

Deportation by Design:
How Political Entrepreneurs Engineered Crime-Based Deportation in the United States

Abstract

Starting in the 1980s, the U.S. federal government considerably expanded criminal grounds for deportation, laying the foundation for today's enforcement regime. Yet, the policymaking dynamics behind this shift remain unclear, given the country's long history of using criminality to exclude, detain, and remove immigrants. I argue that modern crime-based deportation originated with an underexplored provision of the Immigration Reform and Control Act of 1986, followed by key expansions in 1988 and 1990. Using a reactive sequences framework, I trace how macroscopic forces converged to produce a contingent event—the insertion of Section 701 into IRCA—triggering a backlash-driven sequence of reforms that reshaped U.S. immigration enforcement. Analyzing congressional debates from 1986 to 1990, I reveal how a bipartisan coalition of political entrepreneurs, many from Florida, embedded crime-based deportation within the broader institutional crackdown on drugs and crime. Substantively, my findings clarify how deportation laws evolve through national policymaking, often in response to local pressures. Theoretically, I extend the reactive sequences approach to a novel case, demonstrating how political actors exploit contingent moments to drive institutional change.

Keywords—Crime-based deportation; crimmigration; political entrepreneurs; reactive sequences

1 Introduction

On January 29, 2025, President Donald Trump signed into law the Laken Riley Act (S.5), the first piece of legislation enacted from the 119th United States Congress. The Act mandates that the Department of Homeland Security detain non-citizens who are unlawfully present and have been charged with, arrested for, convicted of, or admit to committing a wide range of crimes, including theft, assaulting a police officer, or offenses resulting in serious injury or death. The law may be new in its provisions, but it follows a recognizable blueprint that uses criminal acts as grounds for the detention and deportation of non-citizens.

Crime-based deportation has evolved into the cornerstone of the modern U.S. immigration enforcement system, as 81,312 of the 113,431 arrests (71.7%) and 88,763 of the 271,484 removals (32.7%) made by Immigration and Customs Enforcement (ICE) in Fiscal Year 2024 were of non-citizens with criminal convictions or pending charges.¹ Yet, the roots of this system stretch back at least four decades, when immigration enforcement merged with the criminal legal system in ways that may have seemed incidental at the time but ultimately redefined the trajectory of U.S. immigration policy.

Why did Congress begin to expand criminal grounds for the detention and deportation of non-citizens in the 1980s? Criminal records have long been used to exclude, detain, and remove immigrants, dating back to the first federal laws restricting immigration.² During nineteenth and twentieth centuries, however, the federal government rarely exercised its deportation powers,³ as

¹ Immigration and Customs Enforcement, “ICE Fiscal Year 2024 Annual Report” (Washington D.C., December 19, 2024), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf>.

² Kristin A. Collins, “Illegitimate Borders: Jus Sanguinis Citizenship and the Legal Construction of Family, Race, and Nation,” *Yale Law Journal* 123, no. 7 (2014 2013): 2154–58; Alina Das, “Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation,” *U.C. Davis Law Review* 52, no. 1 (2018): 171–96.

³ Emma Kaufman, “Segregation by Citizenship,” *Harvard Law Review* 132, no. 5 (2019): 1379–1444; Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2014), <https://doi.org/10.1515/9781400850235>.

race-based exclusion barred marginalized groups from entering the country. In general, immigration enforcement operated independently of the criminal legal system—until the 1980s. During this period, an unprecedented merger of criminal and immigration law developed, often referred to as “crimmigration.”⁴ There was a dramatic shift toward internal immigration enforcement, with non-citizens suspected of engaging in an ever-expanding list of criminal offenses—so-called ‘criminal aliens’—becoming the primary targets of detention and deportation.⁵ Congress empowered the federal government to wield its deportation powers not on a case-by-case basis, as was common during the era of race-based exclusions,⁶ but on a group basis, removing non-citizens deemed dangerous according to longstanding racial and class hierarchies, now cloaked in race-neutral language.⁷

The emergence of these sweeping changes to immigration enforcement in the 1980s, rather than earlier, has often been analyzed through the lens of mass incarceration. Migration⁸ and

⁴ Juliet P. Stumpf, “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power,” *American University Law Review* 56, no. 367 (2006): 1689–99; Juliet P. Stumpf, “The Process Is the Punishment in Crimmigration Law,” in *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*, ed. Katja Franko Aas and Mary Bosworth (Oxford: Oxford University Press, 2013), 58–75; Juliet P. Stumpf, “Crimmigration: Encountering the Leviathan,” in *The Routledge Handbook on Crime and International Migration* (Routledge, 2014), 237–50; César Cuauhtémoc García Hernández, “Creating Crimmigration,” *Brigham Young University Law Review*, 2013, 1457–1516; César Cuauhtémoc García Hernández, “What Is Crimmigration Law?,” *Insights on Law and Society* 17, no. 3 (2017): 22–25; César Cuauhtémoc García Hernández, “Deconstructing Crimmigration,” *U.C. Davis Law Review* 52, no. 1 (2019 2018): 197–254.

⁵ J. X. Inda, “Subject to Deportation: IRCA, ‘Criminal Aliens’, and the Policing of Immigration,” *Migration Studies* 1, no. 3 (2013): 292–310, <https://doi.org/10.1093/migration/mns003>; Judith Ann Warner, “The Social Construction of the Criminal Alien in Immigration Law, Enforcement Practice and Statistical Enumeration: Consequences for Immigrant Stereotyping,” *Journal of Social and Ecological Boundaries Copyright Journal of Social and Ecological Boundaries* 2006 (2005): 1551–9880.

⁶ Adam Goodman, *The Deportation Machine: America’s Long History of Expelling Immigrants* (Princeton: Princeton University Press, 2020); Julie Ann Simon-Kerr, “Moral Turpitude,” *Utah Law Review* 2 (2012): 1001–70.

⁷ Alina Das, *No Justice in the Shadows: How America Criminalizes Immigrants*, First edition (New York, NY: Bold Type Books, 2020).

