

# The New Latino Underclass

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## Immigration Enforcement as a Race-Making Institution

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The New Latino Underclass:  
Immigration Enforcement as a Race-Making Institution

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Abstract

Latinos have now surpassed African Americans as the nation's largest minority group. Although Latinos have been in the country in significant numbers since the 1848 annexation of Northern Mexico, the Latino population has grown rapidly in recent decades as a result of immigration from Mexico and Central America, constituting 16.3% of the population in 2010. As their ranks have grown, Latinos in general and Mexicans in particular have been subjected to a variety of processes of racialization in public rhetoric and the media, and these have been associated with radical shifts in immigration and border policy, such that the U.S. immigration control system has become a major race-making institution for Latinos. This paper documents the progressive demonization of Latinos in the media, the rise of a harsh immigration enforcement regime, and the accompanying decline in the socioeconomic welfare of Latinos. In the end, the immigration enforcement system has come to affect Latinos in the same way that the criminal justice system affects blacks, further exacerbating intergroup inequalities and contributing to the growth of a new underclass in the United States.



With 50.5 million persons in 2010, Latinos constitute the largest minority group in the United States, representing 16.3% of the population compared with just 12.6% for African Americans. Mexicans alone numbered 31.8 million persons in 2010 and made up 10.3% of the U.S. population (Ennis, Ríos-Vargas, and Albert 2011). Although fertility will play a large role in population growth moving forward, through 2008 the main source of Latino increase was immigration (Pew Hispanic Center 2011). From 1970 to 2010 the percentage foreign born among Latinos rose from 29% to 39% and national origins shifted toward principal source regions in Latin America (Acosta and de la Cruz 2011). Whereas Mexicans comprised just 60% and Central Americans only 3% of all Latinos in 1970, by 2010 the former accounted for 63% and the latter 8% of all Latinos. South Americans, meanwhile, grew from 3% to 6% of the population as Latinos of Caribbean origin fell from a quarter to around 15% of the population (Ennis, Ríos-Vargas, and Albert 2011).

This shift in origins and nativity was accompanied by a revolutionary shift in the legal status of the population. Whereas Latino immigrants from the Caribbean are overwhelmingly legal residents or U.S. citizens, 58% of all Mexican immigrants present in the United States in 2010 were unauthorized, compared with 57% of those born in El Salvador, 71% of those from Guatemala, and 77% of those from Honduras. Even considering *all* persons of Mexican, Salvadoran, Guatemalan, and Honduran origin, the shares unauthorized stood 21%, 38%, 50%, and 51%, respectively, in 2010 (Massey and Pren 2012a). Illegality has thus become a fundamental condition of life for sizeable shares of Mexicans and Central Americans living in the United States.

As Latinos grew in number and visibility in the United States after 1965 they were subject to a systematic process of racialization---a dedicated campaign of psychological framing and social boundary construction intended to position them as a stigmatized out-group in American social cognition (Lee and Fiske 2006; Massey 2009, 2011). In the media, they were demonized as a grave threat to the American culture, society, and the economy (Santa Ana 2002; Chavez 2008); in the legal realm they were systematically excluded from rights, privileges, and protections extended to other Americans (Legomsky 2000; Zolberg 2006; Newton 2008); and in the domain of public policy they were subject to increasingly harsh and repressive enforcement actions that drove them ever further underground (Massey, Durand, and Pren 2009; Massey 2012). The net effect was to place Latinos in a uniquely tenuous and vulnerable position that pushed them steadily downward the socioeconomic hierarchy (Massey 2007; Massey and Pren 2012a).

Although the racialization of Latinos goes back to 1848, when the Treaty of Guadalupe Hidalgo brought some 50,000 Mexicans into the United States, the contemporary era of racial formation can be traced back to the 1960s, when the United States adopted a new set of immigration policies that made it difficult for Mexicans and other Latin Americans to enter the country legally (Massey and Pren 2012a). Although the number of Latino arrivals changed little in subsequent years, after 1965 their composition shifted dramatically from documented to undocumented (Massey, Durand, and Pren 2009). The rise of mass undocumented migration offered political entrepreneurs a tempting opportunity to mobilize anti-immigrant sentiment for their own purposes by framing Latinos as “illegal” “lawbreakers” and thus inherently dangerous, threatening, and inimical to American values.

Between 1965 and 2000 a new “Latino threat narrative” came to dominate public debate and media coverage of Latinos in the United States (Chavez 2001, 2008) and U.S. policy makers responded by launching a what Rosen has called a “war on immigrants” (Rosen 1995). This “war” involved an unprecedented militarization of the Mexico-U.S. border, a massive expansion of the immigrant detention system, and a return to mass deportations for the first time since the 1930s (Massey and Sánchez 2010). Government repression accelerated markedly after September 11, 2001 as the war on immigrants was increasingly conflated with the war on terror (Massey and Sánchez 2010; Massey and Pren 2012b). By 2010, America’s immigration enforcement apparatus had become a central race-making institution for Latinos, on a par with the criminal justice system for African Americans.

#### **MANUFACTURING ILLEGALITY**

Latin American migration to the United States is nothing new, of course. Except for a short gap during the Great Depression, Mexicans have been migrating to the United States continuously in significant numbers since early in the 20<sup>th</sup> century (Cardoso 1980; Massey, Durand, and Malone 2002). After 1945, Mexicans were joined by successive waves of immigrants from other Latin American nations, first from Puerto Rico, then Cuba and the Dominican Republic, followed in the 1980s by Central Americans and South Americans (Bean and Tienda 1987; Bergad and Klein 2010). Apart from Mexicans, the successive waves of Latin Americans came in response to political and economic interventions within the region by the United States, beginning with Operation Bootstrap in Puerto Rico and continuing with Cold War operations in Cuba and the Dominican Republic, the Contra War in Central America, and the application of structural adjustment policies throughout South America under the neoliberal

economic regime of “the Washington Consensus” (Massey, Sánchez, and Behrman 2006; Riosmena 2010).

Prior to 1965, it was relatively easy for Latin Americans to enter the United States in legal status, as there were no numerical limits placed on immigrants from the Western Hemisphere. Mexico, in particular, also benefitted from a generous bilateral guest worker agreement known as the Bracero Program that in its 22 year history brought nearly five million Mexican workers into the United States on temporary work visas (Massey, Durand, and Malone 2002; Calavita 1992). During the late 1950s, Mexican legal Mexican immigration averaged around 50,000 persons per year; Bracero migration varied around 450,000 annually; and upwards of 10,000 persons entered the United States from each of other nations in Latin America. Undocumented migration, meanwhile, was virtually non-existent (Massey, Durand, and Malone 2002; Massey and Pren 2012a). In 1960, for example, there were only 30,000 apprehensions at the Mexico-U.S. border and just 7,000 deportations from within the United States.

During the late 1950s and early 1960s the total annual inflow of migrants from Mexico alone fluctuated around half a million persons per year, all in legal status. At the end of 1964, however, the United States unilaterally terminated the Bracero Program over Mexican protests; and in 1965 congress passed amendments to the Immigration and Nationality Act that placed a first-ever cap of 120,000 total immigrants from the Western Hemisphere. Additional amendments enacted in 1976 put each country in the hemisphere under an annual quota of just 20,000 immigrant visas (Zolberg 2006).

The effects of these new restrictions were particularly dramatic for Mexico. Whereas in 1956, 65,000 Mexicans entered the United States in documented status and another 445,000 as

guest workers, by 1976 the guest worker program was long gone and legal immigration was capped at 20,000 per year. Although immediate relatives of U.S. citizens were exempted from the numerical cap, the total number of migrants entering from Mexico was down 86% from its peak in the late 1950s. Despite the curtailment of avenues for legal entry, however, the demand for Mexican workers did not change and Mexicans continued to flow to the jobs they had traditionally held (Massey, Durand, and Malone 2002; Massey and Pren 2012a).

The inevitable result of curtailing opportunities for legal entry from Mexico was a sharp rise in undocumented migration. Figure 1 shows Mexican migration to the United States in three legal categories: documented (permanent resident aliens), temporary (Braceros and other legal temporary workers), and undocumented (those crossing the border or working without authorization). Data on documented and temporary migrants come from the U.S. Office of Immigration Statistics (2012) whereas data on undocumented migration comes from estimates prepared by Massey, Durand, and Pren. (2009). They calculated probabilities of undocumented entry and exit using data from the Mexican Migration Project and then applied these to population counts taken from the Mexican census to compute annual net undocumented migration between Mexico and the United States.

#### FIGURE 1 ABOUT HERE

As can be seen, when the Bracero Program ended in 1965 and dramatically reduced opportunities for migration in legal status, both documented and especially undocumented migration from Mexico began to increase. Net undocumented entries rose from near zero in the early 1960s to peak at around 300,000 per year in 1990. Documented migration also rose from around 50,000 per year in the early 1960s to fluctuate between 100,000 and 150,000 during the

late 1970s and early 1980s as legal immigrants circumvented the country caps by naturalizing, thus rendering their spouses, minor children, and parents exempt from numerical limitation. In addition, congress in 1986 authorized and amnesty for undocumented residents and enacted a special legalization for agricultural workers that caused another surge of adjustments to permanent resident status and ultimately citizenship in subsequent years.

