

Exploring Immigrant (In)Security: Arizona, California, New York, and Texas

Immigration has historically been an omnipresent subject within American politics, but it has seen a recent spike in saliency since the 2016 presidential election. There is an abundance of literature examining the application of immigration policies on the national level; in contrast, applications on the state level are often overlooked due to lack of information and sheer variance. Disparity among the states is both understandable and expected. States have different priorities, structures, and resources, which ultimately produces different policy outcomes and patterns of enforcement. This paper adds to the existing literature by examining this often overlooked aspect of U.S. immigration—the devolution of enforcement practices and policies to state and local authorities.

The first part of this paper considers past and present arrangements of the U.S. immigration system, emphasizing historic federal policies that have shaped the current field. The second part compiles some of the major immigration ordinances of four states—Arizona, California, New York, and Texas—with estimated unauthorized populations of over 200,000 to compare how they treat non-citizens in their communities. The author considers state immigration laws designed to deter or accommodate immigrants, such as laws associated with employment, health, and identification, to infer how the lives of undocumented immigrants vary based on where they live. In the third part, the author examines federal deportation statistics from the Department of Homeland Security (DHS), as well as local deportation and apprehension statistics from the U.S. Immigration and Customs Enforcement (ICE) to determine whether an unauthorized migrant has an increased chance of being deported based on which state they live in.

This paper focuses on state bills ratified between 2008 and 2018 because the Secure Communities Program (SCP)—the comprehensive deportation program expanded under the Obama Administration—was established in 2008. SCP relies on cooperation between federal and state enforcement agencies to identify and remove deportable immigrants in U.S. jails.¹ SCP was temporarily suspended in 2014 in favor of the Priority Enforcement Program (PEP)—which focused resources only on the most dangerous criminals and most recent unlawful border crossers—but SCP was restarted by an executive order under President Donald Trump in 2017. The author specifically covers state law enforcement legislation in the four aforementioned states during this time frame to determine whether they turned more stringent in order to compare the degree of federal-state cooperation among them. The paper concludes with a few remarks about the current landscape of the U.S. immigration system and recommendations for future research.

U.S. Immigration: Past and Present

Immigration has been a fiercely contested subject within the U.S. political sphere for decades. Unauthorized migration, in particular, is one aspect of immigration that has received overwhelming amounts of media attention since the 1980s² Immigration policy encompasses a range of matters, but unauthorized border crossings have been the dominant theme for years, even though the illegal immigration crisis does not stem from migrants crossing the border, but from individuals coming here legally, and then overstaying their visas.³ Frankly, the current arrangement of the U.S. immigration system is unsuited to the shifting, interconnected global economy of today. It is a structure marked with restrictions, and its plethora of inadequacies have contributed to the mounting dilemma of illegal migration into the country; from extensive processing times and restricted opportunities for legal immigrants to the micromanagement of immigrants based on their demographics.

Public policies that affect society as profoundly as do immigration policies are rare; the vastness of the field makes it difficult to engage. While there is no shortage of possible solutions put forth by legislators and specialists alike, restructuring entrenched systems of practice can be challenging, especially considering how divisive people's views of immigrants—particularly undocumented immigrants or aliens⁴—are. For instance, in 2018, illegal immigration was considered the highest-ranked national problem for Republican voters, but for Democrats, it ranked far lower than other crucial issues such as climate change and gun violence.⁵ This implies differences related to the priorities of members of Congress and the kind of legislation passed in a given timeframe. While both major parties agree that a functioning immigration system contributes to a stronger country overall, there is large-scale disagreement on what the best method to achieve that is. These differences affect national party agendas and state policy outcomes, on top of making it more challenging to enact piecemeal legislation that might remedy current issues. Owing to the lack of federal action, individual states have begun to take the initiative. Although unable to change existing federal statutes, states can pass policies that impact the lives of immigrants within their jurisdictions. They may pass supplementary laws that can, for instance, establish employee screening or identification requirements. In recent years, some states have even attempted to stem the flow of illegal immigration by enacting laws that deter immigrants from residing in their territory.⁶ Currently, the treatment of undocumented immigrants varies by state. Some states like New Mexico, Illinois, and California allow them to get driver's licenses and even receive tuition benefits, while others like Georgia, South Carolina, and Alabama give local police the authority to demand credentials from those that they suspect of illicit entry.⁷

There is no question that the U.S. was built on the backs of immigrants, but at the same time, it has always been a nation with robust nativist customs. According to Eric Foner, America was founded on the premise of liberty being “an entitlement to all mankind... [but] from the outset, [the U.S.] blatantly deprived many of its own people of freedom.”⁸ Contrary to popular belief, America has never had fully open borders, nor has it welcomed all potential immigrants.⁹ This is due, in part, to lawmakers that have steadily argued that the nation’s first responsibility is to its citizens. Michael Walzer, in his book, *Spheres of Justice: A Defense of Pluralism and Equality*, states, “Neighborhoods can be open only if countries are at least potentially closed.”¹⁰ The assertion that we can only fulfill our responsibilities to citizens if we exclude foreigners has been prevalent for years. Consequently, Americans have historically made it difficult for immigrants to receive legal citizenship status. Prior naturalization laws limited citizenship to white males with good moral character. Today, exclusion has become more indirect. Pathways to citizenship are bogged down by lengthy admission processes, nationality quotas, and expansions in immigration enforcement agencies that obstruct entrance into the U.S. for migrants that do not have the means to utilize a more formal channel.

While it might appear that U.S. immigration laws have become more stringent in recent years due to growing political sensitivity and enhancements in the government’s administrative capacity, strict policies date as far back as 1790 with the passage of the first Naturalization Act, which set the criteria for naturalization to free, white men. A person’s race and gender were, therefore, enough grounds to make an individual ineligible for citizenship. This stark divide between white and non-white shaped immigration policies for centuries; racial restrictions to citizenship were not officially removed until 1952, with the passage of the Immigration and Nationality Act, otherwise known as the McCarran-Walter Act.¹¹ The 1790 Naturalization Act

also inevitably tied immigration with security because of the rights that come with the granting of citizenship, particularly who is and is not protected under the law or recognized by local authorities. Selective deployment of rights and narrow avenues for naturalization imposed a distinct kind of non-belonging to excepted groups.

The next major restrictive legislation passed by the federal government was the Page Act of 1875; this barred the migration of most Chinese laborers and Chinese women suspected of being prostitutes.¹² The Page Act laid the groundwork for the Chinese Exclusion Act in 1882, which completely banned Chinese laborers from migrating for ten years. It was frequently built upon by subsequent statutes like the Scott Act of 1888, which prevented Chinese laborers that went abroad from returning. It was also extended after the initial decade outlined during the bill's passage was up by the 1892 Geary Act (an additional ten years) and the 1904 Chinese Exclusion Extension Act (an indefinite extension). According to the 1882 policy, Chinese migrants that had resided in the U.S. prior to 1880 could remain, but were forbidden from naturalizing. This ultimately limited avenues of integration. Naturalization is a critical step in the immigration process; preventing the right to apply for it inevitably marked the legal population as "separate and unequal."¹³ While the ban was eventually lifted in 1943 by the Magnuson Act, a cap on the number of Chinese immigrants able to come to America was concurrently established—only 105 per year were permitted entry.

