

Fed.R.Civ.P. 26(a)(2) Report On the City of Hazleton's Premise, in the Illegal Immigration Relief Act Ordinance, that Illegal Immigrants Contribute to Higher Crime Rates

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Qualifications

My *curriculum vitae* and a list of publications is attached hereto as Exhibits 1 and 2, and incorporated herein by reference.

Public Perceptions of "Immigrants" and "Crime"

The "City of Hazleton Illegal Immigration Relief Act Ordinance" declares in part that "illegal immigration leads to higher crime rates," and seeks accordingly to secure for the City's legal residents and citizens "the right to live in peace free of the threat of crime," and to protect them from "crime committed by illegal aliens" [Ordinance 2006-18, Section 2 (C) and (F)].

In the absence of rigorous empirical research, myths and stereotypes about immigrants and crime often provide the underpinnings for public policies and practices, are amplified and diffused by the media, and shape public opinion and political behavior. Periods of increased immigration have historically been accompanied by native alarms and pervasive stereotypes of newcomers, particularly during economic downturns or national crises (such as the "war on terror" of the post-9/11 period), and when the immigrants have arrived *en masse* and differed substantially from the natives in such cultural markers as religion, language, phenotype, and region of origin.

In the past, such were the prevailing perceptions that variously met the Catholic Irish in the mid-19th century; later the Chinese, the Jews, and the Italians; and, more recently, Cuban Marielitos, Colombians, and others. Popular movies like *The Godfather* and *Scarface*, and television series from *The Untouchables* to *Miami Vice* and *The Sopranos*, project the enduring concern with the presence of foreign criminal elements.

The present period is no exception. California's Proposition 187, which was passed with 59 percent of the statewide vote in 1994 (but challenged as unconstitutional and overturned by a federal court), asserted in its opening lines, much as does the 2006 Hazleton Ordinance, that "the people of California...have suffered and are suffering economic hardship [and] personal injury and damage *caused by the criminal conduct of illegal aliens* in this state." [For the full text of Proposition 187, see: [http://en.wikisource.org/wiki/California_Proposition_187_\(1994\)](http://en.wikisource.org/wiki/California_Proposition_187_(1994))]

In 2000, the General Social Survey interviewed a nationally representative sample of adults with a newly developed module to measure attitudes and perceptions toward immigration in a "multi-ethnic United States." Asked whether "more immigrants cause higher crime rates," 25% said "very likely" and another 48% "somewhat likely"—that is, *about three-fourths (73%) believed that immigration was causally related to more crime*. That was a much higher proportion than

the 60% who believed that "more immigrants were [somewhat or very] likely to cause Americans to lose jobs," or the 56% who thought that "more immigrants were [somewhat or very] likely to make it harder to keep the country united."

Such attitudes find confirmation at the highest levels of political leadership. For instance, in his address to the nation on May 15, 2006, President George W. Bush asserted, "Illegal immigration puts pressure on public schools and hospitals, it strains state and local budgets, *and brings crime to our communities*" [emphasis added].

The *perception* that the foreign-born—and especially illegal immigrants—are responsible for higher crime rates is deeply rooted in American public opinion, and sustained by anecdote and popular myth; but that perception is not only *not* supported empirically but *rebutted* by the preponderance of scientific evidence. A compelling case can be made that the opposite is *in fact* the case, as shown repeatedly and systematically by both contemporary and historical data, including investigations carried out by major government commissions, over the past century.

I summarize those findings in what follows, with specific attention to the most recent available data, and provide references to published sources (as well as links to those sources wherever available online). I will first address the question of the size and growth of contemporary legal and illegal immigration, then the question of crime and incarceration rates and their connection to legal and illegal immigration.