Owing to U.S. policy shifts between the early 1960s and the early 1980s, therefore, Mexican immigration was transformed from an overwhelmingly legal flow to one that was substantially illegal. According to the data shown in Figure 1, among Mexicans arriving from 1955 to 1965, 87% were legal temporary workers, 12% were legal permanent residents, and only 1% were undocumented; but among those arriving from 1985 to 1995, 55% were undocumented, 41% were legal residents, and 4% were temporary workers. In other words, the composition of the Mexican inflow shifted dramatically after 1965, even though its size had not changed very much. Except for a brief surge in 1990 attributable to the aforementioned legalization programs, total in-migration from Mexico has fluctuated around 500,000 persons before and after 1965.

The other major surge in undocumented migration from Latin America came during the 1980s, with the U.S. Contra Intervention in Nicaragua and the broader prosecution of the Cold War within Central America. Research clearly indicates that outflows from Central America during the 1980s were driven by the U.S.-sponsored Contra intervention (Lundquist and Massey 2005) as well as the violence and the economic dislocations it produced (Stanley 1987; Jones 1989; Funkhouser 1992; Morrison and May 1994; Alvarado and Massey 2010). Owing to the restrictions imposed in 1965, however, there were few avenues by which refugees from Central America could enter the United States in legal status and, not surprisingly, most ended up

coming as undocumented migrants, either moving through Mexico to cross the border without authorization of entering as tourists and overstaying their visas.

Although emigrants from Guatemala, El Salvador, Honduras, and Nicaragua left for the same underlying reasons, those from Nicaragua were treated very differently by U.S. authorities. Whereas the Nicaraguan Adjustment and Central American Relief Act offered an easy pathway to legal status for Nicaraguans, it grudgingly offered only temporary protected status to other Central Americans. Whereas Nicaraguans had the good fortune of fleeing a left-wing regime at odds with the United States, those from Guatemala, El Salvador, and Honduras had the bad luck to come from nations dominated by right-wing regimes allied with the United States. As a result, although most Central Americans were at some point undocumented, Nicaraguans were able to adjust to documented status whereas other Central Americans ended up languishing in temporary protected status until it was finally revoked with end of the Cold War, pushing them into undocumented status.

Once again, U.S. policies had manufactured a large population of undocumented migrants. After Mexico, which accounted for an estimated 62% of undocumented migrants present in the United States as of January 1, 2010, the next largest contributors were El Salvador (6%), Guatemala (5%), and Honduras (3%) (Hoefer, Rytina, and Baker 2010). All told, three-quarters of all undocumented migrants come from Mexico or Central America, and no other nation makes up more than 2% of the total. When most Americans visualize an “illegal immigrant,” they see a Mexican and, if not a Mexican in particular, certainly a Latino (Lee and Fiske 2006). Adding in Latino migrants from the Caribbean, South America, and Panama, we find that Latin Americans comprise more than 80% of the total unauthorized population. It is

doubtful, of course, whether the average Anglo-American can distinguish between a Mexican, Salvadoran, a Dominican, or a Colombian and many simply get categorized as “Mexican,” which has become the default Latino identity in the American mind (Lee and Fiske 2006).

### **RISE OF THE LATINO THREAT NARRATIVE**

Throughout U.S. history, immigrants have periodically served as scapegoats for America’s problems, being blamed for joblessness, low wages, and high social spending while being framed as threats to national security owing to their supposed moral deficits, suspect ideologies, and subversive intentions (Higham 1955; Zolberg 2006; Schrag 2010). Anti-immigrant hostility rises during periods of economic dislocation, ideological conflict, and political uncertainty (Massey 1999; Meyers 2004). The 1970s and 1980s were such a period, as the long postwar economic boom faltered, the New Deal Coalition unraveled, and the Cold War reached its apex. After a brief respite during the 1990s, when the economy rebounded and the Cold War receded, the conditions for popular xenophobia returned with a vengeance with the bursting of the stock market bubble in 2000, the terrorist attacks in 2001, and the collapse of the economy in 2008 (Massey and Sánchez 2010)

Under these circumstances, anti-immigrant hostility is only to be expected; but since 1965 portrayals of Latin American immigrants as a threat to American society have been greatly facilitated by the fact that a rising share of Latino immigrants are present in the country illegally and thus readily framed as lawbreakers, criminals, and terrorists. The growing predominance of undocumented migrants among Latin Americans has contributed to the rise of what Chavez (2008) has called the “Latino threat narrative.” Among national magazine covers on immigration he examined between 1965 and 2000, two-thirds portrayed immigration as

threatening or alarming, and the frequency of these depictions steadily rose over time, going from a relative share of just 18% in the 1970s to 45% in the 1990s (Chavez 2001).

At first the most popular alarmist metaphors were marine, picturing immigration as a “rising tide” or “tidal wave” that was “flooding” the United States and threatening to “drown” its culture and “inundate” its society. During the 1980s, however, marine imagery gave way to martial metaphors (Chavez 2001) as the Mexico-U.S. border was framed as a “battleground” that was “under attack” from “alien invaders” (Dunn 1996; Rotella 1998). Border Patrol Officers became “defenders” who, though “outgunned,” valiantly fought to “hold the line” against attacking “hoards” who launched “Banzai charges” along a beleaguered “front” (Andreas 2000). Latinos within the United States became a “ticking time bomb” waiting to “explode” and destroy the American way of life (Santa Ana 2002).

The Latino threat narrative gained particular traction in the 1980s when President Reagan labeled undocumented migration a “threat to national security,” noting that terrorists and subversives were just “two days driving time from the nearest border crossing” and referring to foreigners in the United States as a “fifth column” who would “feed on the anger and frustration of recent Central and South American immigrants” (Massey, Durand, and Malone 2002). Thereafter war metaphors became the standard trope in describing Latin American immigrants (Chavez 2008).

Lou Dobbs (2006), for example, has portrayed the “invasion of illegal aliens” as part of a broader “war on the middle class.” Patrick Buchanan (2006) framed it as part of an “Aztlán Plot” hatched by Mexicans to recapture lands lost in 1848, stating that “if we do not get control of our borders and stop this greatest invasion in history, I see the dissolution of the U.S. and the

loss of the American southwest” (*Time*, August 28, p. 6). Harvard professor Samuel Huntington (2004) warned Americans of the impending “Hispanic challenge,” that would occur because “the persistent inflow of Hispanic immigrants threatens to divide the United States into two peoples, two cultures, and two languages. Unlike past immigrant groups, Mexicans and other Latinos have not assimilated into mainstream U.S. culture.... The United States ignores this challenge at its peril.”

Efforts by politicians, academicians, and pundits to portray Latin Americans as a threat to American society made considerable headway with the public. According to polls conducted by the Pew Charitable Trusts, as late as 2000 just 38% of Americans agreed that “immigrants today are a burden on our country because they take our jobs, housing, and health care.” Five years later, the percentage had risen to 44% and as the drumbeat of anti-immigrant rhetoric reached a crescendo in 2006 it became a majority viewpoint at 52%. The percentage of Americans rating immigration as a moderately big or very large national problem rose from 69% in 2002 to 74% in 2006, by which time around half of all Americans (48%) agreed that “newcomers from other countries threaten traditional American values and customs” and 54% said that Americans needed to be “protected against foreign influence” (see Kohut and Suro 2006).

More tangible evidence of the shift in attitudes is the sharp increase in anti-Latino hate crimes, which had been declining before 9-11. According to U.S. Justice Department statistics, the number of anti-Hispanic hate crimes increased 24% from 2002 to 2007 and the number of victims rose by 30% (Federal Bureau of Investigation 2009). By 2008 random killings of Latinos had become common in headlines throughout the country; and according one news story, attacks on immigrants had become “such an established pastime that the youths...had a casual

and derogatory term for it, 'beaner hopping.' One of the blithely youths told the authorities, 'I don't go out doing this very often, maybe once a week'" (Barnard 2009).

Immigrants clearly perceive the rising hostility against them. By 2006, 70% of Latino immigrants had come to view anti-Hispanic discrimination as a major problem in the United States, 68% worried about being deported themselves, and 35% knew someone who had been deported (Kohut and Suru 2006). Half of all Latino immigrants interviewed in 2010 felt that Americans were less accepting of immigrants than they had been five years earlier (Lopez, Morin, and Taylor 2010). Whereas only 47% of Latinos saw discrimination against them as a major problem in American society in 2002, by 2010 the share had risen to 61%, and another 24% viewed it as at least a minor problem, bringing the total seeing discrimination as problematic to 85% (Lopez, Morin, and Taylor 2010).