The 1882 Immigration Act imposed a tax on non-citizens and prevented mentally ill and disabled individuals from migrating. The Anarchist Exclusion Act in 1903 regulated immigrants based on their political beliefs. This law defines anarchists as, "persons who believe in or advocate the overthrow by force or violence of the Government of the United States or of all governments or all forms of law, or the assassination of public officials."¹⁴ The Anarchist

Exclusion Act was the first law of its kind to restrict migrants based on their political leanings and expressions. Americans labelled anarchism as a foreign ideology brought to the U.S. by European immigrants, thus deportation was seen as the only viable solution to preventing similar notions from spreading.¹⁵ This law ultimately set the stage for the exclusion of alleged communists in the 1950s.

The 1917 Asiatic Barred Zone Act prohibited the migration of foreigners from most Asian countries. The 1921 Per Centum Law established quotas on immigration based on nationality. The 1924 Johnson-Reed Act decreased the immigration cap, formally restricted Japanese immigration, and provided funding to courts and immigration law enforcement. All three of these laws were enacted in an attempt to stunt immigrant laborers from entering the country because of growing opposition among American workers. The Labor Appropriation Act, which established the U.S. Border Patrol to combat illegal immigration was also enacted in 1924. The internment of Japanese-Americans during World War II revealed widespread beliefs that immigrants posed a potential security risk during times of war. This highlighted who Americans viewed as outsiders, regardless of their formal citizenship status. The list of examples goes on.¹⁶

The creation of the Immigration and Naturalization Service (INS) in 1933 shifted the landscape of American immigration. It merged matters pertaining to border enforcement, immigration, and naturalization into one umbrella agency. The INS was dissolved when most of its functions were transferred to various sub-agencies within the Department of Homeland Security (DHS), which was created in 2002 after the tragic 9/11 terrorist attacks. These sub-agencies were the U.S. Citizenship and Immigration Services (USCIS), Customs and Borders Protection (CBP), and Immigration and Customs Enforcement (ICE). The division of labor among these agencies allowed restrictive policies to be appropriately enforced, and with the rise

of information technology, data could be easily shared between departments. As an example of the success of immigration enforcement today, one can turn to the yearly immigration statistics published by the DHS. According to their yearbooks, the U.S. has deported 200,000 to 400,000 unauthorized immigrants annually since 2003. The U.S. has also returned over 7 million and arrested over 10 million throughout the last two decades.¹⁷

Looking back at America's long history of exclusionary policies, excessive restriction can be considered the norm. The historic policies outlined above suggest that rather than being a nation open to immigrants, America functions more as a "gatekeeper" that excludes explicit groups of people—if not from entering the country, than from economic and political participation once they are inside.¹⁸ Restrictive federal immigration policies impact state policy formation and local policing by directing the priorities and resources of states. States cannot change federal immigration statutes, they can only boost or limit their efficacy within their territories through the enactment of state laws. There is an abundance of literature examining the application of immigration policies on the national level, in contrast, few scholarly works analyze state immigration policies due, in part, to how difficult and time-consuming it is to individually examine the factors that have shaped the unique history of immigration in every state. Immigration scholars that do examine state immigration policies tend to focus only on states that have enacted restrictive omnibus legislation or on the factors that influence the passage of state immigration bills.¹⁹

More significant research into state immigration policy and the factors that drive state policy formation are necessary because immigration politics and enforcement has largely devolved to the states. With only about 20,000 ICE employees and an estimated 12 million undocumented immigrants, working in tandem with state authorities to enforce federal

immigration laws is inevitable.²⁰ Enforcement redundancy is the norm in America, and delegation has become especially pervasive in the field of immigration.²¹ States, however, have different priorities and resources, which produce different patterns of enforcement. Variation on the state level is understandable, considering the complexity of actors and issues that affect local practices. For example, the ideologies and attitudes of sheriffs, as well as the partisanship of a given state, are of particular importance when it comes to considering the distinct approaches applied by local law enforcement towards immigrants.²²

Some states opt for an indirect form of exclusion by creating policies that limit an unauthorized immigrant's ability to access public institutions or to find a job. This can cause legal immigrants to view the state as hostile toward those of the same ethnicity and make them behave in ways that mirror the behavior of an unauthorized immigrant.²³ States can also choose a more blatant form of exclusion by passing interior enforcement policies that boost federal-state cooperation to identify and deport illegal immigrants. Finally, states may choose to do the opposite by passing laws that restrict the level of federal-state cooperation between enforcement agencies. These differences can be seen in the succeeding section.

State Immigration Laws

In the beginning, states independently regulated immigration, but a string of Supreme Court cases—*Passenger Cases* (1849), *Crandall v. Nevada* (1867), *Henderson v. Mayor of the City of New York* (1875), *Chy Lung v. Freeman* (1875)—transferred authority to the federal government.²⁴ The national immigration detention system developed steadily after these cases. The McCarran-Walter Act in 1952 expanded the powers of the Border Patrol Agency and gave immigration officials authority to detain non-citizens whose deportation statuses were pending.²⁵ Forty years later, the Illegal Immigration Reform and Responsibility Act (IIRIRA) of 1996

further extended those powers. IIRIRA authorized training of police at all levels to enforce federal immigration laws, specified immigrants subject to detention, added consequences for aliens that committed crimes in the U.S., and allowed the Attorney General to erect a wall on the southwest border.²⁶ These changes continue to guide immigration enforcement practices today.

Kunal Parker, a professor at the University of Miami School of Law, argues in his book, *Making Foreigners*, that, “Designation as foreign is not a function of coming from the territorial outside. It is a political strategy that has been used inside *and* outside the country to multiple ends.”²⁷ For Parker, the acquisition of citizenship is a process of being rendered less foreign. He posits that exclusionary techniques employed by agencies are not only applied to groups of people outside of the country, but also to groups residing within. This becomes clear when examining the two ways that state immigration policies diverged after the passage of the IIRIRA. In response to spreading fears of deportation and incarceration, states either passed confidentiality legislation that minimized the ability of local officials to investigate an individual’s citizenship status or deterrence legislation that discouraged unlawful settlement.²⁸

Since IIRIRA’s ratification, pressure on local authorities to identify aliens has increased. In turn, state exclusionary ordinances have proliferated over the last two decades—most common are those that affect an undocumented migrant’s ability to find employment.²⁹ Local approaches to handling immigrants are sometimes met with substantial dissent by anti- or pro-immigration groups. This is due to several reasons, such as their variance or the general sentiments pervasive within a given community. To remedy this, state legislatures implement policies that make applications more uniform, or in other words, limit the discretion of local authorities.³⁰ Many of the policies outlined below will make this more apparent.

