

2020

## Immigration And Violent Crime: Triangulating Findings Across Diverse Studies

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# IMMIGRATION AND VIOLENT CRIME: TRIANGULATING FINDINGS ACROSS DIVERSE STUDIES

MICHAEL T. LIGHT\* & ISABEL ANADON\*\*

*The dramatic increase in both lawful and unauthorized immigration in recent decades produced a groundswell of research on two questions: (1) Does immigration increase violent crime? and (2) What policy responses are most effective at addressing unauthorized immigration (e.g., sanctuary policies, deportations, etc.)? For the most part, these bodies of work have developed independently, and thus we know little as to whether the insights from one inform the other. This Article fills this gap by first reviewing both areas of research and then triangulating shared findings between them. In doing so, we focus on three contemporary immigration policies: (1) increased deportation; (2) “sanctuary” policies, and (3) “amnesty” laws. Our review provides little evidence to suggest that immigration increases the prevalence of violence. For this reason, policies aimed to enhance public safety by reducing immigration are unlikely to deliver on their crime reduction promises.*

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## I. INTRODUCTION

Since 1990, the foreign-born population has more than doubled, from 19.7 million to nearly 45 million, representing the largest influx of immigrants to the United States in its history.<sup>1</sup> Over this same period, the number of undocumented immigrants more than tripled, from 3.5 to roughly 10.7 million.<sup>2</sup> These trends have generated substantial public fear and anxiety regarding the potentially criminogenic consequences of increasing immigration. Against this backdrop, two questions dominate contemporary public and political debate on immigration: (1) *Does immigration increase violent crime?* and (2) *What are the most effective policies for dealing with unauthorized immigration (e.g., “sanctuary” policies; increased deportations)?*

Both of these questions have received substantial research attention; however, these bodies of work have largely developed independent of one another. As a result, there is little critical assessment on the extent to which they converge on a consistent set of findings. Attempting to address this gap, this Article systematically reviews both areas of inquiry with an eye towards triangulating common findings between them. Given the general focus of this special issue, we pay particular attention to violent crime.

To frame our discussion, Part I briefly describes the theoretical links between immigration (both legal and undocumented) and violence. Part II then reviews the individual- and macro-level research assessing the relationship between immigration and violence. Within this Part, we focus on key methodological issues critical to the study of immigration and crime. Part III then examines the criminological consequences of three contemporary immigration policies: (1) immigration enforcement through increased arrest and deportation, (2) “sanctuary” policies, and (3) “amnesty” provisions for unauthorized immigrants.

## II. THEORETICAL LINKS BETWEEN IMMIGRATION AND VIOLENCE

There are conflicting schools of thought on the immigration-crime nexus. Aligning with much of the contemporary public opinion on the topic, one

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1. Jynnah Radford & Luis Noe-Bustamante, *Facts on U.S. Immigrants, 2017: Statistical Portrait of the Foreign-Born Population in the United States*, PEW RES. CTR. (June 3, 2019), <https://www.pewresearch.org/hispanic/2019/06/03/facts-on-u-s-immigrants/> [https://perma.cc/XNJ3-QSNG].

2. *Id.* The estimated size of the unauthorized population peaked in 2007 at approximately 12.2 million. *Id.*

perspective suggests that immigration increases violent crime.<sup>3</sup> Several ideas motivate this view. First, the comparatively young age profile of the immigrant population may elevate crime rates. This is because young adults tend to commit a disproportionate amount of violent crime.<sup>4</sup> Thus, immigrants may increase violent crime simply by shifting the demographic composition towards a more “violence-prone” age profile.<sup>5</sup>

Another argument concerns the impact of immigration on community processes of social control. Rooted in what sociologists term the social disorganization perspective, the core idea is that the rapid influx of ethnically and linguistically diverse populations may increase residential instability, weaken social ties, and undermine social cohesion; factors critical to the informal social control of crime.<sup>6</sup>

Economic marginalization may also contribute to higher rates of violence. This concern is most acute among the undocumented population given their formal exclusion from the primary labor market combined with comparatively low levels of educational attainment and high rates of poverty.<sup>7</sup> Thus, in line with economic theories of crime, immigrants with few legitimate opportunities may turn to illegitimate economic pursuits, such as robbery or illicit drug markets.<sup>8</sup> The broader economic impact of immigration is also important to consider. By placing competitive pressure on the stock of low-skilled jobs, immigrants may reduce wages and displace U.S. workers, thus amplifying

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3. *Immigration*, GALLUP, <https://news.gallup.com/poll/1660/immigration.aspx> [<https://perma.cc/257G-WCFN>]. For nearly twenty years Gallup asked the following question: “[P]lease say whether immigrants to the United States are making the crime situation in the country better or worse, or not having much effect.” *Id.* Between 2001 and 2019, nearly 50% of Americans responded *worse* while less than 7% responded *better*. *Id.*

4. See Travis Hirschi & Michael Gottfredson, *Age and the Explanation of Crime*, 89 AM. J. SOC. 552, 552 n.2 (1983).

5. *A Portrait of Unauthorized Immigrants in the United States*, PEW RES. CTR. (Apr. 14, 2009), <https://www.pewresearch.org/hispanic/2009/04/14/a-portrait-of-unauthorized-immigrants-in-the-united-states/> [<https://perma.cc/8J69-JXCV>] (finding that men ages 18–39 make up 35% of the undocumented population, compared with 14% among the U.S. born individuals)

6. For a discussion of the theoretical links between immigration and crime, see Graham C. Ousey & Charis E. Kubrin, *Exploring the Connection Between Immigration and Violent Crime Rates in U.S. Cities, 1980–2000*, 56 SOC. PROBS. 447, 449, 452 (2009).

7. *Id.* at 449 (indicating that unauthorized immigrants are far less likely to have completed high school and have considerably higher poverty rates than U.S.-born or legal immigrants).

8. See Jörg L. Spenkuch, *Understanding the Impact of Immigration on Crime*, 16 AM. L. ECON. REV. 177, 178, 215 (2014).

intergroup conflict and increasing levels of poverty and unemployment.<sup>9</sup> These, in turn, may increase the motivations for crime.

Combined, there are multiple theoretical rationales undergirding the belief that immigration increases violence. Yet, there are equally plausible reasons to anticipate the opposite. One concerns the selection processes involved in immigration. International migration, including clandestine migration, requires considerable initiative and planning, and immigrants are often motivated by improved standards of living for themselves and families (e.g., better economic and educational opportunities, reduced exposure to violence and corruption, etc.). Accordingly, immigrants may be predisposed towards low criminal propensities by attributes such as high self-control and ambition to achieve.<sup>10</sup>

Second, rather than adversely affecting local economies, immigrants may economically revitalize communities by filling employment niches, starting new businesses, and increasing tax revenue.<sup>11</sup> They may also strengthen, rather than weaken, neighborhood processes of social control by increasing the prevalence of two-parent families and reinforcing local institutions crucial to the informal control of crime (e.g., schools, churches, social clubs). In the same vein, dense social networks that characterize many immigrant neighborhoods offer key resources and social support systems that provide an umbrella of social control.<sup>12</sup>

Taken together, the extant literature provides compelling, yet competing, theoretical rationales on the immigration-crime link. This theoretical tension has motivated a considerable amount of individual and macro-level research as to which more accurately captures the empirical reality.