⁸ Jenna M. Loyd and Alison Mountz, *Boats, Borders, and Bases: Race, the Cold War, and the Rise of Migration Detention in the United States* (Oakland, California: University of California Press, 2018); Patrisia Macías-Rojas, *From Deportation to Prison: The Politics of Immigration Enforcement in Post-Civil Rights America*, *Latina/o Sociology* 2 (New York, NY: New York University Press, 2016), <https://doi.org/10.18574/9781479858422>; Kristina Shull, *Detention Empire: Reagan’s War on Immigrants and the Seeds of Resistance* (Chapel Hill: The University of North Carolina Press, 2022).

penology⁹ scholars emphasize how the punitive logic and practices of the criminal legal system penetrated immigration policy, converting detention and deportation into tools of social control. First among the group of racialized undesirables for removal were those non-citizens involved in drug crimes and violent crime, as the War on Drugs provided the “legislative foundation” for what would become the modern crime-based deportation system.¹⁰ From the late 1980s, deportable offenses expanded greatly, including ‘crimes involving moral turpitude’¹¹ and the newly created ‘aggravated felony’ category.¹² Initially limited to murder, drug trafficking, and firearms trafficking, the latter category¹³ has since grown to include 26 deportable offenses.¹⁴ It is therefore crucial to examine the policy changes that catalyzed these historical processes, and identify the human agents who played an instrumental role in engineering crime-based deportation.

Beginning with Section 701 of the Immigration Reform and Control Act (IRCA) of 1986, Congress made deporting non-citizens convicted of certain crimes an enforcement priority for the first time, classifying a broad range of post-entry criminal acts as deportable offenses. Despite limited scholarly attention, Section 701 laid the groundwork for modern immigration enforcement.

⁹ Teresa A. Miller, “The Impact of Mass Incarceration on Immigration Policy,” in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, ed. Marc Mauer and Meda Chesney-Lind (New York: New Press, 2002); Teresa A. Miller, “Citizenship and Severity: Recent Immigration Reforms and the New Penology,” *Georgetown Immigration Law Journal* 17 (2003): 611–66; Teresa A. Miller, “Blurring the Boundaries between Immigration and Crime Control after September 11th,” *Boston College Third World Law Journal* 25, no. 1 (2005): 81–123; Jonathan Simon, “Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States,” *Public Culture* 10, no. 3 (September 1, 1998): 577–607, <https://doi.org/10.1215/08992363-10-3-577>; Jonathan Simon, ed., *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*, Studies in Crime and Public Policy (Oxford New York: Oxford University Press, 2007).

¹⁰ Das, *No Justice in the Shadows: How America Criminalizes Immigrants*, 67.

¹¹ Stephen H Legomsky, “The New Path of Immigration Law: Asymmetric Incorporation of Criminal Justice Norms,” *Washington and Lee Law Review* 64 (2007): 469–530; Miller, “Citizenship and Severity: Recent Immigration Reforms and the New Penology.”

¹² Sarah Tosh, “Drugs, Crime, and Aggravated Felony Deportations: Moral Panic Theory and the Legal Construction of the ‘Criminal Alien,’” *Critical Criminology* 27, no. 2 (2019): 329–45, <https://doi.org/10.1007/s10612-019-09446-8>.

¹³ An “aggravated felony” is any offense that Congress classifies as such for the sake of immigration law; it need not be “aggravated” nor a “felony” to qualify.

¹⁴ Goodman, *The Deportation Machine: America’s Long History of Expelling Immigrants*; Inda, “Subject to Deportation: IRCA, ‘Criminal Aliens’, and the Policing of Immigration.”

It was a watershed moment in the backlash to the “unintended consequences” of the Immigration and Nationality Act of 1965,¹⁵ a Civil Rights-era shift toward formal racial equality. Yet, Section 701 was also contingent, introduced as a last-minute amendment to the House version of IRCA on the final day of debate.

In this study, I investigate the origins of this provision and the ensuing efforts to consolidate a modest policy innovation into the foundation of crime-based deportation. Adopting a historical institutionalist approach, I trace the macro-level forces that led to Congress’ embrace of this system.¹⁶ Specifically, I analyze the “reactive sequence”¹⁷ of events from 1986 to 1990 that triggered the process of institutional transformation of interest here. During this period, cultural-demographic and political-economic forces converged to generate a contingent moment—the insertion of Section 701 into IRCA—around which key actors united to push for more significant policy changes. The trajectory that followed was characterized by “backlash politics,”¹⁸ as members of Congress merged the issues of crime, drugs, and immigration to justify and entrench punitive enforcement measures.

Emphasizing the role of human agency in reactive sequences, I incorporate the concept of “political entrepreneurs”¹⁹ to provide micro-foundations for the model. In my sequence of interest,

¹⁵ Douglas S Massey and Karen A. Pren, “Unintended Consequences of US Immigration Policy: Explaining the Post-1965 Surge from Latin America,” *Population and Development Review* 38, no. 1 (2012): 1–29.

¹⁶ Peter A. Hall, “Historical Institutionalism in Rationalist and Sociological Perspective,” in *Explaining Institutional Change: Ambiguity, Agency, and Power*, 2010, 204–23; Peter A. Hall, “Politics as a Process Structured in Space and Time,” in *The Oxford Handbook of Historical Institutionalism*, ed. Orfeo Fioretos, Tulia G. Falletti, and Adam D. Sheingate (Ox: Oxford University Press, 2016), 1–23, <https://doi.org/10.1093/oxfordhb/9780199662814.013.2>; James Mahoney, Khairunnisa Mohamedali, and Christoph Nguyen, “Causality and Time in Historical Institutionalism,” in *The Oxford Handbook of Historical Institutionalism*, ed. Orfeo Fioretos, Tulia G. Falletti, and Adam Sheingate (Oxford: Oxford University Press, 2016), 71–88.

¹⁷ James Mahoney, “Path Dependence in Historical Sociology,” *Theory and Society* 29, no. 4 (2000): 507–48.

¹⁸ Karen J. Alter and Michael Zürn, “Conceptualising Backlash Politics: Introduction to a Special Issue on Backlash Politics in Comparison,” *British Journal of Politics and International Relations* 22, no. 4 (2020): 563–84, <https://doi.org/10.1177/1369148120947958>.