## **DECLARING THE WAR ON IMMIGRANTS**

Although the wave of anti-immigrant hysteria picked up new momentum after September 11, the shift toward more restrictive immigration policies can be traced back to 1965 when, as already noted, the U.S. began to close off avenues for legal entry from Latin America. Since then, each surge in anti-immigrant propaganda within the media has coincided with the introduction or enactment of more restrictive immigration policies. Massey and Pren (2012b) demonstrated this association by counting the frequency with which articles in leading newspapers (the *New York Times*, *Wall Street Journal*, *Los Angeles Times*, and *Washington Post*) made references to undocumented or Mexican migration as a "crisis," "flood," or "invasion" during the years from 1965 through 2009.

They found a steady increase in the frequency of these framings of immigration from 1965 to 1979. After peaking in 1980, the frequency of negative framings thereafter fluctuated, with each peak coinciding with the passage of another piece of restrictive immigration legislation or the launching of a new repressive border operation. In 1980 Congress removed refugees from the immigration preference system and capped the total number of refugees at 70,000 per year while reduced the world ceiling to just 270,000 visas. The level of anti-immigrant propaganda dropped for a short time thereafter but rose again to peak again in 1986, when congress passed the Immigration Reform and Control Act (IRCA), which funded a new expansion of the Border Patrol, authorized the president to declare “immigration emergencies” and assume special powers, and criminalized the hiring of undocumented migrants (Massey, Durand, and Malone 2002).

With these measures in place, media references to invasions, floods, and crises fell once again through 1992, by which time it became clear to everyone that the restrictive measures authorized by IRCA were not slowing illegal migration and that the undocumented population was once again growing rapidly. Alarmist depictions once again rose in the media and peaked in 1994 when voters in California passed Proposition 187, the Save Our State Initiative, which framed undocumented migrants as criminals, freeloaders, and predators and compelled state and local officials to turn them in to federal authorities and banned them from receiving public services (Jacobson 2008). That same year, federal authorities responded to the surge in anti-immigrant sentiment in California by launching Operation Gatekeeper in San Diego—an all-out militarization of the border with Tijuana designed to stop the flow of undocumented migrants

through what had been the busiest sector of the 2,000 mile frontier (Rotella 1998; Andreas 2000; Massey, Durand, and Malone 2002).

The resulting upsurge in border apprehensions only served to underscore the continuing reality of undocumented migration, however, and did not placate public opinion. In 1996 congress responded to the continued anti-immigration agitation by passing three major pieces of restrictive legislation. The Illegal Immigration Reform and Immigrant Responsibility Act authorized the hiring of thousands of additional Border Patrol agents and the construction of more walls and fences to bring the militarization of the border to new heights (Massey, Durand, and Malone 2002). It also permitted the removal of aliens from ports of entry without judicial hearing, declared undocumented migrants ineligible for federally subsidized benefits, and in an effort to restrict family migration further, required sponsors of legal immigrants to provide affidavits of support that demonstrated a household income at least 125% of the federal poverty line (see chapter by Fox, Bloemraad, and Kessler). The new law also contained a provision known as 287(g) that authorized local agencies to assist in federal immigration enforcement (Newton 2008).

At the same time, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 extended the portrayal of undocumented migrants as greedy freeloaders to legal immigrants and placed new restrictions on the access of legal permanent residents to public services, barring them from receiving food stamps, Supplemental Security Income, and other means tested benefits for five years after admission (see chapter by Bitler and Hoynes). Finally, the Anti-Terrorism and Effective Death Penalty Act formalized the equation of immigrants with

terrorists and lawbreakers by declaring any alien who had ever committed a crime, no matter how long ago, to be subject to immediate deportation (Newton 2008; Massey 2011).

The Anti-Terrorism Act also gave the federal government broad new police powers for the “expedited exclusion” of any alien who had *ever* crossed the border without documents, no matter what his or her current legal status (Legomsky 2000:1616). Given that the majority of legal immigrants to the United States from Latin America first entered as undocumented migrants (Massey and Malone 2003), this new provision instantly rendered millions of legal immigrants—and the vast majority of Mexican resident aliens—as deportable for past infractions. It also granted the State Department authority to designate any organization as “terrorist,” thereby making all members of groups so-designated immediately excludable. It also narrowed the grounds for asylum and added alien smuggling to the list of crimes covered by the RICO statute (Racketeer Influenced Corrupt Organizations), severely limiting the possibilities for judicial review of deportations (Zolberg 2006).

The most recent surge in anti-immigrant sentiment came in response to the terrorist attacks of September 11, when on October 26, 2001 congress passed, without significant debate, the USA PATRIOT Act, which granted executive authorities even more powers to deport, without hearings or presentation of evidence, all aliens—legal or illegal, temporary or permanent—that the Attorney General had “reason to believe” might commit, further, or facilitate acts of terrorism. For the first time since the Alien and Sedition Act of 1798 Congress authorized the arrest, imprisonment, and deportation non-citizens upon the orders of the Attorney General without judicial review (Zolberg 2006).

As anti-immigrant hysteria continued to rise, however, and was increasingly conflated with the War on Terror, in 2005 the U.S. House of Representatives passed HR 4437, the Border Protection, Anti-terrorism, and Illegal Immigration Control Act of 2005, authored by Rep. James Sensenbrenner of Wisconsin. Although it did not clear the Senate, the latter bill would have constructed 700 miles of additional fencing along the border, required local law enforcement officials to turn undocumented migrants over to federal authorities for deportation, and declared virtually any immigration violation to be a felony, thus preventing migrants even from applying for legalization for ten years.

None of these repressive federal initiatives was enough to placate the hysteria cultivated by the Latino threat narrative, and after 2005 there was an unprecedented surge in anti-immigrant measures enacted at the state and local levels (Hopkins 2010). According to the National Council of State Legislatures (2009), some 200 bills on immigration were introduced and 38 laws enacted in 2005 and by 2007 immigration-related legislation had tripled to 1,562 bills introduced and 240 laws were passed. Bohn and Lofstrom (this volume) show that one such law passed in Arizona reduced the likelihood of wage and salary employment among likely undocumented migrants while increasing their rate of self-employment, and in so doing contributed to a rise in Latino poverty. At present nearly half of all states have signed cooperative agreements with the federal government under the 287(g) provision to assist in the arrest, incarceration, and deportation of immigrants (Massey and Sánchez 2010).

## **PROSECUTING THE WAR ON IMMIGRANTS**

In sum, over the past several decades the repressive power of the state has increasingly been directed against immigrants, documented as well as undocumented. Although the

escalation of anti-immigrant repression is apparent at the state and local levels, it is most clearly reflected in federal statistics. Figure 2 shows trends in the budget of the U.S. Border Patrol, the number of Border Patrol Agents, and the number of deportations from the United States (U.S. Office of Immigration Statistics 2012). Each series has been divided by its value in 1986 to indicate the factor by which the enforcement effort has increased since then.

#### FIGURE 2 ABOUT HERE

Although U.S. enforcement actions begin to rise after the passage of IRCA in 1986, the pace of change accelerated markedly during the 1990s and then rose exponentially after 2001. By 2010 the Border Patrol budget stood at 24 times its 1986 level, the number of deportations had risen 16 times, and the number of Border Patrol Agents had grown by a factor of six. These massive increases in the enforcement effort occurred despite the fact that the rate of undocumented migration had actually been *declining* since 1990 and, in fact, plummeted after 2001 to reach levels near zero by 2008 (see Figure1). In a very real way, to immigrants the United States increasingly looks like a police state, whatever their documentation. It is as if the militarized border program of 1953-1954 (Operation Wetback) has been made permanent and the mass deportation campaigns of 1929-1934 have been institutionalized at more than three times their earlier size.

#### **BUILDING A NEW UNDERCLASS**

Paradoxically, the effect of increased immigration enforcement was actually to *increase* the net inflow of undocumented migrants and to spread them more widely throughout the nation (Massey, Durand, and Malone 2002; Massey 2008; Massey, Rugh, and Pren 2010). Once they had experienced the costs and risks of undocumented border crossing, migrants declined to

repeat the experience and remained north of the border rather than returning home, bringing about a pronounced decline in levels of out-migration (Redburn, Reuter, and Majmundar 2011). With the full-scale militarization of the border in San Diego and the erection of a steel wall from the Pacific Ocean to the peaks of the Sierra Madre, in-migrants were diverted away from California toward new crossing points along the border with Arizona and to new destinations throughout the United States (see the chapter by Ellis, Wright, and Townley in this volume). Mexican migration was thus transformed from a largely circular movement of male workers going to three states into a settled population of families living in 50 states (Massey, Durand, and Pren 2009). By 2010, more Latinos were living in undocumented status in more places than at any point in American history (Massey 2011; Massey and Pren 2012a).

As a result of U.S. actions over the past several decades, never before have so many U.S. residents lacked basic legal protections. Undocumented migrants currently constitute a third of all foreigners present in the United States, more than 40% of those from Latin America, and large majorities of those from Mexico and Central America; and because undocumented migrants generally inhabit households containing family members who are not undocumented, the share people touched by illegal migration is actually much larger. According to estimates by Passel (2006), about a quarter of all persons living in households that contain undocumented migrants are themselves U.S. citizens.