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9. Edward S. Shihadeh & Raymond E. Barranco, *Latino Employment and Black Violence: The Unintended Consequence of U.S. Immigration Policy*, 88 SOC. FORCES 1393, 1394 (2010).

10. See Kristin F. Butcher & Anne Morrison Piehl, *Why are Immigrants' Incarceration Rates so Low? Evidence on Selective Immigration, Deterrence, and Deportation* 3 (Nat'l Bureau of Econ. Research, Working Paper No. 13229, 2007).

11. RAÚL HINOJOSA-OJEDA, RAISING THE FLOOR FOR AMERICAN WORKERS: THE ECONOMIC BENEFITS OF COMPREHENSIVE IMMIGRATION REFORM 15 (2010), [https://www.americanimmigrationcouncil.org/sites/default/files/research/Economic\\_Benefits\\_of\\_Immigration\\_Reform\\_011410.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/Economic_Benefits_of_Immigration_Reform_011410.pdf) [<https://perma.cc/YZ3T-VG6R>]; Robert J. Sampson, *Immigration and the New Social Transformation of the American City*, in IMMIGRATION AND METROPOLITAN REVITALIZATION IN THE UNITED STATES 11, 18 (Domenic Vitiello & Thomas J. Sugrue eds., 2017).

12. ROBERT J. SAMPSON, GREAT AMERICAN CITY: CHICAGO AND THE ENDURING NEIGHBORHOOD EFFECT 251–59 (2012).

## III. EXISTING RESEARCH ON IMMIGRATION AND CRIME

Research on the relationship between immigration and crime dates back over a century. The Dillingham Commission of 1907 provided one of the first comprehensive analyses aimed at assessing the link between recently arriving migrants, largely from southern and eastern Europe, and crime.<sup>13</sup> They concluded “[n]o satisfactory evidence has yet been produced to show that immigration has resulted in an increase in crime disproportionate to the increase in adult population” and that the available evidence indicates “immigrants are less prone to commit crime than are native Americans.”<sup>14</sup>

In 1924, noted criminologist Edwin Sutherland confirmed the results of the Dillingham Commission, finding that immigrants do not commit more crimes in comparison to native-born whites.<sup>15</sup> However, his work pioneered questions on immigrant acculturation, assimilation processes, and crime. Comparing the criminal behavior among individuals who migrated at different ages, Sutherland found that immigrants migrating as children to the United States had higher rates of incarceration than immigrants who arrived as adults.<sup>16</sup> Additionally, when examining across nativity, he found that immigrants living in the United States had higher rates of serious crime than individuals residing in their respective countries of origin.<sup>17</sup> In 1931, the Wickersham Commission once again documented that foreign-born individuals commit considerably fewer crimes than comparable native-born individuals of the same age and sex.<sup>18</sup> On this point, they directly addressed the widely held belief regarding immigrant criminality:

The theory that immigration is responsible for crime, that the most recent “wave of immigration,” whatever the nationality, is less desirable than the old ones, that all newcomers should be regarded with an attitude of suspicion, is a theory that is almost as old as the colonies planted by Englishmen on the New England coast.<sup>19</sup>

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13. The committee formed in February 1907 as part of the Immigration Act of 1907, 59 Stat. 898, 909–10 (1907).

14. U.S. IMMIGRATION COMM’N, IMMIGRATION AND CRIME, S. DOC. NO. 61-747, at 163 (3d Sess. 1911).

15. EDWIN H. SUTHERLAND, PRINCIPLES OF CRIMINOLOGY 123 (4th ed. 1947).

16. *Id.* at 126.

17. *Id.* at 124.

18. *See* EDITH ABBOTT, U.S. NAT’L COMM’N ON LAW OBSERVANCE & ENF’T, REPORT ON CRIME AND THE FOREIGN BORN 21, 71, 72 (1931).

19. *Id.* at 23.

Although the national origins of contemporary immigrants differ markedly from those of the early twentieth century,<sup>20</sup> the insights from these historical studies largely remain relevant today, as more recent research consistently confirms the same general set of individual-level findings. That is, regardless of racial or ethnic background, first generation immigrants tend to be less crime-prone than their native peers.<sup>21</sup> Interestingly, the available evidence suggests this pattern holds even for undocumented youth.<sup>22</sup> Contemporary research also confirms that any protective factors associated with immigration tend to wane with subsequent generations.<sup>23</sup> It is important to emphasize, however, that this does not mean that the second generation is *more* crime prone than their U.S.-born counterparts. Rather, the available evidence suggests that second generation youth often resemble the criminal patterns of other native-born individuals.<sup>24</sup> As criminologist Bianca Bersani describes, the “involvement in crime among second-generation immigrants is more reflective of the fact that these youth—born and socialized in the United States—have simply become ‘native-born’ Americans.”<sup>25</sup>

While useful, the findings from individual-level studies are necessarily limited because they miss the potentially broader effects of immigration. As discussed in Part II, even absent greater criminality among immigrants, immigration could still increase crime by disrupting neighborhood cohesion or adversely affecting the economic prospects of U.S. workers. For this reason, a significant number of macro-level analyses have complemented individual-level studies in recent decades. Fortunately, thorough reviews of this body of work already exist. Most notably, criminologists Graham Ousey and Charis Kubrin conducted a meta-analysis of fifty-one macro-level immigration-crime

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20. More than 20 million immigrants arrived between 1880 and 1914, mainly from southern and eastern Europe. By contrast, over three-quarters of the foreign-born population today are from Asia or Latin America. See PHILIP MARTIN, POPULATION BULL., THE GLOBAL CHALLENGE OF MANAGING MIGRATION 6 (2013), <https://www.prb.org/wp-content/uploads/2014/05/global-migration.pdf> [<https://perma.cc/GX7C-ZK6X>]; see also Radford & Noe-Bustamante, *supra* note 1.

21. Bianca E. Bersani, Adam D. Fine, Alex R. Piquero, Laurence Steinberg, Paul J. Frink & Elizabeth Cauffman, *Investigating the Offending Histories of Undocumented Immigrants*, 15 MIGRATION LETTERS 147, 148 (2018).

22. *Id.* at 150.

23. See generally Luca Berardi & Sandra M. Bucerius, *Immigrants and Their Children: Evidence on Generational Differences in Crime*, in THE OXFORD HANDBOOK OF ETHNICITY, CRIME, AND IMMIGRATION 551 (Sandra M. Bucerius & Michael Tonery eds. 2014).

24. *Id.* at 551.

25. Bianca E. Bersani, *A Game of Catch-Up? The Offending Experience of Second-Generation Immigrants*, 60 CRIME & DELINQ. 60, 77 (2013).

studies published between 1994 and 2014.<sup>26</sup> Meta-analysis techniques are particularly useful for informing this debate because rather than just offering a narrative account of existing work, meta-analyses provide a quantitative, systematic mechanism for pooling results across studies with dissimilar research measures and designs to yield a weighted average effect size across an entire body of work.

