s status in the hands of INS officials. Congress failed, repeatedly, to grant the INS requested funds for more personnel, updated equipment, and new computers to help with the digitization of records; or, it promised funds that did not reach regional offices. Despite the dire warnings coming from the INS, the federal government was not yet prepared to expend large amounts of money on immigration enforcement. This was due in part to the fact that no one really knew what changes would be effective, short of a complete sealing of the border, a notion that lacked substantial support. Congressional inaction, however, also resulted from powerful congressional leaders who resisted stricter border controls. Particularly from 1966 to 1976, a time when undocumented immigration was an increasingly prominent issue, Senate Judiciary Committee chair James O. Eastland (D-MS) obstinately stonewalled efforts to discourage unauthorized border

⁸ Peter F. Schabarum to James Falk, June 2, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

⁹ Peter F. Schabarum to James Falk, October 28, 1975, “IM 9/1/75-12/31/75” folder, Box 1, White House Central Files Immigration Subject File, Ford Library.

crossings in order to appease Southwest growers.¹⁰ In the meantime, however, pressure remained on INS officials from its leadership, many politicians, the press, and the much of the public, to do their job effectively, even if Congress did not give them the means that would, from their perspective, allow them to succeed.

Not only was there frustration with the lack of support from the federal government, local immigration officers also expressed disappointment in the lack of communication between federal and local offices. When interviewed by an investigator for the American Civil Liberties Union, one weary Border Patrol officer in California wondered “if anybody up in Washington has even the slightest idea of what is going on here,” and asked, “does anybody give a damn about what we do?”¹¹ An officer in charge of a border crossing station in California expressed a similar sentiment when he testified before Congress that his position as officer in charge at the border was not “sufficiently understood” by his superiors in the central office.¹² Local officials had reason to feel disconnected from their superiors. After months of investigation, President Ford’s Domestic Council Committee on Illegal Aliens found problems in federal-state-local relations. It reported,

The illegal alien issue presents a peculiar disproportionality in the roles of respective levels of government. Problems are felt at the local and regional level but local officials have few tools with which to respond for the laws involved are federal. On

¹⁰ Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America*, (Princeton: Princeton University Press, 2002), 220.

¹¹ Hayden, “The Immigration and Naturalization Service and Civil Libertie, 61-61.

¹² *Immigration and Naturalization Service Regional Office Operations (Part 3): Hearings Before a Subcommittee on Government Operations, 93rd Cong. 255 (1973)* (statement of statement of Joseph Dupuis, Officer in Charge, San Ysidro Border Crossing Station, Calif., Immigration and Naturalization Service, Department of Justice).

the other hand the Federal government administers immigration policy, somewhat mindful of its long-run implications for the nation as a whole, but far removed from the state and local levels of government where the outcome of its actions are felt.¹³

The communication issues in the INS compounded the problems caused by lack of resources and difficulty of the task. For the Service, the consequences were dire.

Low morale among immigration officials manifested itself in widespread corruption and abuse in the Immigration Service. In April 1972, a federal grand jury in California convicted Frank Paul Castro, a veteran INS inspector at San Ysidro, and his wife, for various offenses including bribery, conspiracy, fraud, and perjury (Castro had made a small fortune selling fraudulent documents, supplementing his \$24,000 annual salary with an additional \$250,000). At the conclusion of the trial, one of Castro's former colleagues approached Alan Murray and George Barnitt, two seasoned INS investigators who had gathered evidence against Castro, as they unwound over a beer at their hotel. Investigators in the Castro case assumed it was an egregious, but isolated, situation, but Castro's co-worker, distraught over the conviction, insisted that Castro was not guilty of anything that many of his fellow officers, and even some of their superiors, were not doing. The man claimed that INS officers throughout the Southwest region were committing similar kinds of crimes.¹⁴

¹³ DCCIA Report, 211.

¹⁴ John M. Crewdson recounts the investigation and conviction of Castro in *The Tarnished Door*, 143-147. The U.S. Attorney's office had investigated Castro for well over a year and the evidence it gathered was so overwhelming that the Justice Department, reluctant to accuse one of its own of wrongdoing, could not ignore it. The case nearly fell apart when wiretapping evidence was ruled inadmissible due to an administrative error. A U.S. immigration officer stationed at the American consulate in Monterrey, Mexico, Alan Murray, was called upon to track down Mexican witnesses to testify that they paid bribes to Castro. With the help of a local investigator, Saul Rodríguez, Murray tracked down all of the witnesses, leading to successful prosecution of Castro. Murray and Rodríguez would form part of the Clean Sweep investigative team that formed after Castro's trial. One of the U.S.

The claim surprised Murray and Barnitt and they decided to look into the allegations. They solicited the help of another INS investigator, Herb Grant, and that of an FBI agent, Gene Flynn. Murray also brought in a Mexican colleague of his, Saul Rodríguez, to help in the investigation by posing undercover as an undocumented immigrant. The men began to poke around, speaking to old friends and colleagues in the INS, current employees who had kept track of superiors' transgressions, and wives, ex-wives, and girlfriends of INS personnel. The pervasiveness of criminal activity in the INS that the men discovered over the course of the next month shocked them. After showing some of their evidence to the deputy chief of the general crimes division of the Justice Department, the attorney general instructed them to pursue "a major investigative effort" into the INS. The subsequent investigation became known as Operation Clean Sweep.¹⁵

United States Attorney Howard Frank, testifying before Congress years later on INS corruption, remembered the snowball effect of accumulating allegations that followed the Castro case. While Murray and his team were doing their initial investigations, Frank stated that more accusations of corruption in the INS came pouring into his office. "I think that probably toward the end of the [Castro] case a lot more people began to see the evidence that was unfolding and, for whatever reason at that time, more people became cooperative and

attorneys in the Castro case, Howard Frank, testified in a 1974 congressional hearing on INS oversight that the Castro investigation was fraught with challenges, including a lack of cooperation from other government officials and difficulty securing witnesses to testify.

¹⁵ John M. Crewdson's newspaper articles and book provides the basis for the discussion of Operation Clean Sweep in this section. See John M. Crewdson, "Wide Corruption in Immigration Service Suspected," *New York Times*, October 8, 1979; Crewdson, "U.S. Immigration Service Hampered by Corruption," *New York Times*, January 13, 1980; and Crewdson, *The Tarnished Door*, 141-160.

more allegations developed,” he said.¹⁶ Frank explained that as the grand jury proceeded, the U.S. attorney’s office came to believe that Castro was merely one individual in a larger group of corrupt officers. “There were several reasons why we felt that [the Castro case] was the tip of the iceberg,” he recalled, “one of which was the magnitude of the corruption that came out during the course of his trial. It seemed to us just a matter of commonsense that if one man could be doing as much as he was doing, and based on evidence that was presented, there was just a pretty good chance that there either had to be others doing the same thing or at least others aware of what he was doing.”¹⁷ The Clean Sweep team, working with the U.S. attorney and the FBI, proceeded to try to reveal the rest of the “iceberg.”

Details of the specific investigations and cases making up Operation Clean Sweep from the time are sketchy but congressional oversight hearings and the work of good journalists help fill in the gaps. John Crewdson’s reporting on the INS for the *New York Times* in the winter of 1979-1980, along with his 1983 book, provide the clearest picture of the results of the activities of the Clean Sweep team. Over the course of roughly a year and a half, the investigative team uncovered three hundred “instances of apparent illegal actions” concentrated in the Southwest and in major ports of entry. They also gathered evidence that more than one hundred and fifty past and present Service employees, including several top officials, had been involved in “the smuggling of illegal aliens and narcotics; were taking hundreds of thousands of dollars in bribes and kickbacks from government contractors; had engaged in perjury, fraud, and obstruction of justice, gross physical abuse of immigrants and

¹⁶ *Immigration and Naturalization Service Regional Office Operations (Part 5)*, 474 (statement of Howard Frank, attorney at law and former assistant U.S. attorney, San Diego, California).

¹⁷ *Ibid.*, 477.

murder, and had even used federal funds to pay prostitutes to compromise members of Congress and other important visitors to the Southwest.” The team found “every federal crime” except “bank robbery,” said Alan Murray. INS officials were not only less effective than they could have been, Crewdson argued, but they actually made the problem worse. They broke the very laws they swore to uphold. More rare than cases of bribery, but also more damning, were instances of violence. The investigation turned up cases in which INS employees “raped female aliens and systematically brutalized others with such devices as lead-filled gloves, thumbcuffs and even garrotes.”¹⁸

Although the Clean Sweep team had the lukewarm backing of the Justice Department, support really began to wane during the “Watergate summer” of 1973. Crewdson explained that the team ran in to trouble when they found evidence that the INS had arranged and paid for Mexican prostitutes to visit several congressmen with they visited the Southwest, including the chair of the House Judiciary Committee, Peter J. Rodino (D-NJ). Rodino was preparing to hear evidence against Richard Nixon that eventually led to the president’s impeachment. Rodino denied allegations of wrongdoing, and political observers dismissed the accusation as one of Nixon’s “dirty tricks.” Clean Sweep investigations had been proceeding slowly by that point and had been receiving only scant newspaper coverage, mainly due to Washington’s singular focus on the Watergate scandal, but they nearly ground to a halt after accusations against Rodino. Crewdson insisted that “somebody was actively winding down the investigation” by the late summer. Clean Sweep finally sputtered out in September 1973 after investigator Murray was involved in a series of suspicious mishaps.

¹⁸ John M. Crewdson, “Wide Corruption in Immigration Service Suspected, *New York Times*, October 8, 1979; Crewdson, “U.S. Immigration Service Hampered by Corruption,” *New York Times*, January 13, 1980; and Crewdson, *The Tarnished Door*, 141-160.

He was hit by a car in San Diego in late September (Crewdson alleged that some witnesses claimed to see the car speed up once it spotted Murray) and, while in a hospital in New York recovering, Murray received an overdose of Demerol that put him in a temporary coma. Again, Crewdson alleged that it was unclear whether or not the overdose was an accident. After that, Murray called his colleagues to tell them he was finished with the investigations and they all agreed it was time to quit. Crewdson concluded that the investigation was underresourced, and agents expressed confusion about how the investigation was supposed to be proceeding. Contributing to the difficulty of identifying corrupt agents was the reluctance of honest INS officials to testify against colleagues.¹⁹ The results of the Clean Sweep team's efforts suggest that this was an accurate assessment.

The outcome of the investigation, like its team's findings, was dismal. Despite the sweeping allegations and out of more than three hundred potential criminal cases against past and current employees, seven officers were indicted and five convicted. Thirty civilians (immigrants or smugglers) were sent to jail. The general consensus in the Department of Justice and other government agencies was that corruption in the INS was confined to a small overall number of officers, but not to a single office or region, making it a widespread problem (in terms of geographic scope) but not a very serious one. Asked why the return of criminal convictions was so low, a Justice Department official claimed that the evidence "simply wasn't there." INS investigator Alan Murray disagreed, claiming that the Justice Department had plenty of evidence, but failed to act on it. Murray also claimed that the Clean Sweep team found that INS leadership was aware of the problems, but either ignored them or meted out light punishments. One indictment, against Raymond D. Bond, a Border

¹⁹ Ibid.

Patrol officer in Texas accused of smuggling guns from Mexico, was dropped in exchange for his resignation. Bond did resign, but in 1978 the Service rehired him.²⁰ Murray's allegations seem well supported. He provided notes and evidence from his team's investigation. Furthermore, congressional hearings held in 1977 and 1978 on Justice Department internal investigation policies found that, at best, the procedures were "confused."²¹

The press tracked the course of the operation and the governmental proceedings. A New Mexico newspaper reported in September 1973 that the Clean Sweep operation was near an end after what it called "a shocking array of accusations" against border agents had come to light in the two-year investigation.²² In the context of general disillusionment with the military and law enforcement bodies due to the American War in Vietnam, the press was largely unsympathetic towards the INS. One California newspaper, for instance, reported on the on-going allegations of corruption and cited "new reports of a simmering Mexican border scandal involving the INS."²³

While the FBI and Justice Department investigated the Immigration Service and the U.S. attorney's office put cases together as part of Operation Clean Sweep, Congress initiated its own hearings in 1973 and 1974 to investigate the regional operations of the INS, in essence to follow up on Clean Sweep cases and on-going investigations. The hearings also

²⁰ Crewdson, "U.S. Immigration Service Hampered by Corruption," and Crewdson, *The Tarnished Door*, 141-160.

²¹ Crewdson, "U.S. Immigration Service Hampered by Corruption."

²² *Santa Fe New Mexican*, September 27, 1973.

²³ Hal D. Steward. "New Scandal Over Mexicans Brew for INS," *Pasadena Star-News*, October 2, 1974.

provide insight into the progress of Operation Clean Sweep. They revealed that the slow pace of cases frustrated investigators. Despite these failures, Justice and Immigration officials attempted to put a positive spin on the whole process. Even with Clean Sweep cases still pending, the Department of Justice was eager to label the operation a success and move on; but as Clean Sweep activities slowed to a crawl, even the short-term legacy of the effort was tarnished. A U.S. attorney involved in Clean Sweep noted in 1974 that “the operation did far less than the credit that it has been given.”²⁴ During the congressional hearings, Representative Stanford Parris (R-VA) asked one of the investigators of the INS if he believed there was “widespread, total, limitless corruption generally in the border situation in the southwest United States?” The investigator replied, “Well, let me say this. If you look only at the allegations that have been made, the answer would have to be yes.”²⁵

Despite a concerted effort by multiple institutions to investigate and improve the INS, suspicion of criminality in the Service continued. Indeed, the Clean Sweep investigations initiated a prolonged period of heightened scrutiny of the Immigration and Naturalization Service due to ongoing allegations of corruption and abuse. One newspaper described the situation in the INS several months after Castro’s conviction as “deteriorated like an untreated wound left to fester” and concluded that the system still worked much the same as it had when Castro was an officer.²⁶ The summer after the Clean Sweep investigations of

²⁴ *Immigration and Naturalization Service Regional Office Operations (Part 5)*, 478 (statement of Howard Frank, attorney at law and former assistant U.S. attorney, San Diego, California).

²⁵ *Ibid.*, 482.

²⁶ Lee Dye, “Corruption Festers Along U.S. Border,” *Winnipeg Free Press*, December 29, 1972.

Murray and his team came to an end, the Department of Justice reinvigorated its efforts to root out corruption in the INS by initiating an intense probe of alleged corruption among U.S. officers along the border. The revitalized effort resulted from revelations in the course hearings before the congressional Committee on Government Operations over a seventeen-month period that the Justice Department had terminated Operation Clean Sweep and, in an attempt at a cover-up, had failed to follow through on criminal cases developed against federal officers.²⁷ The committee's report urged the expansion of the Clean Sweep operation. After announcement of the renewed Justice Department efforts, the *El Paso Herald-Post* reported in August 1974 an "All-Out INS 'Clean Sweep' Ordered" and outlined the two-pronged probe by the FBI and INS.²⁸ The expanded effort to clean house in the INS, however, appears to have involved little substantive action. Puzzled about how the new probe related to the initial wave of investigations following the Castro case, members of the press expressed as much consternation about the slow pace of investigations as members of Congress did. A Pasadena, California, newspaper reported that the Immigration Service probe was "still a mystery."²⁹ The Justice Department certainly did not give the impression that it was determined to root out corruption in the INS through swift and diligent means. Despite the dedicated work of the initial Clean Sweep team to dig up information on INS

²⁷ *Tucson Daily Citizen*, August 23, 1974; *Interim Report on Immigration and Naturalization Service Regional Office Operations*, Committee on Government Operations, 93rd Cong. (Washington D.C.: Government Printing Office, 1974); *Immigration and Naturalization Service Regional Office Operations: Hearings Before a Subcommittee on Government Operations (Parts 1-5)*, 93rd Cong. (1973-1974).

²⁸ *El Paso Herald Post*, August 23, 1974.

²⁹ Ed Zuckerman, "Immigration Service Probe Still Mystery," *Pasadena Star-News*, December 11, 1974.

personnel, the low rate of conviction, the start-and-stop nature of the investigation, and confusion surrounding its progress suggest that the effort to clean up the INS was overall a haphazard affair conducted half-heartedly.³⁰

If low morale was part of the cause of INS corruption, attempts to clean up the Service, in turn, also contributed to poor spirits among officials. An immigration officer in charge of a border crossing station in California, for instance, testified in September 1972 that, based on conversations he had heard from immigration officials along the border, Operation Clean Sweep had a “very detrimental effect on their morale.” He went on to explain that the men felt “that even their neighbors look at them askance and figure that they are probably buying that new car on the proceeds of fraudulently pedaled documents.”³¹ Immigration officials believed that they were not only being investigated by the government, but were also scrutinized by the press and public. In addition to the heightened scrutiny, INS officers were almost certainly also frustrated by how poorly the Clean Sweep investigation was handled. Those not participating in criminal behavior, and in particular those who had taken a risk by providing incriminating evidence to the investigative team, would surely have been disappointed in the results of their efforts. Although Clean Sweep signified an attempt by the government to reduce corruption within its agencies, the tarnished image of the Service, and indeed corruption itself, plagued the INS through the remainder of the decade.

³⁰ For a contemporary account of the mixed results and criticism of the Clean Sweep operation, see M. A. Farber, “Immigration Service Inquiry Ending; Results in Dispute,” *New York Times*, April 27, 1975.