Arizona

In 2010, Arizona enacted the Support Our Law Enforcement and Safe Neighborhoods Act or Arizona Senate Bill 1070, which was then considered to be the “most stringent immigration law in generations.”³¹ Provisions of the act allowed local authorities to check the immigration status of persons they “reasonably suspected” of being in the U.S. illegally; required immigrants over the age of eighteen to carry registration documents at all times; and established penalties for persons harboring unauthorized migrants or encouraging them to reside in the state if they knew that those migrants would be violating the law.³² This was revolutionary because it essentially allowed Arizona to prosecute immigrants independent of the federal government.

Opponents of the bill argued that it encouraged racial profiling, diverted valuable police resources, and sidetracked authorities from investigating other criminal actions in favor of questioning immigrants.³³ The constitutionality of S.B. 1070 was questioned in the 2012 Supreme Court case, *Arizona v. United States*, which blocked most of the law’s major provisions, although it did keep the section that allowed officials to check the legal status of suspected immigrants.³⁴ The 2010 Act caused similar bills to be introduced into other state legislatures such as South Carolina and Minnesota.

The following list is a selective compilation of other notable immigration bills in Arizona.³⁵ Summaries were retrieved from the immigration policy database of the National Conference of State Legislatures (NCSL), a non-governmental organization established in the mid-1970s that facilitates interstate information-sharing. Notably, the majority of Arizona’s recent state immigration laws are restrictive.

- *AZ H 2725* (2010) – Concerns citizenship requirements for the issuing of loans for tuition, instructional materials and mandatory fees of the education of students who are pursuing a teaching degree in the state.
- *AZ S 1398* (2011) – Helps fund Arizona's Gang and Immigration Intelligence Team by levying a penalty assessment on every fine collected for a civil traffic or motor vehicle violation, and violations of other local ordinances.
- *AZ S 1406* (2011) – Allows the governor to enter a compact with other states to provide construction and maintenance for a secure fence along the Arizona-Mexico border.
- *AZ H 2016* (2011) – Requires a person applying for eligibility for health services to prove their U.S. citizenship or qualified alien status.
- *AZ H 2191* (2011) – Undocumented immigrants will not be awarded punitive damages in any court action.
- *AZ H 2353* (2011) – Labels a "prohibited possessor" as an undocumented alien or nonimmigrant alien traveling in Arizona or who is studying in Arizona and who maintains a foreign residence abroad. It also denies bail for a person present in the U.S. illegally.
- *AZ S 1149* (2012) – Makes it illegal for undocumented immigrants to possess a firearm.
- *AZ H 2050* (2014) – Makes persons who are nonresident aliens temporarily residing in the United States, who hold an F-1, J-1, M-1, or Q-1 visa when services are performed are ineligible for membership in the Arizona State Retirement System.
- *AZ H 2462* (2014) – Allows for the construction of both physical and virtual border fences, stipulates the location of a fence to be within one mile of the border, and allows for the use of technology to the maximum extent practicable.
- *AZ H 2639* (2014) – Persons that knowingly accepting the identity of another person and using it to verify work eligibility is classified as a class 3 felony.

California

Once known for its extreme anti-immigrant stances, California has taken major steps to protect and expand the rights of immigrants, equalize access to public benefits and higher education, and limit the roles of immigration enforcement agencies that must comply with federal laws. California is home to the largest immigrant population in the country, so their investment in pro-immigration laws is not surprising. The extent of their transformation since 1994—when Proposition 187, which would have made aliens ineligible for most public benefits and services, was initiated—is noteworthy. Since 2008, California has enacted over 200 pro-immigration laws that have considerably tapered the effectiveness of the SCP.³⁶

California makes it easier for undocumented immigrants to join labor unions, access state IDs, and find jobs because of restrictions on the usage of E-Verify. Due to of their enactment of

the DREAM Act, undocumented immigrants are also able to receive tuition benefits and pay the same in-state tuition rates as legal residents.³⁷ Federal law mandates that undocumented immigrants are ineligible to receive most public benefits. California, however, has ratified several bills that allow them access to emergency care or other parts of the healthcare system.

Due to the sheer volume of enacted laws, the following list only contains select enforcement-related legislation, many of which were passed during the Trump administration when salience of immigration-related issues increased. Summaries were provided by the NCSL.

- *CA S 1021* (2012) – Inmates with an immigration hold, and who have been convicted of selling, possession, manufacturing or transporting of controlled substances, robbery or burglary would be considered on a case-by-case basis for a community treatment program.
- *CA A 2792* (2016) – Requires a local law enforcement agency, prior to an interview between ICE and an individual in custody regarding civil immigration violations, to provide the individual a written consent form that would explain the purpose of the interview, that it is voluntary, and that the individual may decline to be interviewed.
- *CA S 112* (2017) – Prohibits local law enforcement agencies that did not, as of June 15, 2017, have a contract with the federal government to detain adult noncitizens for purposes of civil immigration custody, is prohibited from entering into a contract with the federal government. The law prevents renewal or modification of existing contracts.
- *CA A 493* (2017) – Prohibits a peace officer from detaining an individual for actual or suspected immigration violations or turning the individual to federal immigration authorities whenever an individual who is a victim of or witness to a hate crime or who can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law.
- *CA A 1440* (2017) – Specifies that ICE and CBP officers are not California peace officers.
- *CA S 1194* (2018) – Prohibits lodging and bus transportation agencies from disclosing private information to a 3rd party, such as an immigration enforcement agent, without a court-issued subpoena, warrant, or order.
- *CA S 1494* (2018) – Allows law enforcement officials discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy.

New York

New York has adopted a middle-of-the-road approach to immigration. They have passed significantly fewer immigration legislation than either of the two previous states—only a little over thirty since 2008, of which a sizable number was vetoed by the Governor. Several of their enacted bills also only concern appropriations. NY State Senate Bill 8167 (2010),³⁸ for example,

provides emergency funds to various agencies in New York, including immigrant assistance programs that help non-citizens obtain citizenship. Several other appropriations bills over the years—NY Assembly Bill 8550 (2014), NY Senate Bill 5492 (2017), NY Senate Bill 2003 (2017)³⁹—also provides funds for immigration and refugee agencies. This includes those that provide resettlement services and those responsible for incarcerating and apprehending undocumented immigrants.

State laws place particular emphasis on the families of non-citizens. For instance, NY Assembly Bill 7899 (2018)⁴⁰ declares that when the legal guardian of a child is detained or deported because of a federal immigration matter, then advanced notice must be provided by authorities affirming that any children may not be cared for. Unlike California, there are no regulations that appear to hinder the SCP directly. On the contrary, under NY Senate Bill 2605 (2013),⁴¹ which provided a framework for the establishment of a federal-state digital information sharing system to exchange criminal history records for non-criminal purposes, matters pertaining to immigration and naturalization are considered “non-criminal purposes.” This network may boost immigration enforcement procedures.