Two overarching findings emerge from their review. First, the overall relationship between immigration and crime is negative but weak.<sup>27</sup> In other words, higher concentrations of immigrants appear to be associated with less crime, but this effect is slight, and there is a considerable amount of noise around this estimate. This leads to their second finding: there is substantial variation in research methodologies that significantly affect the conclusions drawn.<sup>28</sup> In the following Section, we highlight one of the critical methodological choices identified by Ousey and Kubrin. We then discuss two additional analytical issues that, in our view, are crucial to this area of inquiry.

#### A. *Cross-sectional versus Longitudinal Research*

One of the most consequential methodological differences across immigration-crime studies concerns the temporal design. Most of the estimates examined by Ousey and Kurbin come from cross-sectional analyses (about 80%), meaning that researchers used data from a single point in time.<sup>29</sup> Often, this modal approach involves collecting data from multiple cities (or neighborhoods, counties, etc.) and examining whether the immigrant population share is correlated with the rate of violent crime. That is, does the immigrant population help explain why the crime rate was different in New York and Milwaukee in 2000? While informative, this approach is limiting both substantively and statistically. Substantively, cross-sectional methods cannot address the central question in immigration-crime debates: do *increases* in immigration result in *increases* in criminality? This question fundamentally involves a process of social change that unfolds *over time*. For this reason, longitudinal methods are preferred. A common longitudinal approach would be to collect data on multiple cities over a series of years and examine whether changes in the immigrant population correspond to changes in violent crime *within a city*. Thus, rather than comparing New York to Milwaukee, such an

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26. Graham C. Ousey & Charis E. Kubrin, *Immigration and Crime: Assessing a Contentious Issue*, 1 ANN. REV. CRIMINOLOGY 63, 64–65 (2018).

27. *Id.* at 68–69.

28. *Id.*

29. *Id.* at 72.

analysis would examine how the influx of immigrants to New York affected crime rates within New York over time. This within-unit focus has considerable methodological strengths over cross-sectional studies because longitudinal designs afford greater ability to control for confounding variables.<sup>30</sup> This is because researchers can treat each unit as its own statistical control (e.g., comparing New York to itself over time). The result is that anything that does not vary and has time stable effects is accounted for in these longitudinal models, even if they are not measured (or even known).

The choice between cross-sectional versus longitudinal approaches substantially affects the findings in immigration-crime research. In the Ousey and Kubrin meta-analysis, the mean cross-sectional affect is basically zero ( $r = 0.0001$ ); meaning that immigration is associated with neither higher nor lower levels of violence.<sup>31</sup> This relationship changes in longitudinal analyses where the mean effect is larger, negative, and statistically significant ( $r = -0.148$ ;  $p < 0.001$ ). In other words, increases in the foreign-born population is associated with reductions in violent crime over time. The authors conclude that:

In light of the strengths that accompany longitudinal research, it seems reasonable to suggest that the stronger, negative, and statistically significant association that emerges from the smaller body of longitudinal studies may be due more weight than the weak and nonsignificant association that emerges in the larger body of cross-sectional studies.<sup>32</sup>

#### *B. Reciprocity in the Immigration-Violence Relationship*

Many immigration-crime studies assume, often implicitly, that the immigration-crime relationship flows in one direction. That is, changes in immigration (the independent variable,  $X$ ) cause changes in crime (the dependent variable,  $Y$ ). However, there are strong empirical and theoretical reasons to anticipate a more complicated, reciprocal relationship between these social processes. This would occur if immigrants choose locations partially based on crime outcomes. For example, the observed negative findings in much of the longitudinal immigration-crime research could be biased by immigrants relocating to areas to avoid crime. Put differently, immigrants may not be lowering crime rates but simply choosing areas with lower crime. In this scenario, the estimates of immigration on crime would not be causal but rather reflect the selection effect of immigrants based on crime. If this is the case, it

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30. *Id.* at 75.

31. *Id.*

32. *Id.*

is empirically difficult to identify the direction of the casual arrow (i.e. does immigration affect crime, or does crime affect immigration?).

To address this simultaneity bias, researchers have increasingly turned to instrumental variable (IV) techniques. The overall aim of IV analysis in immigration-crime research is to find a suitable instrument ( $Z$ ) that induces a change in migration flows but has no direct effect on crime.<sup>33</sup> This latter point is known as the exclusion restriction, which requires that the instrument ( $Z$ ) only be related to the dependent variable ( $Y$ ) through  $X$ .<sup>34</sup> This helps remedy the simultaneity issue by leveraging only that portion of the variability in immigration that is uncorrelated with the omitted variables to estimate the causal relationship between immigration and crime. The most common IV draws from network theories of migration that suggest that prior settlement patterns are highly predictive of future migration flows.<sup>35</sup> Thus, prior levels of immigrants should be predictive of variation in immigration but should be theoretically independent of the changes in crime. If this is indeed the case, the IV approach breaks the simultaneity between immigration and crime and provides an exogenous test of the effect of increased immigration on changes in crime in a given time period. Multiple studies have conducted IV analysis based on this insight.<sup>36</sup>

Using these more rigorous methods yields comparable findings to the larger body of immigration-crime research. In most of these IV analyses, the effect of immigration on violence is negative, but often not significant. For instance, an analysis of city-level crime data from 1980–2010, where the immigrant population in 1970 serves as the instrument, found that increased immigration over this period was linked to lower homicide rates, but this effect was not significant at the  $p < 0.05$  level.<sup>37</sup> An analysis by Spenkuch of county-level

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33. Aaron Chalfin, *What is the Contribution of Mexican Immigration to U.S. Crime Rates? Evidence from Rainfall Shocks in Mexico*, 16 AM. L. & ECON. REV. 220, 222 (2014).

34. *Id.* at 235.

35. *Id.* at 225.

36. See Kristen F. Butcher & Anne Morrison Piehl, *Cross-City Evidence on the Relationship Between Immigration and Crime*, 17 J. POL'Y ANALYSIS & MGMT. 457, 460 (1998); Michael T. Light & Ty Miller, *Does Undocumented Immigration Increase Violent Crime?*, 56 CRIMINOLOGY 370, 370 (2018); Christopher J. Lyons, María B. Vélez, & Wayne A. Santoro, *Neighborhood Immigration, Violence, and City-Level Immigrant Political Opportunities*, 78 AM. SOC. REV. 604, 610–11 (2013); John M. MacDonald, John R. Hipp, & Charlotte Gill, *The Effects of Immigrant Concentration on Changes in Neighborhood Crime Rates*, 29 J. QUANTITATIVE CRIMINOLOGY 191, 197 (2013); Spenkuch, *supra* note 8, at 179.