³¹ *Immigration and Naturalization Service Regional Office Operations (Part 3)*, 254, 255 (statement of Joseph Dupuis, Officer in Charge, San Ysidro Border Crossing Station, Calif., Immigration and Naturalization Service, Department of Justice).

Throughout the Clean Sweep operation and subsequent investigations, and in response to accusations of corruption and abuse coming from outside sources, Department of Justice and INS leadership remained adamant that the charges were overblown. The Justice Department and Immigration Service responded by insisting that corruption was a rarity in the agency and that, in the case of a conviction for graft, abuse, or smuggling, the actions were understandable because of the great temptations and challenges that existed along the border. INS Acting Commissioner James Greene, and then Commissioner Leonard Chapman, claimed that they were improving internal regulation of the agency. Acting Commissioner Greene complained that it was unfair to have publicized “the misdeeds of a few in the service at the risk of tarnishing the entire agency.”³² Commissioner Chapman, when he took over in 1973, initiated an intra-agency newsletter called *Open Line* that he hoped would improve morale by keeping “everyone in the Service everywhere in close touch with” the activities of the Central Office and by providing officials at all levels with “a greater sense of involvement.”³³ Chapman reported in *Open Line* that the congressional hearings on the INS had “once again focused attention on charges of corruption and wrongdoing within the Service. It is unfortunate that the shortcomings of a handful have resulted in charges which reflect upon all of the other loyal and hard working members of the Service,” he wrote. “However, this should serve as a reminder of how alert we must all be to insure proper conduct at all times.”³⁴

³² *San Antonio Express*, May 21, 1973.

³³ *Open Line*, INS Central Office, Vol. 1 No. 1, Jan. 15 1974. USCIS Library.

³⁴ *Open Line*, INS Central Office, Vol 1 No 14, July 23, 1974. USCIS Library.

As discussed in Chapter Three, when Chapman became commissioner he escalated the INS publicity campaign that sought to educate the public on the topic of undocumented immigration; a second element of that publicity was an all out defense of the Service.

Chapman stated in a November 27, 1974 issue of *Open Line*:

During the past few years the Service has come under attack because of the breach of trust of a few employees. It is imperative that we reestablish ourselves in the eyes of the public as the honest, dedicated, hard-working Service that we really are. We are taking definite steps to improve our image and I believe we are making great strides toward that end. However, constant vigilance is required to prevent the occurrence, or even the appearance, of anything that would diminish our good name.³⁵

The “steps” Chapman took included testifying before Congress in the fall of 1974. He asserted that he was taking “preventative and corrective” action to inhibit misconduct in the INS and explained that an internal staff would “work to ensure that our house is cleaned thoroughly.”³⁶ He said that he welcomed a “thorough investigation” and believed that such an inquiry would “reveal that virtually all of the employees of INS are honest, dedicated, hard working and loyal public servants who are carrying out their duties faithfully despite the handicap of very limited, and in fact, wholly inadequate resources and lack of support.”³⁷

Deputy Attorney General Silberman of the Justice Department likewise contended that

³⁵ Leonard Chapman, *Open Line*, INS Central Office, Vol. 1 No. 23. USCIS Library.

³⁶ *Immigration and Naturalization Service Regional Office Operations (Part 5)*, 559 (statement of Gen. Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, Department of Justice); *Open Line*, INS Central Office, Vol. 1 No. 16. USCIS Library.

³⁷ *Ibid.*

allegations of corruption “considerably outran the evidence” and opined, “malfeasance was not widespread.”³⁸ Although he dismissed most of the allegations, Chapman nonetheless urged his personnel to re-commit to the Service’s ethical standards, which he published in a memo to all regional commissioners, district directors, and Border Patrol chiefs in August 1974. He again circulated the standards to all employees in a November edition of *Open Line*.³⁹ Topping the list of INS ethical standards was the directive to “put loyalty to the highest moral principles to country above loyalty to persons, party, or Government department.” Another standard was to “Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.” One standard stated simply, “Expose corruption wherever discovered.”⁴⁰ Given the numerous accusations of corruption, immigration officials clearly needed to be reminded about these ethical standards.

Chapman continued his defense into the mid-1970s. He maintained a positive outlook on employee performance when he testified before the House Committee on Immigration in March 1975 that he continued to be “impressed with the dedication and the loyalty of the hard-working INS employees” he had met. Furthermore, he was “convinced that they [were] doing an excellent job in the face of staggering workloads and lack of fully

³⁸ Quoted by Chapman, *Open Line*, INS Central Office, Vol. 1 No 24, Dec. 11 1974, USCIS Library.

³⁹ *Open Line*, INS Central Office, Vol. 1 No. 23, USCIS Library.

⁴⁰ *Ibid.*

adequate resources.” Chapman’s progress report, however, revealed some existing weaknesses in the agency. For example, he cited the need to “improve overall management” and asserted that new employees and reorganization would bring “fresh ideas and methods of operations” and that “this new thinking should help to revitalize our approach to accomplishing objectives.” He stressed the huge job before the agency, noting that he was “sure” that the committee was aware that the INS was “almost literally overwhelmed by the responsibilities assigned to it.”⁴¹ Similarly, Chapman’s deputy commissioner, James F. Greene, admitted in a letter to concerned border residents, “The tremendous volume of illegal entries and alien smuggling have extended our personnel beyond their capacity to maintain positive control of the border”⁴²

In his public statements, Chapman appeared to be a strong advocate for the employees of the Immigration Service. Indeed, many believed that he would be able to help fix the internal problems in the INS. Shortly after he took over as commissioner, for example, the chairman of the subcommittee on Immigration, Citizenship, and International Law, Joshua Eilberg (D-PA), described Chapman as having “a firm desire . . . to bring renewed vitality and esprit de corps to the Immigration and Naturalization Service.” Eilberg cited the publication of *Open Line* and Chapman’s field office visits as evidence. He also

⁴¹ Statement by Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, Before the House Subcommittee on Immigration, Citizenship and International Law, March 19, 1975, “Illegal Aliens (2)” folder, Box 36, Domestic Council Frederick Lynn May files, Ford Library.

⁴² James F. Greene to Mr. and Mrs. James W. Steele, May 15, 1974, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

praised Chapman for being aware of the problems troubling the Service and having a desire to fix them.⁴³

While there are numerous examples of Chapman speaking on behalf of his staff and officers, there is also ample evidence to suggest that local officials did not feel supported. This disconnect between rhetoric and reality is evidence of Chapman's difficult position. While he was likely genuinely concerned with managing the problem, it also seems clear that his highest priority was public relations. Chapman's defense of the INS failed to resonate with his subordinates, and internal problems continued to plague the Service. He also had only limited success in public relations as outsiders continued to watch the Service with critically and with suspicion.

For their part, local immigration officials also spoke out against criticisms of the Immigration Service. President Ford's controversial aide, Fernando de Baca, was a popular target of criticism. In a letter to Representative Alphonzo Bell (R- CA), the president of a Border Patrol union slammed De Baca for his disparaging remarks about the Border Patrol. The officer blamed De Baca for creating "an atmosphere of distrust and disrespect for the U.S. immigration laws and for the U.S. Border Patrol" during a recent trip to San Diego. "In the guise of, and under the color of White House authority," Randolph Williamson wrote, "Mr. DeBaca has twisted facts, deleted facts and cast aspersions upon the character of many fine and very professional U.S. Border Patrol Agents."⁴⁴

⁴³ *Immigration and Naturalization Service Oversight*, 3 (Statement of Congressman Joshua Eilberg, Chairman of the Subcommittee).

⁴⁴ H. Randolph Williamson to Alphonzo Bell, December 1, 1975, "Illegal Aliens (2)" folder, Box 3, Public Liaison Office Thomas Aranda files 1976-1977, Ford Library.

While the INS was successful in its public awareness campaign, it faltered when it came to defending the Service against allegations of corruption and abuse, and problems persisted for the agency even after the conclusion of the official investigations. Some critics of the Service charged that it outsourced or abdicated its responsibilities. The largest number of complaints, however, targeted INS search tactics and violations of civil liberties.

Immigrants'-rights activists and citizens concerned with civil liberties violations launched an aggressive campaign against the INS during the 1970s. Their outcry caught the attention of politicians and resulted in court rulings that curtailed the freedoms of immigration officers in stop-and-search procedures.

In 1973 Congress initiated hearings to review the administration of the Immigration and Nationality Act, and committee members focused on the topic of INS search and detention procedures. The regional INS operations hearings held in 1973 and 1974 also addressed the subject of INS procedures. Congressman Eilberg, Chairman of the House Subcommittee on Immigration, Citizenship, and International Law, explained that there were "a great many questions" in the area of INS search tactics. He pressed INS officials to explain their justification for the use of large scale sweeps known as "Area Control" by the Service. A lawyer for the U.S. Department of Justice testified that INS actions were "proper" and that officers were instructed to "lean over backwards as far as possible" to make sure that they were not violating any constitutional rights. While he argued that "concentrated efforts" to locate considerable numbers of undocumented immigrants had been successful, he also acknowledged that "as a result of those efforts, various civil liberties groups and

nationality groups believed that the Service was exceeding its authority, was acting in an improper and unconstitutional manner.”⁴⁵

Later in the course of the hearings, members of the subcommittee grilled INS officials on search tactics and the accuracy of their investigative sweeps. INS Acting Commissioner James F. Greene maintained that, of approximately 11,500 undocumented immigrants detained during a Los Angeles sweep (an example of what the Service called “Accelerated Area Control”), only two or three were later found to be legal residents. Congressman Jerome Waldie (D-CA) responded to this claim by stating,

Well, the only thing I am really staggered about, if you only had two or three people that were inconvenienced, because certainly the 11,500 were not inconvenienced, they were illegal aliens, but according to your testimony, two or three people were inconvenienced, why did I as a Congressman from California and authorities from California receive such a deluge of complaints about this accelerated operations? Surely not from those two or three people.

Acting Commissioner Greene responded that people who had been stopped, but not detained, by the INS were “overly sensitive about being stopped and questioned.” INS tactics, particularly the “Area Control” dragnets, drew the concern of those hearing complaints from many U.S. citizens stopped or detained by the INS.

The INS continued to face questions about racial profiling in its search procedures. Congresswoman Elizabeth Holtzman (D-NY) articulated this concern when she commented,

⁴⁵ *Review of the Administration of the Immigration and Nationality Act: Hearings Before the Subcommittee on Immigration, Citizenship, and International Law, 93rd Cong. 121, 122 (1973) (Statements of Congressman Joshua Eilberg, Chairman of the Subcommittee, and Charles Gordon, General Counsel, U.S. Department of Justice).*

“During the hearings we had on these roundup or dragnet [Area Control] proceedings, it came to my attention that there are no written procedures to the agents going out rounding people up.” She stated, “The reason I was concerned about that is because from what I would gather, without guidelines we were coming very close to stopping people solely on the basis of appearance, racial characteristics, national characteristics, and so forth, which may be unconstitutional and certainly raises a serious question of constitutionality.”⁴⁶ Although racial discrimination was no longer formalized in policy, race remained an important if controversial element in INS tactics and procedures. Congressman Waldie noted that he had heard from many Mexican Americans claiming to be “stopped all the time” by the INS.⁴⁷ Many were also concerned for the rights of undocumented and legal immigrants as well.

Ford’s Domestic Council Committee on Illegal Aliens also made some observations about INS enforcement tactics. Its report stated,

Immigration policy in general and its effects on certain groups within the society in particular have always been the source of varying degrees of controversy and bitterness. Today the most vigorous opposition to enforcement policy comes from the ethnic groups and communities that find significant numbers of illegal aliens in their midst. Their attitudes, rooted in negative experiences and a history of racial-type conflicts, have the potential for causing serious conflict at the local level in the future. Two distinct types of community organizations are openly critical of INS

⁴⁶ *Review of the Administration of the Immigration and Nationality Act*, 145 (Statement of Congresswoman Elizabeth Holtzman of New York).

⁴⁷ *Review of the Administration of the Immigration and Nationality Act*, 139-140, 141 (Statements of Congressman Jerome Waldie of California and James F. Greene, Acting Commissioner, Immigration and Naturalization Service, Department of Justice).

enforcement policy. One of these can be classified as ethnic civil rights organizations, the other as groups which defend the rights of aliens in general.⁴⁸ The report explained that ethnic community organizations considered themselves to be “singled out for enforcement efforts and resent[ed] having to prove that they are citizens.” It concluded, “any enforcement activity which appears to target the Hispanic community will continue to inspire strong criticism.”⁴⁹ The report was critical of INS search tactics and recommended that the Service improve its image on the community level.⁵⁰

Immigrants’-rights advocates worked to publicize questionable search methods and offered support to American citizens and immigrants caught in INS dragnets. A report published by the American Civil Liberties Union (ACLU), “The Immigration and Naturalization Service and Civil Liberties: A Report on the Abuse of Discretion,” published in July 1974, outlined examples of mistreatment perpetrated against documented and undocumented immigrants and citizens by the Service. The report included several specific examples of Service abuses. Two such cases resulted from a twenty-day sweep in Los Angeles during May and June, 1973. The report tells Dolores Avalos’ story:

On the morning of June 5, at about 7 o’clock, Dolores Avalos was walking down a Los Angeles street when she saw Immigration officers bringing people out of an apartment building and putting them into vans parked in the street, twenty to a van. Inside, the agents went into apartments without knocking, pulling people out dressed as they found them at that early hour of the morning; at first, they would not even let

⁴⁸ DCCIA Report, 205.

⁴⁹ DCCIA Report, 206.

⁵⁰ DCCIA Report, 215.

one woman change into street clothes. Half an hour later, back on the street, Ms. Avalos observed one of the vans stop next to a man walking along the sidewalk; officers jumped out and dragged the man inside; the van drove on. At least ten such vans were seen in the streets of the neighborhood that day.

It also tells about Bertha Duarte de A and her two sons, both born in the United States:

When an Immigration agent came to her house on May 30 asking for papers, Bertha Duarte de A tried to show him her sons' birth certificates, but the officer grabbed the file and started to run outside with the precious documents. She began to cry, the children began to yell, a neighbor came to see what had happened, there was pushing and shoving, and finally police were called. At the end of the day, Bertha Duarte de A, with her sons who are American citizens, was deported to Mexico.⁵¹

The author of the ACLU report determined, "One might well conclude from these descriptions that the quarry in this INS 'crackdown' was a population of murderers, thieves, and rapists instead of people who might—or again might not—be present in this country illegally. In fact, had the 'suspects' indeed been accused of murder, theft, and rape, they could not have been subjected to this kind of treatment at the hands of the police."⁵² Many of the allegations of abusive or discriminatory practices revolved around the methods INS officials used to identify likely undocumented immigrants. INS district director Sol Marks stated that his investigators were "well trained and recognize[d] illegal aliens easily," but

⁵¹ Statements from affidavits, Hayden, "The Immigration and Naturalization Service and Civil Liberties," 12-13, 17.

⁵² Hayden, "The Immigration and Naturalization Service and Civil Liberties: A Report on the Abuse of Discretion," 12-13, 17.

clearly, as the ACLU report explained, it was such things as a person's skin color and facial features, his accent, his clothes, or his presence in an ethnic neighborhood, that led to "recognition."⁵³

Other activists also targeted INS search tactics and treatment of immigrant detainees. Immigration lawyer Leon Rosen wrote to Special Assistant to the President Fernando de Baca to "express to you my deep concern over the disregard" by INS officials of the constitutional rights of U.S. citizens and immigrants alike. He believed that the INS based many of its investigations solely on "the appearance of the person interrogated."⁵⁴ Sean Ferguson, staff member for Concerned Citizens for Justice for Immigrants, also complained about INS tactics: "General Chapman's War has gone far beyond mere propaganda and deceit. As part of this campaign, mass round-ups, dragnets and strongarm tactics have been resorted to in direct violation of the civil rights of these aliens—both *legal* and *illegal*."⁵⁵ Similarly, immigrants' rights activist Fred Ames announced in his newsletter that the ACLU had instituted cases against the INS because it was involved "in the nation's No. 1 Scandal and Disgrace."⁵⁶ The president of the United California Mexican American Association, Albert Garcia, wrote to an INS regional commissioner "to serve the purpose of a complaint against the U.S. Border Patrol" because a sixteen year old Mexican American had been

⁵³ *Ibid.*, 28.

⁵⁴ Leon Rosen to Fernando de Baca, February 20, 1976, "Illegal Aliens (2)" folder, Box 3, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁵⁵ Sean Ferguson to "Senator," undated, "Ames, Fred" folder, Box 7, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁵⁶ Fred P. Ames to James O. Eastland and Peter W. Rodino, undated. "Illegal Aliens (2)" folder, Box 3, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

subject to repeated abusive conduct and incarceration. The case of this one particular man revealed “abusive and prejudiced attitude towards the Mexican-American population in the Southwest region,” according to Garcia.⁵⁷

Other concerned citizens wrote to administration officials or their representatives in Congress to report incidents of harassment and violence targeting border crossers.⁵⁸ The Southwest Regional Office of the Spanish Speaking collaborated in the fall of 1974 with the Mexican American Cultural Center in San Antonio to hold an immigration conference to address concerns over recent activities of the INS. The topics addressed at the conference included discrimination, exploitation, strike-breaking, and the plight of workers in the United States without documentation. The group decried the INS sweeps and deplored the “haphazard deportation of persons.” It also discussed the “current spate of publicity which describes illegal aliens as the source of many economic ills in the country.”⁵⁹ Some concerned citizens also wrote to their leaders in government about the situation. A letter from a private citizen to President Ford explained that, a few days before the president’s visit to Lufkin, Texas, INS officers conducted a sweep through the town and picked up “every

⁵⁷ Albert Garcia to L. W. Gilman, May 1, 1975, “Illegal Aliens—Garcia, Al” folder, Box 4, Public Liaison Office Fernando E. C. De Baca files 1974-1976, Ford Library; see also Albert Garcia to Joseph Sureck, June 30, 1975, “Illegal Aliens—Garcia, Al” folder, Box 4, Public Liaison Office Fernando E. C. De Baca files 1974-1976; Ford Library. This letter has names redacted and parts of the file are closed to research.