New York does not require E-Verify for employment or voter identification to vote. Under the 2019 Green Light Law, undocumented immigrants over sixteen may also apply for a standard driver’s license regardless of their citizenship status.⁴² New York does, however, have gun licensing restrictions that make it difficult, if not impossible, for unauthorized immigrants to legally obtain a firearm.

- *NY A 9706* (2010) – Amends real estate law and requires that any person seeking a real estate broker license be legally permitted to work in the United States.
- *NY S 8167* (2010) – Appropriates funds to agencies including refugee resettlement and assistance programs and programs which assist non-citizens in their attainment of citizenship status.
- *NY S 2605* (2013) – This law, which relates to an electronic information sharing system to exchange criminal history records for noncriminal justice purposes authorized by federal or state law, defines noncriminal justice matters to include the use of criminal history records for purposes other than criminal justice matters, including immigration and naturalization matters.
- *NY A 8550* (2014) – Guarantees at least \$34m in funding to provide for the incarceration and apprehension of undocumented immigrants.
- *NY S 6914* (2014) - enables MAGI eligible aliens lawfully present in the United States with household incomes at or below 133% of the federal poverty line to receive coverage for basic health care services if such alien would be ineligible for medical assistance due to his or her immigration status.
- *NY S 6353* (2014) – Strips some of the funding that would have assisted immigrant and asylee populations for services such as case management, English-as-a-second-language education, job training and placement assistance, and post-employment services, strips funding for services to the children of migrant workers.

Texas

Despite also having a high number of immigrants, Texas immigration ordinances differ sharply from California. The majority of enacted bills throughout the last decade concern the detection of trafficked people and goods, job-related licensures, basic procedures if a student or employee is required to fulfill immigration-related paperwork, alternative assessments for non-native English speakers, and emergency funding for relevant administrative agencies. Those that pertain to eligibility for public benefits require individuals to have either U.S. citizenship or legal permanent resident status (LPR) for a predetermined number of years. All state agencies in Texas must also participate in E-Verify.

Notwithstanding their reservation for allowing more opportunities for undocumented immigrants, in 2015, Texas enacted a law that prioritized setting policy goals and raising public awareness of the major social issues that affected the state due to demographic changes.⁴³ Considering the transformation of state laws in Arizona, California, and New York throughout

the decade, influxes of migration were at least tacitly acknowledged, but no other states produced similar legislation. Whether raising public awareness involved calling attention to predominantly negative or positive issues is not the focus of this paper, but it is important to note that public opinion regarding immigrants—particularly illegal ones—can affect state legislatures.

Texas has significantly more law enforcement bills than any other state examined. Most of their laws emphasize augmenting the local capabilities of state authorities with that of federal ones, as shown in the list below. The following list is not exhaustive. Summaries were provided by the NCSL.

- *TX S 315* (2011) – Establishes communication among criminal justice, juvenile justice, and correctional agencies, combining independent agency resources, and joining agencies together in a cooperative effort to focus on gang membership, gang activity, and gang migration trends. The taskforce should consult with federal agencies including ICE and CBP.
- *TX S 530* (2011) – Grants ICE Special Agents the powers of arrest, search, and seizure.
- *TX H 1272* (2012) – Mandates that state and local governments participate in the collection of statistical data including geographic routes, by which individuals are trafficked across international borders.
- *TX H 11* (2015) – Creates the Transnational and Organized Crime Division, provides for department assistance at international border checkpoints to prevent the unlawful transfer of contraband or other unlawful activity, and creates the Texas Transnational Intelligence Center to address transnational criminal activity, including smuggling of persons, along the Texas-Mexico border and throughout the rest of the state.
- *TX H 12* (2015) – Directs the governor to establish a border prosecution unit within the criminal justice division to cooperate with and support members of the unit in prosecuting border crime, or crimes involving transnational criminal activity committed by persons who are not citizens.
- *TX S 4* (2017) – Prohibits localities, institutions of higher education, police departments, sheriffs, municipal or county attorneys from adopting policies that prohibit enforcement of state and federal immigration laws. Violations can result in civil penalties. The law does not apply to hospitals, public health departments, or school districts. Law enforcement must comply with federal detainer requests.

Federal and State Removals

Deportation is a powerful tool for immigration control. As more individuals continue to be deported from the U.S., deportation has become a central theme for policymakers debating immigration reform. The degree to which federal and state authorities apply deportation varies.

Prior to showing deportation data, the author would first like to differentiate between removals and returns. According to the DHS, removed (or deported) individuals are taken out of the country based on an order of removal, while those that are returned are usually apprehended at the border, then turned away.⁴⁴ Since returned individuals never enter U.S. territory, their movement is not based on an order of removal. The following statistics will only cover deported immigrants. Finally, expedited removal refers to the legal authority given to immigration officers by the IIRIRA to deport an alien without due process.⁴⁵ In 2019, the DHS announced that it would exercise the full degree of expedited removal allowed by the law.⁴⁶

Figure 1 compiles deportation data from the DHS Yearbook of Immigration Statistics to show the number of aliens removed in the U.S. from 2000 to 2018.⁴⁷ As the figure illustrates, during the years when new administrative agencies that catalyzed the growth of immigration detention were created, the overall number of deportations also rose. When the DHS was created in 2003, for example, the annual number of deported immigrants rose by almost 50,000. Prior to the nation-wide launch of SCP in 2008, deportation numbers had already been rising. This reflects growing enforcement capabilities and priorities that emphasized the removal of criminal aliens. By the time SCP was introduced, the number of annual deportations increased to 400,000. Expectedly, that number dropped when the SCP was suspended in 2014. Despite its reinstatement in 2017, deportation numbers in that year dipped. 2018, however, points to another rise in deportations. This indicates a possible lag in the revitalization of SCP networks.