37. Graham C. Ousey & Charis E. Kubrin, *Immigration and the Changing Nature of Homicide in US Cities, 1980–2010*, 30 J. QUANTITATIVE CRIMINOLOGY 453, 465 (2014).

data from 1980 to 2000 found similar results, concluding that violent crime rates are “essentially unaffected” by immigration.<sup>38</sup>

While IV analyses offer an important complement to the study of immigration and crime, they are not a panacea for issues of selection. This is because one of the core assumptions of many of the instruments—that prior immigration does not affect future crime rates—is fundamentally untestable. Moreover, other research has raised questions about the suitability of the network instrument. As Chalfin explains, “To the extent that factors which historically pull migrants to particular destinations are correlated with the evolution of crime markets in those destinations, the exclusion restriction necessary to justify the instrumental variable will not be met.”<sup>39</sup> To address this concern, Chalfin created an instrument partially based on annual rainfall shocks in different Mexican states based on the intuition that Mexican migration is partially determined by deviations in Mexican weather patterns, but crime in the U.S. should not be.<sup>40</sup> Using this alternative IV set up, he finds that Mexican immigration has no appreciable effect on the prevalence of violent crime in U.S. cities.<sup>41</sup> However, in a 2015 paper the same author used variation in Mexican fertility rates as an instrument variable and found that Mexican immigration was associated with significant increases in aggravated assault from 1980–2000.<sup>42</sup>

### C. Undocumented Immigration

Much of the immigration-crime research focuses on the total foreign-born population. The drawback of this approach is that it ignores the significant variation that distinguishes different types of immigrants. As a result, very few studies explicitly examine the links between unauthorized immigration and violent crime. This is a notable gap given that the undocumented population is the most divisive feature of contemporary immigration.

The lack of research attention to undocumented immigration is largely due to data constraints. Government surveys, such as the Census, do not ask questions about legal status, and thus researchers have not had access to reliable estimates of the unauthorized population. This has changed in recent years, as the Pew Research Center, the Center for Migration Studies (CMS), and the

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38. Spenkuch, *supra* note 8, at 215.

39. Chalfin, *supra* note 33, at 222.

40. *Id.* at 223.

41. *Id.*

42. Aaron Chalfin, *The Long-Run Effect of Mexican Immigration on Crime in US Cities: Evidence from Variation in Mexican Fertility Rates*, 105 AM. ECON. REV. 220, 224 (2015).

Department of Homeland Security (DHS) have begun releasing annual estimates of the undocumented population.<sup>43</sup> The availability of this data, however, has not produced a consistent set of findings as the few studies on criminality among the undocumented reach contradictory conclusions. A report by John Lott Jr. of the Crime Prevention Research Center, for example, finds that undocumented immigrants are far more likely to be convicted of a crime than U.S. citizens in Arizona.<sup>44</sup> Using data from Texas, Alex Nowrasteh of the CATO Institute reaches the exact opposite conclusion, finding that unauthorized immigrants are considerably less likely to be convicted of a crime than native-born Texans.<sup>45</sup>

The macro-level research on undocumented immigration and crime has been less contradictory but still mixed. In a cross-sectional analysis of state-level data, David Green found that undocumented immigration is generally not associated with violent crime, though unauthorized immigration from Mexico may be associated with higher rates of violence.<sup>46</sup> A longitudinal analysis using state level data by Light and Miller, however, found that the relationship between undocumented immigration and violent crime is generally negative, though not always significant.<sup>47</sup> Against this backdrop, clearly more research is needed to fully understand the relationship between undocumented immigration and crime; research that takes seriously the inherent difficulty in accurately tracking the flows of unauthorized immigration.<sup>48</sup>

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43. Each of these sources uses variants of the “residual methodology” based on Census Bureau data. Stated briefly, this method involves subtracting the number of authorized, or documented immigrants, from the total foreign-born population. The remainder is then the estimated number of potentially unauthorized immigrants. See *A Portrait of Unauthorized Immigrants in the United States*, *supra* note 5, at app. D, for details of the Pew methodology. Information on the CMS estimates is available at Robert Warren & John Robert Warren, *Unauthorized Immigration to the United States: Annual Estimates and Components of Change, by State, 1990 to 2010*, 47 INT’L MIGRATION REV. 296, 301 (2013). Details of the DHS methodology can be found at BRYAN BAKER & NANCY RYTINA, DEP’T OF HOMELAND SEC.: OFFICE OF IMMIGRATION STATISTICS, ESTIMATES OF THE UNAUTHORIZED IMMIGRANT POPULATION RESIDING IN THE UNITED STATES: JANUARY 2012 (2013).

44. JOHN R. LOTT, UNDOCUMENTED IMMIGRANTS, U.S. CITIZENS, AND CONVICTED CRIMINALS IN ARIZONA 7 (rev. 2018).

45. Alex Nowrasteh, *Criminal Immigrants in Texas: Illegal Immigrant Conviction and Arrest Rates for Homicide, Sex Crimes, Larceny, and Other Crimes*, CATO INST. 5 (2018), <https://www.cato.org/publications/immigration-research-policy-brief/criminal-immigrants-texas-illegal-immigrant> [<https://perma.cc/W3KZ-XDRE>].

46. David Green, *The Trump Hypothesis: Testing Immigrant Populations as a Determinant of Violent and Drug-Related Crime in the United States*, 97 SOC. SCI. Q. 506, 521 (2016).

47. Light & Miller, *supra* note 36, at 370.

48. On this point, see Christian Gunadi, *On the Association Between Undocumented Immigration and Crime in the United States*, OXFORD ECON. PAPERS, Sept. 20, 2019, at 22, concluding that “the overall evidence from the analysis shows a weak link between undocumented immigration and violent crimes.”

#### D. Summary

A fair reading of the extant immigration-crime literature yields two broad conclusions. First, immigrants tend to be less crime prone than U.S. born individuals. Second, the weight of the evidence suggests immigration does not increase violent crime. This second conclusion, however, can vary depending on the temporal design, the specific immigrant group under study (e.g., undocumented immigrants) and the choice of instrument in IV analyses attempting to correct for simultaneity bias. Given this variability, it is reasonable to ask whether the effect of immigration on violence is truly null. A common response to unresolved questions in the literature is to call for further research. Indeed, nearly all of the research discussed throughout close with a discussion on ways future work can build upon their studies, and we agree wholeheartedly with such efforts. Future research should examine heterogeneity within immigrant groups and continue to seek suitable instruments that help us understand the causal effect of immigration on crime. Nevertheless, in the interim, we think we can still glean insights into these important questions by focusing attention to the public safety consequences of policies aimed at addressing concerns over immigration, especially undocumented immigration. For instance, if it is indeed the case that it is hard to find any evidence of a connection between immigration and violent crime,<sup>49</sup> this should condition what we would expect to find from dramatically increasing deportations and removing immigrants from the United States. That is, we might expect little impact from such policies on violent crime. Does increased border enforcement reduce crime? Do “sanctuary” policies increase crime? Do “amnesty” laws increase crime? The answers to these questions at least partially depend on the nature of the underlying relationship between immigration and crime. It is precisely for this reason that we turn to each of these questions.

### IV. THE CRIMINOLOGICAL CONSEQUENCES OF IMMIGRATION POLICY

#### A. *Does Immigration Enforcement Decrease Crime?*

Concerns over illegal immigration have been perhaps the U.S. government’s highest criminal law enforcement priority in recent decades, marking an historical shift in both the federal immigration and criminal justice

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49. Brian Bell & Stephen Machin, *Immigration and Crime*, in INTERNATIONAL HANDBOOK ON THE ECONOMICS OF MIGRATION 353 (Amelie F. Constant & Klaus F. Zimmermann eds., 2013).

systems. In 1986, the budget for the Immigration and Naturalization Service (INS)<sup>50</sup> was less than half the budget of the FBI.<sup>51</sup> Today, the federal government dedicates more resources on the agencies responsible for immigration enforcement—U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement—than all other criminal law enforcement agencies combined, including the FBI, DEA, and Secret Service.<sup>52</sup> These dramatic shifts in priorities correspond with stark changes in enforcement methods.