¹⁹ Robert A. Dahl, *Who Governs? Democracy and Power in an American City* (New Haven: Yale University Press, 1961); Adam D. Sheingate, “Political Entrepreneurship, Institutional Change, and American Political

entrepreneurs capitalized on the specific conditions of the mid- to late-1980s, weaving the war on drugs with a crackdown on immigration to convert deportation into a tool of social control in the post-1965 era. Many of these early congressional actors, including the author of Section 701, came from Florida, a state at the nexus of immigration and drug issues in the 1980s. These legislators, responding to mass migrations of Cubans, Haitians, and Central Americans,²⁰ coalesced around crime-based deportation as an ostensibly race-neutral means of removing undesirables. They then built a fast-growing bipartisan coalition that secured key victories, contributing to the “nationalization” of the U.S. immigration debate by shifting it from localized concerns to a broader focus on internal enforcement.²¹ Through this iterative process, political entrepreneurs left an indelible mark on the institutionalization of crime-based deportation over the past four decades.

In support of my arguments, I survey congressional policy debates from 1986 to 1990, a period marked by intense debates on drugs, crime, and immigration. Drawing on the Congressional Record, I analyze the legislative processes behind key acts, including the Immigration Reform and Control Act of 1986, the Anti-Drug Abuse Act of 1988, and the Immigration Act of 1990. By dissecting statements from key political entrepreneurs, I uncover the rhetorical strategies that shaped these policy shifts and demonstrate how congressional deliberations entrenched crime-based deportation within the broader immigration enforcement regime. I further explore the motivations of certain actors, particularly those from Florida, who championed these legislative provisions. Nearly 40 years after the passage of IRCA, the present study reflects on the lessons of history as a new wave of crime-based deportation measures is enacted.

Development,” *Studies in American Political Development* 17, no. 2 (2003): 185–203, <https://doi.org/10.1017/s0898588x03000129>.

²⁰ Kristina Shull, “Reagan’s Cold War on Immigrants: Resistance and the Rise of a Detention Regime, 1981–1985,” *Journal of American Ethnic History* 40, no. 2 (January 1, 2021): 5–51, <https://doi.org/10.5406/jamerethnhist.40.2.0005>.

²¹ Daniel J. Hopkins, *The Increasingly United States: How and Why American Political Behavior Nationalized*, Chicago Studies in American Politics (Chicago, IL: University of Chicago press, 2018).

2 Crimmigration and Crime-Based Deportation

Crimmigration law encompasses multiple intersecting phenomena: (1) the criminalization of civil immigration violations, such as unauthorized entry and presence²²; (2) the expansion of criminal offenses that trigger immigration consequences, including deportation²³; (3) the incorporation of criminal law enforcement methods into immigration practice, including detention, surveillance, and punishment-oriented approaches²⁴; and (4) efforts to import criminal law procedural protections into immigration proceedings, though these have been largely unsuccessful.²⁵ The Supreme Court's decision in *Padilla v. Kentucky* (2010), which required criminal defense attorneys to advise non-citizen clients about potential immigration consequences of guilty pleas, exemplifies how these systems have become functionally inseparable, even as deportation formally remains a civil penalty rather than criminal punishment.

Scholars stress the importance of this merger between criminal and immigration law as a central feature of modern U.S. immigration enforcement.²⁶ These two types of law were historically discrete and largely unrelated, but since the 1980s, the line dividing them has grown

²² Jennifer M. Chacón, "Overcriminalizing Migration," *Journal of Criminal Law and Criminology* 102, no. 3 (2012): 613–52; Stumpf, "Crimmigration."

²³ Legomsky, "The New Path of Immigration Law: Asymmetric Incorporation of Criminal Justice Norms"; Miller, "Citizenship and Severity: Recent Immigration Reforms and the New Penology."

²⁴ García Hernández, "Creating Crimmigration"; César Cuauhtémoc García Hernández, "Crimmigration Realities and Possibilities," *Denver University Law Review* 92, no. 4 (2015): 697–99, <https://doi.org/10.1117/12.281181>; García Hernández, "What Is Crimmigration Law?"

²⁵ Stumpf, "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power"; Stumpf, "The Process Is the Punishment in Crimmigration Law."

²⁶ García Hernández, "Creating Crimmigration"; García Hernández, "Crimmigration Realities and Possibilities"; García Hernández, "What Is Crimmigration Law?"; García Hernández, "Deconstructing Crimmigration Symposium"; Karol Gil-Vasquez, "A Regional Great Transformation: U.S. Contractualization of Citizenship and Crimmigration Regime," *Journal of Economic Issues* 54, no. 3 (2020): 569–87, <https://doi.org/10.1080/00213624.2020.1778395>; Stumpf, "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power"; Stumpf, "The Process Is the Punishment in Crimmigration Law"; Stumpf, "Crimmigration."

increasingly indistinct.²⁷ These transformations have been examined using criminological²⁸ and legal²⁹ frameworks. I contribute to the literature by employing an institutionalist framework to explain the advent of crime-based deportation.

I define crime-based deportation as formal institution, meaning “generally written standards for conduct produced according to specified procedures by authorities legally invested with the power to do so.”³⁰ This term has been used to refer to the expansion of both criminal grounds for removal and immigration status-based crimes.³¹ I employ it more narrowly. In this paper, “crime-based deportation” refers to those sections of federal law that provide for the removal of non-citizens based on criminal activity that occurred within the U.S. (i.e., post-entry). Since 1893, the Supreme Court has classified deportation as a civil penalty, not a punishment per se.³² Yet, since the 1980s, deportation has become a frequent consequence of criminal convictions, even as non-citizens facing removal lack the constitutional rights afforded to criminal defendants.

The “punitive turn” in immigration enforcement, with crime-based deportation as a central feature, emerged in the 1980s due to both structural and proximate causes.³³ Two decades prior,

²⁷ García Hernández, “Creating Crimmigration”; Legomsky, “The New Path of Immigration Law: Asymmetric Incorporation of Criminal Justice Norms”; Stumpf, “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power.”