Recent survey data illustrate the degree to which the fates of immigrant and native Latinos are interconnected. In 2008, 35% of native born Latinos said they worried about deportation some or a lot, presumably not because they were personally at risk of deportation but because they were worried about the potential deportation of a friend or relative (Lopez and

Minushkin 2008). By 2010, the share of Latinos who said they worried about deportation some or a lot had risen to 52% whereas among the foreign born the figure stood at 68%. Even among Latino immigrants who were U.S. citizens 58% said they worried about deportation some or a lot, and the figure rose to 71% among legal residents and 84% among non-citizens who were not legal residents (Lopez, Morin, and Taylor 2010). Among the latter two groups, 40% and 45%, respectively, said they knew someone who had been deported. As of 2007, 53% of native born Latinos said that the immigration debate had made life difficult for them, compared with 72% of those born abroad (Pew Hispanic Center 2007).

By 2008, Latinos had become much more pessimistic about life in the United States, with 63% of foreign born Hispanics and 30% of natives saying that the situation for Hispanics had deteriorated compared with a year ago. Irrespective of birthplace, the vast majority of Hispanics disapproved of workplace raids (76%) and opposed the criminal prosecution of employers who hired undocumented migrants (70%) as well as the arrest and deportation of the migrants themselves (73%) (Lopez and Minushkin 2008). Only 46% of all Hispanics were confident that the police would treat them fairly and just 49% said they expected fair treatment in the courts (Lopez and Livingston 2009).

Net undocumented migration appears now to have dropped to zero not because of U.S. enforcement efforts, but owing to a collapsed U.S. economy, declining population growth in Mexico, and generally favorable economic conditions throughout Latin America (Wasem 2011; Redburn, Reuter, and Majmundar 2011). In the past decade, however, the falling number of undocumented migrants has been offset by a rising number of temporary workers. With little fanfare or public awareness, mass guest worker recruitment has returned to the United States,

bringing annual entries up to levels last seen in the 1950 (Massey and Pren 2012b). Although only a tiny fraction of Mexicans who entered the United States in 2010 were unauthorized, most of those who entered with documents nonetheless did not possess full labor rights. Out of the total of 655,767 legal entries from Mexico for purposes of work or residence in that year, only 139,000 (21%) had permanent resident visas that conferred labor rights in the United States (U.S. Office of Immigration Statistics 2012). The overwhelming majority arrived with a temporary visa that tied them to a specific employer, offered little or no job mobility, and conferred severely constrained labor rights.

Over the past several decades U.S. immigration and border policies have thus increased the number of Latinos in vulnerable positions while dramatically raising the level of official repression directed against them and providing new incentives for employers to discriminate and exploit persons in undocumented or marginal legal status. With more people occupying ever more vulnerable and exploitable positions in the U.S. labor market, the socioeconomic status of Latinos generally declined over the past several decades. After occupying an intermediate position between blacks and whites in the American status hierarchy, after 1990 Latinos increasingly joined African Americans at the bottom of the socioeconomic distribution to comprise a new American underclass (Massey 2007). In the absence of meaningful immigration reform and a curtailment of repression against immigrants, this population can only be expected to see its problems proliferate and multiply.

Figure 3 illustrates the decline in Latino socioeconomic status by showing trends in median personal income earned by white, black, and Latino males from 1972 through 2010 (in constant dollars). Obviously white men earned substantially more income than black and Latino

workers throughout the period, but whereas Latinos clearly occupied a middle position during the early 1970s, their intermediate status began to erode during the 1980s and in 1992 there was a crossover and thereafter Latino males supplanted black males at the bottom of the earnings distribution and have remained there ever since.

### FIGURE 3 ABOUT HERE

The foregoing figures, of course, do not control for human capital and other characteristics of white, black, and Latino workers, and some have argued that the deterioration in the relative economic standing of Latinos reflects the declining quality of successive immigrant cohorts, especially for Mexicans (Borjas 1995, 1999---see also the chapter by Lewis in this volume). In their analysis of Mexican male wages from 1950 through 2008, however, Massey and Gelatt (2010) show that on observable traits such as education and experience the average quality of immigrant cohorts steadily *improved* over time, both absolutely and relative to native white workers. Although it is possible that unobservable indicators of quality deteriorated, this is unlikely as one would then have to argue that observable and unobservable indicators of productivity were negatively correlated. According to Massey and Gelatt (2010), what changed over time was not so much the characteristics of immigrants, as how various forms of human capital were rewarded in the U.S. labor market. Their analysis documented declining rates of earnings return to English language ability, U.S. experience, education, skill, and age, beginning in the 1990s and accelerating after 2000. The share of variance in male wages explained by background characteristics fell from 0.28 in 1950 to 0.11 in 2007, indicating a significantly weaker connection between human capital inputs and wage outputs.

In a counterfactual analysis they performed. Massey and Gelatt (2010) estimated that if background characteristics had been rewarded at the same rate as in 1980, male Mexican wages would have risen by 10%, whereas if means were held to their 1980 values wages would have declined by 4%. The fact that male immigrants wages declined occurred despite and not because human capital levels were rising, and this came about because the rewards to human capital were simultaneously falling. Although Massey and Gelatt did not consider female wages, Figure 4 reveals that the earnings of Latinas have deteriorated even more dramatically than among their male counterparts.

#### FIGURE 4 ABOUT HERE

In the early 1970s, all women earned relatively low incomes—both absolutely and compared with men; but things began to change in 1980, when the incomes of white women began to rise steadily, going from a little over \$12,000 in that year to peak at almost \$23,000 in 2007. Although the upturn for black women lagged behind that of white women, beginning around 1985 their incomes also began to rise and this increase accelerated during the 1990s to narrow the black-white gap substantially, with black female income peaking at almost \$21,000 in 2007. In contrast, the income of Latinas remained flat until 1993 and then rose at a slower rate than either white or black women, so that by 2010 the Latina-white gap was wider than it had ever been. Whereas white and Latina women earned roughly the same incomes in 1972, by 2010 Latinas earned a quarter less than whites.

The shifting fortunes of Latinos and African Americans in U.S. labor markets are clearly reflected in U.S. poverty statistics. Figure 5 shows trends in the poverty rate for white, black, and Latino families from 1972 to 2010. Once again Latinos occupied a middle position in the

distribution of poverty until 1994, when black and Latino poverty rates converged to identical levels. From then until 2000 black and Latino families shared the same poverty trajectory, but then black poverty rates rose above those of Latinos until 2008 when the onset of the Great Recession brought them back together at around 24% in 2010, some 3.4 times greater than the rate of 7% among white families.

#### FIGURE 5 ABOUT HERE

In sum, the foreign data clearly suggest that something happened over the course of the 1990s to undermine earnings among Latinos living in the United States. Using data from the Mexican Migration Project Gentsch and Massey (2011) confirmed a clear break in the labor market status of Mexican immigrant workers before and after the mid-1990s, showing that the wage and occupational returns to various forms of human capital declined after harsher immigration and enforcement policies were steadily imposed and a growing fraction of the migrant work force came to lack labor rights, either for a lack of documentation or because they held temporary visas. In a follow-up study, the authors showed that controlling for individual characteristics helped to explain the decline in the wages somewhat but did not eliminate the downward trend, which only was explained fully when the percentage of Mexican immigrants who were undocumented was added to the model (Massey and Gentsch 2012). As the share of Mexican immigrants who were present without authorization steadily rose, the competitive position of Mexican workers deteriorated and earnings fell in real terms.

The deterioration in the labor market position of Hispanics relative to blacks was accompanied by a similar reversal of fortune in U.S. housing markets. Whereas in 1989 Hispanics were 19% *less likely* than blacks to experience adverse treatment in America's rental

housing markets, in 2000 they were 8% *more likely* suffer discrimination. In addition, although the incidence of discriminatory treatment fell for both groups in the sales market, the decline for Hispanics was much smaller. As a result, whereas blacks in 1989 were twice as likely as Hispanics to experience discrimination in home sales, by 2000 Hispanics were 18% *more likely* than blacks to experience it (Turner et al. 2002). Consistent with these data, in their audit of rental housing in the San Francisco Bay area, Purnell, Isardi, and Baugh (1999) documented extensive “linguistic profiling” that excluded speakers of Chicano English from access to housing. In addition, several state and local initiatives have sought to mandate discrimination on the basis of legal status by forbidding real estate agents from renting or selling homes to those present without authorization (Hopkins 2010).

