

“We have got enough criminals in the United States without importing any”:

An Examination of the Influence of Citizenship Status,
Legal Status, and National Origin among Latino
Subgroups in Federal Sentencing Outcomes.

by

Mercedes Valadez

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Graduate Supervisory Committee

Cassia Spohn, Chair
Xia Wang
Kevin Wright

ARIZONA STATE UNIVERSITY

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ABSTRACT

The study of non-U.S. citizens in criminal justice system outcomes has often been neglected in the sentencing literature. When citizenship is considered, there are generally no distinctions made within this group. The research fails to consider differences according to legal status, race/ethnicity, nationality, and other distinctive markers that might play a role in sentencing outcomes. Using federal sentencing data collected by the United States Sentencing Commission for fiscal year 2006 through fiscal year 2008, this study examines the effect of offender citizenship status, legal status, and national origin on the likelihood of imprisonment and length of imprisonment for offenders convicted of drug offenses. The current study considers differences among foreign-born and Latino immigrant subgroups (e.g., Colombian, Cuban, Dominican, and Mexican nationals).

The key findings in this dissertation include: (1) non-U.S. citizens have greater odds of imprisonment than U.S. citizens. However, non-U.S. citizen offenders receive significantly shorter prison terms relative to U.S. citizen offenders; (2) undocumented immigrants are more likely to be incarcerated compared to similarly situated authorized immigrants and U.S. citizens. However, legal status does not have an effect on sentence length; and (3) with respect to national origin, Mexican nationals are significantly more likely than Colombians to be incarcerated and are given significantly longer prison sentences than Dominican nationals. The implications of these findings and future research are addressed in the concluding chapter.

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Chapter 1

Introduction

Uniformity and fairness are two of the goals in sentencing. Despite legislation and sentencing reform aimed at producing equitable treatment, research continues to find unwarranted disparities in sentencing outcomes based on extra-legal characteristics such as age, gender, education, and race/ethnicity (Albonetti, 1997; Brennan & Spohn, 2009; Spohn, 2000; Steffensmeier & Demuth, 2001). Contemporary research in criminology is attempting to transcend beyond its dichotomous analysis of race. Research on race and the criminal justice system has been historically restricted to black and white offenders (Blumstein, 1982; Hagan & Albonetti, 1982; Kautt & Spohn, 2002; Spohn, Gruhl & Welch, 1981-1982). More recently, the literature has expanded to incorporate Latinos in its analysis of sentencing disparities and discrimination (Albonetti, 1997; Demuth, 2003; Spohn & Holleran, 2000; Steffensmeier & Demuth, 2000; Zatz 1984). Ruth and Reitz (2003) note “the need to develop better information concerning the punishment of racial and ethnic minorities other than those that are the most sizable” (p.32). Few studies have examined sentencing patterns among non-U.S. citizen offenders. Although more of an effort has been made to study non-U.S. citizens, they remain grossly overlooked in this body of research.

The sentencing literature is slowly moving toward examining the influence of extra-legal factors such as citizenship status (Albonetti, 1997; Demuth, 2002; Logue, 2009). There is a small body of work that examines whether foreign-born offenders are treated more severely than similarly situated U.S.-born offenders; however, additional

work is needed on this topic (Demuth, 2002; Logue, 2009; Wolfe, Pyrooz & Spohn, 2011). When non-U.S. citizens are incorporated in a study of sentencing outcomes, there are usually no distinctions made among them. They are not differentiated by legal status, region, national origin, or other distinctive attributes that may play a role in sentencing outcomes. With the growth of the foreign-born population in the U.S., it is essential to gain a better understanding of this segment of the population.

The Latino population is diverse and varies by national origin and race (Lee, 1993). The U.S. foreign-born population differs by educational attainment, employment, age of arrival, and other characteristics (Waters & Jimenez, 2005; Rumbaut & Portes, 2001). Research suggests that immigration does not increase crime rates contrary to popular belief; however, the media, public, and politicians perpetuate negative immigrant stereotypes and misconceptions (Hagan & Palloni, 1999; Martinez, 2002; Massey, 2009; Ousey & Kubrin, 2009). Massey (2009) contends that Mexican immigrants withstand the worst of negative immigrant stereotypes. Given their distinctions and common stereotypes, it is important to consider whether all foreign-born Latino subgroups are treated similarly or whether Mexican nationals are treated more punitively.

Using sentencing data from the United States Sentencing Commission (USSC) for fiscal years 2006-2008, the current study examines the effect of citizenship status, legal status, and national origin on federal sentencing outcomes (likelihood of imprisonment and imprisonment length). This study is restricted to drug offenders. First, the role of citizenship status in federal sentencing processes is assessed. Differences in sentencing outcomes between U.S. citizens and non-U.S. citizens are considered. Next, the

influence of legal status on sentencing outcomes is analyzed. I explore differences in sentencing patterns between undocumented immigrants, authorized immigrants, and U.S. citizens. Furthermore, this study examines Latino subgroups by national origin (e.g., Cuban, Colombian, Dominican, and Mexican) and whether Mexican nationals are treated more harshly than other Latino subgroups. Minority threat perspective and focal concerns perspective are used to guide the present study. The purpose of this study is to investigate whether negative immigrant stereotypes extend to courtroom outcomes. This study aims to contribute to the literature on sentencing and broaden the discourse on the role of citizenship status, legal status, and national origin on disparities in criminal justice outcomes.

Note on Terminology

For the purposes of this study, it is essential to define terminology related to immigrant status as well as race/ethnicity (see Cohen & Passel, 2010). The term “foreign-born” refers to individuals who are born outside of the U.S. or any U.S. territories. The term “non-U.S. citizen” refers to individuals who do not possess United States citizenship status. The terms “legal” or “authorized immigrant” are used to describe individuals who have been granted asylum, admitted as refugees, obtained legal permanent residency, or granted temporary status for residence or work. The terms “unauthorized” or “undocumented immigrant” refer to individuals who do not possess legal authorization to be in the United States. A portion of undocumented immigrants enter the U.S. without legal authorization and others were able to secure legal status at

one point. Immigrants who were once granted legal status and failed to comply with the stipulations of their visa terms (e.g., overstayed) become unauthorized by default.

The concepts of race and ethnicity are complex and controversial. The U.S. Census Bureau, schools, public health facilities, and other government agencies use race/ethnicity to categorize populations. Race traditionally refers to differences based on physical traits such as skin color, whereas ethnicity is a social construct based on cultural criteria (e.g., language, religion etc) (Lee, 1993). Race-based categories have evolved overtime in the U.S. (Lee, 1993). The Office of Management and Budget first defined the term “Hispanic” in 1977. By 1997, the Office of Management and Budget defined the term “Hispanic” as persons who trace their origin or descent to any of the following: Mexico, Puerto Rico, Cuba, Central and South America, and other Spanish cultures. The U.S. Census Bureau did not ask respondents a question on Hispanic/Latino origin until the year 2000 (U.S. Census Bureau, 2011). The 2010 Census offered respondents fifteen racial categories. Latinos can belong to any race, which results in variation within the Latino population based on race and country of origin (Humes, Jones, & Ramirez, 2011).

Latino and Immigrant Population Trends

The ten largest country of origin groups among the Latino U.S. population are as follows: Mexican, Puerto Rican, Cuban, Salvadoran, Dominican, Guatemalan, Colombian, Spaniard, Honduran, and Ecuadorian (see Ennis, Rios-Vargas & Albert, 2011). According to the 2010 Census, Latinos make up 16.3% of the total U.S. population. A total of 50.5 million Latinos were counted overall (U.S. Census Bureau,

2011). This reflected an increase of 43% since 2000, which counted 35.3 million Latinos. Between 2000 and 2010, the Latino population accounted for 56% of the nation's total population growth. The 43% increase between 2000 and 2010 was somewhat smaller than in previous decades, with 53% growth in the 1980s and an increase of 58% in the 1990s. Because Latinos can belong to any racial group, race-based differences among Latinos are noted. In 2010, the majority (26.7 million or 53%) of the Latino population self-identified as white, which was an increase from 2000 (47.9%). The second largest group of Latinos, 18.5 million or 36.7% identified themselves as "some other race" which was a decline from 2000, when 42.2% of the Latino population self-identified as "some other race". Latinos are now the largest minority in the U.S. population and their numbers continue to grow across all regions of the country (Durand, Telles & Flashman, 2006).

Most of the Latino population resides in the following nine states: Arizona, California, Colorado, Florida, Illinois, New Jersey, New Mexico, New York, and Texas (see Humes et al., 2011). Latinos make up more than 25% of the population in the following five states: Arizona, California, Nevada, New Mexico, and Texas. The Latino population has rapidly grown in states where their presence was once lacking. Between 2000 and 2010 the Latino population more than doubled in Alabama, Arkansas, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, South Dakota, and Tennessee. In six states (Illinois, Louisiana, Massachusetts, New Jersey, New York, and Rhode Island) growth in the Latino population accounted for the state's overall population growth. At the same time, the state population in Michigan declined, but the

Latino population increased. Overall, the Latino population is more pronounced in the Southwest, but the South and mid-West have experienced the largest increases in Latino population growth. As of 2010, 20.6 million Latinos resided in the Western part of the U.S., 7 million in the Northeast, 18.2 million in the South and 4.7 million in the mid-West. These numbers illustrate that the Latino population is beginning to spread to regions of the country where their presence was once scarce.

Growth of the Latino population in the U.S. varies by country of origin. Between 2000 and 2010 the Mexican-origin population grew from 20.6 million to 31.8 million, a 54% increase (see Ennis et al., 2011). Mexican nationals accounted for three-quarters of the U.S. Latino population between 2000 and 2010. During the same time, the Cuban population increased 44%, from 1.2 to 1.8 million and the Dominican population grew from 764,945 to 1,414,703. Among Latinos who self-identified as “other” 2.8 million were of South American origin. Colombians encompassed the majority (908,734 or 1.8%) of the South American Latino population. South American origin groups make up the smallest Latino subgroups in terms of population size. However, they had the fastest growth between 2000 and 2010.

Since the year 2007, there has been a decline in immigration by undocumented immigrants to the U.S. (see Cohn & Passel, 2010). Between 2007 and 2009, there was an estimated 8 percent reduction (from 12 million to 11.1 million) in the number of undocumented immigrants in the United States. This change marked the first time over the past two decades that the undocumented immigrant population declined. The largest decline was for individuals from Latin American countries other than Mexico. There was

a 22% decline from 2007 -2009 for groups from Central America, the Caribbean, and South America. The number of undocumented Mexican immigrants, who make up the majority (approximately 60%) of the unauthorized immigrant population, rose to 7 million in 2007 and then leveled off. This decline notwithstanding, the population of undocumented immigrants was almost a third larger 32% (from approximately 8.4 million to 11.1 million) in 2009 compared to 2000. Stated another way, between 2000 and 2005 an average of 850,000 new undocumented immigrants entered the U.S. annually. However, that number declined to 550,000 in 2005 and dropped to approximately 300,000 for the years 2007-2009.

There are a number of reasons for the recent changes in the unauthorized immigrant population. Some undocumented immigrants return to the country of origin rather than remain in the United States; others die or change their legal status from undocumented immigrant to legal permanent resident (Cohn & Passel, 2010). In addition, the decline in the number of unauthorized immigrants entering the U.S. can be attributed to enforcement strategies focused on locating, identifying, prosecuting, and deporting immigrants. In late 2007, the U.S. economy entered a recession, changing the magnitude of immigration flow (Cohn & Passel, 2010). Few empirical studies examine migration responses to business-cycle instability. Researchers speculate that the current recession changed labor market conditions in areas that typically employ unauthorized immigrants and as a result reduced immigration flows (Papademetriou & Terrazas, 2009). The construction industry, which employs a large segment of the working class immigrant population, was one of the hardest hit by the recession (Kochhar, Espinoza &

Hinze-Pifer, 2010). As a result, there is less demand for employees. Fewer economic and job opportunities serve to reduce unauthorized immigration (Papademetriou & Terrazas, 2009). While immigrants share similarities in employment opportunities, there are many social and demographic differences between them.

Social and demographic characteristics of immigrant groups vary by their country of origin. Mexican immigrants tend to be the youngest whereas migrants from the Caribbean tend to be the oldest, with the average age range between thirty-three to forty-three years of age (see Durand & Massey, 2010). While the majority of immigrants are male, there are now more females immigrating to the U.S. than in previous times. This is most reflective among immigrants from South America and the Caribbean, where women outnumber men. Levels of formal education among Latino immigrants also vary. Mexican nationals report lower levels of educational attainment than South American and Caribbean nationals. Among Mexican nationals, 21% are high school graduates and only 3% college graduates. In contrast, South Americans report figures of 29% (high school) and 19% (college); and among Caribbean nationals, those figures are 29% (high school) and 11% (college). These numbers suggest that Mexican immigrants are drawn from the poor working class and South American and Caribbean nationals are more representative of the middle class.

Unlike previous generations of immigrants, Latino immigrants do not come from countries such as England or Ireland where the primarily language spoken is English. Coming from a non-English speaking country presents a new set of challenges for Latino immigrants. In some countries, children are not exposed to the English language.

Immigrants typically have different sets of English language skills, which are influenced by their age of arrival. Individuals who immigrate to the U.S. at a later age have greater difficulty learning English than those who come to the U.S. as children (Bean & Stevens, 2003). Prior research suggests that language assimilation among immigrants from non-English speaking countries is relatively high (Lee, 2009; Rumbaut & Portes, 2001; Waters & Jimenez, 2005). Bean and Stevens (2003) used U.S. census data to examine English-speaking skills among immigrants from non-English speaking countries and found that only 10% did not speak any English. They also found a positive association between the number of years a respondent had been in the U.S. and their ability to speak English “well”. Research suggests that first generation immigrants possess stronger language skills in their native tongue, second generation immigrants are typically bilingual, and third generation immigrants only speak English (Waters & Jimenez, 2005).

English language skills are required in the U.S. labor force. Using the 2007 American Community Survey Report, Newburger and Gryn (2009) investigated English skills among the foreign-born labor force. They found that naturalized citizens were more likely than non-citizens to speak “only” English at home (20.5% vs. 10.9%) and speak English “very well” (44.8% vs. 25.7%). Non-U.S citizens were more likely to speak a language other than English at home (89.1% vs. 79.5%) and speak English “less than very well” (63.4% vs. 34.7%). Limited English speaking skills and lack of citizenship status create restrictions on the type of employment that immigrants can obtain.

Economic opportunities are some of the most attractive features of the U.S. for immigrants. Scholars contend that the demand for cheap labor by the U.S. accounts for the surge of immigration from Latin American countries (Bean & Stevens, 2003; Portes, 2009). The foreign-born population has always made up a sizable portion of the workforce in the U.S. (see Newburger & Gryn, 2009). Most Latino immigrants are employed in low-paid manual jobs (Portes, 2009). The majority of the foreign-born workforce are male (63.8%), have little formal education, and fall between 25-34 years of age. In terms of education, only 26% reported being high school graduates. Mexico and Latin America have become the primary reservoir of low-skilled and low-wage labor for the U.S. economy (Portes, 2009). Attracted by new employment opportunities, Mexican nationals have historically been targeted to fill a gap in the U.S. labor force (Portes, 2009). Dominican nationals are generally employed in service, coffee, and construction industries (Durand & Massey, 2010). Immigrants are more accepting of lower wages and reduced hours, particularly undocumented immigrants who have greater employment limitations given their legal status or lack thereof.

Major economic shifts result in changes to the labor market. These changes affect both foreign-born and native-born workers. From the beginning of the Great Recession in the late 2000s until mid 2009 estimates suggest that foreign-born workers gained jobs (656,000) while U.S. born workers lost employment (1.2 million) (Kochhar et al., 2010). Between 2009 and 2010, the immigrant population made up 15.7% of the total U.S. labor force, primarily due to the high level of workforce participation by working age immigrants (Kochhar et al., 2010). Among the foreign-born population who were age 16

or above, 68.2 percent were gainfully employed during the second quarter of 2010 (Kochhar et al., 2010). In spite of the recession, the majority of the immigrant workforce managed to remain employed. One of the reasons for this trend is that foreign-born workers are more mobile and are more likely to move across occupations and regions than their native-born counterparts (Orrenius & Zavodny, 2009). This flexibility can also be interpreted as instability in the workforce. One of the effects of the recession was a reduction in wages for the foreign-born population. Immigrant wages are the most vulnerable during tough economic times. Even though immigrants managed to stay employed during the recession, their earnings sharply declined (Kochhar et al., 2010). Latino immigrants experienced the greatest loss in earnings (Kochhar et al., 2010). The weekly median income among Latino immigrants dropped by 1.3% from 2008-2009 and another 5.8% from 2009-2010 (Kochhar et al., 2010). Among those who are admitted into the U.S. as temporary workers, their stay is dependent on their employment. They may not have the luxury to reject employment based on pay standards. Employment opportunities are extremely limited for the undocumented foreign-born population. As a result, they are more willing to work for reduced wages rather than be unemployed.

Scope of the Study

This study builds upon, extends, and improves prior research in the study of the federal sentencing processes. First, this study examines the influence of offender citizenship status on federal sentencing outcomes (likelihood of imprisonment and imprisonment length). Early research on the effect of offender citizenship status on

sentencing outcomes has been limited to being mentioned in a footnote or in passing. However, there is a growing interest in uncovering sentencing disparities based on citizenship status (Demuth, 2002; Logue, 2009). This study aims to investigate those disparities. Even though recent research has begun incorporating offender citizenship status in its analysis, one of the variables that is still overlooked is legal status. By omitting offender legal status, the research neglects to acknowledge that variation among non-U.S. citizens can result in differential treatment. Second, the measure of citizenship status is refined in order to identify offender legal status. Thus, I investigate the role of legal status on sentencing outcomes. Legal status plays a role in the type of employment and social services one can attain, which may influence courtroom outcomes. Third, this study focuses on Latino immigrant subgroups. Similar to legal status, national origin tends to be overlooked in the sentencing research. This study aims to explore differences in sentencing outcomes among Latino subgroups according to their nationality. I specifically focus on Colombian, Cuban, Dominican, and Mexican offenders and examine whether Mexican nationals are treated more harshly compared to other Latino subgroups. This is the first study to explore sentencing outcomes among these particular groups.

Organization of Dissertation

Chapter Two begins with an overview of immigration patterns from Latin America to the United States. Next, the formation of Mexican immigrants as the problem immigrant group is explained. Latino immigrant myths and misconceptions as well as

the criminalization of immigrants are also addressed. The impact of immigrant related cases on the federal court system and judicial bias against foreign-born offenders is discussed. Chapter Three provides a review of the literature on the effect of citizenship status, race/ethnicity, and national origin on sentencing outcomes. A discussion of theoretical linkages between courtroom decision makers and sentencing outcomes follows. Chapter Four provides a description of the data, variables, and analytical technique used in the study. Chapter Five includes the analysis and findings. The discussion, conclusion, and limitations of the study are provided in Chapter Six.

Chapter 2

Background

Immigration Patterns from Latin America

Unlike immigrants recruited to fill the labor market, migrants from Cuba and the Dominican Republic are strategically admitted for other purposes (Durand & Massey, 2010). Both Cuban and Dominican nationals were historically admitted into the U.S. because of geopolitical strategies (Durand & Massey, 2010). After the Cuban Revolution of 1959 and the beginning of Fidel Castro's regime, the U.S. welcomed Cuban migrants as refugees (Durand & Massey, 2010; Pedraza, 2007). From late April through September of 1980, Castro allowed approximately 125,000 Cuban nationals to depart from the port of Mariel to the U.S. (Card, 1990). Those who voluntarily left Cuba at this time were primarily political refugees, typically held higher skilled jobs, had their property seized by the government, and had relatives persecuted and imprisoned (Bishin & Klofstad, 2011). In 1995, a lottery system was set up in order to put a limit on the number of Cuban immigrants allowed into the U.S. (Nielsen & Martinez, 2011). However, this has not stopped others from attempting to make the journey to the U.S. by their own means. If Cuban nationals are apprehended at sea, they are returned to Cuba. If they manage to make it to U.S. soil, they are able to stay. This is commonly known as the "wet foot-dry foot policy" (Portes & Stepick, 1993). Because of its proximity, most Cuban refugees settle in the south of Florida. Upon their arrival, Cuban refugees are able to enjoy many of the benefits that Americans are granted (e.g., access to social welfare programs) (Bishin & Klofstad, 2011). Cuban nationals who make it to U.S. soil are

immediately placed on the path toward permanent legal residency followed by the process of becoming naturalized citizens (Durand & Massey, 2010). Cubans continue to be the only Latino group admitted into the U.S. as refugees then placed on a fast-track to permanent legal residency.

Like other Latino immigrants, Dominicans emigrate to the U.S. in order to escape political turmoil and in search of economic opportunities (Nielsen & Martinez, 2011). During the 1960s, Dominicans began immigrating to the U.S. in sizable numbers (Nielsen & Martinez, 2011). In 1965, political chaos ensued in the Dominican Republic, resulting in U.S. military interference (Durand & Massey, 2010). During this time, the U.S. government began offering Dominican nationals visas (Durand & Massey, 2010; Lundquist & Massey, 2005). The majority of Dominican immigrants are part of the working class. Compared to other Latino immigrant groups, they have a lower socioeconomic position (Nielsen & Martinez, 2011). They also have lower rates of naturalization compared to other immigrant groups (Pantoja, 2005). Dominicans are unique in that they are racially perceived as black and ethnically viewed as Latino (Gomez, 2000). The combination of these two characteristics can contribute to increased discrimination against them. Since they began immigrating to the U.S., Dominicans have primarily settled along the New York-Boston corridor and make up the largest immigrant group in New York City (Itzigsohn, Dore, Fernandez & Vazquez, 1999; Portes et al., 2008). The Dominican population in New York is the second largest relative to Santo Domingo (Portes et al., 2008).

During the 1960s, there was an influx of Latinos immigrating to the U.S. (Nielsen & Martinez, 2011). However, it was not until the 1990s that Colombian nationals began immigrating in large numbers to the U.S. (Durand & Massey, 2010). Similar to other Latino immigrants, Colombians emigrate to the U.S. in search of economic opportunities and improved standards of living (Hoffman and Escala, 1999). Their reasons for immigrating include escaping the violence of drug cartels, economic motivation, and political turmoil (Guarnizo & Espitia, 2007). Colombians take advantage of family reunification policies, which allow them to enter the U.S. with legal status (Guarnizo & Espitia, 2007). A U.S. citizen or non-U.S. citizen legal permanent resident can apply for a temporary visa in order to reunite with a spouse, child, parent or relative (Jasso & Rosenzweig, 1986). The number of temporary visas distributed on an annual basis is restricted. There are issues with case backlog from applications so it can take years to obtain a temporary visa (Jasso & Rosenzweig, 1986). Between 1990 and 2004, approximately 30,458 Colombian asylum seekers were admitted into the U.S. (Migration Policy Institute, 2008). There were 2,964 applications from Colombian nationals seeking asylum or refugee status in 2006 alone (Balcazar, Garcia-Iriarte & Suarez-Balcazar, 2009). Colombian nationals rank third after Chinese and Haitians in the number of asylum and refugee seekers (Balcazar et al., 2009).

Despite the fact that Colombian immigrants generally have a higher level of formal education and are better off financially compared to other Latino immigrants, they encounter many of the same struggles that other immigrant groups face (Balcazar et al., 2009). Colombian immigrants like other Latino groups, struggle with access to health

care and social services especially if they are undocumented (Hofman & Escala, 1999). Hoffman and Escala (1999) noted that Colombians based in New York and New Jersey have little knowledge about local health and social organizations and that there is little participation among those who are aware.

Mexican nationals are the dominant national origin group among Latino immigrants in the U.S. (Durand & Massey, 2010; U.S. Census Bureau, 2000). Given the geographical relationship as well as the history between the U.S. and Mexico, this is not surprising. Mexican nationals are concentrated in the Southwest but there has been increased movement east due to employment opportunities in agriculture (Portes et al., 2008). The U.S. labor market has a long history of dependence on Mexican nationals. This relationship began during the nineteenth century when Mexican nationals were recruited to work on U.S. ranches and railroads (Gereffi, Spener & Bair, 2002). During the 1940's and 1950's, the majority of Mexican nationals who immigrated to the U.S. did so because they were provided short-term labor contracts which essentially made them disposable (Duany, 2002). Mexican nationals are primarily employed in service or agricultural industries (Chinchilla & Hamilton, 2007; Durand & Massey, 2010).