Over the past decade, deportations became the principal tool of immigration enforcement. Over 3.6 million individuals were deported from the U.S. between 2008 and 2018.<sup>53</sup> To put this in context, that is nearly 1.2 million more than were deported during the entire twentieth century.<sup>54</sup> A key facilitator of this rigorous immigration enforcement involves collaborative programs between state and local criminal justice agencies and federal immigration authorities. Among these, the Secure Communities (S-Comm) Program represents the largest effort in U.S. history to integrate local police with federal immigration enforcement. S-Comm was launched in 2008 explicitly to improve public safety and fight crime by improving the ability of Immigration and Customs Enforcement (ICE) to identify and deport criminal aliens.<sup>55</sup> The basic operational principle behind the S-Comm program is based on the idea

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50. DORIS MEISSNER, DONALD M. KERWIN, MUZAFFAR CHISHTI, & CLAIRE BERGERON, *IMMIGRATION ENFORCEMENT IN THE UNITED STATES: THE RISE OF A FORMIDABLE MACHINERY* 20 (2013). Although the INS no longer exists, is it useful for historical comparisons given that its scope and mission were similar to the present-day combination of U.S. Customs and Border Protection, Immigration and Customs Enforcement, and Office of Biometric Identity Management.

51. *Id.*

52. *Id.*

53. The official term for deportations is “removals.” For data regarding removal in 2008–2018 see DEP’T OF HOMELAND SEC., *ICE ENFORCEMENT AND REMOVAL OPERATIONS REPORT: FISCAL YEAR 2015* 8, <https://www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf> [<https://perma.cc/GU8H-J5NG>]; DEP’T OF HOMELAND SEC., *FISCAL YEAR 2018 ICE ENFORCEMENT AND REMOVAL OPERATIONS REPORT* 10, <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf> [<https://perma.cc/LQU8-FNT2>].

54. *Id.* For data regarding 1900–2000, see DEP’T OF HOMELAND SEC., *2007 YEARBOOK OF IMMIGRATION STATISTICS* 95, <https://www.dhs.gov/immigration-statistics/yearbook/2007> [<https://perma.cc/T2DF-PQB2>].

55. DEP’T OF HOMELAND SEC., *SECURE COMMUNITIES: A COMPREHENSIVE PLAN TO IDENTIFY AND REMOVE CRIMINAL ALIENS: STRATEGIC PLAN 8 (2009)* [hereinafter *PLAN TO IDENTIFY AND REMOVE CRIMINAL ALIENS*], [https://www.ice.gov/doclib/foia/secure\\_communities/securecommunitiesstrategicplan09.pdf](https://www.ice.gov/doclib/foia/secure_communities/securecommunitiesstrategicplan09.pdf) [<https://perma.cc/SM9Q-N5QH>].

that local law enforcement officials are more likely to encounter criminal aliens.<sup>56</sup> Thus, the goal of S-Comm is to ensure that every person arrested for a crime in the U.S. would have their information screened by federal authorities for immigration violation.<sup>57</sup> This is accomplished through the sharing of biometric information between the FBI and DHS. Fingerprint information is routinely sent by local law enforcement agencies to the FBI for criminal background checks, so local authorities have little ability to opt out of the program.<sup>58</sup>

If the goal of S-Comm was to identify and deport aliens who otherwise would have been released after an arrest, the program was an immediate success. ICE detained over 250,000 immigrants through the program and deported more than 200,000 in the first four years of S-Comm.<sup>59</sup> However, these numbers tell us little about the efficacy of S-Comm as a crime-control initiative and ICE officials repeatedly argued that the measure of success for the S-Comm program was not just deportations, but whether it improves public safety.<sup>60</sup>

Did S-Comm reduce crime? There are now two comprehensive, independent analyses into this question, both of which use similar methodologies.<sup>61</sup> S-Comm commenced as a pilot program in only fourteen jurisdictions in 2008.<sup>62</sup> It was then introduced slowly to more counties in 2009, with substantially more jurisdictions added to the program over the next two years.<sup>63</sup> By 2013, the Department of Homeland Security reported that S-Comm was active in all 3,181 counties.<sup>64</sup> The staggered rollout of S-Comm is useful for understanding its effectiveness by creating a natural experiment. That is, researchers could compare counties before and after the implementation to S-Comm to counties where S-Comm had not yet been activated.<sup>65</sup> Both Miles

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56. *Id.* at 8–9.

57. *Id.* at 3, 8–9.

58. *Id.* at 3.

59. Thomas J. Miles & Adam B. Cox, *Does Immigration Enforcement Reduce Crime? Evidence from Secure Communities*, 57 J. L. & ECON. 937, 939 (2014); Elina Treyger, Aaron Chalfin, & Charles Loeffler, *Immigration Enforcement, Policing, and Crime: Evidence from the Secure Communities Program*, 13 CRIMINOLOGY & PUB. POL'Y 285, 290 (2014).

60. PLAN TO IDENTIFY AND REMOVE CRIMINAL ALIENS, *supra* note 55.

61. Miles & Cox, *supra* note 59, at 939; Treyger, Chalfin & Loeffler, *supra* note 59, at 299–300.

62. Treyger, Chalfin, & Loeffler, *supra* note 59, at 296.

63. *Id.*

64. *Id.*

65. Here it is important to note that research suggests that the initial rollout of S-Comm appeared to reflect immigration enforcement priorities rather than crime control ones. See Adam B. Cox &

and Cox and Treyger, Chalfin, and Loeffler leverage the timing of S-Comm to examine these comparisons.<sup>66</sup> Treyger, Chalfin, and Loeffler created a dataset based on the city-month for the years 2008 and 2011.<sup>67</sup> Miles and Cox used a longer time frame to better account for crime trends before and after S-Comm, analyzing crime rates at the county-month level from 2004 to 2012.<sup>68</sup> Despite these differences, both analyses reach remarkably similar conclusions: S-Comm had no observable effect on violent crime, or as Treyger, Chalfin, and Loeffler put it, “Secure Communities has had no unambiguous beneficial effects.”<sup>69</sup>

These findings have direct relevance to the underlying question regarding immigration and crime that motivates programs such as S-Comm. As Rosenfeld notes, “[i]f undocumented immigrants threaten public safety, then communities from which more undocumented immigrants have been removed should experience lower crime rates.”<sup>70</sup> By implication, the fact that this does not appear to be the case offers suggestive evidence that undocumented immigration does not increase criminal violence. On this point, it is important to note the curious life of the S-Comm program, which was suspended in November 2014 but then reactivated in January 2017 by an executive order from President Trump to “ensure the public safety of the American people in communities across the United States.”<sup>71</sup> Given the very limited direct evidence suggesting that immigrants increase crime combined with the lack of a significant impact of the previous S-Comm program, we think this newest iteration is unlikely to deliver on its public safety promises.