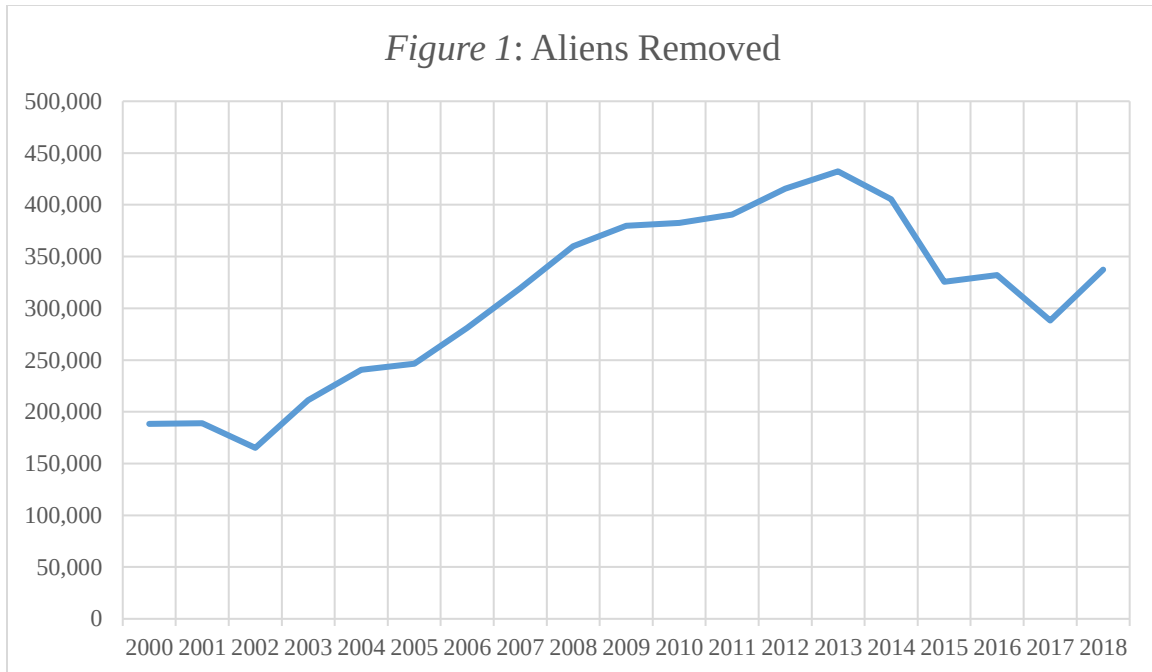


Table 1 provides a snapshot of population estimates in Arizona, California, New York, and Texas by using data from the Migration Policy Institute and the U.S. Census Bureau.⁴⁸ Each state has an alien population of over 200,000 and a legal immigrant population of at least 900,000. California has the largest population in all three categories, while Arizona has the smallest. These figures offer a rudimentary reason for why some enact policies that prioritize benefits for immigrants more than other states.

<i>Table 1: Population Estimates</i>			
State	Total Population	Immigrant Population	Unauthorized Population
Arizona	7,278,717	933,200	226,000
California	39,512,223	10,537,500	3,059,000
New York	19,453,561	4,439,900	940,000
Texas	28,995,881	4,736,700	1,597,000

Figure 2 uses population data from the Migration Policy Institute to show how the immigrant population in each of the four examined states has transformed throughout the last three decades,⁴⁹ which may help clarify subsequent datasets. Demographic changes can also explain possible reasons behind anti-immigration legislation passed in states like Arizona, which

saw a staggering 135.9 percent increase in their immigrant population between 1990 and 2000. This rapid change, coupled with other factors such as the state's proximity to national borders or the degree to which natives perceived these immigrants as dangers to society can combine to produce more conservative policy outcomes.⁵⁰ Influxes of migration were more common in all states from 1990 to 2000 due to more lenient immigration practices during the first half of that decade. Those numbers dropped as the years progressed due to new legislation introduced on the state and national level, as well as changes in the citizenship statuses of immigrants.

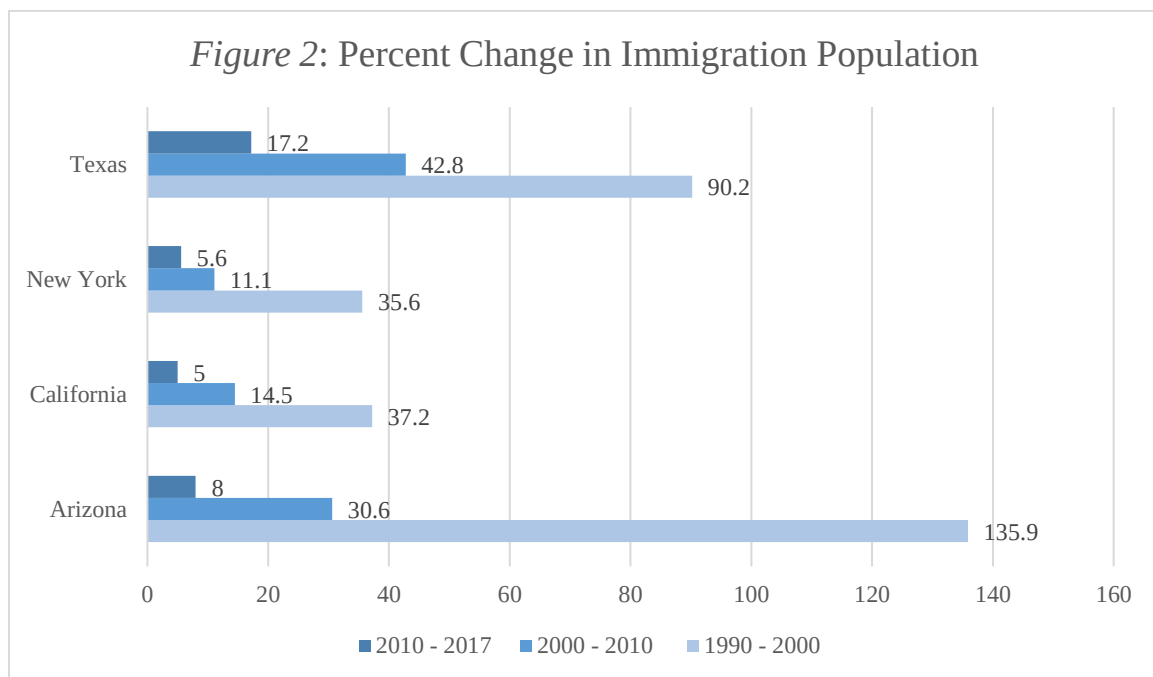


Figure 3 displays the total number of ICE deportations by state. *Figures 4 to 7* individually graphs the deportation statistics of Arizona, California, New York, and Texas for clearer analysis.⁵¹ The following figures allow for greater insight into how federal immigration initiatives can be made more or less effective on the state-level through the implementation of state policies that impact the local authority of national enforcement agencies such as ICE.

When considering national-level changes, each state in *Figure 3* follows a similar pattern. Deportations steadily escalate, until a sharp surge occurs in 2008. Quantities then decline in 2014 with the establishment of the PEP program, and then rise again once SCP is reinstated. Deportations in 2017 are notably lower than they were when SCP was enforced under President Obama, but current data does point to potential escalation in the future. Interestingly, Arizona and California, despite their population differences, have had relatively close deportation statistics since 2014. This suggests that their individual state ordinances have a direct impact on the number of individuals ICE identifies and deports.