Immigration from Latin America is not given the same value as early European immigration (Newton, 2008). Early European immigration is credited with setting the foundation of the U.S., whereas immigration from Latin America is considered burdensome (Newton, 2008). Anti-immigrant rhetoric and negative stereotypes help shape public perception about immigrants. Whereas some groups are viewed more favorably and have access to benefits (e.g., Cubans), others are vilified and perceived as

threatening due in part to size (e.g., Mexicans) (Warner, 2005). Undocumented immigrants who enter the U.S. through the U.S.-Mexico border are stereotyped as being affiliated with Mexican drug cartels (Cottam & Marenin, 2005). Mexican immigrants are perceived as “permanent foreigners” and face the types of stigma that other groups are spared.

Mexican Immigrants: “Permanent Foreigners”

The increase in immigration from Latin American countries since 1965 has been followed by the demonization of immigrants, particularly those of Mexican descent (Massey, 2009). The history between Mexico and the U.S. is characterized by war, conquest, and policies that encourage immigration by Mexican nationals to the United States. Newton (2008) contends that “the word Mexican in the United States is pejorative, it automatically conjures a vision of something un-American, even menacing” (p. 26). Massey (2009) notes that Mexicans are “increasingly subject to processes of racialization that have rendered them more exploitable and excludable than ever before” (p. 12). Mexican immigrants are typically depicted as the problem population during public and political discourse (Newton, 2008). Conquest and legislation are credited with constructing the image of Mexican immigrants as undeserving (Newton, 2008). The concept of “permanent foreigner” is traditionally applied to Mexican immigrants as well as Mexican-Americans (Gutierrez, 1995). The differences in language, history, culture, and traditions help reinforce the belief that this segment of the population is inherently “different” from Anglo-Americans (Gutierrez, 1995). Mexican immigrants are viewed as

qualitatively different from European immigrants (Newton, 2008). Early Mexican history in the U.S. provides some background to explain how and why these perceptions were formed.

Mexicans resided in territories that were granted to the U.S. after the Mexican-American War (Massey, 2009). After the Treaty of Guadalupe Hidalgo ended the War in 1848, Mexico ceded the territories that now make up the following states: Arizona, California, Colorado, Nevada, New Mexico, and Utah (Massey, 2009). The U.S. was also given ownership of part of Wyoming, and their ownership of Texas was confirmed. The U.S. acquired over 50 percent of Mexican territories by the end of the War (Mier & Ribera, 1993). Prior to the War, there was animosity toward Mexicans but the War helped to intensify enmity (Gutierrez, 1995). In the aftermath of the War 50,000 Mexican nationals became U.S. citizens (Massey, 2009). The majority of Mexicans affected by the Treaty resided in New Mexico and Texas, which was a slave state (Massey, 2009). Despite the fact that Mexicans were not enslaved like African Americans, they were not provided the same rights as whites (Gutierrez, 1995). Mexicans were disenfranchised in another capacity (Massey, 2009). They were stripped of their property and forced to become laborers for white business owners (De Leon, 1993). Mexicans became a minority in what used to be their country of origin (Mier & Ribera, 1993).

Labor induced immigration from Mexico to the United States began shortly after the Mexican-American War and has continued since. In 1900, the Mexican-origin population in the U.S. was approximately 150,000, with 237 individuals immigrating

from Mexico that year (Massey, 2009). In 1907, the size of the Latino population increased as a result of U.S. recruitment of Mexican nationals to work in agriculture, mines, and the railroads (Durand & Arias, 2000). At one point Asian immigrants fulfilled the demand for cheap labor but Mexicans immigrants were preferred (Massey, 2009). As stated in the Dillingham Commission report, “the Mexican is preferred to the Japanese. He is alleged to be more tractable and to be a better workman in one case. In the other, he is said to be a quicker and better workman than the Japanese....” (U.S. Commission on Immigration, 1911, p. 110). Mexico became one of the primary sources of cheap labor due to immigration restrictions on individuals from other countries. After the systematic and legal exclusion of Chinese immigrants in 1882, there was a shortage of cheap labor in growing industries (Newton, 2008). The need for cheap labor intensified in 1917 when Asian immigrants were banned from entering the U.S. based on a national quota system; this was exacerbated by restrictions placed on immigrants from Eastern and Southern Europe in 1924 (Newton, 2008). The U.S. and Mexican governments entered into an agreement to supply Mexican laborers as a temporary solution for the shortage of cheap labor. During this time, it was widely believed that having Mexican nationals work in the U.S. would be a better alternative because the proximity of the southern border would ensure that they would return to Mexico once they had completed their work (Newton, 2008).

During 1914, the U.S. experienced a labor shortage because of World War I (Massey, 2009). The shortage was addressed by recruiting temporary Mexican workers (Massey, 2009). This resulted in a growth of Mexican immigrants, totaling 51,000 by

1920 (Massey, 2009). Not only were Mexican nationals enticed by the prospect of economic and job opportunities, but after the Mexican Revolution many decided to immigrate to the United States (Newton, 2008). Between 1917 and 1929, U.S. state governments encouraged Mexican nationals to immigrate to the U.S. for employment purposes. Between 1918 and 1921, the U.S. enacted restrictions on immigration due to the fear of communism but the recruitment of Mexican laborers quickly resumed (Massey, 2009). By 1924, the number of immigrants with legal status reached 88,000. At the same time, the number of undocumented immigrants in the U.S. was growing (Massey, 2009). This resulted in anxiety and heightened concern over the growth of the Mexican population. As a result, Congress authorized the creation of the U.S. Border Patrol in 1924 to patrol the southern border.

With the beginning of the Great Depression, resentment against the Mexican immigrant population increased (Massey, 2009). Mexican immigrants were portrayed as “stealing” American jobs and the demand for immigration restrictions took center stage. In response to public demand, the federal government along with state and local governments organized mass deportations of legal Mexican immigrants, undocumented Mexican immigrants, and their U.S.-born children (Massey, 2009). Between 1929 and 1937, approximately 458,000 Mexican immigrants and U.S. citizens of Mexican descent were arrested and deported (Massey, 2009).

U.S. involvement in World War II led to renewed demand for Mexican laborers (Massey, 2009). As a result, the U.S. government solicited the help of the Mexican government to implement a temporary worker program (Rapple, 2007). This program

became known as the Bracero Program. In the beginning stages of the program, “an average of 50,000 Mexicans made the round trip to the farming districts of Texas, the Great Plains, and California” (Rappleye 2007, p.65). At the end of the WWII, the guest worker program was halted because it was no longer deemed necessary. Americans demanded that something be done to control immigration since immigrants were no longer needed to fill labor shortages. The number of apprehended and deported Mexican laborers reached 850,000 in 1953, leaving only 200,000 Mexican laborers in the U.S. (Rappleye, 2007).

After the expiration of their temporary work permit, authorities expected a massive migration by Mexican nationals back to Mexico. When this did not occur, the federal government took steps to ensure their removal. The U.S. federal government charged the Immigration and Naturalization Service (INS) with deporting Mexican nationals. In 1954, the U.S. government launched Operation Wetback with the purpose of targeting Mexican nationals for deportation (Rappleye, 2007). Operation Wetback resulted in the deportation of over one million Mexican immigrants (Rappleye, 2007). During this Operation, undocumented immigrants as well as U.S. citizens of Mexican descent were deported (Newton, 2008). Even after the dysfunctional results of the Bracero Program, other temporary worker programs were implemented using the same model. Between 1955 and 1959, 400,000 to 450,000 temporary laborers entered the U.S. on an annual basis (Massey, 2009). The Bracero Program encountered other problems as well. The Mexican government became skeptical and suspicious of the Bracero Program once it was alerted about the mistreatment of Mexican nationals. Mexican laborers were

forced to endure poor working conditions, very low wages, and other forms of mistreatment (Newton, 2008). Upon learning about the abuse allegations, the Mexican government withdrew its support for the program (Rappleye, 2007). In response to the Mexican government's lack of support for a temporary worker program, the U.S. government proclaimed the southern border open for three weeks (Rappleye, 2007). During those three weeks, anyone could cross the border into the U.S. without legal ramifications (Rappleye, 2007). While one group of immigrants was being welcomed into the U.S., another group was being deported.

The Bracero Program is considered exploitative and corrupt by civil rights activists. The conditions that Mexican laborers were required to endure were comparable to those of African American sharecropping in the south (Massey, 2009). Religious groups, civil rights organizations, and other groups pressured Congress to put an end to the Bracero Program (Rappleye, 2007). In the early 1960s, Congress held hearings about the abuse allegations and mismanagement of the program (Rappleye, 2007). Because of the findings on program mismanagement and abuse allegations, the Bracero Program was finally eliminated in 1965. Congress also reduced the number of worker visas distributed annually (Massey, 2009).

The U.S. government and American employers exploited Mexican workers, who they lured with false promises of fair wages, ethical treatment, and economic opportunities (Ashley, 2006). Immigrant workers had few rights, which is a trend that continues to this day. When there is a shortage of cheap labor, Mexican immigrant workers are welcomed into the U.S., but once they are no longer needed, they are

expected to leave voluntarily or be deported. One of the other strategies used to discourage prolonged stays by temporary immigrant workers is to offer them incentives to leave the U.S. on their own. In 2004, the Bush administration proposed a large scale temporary worker program targeting Mexican nationals. The Bush administration proposed that 10 percent of wages be held until the workers return to Mexico. This was intended as a way to encourage migration back to Mexico (Newton, 2008). Past and present temporary worker programs targeting Mexican nationals rely on the notion that their presence in the U.S. will only be temporary without offering an alternative for permanent residency (Newton, 2008). Unlike European immigrants, who are credited with being an integral part of the U.S. industrial growth, Mexican immigrants are seen as merely a short-term solution to fulfill American needs (Newton, 2008). There is an expectation that temporary workers will return home after the completion of seasonal work. However, that expectation is not realistic. Many immigrants are motivated to remain in the U.S. despite their contractual agreement. Contracts are continually extended, which allows individuals to develop strong ties to their communities, marry, and have children in the United States.

Congress has been instrumental in making distinctions between valued and unwanted immigrants. Congress has enacted legislation that set national origin quotas, exclusions by race, and other discriminatory restrictions. These policies help reinforce the perception that there are immigrants more worthy than others of inclusion into the United States. Those who are deemed disposable or temporary are identified as requiring restrictions and control. The language used in the immigration debate clearly signals a

group of unwanted immigrants. During Congressional sessions, representatives use negative imagery of Latino immigrants, especially against Mexican nationals. Members of Congress help fuel the hostility against Mexicans by perpetuating the misconception that Mexican immigrants steal American jobs, come to the U.S. to ensure birthright citizenship for their children, and become a drain on society. For example, during a Congressional hearing, a representative from Mississippi voiced his concern that “a bunch of Mexicans” were taking away American jobs (Newton, 2008, p.143). One of the other issues voiced by members of Congress is whether to allow undocumented immigrant children access to public education. Politicians are vocal about their opposition to providing immigrant children with this right. A representative from Texas argued that the problem with the economy in Brownsville, Texas was that “illegal alien children” were being taught in their schools (Newton, 2008, p.144). Another representative voiced his disdain for a Mexican woman who called the school district to inquire about whether her undocumented immigrant children could obtain a public education. Congress uses terms like “the American dream” and “life blood” to describe early immigration from Europe but terms like “illegal” and “alien” are used to describe Latino immigrant groups (Newton, 2008). Newton (2008) argued that “Congressional discourse implies that illegal immigrants are Mexicans, and thus without attributing negative constructions directly to Mexican immigrants” they are “conflated with the criminal and undeserving attributes that members of Congress employed in support of restriction measures” (p.146). In other words, Congress associates problem immigrants with being Mexican nationals. These sentiments serve to influence the public and

perpetuate the disdain for Mexican immigrants. The following section addresses common misconceptions and stereotypes associated with Latino immigrants.

Immigrant Myths and Misconception

Discussions regarding undocumented immigrants are framed around the views that they are a threat to national security, jobs, resources, crime, and culture (Bender, 2003; Massey, 2009). Chavez (2001) examined the way that immigration has been discussed in the national media. Text referencing immigrants was classified as either “alarmist”, which was used to convey fear of immigration, “affirmative,” which used positive images to describe immigrants or “neutral,” which was factual and balanced. The results of the study revealed that since 1965, immigration coverage has mostly contained alarmist themes. From 1965-1969 two-thirds of coverage was alarmist, 9 percent neutral and 19 percent affirmative. Alarmist themes decreased in the following decade but rose again in the 1980s and 1990s (Chavez, 2001). Approximately 18 percent of coverage had alarmist themes in the 1970s, 38 percent in the 1980s and 45 percent during the 1990s. The images and content produced by the media used metaphors such as “inundated” or “flooded” when describing immigration trends (Chavez, 2001). Chavez (2001) found that negative terms were used to depict the southern border as a battleground (“under attack” and “alien invaders”). Border patrol agents were depicted as “defenders” who were trying to “hold the line” against a “tidal wave” of immigrants (Chavez, 2001).

Negative immigrant stereotypes are prevalent in the media. Roman (2000) argued that Latinos are regularly portrayed in films as gang members, drug dealers or immigrant and typically undocumented. These caricatures help to create the image that Latinos are “outsiders” and aim to cause disruption and harm. In the film *Scarface*, a Cuban family rose from poverty to wealth through cocaine drug dealing and murdering Cuban and Colombian competitors. The film *American Me*, based on a true story, depicts Mexican-American gang members. Santana, a gang leader who is convicted to prison, works his way through the ranks of the criminal underworld and eventually is assigned as the leader of the Mexican Mafia. More recently, the film *End of Watch* perpetuates the negative stereotypes associated with Mexicans. In this film, the audience is exposed to the portrayal of Mexicans as gang members, having connections to Mexican drug cartels, and involvement in human trafficking. In the film *The Last Stand*, the theme of the storyline revolves around a Latino drug lord making his escape to Mexico. These films help to perpetuate misconceptions and negative stereotypes against Latinos as ruthless and dangerous. Their removal from society seems detrimental to preserve order in society. The prevalence of these images in the film industry reinforces the idea that immigrants and Latinos are violent prone, gang members, drug traffickers, and a threat to society. These perceptions of threat help to influence legislation aimed at criminalizing immigrants.

Recent immigration trends are described as a “crisis” that requires intervention. One of the ongoing themes in the immigration debate is that immigrants serve as scapegoats during periods of unrest and economic uncertainty (Higham, 1969; Massey,

2009). During the 1980s, the ongoing immigration debate was framed around the threat of communism from Latin American countries. Former President Ronald Reagan voiced his concern over communist presence in Central America in a speech where he predicted that there would be “a tidal wave of refugees—and this time they’ll be ‘feet people’ and not boat people—swarming into our country seeking safe haven from communist repression to the south” (Washington Post, June 21, 1983, cited in Massey, 2009, pg 19). During the economic boom of the 1990s the demonization of Latino immigrants declined somewhat; however, the attacks of September 11, 2001 revived public and political hysteria against Latino immigrants (Massey, 2009; Miller, 2005b). Massey (2009) notes that after the attacks, progress on immigration reform ceased. This was replaced by political focus over the threat to the southern border as a national security concern.

The political debate on immigration incorporates a series of stereotypes and misconceptions about Latino immigrants. There is a misconception that Mexican immigrants are more interested in retaining Mexican traditions instead of acclimating to the U.S. (Jaret, 1999). For example, Pat Buchanan, a former speechwriter for the Nixon administration, publicly voiced his concern that Mexican conspirators were planning to take back the lands acquired by the U.S. through the Treaty of Guadalupe Hidalgo (Newton, 2008). Buchanan referred to this as a “third world invasion” and described a “reconquista” by Mexican nationals (Massey, 2009). Others reference immigration from Mexico as “an invasion of the southwest” in order to ignite the perceived threat of Mexican nationals (Jaret, 1999).

Political rhetoric has specific policy implications. In 2010, Senator John McCain released a series of television ads where he blamed undocumented immigrants for “drug and human smuggling”, “home invasions”, and “murders” (Goldman, 2010). McCain called for the completion of the “danged fence” across the U.S.-Mexico border. Also in 2010, Arizona Governor Jan Brewer falsely claimed that beheadings were being committed in Arizona along the U.S.-Mexico border by drug cartels (Davenport and Myers, 2010). After being confronted about her false claims she later retracted her statements but wanted to make it clear that she was “concerned about the border region because it continues to be reported in Mexico that there’s a lot of violence going on and we don’t want that going into Arizona” (quoted in Davenport and Myers, 2010, p. 1). Both McCain and Brewer are in a position to affect legislation and choose to use fear mongering to perpetuate not only stereotypes and misconceptions about immigrants but false information as well. These accusations are dangerous and fuel public outcry driven by misguided politicians.

Myths and misconceptions about Latino immigrants are reinforced in academia (Massey, 2009). Samuel P. Huntington, a Harvard political scientist, wrote a disparaging piece on Latino and Mexican immigrants (Massey, 2009; Newton, 2008). Huntington (2004) suggested that there was a conspiracy by both Mexicans and Mexican-Americans to make Spanish the official language of the U.S. and to reclaim the Southwest. Huntington (2004) described Mexican, Mexican-American, and the Hispanic/Latino culture (all terms he used interchangeably) as being diametrically opposed to the American culture which values hard work and educational achievement. Moreover, he

argued that Latinos will never be fully assimilated (Huntington, 2004). Huntington (2004) also highlighted “ethnic enclaves” as a threat to the U.S. because rather than choosing to become assimilated, immigrants reject mainstream society and segregate themselves. Others in academia criticized the accusations made by Huntington (2004). They countered that these statements were inflammatory and based on stereotypes rather than facts (Newton, 2008). These sentiments in turn help influence legislation aimed at criminalizing immigrants.

The Criminalization of Immigrants

Alba, Rumbaut, and Marotz (2005) argue that Americans overestimate the number of racial/ethnic minorities compared to the number of whites. When this occurs, they are more likely to support anti-immigrant policies. Alba and colleagues (2005), contend that restrictive policies are focused on Latino immigrants compared to European immigrants. Over the past decade, a number of state and federal legislative efforts have been made to deter unauthorized immigration and criminalize undocumented immigrants. For example, in Hazleton, PA an ordinance (Illegal Immigration Relief Act Ordinance of 2006) was passed that would sanction businesses who hired undocumented immigrants and property owners who rented to them (Rubinkam, 2011). More recently, Alabama passed what has been described as the most restrictive immigration bill in recent history. House Bill 56 titled Beason-Hammon Alabama Taxpayer and Citizenship Protection Act was signed into law in 2011. Among the restrictions put in place by this bill were requiring that schools check a student's immigrant status, making contracts with

undocumented immigrants invalid (e.g., jobs, lease, and child support among others) and it became illegal for undocumented immigrants to apply for jobs or a drivers license. In addition, local law enforcement was permitted to racially profile anyone suspected of being undocumented. Should an individual not be able to produce proof of their legal status they are to be taken to jail where federal officials will commence the deportation process. While parts of the bill were temporarily blocked until its constitutionality was determined, a clear message was being sent to immigrants. Their presence in the state was unwanted and their removal imminent. Ordinances and bills such as these are passed with the goal of driving out the Latino and immigrant population (Rubinkam, 2011). In fact, after passing Alabama's HB 56 the Latino student attendance rate sharply dropped and created a shortage of laborers in construction and agricultural industries. In 2011, the Governor of Georgia signed House Bill 87 into law. HB 87 granted local law enforcement the ability to question criminal suspects about their immigrant status (Illegal Immigration Reform and Enforcement Act, 2011). Should an individual not be able to produce proof of legal status, they will be taken to jail where federal officials will commence the deportation process. The constitutionality of HB 56 and HB 87 are under review.

In the state of Arizona, Senate Bill 1070 was signed into law by the governor, granting local law enforcement agencies the authority to question an individual's legal status based on "reasonable suspicion" (Support Our Law Enforcement and Safe Neighborhoods Act, 2010). According to Michaud (2010), SB 1070 came under national scrutiny because of allegations that the law was nothing more than legalized racial

profiling geared at targeting Latinos regardless of their legal status. A federal judge temporarily blocked SB 1070 in order to determine its constitutionality. On June 2012, in a split vote, the U.S. Supreme Court struck down on multiple provisions of SB 1070. However, the Court upheld one of the more highly contested provisions of SB 1070, the “show me your papers” law. This provision provides local law enforcement the authority to inquire about a person's immigration status during routine traffic stops (Sacks, 2012).

First time entry into the United States without legal authorization is a violation of the U.S. penal code and is treated as a misdemeanor (Coutin, 2005). The U.S code (8 U.S.C 1325) states:

- (a) Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.

Subsequent unauthorized entries are considered a felony criminal offense. Immigrants who are deported on criminal grounds face a 10-year sentence if they choose to re-enter the U.S. without legal authorization (Coutin, 2005). Under the U.S. code (8 U.S.C 1326), immigrants who are convicted of an aggravated felony and re-enter the U.S. illegally after being deported face a 20-year prison sentence (Coutin, 2005). Using false documents, harboring undocumented immigrants, and falsely claiming U.S. citizenship are immigration offenses punishable by incarceration (Coutin, 2005). Once apprehended,

undocumented immigrants are more at risk of being incarcerated because of their treatment in the criminal justice system (Hagan & Palloni, 1999).

Kanstroom (2000) argues that the social construction of “criminal aliens” is due to the “criminalization of immigrants” through the incorporation of deportation into the criminal justice system. Authorized immigrants face additional forms of formal social control through legislation that facilitates a pathway to deportation (Kanstroom, 2005). In 1988, the Anti-Drug Abuse Act established an “aggravated felons” legal classification (Miller, 2005a). This classification allowed immigrants convicted of drug or firearms trafficking, or murder to be deported following their release from prison (Miller, 2005a). The definition of “aggravated felonies” was expanded with the Immigration Act of 1990 to include additional crimes (Warner, 2005). This was followed by further expansion of the “aggravated felonies” classification under The Immigration and Technical Corrections Act of 1994 to include offenses such as theft, burglary, fraud, and prostitution (Warner, 2005). In 1996, the Anti-terrorism and Effective Death Penalty Act (AEDPA) incorporated additional offenses into the category of “aggravated felonies” (Warner, 2005). These include but are not limited to the following: (1) alien smuggling; (2) passport fraud or other document fraud; (3) forgery; (4) counterfeiting; and (5) previously reported offenses committed by an undocumented immigrant (Warner, 2005). After the modifications created by the AEDPA, the Illegal Immigration Reform and Immigration Responsibility Act (IIRAIRA) incorporated rape and sexual abuse of a minor into this category of offenses (Warner, 2005). The IIRAIRA also decreased the monetary amount used to quantify the threshold for deportation for an offense such as

theft (Warner, 2005). In addition, after 1996, crimes of “moral turpitude” were punished more harshly (Warner, 1995). For example, prior to 1996 an immigrant convicted of a misdemeanor shoplifting offense who was given a suspended sentence was not eligible for deportation until after a second conviction (Morawitz, 2000). This is no longer the case. After 1996, a non-U.S citizen convicted of a first time misdemeanor shoplifting offense is automatically eligible for deportation (Warner, 2005). The expansion of legislation aimed at criminalizing immigrants has had a detrimental effect on criminal justice related outcomes. These Acts make large proportions of immigrants eligible for deportation following a criminal conviction.

The situation is exacerbated by the fact that not all defense attorneys are familiar with legislation that directly affects foreign-born defendants (Tyndall, 1996). If defense attorneys fail to provide information regarding the possibility of deportation to their clients and encourage them to plead guilty rather than go to trial, they may be sealing their fate for deportation. Authorized immigrants have the option of challenging a criminal conviction if it resulted from a guilty plea based on the Sixth Amendment right to effective counsel, but this option is not available to unauthorized immigrants (Kozlov, 1992).

The creation of aggravated felonies has had a key impact on the foreign-born population with previous criminal convictions. These individuals are retroactively made subject to automatic deportation (Kanstroom, 2005). Based on the legal changes instituted over the past two decades, legal permanent residents and undocumented immigrants are subject to mandatory deportation for either of the following situations: (1)

convictions that carry a sentence of at least a one year or; (2) if they come to the attention of law enforcement officials even in the absence of a new conviction (Warner, 2005).