### B. Do “Sanctuary” Policies Increase Crime?

Sanctuary policies generate substantial debate and controversy in contemporary political dialogue. Immediately after assuming office in January 2017, President Trump signed two executive orders addressing immigration.<sup>72</sup> One of them explicitly targeted “sanctuaries” by seeking to withhold federal

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Thomas J. Miles, *Policing Immigration*, 80 U. CHI. L. REV. 87, 88 (2013) [hereinafter *Policing Immigration*].

66. *Id.* at 87; Treyger, Chalfin, & Loeffler, *supra* note 59, at 293.

67. Treyger, Chalfin, & Loeffler, *supra* note 59, at 300.

68. Miles & Cox, *supra* note 59, at 954.

69. Treyger, Chalfin, & Loeffler, *supra* note 59, at 311.

70. Richard Rosenfeld, *The Strange Career of Immigration in American Criminological Research*, 13 CRIMINOLOGY & PUB. POL’Y 281, 282 (2014).

71. Exec. Order No. 13,768, 82 Fed. Reg. 8,799 (Jan. 30, 2017) (President Donald J. Trump’s order, titled *Enhancing Public Safety in the Interior of the United States*, was declared Jan. 25, 2017).

72. *Id.*; Exec. Order No. 13,767; 82 Fed. Reg. 8,793 (Jan. 30, 2017).

funds from jurisdictions with active sanctuary polices, arguing that immigration is a cause of violent crime<sup>73</sup> and that sanctuary jurisdictions are a threat to public safety.<sup>74</sup> Then in March 2018, the Department of Justice sued the state of California over three of its 2017 sanctuary laws that increased state power to limit interaction with federal immigration enforcement agencies.<sup>75</sup> A U.S. District judge dismissed most elements of this lawsuit months later,<sup>76</sup> but the controversy over sanctuary policies has not abated.<sup>77</sup> This Section evaluates the criminological consequences of these policies.

First, a brief definitional aside. Sanctuary policies are local-level initiatives, typically in cities or within law enforcement agencies, that seek to provide related protections to its undocumented residents.<sup>78</sup> Although there is no encompassing definition of a sanctuary policy, scholars have identified three

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73. Exec. Order No. 13,767 states in Section 1: “Transnational criminal organizations operate sophisticated drug- and human-trafficking networks . . . contributing to a significant increase in violent crime . . . Among those who illegally enter are those who seek to harm Americans through acts of terror or criminal conduct.”

74. Exec. Order No. 13,768 states in Section 1: “Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety . . . These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.”

75. Plaintiff’s Motion for Preliminary Injunction and Memorandum of Law in Support at 1–2, *United States v. California*, No. 2:18-cv-490 (E.D. Cal. filed Mar. 06, 2018) (No. 18-264), 2018 U.S. Dist. Ct. Motions LEXIS 70.

76. *United States v. California*, No. 2:18-cv-490, 2018 U.S. DIST. LEXIS 113759, at 7 (E.D. Cal. July 9, 2018).

77. For instance, President Trump continued his public assault on jurisdictions with sanctuary policies by tweeting early in 2018 that “Sanctuary areas want OUT of this ridiculous, crime infested & breeding concept.” Donald J. Trump (@realDonaldTrump), TWITTER (Apr. 18, 2018, 4:59 AM), <https://twitter.com/realdonaldtrump/status/986544648477868032?lang=en> [<https://perma.cc/8BP3-9G79>]; Press Release, Dep’t of Justice, Justice Department Sues State of California, California Governor, and California Attorney General for Prohibiting the Operation of Private Detention Facilities in the State (Feb. 10, 2020), <https://www.justice.gov/opa/pr/justice-department-sues-state-california-california-governor-and-california-attorney-general> [<https://perma.cc/WHG4-YS2G>]; Press Release, Dep’t of Justice, Justice Department Sues State of New Jersey, New Jersey Governor, and New Jersey Attorney General for Prohibiting State Officials from Sharing Information with U.S. Immigration and Customs Enforcement (Feb. 10, 2020), <https://www.justice.gov/opa/pr/justice-department-sues-state-new-jersey-new-jersey-governor-and-new-jersey-attorney-general> [<https://perma.cc/ARD9-XF7M>]; Press Release, Dep’t of Justice, Justice Department Sues King County, Washington, and King County Executive for Prohibiting U.S. Immigrations and Custom Enforcement Contractors from Using King County International Airport (Feb. 10, 2020), <https://www.justice.gov/opa/pr/justice-department-sues-king-county-washington-and-king-county-executive-prohibiting-us> [<https://perma.cc/N4YW-PPSW>].

78. Benjamin Gonzalez O’Brien, Loren Collingwood, & Stephen Omar El-Khatib, *The Politics of Refuge: Sanctuary Cities, Crime, and Undocumented Immigration*, 55 URB. AFF. REV. 3, 4 (2019).

broad categories that localities or law enforcement use when adopting these policies within a given jurisdiction.<sup>79</sup> These broad categories include “don’t ask” policies that restrict officials from inquiring about a resident’s immigration status; “don’t enforce” policies which seek to limit immigration-related arrests and detentions; and “don’t tell” policies which limit the information and cooperation between federal immigration enforcement officials.<sup>80</sup>

Debate on whether sanctuary policies reduce or increase crime are central for jurisdictions considering enacting or limiting these policies. For example, in 2017, Texas passed Senate Bill 4<sup>81</sup> that effectively banned sanctuary policies in jurisdictions across the state.<sup>82</sup> Proponents of the Texas bill argue that sanctuary policies are unsafe and derail public safety.<sup>83</sup> Critics of the bill, primarily in cities with high concentrations of Hispanic residents, argue that the law undercuts law enforcement discretion and endangers policing efforts within local communities.<sup>84</sup> Theories on how sanctuary policies increase crime typically lay in a belief that undocumented immigrants are more crime-prone and disrupt social and institutional networks.<sup>85</sup> As such, to the extent these sanctuary policies fail to remove dangerous immigrants or attract increasing numbers of undocumented immigrants, sanctuary jurisdictions can expect an increase in crime rates.

79. Orde F. Kittrie, *Federalism, Deportation, and Crime Victims Afraid to Call the Police*, 91 IOWA L. REV. 1449, 1455 (2006); Daniel E. Martínez, Ricardo D. Martínez-Schuldt, & Guillermo Cantor, *Providing Sanctuary or Fostering Crime? A Review of the Research on “Sanctuary Cities” and Crime*, 12 SOC. COMPASS 1, 4 (2018).

80. Kittrie, *supra* note 79, at 1455.

81. The bill passed under a Republican controlled Senate and House of Representatives with Republican Governor Greg Abbott signing the bill into law on May 7, 2017. The bill also requires the cooperation of local law enforcement with federal immigration enforcement officials as well as allowing them to ask about the immigration status of individuals who are arrested or detained even in routine traffic stops. *Actions: S.B. 4*, TEX. LEGISLATURE ONLINE, <https://capitol.texas.gov/billlookup/Actions.aspx?LegSess=85R&Bill=SB4> [https://perma.cc/788K-RTK6]; S.B. 4, 2017 Leg., 85th Reg. Sess. (Tex. 2017).