²⁸ M. Bosworth and M. Guild, “Governing Through Migration Control: Security and Citizenship in Britain,” *British Journal of Criminology* 48, no. 6 (August 27, 2008): 703–19, <https://doi.org/10.1093/bjc/azn059>; Katja Franko Aas and Mary Bosworth, *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*, ed. Katja Franko Aas and Mary Bosworth (Oxford: Oxford University Press, 2013), <https://doi.org/10.1093/acprof:oso/9780199669394.001.0001>; Cecilia Menjívar, Andrea Gómez Cervantes, and Daniel Alvord, “The Expansion of ‘Crimmigration,’ Mass Detention, and Deportation,” *Sociology Compass* 12, no. 4 (2018): 1–15, <https://doi.org/10.1111/soc4.12573>.

²⁹ García Hernández, “Creating Crimmigration”; Legomsky, “The New Path of Immigration Law: Asymmetric Incorporation of Criminal Justice Norms”; Stumpf, “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power”; Stumpf, “The Process Is the Punishment in Crimmigration Law.”

³⁰ Daniel M. Brinks, “Informal Institutions and the Rule of Law: The Judicial Response to State Killings in Buenos Aires and Sao Paulo in the 1990s,” *Comparative Politics* 36, no. 1 (October 2003): 4, <https://doi.org/10.2307/4150157>.

³¹ Das, “Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation.”

³² In *Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893), the U.S. Supreme Court ruled for the first time that “the order of deportation is not a punishment for crime.”

³³ Macías-Rojas, *From Deportation to Prison*, 19–22.

the Immigration and Nationality Act of 1965 phased out race-based national origins quotas, bringing an end to a 44-year period when formal exclusion served as the primary tool of racialized social control in U.S. immigration policy.³⁴ The “unintended consequences”³⁵ of the reform included a sharp increase in immigration, particularly from Asia and Latin America. These demographic changes, which sparked a “reinvigorated fear of noncitizens,”³⁶ were epitomized by mass migrations from Latin America. The racialized image of the ‘criminal alien’ emerged as a response to the long-term incarceration of Cuban, Haitian, and Central American migrants during the 1970s and 80s.³⁷ While these developments set the stage for crime-based deportation, broader shifts in the criminal legal system provided the catalyst.

As explicit racism became politically untenable in the post-Civil Rights era,³⁸ criminality became a race-neutral proxy for determining who deserved punishment and, by extension, which non-citizens were deemed undesirable. Neoliberal austerity and declining trust in government reinforced punitive attitudes.³⁹ “Governing through crime”⁴⁰ became the dominant framework for policymaking. The War on Crime and the escalating War on Drugs, which fueled mass

³⁴ David FitzGerald and David Cook-Martin, *Culling the Masses: The Democratic Origins of Racist Immigration Policy in the Americas* (Cambridge, Massachusetts: Harvard University Press, 2014); Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*.

³⁵ Massey and Pren, “Unintended Consequences of US Immigration Policy.”

³⁶ García Hernández, “Creating Crimmigration,” 1457.

³⁷ Loyd and Mountz, *Boats, Borders, and Bases*, 117–43; Angelica Cházaro, “Challenging the ‘Criminal Alien’ Paradigm,” *UCLA Law Review* 63, no. 3 (2016): 594–664; Alexander M. Stephens, “Making Migrants ‘Criminal’: The Mariel Boatlift, Miami, and U.S. Immigration Policy in the 1980s” 17, no. 2 (December 14, 2021): 4, <https://doi.org/10.33596/anth.439>.

³⁸ Eduardo Bonilla-Silva, “‘New Racism,’ Color-Blind Racism, and the Future of Whiteness in America,” in *White Out: The Continuing Significance of Racism*, ed. Ashley W. Doane and Eduardo Bonilla-Silva (Routledge, 2013), 268–81, <https://doi.org/10.4324/9780203412107>.

³⁹ David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2001), <https://doi.org/10.1093/acprof:oso/9780199258024.001.0001>; Tosh, “Drugs, Crime, and Aggravated Felony Deportations: Moral Panic Theory and the Legal Construction of the ‘Criminal Alien’”; Loïc Wacquant, “Ordering Insecurity,” *Radical Philosophy Review* 11, no. 1 (2008): 1–19, <https://doi.org/10.5840/radphilrev20081112>.

⁴⁰ Simon, *Governing through Crime*.

incarceration,⁴¹ extended into immigration enforcement. Public officials increasingly used the ‘criminal alien’ trope to justify punitive federal responses to prison unrest and over-crowding.⁴² These forces, together with new legal measures, triggered a moral panic about immigrant criminality distinct from prior waves of anti-immigrant sentiment.

I study how these structural and more proximate causes interacted to institutionalize crime-based deportation. My analysis focuses on Section 701 of IRCA, a “relatively uncontroversial” provision,⁴³ that has gone surprisingly understudied given its transformative impact on institutional development. By surveying congressional debates from 1986 to 1990, I uncover how political entrepreneurs propelled immigrant criminality onto the national agenda, driving the formative years of crime-based deportation in the U.S.

3 Methodology

The analysis I present below follows a historical institutionalist approach to policy change.⁴⁴ This approach emphasizes temporality in political analysis, focusing on how key events unfold in sequence.⁴⁵ I examine the macroscopic forces that produced a contingent moment leading

⁴¹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York City: The New Press, 2010).

⁴² Loyd and Mountz, *Boats, Borders, and Bases*, 1229–131; Shull, *Detention Empire*, 189–93.

⁴³ Das, *No Justice in the Shadows: How America Criminalizes Immigrants*, 70.

⁴⁴ Carsten Daugbjerg, “Sequencing in Public Policy: The Evolution of the CAP over a Decade,” *Journal of European Public Policy* 16, no. 3 (2009): 395–411, <https://doi.org/10.1080/13501760802662698>; Michael Howlett, “Process Sequencing Policy Dynamics: Beyond Homeostasis and Path Dependency,” *Journal of Public Policy* 29, no. 3 (December 2009): 241–62, <https://doi.org/10.1017/S0143814X09990158>; Hanne B. Mawhinney, “Reactive Sequences in the Evolution of Maryland’s Consequential Accountability Regime,” *Educational Policy* 27, no. 2 (March 1, 2013): 279–306, <https://doi.org/10.1177/0895904812472723>; Kathleen Thelen, “How Institutions Evolve: Insights from Comparative-Historical Analysis,” in *Comparative Historical Analysis in the Social Sciences*, ed. James Mahoney and Dietrich Rueschemeyer, Cambridge Studies in Comparative Politics (Cambridge: Cambridge University Press, 2003), 208–40, <https://doi.org/10.1017/CBO9780511803963.007>.