Figure 6 shows trends in the residential segregation of Latinos living in 287 U.S. metropolitan areas with consistent metropolitan boundaries between 1970 and 2010 (from Massey and Rugh 2012). Segregation is measured both in terms of residential dissimilarity (the relative percentage of Latinos and non-Hispanic whites who would have to exchange census tracts to achieve an even distribution) and spatial isolation (the percentage of Latinos living in the tract inhabited by the average Latino). As can be seen, Latino-white dissimilarity increased slightly over the period, going from around 46 to 49 between 1970 and 2010, an increase of 6.5%, while Latino spatial isolation rose by a remarkable 74%, owing to rapid population increases in the context of slowly rising segregation which caused the piling up of Latinos in existing Latino neighborhoods. In contrast, over the same period black-white dissimilarity fell by 23% and black isolation fell by 33% (Massey and Rugh 2012). As a result by 2010 the average Latino lived in a neighborhood that was 46.5% Latino while the average African

American lived in a neighborhood that was 45.3% black, making Latinos the most spatially isolated group in metropolitan America for the very first time.

#### FIGURE 6 ABOUT HERE

The growing segregation and isolation of Latinos in the United States contributes strongly to their vulnerability to exogenous economic shocks (see the chapter by Stoll in this volume). First, any shock that increases poverty and disadvantage among members of a segregated group will perforce increase the spatial concentration of poverty and disadvantage that group experiences (Massey and Denton 1993; Massey and Fischer 2000; Quillian 2012). In addition, residential segregation is a powerful predictor of the number and rate of foreclosures experienced during the housing bust of 2008, as segregated minority neighborhoods were explicitly targeted for predatory lending during the housing boom (Rugh and Massey 2010). As a result, groups that were more segregated residentially experienced greater risk to their wealth when the housing bust caused home values to deflate rapidly after 2007. Indeed, Latinos were doubly disadvantaged not only by their relatively high residential segregation but also by their regional concentration areas hardest hit by the housing crisis, such as California, Florida, Nevada, and Arizona.

The effect of the crisis on Latino wealth is indicated in Figure 7, which shows trends in median net wealth for black and Latino households. Historically both groups have been characterized by low levels of wealth, which prior to 2000 averaged between just \$6,000 and \$10,000 compared with a range of \$70,000 and \$80,000 for white households (not shown). Beginning in 2001 the net wealth of Latino and black households began to rise as the housing boom began to reach into neighborhoods where they were located and both groups were targeted

for extensive subprime mortgage lending. Given that Latinos were disproportionately living in states affected by the boom, their net wealth rose faster and higher than blacks to peak at \$24,000 in 2007 compared with just \$14,000 for African Americans. With the collapse of housing prices, however, both groups ended up much at the same place, with a net worth of just \$6,000 for the former and \$5,000 for the latter by 2009. Latinos, however, experience the greatest decline in net wealth of any major group, with a drop of 73% between peak and trough.

FIGURE 7 ABOUT HERE

## **IMMIGRATION REFORM AS SOCIAL JUSTICE**

Over the past four decades, the immigration enforcement system of the United States has become increasingly important a major race-making institution in much the same way that the criminal justice system did for African Americans over the same period. In both cases, there were massive increases in arrests, incarcerations, and in the case of immigrants, apprehensions and deportations, combined with huge increases in the relevant agency budgets. The immigrant detention system is now the fastest growing component of America's prison industrial complex. In 2011, for example, some 429,000 immigrants were incarcerated and awaiting trial or deportation, 397,000 were expelled from the United States, and 328,000 were apprehended at the Mexico-U.S. border (American Civil Liberties Union 2012; U.S. Office of Immigration Statistics 2012). As a result, as Figure 8 reveals the number incarcerated among Latinos is rapidly rising relative to African Americans. Whereas the ratio of Latino to black prisoners in state and federal penal institutions averaged between 0.34 and 0.39, after 2001 it rose steadily to peak at around 0.59 in 2010. At this rate of change, Latinos will surpass African Americans as the largest prison population around two decades from now.

Whereas among African Americans, the prison industrial complex created a large population of current and ex-felons who suffer a variety of forms of exclusion and discrimination (Pager 2007; Pettit 2012), among Latinos it has generated a population not simply of current and ex-felons, but a larger population of marginalized, repressed, and eminently exploitable undocumented migrants. Despite all their well-documented disadvantages, however, black felons at least retain basic social and economic rights as American citizens, whereas undocumented migrants under current circumstances have virtually no rights at all and are subject to arrest, incarceration without representation, and summary deportation without trial or benefit of counsel. Even documented migrants may now be arrested, detained, and deported on the say-so of low level Justice Department officials and they have been declared by congress to be deportable ex post facto for crimes they earlier committed (see Legomsky 2000).

The situation is especially dire in the case of Mexicans, the nation's largest immigrant group and the second largest minority after African Americans. At present, nearly 60% of all persons born in Mexico are illegally present; and among those who do hold legal residence papers, two-thirds first entered the United States without documents, thus rendering them legally deportable under current law (Massey and Malone 2003). These figures imply that nearly a quarter (23%) of all persons of Mexican origin living in the United States are currently undocumented, while another 8% are formerly undocumented, putting roughly a third of all Mexican Americans at serious risk of deportation.

The consequences of this massive illegality and marginality have only begun to be explored, but represent a compelling agenda future research. Key issues of importance to the current and future welfare of Latinos in general and Mexicans in particular include the effect on

earnings and occupational mobility of being currently undocumented; the effect on earnings and occupational mobility of being formerly undocumented; the effects on the health and education of citizen children of having undocumented parents; and the long term social and economic consequences of being formerly undocumented or growing up in a family containing undocumented members.

Given the clear magnitude of the immigration enforcement system's effect on the status and welfare of Latinos in the United States, current proposals for immigration reform carry implications that extend well beyond immigrant assimilation. For years, critics of immigration reform have demanded that U.S. authorities gain "control" of the Mexico-U.S. border before considering broader reforms. According to current estimates, that goal has been achieved. Net undocumented migration has dropped to zero and the total size of the undocumented population has stabilized. The time has come, therefore, to consider the three principal proposals that have been put forward to achieve comprehensive immigration reform: increasing the size of the annual quota for immigration from Mexico, creating a new guest worker program, and creating a path to legalization for those already here.

In practice, the first two goals have already been realized. Although quota limits remain in place and certainly deserve to be expanded, Latin American immigrants have increasingly taken matters into their own hands and evaded them by naturalizing to U.S. citizenship and thus acquiring the right to sponsor the entry of spouses, minor children, and parents without numerical limitation, while also acquiring the right to petition for the entry of brothers and sisters through the quota system itself. This shift has been especially noticeable among Mexicans, who

historically have exhibited one of the very lowest rates of naturalization among all immigrant groups.

With rising pressures and penalties placed on legal resident aliens and the increasing difficulty of securing the entry of relatives through the preference system, legal Mexican immigrants have flocked toward U.S. citizenship in record numbers. From 1970 through 1985, Mexican naturalization averaged just 8,900 persons per year. With the passage of IRCA and the escalation of enforcement beginning in 1986, the average increased to 29,000 persons per year through 1995; but with reductions in the options for family migration imposed on legal residents in 1990 and the new penalties on non-citizens enacted in 1996, the number of naturalizations surged to 125,000 per year from 1996 to 2010, with notable surges to 255,000, 208,000, and 232,000 in 1996, 1998, and 2008, respectively. As a result, whereas just 24% of all Mexicans entered outside of numerical limitations as citizen relatives in 1995, by 2010 the figure had reached 59%.