Recent changes in legislation facilitate the option of deportation through the expansion of aggravated felonies, which are retroactive and serve to re-criminalize the foreign-born population.

The federal government has jurisdiction over immigration policy (Skerry, 1995). At one point, the Department of Justice (DOJ) considered expanding immigration responsibilities to state and local law enforcement departments (Arnold, 2007). In 1996, the DOJ ruled that local agencies did not have the power to enforce immigration laws; rather, their role was limited to preventing illegal entry into the U.S. (Arnold, 2007). In 2002, state powers were amended in order to grant states the authority to make arrests for civil and criminal immigration violations with the condition that they acquire permission from the federal government before making the arrest (Arnold, 2007). The DOJ proposed that state and local agencies that wanted to enforce immigration laws could enter into a Memorandum of Agreement (MOA) with the federal government (Arnold, 2007). As of early 2007, numerous law enforcement agencies have enlisted in a MOA including the Maricopa County Sheriff's Department (Arnold, 2007).

Arizona has one of the largest populations of undocumented immigrants; the majority are Latino and more specifically of Mexican national origin. National attention has been focused on some of the policies and practices implemented in Arizona. One of the agencies that has come under fire for its anti-immigrant stance is the Maricopa County Sheriff's Department. Sheriff Joe Arpaio, who has been the acting sheriff in

Maricopa County since 1992, has earned a national reputation for his stance on illegal immigration. In 2007, Arpaio enlisted in a program with the Department of Homeland Security (DHS), known as the 278(g) program, which granted his department additional powers over immigration enforcement (CNN, 2009). Under the 278 (g) program, both state and local law enforcement officials “have direct access to Immigration and Customs Enforcement (ICE) databases and act instead of ICE agents by processing aliens for removal proceeding by preparing a notice to appear in immigration court and transporting aliens” to detention facilities approved by ICE (Starr, 2009, p.1). State and local law enforcement authority over immigration enforcement affects federal caseloads because state and local law enforcement agencies who detain unauthorized immigrants are required to turn these individuals over to ICE. Once in federal custody, immigrant offenders are processed through the federal court system. As more local agencies become involved with enforcing federal immigration policies, this will have a direct impact on federal caseloads. Some of the consequences include case backlog, the need for additional resources to handle an increase in immigrant related offenses, and other practical constraints.

Federal Sentencing Guidelines and Immigrant Related Cases

Sentencing outcomes are scrutinized in order to assess whether there are unwarranted disparities based on extra-legal characteristics such as age, race/ethnicity, and gender. Frankel (1972) noted the importance of uniformity in federal sentencing. Under the indeterminate sentencing system that was in effect prior to 1984, offenders

received a minimum to maximum sentence, with a parole board having discretion over the release of an offender. Power was distributed to the judge, correctional officers, and parole board (Spohn, 2000). Critics argued that indeterminate sentencing gave parole boards too much discretion. The offender's release rested on the parole board's judgment as to whether the offender had been rehabilitated (Spohn, 2000). Critics on the conservative side argued that the system was too lenient and emphasized the need for punitive measures rather than rehabilitation (Spohn, 2000). Critics on the other side argued for enhancing fairness and judicial accountability (Spohn, 2000). Both sides agreed that sentencing reform was necessary but for different reasons. Frankel (1972) was instrumental in calling for sentencing reform to better address the "uncontrolled power" exercised by the judiciary. Rising concern over unwarranted disparities and discrimination in sentencing outcomes resulted in widespread sentencing reform (Tonry, 1995). Mandatory minimum penalties and presumptive sentencing guidelines replaced indeterminate sentencing for both uniformity and punitive purposes (Spohn, 2000).

The United States Sentencing Commission (USSC) was created in order to address issues of unwarranted disparate treatment in sentencing. The goal of the Commission is to reduce judicial discretion by assigning predetermined sentencing ranges that are based on an offender's prior criminal history and offense seriousness. The move from indeterminate to determinate sentencing was adopted in an attempt to curtail judicial discretion (Spohn, 2000; Stacey & Spohn, 2006). Critics now argue that discretion has not been eliminated but rather transferred to prosecutors (Hartley, Maddan & Spohn, 2007). Since the adoption of the Federal Sentencing Guidelines (FSG),

unwarranted disparities in sentencing outcomes continue to be found (Demuth, 2002; Spohn, 2000; Wolfe et al., 2011).

Recent Supreme Court decisions have modified sentencing policies by returning judicial discretion once removed from the judiciary (see *Apprendi v. New Jersey*, 2000; *Blakely v. Washington*, 2004; *Gall v. United States*, 2007; and *United States v. Booker*, 2005). One of the most significant of these cases was the *Booker* decision, which essentially declared that the FSG were advisory rather than mandatory. Judges are still required to consult the guidelines and expected to sentence within the guideline range. However, the *Booker* decision allows judges more discretion to depart from the guidelines. Since the Court's decision in *Booker*, most offenders have been sentenced within the ranges provided in the guidelines (United States Sentencing Commission, 2006). This trend continues despite the rise in government-sponsored departures (e.g., fast-track and substantial assistance) (United States Sentencing Commission, 2006). Post-*Booker* sentencing outcomes also are characterized by a rise in judicial departures (United States Sentencing Commission, 2006). Research shows that prior to *Booker* non-U.S. citizens received longer prison sentences compared to U.S. citizens (United States Sentencing Commission, 2010). Since *Booker*, differences in sentence length have grown (United States Sentencing Commission, 2010). In addition, the Court's decision in *Gall v. United States* (552 U.S. 38, 2007) extended judicial discretion under the FSG by allowing judges to consider the guidelines as a "starting point" when determining the appropriate sentence.

Over the last decade, Congress passed strict legislation (e.g., Victims of Trafficking and Violence Protection Act of 2000 and the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 [PROTECT Act]) in the attempt to increase penalties for immigration law violations (Hartley & Tillyer, 2011). Federal law enforcement efforts against immigration crimes have increased, especially around the U.S.-Mexico border (Hartley & Tillyer, 2011). The War on Drugs coupled with the threat of terrorism have increased attention around the southern border, resulting in an increased number of immigrant prosecutions at the federal level (Cottam & Marenin, 2005; Hartley & Tillyer, 2011; Logue, 2009). Within the last decade, the number of federal immigration cases have increased by roughly 50% (United States Sentencing Commission, 2009). By 2008, immigration and drug cases amounted to over 60% of the total federal court caseload (United States Sentencing Commission, 2008). As of 2009, immigration offenses made up the largest percentage of the total federal caseload (Hartley & Tillyer, 2011). The average amount of time served in federal prison by non-U.S. citizen offenders has increased from 4 months during 1986 to more than five times as long in 2000 (21 months) (Litras & Scalia, 2002).

Immigrant related cases differ from other federal cases in a number of ways. There are differences in defendant characteristics, departure alternatives, and practical and organizational constraints on judges and other decision makers (Hartley & Tillyer, 2011). In 2008, the majority (85%) of immigrant defendants were Latino; in contrast, only 30% of the defendants in non-immigration cases were Latino (Schmitt, 2009). The majority of defendants prosecuted for immigration-related offenses are foreign-born.

Non-citizens made-up almost 90% of defendants prosecuted for immigration offenses in 2008 (Schmitt, 2009). Non-citizen defendants differ from U.S. citizens in education, employment, and other characteristics that affect sentencing outcomes. Furthermore, non-citizens are not entitled to some of the benefits that are provided to U.S. citizens such as alternative sanctions to prison (e.g., house arrest) (Hartley & Tillyer, 2011). There has been a growing concern over managing the rise of immigration related offenses. One way of attempting to alleviate some of the case backlog and other issues is the use of fast-track programs.

Early disposition or fast-track is a government issued downward departure originally established to ease the growing caseload associated with immigration offenses across the Southwest (United States Sentencing Commission, 2003). Fast-track is commonly used to decrease the judicial burden associated with increased caseloads and to reduce case backlog (Bolla, 2006; Gorman, 2009). The Commission notes that fast-track programs account for a substantial number of government-issued downward departures (United States Sentencing Commission, 2003). Fast-track programs are particularly relevant in cases of non-U.S. citizen defendants (Hartley & Tillyer, 2011). They are designed so that defendants who agree to participate in these programs waive preliminary rights, plead guilty to charges, and are immediately sentenced (Hartley & Tillyer, 2011). By waving their preliminary rights, defendants eliminate the costs associated with having their case proceed to trial. Defendants who agree to participate in fast-track programs free up resources necessary to prosecute other cases (United States Sentencing Commission, 2003).

Fast-track programs are supported by Congress through the PROTECT Act of 2003. Overtime they have resulted in a decrease in judicial downward departures but an increase in prosecutorial downward departures (Hartley & Tillyer, 2011). Participation in fast-track programs cannot result in a discount of four or more levels from the guidelines (United States Sentencing Commission, 2003). Critics of fast-track departures argue that they produce unwarranted disparities (Bibas, 2005). Others argue that even if unwarranted disparities are produced, these outcomes are warranted because fast-track programs are consistent with the purposes of sentencing as described by both the USSC and Congress (Bolla, 2006). The increase of non-U.S. citizen defendants and the negative stereotypes associated with this group can influence judicial decision making.

Judicial Bias

It is not uncommon for judges to express their dismay with immigrant defendants. In *U.S. v. Onwuemene* (1991) the trial judge mentioned the defendant's immigrant status during the decision making process stating:

“You are not a citizen of this country. This country was good enough to allow you to come in here and to confer upon you . . . a number of the benefits of this society, form of government, and its opportunities, and you repay that kindness by committing a crime like this. We have got enough criminals in the United States without importing any.”

The appellate court ordered that Onwuemene be re-sentenced because consideration of his immigrant status was a direct violation of the defendant's constitutional rights. In other cases, judges have referred to a defendant's country of origin and highlighted some of the negative stereotypes associated with that country. One of the cases that outlines differential treatment due to national origin is the case of *U.S. v. Borrero-Isaza* (1989).

Borrero was arrested by Drug Enforcement Administration (DEA) agents at co-defendant Lind's place of employment. DEA agents found approximately one kilogram of cocaine in Borrero's vehicle. Lind was arrested the same day for possession of one kilogram of cocaine. During the trial, the presiding judge repeatedly mentioned Borrero's nationality (Colombian) as well as his undocumented status. The judge also referenced Colombia as a “source country” for drugs and used that stereotype as part of his rationale during sentencing. He stated,

“I just finished a case with two Colombian aliens. *Not only aliens. Illegal aliens ...* People, such as Mr. Borrero are emboldened to undertake this type of crime because they don't think they are going to pay for it that much, if they are caught, number one . . . If they are caught, some of these lax sentences they are meted out, if you will, cause people of Mr. Borrero's ilk to feel that they can do this. It has gone so far . . . that an illegal alien who doesn't speak the language from Colombia—come here, and with impunity . . . sell kilogram quantities of cocaine . . . And somehow the people who are selling narcotics, *particularly from source countries* have to know that we in the United States mean business, and we are going to put a stop to this.”

Borrero appealed his sentence, arguing that his due process rights had been violated, given that he was sentenced more harshly than his Anglo co-defendant who received a shorter sentence for a drug trafficking conviction. The appellate court ruled that Borrero needed to be re-sentenced and that by imposing harsher penalties because of the defendant's national origin and immigrant status the defendant's due process rights had been violated.

In the case of *U.S. v. Gomez* (1986) the appellate court ruling provided judges with a loophole that would allow them to consider a defendant's nationality during sentencing. Gomez, a Colombian-national, was charged with conspiracy to distribute

narcotics and other related charges. The prosecution argued that there was a “disturbing trend” occurring among drug offenders, noting that many recent drug cases involved immigrants from Latin America. The trial judge stated that he intended to make an example out of Gomez so that others would be deterred from immigrating to the U.S. for the purpose of drug trafficking. The trial judge referenced both the defendant’s immigration status and nationality. The trial judge sentenced Gomez to a fifteen-year prison sentence. Gomez appealed his sentence, citing that the trial judge had considered his nationality as well as his immigrant status during the sentencing process. The appellate court upheld the earlier sentence, noting that the trial judge had focused on meeting the goals of general deterrence rather than having a specific concern over the defendant's ethnicity. The appellate court noted that the trial judge was attempting to dissuade immigrants like Gomez who come from drug-fueled countries from entering the U.S. only to partake in illegal drug activity. The trial judge tried to send a message to a region (South America) rather than punish Gomez specifically. These cases illustrate that judicial biases influence case outcomes. The belief that immigrants are a social, economic, political, and criminal threat influence decision-making. These perceptions of threat persist even though immigration is not linked to a rise in crime.

Chapter 3

Prior Research and Theoretical Perspectives

Immigration and Crime

One of the most pervasive stereotypes about immigrants is that they are responsible for a disproportionately high level of criminal activity. The majority of Americans (73%) believe that it is “very” or “somewhat likely” that immigrants cause an increase in crime rates (Davis, Smith & Marsden, 2007). The immigration and crime literature supports evidence that immigration has either a negative relationship or no association with crime (Martinez & Lee, 2000; Nielsen et al., 2010; Sampson, 2008; Sampson & Bean; Wright & Benson, 2010). Research also finds that compared to the U.S. born population, immigrants commit less crime (Wright & Benson, 2010). Nielsen and colleagues (2005) found that recent immigration is negatively associated with most criminal outcomes including homicides. One of the explanations for the lower crime rates in immigrant communities is selection bias (Ousey & Kubrin, 2009). That is, a number of researchers argue that those who immigrate to the U.S. have strong values that emphasize hard work and dedication (Ousey & Kubrin, 2009). Others argue that the majority of immigrants who come to the U.S. do so because of educational and employment opportunities that are limited or unavailable in their country of origin (Butcher & Piehl, 2005; Hagan & Palloni, 1999). The literature finds a selection bias that negates or diminishes the relationship between immigration and crime (Ousey & Kubrin, 2009). The literature suggests that immigrants are committed to conventional methods of achieving success (Martinez, Rosenfeld & Mares, 2008). Research also finds that

immigrants focus on long-term gratification and work hard toward their goals, which helps keep them from criminality (Hagan & Palloni, 1999; Ousey & Kubrin, 2009). The U.S. government thoroughly screens immigrants who go through the legal channels of immigration. The government selects immigrants based on their low levels of criminality and high motivation in attaining conventional goals (Ousey & Kubrin, 2009).

Researchers conduct a number of studies examining the association between immigration and crime in Chicago neighborhoods (Sampson & Bean, 2006). For example, a study on one Chicago neighborhood with a high concentration of immigrants revealed that Mexican-Americans had lower crime rates than whites (Sampson & Bean, 2006). Living in neighborhoods with a high concentration of immigrants was beneficial for Mexican-Americans. Sampson and Bean (2006) suggested that high immigrant concentration affects crime rates among the native-born population based on proximity to immigrant neighborhoods. Graif and Sampson (2009) examined whether the immigrant population affected violent crime rates in Chicago neighborhoods, using homicide as a measure of violence. The study revealed that high levels of immigrant concentration were not related to homicide rates. Furthermore, Chicago neighborhoods composed of at least 40 percent immigrant residents had lower violent crime rates by 20 percent. This finding helps solidify the argument that immigrant neighborhoods can serve as a safeguard against crime.

Nielsen and colleagues (2005) examined homicide rates in Miami and San Diego between 1985 and 1995. These two cities were chosen because of the large concentration of immigrants. The purpose of this study was to examine how homicide rates were

affected by an increase in immigration during that period of time (Nielsen et al., 2005). The results of the study revealed that recent immigration was negatively associated with homicide rates (Nielsen et al., 2005). This finding is consistent with the literature on immigration and crime showing that immigrants do not cause an increase in criminal activity. Lee, Martinez and Rosenfeld (2001) also investigated homicide patterns in relation to an increase of immigrant groups in urban neighborhoods. The three border cities analyzed in this study were El Paso, San Diego, and Miami, all of which have a high immigrant concentration (Lee et al., 2001). The primary goal of the study was to determine the effect of immigration on homicide levels among blacks and Latinos. The results of the study revealed that a growth in the immigrant population did not increase homicide levels among either Latinos or blacks in any of the three cities (Lee et al., 2001).

The literature is moving beyond studying homicide rates to testing the relationship between immigration and other forms of violence (Wright & Benson, 2010). Wright and Benson (2010) examined levels of intimate partner violence (IPV) in neighborhoods with varying concentration of immigrants. They found that despite the unequal gender roles and traditional household expectation found in communities with larger concentrations of immigrants, incidents of IPV were not higher in immigrant communities. In fact, Wright and Benson (2010) found that neighborhoods with larger immigrant populations had lower levels of IPV incidents. The authors suggest that strong social ties and cultural norms present in immigrant communities reduce violence.

The literature finds that immigrant groups have lower crime rates than the native-born population (Martinez & Lee, 2000; Sampson & Bean, 2006). Immigrant status serves as a protective factor rather than a risk factor (Sampson & Bean, 2006). According to Sampson and Bean (2006), the research on immigration and crime suggests that “immigration status exhibits individual and contextual effects, both protective in nature” (p. 21). There is evidence to suggest that with each passing generation, immigrant crime rates reflect native-born crime rates (Sampson & Bean, 2006). Crime rates tend to increase within the second generation but are still lower than native rates. One of the reasons is that children born to immigrants and subsequent cohorts move away from immigrant communities (Sampson & Bean, 2006). Moving away from immigrant neighborhoods where ethnic enclaves are present can result in a loss of social ties, networks, and bonds. Subsequent generations who move away from neighborhoods with a large immigrant concentration may not retain the values that mitigate the relationship between immigration and crime.

Because of immigration to the U.S. from Mexico and Latin American, there is a focus on examining the offending patterns of Latinos. One of the concepts that have garnered attention is the “Latino paradox” (Sampson & Bean, 2006). Sampson and Bean (2006) describe the Latino paradox as the condition in which “Latinos do much better on various social indicators, including violence, than blacks and apparently even whites” (p. 20). This condition is found among Latino immigrants despite their generally high levels of economic limitations and other forms of disadvantage (Sampson & Bean, 2006). Latino immigrant crime patterns seem to go against what the literature would suggest

based on the disadvantage found in those communities (Sampson & Bean, 2006). Research on crime finds that young males in their twenties commit the majority of violent, drug, and property crimes (Ousey & Kubrin, 2009). Information gathered from the Census suggests that when compared to the native-born population, the immigrant population has higher rates of young males (Ousey & Kubrin, 2009). Thus, the term Latino paradox reflects the fact that even though Latino immigrants are under-educated, male, poor, and young they have lower crime rates than natives (Nielsen, Lee & Martinez, 2005; Sampson & Bean, 2006; Stowell, Messner, McGeever & Raffalovich, 2009).

High immigrant concentration in some neighborhoods results in the formation of ethnic enclaves. Wright and Benson (2010) note that “cultural affinity has long led immigrants to settle close to one another in ethnic enclaves” (p.481). Recent immigrants tend to reside near their family and friends in order to maximize social support and networks (Chiswick & Miller 2005; Portes & Rumbaut 2001; Wright & Benson, 2010). Ethnic enclaves are characterized by a high immigrant concentration where high levels of social capital and other pro-social characteristics are present (Nielsen et al., 2005). Ethnic enclaves help Latino immigrants establish and maintain social ties and bonds with other members of their community (Nielsen et al., 2005). Proximity and shared experiences allow them to form strong ties with one another (Wright & Benson, 2010). Social ties are thought to increase informal social control within immigrant communities (Portes & Rumbaut, 2001; Wright & Benson, 2010). The proximity to family and friends allows for emotional support, which is necessary during the transitional phase (Wright &

Benson, 2010). Strong social ties and access to networks also increase employment opportunities and ensure access to services (Portes 1998; Wright & Benson, 2010). Immigrants who are already in a stable economic position assist newly arrived immigrants in finding employment and introduce them to services available to them. One of the other benefits of living in neighborhoods with a high concentration of immigrants is that those who already reside in that community also assist recent immigrants with cultural adaptation and learning English (Wright & Benson, 2010). Immigrants who have already established themselves in their community can offer recent immigrants opportunities and resources that they may not have access to otherwise. The formation of “informal networks created in immigrant neighborhoods are particularly strong inhibitors to crime” (Wright & Benson, 2010, p.482). The sense of community developed within these neighborhoods allows residents to feel like they reside in a mini-homeland (Wright & Benson, 2010). Immigrants cite a strong sense of community and a commitment to the prosperity of their community as reasons why they remain in immigrant neighborhoods (Wright & Benson, 2010).

Immigrant communities serve as a protection against disadvantage and discrimination and as a means of preserving culture (Wright & Benson, 2010). Ethnic enclaves allow immigrants to protect their culture, values, and beliefs (Wright & Benson, 2010). Immigrant cultures are viewed as deviant even though “the cultural norms of today’s immigrants appear to be less tolerant of deviance than those of previous immigrants” (Wright & Benson, 2010, p. 482). One of the findings that has emerged from the immigration and crime research is that “the culture of honor underlying today’s

violent code of the streets is more likely to have originated from immigrants who came from the English borderlands centuries ago rather than recent Latino immigrants” (Wright & Benson, 2010, p. 482). Latino immigrants have lower levels of violent crime as well as a lower propensity of committing other deviant acts such as smoking and drinking than natives (Wright & Benson, 2010).

Ethnic enclaves are not present in every community with a large concentration of immigrants. There are immigrant communities that are considered communities of choice and others that are viewed as communities without choice (Nielsen et al., 2005). As the name implies, communities of choice are communities where individuals make a conscious choice to live in that location. There are other communities (e.g., ghettos of last resort) where individuals have no choice but to reside there. These immigrant communities lack strong social ties and bonds making it difficult to cope with disadvantage.

Living in close proximity to co-ethnics results in positive outcomes for immigrant groups (Wright & Benson, 2010). While there are reasons to believe that recent immigrants change the dynamics of a neighborhood, research suggests that immigrants do not affect neighborhoods in a negative manner (Nielsen et al., 2005). Despite widespread poverty, limited resources, and language barriers recent immigrants fight through those obstacles with the help of a social support system. Ethnic enclaves are credited with revitalizing immigrant neighborhoods (Nielsen et al., 2005). An increase in immigration serves to stabilize neighborhoods and revive businesses (Nielsen et al., 2005). Research suggests that immigrants help lessen the impact of concentrated

poverty within the neighborhoods in which they reside (Nielsen et al., 2005). Regardless of the benefits that immigrant communities provide, as well as a lack of support for the assertion that immigration leads to an increase in crime, research suggests that immigrants encounter harsher treatment in the criminal justice system.

The Effect of Citizenship Status, Legal Status, and National Origin on Federal Sentencing Outcomes

Research suggests that legally relevant factors such as offense seriousness and criminal history are the strongest predictors of sentencing outcomes (Spohn & Holleran, 2005). However, extra-legal factors also influence judicial decision-making and result in unwarranted disparities in sentencing (Hartley & Tillyer, 2011; Steffensmeier & Demuth, 2001; Steffensmeier, Ulmer & Kramer, 1998). A defendant's race/ethnicity, sex, age, education, and citizenship status influence case outcomes (Kautt & Spohn, 2002; Spohn & Beichner, 2000; Spohn & Holleran, 2001; Steffensmeier & Demuth, 2001; Steffensmeier, Ulmer & Kramer, 1998; Wolfe, et al., 2011). Evidence suggests that whites, offenders with higher levels of formal education, older offenders, and females are treated more leniently and benefit from downward departures compared to similarly situated offenders (Brennan & Spohn, 2009; Kramer & Ulmer, 2009; Spohn & Fornango, 2009; Spohn & Holleran, 2001; Steffensmeier & Demuth, 2001; Steffensmeier et al., 1998).

Studies that control for an offender's citizenship status find differences in sentencing outcomes between U.S. citizens and non-U.S. citizens (Albonetti, 1997;

Demuth, 2002; Johnson, Ulmer & Kramer, 2008; Steffensmeier & Demuth, 2000; Wolfe et al., 2011). Non-U.S. citizens are more likely to be incarcerated than U.S. citizens (Demuth 2002; Johnson et al., 2008; Steffensmeier & Demuth, 2000; Wolfe et al., 2011). Furthermore, U.S. citizens are more likely to receive substantial assistance departures than non-U.S. citizens, which affect outcomes such as sentence length (Spohn & Fornango, 2009). Albonetti (1997) controlled for citizenship status to test for disparities in the likelihood of incarceration and sentence length. She found that non-U.S. citizen offenders were treated more harshly. The results revealed that compared to U.S. citizens, non-U.S. citizens had a higher likelihood of incarceration and received longer prison sentences (Albonetti, 1997).