⁴⁵ Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis* (Princeton: Princeton University Press, 2004), <https://doi.org/10.1515/9781400841080>; Kathleen Thelen, *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan* (Cambridge: Cambridge University Press, 2004), <https://doi.org/10.1017/CBO9780511790997>.

to the shift toward crime-based deportation in the 1980s, with particular attention to how human agency shaped this institutional trajectory.⁴⁶

I frame the development of crime-based deportation as a reactive sequence, where “each event in the sequence is both a reaction to antecedent events and a cause of subsequent events.”⁴⁷ The reactive sequences framework was developed by sociologist James Mahoney within the historical institutionalist tradition, building on earlier work in comparative politics and sociology that sought to explain institutional transformation through chains of causally linked events. These sequences are characterized by backlash processes that “*transform* and perhaps *reverse* early events.”⁴⁸ They are thus distinct from self-reinforcing sequences, a form of path dependence whereby increasing returns reproduce early events.⁴⁹ Some scholars argue that self-reinforcing approaches have less explanatory power when used to study major policy change over time.⁵⁰

While the reactive sequences framework has been applied across diverse policy domains—from agricultural policy to educational reform⁵¹—it remains underutilized in immigration scholarship. The framework’s particular strength lies in its capacity to explain institutional transformation through backlash dynamics while incorporating human agency, making it well-

⁴⁶ James Mahoney and Kathleen Thelen, eds., *Explaining Institutional Change: Ambiguity, Agency, and Power*, 1st ed. (Cambridge University Press, 2009), <https://doi.org/10.1017/CBO9780511806414>; Wolfgang Streeck and Kathleen Ann Thelen, eds., *Beyond Continuity: Institutional Change in Advanced Political Economies* (Oxford; New York: Oxford University Press, 2005).

⁴⁷ Mahoney, “Path Dependence in Historical Sociology,” 509, 526.

⁴⁸ Mahoney, 526.

⁴⁹ W. Arthur, *Increasing Returns and Path Dependence in the Economy* (Ann Arbor, MI: University of Michigan Press, 1994), <https://doi.org/10.3998/mpub.10029>; Hall, “Politics as a Process Structured in Space and Time”; Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *American Political Science Review* 94, no. 2 (2000): 251–67; Pierson, *Politics in Time: History, Institutions, and Social Analysis*; Thomas Rixen and Lora Anne Viola, “Putting Path Dependence in Its Place: Toward a Taxonomy of Institutional Change,” *Journal of Theoretical Politics* 27, no. 2 (2015): 301–23, <https://doi.org/10.1177/0951629814531667>.

⁵⁰ Daugbjerg, “Sequencing in Public Policy: The Evolution of the CAP over a Decade”; Adrian Kay, “A Critique of the Use of Path Dependency in Policy Studies,” *Public Administration* 83, no. 3 (2005): 553–71, <https://doi.org/10.1111/j.0033-3298.2005.00462.x>; Mawhinney, “Reactive Sequences in the Evolution of Maryland’s Consequential Accountability Regime.”

⁵¹ Daugbjerg, “Sequencing in Public Policy: The Evolution of the CAP over a Decade”; Mawhinney, “Reactive Sequences in the Evolution of Maryland’s Consequential Accountability Regime.”

suited for analyzing how political entrepreneurs drive policy change during moments of crisis or opportunity.⁵²

This approach provides a more capacious framework for explaining complex chains of events by focusing on the temporal sequencing and reactive nature of political responses, rather than treating policy change as either purely structural or entirely contingent. As Daugbjerg⁵³ notes, this method “leaves more room for policy evolution within the path than the notion of self-reinforcing sequencing because it also allows counter-reactions.” The intersection of two or more once separate sequences produces a contingent early event, known as a conjuncture, followed by a causal reactive chain defined by backlash dynamics. According to Alter and Zürn⁵⁴, backlash politics merge “a retrograde objective, extraordinary claims, demands and tactics, and a threshold of influencing public discourse so that the movement's objectives and/or tactics become normalized features of politics.”

These are essential features of the reactive sequence behind the institutional development of crime-based deportation from 1986 to 1990. This chain of reactions to the cultural-demographic and political-economic circumstances of the mid-to-late 1980s led to a transformation in the scale and structure of crime-based deportation. These changes also marked a reversal in institutional direction, deviating from the more liberal immigration regime established by the Immigration and Nationality Act of 1965.

Path dependent frameworks, however, may understate the role of individual agency when explaining institutional outcomes.⁵⁵ Human actors are particularly important when policy elements

⁵² Mahoney, Mohamedali, and Nguyen, “Causality and Time in Historical Institutionalism.”

⁵³ Daugbjerg, “Sequencing in Public Policy: The Evolution of the CAP over a Decade,” 398.

⁵⁴ “Conceptualising Backlash Politics: Introduction to a Special Issue on Backlash Politics in Comparison,” 566.

⁵⁵ Pierson, *Politics in Time: History, Institutions, and Social Analysis*; Thelen, “How Institutions Evolve: Insights from Comparative-Historical Analysis.”

are situated in a ‘nested’ relationship where the micro-level—policymaker behavior—is inseparable from the macro-level—institutions.⁵⁶ Political institutions themselves are the product of coalitions,⁵⁷ whereby actors reinterpret their interests and jointly pursue some institutional project.⁵⁸ Some actors lead coalition building and shape the path of development, while others play supporting roles.⁵⁹ Interest re-interpretation thus depends on the ability of actors to react to changing circumstances and influence other possible stakeholders.