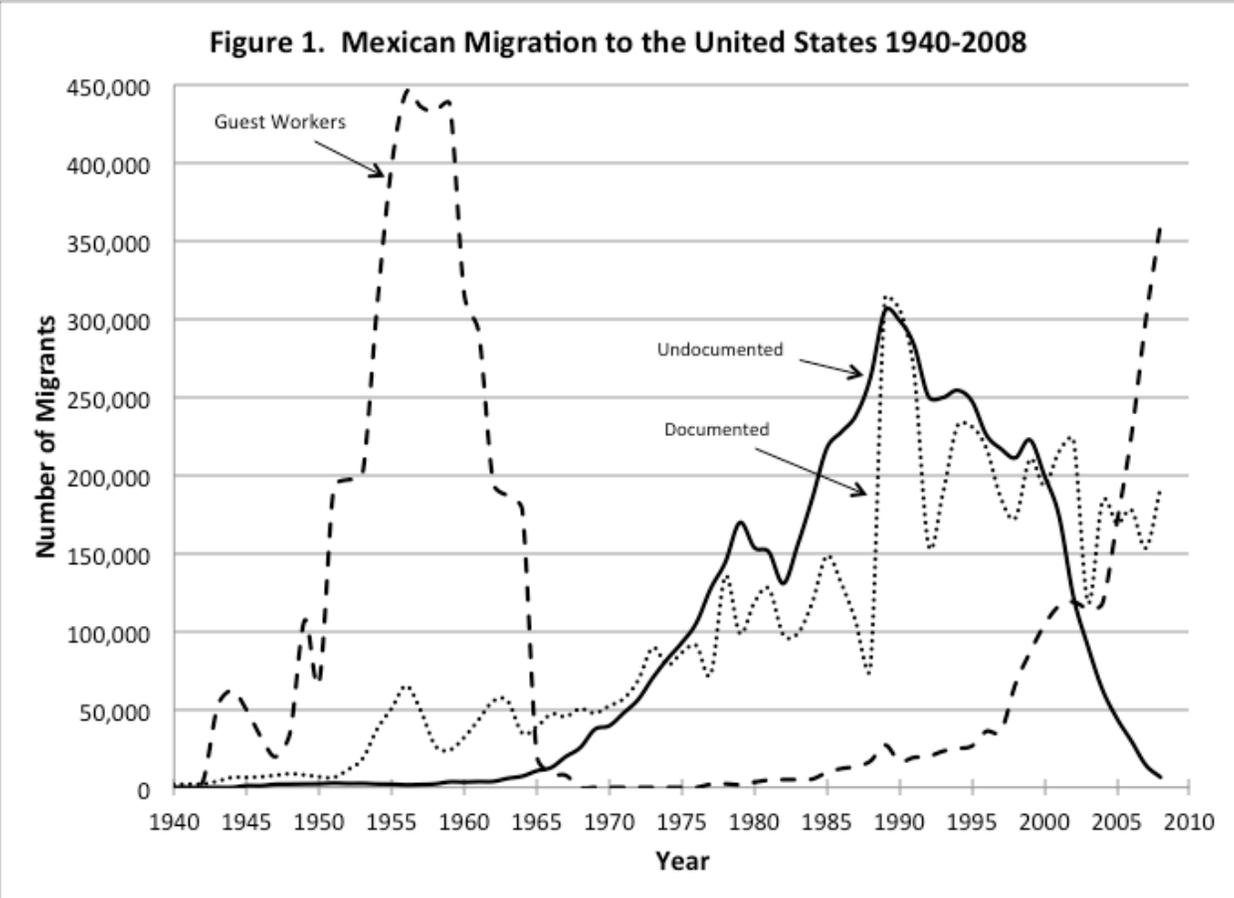
Thus the principal piece of unfinished business in immigration reform is the legalization of the roughly 11 million undocumented migrants still present in the United States (Passel, Cohen, and Gonzalez-Barrera 2012). Until the burden of illegality is lifted from their shoulders, they will remain vulnerable and exploitable with almost no possibility of upward mobility. Among those out of status, somewhere around three million entered the country as minors, typically as infants or young children in the company of their parents. These people did not make the decision to violate U.S. immigration laws and should not be held responsible for choices made by their parents. In the absence of a criminal record or other disqualifying

circumstances, these undocumented migrants should be offered an immediate and unconditional amnesty and be allowed to proceed with their lives in the only country that most of them know.

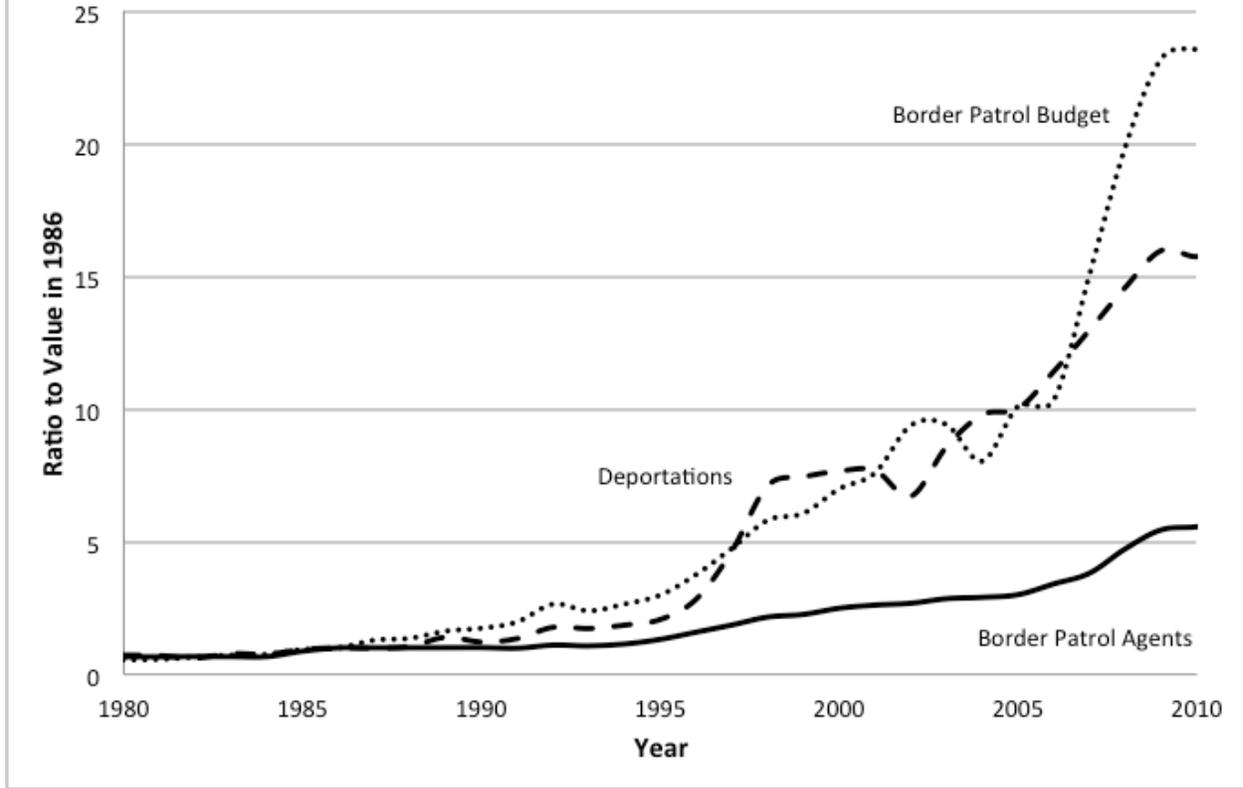
Of those who entered undocumented status as adults, some fraction only came recently and do not seek long-term residence in the United States, only intermittent short term access to the U.S. labor market on acceptable legal terms. The recent expansion of guest worker migration has made temporary visas available to such people, and many appear to have taken up the offer as the estimated size of the undocumented population dropped from 11.6 million to 10.8 million persons between 2008 and 2009 (Hoeffler, Rytina, and Baker 2009; 2010). Interestingly, the estimated number of undocumented Mexicans dropped by 380,000 persons as 361,000 guest workers entered on temporary visas, suggesting that as legal avenues for entry are opened illegal migration will correspondingly drop.

For those migrants with deeper roots and longer durations of residence in the United States, however, the only humane and realistic option is to create a pathway to legal permanent residence. Longer-term migrants would be offered temporary legalization that would give them the right to live and work in the United States for five years, during which time they would be able to accumulate points toward some threshold required for adjustment to permanent residence. These points would be awarded for time spent in the United States, payment of taxes, having U.S. citizen children, learning English, studying civics, holding a job, owning a home, or whatever other socially desirable behaviors might be appropriate. Once the minimum threshold was achieved, migrants would pay a fine as restitution for violating immigration law, and then having paid their debt to society, be allowed to get on with their lives as legal permanent

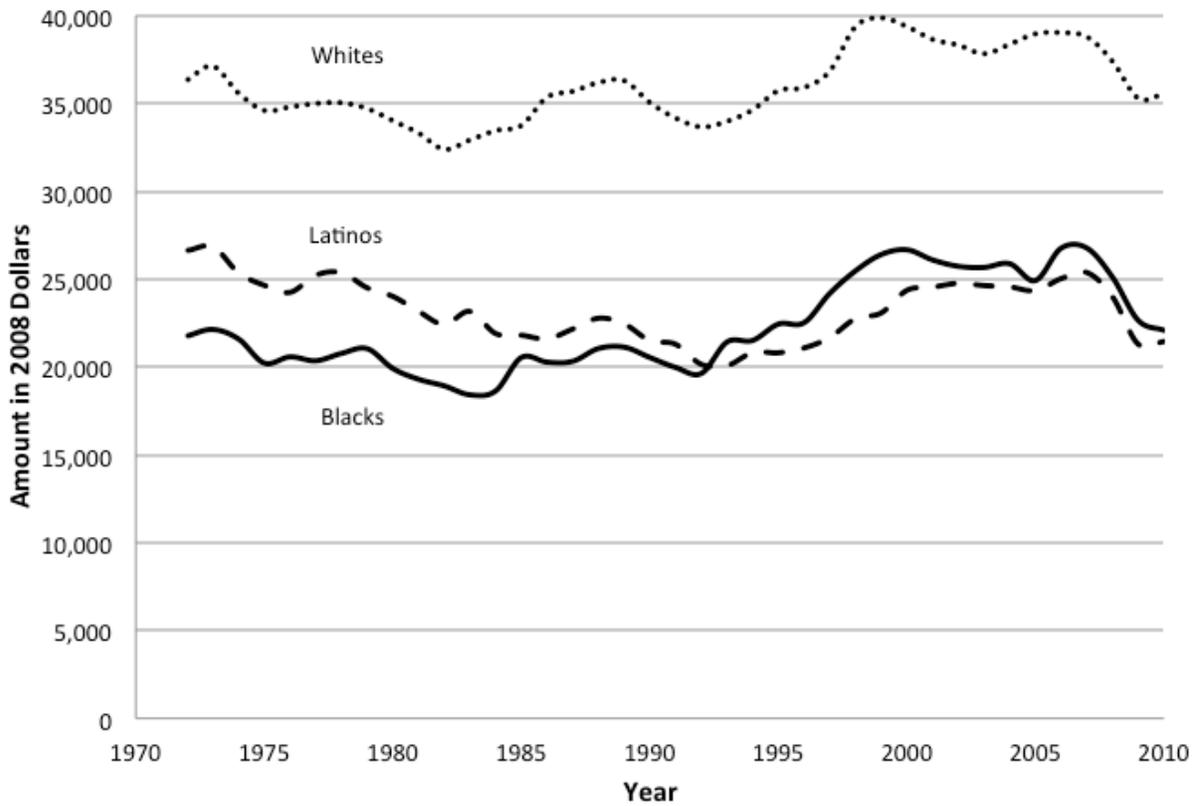
residents of the United States, with the option to become citizens after the usual five-years spent in permanent resident status.