⁵⁸ For examples, see Linwood Holton to John Rhodes, December 3, 1974; N. Warner Lee to Gerald Ford, October 11, 1974, “LA 5 Migratory Labor-Seasonal Labor 8/9/74-2/28/75” folder, Box 7, White House Central Files Latin America Subject file, Ford Library.

⁵⁹ Recommendations from the November 25-26, 1974 Immigration Conference held at the Mexican American Cultural Center in San Antonio, “IM Immigration-Naturalization 8/9/74-12/31/74” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

Mexican alien that they could find. They treated them like dogs, drove them like cattle”⁶⁰ These comments highlight the numerous problems associated with the ability of INS officials to stop and search people with few guidelines. The complaints drew enough attention for the judiciary to intervene.

Court cases in the mid-1970s successfully limited the ability of Immigration officers to stop and search suspected undocumented persons, and quelled the use of sweeps such as the one described in the ACLU report and other examples above. The Immigration and Nationality Act of 1952 had given substantial freedom to INS employees, and that remained unchanged by the 1965 Immigration Act. Immigration officials had the power “to interrogate,” without warrant, “any alien or person believed to be an alien as to his right to be or to remain in the United States,” and also to arrest anyone suspected of being in the country without sanction.⁶¹ The courts implemented more guidelines for the Immigration Service. Commissioner Chapman explained to his employees how the rulings would affect their searches. “Our Investigators must base their suspicion on specific articulable facts and reasonable inferences drawn therefrom that a person is an alien before he stops and interrogates him,” he instructed. “Articulable facts may include demeanor, behavior, nervousness, speech, dress, etc. Our officers must bear in mind, however, that physical appearance alone is not sufficient to stop and interrogate an individual.”⁶² The new instructions were still arguably quite vague, and INS officials would continue struggling to

⁶⁰ Jack Walton to Gerald Ford, May 25, 1976, “IM 1/1/76-6/20/76” folder, Box 2, White House Central Files Immigration Subject File, Ford Library.

⁶¹ Public Law No. 82-414.

⁶² *Open Line*, INS Central Office, Vol. 2 No 18, October 3, 1975, Vol 2 No 22, Dec 19, 1975. USCIS Library.

determine what gave them sufficient reason to stop a suspected undocumented immigrant. Attorney Leon Rosen argued, for instance, “The Commissioner [of the INS] has recently lent lipservice to the mandate of the United States Supreme Court in several landmark decisions regarding the subject of unlawful search and seizure. The practices continue.”⁶³

The Report published by the Domestic Council Committee on Illegal Aliens, formed by President Ford, commented on rulings limiting the power of the INS. “Recent court decisions have limited INS’ latitude in the interior, making prevention more important,” it explained.⁶⁴ The report insisted on the importance of the prevention strategy because of the difficulty of finding undocumented immigrants once they were in the interior. Among the reasons it enumerated was the fact that:

All tactics that are used to ferret out and apprehend such persons [undocumented in the interior] must be weighed in light of their impact upon civil liberties of all persons of foreign descent as well as the disruptive consequences they may have on communities involved. Even if an illegal alien is apprehended at areas away from the border, detention is hindered by a lack of facilities and by cost A higher percentage of illegals located in interior locales utilize the hearing process than those aliens along the Mexican Border. With its present resources the Service could not possibly conduct a hearing for every alien apprehended without seriously affecting its overall enforcement posture.⁶⁵

⁶³ Leon Rosen to Fernando de Baca, February 20, 1976, “Illegal Aliens (2)” folder, Box 3, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

⁶⁴ DCCIA Report, *xi*.

⁶⁵ *Ibid.*, 83-87. Explains how the court decisions affected INS activities.

In light of the rulings augmenting INS search procedures, the Service focused more than ever on prevention of entry at the border, which came with its own set of humanitarian challenges. As the report outlined, one of the forces driving the increased focus on the border itself rather than on interior locales was the desire to limit immigrants' access to the courts. Many lawyers and activists fought tirelessly to inform immigrants about their rights to request legal counsel and this, in the eyes of many in INS leadership, simply delayed and complicated the deportation process.

Another factor that likely contributed to the problems in the Service related to discrimination and civil liberties violations was the lack of diversity in the Immigration Service, an issue not uncommon in government agencies at the time. The president of the United California Mexican-American Association placed the blame for abusive treatment on the fact that the INS hired "biased Anglos" and "ex-military types." The letter cited abuse of powers by inspection agents, targeting Mexicans and Mexican Americans for searches.⁶⁶ Similarly, a leader in the National Council of La Raza, argued,

There's also the problem at INS of their employee's attitudes, that at times amount to bigotry. It's a problem common throughout INS, from the workers behind the counter, who make disparaging remarks and are generally uncooperative toward folks who happen to be of a different color or language than themselves, down to the

⁶⁶ Albert Garcia to Fernando E. C. De Baca, November 23, 1974; Albert Garcia statement for the press, September 15, 1975, "Illegal Aliens—Garcia, Al" folder, Box 4, Public Liaison Office Fernando E. C. De Baca files 1974-1976, Ford Library.

practices of the Border Patrol and other enforcement personnel, whose enforcement activities do place a special burden on Hispanics, including citizens, in this country.⁶⁷

The personnel of the INS was an area of concern for government officials as well. One House Committee report on women and racial minorities in government agencies focused on data presented on equal employment opportunities in the INS. The data “raised serious questions that the minimal minority and female representation in the INS workforce severely inhibits the agency from discharging its statutory obligations.” The committee concluded that “Despite the focus of INS efforts to halt the illegal entrants who are predominantly of Spanish heritage . . . the enforcement arm of the agency, comprised of investigators, border patrol agents and immigration inspectors, has an abysmal employment record.” It turned out that Hispanic employees represented only 5 percent of INS investigators, 9 percent of immigration inspectors, and 15 percent of Border Patrol officers. As far as other racial minorities and women in the INS, the data showed that African Americans held a mere seven positions in Border Patrol in 1972 and represented only 4 percent of INS personnel. Women represented similarly small numbers, with only eleven female agents and sixteen investigators.⁶⁸ The lack of racial and gender diversity in the Service certainly contributed to its problems in the 1970s. Employee diversification had not improved greatly by the end of the decade. A 1980 report on immigration issues published by U.S. Commission on Civil Rights stated that, although women and racial minorities made up a “significant portion” of the INS workforce, they had “little or no participation in policy formulation and

⁶⁷ *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, 21 (1978) (statement of Michael Cortez, vice president for research, advocacy, and legislation, national council of La Raza).

⁶⁸ Don Edwards to Gerald Ford, May 24, 1976, “Immigration Matters (1)” folder, Box 4, Counsel to the President Bobbie Greene Kilberg files, 1972-1977, Ford Library.

decisionmaking within the INS,” and “few INS employees staffing the Service’s contact points with the public have racial or ethnic backgrounds similar to those of many immigrants.”⁶⁹ Some of the Service’s difficulties and issues with its image only abated once it improved its diversification in the 1980s and 1990s.

If overly zealous enforcement constituted one major source of criticism of the INS, detractors of the Service also criticized it for intentionally *neglecting* to enforce immigration laws. Organized labor groups, in particular, asserted that the INS bowed to the pressure of agribusiness interests. United Farm Workers (UFW) leader César Chávez charged that the INS intentionally failed to enforce immigration laws against undocumented farm workers because of pressure from corporate farmers in the West and Southwest who wanted cheap labor. A 1974 UFW newsletter encouraged American citizens to write to their representatives in Congress to encourage them to act on the undocumented worker situation and proclaimed, “Collusion among federal Immigration authorities and Western ranchers has long existed, and the blatant non-enforcement of the law is denying America’s poorest workers decent living and working conditions.” UFW further argued that INS officials were “guilty of corruption and participation in transporting of illegal aliens, in narcotics trade, and in running and protecting the prostitution business.”⁷⁰ Commissioner Chapman denied the accusations fervently and declared that the charges of collusion were “reckless.”⁷¹ Indeed, there seems to be little evidence to support the complaints lodged by the UFW. The INS may

⁶⁹ United States Commission on Civil Rights, *The Tarnished Golden Door*, 133.

⁷⁰ UFW Acción newsletter, July 1974, “Illegal Aliens—Background Information” folder, Box 3, Public Liaison Office Fernando E. C. de Baca files 1974-1976, Ford Library.

⁷¹ *Immigration and Naturalization Service Regional Office Operations (Part 5): Hearings Before a Subcommittee on Government Operations, 93rd Cong. 559 (1974)* (statement of Leonard F. Chapman, Commissioner, Immigration and Naturalization Service).

have overlooked enforcement on some Southwest ranches, but that was more likely due to a lack of resources and other constraints than a plot to subvert intentionally the immigration laws of the United States. Criticism like that coming from UFW highlights the precarious position in which immigration officials found themselves. They received complaints for how they carried out their job, but also got blasted—generally from labor unions but also from the general public—for appearing too inactive.

The charges that the INS colluded with Southwest growers and ranchers was troubling, but the reputation of the Service was also damaged by accusations that it cooperated with vigilante groups on the border, an even more problematic allegation for the Service. One particular case—of alleged cooperation between the INS and the Ku Klux Klan—was especially disturbing to observers. In the fall of 1977, the Knights of the Ku Klux Klan organized a border watch group to help apprehend immigrants crossing into the United States without authorization. Although most Americans held an unfavorable view of the Klan by the 1970s, the Knights experienced a revival in 1974 led by the young, educated, and charismatic “Grand Dragon” David Duke.⁷² Commenting on the issue of border security, Duke exclaimed, “our government does absolutely nothing. Therefore the Klan will.”⁷³ He believed that his Klan Knights could do the job that the government, in his eyes,

⁷² Duke charmed the media and sought to distance his Klan from the Klan of the Reconstruction era and of the 1920s. Even after the image make-over, the central tenets of the organization remained white supremacy, xenophobia, and upholding law and order. Without question, its ideology and rhetoric were racist and nativist. Enforcement of border policy, therefore, was a logical step for the Klan to take, as it framed immigration as an issue of racial and national purity and law enforcement. See Wyn Craig Wade, *The Fiery Cross: The Ku Klux Klan in America*, (New York: Simon and Schuster, 1987), 368.

⁷³ “Texas Klan Awaits Arrival of Chieftain,” *Galveston Daily News*, October 28, 1977.

needed help doing by forming a watch group to monitor the border. He believed the Klan had “the support of the American people” in creating a border watch group to aid the U.S. Border Patrol in apprehending undocumented immigrants.⁷⁴ According to Duke, the Klan would “help curb the illegal alien problem.” He justified the formation of a citizen border watch on the basis that the U.S. Border Patrol “could not cope with the volume of illegal aliens.”⁷⁵ To save the country from what he called the “single most important racial problem faced by white America,” and to uphold law and order, Duke explained to the media that the Klan, equipped with CB radios and infrared telescopes and armed with “legally registered weapons,” would patrol the border “from Brownsville, Tex. to the Pacific Ocean.”⁷⁶ Klan propaganda was also part of the agenda. By the end of October, Brownsville residents found leaflets on their doors depicting a skull and cross bones and bearing the message “WARNING to illegal aliens and officials of the U.S. GOVERNMENT, this border subject to random patrols by the KU KLUX KLAN.”⁷⁷

There was swift and strong resistance to the creation of a Klan border watch. After making his announcement, for example, Duke was greeted by unhappy activists who threw eggs at him during his tour of the border region in San Diego.⁷⁸ Immigration officials, local

⁷⁴ Bob Bast, quoting Duke, “Klan Watching Border,” *Brownwood Bulletin*, October 26, 1977.

⁷⁵ “KKK Says Patrols Beginning Today,” *Brownsville Herald*, October 25, 1977.

⁷⁶ “They’ll Guard Against Klan...After the Game,” *The Pampa News*, October 27, 1977; “Texas Klan Awaits Arrival of Chieftain,” *Galveston Daily News*, October 28, 1977; “KKK Plans to Help Patrol Illegal Aliens,” *The Pampa News*, October 17, 1977.

⁷⁷ James Pinkerton, “Klan Warning Leaflets Found,” *Brownsville Herald*, October 31, 1977. Emphasis in original.

⁷⁸ “KKK Plans to Help Patrol Illegal Aliens,” *Pampa (TX) News*, October 17, 1977.

law enforcement, members of the press, border residents, political leaders, and rights organizations all condemned the Klan's announcement of a planned border watch group.

Although numerous officials from the INS spoke out against the Klan in the fall of 1977, some of the criticism surrounding the Klan watch group focused on alleged cooperation between the Klan and the Immigration Service. The ACLU criticized U.S. immigration officials for "being too cooperative with Klansmen."⁷⁹ Some Mexican-American groups also held this view. An October 1977 newsletter published by the Committee on Chicano Rights included an insert titled "When the KKK and the INS Are on the Same Side" that claimed that the INS and the Klan were working together on the issue of border security.⁸⁰ Local politicians also conveyed their concern. San Diego Mayor Pete Wilson, in his letter to Attorney General Griffin Bell, fretted that local INS officials in San Diego "seem[ed] to condone the assistance of the notoriously racist KKK" and that some officers had become "chummy with Klansmen."⁸¹ Duke himself insisted that he had met with, and had the support of, Justice Department officials and other federal agencies and even alleged that there were members of the Klan serving in the U.S. Border Patrol, but local

⁷⁹ Lou Cannon, "The 'Border Patrol' That Wasn't, *Washington Post*, November 8, 1977.

⁸⁰ Committee on Chicano Rights, Inc *Newsletter*, October 29, 1977. "Undocumented Aliens—Task Force [O/A 6469]" folder, Box 34, Domestic Policy Staff Gutierrez files, Jimmy Carter Library, Atlanta, Georgia. (Hereafter Carter Library)

⁸¹ "Klan Won't Back Down from Plan for Patrols," *Fremont-Newark (CA) Argus*, October 20, 1977.

and federal agents denied any cooperation.⁸² Furthermore, Duke claimed that the “rank-and-file officers” of the INS were “cooperating fully with the Klan” in its border watch. Bob Seits, a regional spokesman for the INS, called the claim of cooperation “nonsense.” “Our policy is that we do not encourage or condone patrol of the international border by any unauthorized persons,” Seits said.⁸³ Other law enforcement and immigration officials joined in the denial of Klan-INS cooperation. The chief agent for the Border Patrol in the San Diego area stated unequivocally that they were “not cooperating with the Klan.”⁸⁴ INS officials in Texas also denied collaboration with the Klan and criticized its border watch, citing a potentially “dangerous situation” if private citizens took on duties that should be left to professionals.⁸⁵ Newly appointed INS commissioner Leonel Castillo was adamant that no such cooperation existed, exclaiming that he did not “consider a private border patrol by an organization like the Ku Klux Klan or by any other group to help in any way whatsoever.”⁸⁶ Despite complaining about the difficulty of their assigned task, INS officials clearly preferred the use of Border Patrol agents in enforcing border policy.

⁸² Bob Bast, “Klan Watching Border,” *Brownwood Bulletin*, October 26, 1977; “Klan Warned Against Plans to Patrol Mexican Border,” *Long Beach Independent*, October 19, 1977.

⁸³ “Klan Won’t Back Down from Plan for Patrols,” *Fremont-Newark (CA) Argus*, October 20, 1977.

⁸⁴ Bob Bast, quoting Allen Gerhardt, “Klan Watching Border,” *Brownwood Bulletin*, October 26, 1977.

⁸⁵ “Klan Patrol Not Wanted,” *Corpus Christi Times*, October 18, 1977; “KKK Unwanted,” *Brownsville Herald*, October 26, 1977.

⁸⁶ “INS Doesn’t Want Help From KKK,” *El Paso Herald-Post*, October 21, 1977.

Ignoring public protests, Duke went ahead with his Klan watch-group in late October. In an article titled, “Knights Riding U.S.-Mexico Border,” Duke claimed that nearly five hundred members of the Klan had begun patrolling the border in California, Texas, and New Mexico, and some observers reported seeing Klansmen and Klan vehicles with “Klan Border Watch” signs taped to the sides.⁸⁷ Duke asserted, “some Mexicans are afraid to enter the country because of the Klan,” and insisted that the Klan watch led to the arrest of forty undocumented migrants by the end of the month.⁸⁸ Hinting at the potential for violent action, Duke made clear that his Knights would be armed.

Even with the great hype and publicity surrounding the Klan Watch and despite what Klan watch leaders claimed, it had little success as an effective security enforcer. There is also little evidence that the INS cooperated with the Klan. But the Klan border watch and Duke himself received much media attention. In fact, many observers concluded that the Klan watch group was more of a publicity stunt than a genuine attempt to curb unsanctioned immigration. Reporters generally outnumbered Klansmen five to one during watch group activities.⁸⁹ The public was, therefore, well aware of Klan activities and of the accusations of cooperation between the INS and KKK, and some, at least, surely believed Duke’s claims of INS cooperation. Media coverage of the event certainly brought attention to the U.S.-Mexico border and the issue of undocumented immigration, but it also created bad publicity for the INS, adding to on-going internal problems.