I leverage the longstanding concept of political entrepreneurs⁶⁰ to establish the micro-foundations of the reactive sequences framework. Political entrepreneurs respond to conjunctures where multiple sequences intersect, forging coalitions around shared interests to advance institutional reforms. Their ability to drive policy change hinges on institutional complementarities, aligning their proposals with existing policy frameworks to maximize political traction.⁶¹ Of course, not all entrepreneurs are successful. Though, when they are, they activate latent dimensions of conflict and frame reforms as the logical extension of another policy program.⁶² In reactive sequences, these actors “etch” their political imagination into long-term institutional development⁶³ in a series of episodes where they invite coalitional stakeholders from connected policy domains. Through this process, political entrepreneurs transformed crime-based

⁵⁶ Peter A. Hall, “Policy Paradigms, Social Learning, and the State: The Case of Economic Policymaking in Britain,” *Comparative Politics* 25, no. 3 (1993): 275–96.

⁵⁷ Hall, “Politics as a Process Structured in Space and Time”; Thelen, “How Institutions Evolve: Insights from Comparative-Historical Analysis.”

⁵⁸ Hall, “Politics as a Process Structured in Space and Time”; Claus Offe and Helmut Wessenthal, “Two Logics of Collective Action: Theoretical Notes on Social Class and Organizational Form,” *Political Power and Social Theory* 1, no. 1 (1980): 67–115.

⁵⁹ Walter Korpi, “Power Resources and Employer-Centered Approaches in Explanations of Welfare States and Varieties of Capitalism: Protagonists, Consenters, and Antagonists,” *World Politics* 58, no. 2 (2006): 167–206.

⁶⁰ Dahl, *Who Governs? Democracy and Power in an American City*; John W. Kingdon, *Agendas, Alternatives, and Public Policies* (New York City: Harper Collins, 1984); Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development.”

⁶¹ Peter A. Hall and David Soskice, *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford: Oxford University Press, 2001).

⁶² Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development.”

⁶³ Hall, “Politics as a Process Structured in Space and Time,” 15.

deportation from a last-minute add-on to IRCA into the foundation of contemporary U.S. immigration enforcement.

To trace this process, I conduct a discourse analysis of congressional debates from 1986 to 1990—a period of intense deliberation on drugs, crime, and immigration. I focus on discussions surrounding the Immigration Reform and Control Act of 1986, the Anti-Drug Abuse Act of 1988, and the Immigration Act of 1990, drawing on an extensive review of the Congressional Record. I systematically examine debates from both the House of Representatives and the Senate, identifying references to the deportation of non-citizens involved in criminal activity. I used a diverse set of search terms, including: alien, criminal alien, deportability, deportation, illegal alien, removal, and summary deportation. I map the discursive landscape within Congress, uncovering how political entrepreneurs framed crime-based deportation and negotiated policy responses.

Congress is my primary institutional arena of interest. I acknowledge that actors often went to great lengths to disseminate their ideas on the immigration-crime nexus—through media institutions, for example. These efforts, however, largely fall outside the scope of my study. I trace the formation of a new coalition within the chambers of Congress and the evolution of the reactive sequence behind crime-based deportation. I unpack how new ideas and discourses gained traction among a powerful alliance that achieved tangible policy outcomes. Below I consider the sequences of events that drove their push for crime-based deportation reforms.

4.1 A Conjuncture of Sequences

The insertion of Section 701 into the Immigration Reform and Control Act (IRCA) of 1986 marked the conjunctural event that set crime-based deportation into motion. IRCA is best known for—and has generally been studied for—penalizing employers who hired undocumented workers,

increasing funding for the Immigration and Naturalization Service (INS),⁶⁴ and granting legal status to 2.7 million undocumented immigrants.⁶⁵ However, the law also included a lesser-known provision—Section 701. This section required that in the case of any non-citizen found guilty of a deportable offense, “the Attorney General shall begin any deportation proceeding *as expeditiously as possible* after the date of the conviction” [emphasis added].⁶⁶ Prior to 1986, immigration enforcement priorities focused primarily on border control and the removal of recently arrived unauthorized immigrants. While criminal grounds for deportation existed since the late 19th century, enforcement was largely sporadic and case-by-case.⁶⁷ The Immigration and Nationality Act of 1952 expanded grounds of deportability based on drug crime convictions,⁶⁸ but these provisions left deportation decisions to prosecutorial discretion and lacked enforcement mandates. Section 701 marked a decisive policy departure, transforming crime-based deportation into a mandatory enforcement priority for the first time. I examine the cultural-demographic and political-economic sequences that converged in 1986 to produce this shift, launching the reactive sequence that shaped the modern crime-based deportation system.

⁶⁴ The INS was the precursor to Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP), which today comprise the Department of Homeland Security (DHS).

⁶⁵ Susan González Baker, “The ‘Amnesty’ Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act,” *International Migration Review* 31, no. 1 (March 1, 1997): 5–27, <https://doi.org/10.1177/019791839703100101>; Vernon M. Briggs, Jr., “Employer Sanctions and the Question of Discrimination: The GAO Study in Perspective,” *International Migration Review* 24, no. 4 (December 1, 1990): 803–15, <https://doi.org/10.1177/019791839002400408>; Steven M. Kaplan, “The Employer Sanctions Provision of IRCA: Deterrence or Discrimination,” *Georgetown Immigration Law Journal* 6 (1992): 545; Pia M. Orrenius and Madeline Zavodny, “Do Amnesty Programs Reduce Undocumented Immigration? Evidence from Irca,” *Demography* 40, no. 3 (August 1, 2003): 437–50, <https://doi.org/10.1353/dem.2003.0028>.

⁶⁶ Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, Sec. 701, 100 Stat. 3445 (1986).

⁶⁷ Daniel Kanstroom, “Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws Make Bad Cases,” *Harvard Law Review* 113, no. 8 (2000): 1890–1935; Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*.

⁶⁸ Das, “Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation”; Das, *No Justice in the Shadows: How America Criminalizes Immigrants*.