**Figure 2. Indicators of immigration enforcement relative to levels in 1986.**



**Figure 3. Median personal income for white, black, and Latino males**



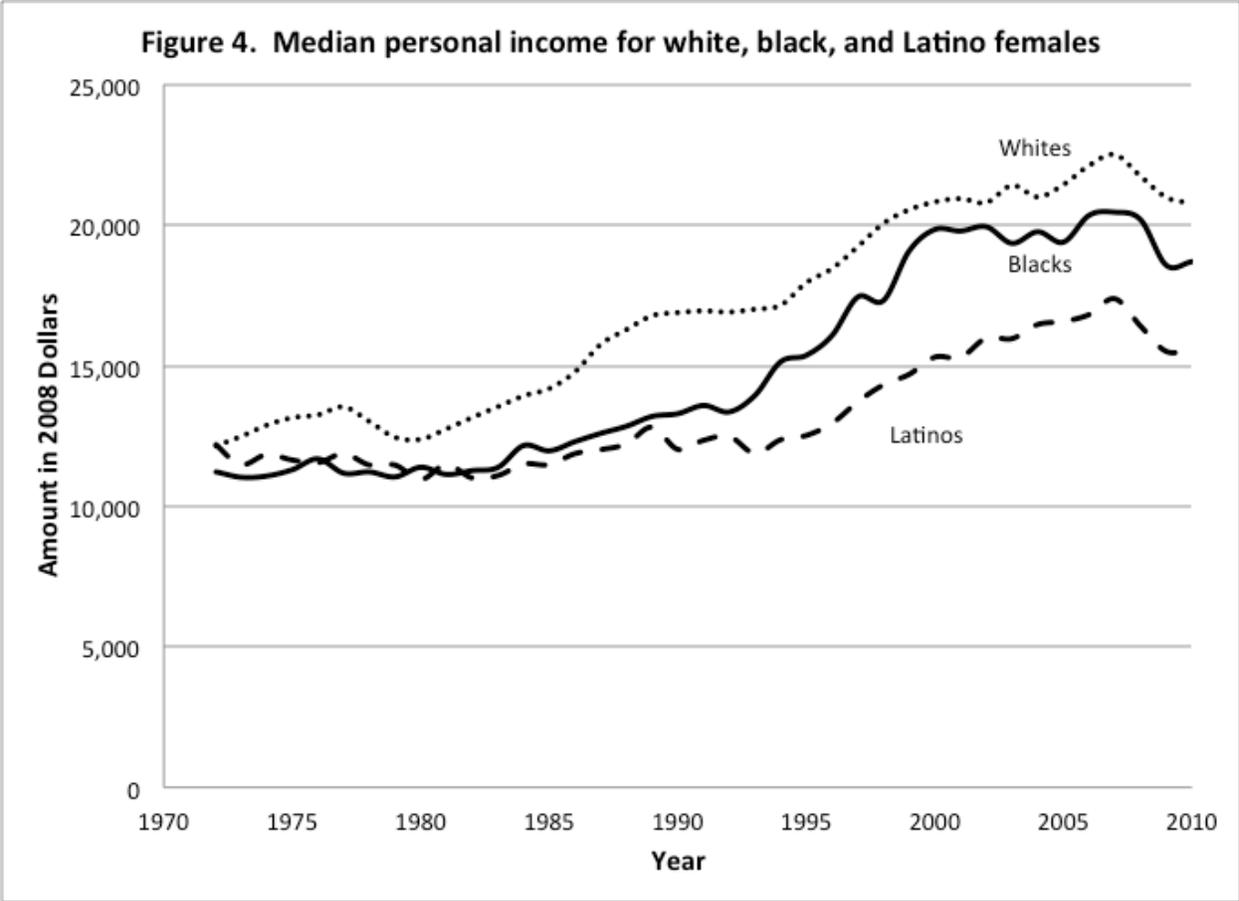
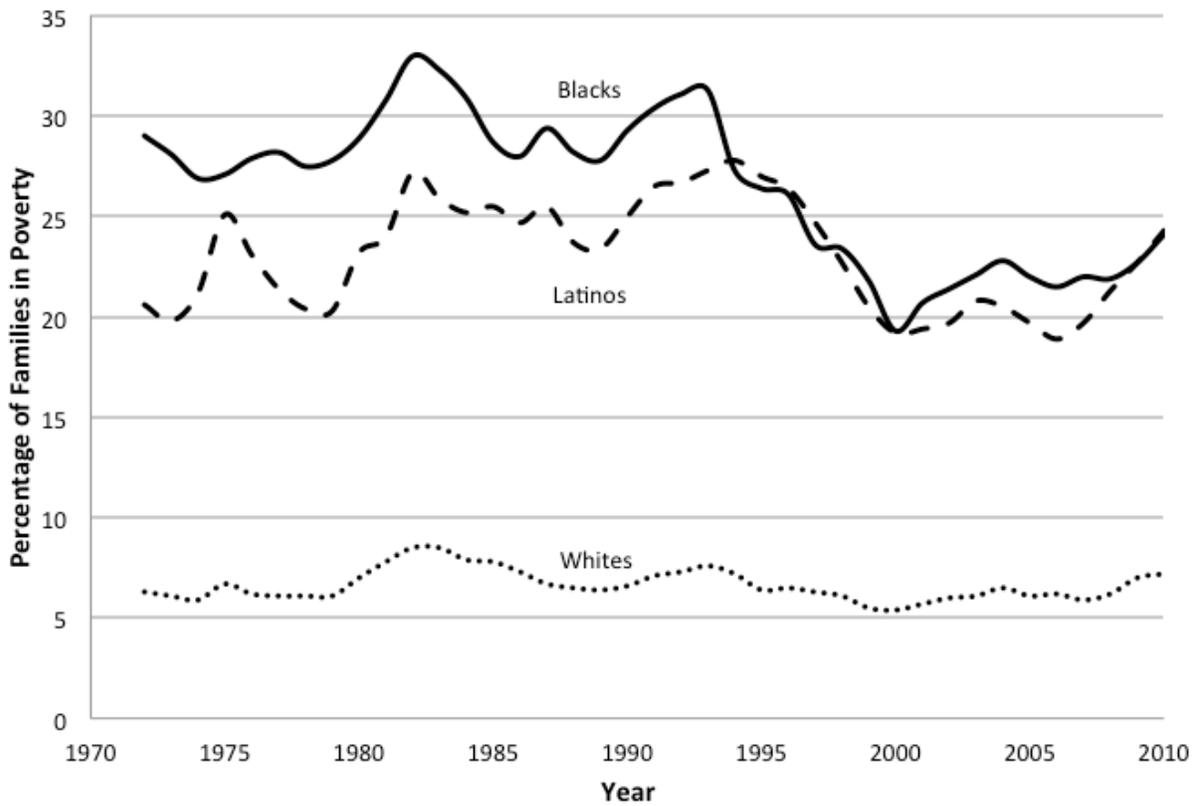
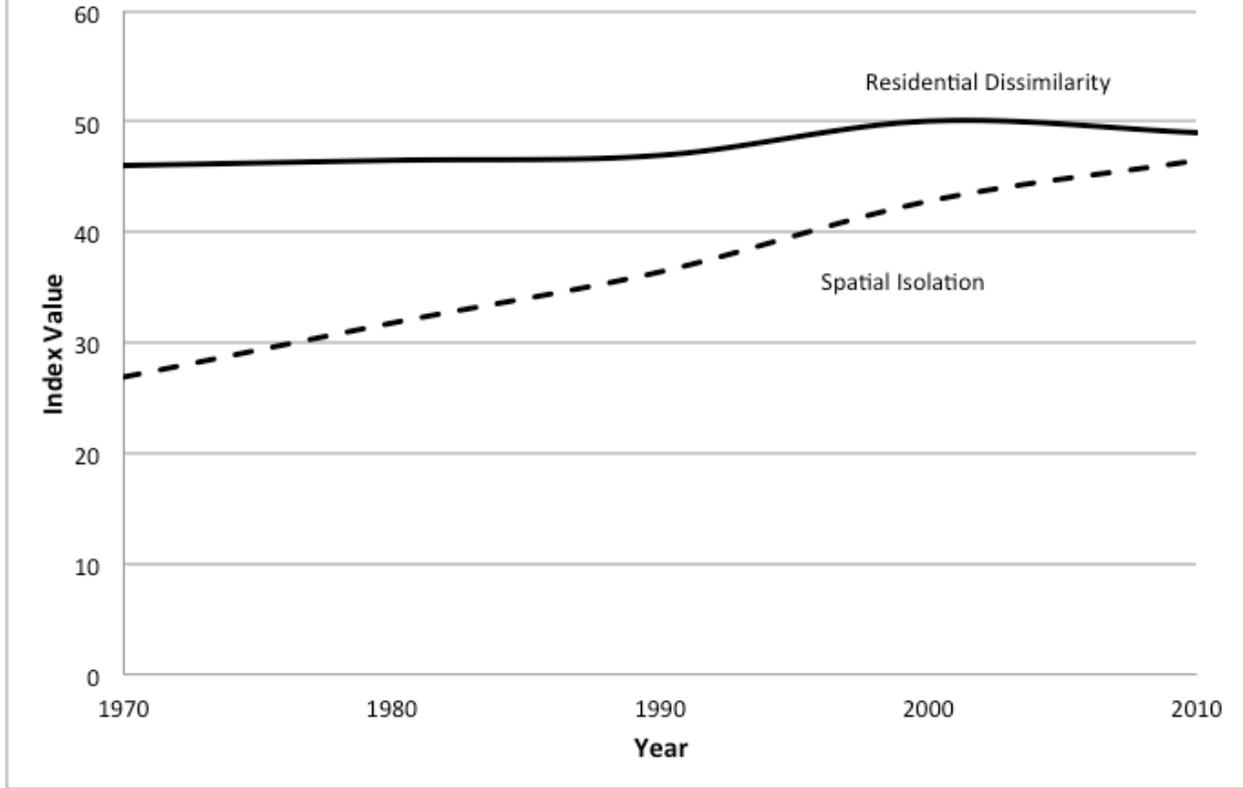