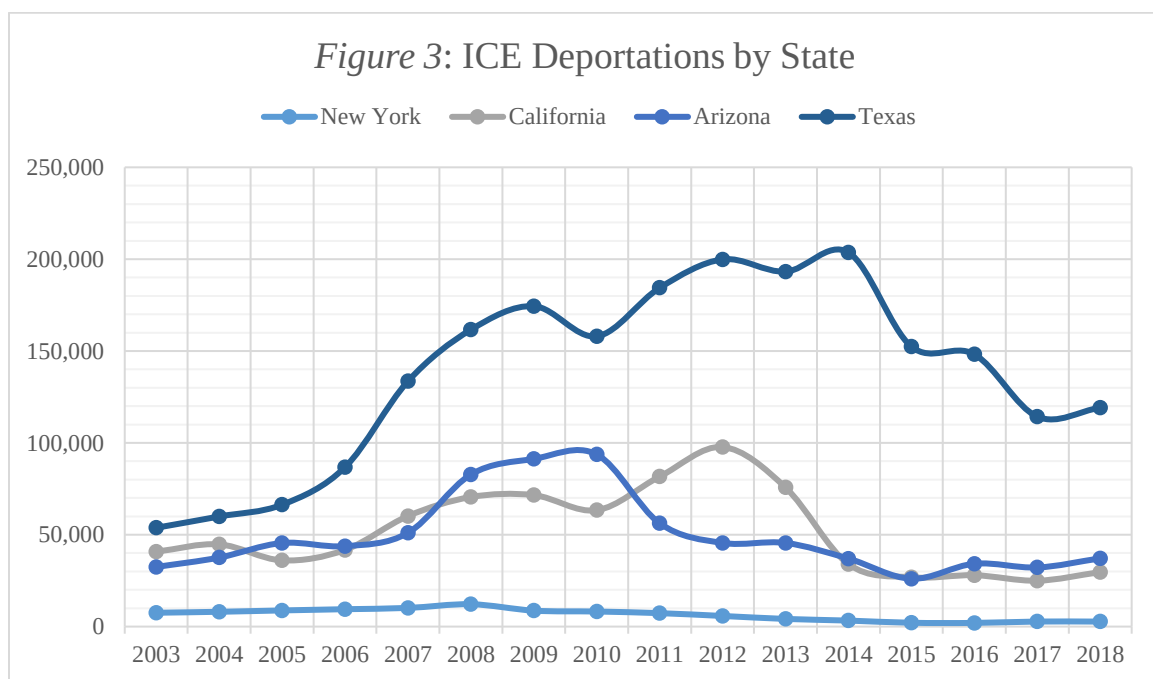


Figure 4 shows the annual number of ICE deportations in Arizona. The amount peaked in 2010, which was when Arizona S.B. 1070 was passed. The swift decline in the following years may be explained by the diminishing unauthorized immigrant population and the changing focus of Arizona state immigration laws. Instead of augmenting federal-state enforcement practices

similar to Texas, after 2010, Arizona focused more on supplementary laws that deterred aliens from settling in the state. This may have also mitigated unlawful border crossings.

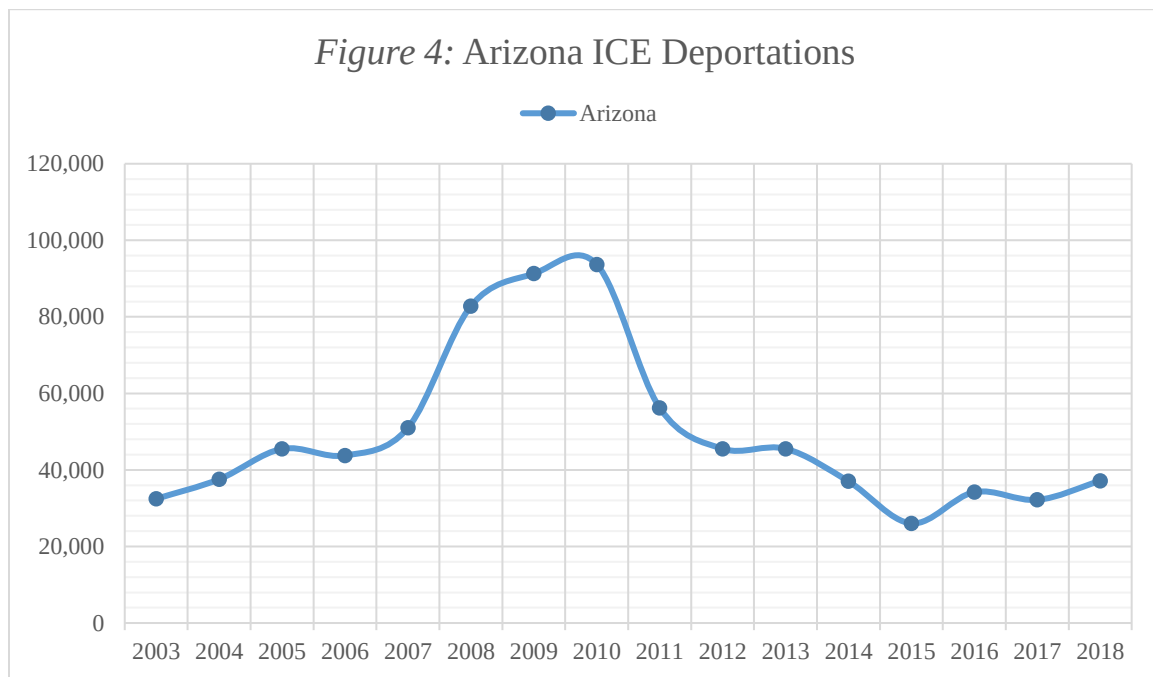
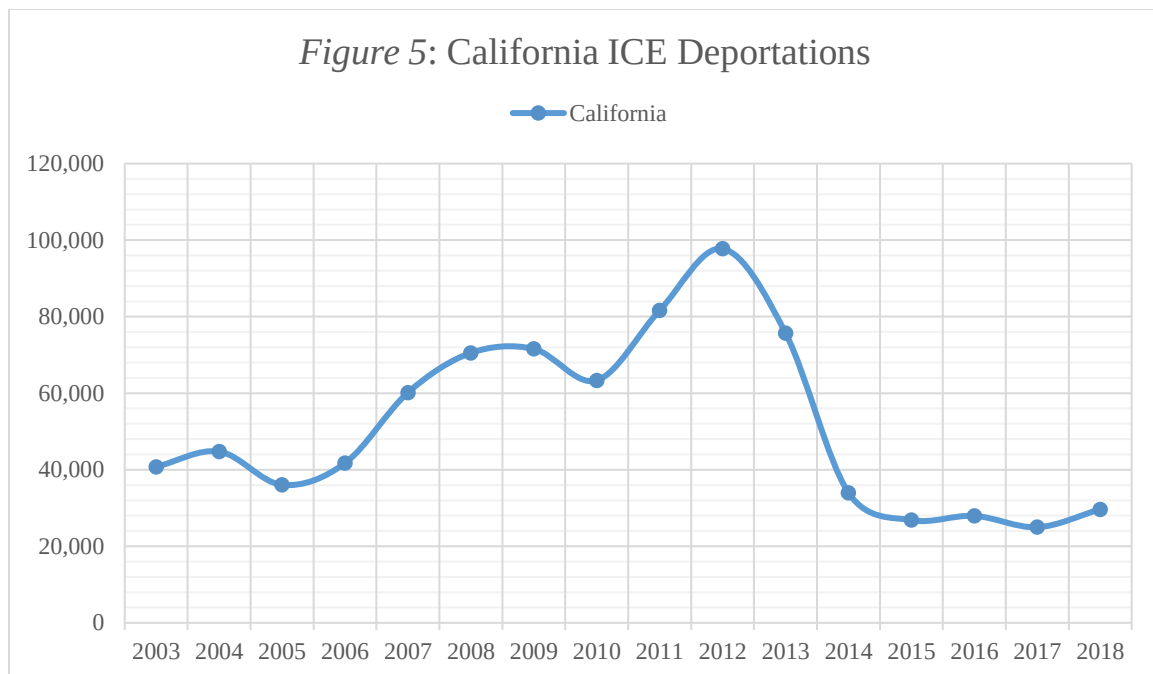