82. *Id.*

83. See Manny Fernandez & David Montgomery, *With ‘Sanctuary Cities’ Ban, Texas Pushes Further Right*, N.Y. TIMES (May 9, 2017), <https://www.nytimes.com/2017/05/09/us/texas-sanctuary-cities-immigration.html> [https://perma.cc/3H2Z-JVW8].

84. See *id.*; Julianne Hing, *Texas’s SB 4 Is the Most Dramatic State Crackdown Yet on Sanctuary Cities*, NATION (June 1, 2017), <https://www.thenation.com/article/texas-sb-4-dramatic-state-crackdown-yet-sanctuary-cities/> [https://perma.cc/2YLE-JQ9P]; Sanya Mansoor & Cassandra Pollock, *Everything You Need to Know About Texas’ “Sanctuary Cities” Law*, TEX. TRIBUNE (May 8, 2017), <https://www.texastribune.org/2017/05/08/5-things-know-about-sanctuary-cities-law/> [https://perma.cc/XZU3-VQYG].

85. See *contra* Lyons, Vélez, & Santoro, *supra* note 36, at 609.

Arguments surrounding why sanctuary policies may have no impact on crime rates or may even decrease violence fall into two broad areas.<sup>86</sup> First, sanctuary policies may decrease crime by strengthening ties between police and community residents, especially within undocumented communities.<sup>87</sup> Sanctuary policies limit the penalties associated with undocumented legal status (i.e. requiring proof of citizenship to access basic services or during a routine traffic stop) thereby increasing a sense of trust between city officials and community residents.<sup>88</sup> Related to this point, undocumented individuals, and their documented friends and family members, will be more likely to interact with police, to seek out law enforcement regarding crime-related activities crimes, and may be more likely to cooperate with criminal investigations.<sup>89</sup> Another line of reasoning follows similar arguments critics pose when favoring to limit sanctuary policies. That is, because extant research continues to point to foreign-born populations as less crime prone than native-born populations, sanctuary cities may attract more immigrants, thereby increasing the composition of a less crime prone demographic, effectively reducing crime within sanctuary jurisdictions.<sup>90</sup>

Studies that examine the sanctuary-crime relationship find that generally crime does not increase in cities with sanctuary polices.<sup>91</sup> In fact, there is some cross-sectional evidence that sanctuary policies may improve public safety. An analysis from the Center for American Progress demographically matched counties to compare sanctuary counties to non-sanctuary counties and found not only that sanctuary counties had stronger economies, they also exhibited statistically lower crime rates than similar matched non-sanctuary counties.<sup>92</sup> A second study used data from the National Neighborhood Crime Study to examine the links between “immigrant political opportunities” of which the passage of sanctuary policy is one measure, and the prevalence of homicide and

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86. See generally Ricardo Martínez-Schuldt & Daniel E. Martínez, *Sanctuary Policies and City-Level Incidents of Violence, 1990 to 2010*, 36 JUST. Q. 562–75 (2019) for discussion in this area.

87. Lyons, Vélez, & Santoro, *supra* note 36, at 610.

88. *Id.* at 605–06.

89. *Id.* at 610; O’Brien, Collingwood, & El-Khatib, *supra* note 78, at 6.

90. See Lyons, Vélez, & Santoro, *supra* note 36, at 606.

91. *Id.* at 621; see also Nowrasteh, *supra* note 45, at 1; O’Brien, Collingwood, & El-Khatib, *supra* note 78, at 6; Martínez-Schuldt & Martínez, *supra* note 86, at 589.

92. TOM K. WONG, CTR. FOR AM. PROGRESS, THE EFFECTS OF SANCTUARY POLICIES ON CRIME AND THE ECONOMY (2017), <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/> [https://perma.cc/3MMP-PCEN].

robbery within neighborhoods.<sup>93</sup> Findings from this study point to a reduction in neighborhood violence in tracts with greater immigrant concentration.<sup>94</sup> Moreover, this reduction in violence is stronger in neighborhoods situated in cities with sanctuary policies.<sup>95</sup> This study lends support to arguments that sanctuary cities increase trust between immigrant communities and law enforcement thereby reducing violence within communities.

However, these findings are balanced by largely null results in longitudinal analyses. As in the immigration-crime literature, these longitudinal designs entail greater empirical rigor. For instance, one study examines sanctuaries as a policy experiment by comparing crime rates in the year preceding the implementation of a sanctuary policy to the crime rates in the year following implementation.<sup>96</sup> Specifically, comparing these pre- and post- violent crime rates in sanctuary cities the authors find that approximately half of all jurisdictions experienced an increase in violent crime rates while the other half exhibited a decrease in violence.<sup>97</sup> Thus, the overall effect of sanctuaries was null, suggesting that the causes of violent crime appear to operate independent of “sanctuary” policies. To further buttress this point, the authors employ a causal inference matching strategy by comparing sanctuary cities with non-sanctuary cities.<sup>98</sup> Findings point to no difference between cities with sanctuary polices and cities with no sanctuary policy of violent crime, property crime or rape.<sup>99</sup> That is, sanctuary policies neither increased nor decreased the prevalence of violence between 2000 and 2014.<sup>100</sup>

Along similar lines, another study examining homicide rates using a multivariate regression analysis over two decades from 1990 to 2010 finds no significant increase in homicide rates in cities that passed sanctuary policies.<sup>101</sup> The authors further examine this effect by lagging the model by one and three years. Consistently, homicide rates are unaffected by the passage of sanctuary policies over this two-decade period.<sup>102</sup>

Combined, the weight of evidence on the relationship between sanctuary policies and crime suggests that these policies have little impact on violence,

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93. Lyons, Vélez, & Santoro, *supra* note 36, at 606.

94. *Id.* at 615.

95. *Id.* at 621.

96. O'Brien, Collingwood, & El-Khatib, *supra* note 78, at 14.

97. *Id.* at 20–21.

98. *Id.* at 20.

99. *Id.* at 20–21.

100. *Id.*

101. Martínez-Schuldt & Martínez, *supra* note 86, at 575, 589.

102. *Id.* at 589.

and in some cases may help lower crime rates. These studies, thus, undercut claims that sanctuary cities are “breeding grounds” of crime and violence. These negative or null results are entirely consistent with the broader literature on immigration and crime, providing yet another data point to help triangulate the criminological consequences of immigration.

### C. Do “Amnesty” Laws Impact Crime?

Comprehensive federal immigration reform has not occurred for over thirty years.<sup>103</sup> Since the last large-scale “amnesty” program in 1986,<sup>104</sup> there have been numerous failed attempts at addressing the increasing number of individuals living without legal documentation in the United States.<sup>105</sup> One of the key goals of the 1986 Immigration Reform and Control Act (IRCA) was to create employer sanctions for those who hired unauthorized immigrants.<sup>106</sup> A second was to assist a subset of undocumented individuals by granting them work authorization and the ability to adjust their legal status, often referred to as amnesty.<sup>107</sup> The term “amnesty” is traditionally applied to individuals who have committed a crime and are granted official pardon. In the case of IRCA, undocumented applicants were granted “amnesty” from deportation and provided the opportunity to legally work and adjust their immigration status only after meeting eligibility requirements under certain conditions.<sup>108</sup> Given the relevance of these provisions for ongoing debates regarding the future of the roughly 10.5 million unauthorized immigrants currently in the U.S., it is important to understand the impact of IRCA on crime.