⁸⁷ “Knights Riding U.S. –Mexico Border,” *Brownsville Herald*, October 26, 1977.

⁸⁸ Duke, quoted in Wade, *Fiery Cross*, 371; “Klan Patrol of the Border Said Begun,” *Galveston Daily News*, October 30, 1977.

⁸⁹ Wade, *Fiery Cross*, 371.

Several years after the whole affair, Leonel Castillo, commissioner of the INS at the time of the Klan border watch, reflected on the damage it caused to the image of the INS. Klan members would hold news conferences in INS facilities and claim they were helping the Immigration Service, but, according to Castillo, “we of course said we didn’t want their help” He also lamented the negative effects on U.S.-Mexico relations because the press was so quick to report on the story even though there was so little substance. The Mexican government believed the statements put out by the Klan, and Mexican officials would speak with members of the U.S. press. Few journalists took the INS at its word, indicating the low credibility of the agency by the late 1970s. As a result of the number of stories about the Klan Border Watch in the media, people in Mexico “were convinced that the Klansmen were torturing and killing Mexicans all up and down the border and were a part of the Border Patrol,” Castillo recalled. “There were some unbelievable emotional reactions to it,” Castillo explained, and concluded that the Klan patrol was a “case of symbolism assuming more importance than substance.” “When it was all over,” Castillo bemoaned, “we spent hundreds of hours dealing with the press going down [to the border] looking for the Klan and almost no time with their actual work.”⁹⁰

The problems for the Immigration Service and vigilantism continued after the incident with the Klan. In 1980, two Border Patrol officers were found guilty of leading what the government described as a “vigilante group” that beat Mexican immigrants crossing into the country without authorization in the San Diego area. United States Attorney Michael Walsh stated that he was also pursuing reports of similar vigilante groups active among

⁹⁰ Castillo interview, 79-82.

Border Patrol officers elsewhere.⁹¹ Vigilantism has been present along the U.S.-Mexico border since its creation. Law enforcement officials may welcome citizen activist groups like neighborhood watches, but government and law enforcement officials will distance themselves from excessively active citizen groups out of fear that official recognition of such groups will make them *de facto* government agents, subjecting the government to liability.⁹² Some INS officials may have appreciated the extra border monitoring offered by the Klan, but INS leadership understood the consequences of associating with extra-legal law enforcement groups. Thus, they adamantly denied that the INS was cooperating with the Klan in the fall of 1977.

Even after the official investigation known as Clean Sweep came to an end, then, reports of abuse, corruption, and other malpractice continued to afflict the Service, and by 1979 new allegations of appalling behavior among immigration officials were making headlines. Regretting the on-going problem of alleged corruption, a senior Justice Department official stated with exasperation in 1979 that the INS was “our biggest problem.”⁹³ In 1980, the *New York Times* ran a series that provided a clear and disconcerting picture of ongoing graft and violence in the Service. Echoing the sentiments of the Clean

⁹¹ John M. Crewdson, “2 in Border Patrol are Found Guilty in First Case on Brutality to Aliens,” *NYT*, January 30, 1980.

⁹² Peter Yoxall, “The Minuteman Project, Gone in a Minute or Here to Stay? The Origin, History and Future of Citizen Activism on the United States-Mexico Border,” *The University of Miami Inter-American Law Review*, Vol. 37, No. 3 (Spring-Summer, 2006), 518-519. Yoxall argues that vigilantism on the U.S.-Mexico border has been particularly visible in the twenty-first century. The Minuteman Civil Defense Corp have been active since the terrorist attacks of September 11, 2001.

⁹³ Crewdson, “Wide Corruption in Immigration Service Suspected,” *New York Times*, October 8, 1979.

Sweep era, the series was highly critical of the INS, accusing its agents of violating the rights of immigrants and identifying systemic problems in the INS such as “corruption, mismanagement, negligence and rock-bottom morale within the agency’s ranks.”⁹⁴ The *Times*’ investigators, furthermore, found that the Service was outdated, overburdened, and rife with “malpractice,” causing “virtual bureaucratic collapse.” The last article in the series observed, “The key reasons for the agency’s bruised reputation, according to longtime immigration officials, include political cronyism at the highest rung of the service; the refusal of Congress and successive administrations to shape a coherent immigration policy and overhaul the agency; the influx of Mexican aliens; the blurred role of an agency that seeks to adjudicate cases while serving as investigator and law enforcer; the refusal of the agency to police itself, and corruption, malfeasance and brutality.”⁹⁵ The thoroughly investigated *Times* series of 1980, to which John Crewdson contributed articles, turned up a “wide variety of abuses. . . both in the structure of the Federal immigration system itself, and by individuals who profit from it by taking advantage of aliens who are uncertain, if not ignorant, of the subtleties of American life and law.”⁹⁶ The series concluded,

Federal immigration officials are intensely susceptible to bribes To other officers, aliens are people from whom to extract sexual favors, or to harass, or beat. And the whole system of enforcing the immigration laws . . . is verging on collapse.

⁹⁴ Crewdson, “U.S. Immigration Service Hampered by Corruption,” *New York Times*, January 13, 1980.

⁹⁵ Bernard Weinraub, “Immigration Bureaucracy is Overwhelmed,” *New York Times*, January 17, 1980.

⁹⁶ Howard Blum, “Unscrupulous Professionals Prey on Captives of Immigration Maze,” *New York Times*, January 15, 1980.

But the single most troubling disclosure in the series is not about corruption or brutality or chaos. It is about Washington's persistent inability to clean up.

The article quoted one Justice official as admitting that the INS was so bad he did not know how corrupt it was. The causes of problems in the Service at the end of the decade mirror those from the beginning. As the *Times* posited, "It doesn't take long for an overworked Border Patrol officer to realize that for every illegal immigrant he stops, five or even ten get past. Frustrations soon curdle into futility, anger—and worse." The reporter discerned, "Immigration officials were being told, in effect, 'Keep them out—even though society denies you the means to do so.'"⁹⁷

Bribery was perhaps the most frequent offense but there were more egregious problems such as physical and sexual abuse of immigrants. Immigrants'-rights groups and lawyers told of "suspicious deaths, shootings, beatings, rapes, and forced confessions; of incidents of torture, emotional abuse, unlawful arrests and deportations and other violations of legal and human rights by employees of the service." In the late 1970s, the United States Commission on Civil Rights heard ample evidence of immigrant abuse at the hands of INS personnel, such as one immigrant who was hit on the head with an officer's "walkie-talkie" and consequently "sustaining a 2 1/2 [inch] cut which required sutures."⁹⁸

People involved in investigations of the INS found "systematic beatings" and instances of gun violence. A senior Justice Department official acknowledged that the carrying of unregistered weapons was widespread among officers in the Southwest, which

⁹⁷ "Illegal Aliens—and Officials," *New York Times*, January 17, 1980.

⁹⁸ *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, Vol. 2, 250 (1978) (letter, Paul Kirby, Office of Professional Integrity, to Phyllis Fong, Attorney, U.S. Civil Rights Commission).

made it relatively easy for someone to shoot an immigrant and get away with it, but difficult for those investigating such incidents. A retired Border Patrol officer reported that he observed fellow officers toss a gun next to an immigrant they had shot “accidentally” and subsequently claim that the immigrant had been the one to shoot the gun.⁹⁹ Shootings were by no means the only abuses facing immigrants. “I’ve seen border patrolmen beating aliens over and over again,” said Fred Drew, an ex-Border Patrol officer. Drew estimated “that no more than 15 percent of the Border Patrol is really brutal, but the big problem was that the rest of the border patrolmen tolerated it.” Adding to this problem was the lack of strong punishment for those caught.¹⁰⁰ Usually, gathering statements from alleged victims was difficult, but even in the cases when evidence was available, officers generally received light reprimands or short suspensions.

Women were particularly susceptible to abuse at the hands of officials. “The giving of cards and entry permits to female aliens, including prostitutes, in exchange for sexual relations is apparently . . . common along the border, the *Times* reported. It was not only women crossing the border who were subjected to sexual extortion. Nicholas Estiverne, who worked for a year as a Border Patrolman in McAllen, Texas, recalled a restaurant there that was a “haven for female aliens,” where it was common practice for Border Patrol agents on “inspection tours” to arrest one of the women and demand sexual relations in return for her

⁹⁹ Nicolas Estiverne, quoted in John M. Crewdson, “Violence, Often Unchecked, Pervades U.S. Border Patrol, *New York Times*, January 14, 1980.

¹⁰⁰ Crewdson, “Violence, Often Unchecked, Pervades U.S. Border Patrol, *New York Times*, January 14, 1980.

release.¹⁰¹ Grace Halsell, a journalist who crossed the U.S.-Mexico border without papers three times with Mexican immigrants and who also traveled along the border with the U.S. Border Patrol in the late 1970s, told of a similar phenomenon. One of the Border Patrol officers with whom she toured the border told her about so-called “pussy posses.” He explained, “Sometimes we organize a ‘pussy posse’ and go out at night with some of the sheriff’s men and city police and round up 150 illegal Mexican women in the small bars. Of course, there’s not much we can do with them. There are no detention centers for women. We put them in the county jail, write them up, and then release them.” Halsell concluded that it was “a bit of a diversion for the men.”¹⁰²

The problem of corruption and use of violence in the INS was troublesome in and of itself, but subsequent investigations added strain to the internal relationships of the Service. Though high-ranking officials participated in misconduct, it was typically the local officials and Border Patrol officers working on the ground who were used as scapegoats. INS leadership promoted community in its rhetoric but simultaneously implemented stronger policing policies that added to local officials’ already strong sense of losing control.

The INS left the decade in little better shape than it started, and its leadership struggled to find solutions to its problems. As one congressman put it in his testimony before the Select Commission on Immigration and Refugee Policy in 1980, “It’s been well known for years that the INS is overwhelmingly incompetent in providing services to aliens in the

¹⁰¹ Crewdson, “U.S. Immigration Service Hampered by Corruption,” *New York Times*, January 13, 1980.

¹⁰² Grace Halsell, *The Illegals*, (New York: Stein and Day, 1978), 102.

United States But the ineptitude of the INS is often startling.”¹⁰³ The judicial system helped by addressing INS tactics, thus allaying at least some of the trouble for the INS. Commissioner Chapman attempted to fix the problem of INS responsibility and personnel through a concerted defense of the Service, but with only limited success. Another potential solution to the morale problem in the Service was an overhaul of immigration policy. Chapman and other INS officials urged new legislation that would take the pressure off the Service by creating more realistic policies and by limiting the scope of the Service’s mandate. The most popular such legislative solution was the use of employer sanctions to deter the hiring of undocumented workers, thus removing the primary incentive for unsanctioned border crossing. Political support for sanctions was persistent, as will be shown in Chapter Five, but despite the difficulty politicians had passing such legislation, INS officials continued to push for employer sanctions laws as a solution to the problem of undocumented immigration. INS support of employer sanctions certainly derived from genuine belief that such legislation would help solve the immigration problem along the border. But sanctions would also remove a great deal of responsibility from the Service, something its leadership seemed eager to accomplish. Low morale among officials combined with Commissioner Chapman’s expressed desire to have the private sector take over large elements of immigration control contributed to the internal problems facing the service during the 1970s because it was the clearest admission that their task was not possible. Rhetoric used by both INS leadership and the media during the time, framed the issue of undocumented immigration as a type of war. The use of such language heightened

¹⁰³ John M. Crewdson, “Immigration Office Assailed at Hearing,” *New York Times*, January 22, 1980.

anxieties, but the INS was quick to express a defeatist attitude when it admitted that the war was unwinnable.

Immigration *policy* after 1965 had its share of flaws, but the misconduct and dysfunction within the Service itself meant that everyday enforcement deviated from the law. Furthermore, all of these events occurred at a time when American society was filled with wrenching disillusionment over government and the nation's direction, a disillusionment resulting from Watergate and the Vietnam War. Such recent events influenced people's trust in politicians and the Border Patrol, as it was a quasi-military body that consisted of many Vietnam vets. People were leery of the government in general, and held law enforcement in low esteem. Furthermore, during the 1970s the civil rights movement was consolidating its gains, and the Border Patrol witnessed first-hand what the rights revolution had wrought. Americans of color had rights and, more to the point, were demanding those rights. A largely white force patrolling a brown-skinned people was no longer acceptable.

The cases outlined here explore the complex relationships within the Service and between the INS, the government, and the public. This intersection of policy and implementation reveals a complicated story of a law enforcement agency working to carry out a difficult task, often falling prey to the temptation to seek an easier or more workable alternative. Furthermore, the consistent lack of will in the government to give the INS the resources it needed to do its job hints at the underlying reality about how many Americans felt about undocumented immigration in the United States. Jimmy Carter appointed a new INS commissioner, but he also made a concerted effort to reform immigration laws in hopes that they would improve both the Immigration Service and the situation at the border. His

challenge, as we shall see, was an ambivalent Congress and an apathetic public on the issue of immigration from Mexico.

Chapter 5

Carter, Human Rights, and the Shaping of Late Twentieth Century Immigration Policy

When the special assistant to the commissioner of the Immigration and Naturalization Service (INS) submitted his report in 1979, titled “Attitudes Toward International Migration Among Texans,” he identified several reasons that “would almost guarantee the importance of migration issues in Texas.”¹ These included the long international border with Mexico and large Hispanic population. Texans joined with others residents of Southwest Border States in following local and federal debates on immigration, especially unsanctioned border crossings from Mexico, throughout the 1970s as the topic drew increasing national attention. When unsanctioned immigration became a political issue in the 1976 presidential election, Americans weighed the proposals set forth by each candidate on the issue. The victor in that election, Jimmy Carter, ambitiously offered his proposals for immigration reform within the first year of his administration.

President Carter made several significant contributions to the development of U.S. immigration policy, especially related to immigration from Mexico. First, Carter attempted to change the tone of the public debate by appointing the first Mexican American as head of the INS, Leonel J. Castillo. Castillo attempted, largely unsuccessfully, to rehabilitate the image of the Service. Second, Carter proposed legislative reform of the nation’s immigration system, the first president to do so since Lyndon Johnson. His proposals were controversial, however, and critics attacked them both for being too moderate and too extreme. The protests from individuals and organizations in the Southwest combined with ambivalence in

¹ Guillermina Jasso, February 14, 1979, “Attitudes Toward International Migration Among Texans,” preliminary draft, 5, USCIS Library.

Congress and an unenthusiastic general public to block Carter's reform efforts. In addition to obstructing Carter's reform attempts, protestors expressed frustration that the government was not doing its job of protecting U.S. borders. Finally, after his legislative proposals stalled in Congress, Carter formed the Select Commission on Immigration and Refugee Policy, whose report shaped immigration policies for the next twenty years. The events during Carter's presidency ensured that the issue of undocumented immigration would continue to be a popular topic of debate and would be a central political issue in the next administration.

Carter faced a divided public on the subject of undocumented immigration. By the time he took office, anti-immigrant publicity generated by the INS and the media had raised anxieties among some residents of the Southwest, who pushed for more effective border regulation. Conversely, many proponents of liberal border policies had high hopes and expectations for the Georgian once he won his party's nomination for the presidency in the summer of 1976. A newsletter published by one immigrants'-rights group ran an edition with the headline "Thank you Jimmy Carter," and praised the presidential nominee for his apparent willingness to consider widespread amnesty for immigrants without status.² Carter's political opponents, in fact, used his expected moderate stance on immigration against him during the campaign. In prepping for the election, aides to President Gerald Ford publicized Carter's stance on immigration by referencing a radio broadcast by Paul Harvey in

² Fred P. Ames, "Thank You, Jimmy Carter," *Carousel for Life*, undated. "Ames, Fred" folder, Box 7, Public Liaison Office Thomas Aranda Files 1976-1977, Ford Library.

which Harvey attacked Carter for wanting universal amnesty for undocumented immigrants.³ Initial support for Carter, however, quickly turned to ire. Detractors frequently criticized his policies on humanitarian grounds, thus challenging Carter on one of his most popular platforms—human rights. The enthusiasm among many Carter supporters waned during the course of his administration once it became clear that his leadership “held more promise than performance.”⁴ Furthermore, Mexican American groups and civil libertarians harshly criticized Carter’s proposal of sanctions for those hired undocumented workers, even though that proposal was popular among INS officials and many politicians and generally supported by the public. The majority of Southwest residents, based on opinion polls of the time, favored tougher legislation that targeted, in particular, employers of undocumented workers, but this proportion of the population was unorganized and generally passive. In contrast, those opposing Carter’s program, including immigrants’ rights advocates and Mexican American activists, organized to help prevent the proposals from advancing.

By the time Carter was elected, the American press had largely adopted the kind of rhetoric used by INS commissioner Chapman, who frequently employed terms like “silent invasion” in reference to undocumented immigration. *U.S. News and World Report*, for example, published a cover story in April 1977 titled “Border Crisis: Illegal Aliens Out of Control.” In the Southwest press, stories like “Silent Invasion of Illegal Immigrants Swamps U.S.” informed readers about the scope of the problem. One story reported, “Alarm about

³ Patrick Rowland to Max Firedersdorf, memo, October 19, 1976, “Illegal Aliens, January-November, 1976,” folder, Box 18, Domestic Council James M. Cannon Files, Ford Library.