Demuth (2002) examined the influence of citizenship status on the likelihood of incarceration and sentence length using data from the USSC for fiscal year 1996 through fiscal year 1999. The study was limited to male defendants convicted of federal drug offenses. The results of the study revealed that U.S. citizen defendants had a lower likelihood of incarceration than both authorized immigrants and unauthorized immigrants. In addition, undocumented immigrants were more likely to be incarcerated than similarly situated authorized immigrants. Demuth (2002) found no significant difference in sentence length according to the defendant's citizenship status. Demuth (2002) noted that one of the reasons that could account for the difference in sentencing outcomes among non-citizens was that undocumented immigrants have limited probation options because of their unauthorized status in the United States. While the studies mentioned earlier tested the direct effect of citizenship status on federal sentencing

outcomes, additional studies have examined interaction effects between citizenship status and other variables found to affect sentencing outcomes.

Using federal sentencing data from fiscal years 1993 to 1996, Steffensmeier and Demuth (2000) controlled for citizenship status and examined whether citizenship status interacted with the offender's race/ethnicity. This study was restricted to male defendants. The findings revealed that non-U.S. citizen Latino offenders received harsher treatment than similarly situated black non-citizens and white non-citizens. In a more recent study, Wolfe et al, (2011) examined the role of citizenship and legal status on sentencing outcomes for all offenses using data from the USSC for fiscal year 2006. The results of this study revealed that both authorized immigrants and undocumented immigrants had higher odds of imprisonment than U.S. citizens. The findings also revealed that undocumented immigrants received shorter prison sentences than U.S. citizens. The authors noted that non-U.S. citizens might receive shorter sentences because of their impending deportation. Judges may be inclined to give non-U.S. citizens shorter prison sentences in order to reduce the costs of imprisoning offenders who will ultimately be deported. In order to better assess the influence of citizenship and legal status, the authors partitioned the data by citizenship and legal status. The results of the study revealed that the defendant's ethnicity influenced sentence length among undocumented immigrants. Latino undocumented immigrants received longer sentences than similarly situated white undocumented immigrants. The authors suggested that Latino undocumented immigrant defendants are viewed as more dangerous or threatening than similarly situated white undocumented immigrants.

Demuth (2002) has been instrumental in examining the influence of citizenship status on sentencing outcomes. One of the reasons this issue has been overlooked in the sentencing research is that it can be difficult to obtain information on offender citizenship status (Demuth, 2002). The USSC has played a pivotal role in providing data on federal defendants' citizenship status as well as legal status. One of the issues with using these data is that one must consider missing cases pertaining to citizenship status, legal status, and national origin. Despite this shortcoming, these data have been instrumental in providing the necessary information to examine sentencing outcomes among foreign-born offenders.

Prior research on the influence of citizenship status and legal status on sentence severity and sentence length suggest that there is disparate and perhaps discriminatory treatment of non-U.S. citizen offenders in federal district courts. The studies mentioned above provide a basis of understanding on the role of citizenship and legal status on sentencing outcomes. Additional research is required in order to gain a better understanding of the role that both citizenship and legal status play in judicial decision making. Even among the research that controls for citizenship status, there remains a gap in the literature regarding the foreign-born. One of the issues that remains to be addressed by the sentencing literature is whether defendants' national origin affects sentencing outcomes and, if so, for which groups. Because the majority of the foreign-born population in the U.S. is of Latino descent, it is necessary to examine this segment of the growing U.S. population. Not only do they comprise the majority of the foreign-born population, but their numbers in the criminal justice system continue to grow.

Despite the fact that the individuals who encompass the Latino foreign-born population share many similarities (e.g., language and religion), they also possess a number of differences (e.g., race, education, and employment) that can influence sentencing outcomes. Because of their differences, it is critical to acknowledge the distinctions among Latinos and consider whether subgroups are treated differently from one another in the criminal justice system. At this point, very little research considers the effect of national origin on sentence length and the likelihood of incarceration. If we are to gain a more comprehensive overview of the issues related to immigrant offenders, then we need to examine Latino subgroups more closely rather than continue to group all Latino immigrants together.

Using USSC data for fiscal years 2001 to 2003 Logue (2009) accounted for national origin, among Latino foreign-born offenders. Logue (2009) compared Mexican nationals to all “other” Latinos. Because of the misconceptions and stereotypes associated with Mexican nationals, Logue (2009) hypothesized that Mexican nationals would be treated more harshly relative to other Latinos. Moreover, the author expected Mexican nationals to have higher odds of imprisonment and longer prison sentences compared to other Latinos. The results revealed that national origin influenced sentencing outcomes for Mexican nationals as well as other Latinos (Logue, 2009). Mexican nationals were treated more harshly than similarly situated other Latinos. The results also showed that Mexican nationals received longer prison sentences. Logue (2009) argued that Mexican immigrants were more likely to be the victims of double punishment compared to other Latino groups. The reason why is due to the offense and

to their immigrant status which is associated with negative stereotypes relating to deviance (Sayad, 2004). Logue (2009) credited the hostility and anti-immigrant rhetoric focused on Mexican nationals as contributing factors in their harsher treatment in the criminal justice system. Negative stereotypes are amplified when a foreign-born defendant is convicted of a criminal offense. Logue (2009) suggested that Mexicans experience more severe punishment due in part to the publicity surrounding the Mexican drug cartels and other Mexican specific threats. Judges are supposed to remain unbiased during court proceedings; however, they are exposed to negative stereotypes associated with immigrant groups, which can influence their conscious or unconscious biases against particular groups (Logue, 2009). Minority threat perspective, causal attribution/uncertainty avoidance, and focal concerns perspective are used as the theoretical foundation to explicate disparate sentencing patterns in this study.

Minority Threat Perspective

Research suggests that certain types of offenders are regarded as more threatening, dangerous, and unpredictable than others (Wang, 2012). These groups of offenders are composed of the most marginalized in society such as the poor, immigrants, youth, racial, and ethnic minorities. Spitzer (1975) coined the term “social dynamite” to describe individuals who are considered especially dangerous. He noted that “social dynamite tends to be more youthful, alienated and politically volatile” and argued that those grouped in this category are more likely to be “processed through legal system” (Spitzer, 1975, p. 646). These individuals are viewed as the most deserving of punishment through means of formal social control.

Conflict or Marxist theorists argue that in an attempt to control the *status quo*, the dominant group in society uses formal sanctions to control the minority (Quinney, 1977; Spitzer, 1975). In terms of the economic relationship, capitalism helps to create two social groups, the powerful and the marginalized. Conflict theory suggests that as racial/ethnic minority groups grow in size they threaten the *status quo*. With the growth in size, there is also a growth in their political and economic influence as well as a social and cultural threat. Bonilla-Silva (2000) argues that racial and ethnic minorities are more likely to face restrictions on immigration as well as discrimination and retaliation. Minorities have a substantial presence in the criminal justice system from arrest (Holmes, 2000) to incarceration (Mauer, 1999; Tonry, 1997) and face harsher punishments (Spohn, 2000; Steffensmeier & Demuth, 2000). Conflict approaches can be used to explicate why racial and ethnic minorities are treated more harshly than similarly situated offenders.

Perceptions of minority threats are at the root of minority threat perspective. Minority threat perspective contends that prejudice, discrimination, and hostility by the dominant group are common reactions to the perceived threat of subordinate groups (King & Wheelock, 2007). In order to maintain their position, the dominant group will use their power to keep the subordinate group from climbing the ranks or removing them from power and control. While minority threat perspective has largely been devoted to race relations, it may be generalizable to other minority groups such as undocumented immigrants and Mexican nationals (Wang, 2012). Non-U.S. citizens especially undocumented immigrants and Mexican nationals are viewed as social, economic, and cultural threats. Minority threat is influenced by the size of the minority population

(Blalock 1967; Wang & Mears, 2010). This puts Mexican nationals at a disadvantage since they embody the largest subgroup of the Latino population. Given their size, proximity, history, and growth, Mexican nationals are viewed as a greater threat than other Latino subgroups.

Wang (2012) used minority threat perspective to examine undocumented immigrants as a perceived criminal threat. Using Southwest Poll and ZIP-code level data from the 2000 U.S. Census, the author found that perceptions of undocumented immigrants as a criminal threat were not associated with either their actual size or the present economic conditions. The study also revealed that perceived size of the undocumented immigrant population was positively associated with perceptions of criminal threat. The author noted that natives were not only concerned with the actual population size of undocumented immigrants, they were also concerned about economic competition for jobs and limited resources. Wang (2012) found support to extend and apply minority threat perspective to undocumented immigrants as perceived criminal threats. Box and Hale (1985) examined perceived minority threat and the treatment of subordinate groups who are perceived as threat to social order. They noted that individuals who are considered to be a threat to social order are perceived by judges as the most deserving of incarceration based on the “belief that such a response will deter and incapacitate and thus defuse this threat” (Box and Hale, 1985, p.217). This perceived threat can result in harsher penalties for minorities in the criminal justice system.

Causal Attribution/Uncertainty Avoidance

Albonetti's (1991) causal attribution/uncertainty avoidance perspective argues that judges and other key courtroom decision makers are forced to make decisions based on limited information and time. Judges encounter a level of uncertainty during the sentencing process because they do not possess complete information about a defendant or case (Albonetti, 1991). When faced with uncertainty, judges draw on "patterned responses" and develop "bound rationality" in order to facilitate the decision making process (Albonetti, 1991). Judges are unable to predict an offender's likelihood of recidivism, and as a result, they rely on other tools to assess an offender's level of threat. Research suggests that judges consider a multitude of variables aside from offense seriousness and criminal history (Albonetti, 1991; Spohn, 2000). When determining sentencing outcomes, prejudice and bias can influence judicial decision-making (Albonetti, 1991; Steffensmeier et al., 1998; Steffensmeier & Demuth, 2006). The criminal justice system is not immune from race/ethnicity-based and immigrant-based stereotypes, which is why these stereotypes may extend to courtroom outcomes.

Unwarranted disparities and discrimination in sentencing practices are in part due to perceived stereotypes and prejudice against particular groups (Albonetti, 1991). Racial/ethnic minorities, younger defendants, those with less formal education, males, and the foreign-born are generally sentenced more harshly than similarly situated offenders (Albonetti, 1991; Brennan & Spohn, 2009; Demuth, 2002; Kramer & Ulmer, 2009; Spohn & Fornango, 2009; Steffensmeier et al., 1998; Steffensmeier & Demuth, 2006; Wolfe et al., 2011). This is due the fact that these offenders are more likely to be

viewed as dangerous, less salvageable, and more likely to re-offend. The foreign-born U.S. population is widely believed by the public to be associated with criminal activity even though this assumption is not supported by the literature (Hagan, Levi, & Dinovitzer, 2008; Hagan & Palloni, 1999; Martinez, 2002; Martinez & Lee, 2000). Given the number of myths, misconceptions, and negative stereotypes associated with the foreign-born U.S. population, non-U.S. citizens, undocumented immigrants and Mexican nationals may suffer from additional scrutiny in the criminal justice system. More recently, Steffensmeier and colleagues (1998) advanced the sentencing literature by arguing that judicial decision-making is guided by three focal concerns.

Focal Concerns Perspective

Steffensmeier and colleagues (1998) claim that “race, age, and gender will interact to influence sentencing because of images or attributions relating these statuses to membership in social groups thought to be dangerous or crime prone” (p. 768). The social dynamite and focal concerns perspective overlap in their explanation of the types of offenders most likely to face punitive treatment in the criminal justice system. In this study, focal concerns perspective is used to explicate why, all else being equal, non-U.S. citizens, undocumented immigrants and Mexican nationals will be treated more harshly relative to their similarly situated counterparts (Demuth, 2002). Based on focal concerns perspective, judges rely on three key concerns during the decision making process: (1) offender blameworthiness; (2) protection of the community; and (3) organizational constraints and practical consequences (Steffensmeier et al., 1998).

Offender blameworthiness refers to the offender's culpability. In general, criminal history and offense seriousness are used as indicators of blameworthiness (Steffensmeier et al., 1998). Negative stereotypes are linked to non-U.S. citizens especially those of undocumented status (Logue, 2009). Non-U.S. citizens especially those who are undocumented are more likely to be viewed as violent-prone, more likely to recidivate, and having criminal lifestyles (Alba et al., 2005; Massey, 2009; Newton, 2008; Steffensmeier & Demuth, 2006). Because of the proximity and threat of the southern border, Mexican nationals face additional scrutiny and perceptions of dangerousness. These perceptions can result in more severe punishments. Immigrants are considered more blameworthy simply because they are not U.S citizens, and lacking legal status presents another threat. They are punished for both the criminal offense and their lack of citizenship or legal status (Sayad, 2004).

Community protection is based on the premise that dangerous offenders who pose a risk to the community should be removed. Incapacitation can occur by incarceration (Steffensmeier et al., 1998). Immigrants face an additional form of incapacitation through deportation. Judges use a "perceptual short-hand" to identify those whom they consider to pose the highest threat to the community (Albonetti, 1991; Steffensmeier et al., 1998). In order to gauge a defendant's risk level, defendant specific characteristics such as employment, community ties, and education are considered (Steffensmeier et al., 1998). Foreign-born defendants are more likely to be poor, to come from socially disorganized communities, and to have unstable employment (Newburger & Gryn, 2009). Unstable employment is used to describe employment in the secondary labor market.

Seasonal employment requires that individuals move frequently. Foreign-born defendants might be considered a flight risk and this concern can result in pre-trial detention, which affects sentencing outcomes (Wolfe et al., 2011). Because of these characteristics, the foreign-born population is viewed as less stable, having fewer social ties, and less informal social control. These factors can influence judicial decision making during sentencing and can result in unfavorable sentencing outcomes for foreign-born defendants.

Lastly, organizational constraints and practical consequences are concerns that judges consider when determining the appropriate sentence. Practical constraints involve concerns about the social costs of incarceration and the resources spent going to trial. The social cost of incarcerating foreign-born offenders is not viewed as necessarily devastating to the communities from which they come (Steffensmeier et al., 1998). Districts with large caseloads of non-U.S. citizen defendants may treat these defendants differently than districts with lower numbers of non-U.S. citizen defendants. More specifically, districts that have higher numbers of foreign-born defendants may encourage them to participate in fast-track programs in order to save resources and time associated with going to trial. Non-U.S. citizen defendants who choose to go to trial might be sentenced more harshly since they opt to use the court's time and resources.

Chapter 4

Data and Methods

The following chapter discusses five major topics relevant to the data and methods applied in this study. First, the purpose of the present study is discussed. Next, the objectives and hypotheses are presented. The section that follows provides a description of the data. Next, the measures used in this study are provided. Lastly, the analytical strategy is discussed.

Current Study

This study considers the effect of offender citizenship status, legal status, and nationality on the likelihood of incarceration and length of the prison sentence for offenders convicted of federal drug offenses. This study begins by exploring differences in sentencing outcomes between U.S. and non-U.S. citizens. Next, differences in sentencing outcomes between U.S. citizens, authorized immigrants, and undocumented immigrants are outlined. Lastly, differences in sentencing outcomes between Latino subgroups (e.g., Cubans, Colombians, Dominicans, and Mexican) are explored. Post-*Booker* federal sentencing data are used to better assess how discretion plays a role in sentencing outcomes among the groups discussed. Moreover, the advisory nature of the guidelines “requires a sentencing court to consider Guidelines ranges, but it permits the court to tailor the sentence in light of other statutory concerns as well” (*United States v. Booker*, 2005, p. 246). Judges are not allowed to consider an offender’s national origin during sentencing (U.S. Sentencing Guidelines, Section 5H1.10). As a result, national

origin should not produce an independent effect on sentencing outcomes. Prior research provides evidence that citizenship status, legal status (Albonetti, 1997; Demuth, 2002; Steffensmeier & Demuth 2000; Wolfe et al, 2011) and national origin affect sentencing outcomes (Logue, 2009). Sayad (2004) noted that citizenship status is related to national origin. Evidence shows that non-citizens are more likely to be incarcerated than U.S. citizens and that based on legal status, undocumented immigrants are more likely to be incarcerated than both U.S. citizens and authorized immigrants (Wolfe et al., 2011) and that Mexican nationals are treated more harshly compared to other Latino offenders (Logue, 2009). The current study expands on the work of Logue (2009) by differentiating “other” Latino by national origin.

Objectives and Hypotheses

Given the negative political and public discourse on immigration, this study explores whether negative immigrant and Latino stereotypes extend to courtroom outcomes. This study seeks to examine whether there are unwarranted disparities in sentencing outcomes based on extra legal characteristics (e.g., citizenship status, legal status, and national origin). While the sentencing literature has focused on race-based sentencing disparities in the past, little research focuses specifically on Latino defendants. Thus, the goal of the present study is to investigate whether certain offender characteristics play a role in sentencing outcomes, and if so, examine which groups are most affected. This study aims to widen the discourse on ethnicity and consider how differences among immigrant groups can influence sentencing outcomes. The following

hypotheses are generated from the theoretical perspectives discussed earlier and prior research:

H1: Offenders who are non-U.S. citizens will face higher odds of incarceration and receive shorter prison sentences than U.S. citizens.

H2: Offenders who are undocumented immigrants will face higher odds of incarceration and receive shorter prison sentences than authorized immigrants and U.S. citizens.

H3: Mexican nationals will face higher odds of incarceration and receive longer prison sentences than Colombian, Cuban, and Dominican nationals.

Prior research suggests non-U.S. citizens and undocumented immigrants are treated more harshly than their similarly situated counterparts with respect to certainty of punishment (Albonetti, 1997; Demuth, 2002; Steffensmeier & Demuth, 2001; Wolfe, et al, 2011). Non-U.S. citizens and undocumented immigrants are more likely to be incarcerated than U.S. citizen and authorized immigrant offenders (Albonetti, 1997; Demuth, 2002; Johnson, et al., 2008; Steffensmeier & Demuth, 2001; Wolfe, et al, 2011). However, the findings are mixed with respect to severity of punishment (Albonetti, 1997; Demuth, 2002; Wolfe et al., 2011). Non-U.S. citizens have limited options of punishment. They are unable to be sentenced to house arrest or other sanctions. Therefore, incarceration seems to be the only option, which is why it is more likely to be applied to them rather than U.S. citizens and authorized immigrants. In this study, non-U.S. citizens are expected to receive shorter sentences than U.S. citizen offenders because of the option of deportation. With respect to severity of punishment, there are not enough resources to house all non-U.S. citizen and undocumented immigrant offenders for extremely long periods. Upon serving their sentence, non-U.S. citizens can be deported.

When the option of deportation is available, it does not make sense to house immigrants for long periods. This would result in misuse or loss of resources. The same reasoning applies to the odds of incarceration based on legal status. Offenders who are undocumented immigrants are expected to have higher odds of incarceration compared to authorized immigrants and U.S. citizens. It is also hypothesized that offenders who are undocumented will receive shorter sentences due to the option of deportation. The hypotheses generated from this study also consider the influence of national origin and whether there are differences in sentencing outcomes among Latino subgroups. This study investigates whether Mexican nationals are treated more harshly than other Latino subgroups with respect to both certainty of punishment and severity of punishment. Mexican nationals are referred to in the media and by politicians as the “problem population” or “permanent foreigner”. Negative stereotypes of dangerousness are concentrated on Mexican nationals, which is why they are expected to face harsher treatment compared to other Latino subgroups.

Data

The USSC is assigned with “collecting systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process” (28 USSC §995(a)(15)), as well as “serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices” (28 USSC 995(a)(12)(A)). The Commission gathers data on federal courtroom processes and sentencing outcomes and makes it publicly

available. The data for this study are from the United States Sentencing Commission's Monitoring of Federal Criminal Sentences data files. These data are made available through the Inter-university Consortium for Political and Social Research (ICPSR 3496, 3497, 4110, 4290). The Monitoring of Federal Criminal Sentences Series contains information on defendants sentenced in felony cases within all federal district courts. The analyses in this study are based on federal sentencing data collected from fiscal years 2006 through 2008¹. These data files include offender-specific and case-specific information for offenders sentenced under the federal sentencing guidelines. The data files for 2006, 2007, and 2008 are merged but not all of the cases are included in the analysis². Because citizenship status and legal status are key variables of interest, cases in which this information is unknown are excluded. In addition, cases with missing data on other key variables are excluded from this study. A total of 68,853 cases remained after excluding cases with missing values on either the dependent or independent

¹ U.S. Sentencing Commission. MONITORING OF FEDERAL CRIMINAL SENTENCES, 2006 [Computer file]. ICPSR20120-v1. Washington, DC: U.S. Sentencing Commission [producer], 2007. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2007-09-28. doi:10.3886/ICPSR20120.

U.S. Sentencing Commission. MONITORING OF FEDERAL CRIMINAL SENTENCES, 2007 [Computer file]. ICPSR22623-v1. Washington, DC: U.S. Sentencing Commission [producer], 2007. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2009-06-23. doi:10.3886/ICPSR22623.

U.S. Sentencing Commission. MONITORING OF FEDERAL CRIMINAL SENTENCES, 2008 [Computer file]. ICPSR25424-v1. Washington, DC: U.S. Sentencing Commission [producer], 2007. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2009-09-01. doi:10.3886/ICPSR25424.

² There were 153,075 cases excluded from the analysis for models examining the effect of citizenship or legal status on sentencing outcomes. In regard to the model examining the role of national origin in sentencing outcomes, 211,429 cases were excluded from the analysis. Offenders who were not convicted of a drug offense were not included in the analysis. Cases were also removed because of missing data on any of the other variables investigated.

variables for the models that examined the role of citizenship and legal status. Of these cases, 50,486 involved U.S. citizen offenders, 5,524 authorized immigrants and 12,843 undocumented immigrants.

Because national origin is a primary variable of interest, cases in which offenders' national origin was unknown are excluded from the national origin analyses. Given that the focus of this study is on certain Latino subgroups, all offenders who are not Mexican, Colombian, Cuban, or Dominican nationals are excluded from national origin analyses. Of the 10,496 cases that remained, there are 8,807 Mexicans, 724 Colombians, 297 Cubans, and 668 Dominicans. The data used in this study are restricted to drug offenders for two reasons. First, drug related offenses encompass the majority of federal offenses. Another reason is that Mexican nationals and other Latino groups are associated with drug activity and drug cartels. The dependent and independent variables, summaries, and codes are provided in Table 1.

Measures

Dependent Variables. Two sentencing outcomes are examined in this study. First, the decision to incarcerate (*Prison*) is used to analyze whether the defendant was sentenced to prison. *Prison* is measured with a dichotomous variable coded "1" if the offender was sentenced to prison and "0" otherwise. The next step in the analysis considers only offenders who were sentenced to prison. The second dependent variable used in this study is length of the prison sentence³ (*Sentence*). The original variable used

³ In accordance with the sentencing literature, sentence length was capped at 470 months. This was done to remove outliers such as life sentences which would affect the mean and distribution.

to measure imprisonment length was measured in months but given that the distribution of the values is positively skewed, sentence length is logged.

Independent Variables. The key variables of interest include offender citizenship status, legal status, and national origin. The offender's citizenship status is measured with a dichotomous variable in which *U.S. citizen* are coded “0” and *Non-U.S. citizen* is coded “1”. In order to measure legal status, three dummy variables are used (*U.S citizen, Authorized immigrant, and Undocumented immigrant*) with *Undocumented immigrant* as the reference category. Four dummy variables are included to represent national origin (*Mexican, Colombian, Cuban, and Dominican*), with *Mexican* as the reference category.

Race/ethnicity is measured with three dummy variables (*White, Black, and Latino*) with *Latino* as the reference group. Gender is measured with a dummy variable coded “1” for *Male* offenders and “0” otherwise. *Age* is measured as a continuous variable indicating the age at which the offender was sentenced. Educational attainment is measured using a dichotomous variable coded “1” for offenders who had at minimum graduated from high school and “0” reflects defendants who had less than a high school education, *High school and above* is used as the reference category. Offenders who had a high school education, some college education, and those with a college degree all encompass the variable measuring *High school and above*. The reason why these individuals were grouped together is because the majority of the foreign-born offender population in these data have low levels of educational attainment. The majority were not high school graduates.