First, there is the “cultural” sequence that is implicit in the crimmigration literature. Racial animus has contributed to the association between crime and immigration in federal policy as far back as the Page Act of 1875—the first federal law to restrict immigration, which targeted Chinese women.⁶⁹ By the 1980s, racist prejudices among the public had not subsided but had assumed new forms. A “symbolic” racism emerged among the white majority.⁷⁰ Unlike “old-fashioned” racism, this new racism manifested in subtler ways, rooted in the belief that people of color, particularly Black people, violated conventional U.S. values such as individualism and self-reliance.⁷¹ Racial prejudices continued to play a fundamental role in national politics in the post-Civil Rights era, though often expressed in colorblind terms.⁷²

These cultural forces extended into the realm of immigration. As García Hernández⁷³ observes, “the cultural and legislative successes of the civil rights era made it culturally, politically, and legally unacceptable or impermissible to repeat the overt racism that dominated law and law enforcement for much of the nation’s history.” Legislative successes, however, did not dispel the racist notions that people of color, including immigrants, were undesirable. Anti-immigrant attitudes surged during the economic recession of the early 1980s, as high inflation and unemployment fueled public anxiety. In 1984 and 1985, a sizeable majority of Americans (61-

⁶⁹ Collins, “Illegitimate Borders,” 2154–58; Das, “Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation”; Kerry Abrams, “Polygamy, Prostitution, and the Federalization of Immigration Law,” *Columbia Law Review* 105, no. 3 (2005): 648.

⁷⁰ Paul M. Sniderman and Philip E. Tetlock, “Symbolic Racism: Problems of Motive Attribution in Political Analysis,” *Journal of Social Issues* 42, no. 2 (1986): 129–50; Paul M. Sniderman et al., “The New Racism” 35, no. 2 (1991): 423–47.

⁷¹ Michael Tesler, “The Return of Old-Fashioned Racism to White Americans’ Partisan Preferences in the Early Obama Era,” *Journal of Politics* 75, no. 1 (2013): 110–23, <https://doi.org/10.1017/S0022381612000904>.

⁷² Bonilla-Silva, “‘New Racism,’ Color-Blind Racism, and the Future of Whiteness in America.”

⁷³ “Creating Crimmigration,” 1515.

62%, depending on the poll) believed that immigrants took away jobs from U.S. workers.⁷⁴ By 1986, nearly half of the public (49%) believed that immigration should be reduced.⁷⁵

Public sentiment toward immigrants was inseparable from popular beliefs about race. The perception of an immigration crisis in the 1980s was driven largely by “recurrent spectacles of mass migrations” by Cubans, Haitians, and Central Americans.⁷⁶ Florida became the epicenter of these events in the years preceding IRCA. As Haitians fled the dictatorship of Jean-Claude Duvalier and arrived by boat, the prospect of a large influx of impoverished Black refugees scared many South Florida residents.⁷⁷ These arrivals coincided with the 1980 Mariel Boatlift, which saw nearly 125,000 Cubans arrive in Miami in a mass exodus sanctioned by Fidel Castro. These migrants, alongside another 15,000 Haitians, were portrayed in local and national media as drug dealers, welfare-seekers, and, of course, criminals.⁷⁸ Together, these events intensified the narrative of an immigration crisis, elevating the figure of the ‘criminal alien’ to the national stage.⁷⁹

The concerns of South Florida constituents quickly translated into political action, paving the way for crime-based deportation reforms. In response to growing pressure from “members of south Florida’s political elite—including Democratic party members, elected officials and some Cubans” local members of Congress urged the INS to take action.⁸⁰ The solution, which later became part of the problem, was to detain refugees in Florida’s jails and prisons prior to their removal.⁸¹ The response to the “Long Mariel Crisis” expanded these measures considerably,

⁷⁴ John S. Lapinski et al., “Trends: Immigrants and Immigration,” *The Public Opinion Quarterly* 61, no. 2 (1997): 356–83.

⁷⁵ Lapinski et al.

⁷⁶ Shull, “Reagan’s Cold War on Immigrants,” 6.

⁷⁷ Carl Lindskoog, *Detain and Punish: Haitian Refugees and the Rise of the World’s Largest Immigration Detention System* (Gainesville: University of Florida Press, 2018), 17.

⁷⁸ García Hernández, “Creating Crimmigration,” 1504; Stephens, “Making Migrants ‘Criminal,’” 6.

⁷⁹ Stephens, “Making Migrants ‘Criminal.’”

⁸⁰ Alex Stepick, “Haitian Boat People: A Study in the Conflicting Forces Shaping U.S. Immigration Policy,” *Law and Contemporary Problems* 45, no. 2 (1982): 179, <https://doi.org/10.2307/1191407>.

⁸¹ Lindskoog, *Detain and Punish*, 17.

providing the basis for the Reagan administration's revival of immigration detention.⁸² Hundreds of Cubans with criminal records, whom the federal government refused to release and Cuba refused to accept, were held in a growing network of INS facilities, local jails, and state prisons.⁸³ One of these sites, the Krome Avenue Detention Center outside Miami, was infamous for its horrendous living conditions endured by the Cubans and Haitians detained there.⁸⁴ In response to these mass migrations, public officials made a "distinctly racialized effort" to link urban decay to crime, drugs, and immigration.⁸⁵ Under these conditions, deportation emerged as a go-to tool of racialized social control, with crime serving as the race-neutral mechanism for identifying targets.

The cultural-demographic sequence must be examined alongside the political-economic sequence preceding IRCA. During the 1970s, public attitudes toward the state shifted from the postwar welfare model to a neoliberal framework centered on individualism and free-market economics.⁸⁶ As support for state-led rehabilitation waned, the federal government embraced a punitive approach to crime.⁸⁷ Though crime rates had been rising since the 1960s, shifting perceptions of the 'criminal,' rather than crime itself, drove this transformation.⁸⁸ This ideological shift culminated in Ronald Reagan's election in 1980 and his landslide reelection in 1984, solidifying the neoliberal turn in U.S. policy.

⁸² Loyd and Mountz, *Boats, Borders, and Bases*; Shull, "Reagan's Cold War on Immigrants"; Shull, *Detention Empire*.

⁸³ Lindskoog, *Detain and Punish*, 74.

⁸⁴ Lindskoog, 43; Jana K. Lipman, "'The Fish Trusts the Water, and It Is in the Water That It Is Cooked': The Caribbean Origins of the Krome Detention Center," *Radical History Review* 2013, no. 115 (January 1, 2013): 115–41, <https://doi.org/10.1215/01636545-1724742>.