⁴ Mary E. Stuckey, *Jimmy Carter, Human Rights, and the National Agenda*, (College Station: Texas A&M Press, 2008), *xvi*.

the flood of illegal immigrants into the United States from Latin America threatens a breakdown of immigration policy as a whole. It is becoming clear that a drastic revision in the laws is needed.” Other coverage focused on potential solutions, such as “Alien Crackdown: Tough Policy Promised,” which outlined the steps the government was taking to address the issue.⁵ Media coverage helped shape public opinion on the matter. In 1977, Commissioner Chapman triumphantly proclaimed that a recent Gallup Poll report showed that nearly three-fourths of the American population believed the “difficulty of controlling illegal immigration” was “a serious problem.”⁶

Rhetoric used in the media coverage on undocumented immigration stressed the urgency of the issue and sought to heighten anxiety with the use of terms such as “crisis” and “invasion,” but the reliability of such media reports was questionable. There was pushback against the dubious accuracy of the data provided by the Immigration Service. A report published by the *Centro de Inmigracion*’s Harvard Symposium in May 1977 posited that the economic crisis of the late 1970s “renewed nativist attitudes and anti-alien hysteria. Sensationalization by the mass media helped INS and other governmental interests to make undocumented workers the scapegoat for this country’s economic ills.” The report further

⁵ “Border Crisis: Illegal Aliens Out of Control,” *U.S. News and World Report*, April 25, 1977; W. Dale Nelson, “Silent Invasion of Illegal Immigrants Swamps U.S.,” *Del Rio News-Herald*, December 24-26, 1976; “U.S. Wrestles with Illegal Migrant Problem,” *Galveston Daily News*, March 30, 1977; John Hall and Marianne Means, “Alien Crackdown: Tough Policy Promised,” *San Antonio Light*, March 27, 1977. See also James Reston, “Silent Invasion of Illegal Mexicans getting first close look in decades,” *Yuma Daily Sun*, May 8, 1977.

⁶ *Oversight of INS Programs and Activities: Hearings Before the Subcommittee on Immigration, Citizenship, and International Law on Oversight of the Immigration and Nationality Service*, 95th Cong. 6 (1978) (statement of Leonard F. Chapman, Jr., Commissioner of INS).

criticized popular press coverage of the topic by asserting, “Fanned by the scandalous reporting of such leading newspapers as the *Los Angeles Times*, *New York Times*, and *Washington Post*, most debate has lacked any serious scientific analysis based on fact.” Furthermore, the report lamented that “Constant reference to the ‘Silent Invasion’ and to ‘Illegal Aliens’ encourage[ed] Nativist feelings that have long existed in the U.S.” As a result, “Hostile attitudes toward undocumented workers often turn[ed] to racist attitudes toward Hispano citizens and permanent residents.”⁷

The diligent efforts of the INS in the mid-1970s to raise awareness of what it characterized as the “problem” of unauthorized immigration and subsequent media attention succeeded in drawing the attention of certain public officials, leading to increasing pressure on Presidents Ford and Carter to take action on the issue. Ford, faced with a profound lack of information, began the process of data collecting through the formation of his Domestic Council Committee on Illegal Aliens. Carter used the information from that group and his own task force to put together a formal reform package. While the INS, journalists, and certain politicians emphasized the need for urgency in finding a solution, the general public was ambivalent on the subject. As the INS report on attitudes in Texas phrased it, immigration issues after 1976 “seem to be of greater interest, at least as indicated by *press reports* and by *official government interest*.”⁸ Those most interested in—and vocal on—the issue in the Southwest were advocates of immigrant and Mexican-American rights. The

⁷ Report, *Centro de Inmigracion’s* Harvard symposium, May 5, 1977, “Laws Prohibiting Employment of Undocumented Workers: An Unjust Solution to the U.S. Economic Problems,” “Undocumented Workers [Reports] 5/77-10/77 [O/A 6247]” folder, Box 12, Assistant to the President Joseph Aragon files, Carter Library.

⁸ Jasso, “Attitudes Toward International Migration Among Texans,” preliminary draft, 5, USCIS Library. *Emphasis added.*

organized opposition of these groups, combined with a divided Congress and an unenthusiastic general public, meant that Carter was unable to convince Congress to pass immigration reform despite his personal interest in and commitment to the issue.

Carter showed dedication to immigration reform from his presidential campaign through the time he left office. Mere months after Carter was sworn in, the INS associate deputy commissioner reported that the “illegal alien situation is one of the greatest challenges the Service faces,” and went on to cite undocumented immigration as one of the “unrecognized but potentially most troublesome social problems confronting the country.”⁹ Carter certainly took this view, and given that there had been no in-depth study of immigration policy in twenty-five years (Ford’s council had focused on undocumented immigrants), Carter went to work during the first year of his administration to develop a plan for handling the apparent burgeoning crisis of unsanctioned immigration. He started by forming a task force, headed by Attorney General Griffin Bell and Labor Secretary Ray Marshall, which he charged with developing recommendations for a comprehensive federal policy concerning undocumented immigration.

In addition to creating a task force, Carter appointed a new commissioner of the INS, Houston City Comptroller Leonel J. Castillo, who proved to be (as expected) a moderate on undocumented immigration. His appointment marked a departure from the reliance on ex-military personnel like Joseph Swing—head of the 1954 Operation Wetback—and Leonard Chapman. Not only was his demeanor more relaxed and easy going, Castillo’s background was that of a civilian public servant; he served in the Peace Corps and had a background in

⁹ Edward Jon Guss, ““Even if You’re on the Right Track, You’ll Get Run Over If You Just Sit There,”” *INS Reporter*, Spring 1977, 52.

community organizing and civil rights. Clearly, Carter believed that placing a Hispanic of Castillo's background in the position would symbolize the administration's new approach to immigration matters generally and the issue of undocumented immigrants from Mexico in particular. Castillo's family had a history long in Texas—his grandfather had migrated from Mexico in 1880—and he was only the second INS commissioner (and the first since the passage of the INA and subsequent rise in undocumented immigrants from Mexico) to be from a Border State.¹⁰

Recounting how he became commissioner, Castillo confessed in a 1980 interview that he had not been interested in the job, but Carter's special assistant on Hispanic affairs, Joseph Aragon, talked him into taking it. "I told him I did not believe in political suicide, that I didn't want such a gift, and that it just made no sense," Castillo said. Aragon convinced Castillo that he "had a moral obligation to do all [he] could to help La Raza, and that if [he] didn't get it, somebody really bad was going to get it." While he did not consider it a very attractive job, Castillo eventually agreed because it would provide an opportunity to "do something important."¹¹ Castillo had served on President Ford's Hispanic Advisory Committee, and as part of that group he had studied the internal workings of the INS. Castillo was concerned with the lack of Spanish-speaking Border Patrol officers and was also skeptical of the accuracy of the data on undocumented immigrants that the Service was

¹⁰ Anthony Caminetti was Commissioner General of Immigration from 1913-1921 and was born in Jackson, California.

¹¹ Castillo interview, 8.

providing to the administration and the public.¹² While he was considering the job, Castillo flew to Washington to meet with Attorney General Bell and key members of the Senate. His conversations with public officials confirmed his decision to accept the job.

Castillo's confirmation as INS commissioner went smoothly, although many warned him that he would have a difficult job ahead of him. On the day of his swearing in, Carter told Castillo that he was pleased to have a man of Castillo's background as commissioner because he thought sensitivity and knowledge of the Mexican American community would help in the position.¹³ In his remarks at the swearing in of Castillo in May 1977, Carter asserted that Castillo was about to "take on one of the most difficult jobs in Government." Carter went on to muse, "Sometimes I think the Oval Office is a hot spot, but I think [Castillo's] own responsibilities at this particular time might be even worse."¹⁴ When he became commissioner, Castillo acknowledged that immigration problems in the country were "mind-boggling."¹⁵

It was clear that Castillo's personality, management style, and goals for the Service, as well as his background, differed significantly from Chapman's. Although the two men had held a congenial meeting when Chapman was commissioner, Castillo did not shy away

¹² *Ibid.*, 11-14. Castillo made specific comments about Leonard Chapman and the inaccuracy of his information. Castillo disagreed, for example, about the great drain cause on the U.S. economy by immigrants sending money to Mexico.

¹³ Castillo interview, 22.

¹⁴ "Meet Leonel J. Castillo, Our New Commissioner," *INS Reporter*, Summer 1977, 1.

¹⁵ James P. Sterba, "New INS Chief Leonel Castillo Rising Star in Mex-Am Affairs," *Yuma Daily Sun*, May 18, 1977. This article provides good biographical information on Castillo's family, education, and work background.

from pointing out the weaknesses in his predecessor's approach. He cited the personal antagonism that many people in the Mexican American community felt toward Chapman, explaining that "of course it's easy to understand why and how it happened."¹⁶ Castillo believed that Chapman simply had no real understanding of the border region and the Latino community there. Chapman, according to Castillo, did not understand why many people of Mexican decent were angry with him and had no real grasp on goals of Mexican-American activist groups like the G.I. Forum and the League of United Latin American Citizens (LULAC). Castillo believed that Chapman was well-read, but had little practical social experience with the border region and was always thinking as a military man.¹⁷ While Chapman focused almost exclusively on enforcement, Castillo hoped to work on the service side of the INS mandate as well. Castillo did concede that he thought Chapman was sincere and genuinely believed that there was an invasion of the United States, and that he believed military measures were the best way to stop it.¹⁸ Castillo continued to pursue the use of new military-type technologies to improve border monitoring, but he also sought new technologies to aid in the service side and worked on, for example, the computerization of INS records.¹⁹ Castillo also tried to work more closely with the Mexican government.²⁰

¹⁶ Castillo interview, 9.

¹⁷ *Ibid.*, 10.

¹⁸ *Ibid.*, 12.

¹⁹ For examples of Research and Development programs and processes Castillo oversaw, see the Winter 1977-1978 edition of the *INS Reporter*, an issue dedicated to research and technology. Also, the article "Service Achievements in CY 1077" in the Spring 1978 edition of *INS Reporter* outlines both the improvements in service and enforcement made during Castillo's first several months on the job.

²⁰ For examples of Castillo's meetings with Mexican officials, see Castillo interview, 49-53; 83-86.

Castillo immediately faced what he called a “hot climate” perpetuated by the press, and he wanted to change the tone of the conversation. This was a contrast to Chapman’s approach, which emphasized heightening concern. In Castillo’s words, “my predecessor had managed to get everybody up to a fever pitch about the silent invasion.”²¹ Castillo was sworn in on a Friday, and on the following Tuesday he was holding a packed news conference in San Diego. “Must’ve been over a hundred press people at that one news conference,” he recalled, “all asking what I was going to do to stop the invasion. Just an enormous overflow of people, very upset, very excited, demanding action.”²² Castillo was surprised to see the large numbers of reporters along the border and was critical of members of the press who spread inaccurate and frequently disparaging stories about the Service. Castillo complained that the press would report allegations of abuse or violence in the INS and not bother to check the validity of the claim or reliability of the source. The press also reported that the INS protected abusive and exploitative growers and ranchers in the Southwest, a claim Castillo denied.²³

Castillo displayed a different type of attitude towards the situation and towards the immigrants themselves. He told one reporter, for instance,

sometimes when you apprehend all these people and you’re trying to enforce the law, what you’re really doing, even though you’re enforcing the laws, is you really manage to make yourself feel like a real shit. Because you’re deporting, in most

²¹ Castillo interview, 75.

²² *Ibid.*, 26.

²³ *Ibid.*, 88-89.

cases, young men and women, primarily men, and you know their sole reason for coming is work. They're not really a security threat, they're not really a criminal element at all.²⁴

Upon taking over as commissioner, Castillo announced that his goal for the INS was the “humanization” of its services.²⁵ He therefore spent time with hundreds of apprehended undocumented immigrants during facility visits. Although it was a population that many people feared, Castillo made a point to explain in an interview after he left the INS that he never felt threatened. He recalled that most immigrants just shared with him their experiences or told him that they had been duped by a smuggler. Sometimes they simply asked for a cigarette or asked for his help to keep them in the country or to get them home.²⁶

Naturally, Castillo also talked with immigration and Border Patrol officers and participated in every aspect of their job, even going out on patrol and apprehending immigrants crossing the border without inspection. Castillo suggested that the Border Patrol officers were pleased with his approach of talking with detained immigrants and seeing where they were kept and what food they ate. “By and large the response was good,” he insisted, “because they were convinced they were providing service in a humane way. They had read all these press accounts of attacks and brutality and so on, and most of ‘em were convinced that if I simply went there and saw it myself and experienced it myself, that I would be convinced they weren’t busting anyone.” INS employees also took the opportunity

²⁴ Ibid., 31.

²⁵ “Humanization INS Mission, *San Antonio Light*, June 19, 1977.

²⁶ Castillo interview, 31-32.

to ask him for more money and equipment, he noted.²⁷ Castillo wanted to encourage personnel and boost morale, and he shared stories about their hard work and successes in the Service's publications. The intra-agency newsletter *Commissioner's Communiqué* (formally *Open Line*) praised Service accomplishments in the "enforcement highlights" section, and the INS newsletter *INS Reporter* posted regular updates on Service activities and achievements.

Although he expressed pride in the work of his employees, Castillo was disappointed with how district immigration offices were run. He was shocked by what he saw when he started visiting local offices. He described one visit to the Los Angeles District Office:

I found my staff there using manual typewriters that were ancient; adding machines that weren't produced anymore, there were so old; really antique type machines; thousands of people standing around, waiting, trying to get in the office . . . I found no one able to answer the phone—two, three days to get a phone call answered; mail that couldn't be answered 'cause they couldn't even get around to opening it, it was just so jammed.

He also found "enormous, enormous administrative problems" ranging from a lack of automation to a shortage of toilets.²⁸ The El Paso detention center, often cited as the busiest in the country, also had significant problems. Castillo characterized it as overcrowded and lacking in administrative space. The detention centers were especially bleak. He met some resistance to making changes at that facility, but finally succeeded in securing improvements like the addition of an administrative building.²⁹ The backlog of immigration applications

²⁷ *Ibid.*, 37.

²⁸ *Ibid.*, 26-27.

²⁹ *Ibid.*, 37-38.

deeply disturbed Castillo and as part of his efforts to improve service, he launched a study to improve the process and reduce the waiting period.³⁰ He outlined forty-nine goals for improvements in INS efficiency that focused on the creation of “modern” office environments with streamlined and automated processes and even “functional office furnishings.”³¹

Castillo kept up the practice of visiting offices—announced or unannounced—and implementing changes. On occasion, he was treated “rudely or badly” because he showed up unannounced. He described one time when he arrived at an office and tried to get an appointment like anyone else. “That was good, because that way I was able to learn how everyone was treated,” he mused.³² Castillo sat in on some of the meetings Carter held with his task force on immigration. Carter asked for Castillo’s input on policies such as employer sanctions and amnesty, as Castillo would be the one to implement them. At one such meeting, Castillo told the president candidly that what the INS really needed was more typewriters. “There’s no way we could handle another million people, handle an amnesty program and all these other things. We aren’t able to answer our mail,” he told Carter.³³

Castillo encountered numerous challenges as commissioner; he met with some resistance in the Service itself and faced an unhappy public upset by the actions—or lack of

³⁰ See David H. Lambert, “Target—Adjudications Backlogs,” in *INS Reporter*, Spring 1978, 51-54.

³¹ “The Houston Project—A Blueprint for Improvement,” *INS Reporter*, Fall-Winter, 1978, 19. Castillo designated the Houston District Office as a “model office” encompassing his goals for improved efficiency and service.

³² Castillo interview, 27-28.

³³ *Ibid.*, 57.

action—of the Service. A letter to the editor of the *Del Rio News-Herald* in the fall of 1977 is representative of the kind of complaints Castillo received from anxious citizens. The writer called Castillo “anti-American” and criticized his use of “sob stories” about immigrants in his “one-world” advocacy of human rights and amnesty. She attacked President Carter and his appointees for “cultivating a garden of Communism” in the United States. She asked,

When will the American people wake up to the truth about what President Carter and officials like Leonel Castillo are doing to our country? Through the ‘human rights’ beyond our borders, by forcing taxation of U.S. citizens to support foreigners and by opening our immigration gates to hordes of foreigners whose votes they hope will perpetuate them in office, these ‘take from the haves and give to the have-nots’ U.S. officials are advocating insurrection against our Constitutional form of government.³⁴

There were many in the Service who agreed with these sentiments and who had supported Chapman’s method of focusing on enforcement. Some INS officials complained that Castillo’s approach hampered their ability to do their jobs, believing that he was too lenient on undocumented immigrants and was implementing his own amnesty program.³⁵ Some officers alleged that Castillo had suggested that they “go easy” on undocumented immigrants.³⁶ Castillo recalled after his retirement that INS employees stalled, sometimes for months, on the completion of administrative tasks as a form of protest. He was dismayed

³⁴ Ruth E. Hill, letter to the editor, *Del Rio News-Herald*, October 23, 1977.

³⁵ *Los Angeles Times*, November 11, 1978 and December 5, 1978, quoted in Reimers, *Still the Golden Door*, 230.

³⁶ Harry Bernstein, “Policy Battle: Illegal Aliens—Where to Draw the Line,” *Los Angeles Times*, November 11, 1978.

when officers on both the federal and local level complained to the press. “They thought I was giving the country away to Mexicans, or that I was spending too much money on low priorities and I should be spending money on enforcement, that they were being shortchanged—all sorts of things about me personally and about my priorities,” he explained.