This study controls for case characteristics. Dichotomous variables are used to indicate whether the defendant received a substantial assistance departure (*Substantial assistance*)⁴, downward departure (*Downward departure*)⁵ or a fast-track departure (*Fast-track*)⁶. Departures are coded as “1” and not receiving a departure as “0”. I also control for whether the offender was in custody prior to sentencing (*Detention*) as well as whether the offender pled guilty (*Plea*). Measures of the number of counts convicted (*Counts*) are also provided. Based upon the recommendation of the USSC (2004) (see Engen & Gainey, 2000a; Engen & Gainey, 2000b; Holleran & Spohn, 2004) I control for the *Presumptive Sentence*⁷, which is the minimum sentence that the judge can impose without departing from the guidelines. The presumptive sentence is the guideline minimum sentence unless there is a mandatory minimum sentence that exceeds the guideline minimum and the safety valve is applied, in which case it is the guideline mandatory minimum sentence. I also control for prior criminal history score (*Criminal history*). This variable measures prior felony convictions and ranges from one to six,

⁴ Downward departures for substantial assistance (5K1.1) are initiated through a motion by the U.S. Attorney. This departure is based on the premise that the offender has provided the prosecutor with information that has aided in the furtherance of an investigation.

⁵ Downward departures under Federal Rule 5K2 are initiated by judges. Judges retain the discretionary power to sentence outside of the guideline recommendations.

⁶ Downward departures based on the “fast track” program (5K3.1) can be initiated by a government motion or by a judge. This program is based on the stipulation that individuals must plead guilty to the charges and waive their right to an appeal (Office of the Attorney General, 2003). This is done to expedite the court process and can be viewed as a type of reward for those who participate in the program. It is often the case that participants in the fast track program are offenders who face a high probability of being deported (Office of the Attorney General, 2003).

⁷ Similar to the issues confronted with the *Sentence* variable, the presumptive sentence is used in its natural log form. Prior to the analyses, the distribution of this variable was examined and determined to be highly skewed.

with six being the most serious. Because only drug offenders are included in the analyses, I also control for drug type (see Appendix A). Drug type is measured using five dummy variables (*Cocaine*, *Crack*, *Marijuana*, *Methamphetamine*, and *Other drug*), with *Marijuana* as the reference category. In addition, I also control for the district in which the case was adjudicated by clustering the districts in the analyses. Dummy variables are created for each federal district court. Controlling for district court assists in providing an unbiased estimate of the influence of citizenship status, legal status, and national origin on sentencing outcomes after controlling for inter-district variation. I control for 93 district courts in the models testing the effect of citizenship or legal status on sentencing outcomes. However, only 90 district courts are used in the model testing the role of national origin on sentencing outcomes. Districts were excluded due to missing data.

Missing data. Cases are excluded from the analyses if values for any of the variables were missing. Missing data is a cause of concern because it affects generalizability as well as the accuracy of the results found in any study. There are solutions that have been explored in order to address the issue of missing data. One of these solutions is to replace missing values (King, Honaker, Joseph & Scheve, 2001). Rather than replacing missing values with the mean or any other value, this study excludes cases that have missing data. Missing data is one of the issues expected when dealing with cases with foreign-born defendants. One method I used to maximize my sample size was to merge case outcomes from 2006, 2007, and 2008.

Table 1. Dependent and Independent Variables: Codes and Summary

Variable	Coding Scheme	Description
Dependent Variables		
Prison (in/out)	1=yes	Offender was sentenced to prison
Sentence length	Log (months)	Natural log of the total number of months of imprisonment (capped at 470)
Independent Variables		
Citizenship	1=non-U.S. citizen	Dummy indicator for citizenship status, with non-U.S. citizen as the reference category
Legal status	3 dummy variables	Dummy indicators for offender legal status, with undocumented immigrant as the reference category
Race/ethnicity	3 dummy variables	Dummy indicators for offender race/ethnicity, with Latino as the reference category
National origin	4 dummy variables	Dummy indicators for offender national origin, with Mexican nationals as the reference category
Male	1=male	Dummy indicator for sex
Age	Years	Continuous measure of age of offender at time of sentencing
High school	1=High school or above, some college or college graduate	Dummy indicator for educational attainment
Substantial assistance	1=yes	Offender received 5K1.1 downward departure for substantial assistance to government
Downward departure	1=yes	Offender received 5K2 downward departure
Fast-track	1=yes	Offender received 5K3.1 downward departure for fast-track
Detention	1=detained	Dummy indicator for offender's presentence detention status
Plea	1=pled guilty	Dummy indicator for offenders who pled guilty
Counts	USSC scale	United States Sentencing Commission scale rating number of counts of conviction ranging from 1-18

Table 1 (continued)

Presumptive sentence	Log (months)	Natural log of adjusted minimum months of incarceration recommended by the guidelines
Criminal history	USSC scale	United States Sentencing Commission scale rating prior criminal history from 1-6
Drug offense type	5 dummy variables	Dummy indicators for drug offense types, with marijuana as the reference category
District court	93 dummy variables	Dummy indicator for each Federal District

Analytic Technique

The analytical techniques used in this study include univariate (e.g., descriptive statistics), bivariate analysis (e.g., zero-order correlation and Variance Inflation Factor [VIF]) and multivariate analysis (e.g., regression). Univariate analysis provides a general overview of the data. This includes the mean, frequency distribution, and standard deviation for the variables discussed earlier. One of the benefits of univariate analysis is that it provides information on whether there are skewed distributions before proceeding to the next steps of the analyses.

Bivariate analysis is used to examine issues of collinearity between the independent variables. I use the Pearson correlation coefficient to investigate any issues of multicollinearity between the independent variables in this study. Multicollinearity can occur when independent variables are correlated with one another. This results in redundant and misleading results. Collinearity produces an increase in the standard error of the estimates and a decrease in reliability. Bivariate correlation analysis through Pearson's coefficient serves as the preliminary method of diagnosing issues of multicollinearity. It is essential to determine whether there are issues of multicollinearity before proceeding to multivariate analysis.

I use multivariate techniques to analyze these data. First, I use logistic regression to analyze the decision to incarcerate. Logistic regression is an appropriate statistical technique because the decision to incarcerate is a dichotomous outcome. Second, I use ordinary least squares (OLS) regression to analyze sentence length. OLS regression is the most appropriate statistical technique to analyze a continuous dependent variable.

After running OLS regression, another test of multicollinearity was conducted. The VIF in an OLS regression is commonly used to determine issues of multicollinearity.

The data are analyzed in three ways. First, I analyze sentencing outcomes (e.g., the likelihood of incarceration and prison sentence length) between U.S. citizens and non-U.S. citizens. Second, the data are analyzed according to the defendant's legal status (e.g., U.S. citizen, authorized immigrant, and undocumented immigrant). Following these analyses, the data are analyzed according to the defendant's national origin. Only Latino foreign-born offenders are examined and are limited to the following groups: Mexicans, Colombians, Cubans, and Dominicans. This is primarily due to sample size and missing data issues with other Latino subgroups.

One of the issues faced in the criminology research is selection bias (Bushway, Johnson & Slocum, 2007). Research on sentencing outcomes (e.g., likelihood of incarceration and sentence length) addresses the issue of selection bias by incorporating Heckman's two-step correlation (see Spohn & Horney, 1996; Steffensmeier & Demuth, 2001; Ulmer & Johnson, 2004; Wolfe, et al., 2011). The issue of selection bias arises in the sentencing literature particularly when examining offenders who are sentenced to prison. A prison sentence can be non-random, which is why one must control for selection bias. For example, Spohn and Hollernan (2002) examined recidivism patterns among offenders who had been sentenced to prison and offenders who had been sentenced to probation as a method of treatment. The selection between offenders sentenced to prison versus offenders sentenced to probation may not have been random, so the authors controlled for selection bias by using a hazard rate. I calculated a hazard

rate as a way to control for the potential selection bias arising from the decision to incarcerate (see Spohn & Hollernan, 2002). The chapter that follows discusses the results of the analyses.

Chapter 5

Analyses and Results

The purpose of the present study was to examine the effect of offender citizenship, legal status, and national origin on the likelihood of incarceration and length of prison sentence for offenders convicted of federal drug offenses. Furthermore, this study sought to assess whether national origin influenced sentencing outcomes differently among Latino subgroups. Chapter 5 presents the findings derived from the analyses (e.g., univariate, bivariate, and multivariate). This chapter begins with descriptive statistics for the independent and dependent variables. Next, the results of Pearson's correlation coefficient are presented. This is followed by a discussion of the results of the multivariate analyses (logistic and OLS regression models). The chapter concludes with a summary and discussion of the findings.

Descriptive Statistics

Table 2 provides the descriptive statistics for the dependent and independent variables used in the analyses of citizenship and legal status. There were a total of 68,853 cases. The majority received a prison sentence (96.09%, $n=68,370$). With respect to racial and ethnic composition, the majority of defendants were Latino (41.91%, $n=28,858$) followed by black (31.34%, $n=21,579$) and white 26.75%, $n=18,416$). With respect to citizenship and legal status, the majority of defendants were U.S. citizens (73.32%, $n=50,486$), followed by undocumented immigrants (18.65%, $n=12,843$), and authorized immigrants (8.02%, $n=5,524$). Defendants were almost evenly divided with

Table 2. Descriptive Statistics for Dependent and Independent Variables: Citizenship and Legal Status

Variable	N	%	Mean	SD
Dependent Variables				
Prison	66,161	96.07		
Sentence length	64,766		82.71	69.54
Independent Variables				
Citizenship Status				
U.S.	50,486	73.32		
Authorized immigrant	5,524	8.08		
Undocumented immigrant	12,843	18.65		
Race/ethnicity				
White	18,416	26.75		
Black	21,579	31.34		
Latino	28,858	41.91		
Gender				
Male	60,297	87.57		
Female	8,556	12.43		
Age			33.39	9.79
Education				
No high school	33,783	49.07		
High school and above	35,070	50.93		
Substantial assistance	17,593	25.55		
Downward departure	2,614	3.80		
Fast-track	3,317	4.82		
Detention	54,008	78.44		
Plea	65,917	95.74		
Counts			1.37	1.32
Presumptive sentence			4.22	1.17
Criminal history			2.37	1.14
Drug offense type				
Cocaine	16,525	24.00		

Table 2 (continued)

Crack	15,966	23.19
Marijuana	17,043	24.75
Methamphetamine	12,911	18.75
Other drug	6,408	9.31
District court	93	
N=68,853		

ABBREVIATION: SD=Standard deviation

respect to educational attainment. The slight majority (50.93%, $n=35,070$) had a high school education or above. The majority of offenders were male (87.57%, $n=60,297$). The mean age was 33.39 years of age.

Regarding case characteristics, the majority were held in custody prior to sentencing (78.44%, $n=54,008$). The overwhelming majority pled guilty (95.74%, $n=65,917$). The mean criminal history score was 2.37. The mean number of conviction counts was 1.37. With respect to departures, substantial assistance departures (25.55%, $n=17,593$) were most common, followed by fast-track departures (4.82%, $n=3,317$), and downward departures (3.80%, $n=2,614$). Regarding offense by drug type, marijuana was the most common (24.75%, $n=17,043$) followed by cocaine (24.00%, $n=16,525$), crack (23.19%, $n=15,966$), methamphetamine (18.75%, $n=12,911$), and other drug (9.31%, $n=6,408$). A total of 93 federal district courts were used in the analyses.

Hypothesis 3 focused on sentencing patterns among Latino foreign-born offenders. Table 3 presents the frequencies, mean and standard deviation for the variables used in the national origin analyses. The total sample consisted of 10,496 defendants with 10,421 (99.29%) sentenced to prison. With respect to national origin, four groups were represented. Mexican nationals (83.91%, $n=8,807$) accounted for the largest group, followed by Colombians (6.90%, $n=724$), Dominicans (6.36%, $n=668$), and Cubans (2.83%, $n=297$). Even though the majority of these offenders are Latinos, their race is classified differently. In the model examining the influence of national origin on sentencing outcomes two-racial-ethnic groups within the category of Latinos are considered. Only white-Latino and Latino defendants were included in the analyses.

Table 3. Descriptive Statistics for Dependent and Independent Variables: National Origin

Variable	N	%	Mean	SD
Dependent Variables				
Prison	10,421	99.29		
Sentence length	10,373		61.67	56.01
Independent Variables				
Legal Status				
Authorized immigrant	2,847	27.12		
Undocumented immigrant	7,649	72.88		
Race/Ethnicity				
White-Latino	675	6.42		
Latino	9,821	93.57		
National origin				
Mexican	8,807	83.91		
Colombian	724	6.90		
Cuban	297	2.83		
Dominican	668	6.36		
Gender				
Male	9,680	92.23		
Female	816	7.77		
Age			33.11	9.87
Education				
No high school	7,770	74.03		
High school and above	2,726	25.97		
Substantial assistance	1,506	14.35		
Downward departure	346	3.30		
Fast-track	1,580	15.05		
Detention	10,070	95.94		
Counts			1.28	.82
Presumptive sentence			3.94	.94
Criminal history			1.36	.91

Table 3 (continued)

Drug offense type		
Cocaine	3,260	31.06
Marijuana	4,354	41.48
Methamphetamine	1,962	18.69
Other drug	920	8.77
District court	90	
N=10,496		

ABBREVIATION: SD=Standard deviation

All other racial-ethnic⁸ groups were removed from the analyses due to sample size issues. With respect to race and ethnicity, the majority of defendants were classified as Latino (93.57%, $n=9,821$). With respect to legal status, most were classified as undocumented immigrants (72.88%, $n=649$). The majority were male (92.23%, $n=9,680$) and the mean age was 33.11 years of age. The overwhelming majority (74.03%, $n=7,770$) did not possess a high school education or above. This was not surprising given the low educational attainment found among Latino immigrants.

With regard to case characteristics, the majority (95.94%, $n=10,070$) of defendants were held in custody prior to sentencing; this was not surprising given the fact that non- U.S. citizens are considered to be a flight risk. The mean criminal history score was 1.36. Furthermore, the mean number of conviction counts was 1.28. Most defendants received a fast-track departure (15.05%, $n=1,580$), followed by a substantial assistance departure (14.35%, $n=1,506$), and a downward departure (3.03%, $n=346$). In terms of offense by drug type, marijuana was the most common (41.48%, $n=4,354$), followed by cocaine (31.06%, $n=3,260$), methamphetamine (18.69%, $n=1,962$), and other drug (8.77%, $n=920$). A total of 90 district courts were used in the analyses for Latino subgroups.

Bivariate Statistics

Bivariate correlation analysis serves as a preliminary method of testing for

⁸ When examining the role of national origin on sentencing outcomes among Latino subgroups, black offenders were removed from the analysis. There were only 28 offenders identified as black in this sample. When this variable was included in the analysis, it yielded problematic results. There was not enough variation within this variable.

collinearity⁹ issues between independent variables. Pearson's r correlation is used to analyze multicollinearity issues between independent variables. If not addressed, issues of collinearity become problematic in multivariate analysis. Multicollinearity can lead to misleading estimates by inflating the standard errors and as a result, make variables that would otherwise be statistically significant appear not to be significant. Studenmund (1997) suggests that multicollinearity violates the regression premise “that no independent variable is a perfect linear function of one or more other independent variables” (p. 259). Researchers have different standards as to which absolute value constitutes collinearity. For example, Studenmund (1997) suggests that a value of .80 in a bivariate correlation is a sign of potential collinearity issues. Following the initial test of collinearity, Studenmund (1997) suggests employing VIF to identify problematic relationships between independent variables. Furthermore, “The VIF is an estimate of how much multicollinearity has increased the variance of an estimated coefficient... while there is no table of formal critical VIF values, a common rule of thumb is that if $VIF > 5$, the multicollinearity is severe” (Studenmund, 1997, p. 275-276). This method of analysis can help determine whether specific variables should be omitted from the regression analysis.

Table 4 provides the zero-order correlations between the independent variables used in the citizenship and legal status models. All the values fall between .80 and -.80. The value that comes closest to signaling a potential collinearity problem is the

⁹ Collinearity is used to describe a linear correlation between two independent variables. Similarly, multicollinearity describes a relationship in which there are linear correlations between two independent variables (Studenmund, 1997). These terms will be used interchangeably in this study given that multicollinearity defines both.

correlation between the variables representing undocumented immigrants and U.S. citizens. The value of $-.79$ is not lower than the recommended threshold of $-.80$. There is a strong negative correlation between these two variables. Increases in the likelihood of being an undocumented immigrant lead to a decrease in the likelihood of U.S. citizenship status. Table 5 provides the zero-order correlations between the independent variables used in analyses of foreign-born Latino subgroups. Similar to the results presented in Table 4, none of the relationships that exceeded the value of $.80$ or were less than $-.80$. The correlation between Mexican nationals and Colombian nationals has the closest value to a perfectly correlated relationship at $-.62$ but falls short of the threshold described earlier (Studenmund, 1997). Given that there were no issues of collinearity, these variables remain in the next stages of analyses.

Multivariate Statistics

In the section that follows, logistic regression and OLS regression are used to determine whether citizenship status, legal status, and national origin affect the likelihood of incarceration and sentence length. Logistic regression is used to analyze the relationship between the odds of incarceration and the independent variables. OLS regression is used to analyze logged sentence length. The variable for sentence length was logged in order to reduce the positive skew. As a result, the coefficients produced by the models are interpreted as the percent change in the dependent variable (i.e., sentence length) that is associated with a 1-unit change in the independent variable (see Johnson and Betsinger, 2009). One of the methods used to assess model fit in OLS regression is

Table 4. Bivariate Pearson's Correlation Coefficients for the Independent Variables: Citizenship and Legal Status

	X1	X2	X3	X4	X5	X6	X7	X8	X9	X10	X11	X12	X13	X14	X15	X16
X1	1.00															
X2	-0.49	1.00														
X3	-0.79	-0.14	1.00													
X4	0.26	-0.10	-0.22	1.00												
X5	0.34	-0.15	-0.28	-0.41	1.00											
X6	-0.55	0.23	0.47	-0.51	-0.57	1.00										
X7	-0.08	0.01	0.09	-0.13	0.10	0.02	1.00									
X8	-0.01	0.07	-0.04	0.14	-0.06	-0.07	0.01	1.00								
X9	0.26	-0.07	-0.24	0.20	0.08	-0.25	-0.05	0.10	1.00							
X10	0.13	-0.05	-0.11	0.12	0.03	-0.13	-0.05	0.04	0.09	1.00						
X11	0.001	0.01	-0.02	0.01	0.00	-0.01	-0.02	0.03	0.01	-0.12	1.00					
X12	-0.21	0.09	0.18	0.01	-0.15	0.13	0.01	-0.07	-0.10	-0.13	-0.04	1.00				
X13	-0.24	0.07	0.22	-0.18	-0.00	0.16	0.15	-0.05	-0.16	-0.12	-0.03	0.08	1.00			
X14	-0.02	-0.01	0.03	0.04	-0.08	0.04	-0.03	-0.06	-0.03	0.12	-0.02	0.05	-0.06	1.00		
X15	0.03	-0.01	-0.03	-0.01	0.07	-0.05	0.04	0.05	0.03	-0.01	0.00	-0.06	0.04	-0.24	1.00	
X16	0.12	-0.09	-0.08	-0.10	0.24	-0.13	0.17	0.08	0.02	0.19	0.01	-0.17	0.25	-0.21	0.20	1.00
X17	0.34	-0.18	-0.27	-0.03	0.36	-0.31	0.16	0.02	0.05	0.06	0.04	-0.12	0.18	-0.05	0.05	0.43
X18	-0.11	0.06	0.08	-0.14	-0.02	0.14	0.04	0.06	0.02	0.04	-0.01	-0.06	0.01	-0.02	-0.00	0.08
X19	0.29	-0.14	-0.24	-0.21	0.60	-0.37	0.05	-0.11	-0.01	0.02	0.01	-0.12	0.06	-0.04	0.06	0.27
X20	-0.18	0.08	0.14	0.01	-0.27	0.24	-0.01	-0.04	-0.07	-0.14	-0.02	0.28	-0.05	0.04	-0.07	-0.42
X21	0.01	-0.04	0.01	0.34	-0.30	-0.03	-0.07	0.04	0.03	0.07	0.00	-0.07	0.02	0.01	-0.00	0.15
X22	-0.02	0.04	-0.00	0.03	-0.04	0.01	-0.03	0.07	0.05	0.02	0.04	-0.06	-0.05	0.01	0.01	-0.08
X23	-0.13	0.02	0.13	0.05	-0.09	0.04	0.00	-0.00	-0.04	-0.03	-0.03	0.19	0.03	-0.00	-0.02	-0.01

Table 4 (continued)

	X17	X18	X19	X20	X21	X22	X23
X17	1.00						
X18	-0.11	1.00					
X19	0.34	-0.31	1.00				
X20	-0.20	-0.32	-0.32	1.00			
X21	-0.01	-0.27	-0.26	-0.28	1.00		
X22	-0.04	-0.18	-0.18	-0.18	-0.15	1.00	
X23	-0.04	-0.04	-0.14	0.08	0.20	-0.13	1.00

Note: X1=U.S. citizen; X2=Authorized immigrant; X3=Undocumented immigrant; X4=White; X5=Black; X6=Latino; X7= Male; X8=Age; X9=High school; X10=Substantial assistance; X11=Downward departure; X12=Fast-track departure; X13=Detention; X14=Plea; X15=Counts; X16=Presumptive sentence; X17=Criminal history; X18=Cocaine; X19=Crack; X20=Marijuana; X21=Methamphetamine; X22=Other drug; X23= District court

Table 5. Bivariate Pearson's Correlation Coefficients for the Independent Variables: National Origin

	X1	X2	X3	X4	X5	X6	X7	X8	X9	X10	X11	X12	X13	X14	X15	X16
X1	1.00															
X2	0.10	1.00														
X3	0.16	-0.07	1.00													
X4	0.04	0.04	-0.62	1.00												
X5	-0.17	0.02	-0.39	-0.05	1.00											
X6	-0.16	0.04	-0.60	-0.07	-0.04	1.00										
X7	0.09	0.03	-0.00	-0.02	0.01	0.01	1.00									
X8	-0.16	-0.01	-0.26	0.19	0.14	0.11	-0.01	1.00								
X9	-0.11	-0.03	-0.19	0.15	0.12	0.06	-0.04	0.06	1.00							
X10	-0.02	0.04	-0.10	0.08	0.01	0.07	-0.02	0.04	0.07	1.00						
X11	-0.04	-0.02	-0.03	0.02	-0.03	0.04	-0.04	0.04	0.00	-0.08	1.00					
X12	0.02	-0.23	0.18	-0.11	-0.07	-0.11	0.01	-0.13	-0.08	-0.17	-0.08	1.00				
X13	0.19	-0.03	0.15	-0.01	-0.21	-0.07	0.08	-0.07	-0.08	-0.06	-0.01	0.08	1.00			
X14	0.02	0.04	-0.12	0.04	0.05	0.10	0.01	0.07	0.01	0.03	0.02	-0.11	0.00	1.00		
X15	0.07	0.11	-0.19	0.17	0.01	0.10	0.09	0.19	0.05	0.24	0.01	-0.26	0.06	0.24	1.00	
X16	0.05	0.04	0.01	-0.06	0.06	0.01	0.08	0.09	-0.03	0.09	0.01	-0.10	0.03	0.06	0.29	1.00
X17	-0.03	0.04	-0.22	0.18	0.04	0.13	-0.01	0.15	0.11	0.10	-0.02	-0.17	-0.02	0.06	0.32	-0.02
X18	0.01	-0.06	0.28	-0.23	0.03	-0.20	0.01	-0.15	-0.11	-0.19	-0.03	0.32	-0.01	-0.17	-0.61	-0.04
X19	0.06	0.01	0.20	-0.13	-0.06	-0.13	0.03	-0.05	-0.05	0.10	0.02	-0.13	0.05	0.08	0.35	0.09
X20	-0.05	0.04	-0.39	0.29	-0.02	0.31	-0.05	0.09	0.09	0.04	0.06	-0.10	-0.02	0.02	0.06	-0.02
X21	0.08	-0.11	0.16	0.02	0.16	-0.37	0.06	-0.08	-0.03	-0.02	-0.03	0.27	-0.01	0.01	0.01	0.02

Table 5 (continued)

	X17	X18	X19	X20	X21
X17	1.00				
X18	-0.57	1.00			
X19	-0.32	-0.40	1.00		
X20	-0.21	-0.26	-0.15	1.00	
X21	-0.11	0.04	0.22	-0.19	1.00

Note: X1=Authorized Immigrant; X2=White-Latino; X3= Mexican; X4=Colombian; X5=Cuban; X6=Dominican; X7= Male; X8=Age; X9=High school; X10=Substantial assistance; X11=Downward departure; X12=Fast-track departure; X13=Detention; X14=Counts; X15=Presumptive sentence; X16=Criminal history; X17=Cocaine; X18=Marijuana; X19=Methamphetamine; X20 Other drug; X21= District court

the squared Pearson's correlation coefficient (R^2). R-squared indicates the percent of the variance in the dependent variable that is explained by the variance in the independent variable(s) (Weisburd and Britt, 2003). There is not a set value for R-squared used to determine its strength. Weisburd and Britt (2003) found that rarely does R-squared exceed the value of .40 within criminal justice research. They note that an R-squared between .15 and .40 reveals a moderate strength in the variance explained. Tables 6 through 8 present the results of the logistic and OLS regression analyses.