Immigration, Legal and Illegal

After a lapse of several decades following the end of the last era of mass immigration from Europe (which extended from the 1880s to 1920s), the past few decades have ushered in a new era of mass immigration to the United States, accelerating in the 1980s and especially since the 1990s. This time the flows have come largely from Latin America and Asia, not from Europe. In fact, over the past 10-15 years, the U.S. has seen the largest flows of immigrants in its history—including both "legal" and "illegal" immigrants.¹

Together they comprise the foreign-born population of the United States, which at this writing is estimated at nearly 40 million persons; of them, using a well-established methodology, the unauthorized migrant population was estimated by the Pew Hispanic Center at about 12 million, or about 30% of the total foreign-born (Passel, 2006). These figures are the highest ever recorded in U.S. history (Portes and Rumbaut, 2006).

In 1970, the U.S. census found that the total foreign-born population accounted for only 4.7 percent of the total population—the lowest proportion since 1850, when it first recorded the

¹ As used in this report, "legal" immigrants consist of "Legal Permanent Residents" (LPRs)—about 40% of whom had been in the U.S. in other statuses (including temporary or unauthorized statuses) before they adjusted their status to LPR—as well as LPRs who subsequently became naturalized U.S. citizens. "Illegal aliens," as used in this report, comprise migrants who entered the country without proper authorization, or who entered the country lawfully with nonimmigrant visas but subsequently overstayed, or violated terms of, their visas. Visa overstayers and violators may make up as many as 40% of the illegal migrant population.

country of birth of U.S. residents. But by 1980, the foreign-born population had grown to 14.1 million, or 6.2% of the national total; by 1990 it had grown to 19.8 million (7.9%); by 2000, to 31.1 million (11.1%); and by 2010, growing by more than one million per year, it is on course to reach well over 40 million. More immigrants came in the 1980s than in any previous decade but one (1901-10, the peak years of mass migration from Europe when the foreign-born population reached 14.7% of the U.S. total); and more immigrants came in the 1990s than in any other decade—a total that may be surpassed in the present decade, adding to the largest immigrant population in history (both legal and illegal).

The estimated number of *illegal* immigrants has more than doubled since 1994. The best available analysis, done by the Pew Hispanic Center (Passel, 2006), reported these findings:

- By 2005 two-thirds (66%) of the unauthorized population had been in the country for ten years or less, and the largest share, 40% of the total or 4.4 million people, had been in the country five years or less.
- There were 5.4 million adult males in the unauthorized population in 2005, accounting for 49% of the total. There were 3.9 million adult females accounting for 35% of the population. There were 1.8 million children who were unauthorized, 16% of the total. In addition, there were 3.1 million children who are U.S. citizens by birth living in families in which the head of the family or a spouse was unauthorized.
- Most of unauthorized migrants came from Mexico. There were an estimated 6.2 million unauthorized Mexican migrants in 2005, or 56% of the unauthorized population.
- About 2.5 million unauthorized migrants, or 22% of the total, have come from the rest of Latin America, primarily from Central America. Unauthorized migrants from Mexico and the rest of Latin America represented 78% of the unauthorized population in 2005.
- Between 2000 and 2005 the number of unauthorized migrants from Mexico increased by about 1.5 million. Other large increases occurred among unauthorized migrants from Central America (+465,000) and South and East Asia (+365,000).
- While the shares from different regions have hardly changed in the last few years, between 2000 and 2005, the number of unauthorized Mexicans increased by 1.5 million, from 4.7 million to 6.2 million. During the same time period, the number of unauthorized migrants from Central America increased by 465,000, to 1.4 million; from South and East Asia by 365,000, to 1.4 million; and from South America by 160,000, to 705,000.
- About 7.2 million unauthorized migrants were employed in 2005, accounting for about 4.9% of the U.S. civilian labor force of 148 million workers. They made up a large share of all workers in a certain occupational categories, including 24% of all workers employed in farming occupations, 17% in cleaning, 14% in construction and 12% in food preparation. More specifically, the unauthorized represented: 36% of all insulation workers; 29% of all roofers and drywall installers; 27% of all butchers, other food processing workers, and construction helpers; and 22% of all maids and house cleaners.
- Unauthorized migrants are much more likely to be in major occupation groups that require little education or do not have licensing requirements.
- Unauthorized male migrants are more likely to work when compared with males who are either legal immigrants or native-born. Unauthorized migrants are much younger than other groups and older workers are more likely to be retired and disabled. Since fewer unauthorized migrants fall into the older age group within the workforce, more are likely

to be working. Another significant factor affecting workforce participation is college attendance. Again, few unauthorized migrants attend college, so they are more likely than other groups to participate in the labor force. Among unauthorized migrants of working age (18 to 64 years old), 94% of males were in the civilian labor force, compared with 86% of male legal immigrants and 83% of native-born males.