Castillo also described opposition based on the fact that he was of Mexican descent. The issue of his ethnicity did not come up at all during his confirmation, and no senators expressed concern that he would be dealing with undocumented immigrants from Mexico. He did, however, contend that the press pushed him on that issue, wanting to know if he could be fair.³⁷ He also reflected on comments among INS employees about his ethnic background. He remembered that there were “little jokes about how everybody [would] have to learn how to speak Spanish in the Central Office or how you [would not] get promoted if you don’t have a Spanish surname.”³⁸ Despite his more humane approach, or in some cases because of it, Castillo also frequently faced angry crowds and demonstrations at press conferences and office visits. On occasion, he even traveled with body-guards for his protection.³⁹

Despite opposition, Castillo remained committed to changing the image of the INS. In correspondence with journalist-activist Grace Halsell, Castillo commented, “I am trying to change INS—make it humane and effective, or as human and effective and decent as we can.” He went on to tell Halsell, “Where someone says they’re beaten or abused or harassed or mistreated, I would like to look into it so that I could at least know what is wrong and

³⁷ Castillo interview, 20.

³⁸ *Ibid.*, 24-25.

³⁹ *Ibid.*, 64.

correct. I'm going to find some way to systematically investigate every instance that is reported, or as many on which we can get anything substantive." He continued, "Our treatment of Mexican nationals has decidedly changed... We have a whole new group of leadership in the Border Patrol—we have added a lot of what I call 'Human Rights.'"⁴⁰

As Castillo worked on improving the function of district offices and changing the tone of the conversation about undocumented immigrants, Carter's task force studied and discussed the border situation. Castillo, like other immigration officials before him, was critical of existing immigration law and supported Carter's efforts to come up with new legislation, even if he was unsure that the Service could enforce it. Castillo explained that throughout his time as commissioner he watched INS employees deal with the existing unworkable policies. Responding to criticisms of how Border Patrol officers carried out periodic crackdowns by targeting women immigrants entering the U.S. from Mexico on buses to work as domestics, Castillo complained that he was forced to make the most efficient use of his officers, and targeting buses allowed the officers to question large groups at once. "I think it's one of the end results of this kind of law," he argued. He went on to declare:

What's a mistake is the law; the law doesn't make sense. How can you talk about any rational way of enforcing that law? So the INS employee tries to find some way of making it at least look like he's enforcing it. Now, he knows very well that his big crackdown of Monday will simply result in a lot of people not going to work Monday, but that they'll be back at work Tuesday, and certainly Wednesday and Thursday.

⁴⁰ Halsell, *Illegals*, 122.

The fact that INS officials had to implement the “ridiculous policy” of keeping the door “half open and throwing up obstacles periodically” frustrated him.⁴¹ Castillo, the task force, and Carter worked throughout the summer of 1977 on a plan for immigration reform.

On August 4, 1977, less than a year after his election, Carter announced his formal proposals “to help markedly reduce” the increasing flow of undocumented immigrants across the border and to regulate those already living in the United States. His plan, Carter asserted, would address four main areas of immigration control: increasing regulation of U.S. borders through the addition of at least two thousand enforcement officers at the borders (almost doubling the existing numbers); limiting opportunities for undocumented workers through the use of strong civil penalties for employers of such workers; improving oversight of the millions of undocumented people already in the U.S. through the implementation of an amnesty program for long-term residents; and strengthening the cooperation between the U.S. and countries from which undocumented workers emigrated by increasing employment opportunities in those countries through economic and technical assistance programs.⁴² The employer sanctions and amnesty provisions in Carter’s plan drew the most controversy. Public officials also generally dismissed foreign aid as impractical, even though it was a popular idea. Political leaders, members of the media, activist groups, and average citizens all weighed in on the subsequent debates over Carter’s plan, and its critics successfully blocked it from advancing.

⁴¹ Castillo interview, 48.

⁴² “Remarks of the President on Reducing and Regulating the Presence of Undocumented Aliens,” August 4, 1977, “Undocumented Aliens 8/77 [O/A 4472]” folder, Box 102, Office of Public Liaison Costanza, Carter Library.

After Carter's announcement, some of the Southwest's leading journalists astutely predicted the quandary in which the president would soon find himself. A reporter for the *El Paso Herald-Post* warned that there would "be a major congressional battle before this becomes law, pitting those who think the President has gone too far against those who believe that, without [national work] identity cards and criminal penalties [for employers of undocumented workers], he has not gone far enough."⁴³ The *Washington Post* echoed this sentiment several days later when it characterized the Carter plan as "a patchwork compromise that attempts to respond to a range of opposing points of view."⁴⁴

Although generally congratulatory for attempting reform, the responses in the local Southwest press to Carter's proposals were usually negative because, as the previous comments suggest, many thought he had gone too far or had not gone far enough. Among those believing the actions were too generous was the editor of the *El Paso Herald-Post*, who asserted, "To my mind, our concern should be for our own citizens . . . who pay the freight to keep this country going. And our first step should be directed not to giving a free ride to those who have violated our laws, but to stopping the silent invasion of our nation."⁴⁵ A reporter for the same paper chided Carter for not including *criminal* penalties for employers of undocumented workers.⁴⁶ The *Albuquerque Tribune* concluded simply, "President Carter

⁴³ James Reston, "Illegal alien plan falls short," *El Paso Herald-Post*, August 9, 1977. This sentiment was echoed in *Washington Post* several days later when it labeled the Carter plan "a patchwork compromise that attempts to respond to a range of opposing points of view." See Editorial, "Tackling Illegal Immigration," *Washington Post*, August 6, 1977.

⁴⁴ Editorial, "Tackling Illegal Immigration," *Washington Post*, August 6, 1977.

⁴⁵ Pete Lee, "Editor's Corner," *El Paso Herald-Post*, Nov. 2, 1977.

⁴⁶ James Reston, "Illegal Alien Plan Falls Short," *El Paso Herald-Post*, August 9, 1977. Reston argued that Carter's proposal lacked "the two elements essential to an effective

has recognized the grave problem posed by the estimated 6 million to 12 million illegal aliens in this country. But his program to deal with it seems flawed and unworkable.”⁴⁷

Employer sanctions, a key element in Carter’s plan, drew particular attention in border states. One journalist reported, “Even preliminary discussion of these proposals has evoked controversy and there is certain to be opposition in Congress and from the public—especially to any suggestion of amnesty or punishment of those who employ illegal aliens.”⁴⁸ Carter’s efforts to target the U.S. employers of undocumented immigrants had ample support from government and INS officials, but also stirred substantial controversy. Aware of potential criticisms, Carter acknowledged that, while penalizing employers of undocumented workers, it was imperative to “be fair to Latin-American, Chinese-American and other citizens who are here legally so that an employer might not discriminate against them simply because of their racial origin.”⁴⁹ In a “fact sheet on undocumented aliens” released by the White House to provide an overview of Carter’s immigration proposals, the administration further explained the purpose of the employer sanctions element of the plan. The fact sheet explained that employer penalties were “aimed at persons who knowingly ‘broker’ jobs for undocumented aliens,” as well as “individuals in supervisory positions who sometimes

solution to this increasingly serious problem.” These were no identity cards or work permit, “and criminal penalties for employers who hire illegals.” Emphasis added.

⁴⁷ Opinion page, *Albuquerque Tribune*, August 8, 1977.

⁴⁸ Gene Goldberg, “Carter Alien Amnesty Program Not Cure-All,” *El Paso Herald-Post*, June 2, 1977.

⁴⁹ “Remarks of the President on Reducing and Regulating the Presence of Undocumented Aliens,” August 4, 1977, “Undocumented Aliens 8/77 [O/A 4472]” folder, Box 102, Office of Public Liaison Costanza, Carter Library.

threaten to report undocumented aliens unless they are given a fee from every paycheck.”⁵⁰
Carter and his staff knew that elements of the plan would require some convincing.

Policymakers and immigration officials had long encouraged the implementation of penalties against employers of undocumented workers. Since the early 1950s, when progressive Illinois Democratic Senator Paul Douglas introduced bills that would make it a felony to hire an undocumented worker, immigration officials had urged policymakers to implement penalties against employers of undocumented workers. The “Texas Proviso” of the 1950s remained in effect, however, excluding employers from penalties targeting persons who harbored undocumented immigrants. During the “wetback decade” of 1944-1954, a time when there were obvious contradictions in immigration laws because undocumented immigrants from Mexico poured in while restrictions were in place for everyone else, a perceptive journalist observed:

The obvious answer is to eliminate the incentive to border-jumping—employment. Although hiring a wetback is tantamount to harboring a fugitive from justice, the present law imposes no penalty for doing it. The Presidential Commission on Migratory Labor recommended in 1951 that the practice be subject to injunctions and restraining orders, that employers be punished by imprisonment and fines and barred from obtaining legal Mexican contract labor, and their produce be barred from interstate commerce. But all efforts to strengthen the law along these lines have been successfully opposed by members of Congress who indorse the wetback myth.⁵¹

⁵⁰ “Undocumented Aliens Fact Sheet,” August 4, 1977, “Undocumented Aliens 8/77 [O/A 4472]” folder, Box 102, Office of Public Liaison Costanza, Carter Library.

⁵¹ Hill, “Wetbacks: McCarran’s Immigrants,” 151, 152.

Discussions of employer sanctions were left out of the debate over the 1965 Immigration Act, as was the topic of undocumented immigration itself. As unsanctioned border crossings increased in the years after the enactment of the INA, those pushing for employer sanctions as a solution to the problem repeatedly raised the issue.

In 1970, Los Angeles Border Patrol Chief George K. Rosenberg argued that the government could stop the “invasion” of undocumented workers by shutting off employment opportunities. “These people are not criminals,” he declared, and explained that they were “economically underprivileged men trying to make a decent living for their families.” To stop them, Rosenberg wanted the government to abolish the Texas Proviso and enact sanctions.⁵² Despite such urging, repeated attempts to pass an employer sanctions bill failed during the 1970s. Congressman Peter Rodino (D-NJ) passed legislation that included penalties for employers who hired unauthorized workers in the House of the 92nd (1971-1972) and 93rd (1973-1974) Congresses, but the measures failed in the Senate. The full House never voted on a bill containing employer sanctions submitted during the 94th (1975-1976) Congress. State and local governments had some more success in passing employer sanctions policies, but these legislative successes were generally marred by a lack of resources for or unwillingness to carry out enforcement. Such was the case with California’s sanctions bill, which passed in 1971 but was never used to indict an employer.

Leadership in the Immigration Service continued to push for sanctions as a solution to undocumented immigration. At a congressional hearing in 1973, for instance, INS Acting Commissioner James F. Greene testified that he had “urged for a number of years a law that

⁵² Rosenberg, quoted in Charles Sutton, “Southland Wetback Invasion Increases,” *Long Beach Press Telegram*, March 26, 1970.

would penalize the employer.”⁵³ Greene later testified, “If there were no job opportunities for illegal aliens, I think the problem would almost diminish entirely,” to which Congressman Leo Ryan (D-CA) responded, “It seems to me that the strongest recommendation is to begin here at home with some legislation which will increase the penalties for those employers who hire illegal aliens.”⁵⁴ The INS newsletter, *Open Line*, stated in early 1975, “We will also continue to support legislation which will make it unlawful to employ illegal aliens,” and published a statement later that year that stated, “We are continuing to support the Rodino Bill . . . and are hopeful that perhaps this year will see further progress on this important legislation Instead of seeking out millions of illegal aliens, we will concentrate on that small number of employers who deliberately try to avoid the law by continuing to hire illegals.”⁵⁵

INS officials reasoned that employer sanctions would take the pressure off the Service because fewer immigrants would seek to enter the country if the lure of easy access to American jobs no longer existed. The Service’s support of employer sanctions legislation and subsequent absolution of responsibility by the INS was expressed most clearly by INS leadership and Commissioner Leonard F. Chapman in particular. *U.S. News and World*

⁵³ *Immigration and Naturalization Service Regional Office Operations (Part 1): Hearings Before a Subcommittee on Government Operations, 93rd Cong. 78 (1973)* (statement of James F. Greene, Acting Commissioner of INS).

⁵⁴ *Immigration and Naturalization Service Regional Office Operations (Part 3): Hearings Before a Subcommittee on Government Operations, 93rd Cong. 324, 325 (1973)* (statements of James F. Greene, Acting Commissioner of INS and Leo Ryan, Congressman from California).

⁵⁵ “Open Line” Vol. 2 No. 1, Jan 6, 1975; Vol. 2 No 19, Oct 28, 1975, USCIS Library

Report asked Chapman whether the INS could “bring the problem of illegal aliens under control” with additional resources and manpower. Chapman answered,

I don't think so. The magnitude of it will simply overwhelm the Immigration Service even with added personnel. That brings me to my view that the only real answer to this problem is to turn off the magnet—the attraction—that draws these millions of people here by the enactment of a law...[that] would make it illegal knowingly to hire an illegal alien.

The interviewer followed up by asking, “In effect, you would shift the enforcement of immigration laws from Government authorities to private employers—” and Chapman concurred by stating that “It would require the employer to inquire of each prospective employee as to his citizenship.”⁵⁶

Despite persistent support for employer sanctions, it remained controversial and the Carter administration knew that the policy would be difficult to enact. The *El Paso Herald-Post* editor suggested a key step in addressing the problem of undocumented immigration, “unpopular as it might be” was to pass employer sanctions legislation. “This is in the Carter plan,” he commented, “and it's sure to draw some fire.”⁵⁷ Draw fire it did; most of the controversy focused on the potential for discrimination against American workers of Mexican (or other foreign) descent by employers who wanted to avoid possible penalties. Carter received letters from all over the country outlining concerns regarding discrimination. One example of this sentiment came from Mexican-American Congressman Edward Roybal

⁵⁶ “How Millions of Illegal Aliens Sneak into U.S.: Interview with Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service, *U.S. News and World Report*, July 22, 1974.

⁵⁷ Pete Lee, “Editor's Corner,” *El Paso Herald Post*, Nov. 2, 1977.

(D-CA) and Puerto Rico-born Congressman Herman Badillo (D-NY), who wrote to Carter to say that they believed employer sanctions would lead to “discriminatory treatment of Hispanics and other ethnic and racial minorities in the labor market.”⁵⁸ Texas Governor Dolph Briscoe (D), although generally in favor of Carter’s immigration package, expressed concern over employer sanctions, suggesting that “the discrimination against persons of Mexican ancestry would be very possible.” Governors of the three other Border States similarly expressed support of Carter’s efforts, but with some reservations. New Mexico Governor Jerry Apodaca (D) noted that sanctions “could have a tendency to create not necessarily discrimination but more harassment of any person who is obviously of Mexican descent.”⁵⁹ The high level of poverty among many Hispanics in the Southwest added to the potential problem of discrimination caused by an employer sanctions bill. Texas Representative Kika de la Garza (D) was particularly outspoken on this issue.

Among other groups in the Southwest, reaction to employer sanctions proposals was swift and virulent. Although Carter’s employer sanction provision had some media support, immigrants’-rights activists and Mexican-American groups were especially vocal in opposition, and numerous such groups from across the country lobbied in Washington D.C. for modification of Carter’s proposals on undocumented immigrants. Critiques of the employer sanctions legislation focused on the potential problem of discrimination against Hispanics and other human rights causes. The Mexican American Legal Defense Education

⁵⁸ Badillo and Roybal to Carter, May 12, 1977, “Undocumented Workers [Correspondence] 2/76-10/77 [O/A 6247]” folder, Box 12, Assistant to the President Joseph Aragon files, Carter Library.

⁵⁹ Ernie Sotomayor, “Governors Back Alien Plan,” *El Paso Herald-Post*, August 9, 1977.

Fund expressed great disappointment in Carter's proposals.⁶⁰ A McAllen, Texas, attorney familiar with immigration issues complained to Texas Senator Lloyd Bentsen (D), "To make it illegal for the employer to hire undocumented aliens . . . is to give the serpent of discrimination more chance to rear its head, as the employer can say the job seeker looked alien and undocumented." He went on to observe that if such sanctions became law, "many undocumented alien workers would still seek a living by more clandestine methods and thus subject themselves to greater exploitation by unscrupulous employers," and asserted that such a law would "further subject our brown skinned Hispanics to more scrutiny by the Border Patrol."⁶¹ Texas attorney and Mexican-American rights activist José Angel Gutiérrez issued "A Call for Action" to the Latino community in the country in which he argued, "A crisis for all Spanish surnamed persons within the US of A is rapidly approaching. The very same man our Raza supported for the Presidency, now seeks to deport us. The Carter administration is designing a new immigration policy. We are the main targets."⁶² Gutiérrez gave voice to the belief held by many immigrant activists that the U.S. should have an open

⁶⁰ Mexican American Legal Defense Education Fund, "Statement of Position Regarding the Administration's Undocumented Alien Legislative Proposal," September 26, 1977, "Undocumented Workers [Reports] 5/77-10/77 [O/A 6247]" folder, Box 12, Assistant to the President Joseph Aragon files, Carter Library.

⁶¹ Bob Sanchez to Lloyd Bentsen, September 6, 1977, "INS- Hispanic Advisory Committee" folder, Box 79, Julian Samora Papers, Benson Latin American Collection, University of Texas.