Hypothesis 1. Hypothesis 1 considers the effect of citizenship status on the decision to incarcerate and sentence length (see Table 6). I predicted that *offenders who are non-U.S. citizens will face higher odds of incarceration and receive shorter prison sentences than U.S. citizens.* The results are consistent with the theoretical framework and previous literature. Non-U.S. citizens were treated more harshly than similarly situated U.S. citizens. Non-U.S. citizens were 2.77 times more likely than U.S. citizens to be incarcerated. With regard to sentence length, non-U.S. citizens received a prison sentence that was nominally shorter (3 percent) than that of U.S. citizen offenders. This result was expected given that the option of deportation is available for non-U.S. citizen offenders. The results revealed that citizenship status was a significant predictor for both the odds of incarceration and sentence length. VIF scores were all below five, with a mean VIF of 1.54. This indicates a lack of collinearity between the variables used in this model. The R-squared produced by this model was .82 meaning that 82% of the variance in sentence length was explained by the variance in the independent variables.

Table 6. Logistic Regression and OLS Regression of Sentencing Outcomes by Citizenship Status

Variable	Incarceration			Sentence Length		
	<i>b</i>	SE	Exp(<i>b</i>)	<i>b</i>	SE	Exp(<i>b</i>)
Constant	-0.92	0.42		-0.43	0.10	
Citizenship Status						
Non-U.S. citizen	1.02	0.31	2.77***	-0.03	0.01	.97*
Race/Ethnicity						
White	-0.14	0.09	0.87	0.01	0.01	1.01
Black	-0.04	0.11	0.96	0.04	0.02	1.04*
Male	0.58	0.06	1.79***	0.09	0.01	1.09***
Age	-0.01	0.00	0.99***	0.00	0.00	1.00***
High school and above	-0.28	0.06	0.76***	-0.00	0.00	1.00
Substantial assistance	-1.89	0.12	0.15***	-0.56	0.03	0.57***
Downward departure	-1.62	0.15	0.20***	-0.37	0.03	0.69***
Fast-track departure	-0.78	0.14	0.46***	-0.61	0.06	0.54***
Detention	1.63	0.10	5.10***	0.10	0.02	1.11***
Plea	-0.47	0.33	0.63	-0.13	0.02	0.88***
Counts	0.09	0.07	1.09	-0.00	0.01	1.00
Presumptive sentence+	1.52	0.06	4.57***	0.76	0.03	2.14***
Criminal history	0.30	0.05	1.35***	0.03	0.00	1.03***
Drug offense type						
Cocaine	-0.09	0.11	0.91	0.18	0.02	1.20***
Crack	-0.17	0.15	0.84	0.16	0.02	1.17***
Methamphetamine	0.08	0.15	1.08	0.23	0.03	1.26***
Other drug	-0.49	0.13	0.61***	0.08	0.03	1.08**
Hazard rate				1.10	0.15	3.00***
Pseudo R ² /adjusted R ²	0.53			0.82		
X ² Model-fit/F-test	1614.61***			1876.05***		
Total N	68,853			64,766		

NOTES: Court district is controlled for in this analysis (n = 93).

+ Natural log of presumptive sentence and sentence length are used in these models.

All models are estimated in STATA 10.

Significant at *p ≤ 0.05; **p ≤ 0.01; ***p ≤ 0.001

In this case, the strength of the value of the R-squared is considered strong, especially in the context of criminal justice research.

Regarding offender characteristics, gender, age, and educational attainment were all significant predictors of odds of imprisonment. Males were 1.79 times more likely to be sentenced to prison than female offenders. As expected, younger offenders were more likely to be incarcerated. Those with less than a high school education had greater odds of being incarcerated. Race/ethnicity was a significant predictor of length of imprisonment, with black offenders receiving nominally longer (4%) sentences than Latino offenders. Younger offenders and males had longer prison sentences than their counterparts.

With regard to case characteristics, offenders who received any type of departure (e.g., substantial assistance, downward departure or fast-track) had significantly lower odds of being incarcerated. Offenders who received substantial assistance departures were less likely to be incarcerated by a factor of .15. Receiving a downward departure resulted lower odds of imprisonment by a factor of .20. Offenders who received a fast-track departure were .46 times less likely to be incarcerated. Once incarcerated, offenders who received substantial assistance, downward departure or fast-track departure had significantly shorter sentences compared to offenders who did not receive a departure. Offenders who were held in custody prior to sentencing were more likely to be incarcerated by a factor of 5.10 and received longer prison sentences compared to those who were not detained. Pleading guilty was associated with a shorter prison sentence. The odds of imprisonment and imprisonment length increased significantly as

the presumptive sentence and offenders' criminal history score increased. Drug type was a significant predictor of odds of incarceration and sentence length. Offenders who committed an offense related to other drug had significantly lower odds of being incarcerated compared to offenders who committed a marijuana related offense. Offenders received longer prison terms for offenses involving cocaine, crack, methamphetamine, and other drug compared to marijuana related offenses.

Hypothesis 2. Hypothesis 2 considers the effect of legal status on the decision to incarcerate and sentence length (see Table 7). Here, I predicted that *offenders who are undocumented immigrants will face higher odds of incarceration and receive shorter prison sentences than authorized immigrants and U.S. citizens*. The results revealed that undocumented immigrants were more likely to be incarcerated than both authorized immigrants and U.S. citizen offenders. Undocumented immigrants had greater odds of imprisonment than U.S. citizens by a factor of .71. The likelihood of imprisonment was .39 times greater for undocumented immigrants compared to authorized immigrants. Legal status was not a significant predictor of sentence length. Undocumented immigrants did not face significantly longer or shorter sentences than similarly situated U.S. citizen and authorized immigrant offenders. This finding was contrary to the expectation stated in Hypothesis 2. The results of the analysis provide partial support for Hypothesis 2. More specifically, legal status influenced certainty of punishment but not severity of punishment. There were no issues of collinearity found in this model. All VIF scores were below five. The mean VIF value generated by this model was 1.55. The

Table 7. Logistic Regression and OLS Regression of Sentencing Outcomes by Legal Status

Variable	Incarceration			Sentence Length		
	<i>b</i>	SE	Exp(<i>b</i>)	<i>b</i>	SE	Exp(<i>b</i>)
Constant	-0.65	0.41		-0.42	0.10	
Citizenship Status						
Undocumented immigrant						
U.S. citizen	-1.23	0.31	0.29***	0.02	0.01	1.02
Authorized immigrant	-0.49	0.17	0.61**	0.02	0.01	1.02
Race/Ethnicity						
White	-0.14	0.09	0.87	0.01	0.01	1.01
Black	-0.03	0.11	0.97	0.04	0.02	1.04*
Male	0.57	0.06	1.77***	0.09	0.01	1.09***
Age	-0.01	0.00	0.99***	0.00	0.00	1.00***
High school and above	-0.28	0.06	0.76***	-0.00	0.00	1.00
Substantial assistance	-1.89	0.12	0.15***	-0.56	0.03	0.57***
Downward departure	-1.62	0.15	0.20***	-0.37	0.03	0.69***
Fast-track departure	-0.78	0.13	0.46***	-0.61	0.06	0.54***
Detention	1.62	0.10	5.05***	0.10	0.02	1.11***
Plea	-0.47	0.33	0.63	-0.13	0.02	0.88***
Counts	0.09	0.07	1.09	-0.00	0.01	1.00
Presumptive sentence+	1.52	0.06	4.57***	0.76	0.03	2.14***
Criminal history	0.30	0.05	1.35***	0.03	0.00	1.03***
Drug offense type						
Cocaine	-0.09	0.11	0.91	0.18	0.02	1.20***
Crack	-0.17	0.15	0.84	0.16	0.02	1.17***
Methamphetamine	0.08	0.15	1.08	0.23	0.03	1.26***
Other drug	-0.49	0.13	0.61***	0.08	0.03	1.08**
Hazard rate				1.10	0.15	3.00***
Pseudo R ² /adjusted R ²	0.53			0.82		
X2 Model-fit/F-test	1704.70***			1993.27***		
Total N	68,853			64,766		

NOTES: Court district is controlled for in this analysis (n = 93).

+ Natural log of presumptive sentence and sentence length are used in these models.

All models are estimated in STATA 10.

Significant at *p ≤ 0.05; **p ≤ 0.01; ***p ≤ 0.001

R-squared value produced by the OLS analysis was .82 meaning that 82% of the variance in sentence length was explained by the variance in the independent variables.

With respect to offender characteristics, gender, age, and educational attainment were significant predictors of odds of incarceration and prison sentence length; males, younger offenders, and offenders who did not receive a high school education or above had higher odds of imprisonment and received longer prison terms than females, older offenders and those with a high school education or above. Regarding case characteristics, offenders who received any type of departure (e.g., substantial assistance, downward departure and fast-track) had lower odds of imprisonment and received shorter prison sentences once they were incarcerated. Offenders who were held in custody prior to sentencing had significantly greater odds of incarceration and received longer prison terms than offenders who were not detained. Pleading guilty resulted in a shorter length of imprisonment. Presumptive sentence and criminal history were positively associated with the likelihood of incarceration as well as sentence length. With regard to offense by drug type, offenders who committed an offense related to other drug had lower odds of incarceration compared to offenders who committed a marijuana-related offense. Committing an offense related to cocaine, crack, methamphetamine, and other drug resulted in significantly longer prison sentences relative to a marijuana related offense.

Hypothesis 3. Hypothesis 3 examines the effect of national origin on the decision to incarcerate and sentence length (see Table 8). I predicted that *Mexican nationals will face higher odds of incarceration and longer prison sentences than Colombian, Cuban, and Dominican nationals.* There were significant differences in the

Table 8. Logistic Regression and OLS Regression of Sentencing Outcomes by National Origin

Variable	Incarceration			Sentence Length		
	<i>b</i>	SE	Exp(<i>b</i>)	<i>b</i>	SE	Exp(<i>b</i>)
Constant	-3.08	0.87		-1.09	0.41	
Legal status						
Authorized immigrant	-0.44	0.34	0.64	-0.00	0.01	1.00
Race/Ethnicity						
White	-1.06	0.50	0.35*	0.04	0.03	1.04
National origin						
Mexican						
Colombian	-1.66	0.71	0.19*	-0.02	0.06	0.98
Cuban	-0.56	0.55	0.57	0.03	0.03	1.03
Dominican	-1.25	0.67	0.29	-0.11	0.04	0.90**
Male	0.89	0.43	2.44*	0.05	0.02	1.05**
Age	-0.00	0.01	1.00	0.00	0.00	1.00**
High school	-0.08	0.19	0.92	-0.00	0.01	1.00
Substantial assistance	-2.40	0.56	0.10***	-0.53	0.04	0.59***
Downward departure	-1.34	0.95	0.26	-0.45	0.04	0.64***
Fast-track	-1.72	0.36	0.18	-0.60	0.06	0.55***
Detention	2.36	0.43	10.59***	0.07	0.05	1.07
Counts	1.47	0.78	4.35	-0.00	0.01	1.00
Presumptive sentence+	1.64	0.19	5.16***	0.87	0.03	2.39***
Criminal history	0.01	0.27	1.01	0.03	0.01	1.03**
Drug offense type						
Cocaine	2.33	0.92	10.28**	0.19	0.05	1.21***
Methamphetamine	-0.13	0.84	0.88	0.19	0.05	1.21***
Other drug	0.51	0.76	1.67	0.11	0.06	1.12
Hazard rate				1.25	0.46	3.49**
Pseudo R ² /adjusted R ²	0.40			0.89		
X2 Model-fit/F-test	6819.92***			2283.57***		
Total N	10,496			10,373		

NOTES: Court district is controlled for in this analysis (n = 90).

+ Natural log of presumptive sentence and sentence length are used in these models.

All models are estimated in STATA 10.

Significant at *p ≤ 0.05; **p ≤ 0.01; ***p ≤ 0.001

odds of incarceration between Mexican and Colombian nationals. Mexican nationals were significantly more likely to be incarcerated than Colombian nationals. The results revealed that Mexican nationals were .81 times more likely than Colombian nationals to receive an incarceration sentence. Therefore, national origin was a significant predictor of the odds of incarceration for Mexican nationals compared to Colombian nationals. With respect to length of imprisonment, there were no significant differences in sentence length between Mexican and Colombian nationals. National origin was not a significant predictor of the decision to incarcerate when comparing Cuban and Mexican nationals. In addition, Mexican offenders did not receive significantly longer or shorter prison sentences than Cuban offenders. Regarding differences in sentencing outcomes between Mexican and Dominican offenders, the results revealed that nationality was not a predictor of odds of imprisonment. However, Mexican nationals received longer prison sentence than Dominican nationals. Among incarcerated offenders, Mexicans received nominally longer (10 percent) sentences compared to Dominican offenders. All VIF scores were below the threshold of five signaling that there were no collinearity issues. In fact, the mean VIF was 1.39, which was slightly lower than the two previous models. With respect to the R-squared, the value generated from the analysis indicated a strong association. The results of this model showed that 89% of the variance in the dependent variable was explained by the variance in the independent variables. Table 8 also revealed which offender and case characteristics influenced sentencing outcomes among foreign-born offenders. Most of the variables used in the previous models were retained in these analyses.¹⁰

¹⁰ One of the variables that was not controlled for in these analyses was *Plea*. Among foreign-born

Regarding offender characteristics, race/ethnicity, gender, and age were significant predictors of odds of imprisonment. With regard to race/ethnicity, offenders who were identified as white-Latino had lower odds of imprisonment than offenders identified as Latino. Latino offenders were .65 times more likely than white-Latino offenders to be imprisoned. Male offenders were treated more harshly than female offenders. Males had greater odds of incarceration than female offenders by a factor of 2.44 and received sentences that were nominally longer (5 percent) compared to female offenders.

Moving on to case characteristics, departures were significantly related to sentencing outcomes. Defendants who received substantial assistance departures were .10 times less likely to be imprisoned. Sentence length was significantly reduced when offenders were provided a substantial assistance departure. The government provides substantial assistance departures for aiding in the prosecution of other offenders. Prosecutors may use departures as a way to entice immigrants who commit drug related offenses into providing information on drug distribution networks. Downward and fast-track departures were not significantly tied to the odds of incarceration. However, offenders who received either downward or fast-track departures were rewarded with significantly shorter sentences. With regard to downward departures, federal judges might reward offenders with reduced sentences in anticipation of their impending deportation. Offenders participating in early disposition programs may be rewarded with

offenders, 96.9% pled guilty and approximately 97% of offenders who pled guilty were incarcerated. The lack of variation within this variable was problematic when included in the results. Also, cases in which the offense involved crack were excluded from the analyses. There were a total of 186 crack related offenses and all 186 offenders were imprisoned. There was also a lack of variation within this variable and when included in the analyses, it generated problematic results.

reduced sentences for expediting the process leading to their deportation. Pretrial detention increased the odds of incarceration by a factor of 10.59. Foreign-born offenders held in pretrial detention are more likely viewed as a flight risk as well as the most threatening. The results also showed that as presumptive sentence increased so did the odds of imprisonment. Also, as presumptive sentence and the offender's criminal history score increased so did their length of imprisonment. With regard to offense by drug type, offenders had significantly higher odds of being imprisoned for cocaine related offenses compared to marijuana related offenses. Cocaine related offenses increased the odds of imprisonment by a factor of 10.28. Offenders received prison sentences that were nominally longer (21%) for cocaine and methamphetamine related offenses compared to marijuana related offenses.

Summary

This study found mixed results for Hypotheses 1-3. The results of this study revealed that in some instances citizenship, legal status, and national origin were significant predictors of the likelihood of incarceration and prison sentence length. Non-U.S. citizens experienced more punitive treatment with regard to odds of imprisonment. However, non-U.S. citizens received shorter prison terms compared to U.S. citizens. Undocumented immigrants were more likely than both authorized immigrants and U.S. citizens to be incarcerated. However, legal status was not a significant predictor for sentence length. National origin was a predictor of sentencing outcomes between Mexican and Colombian nationals as well as Mexican and Dominican nationals.

Mexican nationals were more likely to be incarcerated than Colombians and received longer prison sentences than Dominicans. The methodological approaches used in this study provided greater accuracy in testing for unwarranted disparities in sentencing outcomes. The direct effect of citizenship, legal status, and national origin provided evidence that even after controlling for legally relevant variables, these offender characteristic influence sentencing outcomes.

The findings generated from the multivariate analysis will be addressed in the chapter that follows. The limitations of this study will also be discussed in Chapter 6. In addition, implications for future research on citizenship, legal status, and national origin in sentencing outcomes will be discussed.

Chapter 6

Discussion and Conclusion

This study differs from previous research in a number of ways. First, variables that have largely been ignored in the sentencing literature were considered in this study. Non-U.S. citizens make up a large and growing segment of the U.S. population. Their presence in the criminal justice system is also increasing. Research on disparate sentencing outcomes has recently begun incorporating offender citizenship status however; additional research is needed in this area (Logue, 2009; Wolfe et al., 2011). Differences among non-U.S. citizens are generally overlooked in the sentencing literature. The sentencing research has for the most part failed to acknowledge legal status, which is an important distinction between non-U.S. citizens. Grouping all non-citizens into one category can result in a missed opportunity to examine the factors that affect their sentencing outcomes differently. Furthermore, failure to distinguish non-U.S. citizens by legal status results in being unable determine whether unauthorized immigrants are treated more harshly or whether all non-U.S. citizens are treated the same regardless of legal status. Legal status plays a pivotal role in the types of employment, access to public programs, and other social and economic benefits that non-U.S. citizens are permitted to receive. Non-U.S. citizens are not all entitled to the same benefits, with undocumented immigrants being the most disadvantaged. Differential treatment among non-U.S. citizens may be present in the criminal justice system. Rather than group all non-U.S. citizens as one category, their differences should be addressed. Doing so will provide a better understanding of the role of legal status on sentencing outcomes. This

study disentangled the category of non-U.S. citizen by examining the role of both citizenship status and legal status on sentencing outcomes. Considering the population growth, group differences, and limited research on Latino foreign-born defendants, this study investigates sentencing outcomes among Latino subgroups. Early sentencing research that examined unwarranted race-based disparities focused on black and white defendants (Chiricos & Bales, 1991; Dixon, 1995; Spohn & Spears, 1996; Steffensmeier et al., 1998; Ulmer, 1997). The sentencing literature has begun investigating the role of ethnicity (e.g., Latino) in sentencing outcomes (Albonetti, 1997; Demuth, 2002; Kramer & Ulmer, 2002; Steffensmeier & Demuth, 2001; Ulmer & Johnson, 2004). One of the most recent trends is the attempt to disentangle the concept of Latino (Logue, 2009). This study goes a step further than the previous research by examining distinct Latino subgroups by national origin. This is the first study to investigate whether Mexican nationals are treated more punitively than Colombian, Cuban, and Dominican nationals.

This chapter begins with a discussion on the findings. The section that follows provides a discussion on the strengths and limitations of the current study. Next, theoretical and policy implications are addressed. Finally, a conclusion to the current study is offered.

Discussion of the Findings

In accordance with the prior literature and theoretical expectations, citizenship status, legal status, and national origin were significant predictors of both odds of imprisonment and length of imprisonment. One of the theoretical perspectives used to

guide this study is focal concerns perspective (Steffensmeier et al., 1998). Non-U.S. citizens are perceived to be more blameworthy, dangerous, and threatening. As a result, their removal from society is viewed as a benefit. Their employment in seasonal work is viewed as unstable. In addition, the social costs associated with the removal of foreign-born offenders are not perceived as especially devastating to their communities. Minority threat perspective was also used to guide this study. Non-U.S. citizens were expected to be treated more harshly given their perceived social, cultural, and economic threat. Perceptions of threat might be more pronounced for undocumented immigrants given their legal status or lack thereof. Mexican nationals bear the brunt of social, political, and media hysteria about immigrants as dangerous and threatening. Negative rhetoric is directed at Mexican immigrants on a national level. Given the bias against non-U.S. citizens, undocumented immigrants, and Mexican nationals, these groups were expected to be treated more punitively with respect to certainty of punishment. Non-U.S. citizens and undocumented immigrants were not expected to be treated more harshly with respect to severity of punishment. It may seem counterintuitive that non-U.S. citizens and undocumented immigrants not be treated more punitively with regard to sentence length, but one of the unique characteristics of this group is that the option of deportation is available. However, Mexican nationals were expected to face more severe treatment with regard to prison sentence length. Since the option of deportation is available for all non-U.S. citizens, I predicted that Mexican nationals would be penalized to a greater extent than other Latino subgroups.

The results concerning the effect of citizenship status on sentencing outcomes were in the expected direction. Defendants who were non-U.S. citizens were more likely to receive an incarceration sentence compared to U.S. citizens. The results also revealed that once incarcerated, non-citizen offenders were given significantly shorter sentences than U.S. citizen offenders. This relationship was in the expected direction given that practical constraints and consequences might be taken into account by federal judges at the time of sentencing foreign-born offenders. Some might argue that U.S. citizens were treated more harshly because they received longer prison sentences than non-U.S. citizens however; this is not necessarily the case. At the time of sentencing, judges may consider that the option of deporting foreign-born offenders is available after they complete their sentence. As a result, judges may purposely impose shorter prison sentences (e.g., sentence at the lower end of the federal sentencing guidelines or provide downward departures) as a way to reduce the costs associated with incarcerating foreign-born offenders who will likely be deported.

One of the other key variables examined in this study was legal status. Distinctions were made as to the legal status of foreign-born defendants. Defendants were identified as undocumented immigrants or authorized immigrants. The findings revealed that undocumented immigrants were treated more harshly than similarly situated U.S. citizens and authorized immigrants with respect to the odds of imprisonment. In fact, undocumented immigrants had greater odds of being incarcerated than U.S. citizens and authorized immigrants. However, the differences were less severe between authorized immigrants and undocumented immigrants. These findings were not

surprising considering that undocumented immigrants are viewed as more threatening and dangerous than both authorized immigrants and U.S. citizens. Undocumented immigrants are considered to have fewer ties to the community as well as fewer means of informal social control. These factors may influence judicial decision making during sentencing. It should be noted that undocumented immigrants were not always treated more punitively than authorized immigrants and U.S. citizens. Legal status was not a predictor of sentence length. There were no significant differences in length of imprisonment between undocumented immigrants, U.S. citizens, and authorized immigrants. Thus, the findings revealed mixed results for the effect of legal status on sentencing outcomes.

One of the goals of this study was to examine whether national origin influenced sentencing outcomes among Latino subgroups and whether Mexican nationals would be treated more harshly than Colombian, Cuban, and Dominican offenders. Mexican nationals are generally singled out as the “problem immigrants”. These stereotypes and misconceptions can influence judges since they are not immune or shielded from these popular misconceptions. The effect of national origin was in the expected direction for some of the relationships examined. While the findings were mixed, there was evidence to support that Mexican nationals were treated more harshly than other Latino subgroups.