Over the past decade, the fencing and militarization of the U.S.-Mexico border in four key sectors from San Diego to El Paso and the lower Rio Grande Valley, including a tripling of the Border Patrol and a quadrupling of its budget over the past decade, did not so much deter the flow of unauthorized migrants (it more than doubled during that period) as redirected it away from traditional immigrant destinations in California and Texas and toward “new destinations” which today include communities in all 50 states, including Hazleton. Another unintended consequence is that it has transformed what had been a largely temporary population of sojourner workers into permanent settlers who bring their families and stay, since the risks and costs of dangerous border crossings have sharply increased, including the need to pay *coyotes* (professional smugglers) who now charge about \$3,000 per person to cross the border (Cornelius, 2006; Massey et al., 2002).

Nonetheless, in what is an otherwise complex picture, the profile sketched above of the illegal immigrant population of the U.S. today shows that it is disproportionately made up of poor young males, recently arrived mainly from Mexico as well as El Salvador, Guatemala, and a few other Latin American countries, working in low-wage jobs requiring little formal education. Conventional wisdom presumes a connection between those characteristics and the likelihood of involvement with crime, all the more when those young male workers are illegal migrants. FBI statistics also show that teens and young adult males experience the highest rates of violent and property crimes. But if immigration (legal or illegal) was associated with increasing crime rates, the official crime statistics would clearly reveal it. The opposite, however, is the case.

Crime Rates

Over the same time period as legal and especially illegal immigration was reaching and surpassing historic highs, crime rates have been declining, notably in cities and regions of high immigrant concentration (including cities of very high illegal immigrant concentration such as Los Angeles, as well as New York, Chicago and Miami, and border cities like San Diego and El Paso). Specifically, we observe the following FBI Uniform Crime Reports trends in both violent and property index crime rates nationally (U.S. Department of Justice, Bureau of Justice Statistics, 2006):

VIOLENT CRIME HAS DECLINED:

- Since 1994, violent crime rates have declined, reaching the lowest level ever in 2005.
- Homicide rates recently declined to levels last seen in the late 1960s.
- Robbery rates declined after 1994.
- Assault rates declined since 1994.
- The proportion of serious violent crimes committed by juveniles has declined since 1993.
- After peaking in 1993, the number of gun crimes reported to police declined and then stabilized at levels last seen in 1988.

PROPERTY CRIME TRENDS:

- After many years of declining, burglary rates have stabilized.
- After many years of declining, theft rates reached the lowest level ever recorded in 2005.
- After declining since 1992, motor vehicle theft rates leveled off after 2000.

But could this apparently very strong correlation between increasing immigration and decreasing crime rates be a spurious association? Consider instead incarceration rates (which have not declined but skyrocketed during this period), and compare the foreign-born and the native-born.

Incarceration Rates

The current era of mass immigration has coincided with an era of mass imprisonment in the United States. Indeed, the U.S. incarceration rate has become the highest of any country in the world. In California alone, where 27% of the total foreign-born population of the U.S. resides (as does 10% of the total native-born population), there are more people imprisoned than in any other country in the world except China.

The number of adults incarcerated in federal or state prisons or local jails in the United States quadrupled from just over 500,000 in 1980 to 2.2 million in 2005, according to the Department of Justice. Two-thirds of those are in federal or state prisons and one-third in local jails; the vast majority are young men between 18 and 39. According to a study by the National Center on Addiction and Substance Abuse at Columbia University (1998), an estimated 80% of those in prison either violated drug or alcohol laws, were high at the time they committed their crimes, stole property to buy drugs, or had a history of drug and alcohol abuse and addiction—or some combination of those characteristics.