⁶² José Angel Gutiérrez, "A Call for Action. International Conference on Immigration and Public Policy," "immigration conference" folder, Box 44., José Angel Gutiérrez Papers, Benson Latin American Collection, University of Texas.

border policy with Mexico. That, Gutiérrez and others argued, was the solution to the “immigration problem.”⁶³

Immigrants’-rights activism in the Southwest surged in the late 1970s and activists used the centerpiece of Carter’s foreign and domestic policies, human rights, as their rallying cry. The *El Paso Herald-Post* made a clear connection between Carter’s immigration and human rights policies when it reported, “Carter aides are convinced the President’s campaign for human rights abroad will have a hollow ring if he does nothing to relieve the fear and paranoia of millions of people who live in hiding in America.”⁶⁴ A statement from the League of United Latin American Citizens observed,

The illegal alien dilemma is a social and economic problem, deserving a humane law It should not be treated as a police problem or solved with police approaches In the midst of the administration’s emphasis on a world-wide human rights campaign . . . it is anomalous . . . that President Carter should advocate a policy that dehumanizes the illegal alien and treats him with less than dignity and respect.⁶⁵

Similarly, two thousand delegates to the national Chicano-Latino conference meeting in San Antonio went on record as opposing Carter’s proposed immigration policies, calling for “full civil and human rights for . . . ‘undocumented workers.’”⁶⁶

⁶³ “Open Border is Advocated,” *Yuma Daily Sun*, October 3, 1977.

⁶⁴ Gene Goldberg, “Carter Alien Amnesty Program Not Cure-All,” *El Paso Herald-Post*, June 2, 1977.

⁶⁵ Manny Ontiveros, quoting from the LULAC statement, “LULAC raps police approach to illegal alien problems,” *El Paso Herald-Post*, August 5, 1977.

⁶⁶ *Pampa (TX) News*, October 31, 1977.

Opposition to employer sanctions came from other segments of the population in the Southwest as well. Local politicians predictably joined in the debate. Texas State Representative Chase Untermeyer released a statement in March 1977 declaring, “The arguments against these [employer sanctions] bills have been eloquently raised recently by Mexican-American leaders, and I, as an Anglo and a Republican, would like to voice my own concern for the damage these bills would cause in Texas.”⁶⁷ The *El Paso Herald-Post* articulated the problem from an employers’ perspective when it noted that employer sanctions was “not a new idea, and it has drawn bitter opposition for a good many years. Some of it is simply self-serving opposition on the part of employers who like cheap labor. A more legitimate objection comes from the employer who says, ‘how am I to know if the fellow I hire is an illegal alien?’”⁶⁸ On the other end of the spectrum, some border residents criticized employer sanctions because they were too weak. The *Albuquerque Tribune*, for example, editorialized, “Carter’s proposed penalty of a \$1,000 fine for hiring an illegal alien is weak and riddled with outs.”⁶⁹

Most of the opponents of Carter’s employer sanctions vocalized broad opposition to the ideology they saw behind his plan. The Austin New American Movement published a pamphlet on undocumented workers in 1977 that identified “problems with the Carter plan.” Alluding to the fact that Carter was not calling for mass deportation, the pamphlet proclaimed, “We don’t stop injustice by being grateful for not having to deal with a greater

⁶⁷ Chase Untermeyer, March 25, 1977, “immigration” folder, Box 44, José Angel Gutiérrez Papers, Benson Latin American Collection, University of Texas.

⁶⁸ Pete Lee, “Editor’s Corner,” *El Paso Herald-Post*, Nov. 3, 1977.

⁶⁹ Opinion page, *Albuquerque Tribune*, August 8, 1977.

injustice . . . We stop injustice by stopping injustice.”⁷⁰ The Committee on Chicano Rights published a newsletter exuding the frustration of the group: “The treatment of our people by the INS/Border Patrol through their sweeps in our communities and the violence being perpetrated by them along the International Border gives us the RIGHT and indeed makes it our duty to RESIST these unjust laws and practices.”⁷¹

While these individuals and groups were vocal and adamant in their opposition to Carter’s immigration policies, they do not provide a complete picture of attitudes among people in the Southwest regarding immigration. Reputable public opinion polls from the period provide insight into the attitudes held by a majority of Border State citizens who participated in the surveys. A 1976 Gallup Poll broke down its results by region, so it is clear what residents in the western Sunbelt states thought of the issue compared to the rest of the country. People living in states bordering Mexico were especially likely to have heard or read about the “problem of illegal aliens,” with over 2/3 answering yes (compared to 1/2 nationally). This group of Americans was also the most concerned with the problem, with 51 percent labeling it “very serious” and another 30 percent labeling it “somewhat serious.” Perhaps most revealing, 62 percent of those polled in the Gallup survey favored employer sanctions, a seeming contradiction to the outpouring of protests against them.⁷² Nationally,

⁷⁰ Glen Scott, “Undocumented Workers: Are they the Problem?” (Austin: New American Movement, 1977), 7. Underlining in original

⁷¹ Herman Baca, February 12, 1980, “immigration folder 3 of 3” folder, Box 44, José Angel Gutiérrez Papers, Benson Latin American Collection, University of Texas. Capitalization in original.

⁷² “The Gallup Study of Attitudes Toward Illegal Aliens Conducted for the Immigration and Naturalization Service,” June 1976, “Illegal Aliens-Domestic Council Committee, Apr.-Nov. 1976” folder, Box 9, Domestic Council Richard Parsons files, Ford Library.

the survey revealed that, among those polled, 80 percent agreed that “Congress should pass a law to make it illegal for an employer to hire an illegal alien” (62 percent strongly) while only 15 percent disagreed.

Two years later, results of the INS survey on attitudes specifically among Texans towards international migration, conducted in the summer of 1978 (after Carter’s immigration policies had stalled), confirmed the findings of the Gallup Poll. The INS survey, which polled people from all over Texas and from various socioeconomic, education, and ethnic backgrounds, concluded that the analysis of findings appeared “to suggest strongly that there [was] substantial and broad-based support in Texas” for family reunification provisions and numerical limits on immigration, which were existing policies, as well as the new employer sanctions proposals and increased budget allocations for border enforcement. “Taken together,” the report closed, “these findings portray the people of Texas as . . . desirous of more orderliness at the border and at the marketplace.”⁷³

The majority of the public in the Southwest, therefore, favored Carter’s proposals generally and employer sanctions specifically. They were not organized on the issue, however, and the same majority of the public that supported employer sanctions also generally opposed amnesty. There was an outpouring of criticism of the amnesty provision in Carter’s plan, with many border residents claiming that regularizing the status of the undocumented would exacerbate the problem of unsanctioned border crossings. Similar divisions in Congress stymied Carter’s hope for immigration reform. The failure of Carter’s immigration plan also suggests that the “problem” of undocumented immigration did not

⁷³ Jasso, “Attitudes Toward International Migration Among Texans,” preliminary draft, 26, 27 USCIS Library.

create as much public anxiety as reflected in political and media rhetoric of the time. For his part, Castillo believed that he helped change the tone of the conversation and successfully cooled the climate during his two and a half years as commissioner.

The proposals Carter put forth in August 1977 reached Capitol Hill in October and met with immediate opposition, and Congress, as one Texas newspaper put it, eventually put them on the back burner.⁷⁴ “The Carter administration’s initial optimistic rush to find a ‘solution’ to the nation’s illegal alien problem has slowed to a cautious crawl,” the newspaper reported. The slow pace, the article explained, “contrasts sharply with the initial zeal attached to the illegal alien problem by the incoming Carter administration.”⁷⁵ Carter was too liberal for conservatives on the matter and not liberal enough to support widespread amnesty programs advocated by human rights and immigrants’ advocates. INS Commissioner Castillo believed that immigration reform failed because it was too moderate. Carter, according to Castillo, “mistakenly . . . tried to compromise with all the warring factions.” The president took “midpoints” on many of the issues like amnesty and as a result did not get enthusiastic support from any interest group. Because Carter took a compromise position, Castillo opined, “it didn’t give him a whole lot of strong allies.” In immigration policy, “taking the middle position angers everybody and pleases no one.”⁷⁶

⁷⁴ The legislation was introduced in the House by Peter J. Rodino on October 12, 1977, under H.R. 9531, a bill titled “Alien Adjustment and Employment Act of 1977.” It was introduced in the Senate on October 28 by Senator James O. Eastland and co-sponsored by Senators Edward M. Kennedy, Lloyd Bentsen, and Dennis DeConcini.

⁷⁵ Gene Goldenberg, “Carter’s Illegal Alien Solution Shoved to Back Burner,” *El Paso Herald-Post*, December 30, 1977.

⁷⁶ Castillo interview, 59.

After Carter's reform package stalled in Congress, some legislators were frustrated with the lack of direction provided by the administration on the subject of immigration. One senator expressed his concern to the attorney general that "the perception on the Hill at this time is that the Administration is very confused in where to move and that seriously conflicting signals are coming forth." The senator explained that recent budget cuts to the INS, the backing away from the proposed two thousand officer increase in the Border Patrol, and the postponement of the border fence project was contradictory to the president's 1977 reform proposals.⁷⁷ In the INS, Castillo proposed an "interim short-range program to deal with the situation" that was a scaled back version of Carter's plan, including provisions for better enforcement and status adjustment of some undocumented immigrants.⁷⁸ Castillo's proposals also gained little traction, though he did continue to work on better enforcement and office efficiency to improve service. Carter remained committed to the issues of immigration and border control, though he decided to change his strategy to address the subject.

In the wake of the failure of legislative reform, Carter took other steps towards a solution. First, the Carter administration began a program in 1978 in the Labor Department that targeted businesses suspected of hiring undocumented workers. Using Labor's Employment Standards Administration, the program successfully won back wages for workers, many undocumented, who had been paid substandard rates in violation of the law.

⁷⁷ Doris M. Messiger, meeting notes with Mr. LeMaster of Senator Huddleston's Staff, February 16, 1979, "Immigration and Refugee Policy—Select Commission [2]" folder, Box 12, Domestic Policy Staff subject files Civil Rights and Justice White, Carter Library.

⁷⁸ Leonel J. Castillo, "Dealing with the Undocumented Alien—An Interim Approach," *INS Reporter*, Summer 1978, 1-6.

The idea behind the program was to remove the incentive to hire undocumented workers because employers could pay them a lower wage. Although the program was limited in scope, it helped protect workers without legal status and also made it less profitable for businesses to employ them rather than citizens or legal residents.⁷⁹

Carter also turned back to the experts in the field to study and gather information in order to shape future policy and determine what the American public and, more importantly, Congress, would support. When the momentum pushing immigration reform legislation slowed to a crawl after Carter offered his proposals, it was clear that the public and lawmakers needed more concrete information on undocumented immigration before legislative action could succeed. To find as much information as possible to make intelligent policy proposals, Carter announced the formation of the Select Commission on Immigration and Refugee Policy (SCIRP) in the fall of 1979. While it is easy to dismiss commissions as a time-buying ploy to avoid important decisions, and despite the fact that SCIRP faced numerous challenges, the work and final report of Carter's Select Commission proved critically important in the shaping of immigration policy in the 1980s and 1990s.⁸⁰

With the backing of President Carter, the 95th (1977-1978) Congress established the commission, composed of four cabinet officers (Secretary of State Cyrus Vance, Secretary of Labor Ray Marshall, Secretary of Health, Education and Welfare Joseph Califano, and Attorney General Griffin Bell), four Senators (Edward M. Kennedy (D-MA), Dennis DeConcini (D-AZ), Charles Mathias, Jr. (R-MD), and Alan K. Simpson (R-WY)), and four House members (Peter J Rodino (D-NJ), Elizabeth Holtzman (D-NY), Robert McClory (R-

⁷⁹ Reimers, *Still the Golden Door*, 239.

⁸⁰ *Ibid.*, 88-89; LeMay, *Guarding the Gates*, 171-173.

IL), and Hamilton Fish, Jr. (R-NY)). There were also four public members, appointed by the president, including: Rose Matsui Ochi, director of criminal justice planning for Los Angeles and executive assistant to the mayor; Joaquin Francisco Otero, vice president of the Brotherhood of Railway and Airline Clerks; Cruz Reynoso, associate justice of the Third Appellate District in Sacramento and law professor; and Reubin Askew, former governor of Florida.⁸¹ Askew, designated chairman of the commission, resigned to be the U.S. trade representative in the fall of 1979 and was replaced by Theodore M. Hesburgh, who had been head of the Civil Rights Commission for its first fifteen years and was president of Notre Dame. As a former university president, he made it clear that he wanted the best research to guide the commission's deliberations.⁸² Staff director Lawrence Fuchs, professor of American studies at Brandeis University, brought together a staff made up of government agents, academics, and representatives from interest groups.⁸³ SCIRP members were also ethnically diverse and included descendants of German, Irish, Italian, Japanese, and Mexican ancestry.

The commission set to work on its task to “study and evaluate existing laws, policies and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to the President and to the

⁸¹ Public Law 95-412, signed into law on October 5, 1978, amends the INA to establish the Commission. The law originally called for a final report in September, 1980 and allocated \$700,000 for the Commission's work but both of these provisions were amended. The group was granted a six month extension to publish its final report and granted \$2.4 million to complete its work.

⁸² Martin, *Nation of Immigrants*, 205.

⁸³ *Ibid.*, 206.

Congress as are appropriate.”⁸⁴ Perhaps the most important task of the commission was consensus building. As commission member Senator Kennedy explained, “Nothing will happen on this issue . . . unless some consensus is found.”⁸⁵ Chairman Hesburgh acknowledged the high expectations policymakers had for the work of SCIRP. In a letter to commissioners, he cited several examples of government officials and law-makers referencing the work the commission, such as one particular day in the Senate during which “nine United States Senators mentioned the Select Commission more than twenty times—with the expectation that the Commission will be able to propose an immigration law that is responsible, enforceable, and equitable.” Hesburgh shared the references because he was “feeling the heavy weight of the responsibility” the commissioners carried.⁸⁶

The commission experienced challenges throughout its existence; it faced the problem of low expectations from the public from the very beginning. A pamphlet on the commission published by the anti-immigration group Zero Population Growth (ZPG) pointed out that “do nothing” expectations persisted and that “already, people are saying the commission will accomplish nothing except more delay” in coming up with policy. ZPG pushed readers to get to know the commission members and contact them to let them know

⁸⁴ Office of the White House Press Secretary Press Release, October 11, 1979, “Select Commission on Immigration and Refugee Policy, 3/22/79-10/11/79” folder, Box 149, Office of Congressional Liaison Carroll, Carter Library.

⁸⁵ “Meet the Select Commission in Immigration and Refugee Policy,” pamphlet published by Zero Population Growth, May 1979, “Select Commission on Immigration and Refugee Policy, 3/22/79-10/11/79” folder, Box 149, Office of Congressional Liaison Carroll, Carter Library.

⁸⁶ Theodore M. Hesburgh to Select Commissioners, memo, July 1, 1980, “Immigration and Refugee Policy—Select Commission [1]” folder, Box 11, Domestic Policy Staff subject files Civil Rights and Justice White, Carter Library.

they expected action. There were also some disagreements among commission members, with some complaining about “obstructionists” and people being too argumentative.⁸⁷ Some criticized the commission for not including a member representing the volunteer agencies that worked closely with immigrant and refugee communities in the United States.⁸⁸ Finally, the nature of the work itself was difficult. As Chairman Hesburgh intoned, “What made this task [of devising a national immigration policy] doubly difficult, if not near impossible, was that the various economic and political segments in our own pluralistic society had diametrically divergent views on the subject.”⁸⁹ Gathering information on such a complex issue proved difficult. One INS employee detailed to the commission resigned from the INS out of frustration with the Service for stonewalling the efforts of the commission. She felt too constrained in what information she could provide and stated that she no longer wanted to be “a party to the proposed charade.”⁹⁰

Despite challenges and conflict, the commission worked diligently on its assigned task. Hesburgh summarized the work of the commission in his memoir, explaining, “Over an

⁸⁷ See, for example, White House memo to Stu Eizenstat from Frank White complaining about the internal disagreements and frustrations of the SCIRP, June 24, 1980, “Immigration and Refugee Policy—Select Commission [1]” folder; and White House memo to Stu Eizenstat from Frank White outlining SCIRP operational and membership problems, March 5, 1980, “Immigration and Refugee Policy—Select Commission [4]” folder, Box 11, Domestic Policy Staff subject files Civil Rights and Justice White, Carter Library.

⁸⁸ See, for example, letter from congressmen Robert F. Drinan and Hamilton Fish to Jimmy Carter, March 2, 1979, “Select Commission on Immigration and Refugee Policy, 3/22/79-10/11/79” folder, Box 148, Office of Congressional Liaison Carroll, Carter Library. The letter “expressed deep concern over reports that [Carter’s] four appointments to the Commission will not include an individual representing this important interest.”

⁸⁹ Theodore M. Hesburgh with Jerry Reedy, *God, Country, Notre Dame*, (New York: Doubleday, 1990), 274.