First, the influence of national origin was tested between Colombian and Mexican offenders. This study predicted that Mexican nationals would face more punitive treatment than Colombians. With respect to the incarceration decision, Mexican nationals were more likely to be incarcerated than Colombian nationals. However,

national origin was not a predictor of sentence length. The differences between these groups (e.g., political, economic etc) may account for differences in treatment (See Chapter 2). Because Colombian nationals are more likely to be authorized immigrants, have higher levels of formal education, and are better off financially, they may be viewed as more stable compared to Mexican nationals who are at a disadvantage with respect to all of the above-mentioned characteristics. These factors may translate to federal judges viewing Colombian nationals as more salvageable, stable, and in need of less formal social control. Based on speculation, it might be the case that Colombians who are viewed as more stable overall are spared a prison sentence and those who are considered to be less stable (or more comparable to Mexican nationals) are imprisoned. This might also explain why there is no difference between sentence length between Colombian and Mexican offenders. The worst punishment is reserved for the most “dangerous” and “threatening” Colombian immigrants or at least those who share the most similarities (e.g., economic, educational etc) with Mexican offenders. Another alternative is that since they both come from what are considered “source” countries for drugs, the severity of punishment might be the same.

This study also examined sentencing outcomes between Cuban and Mexican nationals. Mexican nationals were expected to be treated more punitively with respect to both certainty and severity of punishment. Some of the reasons why these relationships were expected are based on the differences between Mexican and Cuban immigrants (See Chapter 2). The results of were not in the expected direction. There were no differences in the odds of imprisonment between Mexican and Cuban nationals. There was also no

difference in the length of imprisonment. These results were surprising given the fact that Cuban immigrants are treated the most lenient with respect to immigration policy and practices compared to Mexicans who are treated the most harshly. Cubans are spared many of the struggles and stereotypes reserved for Mexican nationals. Whereas Mexican nationals are generally welcomed as a temporary source of cheap labor, Cubans are provided the advantage of legal status upon their arrival (Portes, & Stepick, 1993). Cubans are admitted into the U.S. because of the political turmoil between the U.S. and Cuba (Durand & Massey, 2010). Mexican immigrants on the other hand are considered “permanent foreigners”. Cubans do not have the stigma of this label or difficulties associated with being undocumented (Gutierrez, 1995). Upon their arrival to the U.S., Cubans receive legal status and benefits that come with it (e.g., access to social programs etc) (Bishin & Klofstad, 2009; Durand & Massey, 2010). Cuban immigrants tend to have high levels of formal education and be better off financially than Mexican nationals, which might translate to more stable employment. Judges may view Cubans as more stable and be less willing to deport Cuban nationals to communist Cuba. Based on the factors mentioned above one would expect that these differences would contribute to their more lenient treatment in federal court. However, the findings did not support those assertions.

This study also compared sentencing outcomes between Mexican and Dominican offenders. The results revealed that Mexican nationals were not treated more punitively than Dominicans with respect to certainty of punishment. There were no significant differences between the odds of imprisonment for Mexican immigrants compared to

Dominican nationals. However, Mexicans received significantly longer prison sentences than Dominican offenders. Dominicans are drawn from the poor working class and tend to be at a lower socioeconomic level relative to other Latino groups (Nielsen & Martinez, 2011). One of the other disadvantages that Dominicans have as a group is that they have the lowest rates of naturalization compared to other Latino groups (Levitt, 2007). One of the unique characteristics possessed by Dominicans is that they are racially black and ethnically classified as Latino (Gomez, 2000). This might result in certain punishment in the criminal justice system. While some might expect that Dominicans be treated more harshly than Mexicans because of the disadvantages described earlier, the argument can be made that even with all of the disadvantages Dominicans possess, Mexican nationals are still considered to be more threatening and deserving of punishment. Despite all of the factors mentioned above the evidence revealed that Mexican nationals were treated more punitively than Dominicans, with respect to length of imprisonment but not odds of imprisonment.

Two significant findings were revealed in this study with respect to the influence of national origin on sentencing outcomes. Mexican defendants were treated more harshly compared to other Latino subgroups. Mexican nationals faced significantly higher odds of being incarcerated compared to Colombians and they had significantly longer prison sentences than Dominicans. Harsher treatment was manifested in different ways, but in the end, it was always directed at Mexican nationals. In spite of their shared ethnicity, Latino subgroups experience differential treatment in the criminal justice system. The findings suggest that the harshest treatment was reserved for Mexican

nationals. Given their size and prevalence in the criminal justice system, Mexican nationals might be perceived as a bigger waste on courtroom resources and therefore the least deserving of lenient treatment. Federal judges might be more willing to attach the label of drug lord or drug smuggler to Mexican nationals who committed drug related offenses. Mexican drug offenders might be considered the most blameworthy among Latino drug offenders. Federal judges might also have an agenda to punish Mexican drug offenders more harshly whether it is by sentencing them to prison or giving them longer sentences. Judges may want to make an example out of Mexican drug offenders and deter others from coming to the U.S. to partake in illegal drug activity.

Strengths and Limitations of the Present Study

This study built on, extended, and improved past research in various ways. First, not only did this study account for non-U.S. citizen offenders but it disaggregated non-U.S. citizens by legal status. This is something that has not been a predominant theme in the sentencing literature. Often times non-U.S. citizens are omitted or simply mentioned in a footnote. When non-U.S. citizens are incorporated in a study, their legal status is typically ignored. By aggregating authorized immigrants and undocumented immigrants into one group, it results in a missed opportunity to discover whether these groups experience differential treatment. Research suggests that legal status affects various realms of an individual's life (Durand & Massey, 2010; Massey, 2009). Therefore, it is essential to consider the role of citizenship and legal status in criminal justice outcomes.

Another feature that sets this study apart from others is that it focused on Latino offenders. The sentencing literature has begun including ethnicity (e.g., Latinos) in the study of unwarranted disparities in the criminal justice system (Albonetti, 1997; Demuth, 2002; Steffensmeier & Demuth, 2001; Wolfe et al., 2011). However, the category of Latino is broad and does not capture within group differences such as nationality (Logue, 2009). As is the case with citizenship, legal status, national origin is often a neglected variable in the sentencing research. This body of literature has failed to distinguish Latinos by any identifiable markers such as national origin. Recently, Logue (2009) attempted to call attention to this issue by examining sentencing outcomes between Mexican nationals and all “other” Latino groups. She grouped all Latinos who were not Mexican nationals and as a result, neglected to compare subgroups other than Mexican versus non-Mexican Latinos. While this is a step in the right direction, more needs to be done to address the limited knowledge on unwarranted sentencing disparities among those classified as Latino. Offenders classified as “other” Latino groups possess group differences that need to be acknowledged. Otherwise, it seems as though Mexican nationals are inherently different from all other Latino groups. The differences among these groups (e.g., age of arrival, educational attainment, immigration policies, etc) can lead to differences in sentencing outcomes. Therefore, it is essential to make distinctions between Latino subgroups and one way of doing so is by acknowledging their national origin. The data restricted the number of Latino subgroups examined in this study. However, four distinct groups were chosen and investigated. This is more than has been

done in the previous literature with regard to making distinctions among Latino subgroups.

While this study contributes to the understanding of the effect of citizenship, legal status, and national origin on sentencing outcomes in federal district courts, it is not without limitations. One of the limitations of this study was that it was restricted to drug offenders. With the War on Drugs and legislation targeting drug offenders, there has been a rise in the imprisonment of drug offenders throughout the last few decades. Drug offenders are being sentenced to long prison terms for non-violent offenses. This study examined drug offenders because of the negative stereotypes associated with Latinos (e.g., their perceived involvement in drug distribution networks). Due to the media and political focus on Mexico's "drug war", Mexican immigrants are depicted as belonging to drug cartels. Given that this study strictly focused on sentencing outcomes for drug offenses, the results of this study cannot be generalized to other offense types. In order to assess whether Latino immigrants and Mexican nationals are treated more harshly in the criminal justice system as a whole, other types of offenses need to be considered. Since violent offenses are viewed as being less discretionary, it may be the case that differential treatment is not as pronounced. It may also be the case that due to the publicized violence in Mexico and the false information about headless torsos found along the Arizona border, non-U.S. citizens and Mexicans in particular will be treated more harshly. Future research should examine a broader range of crimes such as immigration crimes, violent crimes, and others.

This study was limited to four foreign-born Latino subgroups: Colombian, Cuban, Dominican, and Mexican. This study extended and built on earlier work that did not account for differences among Latino offenders. Even though this study incorporated four distinct Latino subgroups, other groups should be included in future research such as Central Americans and other South American groups. Issues of missing data were responsible for the exclusion of other Latino subgroups. Even with three years of federal sentencing data, the Latino subgroups examined were limited in number due to missing data on variables such as legal status, and national origin. The lack of variation among Latino subgroups may have influenced the results. Over 83% of the Latino non-U.S. citizens were Mexican nationals. Having a more evenly distributed sample provides clearer results. Future research should incorporate other Latino subgroups in order to gain a better understanding of how Latino subgroups are treated in the criminal justice system. One way of achieving this is by using additional years of data.

Even though this study accounted for difference among groups (e.g., U.S. versus non-U.S. citizens; undocumented immigrants versus authorized immigrants and U.S. citizens; and Mexican versus Colombian, Cuban, and Dominican nationals) it did not account for within group differences. If data were partitioned by citizenship status, legal status, and national origin, the results would reveal how offender and case characteristics influence each of these groups differently. Future research should account for within group differences in order to determine which offender specific or case specific characteristics impact sentencing outcomes the most and whether these differ by group.

This study was limited to USSC data from 2006-2008. One of the reasons why these data were chosen was because of the interest in examining post-*Booker* federal sentencing patterns. Post-*Booker* data serve to analyze a more discretionary sentencing context in which there is a greater probability for citizenship, legal status, and national origin to affect federal sentencing outcomes. This study did not account for sentencing outcomes pre-*Booker*. It would be interesting to examine whether unwarranted sentencing disparities were more pronounced for these groups of offenders pre or post-*Booker*. Another limitation of this study was that it did not account for longitudinal patterns in sentencing outcomes. Future research should examine longitudinal relationships and whether a peak in anti-immigrant legislation is associated with harsher sentencing patterns for immigrants over time.

One of the other areas of future studies is in relation to practical constraints and consequences. Since cases involving immigrants are concentrated in a few federal district courts, it would be interesting to examine whether immigrant offenders are treated more punitively in certain states and whether these states have the toughest anti-immigrant legislation. States with fewer resources might try to funnel immigrants out of the system faster in order to reduce the costs associated with trial and detention. Harsher treatment of Mexican defendants might be isolated to a few districts in the Southwest, where their presence is larger than other Latino groups. It may be the case that given the national spotlight, Mexican nationals are treated more punitively across all district courts.

Future research should also examine judicial attitudes that lead to the harsher treatment of non-U.S. citizens, undocumented immigrants, and Mexican offenders. In

depth interviews and surveys on judicial attitudes on immigration, non-U.S. citizen offenders, Latinos, and other related topics should be investigated. These can provide insight into the factors that influence judicial decision-making. It would be interesting to see whether negative stereotypes about Mexican immigrant offenders are localized to districts with a higher population of Mexican nationals or whether these attitudes transcend geographical area. It may be the case that in districts in New York where the majority of Latino immigrants are Dominican nationals, negative stereotypes are directed at Dominicans.

Theoretical and Policy Implications

This study suggests the need to conceptualize minority threat perspective beyond race and ethnicity. The term Latino is a very broad and needs to be disentangled. Group differences such as race and nationality should be acknowledged. These differences have implications in the criminal justice system as found in the present study. Minority threat perspective has moved beyond a racial group threat. Minority threat perspective should incorporate the threat of citizenship, legal status, and national origin. Non-U.S. citizens are considered to be threatening especially those of undocumented status. This segment of the population is viewed as a threat to jobs, national security, and culture. Mexican nationals are especially targeted by the media, politicians, and the public with negative imagery. Often times they are referenced as the problem immigrants, murderers, gang members and members of drug distribution networks. The fact that Mexican nationals make up the largest Latino subgroup and the geographical proximity to Mexico help

ignite fear among the masses. Because of this, Mexican nationals have become an easy scapegoat and target of negative stereotypes. These perceptions of threat might influence judicial decision making whether it be on a subconscious or conscious level.

This study adds to the body of research on focal concerns perspective. Non-U.S. citizens may be viewed as unpredictable, dangerous, and blameworthy, and therefore more deserving of punishment than U.S. citizens. Mexican nationals bear the brunt of negative stereotypes, which can lead to more punitive treatment in criminal justice outcomes. The judiciary might not view the social costs associated with the imprisonment of non-U.S. citizens as devastating to society. They may actually consider their removal to be a benefit. Judges may view non-U.S. citizens as a threat to social order and therefore, their removal becomes critical. Concern for practical consequences and organizational constraints is growing because of the rise in immigrant related cases at the federal level (Demleitner & Sands, 2002). The majority (95%) of defendants in federal courts plead guilty and over 85% of defendants are given a prison sentence (Schmitt, 2009). Since *Booker*, there has been an increase in sentence length for non-U.S. citizen defendants in federal courts (United States Sentencing Commission, 2010). An increase in immigrant related federal cases can affect practical and organizational constraints (Hartley & Tillyer, 2011). Housing non-citizen offenders poses an expense and challenge in accommodating this portion of the growing prison population. For example, in the southern district of California, approximately 46 million dollars are spent on the caseload and sentencing outcomes related to non-citizen defendants (Huff, 2003). The results of this study found support that non-U.S. citizens, undocumented immigrants,

and Mexican nationals might be viewed as more blameworthy, a greater risk to the community, associated with lower social costs of incarceration, and added burdens to practical constraints. These assumptions may have led to their more punitive treatment especially in the case of certainty of punishment.

The perceived criminal threat of undocumented immigrants carries policy implications. The media and politicians publicize non-U.S. citizens, especially those of undocumented status as ruthless and menacing. These perceptions of threat have led to restrictive and discriminatory immigration policies and practices (e.g., Support our Law Enforcement and Safe Neighborhoods Act of 2010; Alabama's HB 56 and Hazleton's Illegal Immigration Relief Act of 2006). The goal of these discriminatory policies and practices is to quell public outcry and diminish the perception of threat through the removal of immigrants. The concentration and resources allocated to eliminating the immigrant threat has had unintended consequences. Local law enforcement is being tasked with locating and identifying immigrants rather than focus on crime prevention or crime fighting efforts that are effective. Federal courts are bombarded with cases of immigrant offenders. Their resources are lacking to address the growing number of immigrant defendants. Rather than allocating the resources needed to address actual criminal threats and crime prevention, law enforcement and courtroom resources are being used to locate, identify, prosecute, and deport immigrants, who research shows are not committing a disproportional amount of crime (Martinez & Lee, 2000). In fact, immigrants have lower crime rates than their native-born counterparts. Perceptions of

threat have led to a concentrated effort of discrimination and prejudice against immigrant groups.

Over the past thirty years of research on sentencing outcomes, evidence continues to emerge showing that the FSG have not been effective in eliminating unwarranted disparities based on extra legal characteristics (Spohn, 2000; Ulmer & Kramer, 1998). This study found evidence of unwarranted disparities in sentencing outcomes based on offenders' citizenship, legal status, and nationality after the implementation of the guidelines and post-*Booker*. Judges continue to use offender characteristics to guide their decision-making. In some cases, judges have cited offenders' citizenship, legal status, and/or national origin during sentencing (see *U.S. v. Borrero-Isaza*, 1989; *U.S. v. Gomez*, 1986; *U.S. v. Onwuemene*, 1991). These outcomes suggest that foreign-born offenders face double punishment. First, they are punished for the offense and second, for their citizenship, legal status, and/or national origin. While these characteristics are not supposed to be considered during the sentencing phase, judges continue to allude to these characteristics. Judges are now provided a loophole allowing them to reference an offender's citizenship, legal status or national origin if they use it as a means of general deterrence (*U.S. v. Gomez*, 1986).

Conclusion

The purpose of this study was to provide a more comprehensive assessment of the role of citizenship status, legal status, and national origin in federal sentencing outcomes. The findings from this study support the conclusion that citizenship status, legal status,

and national origin matter with respect to sentencing outcomes. These offender specific characteristics result in punishments that are more punitive. Post-*Booker* data was chosen in order to assess whether the additional discretion provided to judges, since making the guidelines advisory rather than mandatory, would reflect evidence of unwanted disparities based on citizenship status, legal status, and national origin. Research continues to show support for unwanted disparities based on several factors including offender specific characteristics such as race/ethnicity, citizenship, legal status, and national origin (Logue, 2009; Spohn, 2000; Wolfe et al., 2011). The findings generated from this study suggest that negative immigrant stereotypes might influence judicial decision-making. If this is the case, then it negates the purpose of the guidelines. There is a concentrated effort to criminalize immigrants based on false information and negative stereotypes. Criminalizing immigrants results in mass deportations, separation of families through imprisonment and deportation, and misuse or wasteful spending to fight the false immigrant criminal threat. Realistically the U.S. government cannot deport over 11 million undocumented immigrants. The resources and manpower are not available. These efforts burden local, state, and federal agencies. These misguided efforts result in the systematic discrimination and removal of groups deemed unworthy of living in the United States, many of who come in search of the same opportunities that led to early European immigration.

REFERENCES

- Alba, R., Nee, R. G., & Nee, K. (2005). A distorted nation: Perceptions of racial/ethnic group sizes and attitudes toward immigrants and other minorities. *Social Forces*, 84, 901-919.
- Albonetti, C.A. (1991). An integration of theories to explain judicial discretion. *Social Problems*, 38, 247-266.
- Albonetti, C.A. (1997). Sentencing under the federal sentencing guidelines: effects of offender characteristics, guilty pleas, and departures on sentence outcomes for drug offenses, 1991-1992. *Law and Society Review*, 31, 789-822.
- Altamirano, T. 1996. *Migración: El Fenómeno del Siglo*. Lima: Universidad Católica del Perú.
- Arnold, C.L. (2007). Racial profiling in immigration enforcement: state and local agreements to enforce federal immigration law. *Arizona Law Review*, 49, 113-142.
- Ashely, L.R.N. (2006). Bordering on the impossible. *Institute of General Semantics*, 63, 343-348.
- Ayer, D., Jackson, M., Leshner, J., Longnecker, J., Ott, A., Watermeier, I., & Gyllenhaal, J. (Producers), & Ayer, D. (Director). (2012). *End of watch* [Motion picture]. United States: Open Road Films.
- Balcazar, F.E., Garcia-Iriarte, E., & Suarez-Balcazar, Y. (2009). Participatory action research with Colombian Immigrants. *Hispanic Journal of Behavioral Sciences*, 31, 112-127.
- Bean, F., & Stevens, G. (2003). *America's Newcomers and the Dynamics of Diversity*. New York: Russell Sage Foundation.
- Beason-Hammon Alabama Taxpayer and Citizenship Protection Act, 2011. Alabama House Bill 56.
- Bender, S. W. (2003). *Greasers and gringos: Latinos, law, and the American imagination*. New York: New York University.
- Bibas, S. (2005). Regulating local variations in federal sentencing. *Stanford Law Review*, 58, 137-154.
- Bishin, B., & Klofstad, C. (2011). The political incorporation of Cuban Americans: Why won't Little Havana turn blue? *Political Research Quarterly*, 20, 1-14.

- Blalock, H. M. (1967). *Toward a Theory of Minority Group Relations*. New York: Wiley.
- Blumstein, A. 1982. On the racial disproportionality of U.S. prison populations. *Journal of Criminal Law and Criminology*, 73, 1259–1281.
- Bolla, E. W. (2006). An unwarranted disparity: Granting fast-track departures in non-fast-track districts. *Cardozo Law Review*, 28, 895-930.
- Bonilla-Silva, E. (2000). This is a white country. The racial ideology of the western nations of the world system. *Social Inquiry*, 70, 188-214.
- Box, S., & Hale, C. (1985). Unemployment, imprisonment and prison overcrowding. *Crime, Law and Social Change*, 9, 209-228.
- Bregman, M. (Producer), & De Palma, B. (Director). (1983). *Scarface* [Motion Picture]. United States: Universal Pictures.
- Brennan, P.K., & Spohn, C. (2009). The joint effects of offender race/ethnicity and sex on sentence length decisions in federal courts. *Race and Social Problems*, 1, 200-217.
- Bushway, S., Johnson, B.D., and Slocum, L.A. (2007). Is the magic still there? The use of The Heckman two-step correlation for selection bias in criminology. *Journal of Quantitative Criminology*, 23, 151-178.
- Butcher, K. F. and Piehl, A.M. (1998). Cross-City Evidence on the Relationship Between Immigration and Crime. *Journal of Policy Analysis and Management*, 17, 457–493.
- Card, D. (1990). The Impact of the Mariel Boatlift on the Miami Labor Market. *Industrial and Labor Relations Review*, 43, 245-257.
- Chavez, L. R. (2001). *Covering immigration: Population images and the politics of the nation*. Berkeley: University of California Press.
- Chinchilla, N. S., & Hamilton, N. (2007). Central America: Guatemala, Honduras, Nicaragua. In M. C. Waters & R. Ueda (Eds.), *The new Americans: A guide to immigration since 1965* (pp. 328-339). Cambridge, MA: Harvard University Press.
- Chiricos, T. G., & Bales, W. D. (1991). Unemployment and punishment: An empirical assessment. *Criminology*, 29, 701-724.
- Chiswick, B.R., & Miller, P.W. (2005). Linguistic distance between English and other

- languages. *Journal of multilingual and multicultural development*, 26, 1-11.
- CNN (2009). *Tough sheriff's immigration duties face limits after complaints*. Retrieved from <http://www.cnn.com/2009/CRIME/10/08/arizona.sheriff.immigration/index.html>.
- Cohn, D., & Passel, J. (2010). U.S. unauthorized immigration flows are down sharply since mid-December. Retrieved from <http://pewresearch.org/>.
- Cottam, M.L., & Marenin, O. (2005). The management of border security in NAFTA: Imagery, nationalism, and the war on drugs. *International Criminal Justice Review*, 15, 15-37.
- Coutin, S.B. (2005). Contesting criminality: Illegal immigration and the spatialization of legality. *Theoretical Criminology*, 9, 5-32.
- Davenport, P., & Mayers, A.L. (2010, September 4). Jan Brewer admits she was wrong about beheadings. Retrieved from http://www.huffingtonpost.com/2010/09/04/jan-brewer-admits-she-was_0_n_705722.html.
- Davis, J. A., Smith, T. W., & Marsden, P. V. (2007). General Social Surveys, 1972-2006: [Cumulative file] [Computer file]. Chicago, IL: National Opinion Research Center [producer], 2007. Storrs, CT: Roper Center for Public Opinion Research, University of Connecticut/Ann Arbor, MI: Inter-university Consortium for Political and Social Research/Berkeley, CA: Computer-assisted Survey Methods Program, University of California [distributors], 2007.
- De Leon, A. (1993). *Mexican Americans in Texas: A brief history*. Wheeling, IL: Harlan Davidson.
- Demleitner, N. V., and Sands, J. M. (2002). Non-citizen offenders and immigration crimes: New challenges in the federal system. *Federal Sentencing Reporter*, 14, 247-254.
- Demuth, Stephen. 2003. "Racial and ethnic differences in pretrial release decisions and outcomes: A comparison of Hispanic, black, and white felony arrestees." *Criminology* 41, 873-908.
- Demuth, S. (2002). The effect of citizenship status on sentencing outcomes in drug cases. *Federal Sentencing Reporter*, 14, 271-275.
- Di Bonaventura, L. (Producer), & Ji-woo, K. (Director). (2013). *The last stand* [Motion picture]. United States: Lionsgate.
- Dixon, J. (1995). The organizational context of criminal sentencing. *American Journal*

- of Sociology, 100*, 1157-1198.
- Duany, J. (2002). *Puerto Rican nation on the move: Identities on the island and in the United States*. Chapel Hill, NC: University of North Carolina Press.
- Durand, J., & Arias, P. (2000). *La Experiencia Migrante: Iconografía de la Migración México-Estados Unidos*. México, DF: Altexto.
- Durand, J., & Massey, D.S. (2010). New World Orders: Continuities and changes in Latin American Migration. *The ANNALS of the American Academy of Political and Social Science, 630*, 20-52.
- Durand, J, Telles, E.E, & Flashman, J. (2006). The demographic foundations of The Latino population. In *Hispanics and the future of America*, ed. Marta Tienda and Faith Mitchell, 66–99. Washington, DC: National Academies Press.
- Engen, R.L., & Gainey, R.R. (2000a). Conceptualizing legally relevant factors under guidelines: a reply to Ulmer. *Criminology, 38*, 1245–1252.
- Engen, R.L., & Gainey, R.R. (2000b). Modeling the effects of legally relevant and extralegal factors under sentencing guidelines: the rules have changed. *Criminology, 38*, 1207–1230.
- Ennis, S.R., Rios-Vargas, M., & Albert, N.C. (2011). The Hispanic population: 2010 census brief Retrieved from <http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf>.
- Frankel, M. E. (1972). Lawlessness in sentencing. *University of Cincinnati Law Review, 41*, 1-54.
- Gereffi, G., Spener, D., & Bair, J. (2002). *Free trade and uneven development: The North American apparel industry after NAFTA*. Philadelphia: Temple Univ. Press.
- Gomez, C. (2000). The continual significance of skin color: An exploratory study of Latinos in the Northeast. *Hispanic Journal of Behavioral Sciences, 22*, 94-103.
- Gorman, T. E. (2009). A history of fast-track sentencing. *Federal Sentencing Reporter, 21*, 311-317.
- Graif, C., & Sampson, R.J. (2009). Spatial heterogeneity in the effects of immigration and diversity on neighborhood homicide rates. *Homicide studies, 13*, 242-260.
- Guarnizo, L. E., & Espitia, M. (2007). Colombia. In M. C. Waters & R. Ueda (Eds.), *The*

- new Americans: A guide to immigration since 1965* (pp. 371-385). Cambridge, MA: Harvard University Press.
- Gutierrez, D. (1995). *Walls and Mirrors: Mexican Americans and Mexican Immigration*. Berkeley: University of California Press.
- Hagan, J., & Albonetti, C. (1982). Race, class, and the perception of criminal justice in America. *American Journal of Sociology*, 88, 329-355.
- Hagan, J., Levi, R., & Dinovitzer, R. (2008). The symbolic violence of the crime-immigration nexus: migrant mythologies in the Americas. *Criminology and Public Policy*, 7, 95– 112.
- Hagan, J., & Palloni, A. (1999). Sociological criminology and the mythology of Latino immigration and crime. *Social Problems*, 46, 617–632.
- Hartley, R. D., Maddan, S., & Spohn, C. (2007). Prosecutorial discretion: An examination of substantial assistance departures in federal crack-cocaine and powder-cocaine cases. *Justice Quarterly*, 24, 383-407.
- Hartley, R.D., & Tillyer, R. (2011). Defending the homeland: Judicial sentencing practices for Federal immigration offenses. *Justice Quarterly*, 29, 76-104.
- Higham, J. (1969). *Strangers in the land: Patterns of American Nativism 1860-1925*. New York: Atheneum.
- Hofman, A., & Escala, Z. (1999). The Colombian community in metropolitan New York; Who are we and where are we going? *Migration World Magazine*, 27, 13-17.
- Holmes, M. D. (2000). Minority threat and police brutality: Determinants of civil rights criminal complaints in U.S. municipalities. *Criminology*, 38, 343-368.
- Huff, M. L. (2003). Testimony of Chief Judge Marilyn L. Huff, Southern District of California before the United States Sentencing Commission concerning fast track or early disposition programs. United States Sentencing Commission. Retrieved from http://www.ussc.gov/hearings/9_23_03/Huff.pdf.
- Humes, K., R., Jones, N, A., & Ramirez, R.R. (2011) Overview of race and Hispanic origin: 2010. <http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf>.
- Huntington, S.P. (2004). The Hispanic challenge. *Foreign Policy*, March/April: 30-45.
- Illegal Immigration Relief Act Ordinance, 2006. Hazelton, Pennsylvania.