The official statistics are not kept by nativity or generation, but they show that imprisonment rates vary widely by gender (93% of inmates in federal and state prisons are men); by racial categories (there were 4,834 black male prisoners per 100,000 black males in the United States, compared to 1,778 Hispanic males per 100,000, and 681 white males per 100,000); and by level of education (those incarcerated are overwhelmingly high school dropouts).

Among some racial minorities, becoming a prisoner has become a modal life event in early adulthood: As sociologists Becky Pettit and Bruce Western have noted, a black male high school dropout born in the late 1960s had a nearly 60% chance of serving time in prison by the end of the 1990s, and recent birth cohorts of black men are more likely to have prison records than military records or bachelor's degrees.

Inasmuch as conventional theories of crime and incarceration predict higher rates for young adult males from ethnic minority groups with lower educational attainment—characteristics which describe a much greater proportion of the foreign-born population than of the native born, and above all of the illegal immigrant population, as seen above—it follows that immigrants would be expected to have higher incarceration rates than natives. And immigrant Mexican men—who comprise fully a third of all immigrant men between 18 and 39, who have the lowest levels of education in the country, and who also account for the majority of the illegal immigrant population—would be expected to have the highest rates, followed by Salvadorans and Guatemalans.

I used data from the 5 percent Public Use Microsample (PUMS) of the 2000 census to measure the institutionalization rates of immigrants and natives, focusing on males 18 to 39, most of whom are in correctional facilities (Rumbaut et al., 2006). Of the 45.2 million males age 18 to 39 in the United States, three percent were in federal or state prisons or local jails at the time of the 2000 census.

Surprisingly, at least from the vantage of conventional wisdom, the data show the above hypotheses to be unfounded. In fact, the incarceration rate of the U.S.-born (3.51%) was five times the rate of the foreign-born (0.68%). The foreign-born rate was two and a half times less than the 1.71 % rate for non-Hispanic white natives, and 17 times less than the 11.6% incarceration rate for native black men (see Table 1 in Rumbaut et al., 2006).

The advantage for immigrants vis-à-vis natives applies to every ethnic group without exception. Almost all of the Asian immigrant groups have lower incarceration rates than the Latin American groups (the exception involves foreign-born Laotians and Cambodians, whose rate of 0.92% is still well below that for non-Hispanic white natives).

Of particular significance is the finding that the *lowest* incarceration rates among Latin American immigrants are seen for the least educated groups: Mexicans (0.70%), and Salvadorans and Guatemalans (0.52%). Those are precisely the groups who make up the majority of illegal immigrants in the United States.

For all ethnic groups, as expected, the risk of imprisonment is highest for men who are high school dropouts (6.91%) compared to those who are high school graduates (2.0%). However, the differentials in the risk of incarceration by education are observed principally among native-born men, and not immigrants (see Table 2 in Rumbaut et al., 2006).

Among the U.S.-born, 9.76% of all male dropouts 18 to 39 were in jail or prison in 2000, compared to 2.23% among those who had graduated from high school. But among the foreign-born, the incarceration gap by education was much narrower: Only 1.31% of immigrant men who were high school dropouts were incarcerated, compared to 0.57% of those with at least a high school diploma.

The advantage for immigrants held when broken down by education for every ethnic group. In fact, *nativity emerges in these data as a stronger predictor of incarceration than education.* As noted, *native-born high school graduates have a higher rate of incarceration than foreign-born, non-high school graduates* (2.2% to 1.3%).

Among U.S.-born men who had not finished high school, the highest incarceration rate by far was seen among non-Hispanic *blacks*, an astonishing 22.25% of whom were imprisoned at the time of the 2000 census; that rate was triple the 7.64% among foreign-born black dropouts. Among non-Hispanic *whites* who had not finished high school, 4.76% of the U.S.-born were in prison, also triple the 1.63% among foreign-born white dropouts.