⁹⁰ Quoted in Calavita, *Inside the State*, 13.

eighteen-month period, we held public hearings in twelve major ports in the United States, including New York, Boston, New Orleans, Los Angeles, San Francisco, and San Antonio. We heard from hundreds of expert witnesses and read through volumes of reports and surveys.” The work was challenging, but after “much debate, hassling, and compromising,” the commission made its recommendations, which Hesburgh considered “moderate, doable, and effective.” Among the main recommendations of the SCIRP were that the United States cooperate with other countries and international organizations to collect information on migratory flows and experiences, raise funding and resources for the Border Patrol, provide for better cooperation among U.S. enforcement agencies at the border, improve training of INS officials in cultural sensitivity and immigrants’ rights, pass employer sanctions, provide amnesty, and raise annual immigration limits to 350,000 (with an additional 100,000 visas for the first five years to clear the backlog).⁹¹ Hesburgh summated,

In the end we produced thirteen thick volumes of testimony, findings, and recommendations In setting policy, the commission came to the conclusion that the best way of dissuading excess immigration was to make it difficult, if not impossible for these people to get jobs here without legal entry papers. In other words, we recommended widening the front door to immigration . . . and closing the back door to illegal aliens. We also recommended making an exception for our close neighbors Canada and Mexico. They would be allowed 40,000 immigrants each year.⁹²

⁹¹ Executive Summary Recommendations of the Select Commission on Immigration and Refugee Policy, *Final Report*, (Washington D.C.: U.S. Government Printing office, 1981), xv-xxxii.

⁹² Hesburgh, *God, Country, Notre Dame*, 275, 277.

The SCIRP report found that legal immigration was of great benefit to the United States, but undocumented immigration was an unacceptable system of allowing people into the country. Its recommendation of closing the back door to undocumented immigration while opening slightly the front door to accommodate more legal immigration seemed to be a reasonable policy and formed the foundation for subsequent policy debates.

Hesburgh was convinced that SCIRP's recommendations would have been adopted much sooner had Jimmy Carter been reelected in 1980, but instead "the new Republican administration decided to reinvent the wheel. President Reagan set up his own fact finding commission and that commission spent another two years going over the same material, the same issues, the same difficulties as we did, and in the end adopted the same recommendations as we had."⁹³ During the years of immigration debate after SCIRP published its report, Hesburgh set up and operated a "small watchdog shadow commission to act as a sort of lobbying group for the recommendations of our original commission." The group kept pressure on Congress to prevent immigration reform legislation from "slip[ping] through the cracks."⁹⁴ Indeed, the recommendations from SCIRP opened the door to the introduction, yet again, of immigration reform proposals.⁹⁵

Residents of the Southwest, like other Americans, were split on the issue of undocumented immigration and contributed to the national debate by voicing their concerns. The region's proximity to the border and large Hispanic population made it especially

⁹³ Ibid., 278.

⁹⁴ Ibid., 279.

⁹⁵ LeMay, *Guarding the Gates*, 173.

influential in the debate that reignited after the reports from SCIRP and Reagan's task force. The issue of employer sanctions, a key element of Carter's immigration proposals and recommended by SCIRP, drew particular attention from citizens, journalists, and political leaders in the Southwest. Certainly the economic crisis of the late 1970s and, in particular, high unemployment rates, contributed to renewed support for employer sanctions despite persistent protests against them.

Jimmy Carter's role in shaping future immigration policy is underappreciated. Although he did not pass reform, he did make important contributions to more a thorough understanding of the issue of immigration, especially unsanctioned border crossings. When Congress passed immigration legislation in 1986, much of the law was similar to the proposals Carter had put forward. More significant, perhaps, than his own reform proposals, were the actions he took after his proposed legislation stalled in Congress with the formation of SCIRP. For his part, Leonel J. Castillo also deserves credit for attempting to rehabilitate the image of the INS and change the tone of the conversation on undocumented immigrants. He triumphed on neither front; the INS continued to suffer from allegations of abuse and corruption into the 1980s, and the anxious nativist and xenophobic rhetoric persisted in public debates. He likely ameliorated the consequences of those problems, however, and his commissionership marked an important symbolic change in INS leadership.

Analyzing the state of immigration to the U.S. from Mexico in the late 1970s in general, and the efforts of the Carter administration on the subject in particular, illuminates some of the broader trends in western hemisphere immigration. First was the increasing national attention to the issue of undocumented immigration, which contributed to the passage of reform legislation under Reagan; second was the growing tension between

implementing liberal, humane policies and the fight to ensure security and protect American workers and resources. When these issues came to a head again during the Reagan administration, Congress was no longer stalled on the issue. The efforts of the INS and the media in the 1970s to cast undocumented immigration as a national crisis succeeded by the end of the decade, and in the early 1980s more and more average Americans organized around the issue and pushed for legislative change. Public opinion polls revealed an up-tick in appeals for more stringent immigration policies. A June 1980 Roper poll, for instance, showed that 91 percent of Americans supported an “all-out-effort” to stop undocumented immigration (80 percent wanted to reduce *legal* immigration).⁹⁶ Rising genuine concern for the implications of undocumented immigration and a more determined Congress resulted in the resumption of congressional debates for legislative reform. Perhaps, after a decade of witnessing the effects of the 1965 Immigration Act, and armed with information and recommendations from SCIRP, Congress would finally be able to find an effective and humane remedy for the problems of undocumented immigration at the U.S.-Mexico border.

⁹⁶ Philip L. Martin, “Select Commission suggests changes in immigration policy—a Review Essay,” *Monthly Labor Review*, Feb. 1982, 31. Emphasis added.

Epilogue:
“Taking the Middle Position Angers Everybody and Pleases No One”

The Select Commission on Immigration and Refugee Policy issued its final report soon after President Ronald Reagan’s inauguration in 1981. Reagan formed his own task force on immigration, but the findings of that group largely concurred with those offered by SCIRP. The recommendations of SCIRP and the task force, namely employer sanctions and an amnesty program, formed the basis for reform policy negotiations that got underway in Congress in 1982. Although the poor state of the American economy and the subsequent rise in anti-immigrant sentiment among the public pushed some legislators to call for more limits on legal immigration, the focus of the debates that would culminate in the 1986 (Simpson-Mazzoli) Immigration Reform and Control Act (IRCA) remained concentrated on the issue of undocumented immigration. Two members of Congress were eager to leave their mark as immigration reformers, and their backgrounds made it no surprise that they would endorse the SCIRP report. Alan K. Simpson, a Republican senator from Wyoming, had been a member of the select commission and was chair of the immigration subcommittee. Though he had agreed with SCIRP’s recommendations, he believed that the commission should have gone further to restrict legal immigration. The other supporter of the bill, House Democrat Romano Mazzoli (KY) was asked to chair the Judiciary’s subcommittee on immigration by Theodore Hesburgh, SCIRP’s chair.

The debates over Simpson’s and Mazzoli’s bill lasted four years and retread familiar ground; there was controversy over the amnesty provision and questions about its scope, and there were persistent protests against employer sanctions legislation, even though the enactment of employer penalties was all but certain. Most of the criticism continued to come

from civil rights organizations. Indeed, the United States Civil Rights Commission, in a 1980 report on immigration matters, strongly recommended that sanctions *not* be enacted.¹ A broad coalition of business interest groups also vehemently opposed the measure.²

After an extended public debate over several years, IRCA passed in 1986. It left the basic 1965 framework of immigration intact and added new measures to address undocumented immigration. The bill had four main provisions: amnesty for immigrants without legal status who could prove they had resided in the country continually since December 31, 1981; requirements that employers verify the legal status of all employees (citizen and immigrant alike); sanctions for employers who knowingly hired undocumented workers; and provisions to protect growers (mainly in the Southwest) from INS raids and make it easier for them to import foreign agricultural workers. While the bill's supporters and the press hailed IRCA as the solution to problem of undocumented immigration, detractors were quick to point out the inherent contradictions in the law, mainly the protection of agribusiness interests who still employed the vast majority of undocumented immigrants. The main thrust of the law was to cut down on immigration from Mexico, but the protective measures undermined that goal. IRCA attempted to appeal to both the liberal and conservative sides of the immigration debate and was, therefore, simultaneously more liberal (amnesty) and more restrictive (sanctions), leading immigration law scholars to label it essentially hypocritical.³ Critics at the time pointed out the law's problems. Congressman Edward Roybal (D-NY) stated on the passage of IRCA that members of Congress thought

¹ United States Commission on Civil Rights, *Tarnished Golden Door*, 137.

² See discussions of the battle over IRCA that raged over multiple years in: Tichenor, *Dividing Lines*, 242-262; LeMay, *Guarding the Gates*, 173-175.

³ See the discussion of IRCA's provisions in Daniels, *Coming to America*, 391-397.

they had voted for an employer sanctions law, but they had not: “What they voted for is a farm labor bill, a bill that is designed to provide cheap labor for the farmers and growers of this country.” Fellow Democrat Henry Gonzalez of Texas similarly complained, “Let there be no mistake about it. This bill . . . guarantees that those who want to exploit cheap, foreign labor . . . can continue to do so with impunity.”⁴ Adding to the inherent flaws in the bill was a lack of effective enforcement mechanisms for the employer verification and sanctions measures.

Both the 1965 Immigration and Nationality Act and the 1986 Immigration Reform and Control Act promised solutions to current immigration problems (an outdated and racially discriminatory policy in 1965 and undocumented immigration in 1986). Yet once enacted, both failed to live up to expectations. In the case of 1965, the expectations were very high. Perhaps they were less so in 1986, but many believed that employer sanctions would be an effective deterrent. Given that immigration reform is still a popular political subject in 2013, it is clear that something went wrong. In the case of the INA, numerical limitations on western hemisphere immigration contributed to a profound increase in unauthorized border crossings from Mexico. In 1986, inherent contradictions and, more importantly, lack of enforcement mechanisms made for an ineffective law. In both cases, the Immigration Service was at the center of it all, struggling with its own incompetence, vague guidelines, inadequate funding, and a lack of public support.

One of the most profound problems for the INS since its inception has been the inherent conflict in its purpose. It is tasked with two jobs: service and enforcement. Many

⁴ Quoted in Calavita, *Inside the State*, 8.

Service employees and outside observers believe that these two functions are contradictory.⁵ Responding to INS Commissioner Leonel Castillo's description of the two sides of the Service's work, a member of the U.S. Civil Rights Commission commented that immigration officers had "no time, [were] so involved with enforcement and the requirements, of course, of enforcement, to counsel and in effect provide a service to people," and concluded that the situation presented a "contradiction."⁶ Journalist John Crewdson, who spent a great deal of time talking to and working with Immigration employees, asked whether an INS employee was "a police officer or a social worker?" Crewdson maintained that "many of the Service's employees are never quite sure, and the two different functions are often in conflict."⁷

As the enforcement side took more and more of the Service's attention in the years after 1965, due to necessity and also because leaders like Leonard Chapman preferred it, the service side suffered. Huge backlogs and poor records-keeping and management damaged the Service's image and exacerbated the problem of undocumented immigration. In a poignant statement, one immigration official admitted in the late 1970s, "We have no idea who came, who left, and, of course, who's here."⁸ The focus on enforcement frustrated immigrants'-rights supporters, who concluded that if the bulk of INS resources went to

⁵ See the discussion on organizational studies in Lisa Magaña, *Straddling the Border: Immigration Policy and the INS*, (Austin: University of Austin Press, 2003), 7-8. Magaña argues, "The INS is responsible for enforcing immigration laws and servicing immigrants. Researchers have found that this dual mission of the agency influences its representatives' ability to carry out immigration policies."

⁶ *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, 164 (1978) (statement Murray Saltzman, commissioner, United States Civil Rights Commission).

⁷ Crewdson, *Tarnished Door*, 120.

⁸ Quoted in Crewdson, *Tarnished Door*, 115.

enforcement, service was being shortchanged. Michael Cortez, vice president for research, advocacy, and legislation, National Council of La Raza, explained it this way:

We're particularly concerned about the choice between spending investigators' time in futile, often futile, and very costly pursuit of the limited number of undocumented immigrants, at the expense of a long backlog of—very large backlog of petitions outstanding before INS that require some investigation before they can be seen through to completion. It would seem that INS is more interested in hunting down undocumented workers than they are in enabling those who are entitled to remain in this country to secure their rights.⁹

Cortez's assessment that the INS was singularly focused on the "hunting" of undocumented immigrants is also an example of the historical perception that the INS—intended or not—established a "reign of terror" in the American Southwest.¹⁰

The INS faced repeated budget cuts and certainly lacked the financial and manpower support it needed to carry out its job—this is clear. But the Service's inability to repair its damaged image throughout the 1970s, and the shocking scandals in which it was constantly embroiled absolutely hurt its ability to enforce immigration laws. The functioning of the Service was so flawed, little seemed to help. The deputy commissioner of the INS admitted that, when he took office in 1977, the internal investigations unit for the Service, which had the responsibility for the investigation of complaints and allegations made against Service

⁹ *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, 21 (1978) (statement of Michael Cortez, vice president for research, advocacy, and legislation, National Council of La Raza).

¹⁰ Gilberto Cardenas, "United States Immigration Policy Toward Mexico: An Historical Perspective," *Chicano Law Review*, Vol. 2 (Summer, 1975), 74.

employees, was “a chamber of horrors.”¹¹ The U.S. Civil Rights Commission conducted hearings on immigration in 1978 because of “allegations of civil rights violations in the administration and enforcement of immigration laws,” but INS leadership followed up with few of the commission’s recommendations for improvement.¹² Also, the fact that two men of drastically different backgrounds and different methods, Leonard Chapman and Leonel Castillo, both essentially failed, says something about the entrenched culture of the Service as well as about magnitude and intractability of the problems they faced. Chapman inserted himself into policy debates and made an overblown case that the country was in danger (information he cited was repeatedly debunked) and Castillo attempted, largely unsuccessfully, to change attitudes and culture. The story of the INS during the 1970s has led some to assert that perhaps it is the *Immigration Service* that needed reforming, not the immigration laws. But even INS critic John Crewdson conceded that the INS, despite its “monumental shortcomings,” was “less a culprit than a victim of the nation’s haphazard immigration policy and the historical reluctance to enforce it.”¹³

Crewdson hit the nail on the head with his conclusion about historical reluctance to enforce immigration laws. Given American employers’ (and their governmental representatives’) desire for a cheap workforce, and the large numbers of people in other countries looking for a better life, it seems unlikely that a legislative “solution” is possible.

¹¹ *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, 210 (1978) (statement of Mario T. Noto, Deputy Commissioner, Immigration and Naturalization Service).

¹² *Hearing before the United States Commission on Civil Rights: Immigration Policy and Procedure*, 2 (1978) (statement of Arthur S. Fleming, Chairman, United States Commission on Civil Rights).

¹³ Crewdson, *Tarnished Door*, 14.

Policymakers are not coming up with *any* new ideas to address undocumented immigration (still largely coming from Mexico), just hoping that renewed efforts of enforcement will work this time. Until a time when wages in the United States and Mexico equalize, the attraction of the American job market to hopeful immigrants will be nearly irresistible. The special “relationship” between American employers and Mexican workers was codified in immigration policies through numerous exemptions before 1965. The practice of migration across the U.S.-Mexico border for work did not end with the restrictions enacted in the INA, and it seems unlikely that new policies will break the pattern. Short of the creation of a draconian border wall (which undoubtedly has the support of some Americans, though they are in a small minority), legislating the border is likely to fail. It is important, however, to manage the Southwest’s border to keep it from becoming a humanitarian crisis.

As the immigration debates of 2013 unfold, we will see what lessons from the past have been learned (and not learned). As in 1965, advocates of reform are hoping to find a solution to the problem once and for all.¹⁴ The proposals being debated by Congress today are all familiar, and variations of them have all been tried before. Will immigration limits be raised and will the service side of the U.S. immigration system find a more efficient way to process visa applications? Will the political interests representing U.S. employers and their desire for the cheapest workforce available once again undermine efforts to limit undocumented immigration? Will new measures that target employers of undocumented immigrants come with enforcement mechanisms? Will the Immigration Service (now Immigration and Customs Enforcement housed in the Department of Homeland Security) receive the support it needs to carry out its work? And, as it seems completely unlikely that

¹⁴ See, for example, Mae M. Ngai’s editorial, “Reforming Immigration for Good,” *New York Times*, January 30, 2013.

policies will make the United States-Mexico border more open, will calls for better border enforcement be carried out humanely in a way that treats all people with dignity and respect regardless of race, sexuality, gender, or appearance? Concerned Americans will be listening closely for the answers to these questions to see what policymakers have learned since 1965.

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ABSTRACT

CLAMPING THE LID ON THE MELTING POT: IMMIGRATION POLICY AND THE U.S.-MEXICO BORDER, 1965-1986

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This dissertation examines the evolution and enforcement of U.S. immigration policy in the twenty years following the passage of the Immigration and Naturalization Act of 1965 (INA), focusing on the U.S.-Mexico border. I argue that immigration policy did not adequately address the reality of the situation along the border. A combination of belligerent rhetoric in the Immigration Service and a profound lack of knowledge on the subject of undocumented immigration made for uninformed opinions and ineffective policies based on unsubstantiated fears of a national crisis, further hindered by poor communication between Washington, D.C. and the border region. Public officials and immigration officers alike faced myriad obstacles to effective border control ranging from budgetary restrictions and internal corruption to fraud and humanitarian crises along the border. Blending political and social history, my research methodology involved analyzing federal records as well as the experiences of people living and working along the border. The disconnect between Washington and the border region explains how the fanfare that surrounded the passage of the INA devolved into frustrations with an unworkable federal policy and inconsistent local implementation. I explore three areas related to the federal-local disconnect that inhibited successful immigration policy and enforcement in the years after 1965: shortcomings in the law, low morale and turbulence in the Immigration Service, and shifting public opinion.