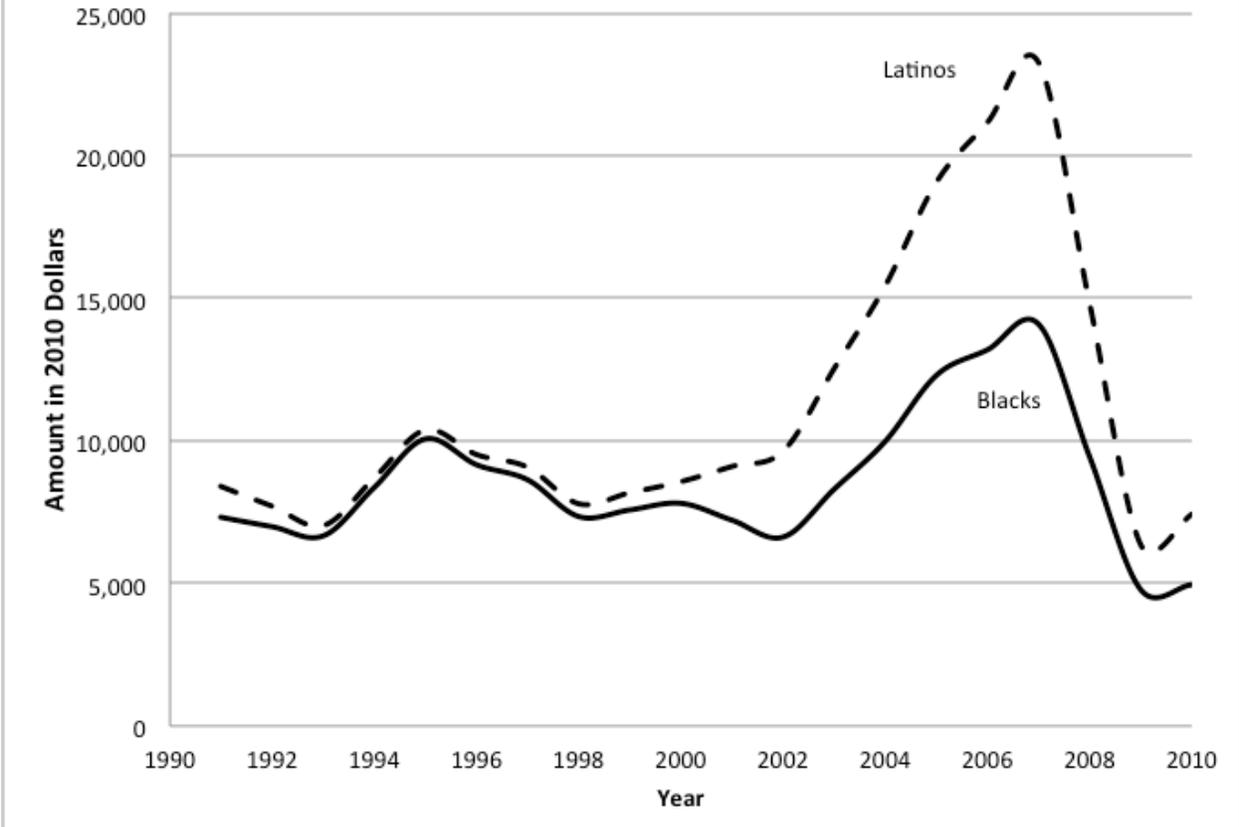
Figure 5. Poverty rate for black, white, and Latino families



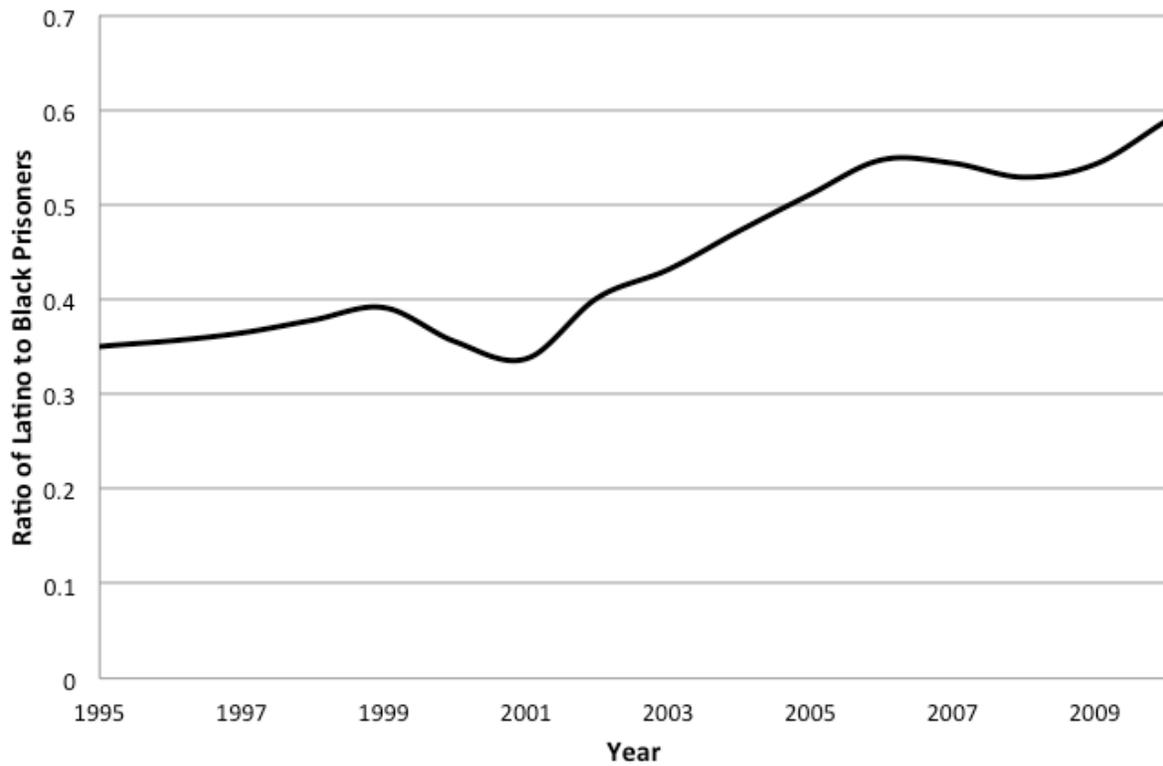
**Figure 6. Trends in Latino residential segregation in 287 metropolitan areas**



**Figure 7. Median net wealth of black and Latino households.**



**Figure 8. Ratio of Latinos to blacks incarcerated in state and federal prisons**



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