The theoretical framework on the relationship between legalization and crime falls into two general areas. On the one hand, legalization may remove an effective deterrent for those recently naturalized.<sup>109</sup> That is, if individuals perceive that the threat of deportation is now eliminated, the propensity to

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103. Immigration Reform and Control Act of 1986, Pub. L. No. 99–603, 100 Stat. 3359 (1986).

104. *Id.*

105. PLAN TO IDENTIFY AND REMOVE CRIMINAL ALIENS, *supra* note 55, at 2.

106. Immigration Reform and Control Act §§ 274A(a)(1), (e)(5).

107. *Id.* § 245A(c).

108. IRCA provided a path to legalization for immigrants under two programs, the Legally Authorized Workers program and the Seasonal Agricultural Workers program. Individuals arriving prior to January 1, 1972 and can show continuous residence in the United States, is of good moral character, is not ineligible for citizenship and not inadmissible based on certain grounds are eligible for the program. *See also* Matthew Freedman, Emily Owens, & Sarah Bohn, *Immigration, Employment Opportunities, and Criminal Behavior*, 10 AM. ECON. J.: ECON. POL'Y 117, 121 (2018). *See generally* Immigration Reform and Control Act § 210.

109. *Contra* Scott R. Baker, *Effects of Immigrant Legalization on Crime*, 105 AM. ECON. REV. 210, 213 (2015).

commit crime may increase. On the other hand, it is important to examine the interrelations between legal status, labor market outcomes, and crime. Low-wage and precarious workers are more at risk for unstable employment and negative economic outcomes and thus may have a higher propensity to commit crimes.<sup>110</sup> The passage and implementation of targeted amnesty programs, such as IRCA, benefits the labor market prospects of low wage immigrant workers by granting access to labor markets, improving general skills and productivity and increasing wages.<sup>111</sup> But these effects are relegated to those who were authorized under IRCA. For those who migrated afterward, their economic prospects were far more limited.

Did IRCA affect crime? The answers so far have been somewhat mixed. Analyzing data from the Immigration and Naturalization Services from 1990, one study calculates the mean ratio of IRCA applicants to the total population in counties across the United States and compares these county level estimates with property and violent crime statistics from the FBI's Uniform Crime Reports from 1980–2000.<sup>112</sup> Using these county level estimates, Baker finds that an increase in one percentage point in the number of IRCA recipients per capita is associated with a drop of 4.5 percentage points in overall crime.<sup>113</sup> These effects, however, were relegated almost entirely to property crimes.<sup>114</sup> That is, IRCA likely reduced property crimes by improving the economic standing of precarious workers. When focusing on violent crime specifically, the author found a smaller, non-significant decrease in violent crime over the same period.<sup>115</sup> In other words, the impact of IRCA legalizations appears to have operated exclusively through the link between legal status and property offenses.

Another study using data from Bexar County, Texas finds corroborating evidence for the view that IRCA largely influenced economic crimes, but there is some disagreement on the direction of this relationship.<sup>116</sup> Classifying crimes

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110. *Id.* at 210.

111. Sherrie A. Kossoudji & Deborah A. Cobb-Clark, *IRCA's Impact on the Occupational Concentration and Mobility of Newly-Legalized Mexican Men*, 13 J. POPULATION ECON. 81, 95 (2000) (finding effects related to job mobility and wage earnings for newly legalized IRCA recipients).

112. Baker, *supra* note 109, at 211.

113. *Id.* The majority of this drop in overall crime can be attributed to a steep and significant drop of four percentage points for property crime over the same time period. *Id.*

114. *Id.* at 212.

115. *Id.*

116. Freedman, Owens, & Bohn, *supra* note 108, at 124.

as either “income-generating” and “non-income-generating” offenses,<sup>117</sup> this study finds that the employer sanctions put in place with IRCA likely increased the amount of income-generating criminality among Hispanic residents, presumably because those ineligible for amnesty or who arrived after these provisions expired now faced worse formal employment opportunities.<sup>118</sup> Important for our inquiry, this study also found that the termination of IRCA’s amnesty provisions had no significant impact on crimes without an economic motive, such as murder, rape, and assault.<sup>119</sup> On this point, both the Baker and Freedman, Matthew, Owens and Bohn studies converge: the criminological impact of IRCA was heavily concentrated among non-violent offenses.<sup>120</sup> Here again, we find a set of results related to the nature of the immigration-violence link. That is, the fact that IRCA had no discernable impact of violent crime is entirely expected if, in fact, undocumented immigrants do not increase violent crime in the first place.

## V. CONCLUSION

Despite a substantial amount of research attention to the immigration-crime nexus, important methodological critiques remain which continue to raise questions about the true relationship between immigration and violence. Many of these critiques are at the fore of public and political discourse today. For instance, it is only very recently that researchers have explicitly examined unauthorized immigrants and even serious and rigorous analyses of the criminological consequences of undocumented immigration must confront the reality that precise measurements of undocumented populations are difficult to come by. Rather than wading into debates about measurement issues (which are absolutely necessary), we attempted to triangulate findings by examining whether policies aimed at removing unauthorized immigrants resulted in public safety benefits. The answer from thorough assessments of the S-Comm program appears to be *no*. The fact that dramatic increases in the deportation of criminal aliens did not make the public safer informs our understanding regarding the unauthorized immigration-crime connection. Most notably by suggesting that undocumented immigrants do not increase violence. This finding aligns with the evidence on the public safety consequences of IRCA,

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117. Income generating offenses included charges of robbery, burglary, car theft, larceny, fraud, gambling, prostitution, and any felony drug charge. *Id.* A non-income generating offense were classified by charges of murder, manslaughter, assault, arson, offenses against children, kidnapping, destruction of property, sexual assault, weapons violations, trespassing, evasion of arrest, corruption, conspiracy, and public order offenses. *Id.* at 128.

118. See Freedman, Owens, & Bohn, *supra* note 108, at 120, 136–37.

119. *Id.* at 119.

120. *Id.* at 137; Baker, *supra* note 109, at 213.

which not only provided a path to legal status to nearly three million people but also substantially diminished the economic prospects for future unauthorized workers. Yet despite these changes, the prevalence of violence was largely unaffected.

Our overarching goal in this Article was to gather insight across multiple literatures that at heretofore been connected only indirectly. Taken together, we find very little evidence that immigration increases violent crime and the fact that we see similar results using different routes to answer interrelated questions gives us confidence that this finding is robust. At the very least, the convergence on the lack of findings suggestive of a positive relationship between immigration (legal or otherwise) and violence seriously undermines arguments that immigration jeopardizes public safety. For this reason, our inquiry has important implications for crime policy moving forward.

Although violent crime has fallen sharply in the United States since the early 1990s, violence remains a serious problem for many American communities, especially lethal violence. Indeed, the U.S. homicide rate is seven times higher than other high-income countries.<sup>121</sup> Our review suggests that for policymakers serious about reducing the burden of violent crime in the United States, greater immigration enforcement is unlikely to achieve this end.

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121. Erin Grinshteyn & David Hemenway, *Violent Death Rates: The US Compared with Other High-income OECD Countries, 2010*, 129 AM. J. MED. 266, 268 (2016).