Figure 5 illustrates the annual number of ICE deportations in California. Due to its large immigrant population, ICE has a number of field offices in the state. While deportation numbers have fluctuated throughout the years, there is a notable rise in 2012 that may be explained by a rise in expedited removals following a broader DHS directive.⁵² Statistics declined, then remained relatively steady as California voted for new legislation that limited inquiry into an individual's immigration status and narrowed the authority of federal enforcement agencies in the state.⁵³ Increased saliency regarding border patrol and unauthorized immigration since the 2016 election may have also affected the type of state laws passed in recent years.



As shown in *Figure 6*, despite New York's relatively neutral stance towards state immigration enforcement, the number of aliens they have deported has steadily declined since the SCP was first established. This suggests two possibilities: a decrease in unauthorized migration following SCP or that their lack of action to restrict the autonomy of ICE agents working in their state does not necessarily mean that they emphasized greater federal-state cooperation either. While New York has significantly fewer pro-immigration legislation than California, they have not passed complementary anti-immigrant legislation that would hinder unauthorized immigrants from finding employment or receiving state identification like in Arizona. The exact reasons for this are beyond the scope of this study, but it may partially be attributed to changes in New York's immigrant population over the last three decades (as shown in *Figure 2*), which was not as drastic as Arizona. Instead, population shifts occurred gradually, possibly mitigating issues related to sudden changes in demographics.

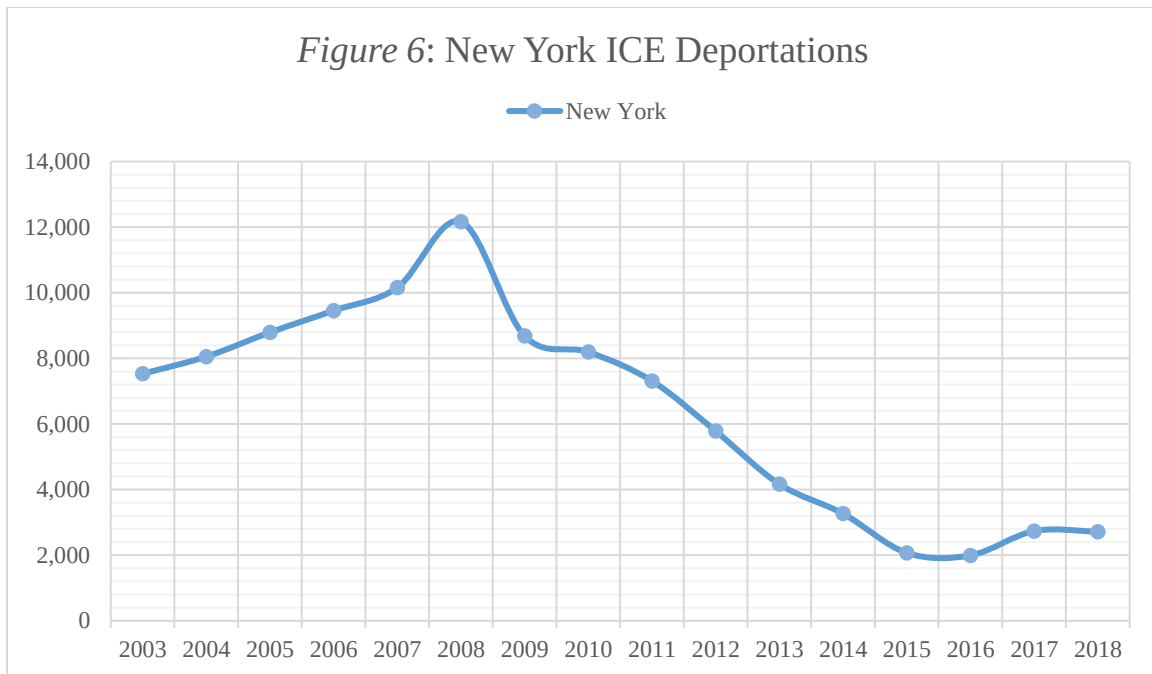


Figure 7 shows the number of annual deportations in Texas. While California deportation statistics have decreased in recent years, Texas removals have remained over 100,000 since 2007. It hit a record high in 2014 (203,674), then sharply declined by about 50,000 the following year. This downturn reflects the national shift from SCP to PEP. Texas has more law enforcement regulations than any other state. Their emphasis on discouraging aliens from coming to or residing in their state, as well as their affirmative attitude towards greater federal-state cooperation is reflective in their higher deportation rates.