- Itzigsohn, J., Dore, C., Fernandez, E., & Vazquez, O. (1999). Mapping Dominican transnationalism: narrow and broad transnational practices. *Ethnic and Racial Studies*, 22, 316-339.
- Jaret, C. (1999). Troubled by newcomers: Anti-immigrant attitudes and action during two eras of mass immigration to the United States. *Journal of American Ethnic History*, 18, 9-39.
- Jasso, G., Rosenzweig, M.R. (1986). Family reunification and the immigration multiplier: U.S. immigration law, origin-country conditions, and the reproduction of immigrants. *Demography*, 23, 291-311.
- Johnson, B.D., & Betsinger, S. (2009). Punishing the “model minority”: Asian-American criminal sentencing outcomes in Federal district courts. *Criminology*, 47, 1045-1090.
- Johnson, B.D., Ulmer, J.T., & Kramer, J.H. (2008). The social context of guidelines circumvention: the case of federal district courts. *Criminology*, 46, 737-783.
- Kanstroom, D. (2000). Deportation, social control and punishment: Some thoughts about why hard laws make bad cases. *Harvard Law Review*, 113, 1890-1935.
- Kautt, P. M., & Spohn, C. (2002). Crack-ing down on black drug offenders? Testing for interactions between offender race, drug type, and sentencing strategy in federal drug sentences. *Justice Quarterly*, 19, 1-36.
- King, G., Honaker, J., Joseph, A., & Scheve, K. (2001). Analyzing incomplete political science data: An alternative algorithm for multiple imputation, *American Political Science Review* 95, 49-69.
- King, R.D., & Wheelock, D. (2007). Group threat and social control: Race, perceptions of minorities and the desire to punish. *Social Forces*, 85, 1255-1280.
- Kochhar, R., Espinoza, C.S., & Hinze-Pifer, R. (2010). After the great recession: foreign born gain jobs; native born lose jobs. Retrieved from <http://pewresearch.org/>.
- Kozlov, S.A. (1992). “Deportation as a Collateral Consequence of a Guilty Plea: Why the Federal Precedent Should be Reevaluated.” *Valparaiso University Law Review*, 26, 895-897.
- Kramer, J. H. & Ulmer, J. T. (2009). *Sentencing Guidelines: Lessons from Philadelphia*. Boulder, CO: Lynne Rienner Publishers.
- Kramer, J. H., & Ulmer, J. T. (2002). Downward departures for serious violent offenders:

- Local court 'corrections' to Pennsylvania's sentencing guidelines. *Criminology*, 40, 897-932.
- Lee, C. (2009). Sociological Theories of Immigration: Pathways to Integration for U.S. Immigrants. *Journal of Human Behavior in the Social Environment*, 19, 730-744.
- Lee, S.M. (1993). Racial classifications in the U.S. census: 1890-1990. *Ethnic and Racial Studies*, 16, 75-94.
- Lee, M.T., Martinez, R.J., & Rosenfeld, R. (2001). Does immigration increase homicide? Negative evidence from three border cities. *The Sociological Quarterly*, 42, 559-580.
- Litras, M.F.X & Scalia, J. (2002). *Immigration Offenders in the Federal Criminal Justice System, 2000*, Bureau of Justice Statistics Special Report. Washington DC: U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/abstract/iofcjs00.htm>.
- Logue, M. A. (2009). "The price of being Mexican": Sentencing disparities between Noncitizen Mexican and non-Mexican Latinos in the federal courts. *Hispanic Journal of Behavioral Sciences*, 31, 423-445.
- Lundquist, Jennifer H., & Douglas S. Massey. 2005. The Contra War and Nicaraguan migration to the United States. *Journal of Latin American Studies*, 37, 29–53.
- Martinez, R.J. (2002). *Latino Homicide: Immigration, violence, and community*. New York: Routledge.
- Martinez, R.J., & Lee, M. T. (2000). On immigration and crime. *Criminal Justice*, 1, 486-524.
- Martinez, R.J., Rosenfeld, R., & Mares, D. (2008). Social disorganization, drug market activity, and neighborhood violent crime. *Urban Affairs Review*, 43, 846-874.
- Martinez, R.J., Stowell, J.I. & Lee, M.T. (2010). Immigration and crime in an era of transformation: A longitudinal analysis of homicides in San Diego neighborhoods, 1980-2000. *Criminology*, 48, 797-828.
- Massey, D. (2009). Racial Formation in Theory and Practice: The Case of Mexicans in the United States. *Race and Social Problems*, 1, 12-26.
- Mauer, M. (1999). *Race to incarcerate*. New York: The New Press.
- Mauer, M. (2005). *Racial disparity in sentencing: A review of the literature*. Washington,

- D.C.: Sentencing Project.
- Meier, M.S. & Rivera, F. (1993). *Mexican Americans/American Mexicans: From Conquistadors To Chicanos*. New York: Hill and Wang.
- Michaud, N.D. (2010). From 287(g) to SB 1070: The decline of the federal immigration partnership and the rise of state-level immigration enforcement. *Arizona Law Review*, 52, 1-51.
- Migration Policy Institute. Data Hub: (2008). *Global data: Country and comparative data*. Washington, DC: Migration Policy Institute. Available from www.migrationinformation.org.
- Miller, T.A. (2005a) By any means necessary: Collateral civil penalties of Non-U.S. citizens and the war on terror. In Christopher Mele and Teresa A. Miller (Eds.), *Civil Penalties, Social Consequences*. New York: Routledge. pp. 47-66.
- Miller, T.A. (2005b). Blurring the boundaries between immigration and crime control after September 11th. *Boston College Third World Law Journal*, 25, 1-43.
- Morawitz, Nancy. (2000). Understanding the impact of the 1996 deportation laws and the limited scope of proposed reforms." *Harvard Law Review*, 113, 1936-1962.
- Newburger, E., & Gryn, T. (2009). The Foreign-Born Labor Force in the United States: 2007 Retrieved from: <http://www.census.gov/prod/2009pubs/acs-10.pdf>.
- Newton, L. (2008). *Illegal, alien, or immigrant: the politics of immigration reform*. New York: New York Press.
- Nielsen, A.L., Lee, M.T. & Martinez, R.J. (2005). Integration race, place and motive in social disorganization theory: lessons from a comparison of black and Latino homicide types in two immigrant destination cities. *Criminology*, 43, 837-872.
- Nielsen, A.L., & Martinez, R.J. (2011). Nationality, immigrant groups, and arrest: Examining the diversity of arrestees for urban violent crime. *Journal of Contemporary Criminal Justice*, 27, 342-360.
- Office of Management and Budget (1997). Revisions to the standards for the classification on Federal data on race and ethnicity. Retrieved from http://www.whitehouse.gov/omb/fedreg_1997standards/.
- Office of the Attorney General. (2003). Department Principles for Implementing an

- Expedited Disposition or “Fast-Track” Prosecution Program in a District. Memorandum to all United States Attorneys from Attorney General John Ashcroft (September 22, 2003).
- Olmos, E.J., Young, R.M., Daniel, S., Adler, L., Mutrux, F., Young, I. (Producers), & Olmos, E.J. (Director). (1992). *American me* [Motion Picture]. United States: Universal Studios.
- Orrenius, P.M., & Zavodny, M. (2009). Do immigrants work in riskier jobs? *Demography*, 46, 535-551.
- Ousey, G.C., & Kubrin, C.E. (2009). Exploring the Connection between Immigration and Violent Crime Rates in U.S. Cities, 1980-2000. *Social Problems*, 56, 447-473.
- Pantoja, A. D. (2005). Transnational Ties and Immigrant Political Incorporation: The Case of Dominicans in Washington Heights, New York1. *International Migration*, 43, 123-146.
- Papademetriou, D.G., & Terrazas, A. (2009). Immigrants in the United States and the current economic crisis. Retrieved from <http://www.migrationinformation.org/usfocus/display.cfm?ID=723>
- Pedraza, S. (2007). *Political disaffection in Cuba's revolution and exodus*. New York, NY: Cambridge University Press.
- Portes, Alejandro. (1998). “Social Capital: Its Origins and Applications in Modern Sociology.” *Annual Review of Sociology*, 24, 1–24.
- Portes, A. (2009). The new Latin nation: Immigration and the Hispanic population of the United States. In F. Ansley & J. Shefner (Eds.), *Global connections and local receptions: New Latino immigration to the southeastern United States* (pp. 3-34). The University of Tennessee Press.
- Portes, A., Escobar, C., & Arana, R. (2008). Bridging the gap: transnational and ethnic organizations in the political incorporation of immigrants in the United States. *Ethnic and Racial Studies*, 31, 1056-1090.
- Portes, A., & Rumbaut, R.G. (2001). *Legacies: The Story of the Immigrant Second Generation*. Berkeley: University of California Press.
- Portes, A., & Stepick, A. (1993). *City on the edge: The transformation of Miami*, Berkley: University of California Press.
- Quinney, R. (1977). *Class, state, and crime: On the theory and practice of criminal*

- justice* (p.58). D. McKay Company.
- Rappleye, C. (2007). Mexico, America, and the continental divide. *The Virginia Quarterly Review*, 83, 61-82.
- Roman, E. (2000). Who exactly is living la vida loca?: The legal and political consequences of Latino-Latina Ethnic and Racial stereotypes in film and other media. *Journal of Gender Race & Justice*, 37, 37-68.
- Rubinkam, M. (2011). *Supreme court: Hazleton, Pennsylvania immigration law must be re-examined*. Retrieved from http://www.huffingtonpost.com/2011/06/06/hazleton-pennsylvania-immigration_n_871791.html.
- Rumbaut, R. G., & Portes, A. (Eds.). (2001). *Ethnicities: Children of immigrants in America*. Berkeley, CA: University of California Press.
- Russell, G. (2010 May 11). John McCain border shift: 'Complete danged fence'. Retrieved from <http://abcnews.go.com/Politics/john-mccain-immigration-reversal-complete-danged-fence/story?id=10616090#.UWXGcVJ5LYN>
- Ruth, H., & Reitz, K., R. (2003). *The challenge of crime: Rethinking our response*. Cambridge, MA: Harvard University Press.
- Sacks, M. (2012). *Arizona immigration law ruling: supreme court delivers split decision*. Retrieved June 26, 2012, from http://www.huffingtonpost.com/2012/06/25/arizona-immigration-law-ruling_n_1614067.html
- Sampson, R., (2008). Rethinking immigration and crime. *Contexts*, 7, 28–33.
- Sampson, R. J., & Bean, J. (2006). Cultural mechanisms and killing fields: A revised theory of community-level racial inequality. (2006). In Ruth Peterson, Lauren Krivo, and John Hagan (eds). *The Many Colors of Crime: Inequalities of Race, Ethnicity and Crime in America*. New York: New York University Press.
- Sayad, A. (2004). *The Suffering of the Immigrant*. Cambridge, UK: Polity.
- Schmitt, G. R. (2009). Overview of federal criminal cases, fiscal year 2008. Washington, DC: United States Sentencing Commission.
- Skerry, P. (1995). Many borders to cross: Is immigration the exclusive responsibility of the federal government? *Publius: Journal of Federalism*, 25, 71-85.
- Spitzer, S. (1975). Toward a Marxian theory of deviance. *Social Problems*, 22, 638–651.

- Spohn, C. (2000). Thirty years of sentencing reform: The quest for a racially neutral sentencing process. Washington, DC: National Institute of Justice: Criminal Justice.
- Spohn, C., & Beichner, D. (2000). Is preferential treatment of female offenders a thing of the past? A multi-site study of gender, race, and imprisonment. *Criminal Justice Policy Review*, *11*, 149-184.
- Spohn, C., Gruhl, J. & Welch, S. (1981-82). "The Effect of Race on Sentencing: A Re-Examination of an Unsettled Question," *Law & Society Review* 16: 71-88. Reprinted in George F. Cole (ed.), *Criminal Justice: Law and Politics*, 6th ed. Pacific Grove, CA: Brooks/Cole Publishing Co., 1993
- Spohn, C., & Holleran, D. (2000). The imprisonment penalty paid by young, unemployed black and Hispanic male offenders. *Criminology*, *38*, 281-306.
- Spohn, C., & Horney, J. (1996). The impact of rape law reform on the processing of simple and aggravated rape cases. *Journal of Criminal Law & Criminology*, *86*, 861-886.
- Spohn, C., & Fornango, R. (2009). U.S. Attorneys and substantial assistance departures: testing for inter-prosecutor disparity. *Criminology*, *47*, 813-842.
- Spohn, C., & Spears, J. (1996). The Effect of offender and victim characteristics on sexual assault case processing decisions. *Justice Quarterly*, *13*, 401-431.
- Stacey, A. M., & Spohn, C. (2006). Gender and the social costs of sentencing: An analysis of sentences imposed on male and female offenders in three U.S. district courts. *Berkeley Journal of Criminal Law*, *11*, 43-73.
- Starr, P. (2009). *Arizona sheriff vows to enforce immigration law whether 'feds' like it or not*. Retrieved from <http://www.cnsnews.com/news/article/55199>.
- Steffensmeier, D., & Demuth, S. (2006). Does gender modify the effects of race-ethnicity on criminal sanctioning? Sentencing for male and female white, black, and Hispanic defendants. *Journal of Quantitative Criminology*, *22*, 241-261.
- Steffensmeier, D., & Demuth, S. (2001). Ethnicity and judges sentencing decisions: Hispanic-black-white comparisons. *Criminology*, *39*, 145-177.
- Steffensmeier, D. & Demuth, S. (2000). Ethnicity and sentencing outcomes in U.S. federal courts: who is punished more harshly? *American Sociological Review*, *65*, 705-729.
- Steffensmeier, D., Ulmer, J.T., & Kramer, J.H. (1998). The interaction of race, gender,

- and age in criminal sentencing: the punishment cost of being young, black, and male. *Criminology*, 36, 763–797.
- Stowell, J.I., Messner, S.F., McGeever, K.F., & Raffalovich, L.E. (2009). Immigration and the recent violent crime drop in the United States: A pooled, cross-sectional time-series analysis of metropolitan areas. *Criminology*, 47, 889-928.
- Support Our Law Enforcement and Safe Neighborhoods Act, 2010. Arizona Senate Bill, 1070.
- Studenmund, A. H. (1997). *Using econometrics: A practical guide*. Boston, MA: Addison-Wesley.
- Tonry, M. (1995). *Malign neglect: Race, crime, and punishment in America*. New York: Oxford University Press.
- Tyndal, L.G. (1996). ‘You Won’t Be Deported...Trust Me!’ Ineffective Assistance of Counsel and the Duty to Advise Alien Defendants of the Immigration Consequences of Guilty Pleas.” *American Journal of Trial Advocacy*, 19, 653-675.
- Ulmer, J. (1997). *Social worlds of sentencing: Court communities under sentencing guidelines*. Albany, NY: State University of New York Press.
- Ulmer, J.T., & Johnson, B.D. (2004). Sentencing in context: a multilevel analysis. *Criminology*, 4, 137–178.
- Ulmer, J. T., & Kramer, J. H. (1998). The use and transformation of formal decision making criteria: Sentencing guidelines, organizational contexts, and case processing strategies. *Social Problems*, 45, 248-267.
- United States Sentencing Commission. (2010). Demographic differences in federal Sentencing practices: An update of the Booker report’s multivariate regression analysis. Washington, DC: United States Sentencing Commission.
- United States Sentencing Commission. (2009). Overview of federal criminal cases fiscal year 2008. Washington, DC: United States Sentencing Commission.
- United States Sentencing Commission. (2008). Sourcebook of federal sentencing statistics. Washington, DC: United States Sentencing Commission.
- United States Sentencing Commission. (2006). Final report on the impact of United States v. Booker on federal sentencing. Washington, DC: United States Sentencing Commission.

- United States Sentencing Commission. (2004). *Fifteen years of guidelines sentencing: An assessment of how well the federal criminal justice system is achieving the goals of sentencing reform*. Washington, DC: Sentencing Commission.
- United States Sentencing Commission. (2003). *Downward departures from the federal sentencing guidelines*. Washington, DC: United States Sentencing Commission.
- U.S. Census Bureau (2011). Race data. Retrieved from <http://www.census.gov/population/www/socdem/race/racefactcb.html>.
- U.S. Census Bureau. (2000). Region and Country or Area of Birth of the Foreign-Born Population: 2000. Retrieved from http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_00_SF3_QTP15&prodType=table.
- U.S. Commission on Immigration. (1911). *Immigrants in industries: Part 25: Japanese and other immigrant races in the Pacific Coast and Rocky Mountain States: Agriculture*. Washington, D.C.: Government Printing Office.
- Warner, J.A. (2005). The social construction of the criminal alien in immigration law, enforcement practice and statistical enumeration: Consequences for immigrant stereotyping. *Journal of Social and Ecological Boundaries, 1*, 56-80.
- Waters, M. C., & Jimenez, R. (2005). Assessing immigrant assimilation: New empirical and theoretical challenges. *Annual Review of Sociology, 31*, 105-125.
- Wang, X. (2012). Undocumented immigrants as perceived criminal threat: A test of the minority threat perspective. *Criminology, 50*, 743-776.
- Wang, X., & Mears, D.P. (2010). Examining the direct and interactive effects of changes in racial and ethnic threat on sentencing decisions. *Journal of Research in Crime and Delinquency, 47*, 522-557.
- Weisburd, D., & Britt, C. L. (2003). *Statistics in criminal justice* (2nd ed.). Belmont, CA: Wadsworth.
- Wolfe, S.E., Pyrooz, D.C., & Spohn, C. (2011). Unraveling the effect of offender citizenship status on federal sentencing outcomes. *Social Science Research, 40*, 349-362.
- Wright, E.M., & Benson, M.L. (2010). Immigration and intimate partner violence: Exploring the immigrant paradox. *Social Problems, 57*, 480-503.

Zatz, M. (1984). Race, ethnicity, and determinate sentencing: A new dimension to an old controversy. *Criminology*, 22, 147–171.

Cases Cited

Apprendi v. New Jersey (2000). Supreme Court of the United States 530 U.S. 466.
Blakely v. Washington. (2004). Supreme Court of the United States 542 U.S. 296.
Gall v. United States. (2007). Supreme Court of the United States 552 U.S. 38.
United States v. Booker. (2005). Supreme Court of the United States 543 U.S. 220.
U.S. v. Borrero-Isaza, 887 F.2d 1349, 1352 (9th Cir. 1989).
U.S. v. Gomez, 797 F.2d 417 (7th Cir. 1986).
U.S. v. Onwuemene, 933 F.2d 650, 651 (8th Cir. 1991).

Appendix A: Federal Drug Offenses by Drug Type

Drug type

Cocaine

Crack

Marijuana

Hashish

Hashish oil

Methamphetamine

Meth mix

Meth actual

Ice

Meth precursor

Other drug

Heroin

LSD

PCP

MDMA/Ecstasy

Steroids

Amphetamine

Dilaudid

Opium

Schedule I/II Depressants (Other nonspecified prescription drugs)

Drug Paraphernalia

Methcathinone

PCP Actual

Flunitrazepam (Ruffies)

Gamma-hydroxybutyric acid

Alpha-Methylfentanyl

Dextromoramide

Dipipanone

3-Methylfentanyl

1-Methyl-4-Phenyl-4-propionoxypiperidine/MPPP

1-(2-Phenylethyl)-4-phenyl-4-acetyloxypiperidine/PEPAP
Alphaprodine
Fentanyl n-phenyl
Levorphanol
Meperidine/Pethidine
Methadone
Monoacetylmorphine
Morphine
Oxycodone (Actual)
Oxymorphone
Racemorphan
Codeine
Dextropropoxyphene/Propoxyphene-Bulk
Ethylmorphine
Hydrocodone
Mixed Alkaloids-Opium/Papveretum
N-Ethylamphetamine
Fenethyline
Dextroamphetamine
Khat
Methylaminorex
Ritalin
Phenmetrazine
Phenylacetone-P2P (for meth mfg.)
Phenylacetone-P2P (other)
Aminorex
N-N-Dimethylamphetamine
Bufotenine
Diethyltryptamine/DET
Dimethyltryptamine/DMT
Mescaline
Dry Psilcybin (mushrooms)

Wet Psilocybin (mushrooms)
Dry Peyote
Wet Peyote
Psilocin
Psilocybin
Pyrroldine Analog of Phencyclidine/PHP
Thiophene Analog of Phencyclidine/TCP
4-Bromo-2,5-Dimethoxyamphetamine/DOB
2,5-Dimethoxy-4-methylamphetamine/DOM
3,4-Methylenedioxyamphetamine/MDA
3,4-Methylenedioxy-Nethylamphetamine/MDEA
1-Piperidinocyclohexanecarbonitrile/PCC
N-ethyl-phenylcyclohexylamine/PCE
Tetrahydrocannabinol (Organic)
Tetrahydrocannabinol (Synth)
Schedule III Subst.
Schedule IV Subst.
Schedule V Subst.
Levo-alpha-methadol/LAAM
Amphetamine Actual
Ephedrine
Phenylpropanolamine
Pseudoephedrine
Oxycontin
Marijuana Plant
Ketamine
1,4-Butanediol
Gamma Butyrolactone