I also examined the census results for California, the state with both the greatest number of legal and illegal immigrants by far—over a quarter of the national total, including the largest concentrations by far of Mexicans, Salvadorans, and Guatemalans, as well as of many other immigrant groups—and with the greatest number of people in prisons and jails. Overall, native-born men 18 to 39 in California have *higher* incarceration rates than the rest of the United States, while the foreign-born have *lower* rates in California compared to the rest of the country. The incarceration rate for the native-born is more than one percentage point higher in California than in the rest of the country (4.5% to 3.4%). In contrast, the incarceration rate for the foreign-born in California was less than half the foreign-born rate in the rest of the country (0.4% to 1.0%).

Confirmatory Results from Other Studies, Now and Then

These results from the 2000 census confirm an earlier study by economists Kristin Butcher and Anne Morrison Piehl (1997) based on data from the 1980 and 1990 censuses. A new analysis by those authors (2005) demonstrates that the results cannot be dismissed as a function of deportations, deterrence, or artifacts of the data (and point instead to self-selection factors in immigration to the United States). Taken together, they provide consistent and compelling evidence over a period of three decades that incarceration rates are much lower among immigrant men than the national norm, despite their lower levels of education and greater poverty,

Other scholars, such as sociologist Robert J. Sampson and colleagues, have addressed similar questions concerning immigration and crime and conclude that increased immigration is actually a major factor associated with *lower* crime rates. Sampson's Chicago study (2006) revealed that Latin American immigrants are less violent and less likely than the U.S.-born to commit crimes even when they live in dense communities with high rates of poverty. Their study examined violent acts by almost 3,000 males and females, ranging in age from 8 to 25, from 1995 to 2003. The study selected whites, blacks and Hispanics (primarily Mexican-Americans) from 180 Chicago neighborhoods ranging from highly segregated to very integrated. They also analyzed data from police records, the Census and a separate survey of more than 8,000 Chicago residents who were asked about the characteristics of their neighborhoods. Surprisingly, they found a significantly *lower* rate of violence among Mexican-Americans than among blacks and whites. A major reason is that more than a quarter of all those of Mexican descent were born abroad and more than half lived in neighborhoods where the majority of residents were also Mexican. Indeed, the first-generation immigrants (the foreign-born) were 45% less likely to commit violence than were third-generation Americans, adjusting for family and neighborhood background. Second-generation persons (U.S.-born of foreign-born parents) were 22% less likely to commit violence than the third or higher generation (those of native parentage).

Empirical studies by sociologists Ramiro Martínez and Matthew Lee of homicides in three high-immigration border cities (San Diego, El Paso, and Miami), and of drug violence in Miami and San Diego, have come to similar conclusions (2000, 2001, 2003, 2004). Their findings further refute putative linkages between immigration and criminality.

A number of studies have examined homicide among several prominent ethnic groups in Miami. Although Mariel Cuban refugees were often portrayed by the media as high-rate killers, the

empirical evidence demonstrated that they were rarely overrepresented as either victims or offenders, and in fact, after a short time, were much less likely to offend than Miami's established Cubans. In fact, Miami's homicide trends mirrored those for south Florida generally: the area experienced a sharp rise in homicides *prior to* the arrival of thousands of Cuban refugees in the Mariel boatlift of 1980. In addition, despite a constant influx of Latin American immigrants in the 1980s, Miami's homicide rates continued to decline. Finally, Martínez and Lee found that Miami's Haitians and Hispanics were underrepresented in homicide relative to group size, while African-Americans were overrepresented, and in some cases the rate of homicide among the two immigrant groups was *lower* than that of non-Hispanic whites (Anglos). [For a summary of these studies, see Martínez and Lee, 2000.]

The 1994 U.S. Commission on Immigration Reform compared crime in cities along the U.S.-Mexico border with non-border cities in order to assess the impact of Mexican immigrants on crime rates. The Commission concluded that crime rates in border cities such as El Paso, Texas, were generally lower (in some cases much lower) than rates in non-border cities. In addition to city rate comparisons, regression analysis revealed that "crime is lower on average in border areas than in other U.S. cities when the characteristics of the urban population are held constant" (1994: 20). A follow-up study conducted a more direct statistical test of the effect of immigration on levels of crime and found "no consistent or compelling evidence at the SMSA [Standard Metropolitan Statistical Area] level that immigration causes crime" (Hagan and Palloni 1998: 380; see also Martínez and Lee, 2000).