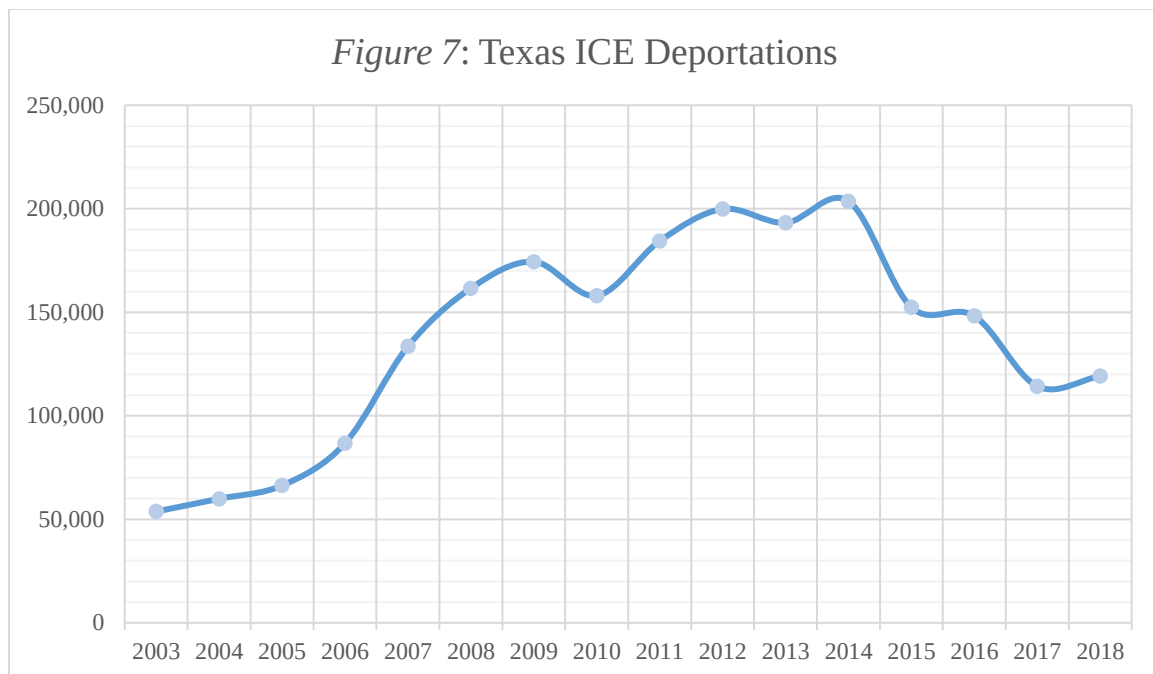


Table 2 breaks down the annual number of ICE arrests and deportations from FY 2016 to FY 2019.⁵⁴ Their corresponding rates are calculated by considering the statistics reported by ICE against the latest unauthorized immigration estimates from the Migration Policy Institute (refer to *Table 1*). Deportation and arrest rates measure per 1,000 estimated unauthorized persons. These statistics are not reflective of the entire state, but instead combine available data from several ICE areas of responsibility within them. Arizona covers Phoenix; New York covers New York City and Buffalo; California covers San Diego, Los Angeles, and San Francisco; Texas covers Dallas, El Paso, Houston, and San Antonio.

Table 2 shows highly variable rates of ICE community arrests and deportations per state. Deportation rates tended to be higher than apprehension rates for all states except New York. Despite Arizona's reduced population, its deportation and apprehension rates mirrored Texas. Since 2016, Arizona's deportation rates even exceeded all other states by a large margin. California and New York, in contrast, shared lower rates for both measures. This suggests that an

alien's odds of being deported and arrested differ vastly based on where they live. Sanctuary states or states with designated sanctuary cities tended to have lower deportation rates and more social opportunities for unauthorized immigrants, while the opposite is true for states with no sanctuary provisions.

<i>Table 2: ICE Deportations and Arrests</i>								
State	ICE Deportations (FY 2019)		ICE Arrests (FY 2019)		ICE Deportations (FY 2018)		ICE Arrests (FY 2018)	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate
Arizona	33,665	148.9	5,904	26.1	26,899	119	7,162	31.7
California	37,135	12.1	14,035	4.6	41,505	13.6	20,064	6.6
New York	4,631	4.9	3,764	4	4,346	4.6	5,058	5.4
Texas	118,512	74.2	42,534	26.6	114,229	71.5	44,885	28.1
State	ICE Deportations (FY 2017)		ICE Arrests (FY 2017)		ICE Deportations (FY 2016)		ICE Arrests (FY 2016)	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate
Arizona	20,786	92	6,457	28.6	21,984	97.3	5,370	23.8
California	35,207	11.5	20,201	6.6	36,369	11.9	17,985	5.9
New York	3,742	4.0	4,070	4.3	2,491	2.7	3,020	3.2
Texas	104,359	65.3	40,487	25.4	143,022	89.6	32,566	20.4

Conclusion

According to the DHS, an estimated 12 million undocumented immigrants are living in the U.S. today.⁵⁵ With only a limited number of ICE agents, it is impossible to apprehend or remove every undocumented immigrant without the help of state and local authorities. States are unable to change federal immigration laws, but they can pass legislation that can limit immigration enforcement and deter or encourage migrant settlement into their state. Such laws directly impact the quality of life an individual leads. A person's access to employment, for example, may be affected by verification systems like E-Verify. State policies that target specific minorities can also affect citizens that share the same ethnicity.⁵⁶

State law enforcement policies since the implementation of SCP have varied. The state's proximity to international borders, the length of those borders, and the current demographics of the state all affect the severity of local immigration enforcement policies. This diverse range of

state legislation has created an uneven landscape of sanctuary states and cities where aliens have a lesser chance of being targeted by immigration authorities. Likewise, it has also created a sundry of risk states, where an alien's chances of being detained or deported are significantly higher. The places that immigrants choose to flock to or leave can affect the severity of future state laws, as well as the experiences and identities of the people living in nearby communities.

Immigration policies and practices need to be constantly managed. It is vital to keep citizens safe by fortifying internal and external U.S. borders, but since states are able to pass a wide range of supplementary laws, immigration enforcement can become more or less effective. Deportation numbers continue to rise, and yet, so do the number of illegal migrants in the country. When it comes to immigration and legality, many Americans find it difficult to get past the reality that certain migrants broke the law, thus deportation becomes the only justifiable answer in order to re-level the playing field, but expulsing millions of unauthorized immigrants would cripple the nation. Imposing sensible penalties that do not destabilize the country would be a more conducive solution. Instead of increased enforcement, effective allocation of resources that improve current legal processes might be more effective at curbing rising concerns about illegal immigration. The inefficient way national immigration policies are currently being administered has only underscored the stark divisions within the country.

Limitations and Recommendations

The NCSL uses State Net to track legislation by searching for keywords to identify immigration bills. Due to this, the bills within the NCSL database cover a wide range of policy areas such as education, health, budgets, and voting. However, bills that have implicit consequences for immigrants are overlooked because they do not contain the related identifiers. Scholars might conduct case studies that consider state policies that do not directly mention

immigrants for a more refined discussion of exclusion and enforcement devolution. Case studies that consider topics beyond deportation such as the lack of nuanced differentiation between immigrant-generations in many communities, critical stereotypes against minorities in general, or the way residential segregation practices affect citizens' attitudes toward immigrants would provide greater insight into how restrictive immigration policies unrelated to enforcement may affect the quality of life of an undocumented immigrant—or even legal immigrants that share the same characteristics as a presently disfavored group.⁵⁷

This study is also limited by its lack of focus on the social issues and organizational characteristics that affect the lawmaking process. While the author's brief examination of population estimates and demographic changes in a state over time offers a basic reason for why some states may ratify more stringent immigration laws, other explanations—such as race, status threat, and partisanship—that directly impact the passage of expansive and restrictive immigration state legislation, as well as local policing were not examined. Historical changes that communities undergo overtime would provide a better understanding of the reasons why some states enact expansive immigration policies, while others enact restrictive policies. More research into the varied immigration laws passed by the states is necessary as state governments continue to enact expansive and restrictive bills that regulate the influx of immigrants and influence the lives of minorities within their territories.

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