Relevant data from the National Longitudinal Study of Adolescent Health (known as Add Health) has further facilitated the analysis of intragenerational and intergenerational differences in delinquency and risk behaviors among a nationally representative sample of adolescents. Studies by sociologist Kathleen Mullan Harris, and by sociologists Hoan Bui and Ornuma Thingniramol, have found that second-generation youth were more prone to engage in risk behaviors (delinquency, violence, and substance abuse) than foreign-born youth. Controlling for socioeconomic status, family structure, degree of parental supervision, and neighborhood contexts actually *increased* the protective aspects of the immigrant first generation on both health and risk behavior indices. In their analyses, *every first-generation nationality had significantly fewer health problems and engaged in fewer risk behaviors than the referent group of native non-Hispanic whites.*

In a sense, these systematic findings should not come as news, for they are not new—merely forgotten and overruled by popular myth. In the first three decades of the 20th century, during another era of mass immigration, three major government commissions came to much the same conclusions. The Industrial Commission of 1901, the [Dillingham] Immigration Commission of 1911, and the [Wickersham] National Commission on Law Observance and Enforcement of 1931, each sought to measure how immigration resulted in increases in crime. Instead each found lower levels of criminal involvement among the foreign born but higher levels among their native-born counterparts. They not only observed that "immigration has *not* increased the volume of crime," but added that the presence of immigrants may have even suppressed criminal activity (Tonry, 1997).

Conclusions and Implications

Because many immigrants, especially labor migrants from Mexico and Central America, are young men who have arrived with very low levels of education, conventional wisdom—both in the form of nativist stereotype as well as standard criminological theory—tends to associate them with high rates of crime and incarceration. The unauthorized entry and visa overstays of many, framed as an assault against the "rule of law," reinforces the stereotypical association of immigration and criminality in much public discourse. This association flourishes in a post-9/11 climate of fear and ignorance where "terrorism" and "losing control of our borders" are often mentioned in the same breath, if without any systematic evidence to back them up.

But correlation is not causation, and anecdotal impression cannot substitute for scientific evidence. In demonstrable fact, immigrants have the lowest rates of imprisonment for criminal convictions in American society. Both the national and local-level findings presented here turn conventional wisdom on its head. For every ethnic group without exception, the census data show that incarceration rates are lowest among immigrant young men, even among the least educated and the least acculturated among them—including Mexicans, Salvadorans, and Guatemalans—but much higher among the U.S.-born, including native whites, especially among the less educated.

What is more, these patterns have now been observed consistently over the last three decennial censuses, a period that spans precisely the eras of mass immigration and mass imprisonment—and they recall similar findings reported by three major commissions during the first three decades of the 20th century, a previous era of mass migration and crime concerns.

Given the cumulative weight of this evidence, immigration is arguably one of the major reasons accounting for the sharp *drop* in crime rates in the U.S. over these past years. This is notably the case in communities with the highest concentration of Latin American (especially Mexican) immigrants, who account for the majority of both legal and illegal immigration to the U.S. (a disproportionate number of whom are young males from racial-ethnic minorities with less than a high school education—precisely the characteristics of those most likely to be arrested and imprisoned for crimes among the native-born). Although it contradicts popular myth, the evidence supporting this goes back for at least a century (for a summary of both early 20th century and more recent studies, see Tonry, 1997; Martínez and Lee, 2000). Indeed, a further implication of this evidence is that if immigrants suddenly disappeared and the U.S. became immigrant-free (and illegal-immigrant free), U.S. crime rates would actually (and abruptly) *increase*.

The problem of crime and incarceration in the United States is largely a native-born problem, not one "caused" by immigrants, regardless of their legal status. Illegal immigration does not lead to higher crime rates; on the contrary. But the misperception that the opposite is true can, when it justifies punitive public policies and practices aimed at immigrants, exacerbate rather than ameliorate the problems of American communities.

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