⁸⁵ Loyd and Mountz, *Boats, Borders, and Bases*, 129; Miller, "Citizenship and Severity: Recent Immigration Reforms and the New Penology"; Simon, "Refugees in a Carceral Age."

⁸⁶ Inda, "Subject to Deportation: IRCA, 'Criminal Aliens', and the Policing of Immigration"; Tosh, "Drugs, Crime, and Aggravated Felony Deportations: Moral Panic Theory and the Legal Construction of the 'Criminal Alien.'"

⁸⁷ Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*.

⁸⁸ Wacquant, "Ordering Insecurity."

The Reagan administration dismantled government-funded social programs and offender rehabilitation, replacing them with a social control approach.⁸⁹ This retributive framework shifted blame for crime from structural problems to individual offenders.⁹⁰ At the same time, the U.S. federal government centralized criminal justice policy.⁹¹ Reagan's "new federalism" was Janus-faced, devolving some policy control to state and local governments while consolidating federal power in other areas, particularly criminal justice.⁹² In immigration policy, his administration expanded federal authority by making detention its primary response to unauthorized immigration.⁹³ However, during Reagan's second term, the administration ceded some control to Congress, "punting" on immigration reform due to prolonged inertia and limited payoff.⁹⁴ As the executive branch stepped back, local interests, especially from states with non-citizen populations such as Florida and New York, pressed national politicians to confront the so-called "criminal-alien problem."⁹⁵

These efforts became entangled in a wider congressional push by conservative Democrats and Republicans for notoriously harsh crime-control and drug policies, despite negligible evidence that these measures would reduce drug consumption, drug trafficking, and violent crime.⁹⁶ Within

⁸⁹ Miller, "Blurring the Boundaries between Immigration and Crime Control after September 11th."

⁹⁰ Marc Mauer, *Race to Incarcerate* (New York City: The New Press, 1999).

⁹¹ Kathleen F. Brickey, "Criminal Mischief: The Federalization of American Criminal Law," *Hastings Law Journal* 46 (1994): 1135–74.

⁹² Joseph F. Zimmerman, "Federal Preemption under Reagan's New Federalism," *The Journal of Federalism* 21, no. 1 (1991).

⁹³ Kristina Shull, "'Nobody Wants These People': Reagan's Immigration Crisis and the Containment of Foreign Bodies," in *Body and Nation: The Global Realm of U.S. Body Politics in the Twentieth Century*, ed. Emily S. Rosenberg and Shanon Fitzpatrick (Duke University Press, 2014), 241–63; Shull, "Reagan's Cold War on Immigrants"; Shull, *Detention Empire*.

⁹⁴ Craig A. Kaplowitz, "The Great Repudiator and Immigration Reform: Ronald Reagan and the Immigration Reform and Control Act of 1986," *Journal of Policy History* 30, no. 4 (October 2018): 647, <https://doi.org/10.1017/S0898030618000246>.

⁹⁵ Peter H. Schuck and John Williams, "Removing Criminal Aliens: The Pitfalls and Promises of Federalism," *Harvard Journal of Law and Public Policy* 22, no. 2 (1999): 458.

⁹⁶ Eva Bertram et al., *Drug War Politics: The Price of Denial* (Berkeley: University of California Press, 1996); Michael Tonry, "Racial Politics, Racial Disparities, and the War on Crime," *Crime & Delinquency* 40, no. 4 (1994): 475–94, <https://doi.org/10.1177/0011128794040004001>.

a few years, the “tough-on-crime” paradigm became hegemonic in crime control, driving aggressive enforcement, record incarceration rates, and severe sentencing measures.⁹⁷ Policing intensified significantly in poor Black and Latinx communities, leading to disproportionate rates of imprisonment.⁹⁸ As state and local prisons struggled with overcrowding, some public officials began targeting non-citizens with criminal records for deportation. In 1981, Florida Governor Bob Graham (D), who would later emerge a key congressional entrepreneur on the issue, sued the Reagan administration to take custody of Cubans and Haitians “of a criminal character” from overcrowded Dade County jails.⁹⁹ His efforts were echoed by New York Senator Alfonse D’Amato (R), who, in the midst of the early IRCA debates in 1983, published a law review article blaming “criminal aliens” for the apparent prison overcrowding crisis.¹⁰⁰

In tandem with ideological changes during the 1980s, significant economic transformations occurred. Peck and Tickell¹⁰¹ describe the decade as the era of “roll-back neoliberalism,” as “state power was mobilized behind marketization and deregulation projects, aimed particularly at the central institutions of the Keynesian-welfarist settlement.” President Reagan and his allies in Congress dismantled government social programs and pushed relentlessly for the deregulation of financial markets as well as wage labor.

Neoliberal economic policies have contributed to the growing precarity of life in the U.S. since the 1980s with regard to employment instability, economic inequality, and job

⁹⁷ Clarence Lusane and Dennis Desmond, *Pipe Dream Blues: Racism and the War on Drugs* (South End Press, 1991).

⁹⁸ Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*.

⁹⁹ Loyd and Mountz, *Boats, Borders, and Bases*, 129.

¹⁰⁰ Alfonse M. D’Amato, “Aliens in Prison - The Federal Response to a New Criminal Justice Emergency,” *Detroit College of Law Review* 4 (1983): 1167.

¹⁰¹ “Neoliberalizing Space,” *Antipode* 34, no. 3 (June 2002): 388, <https://doi.org/10.1111/1467-8330.00247>.

atomization.¹⁰² Garland¹⁰³ argues that it is precisely the economic anxieties and insecurities generated by neoliberal economic policies that fueled punitive sentiment. During the 1980s, the General Social Survey asked the following question: “In general, do you think the courts in [the criminal justice system] deal too harshly or not harshly enough with criminals?” The percentage of respondents that believed courts were “not harsh enough” peaked in 1982 at 87% (up from 65.5% in 1972), fluctuating between 80-85% for the remainder of the decade.¹⁰⁴

These changes also impacted the federal government’s economic approach to immigration. In liberal democracies such as the U.S., market forces have long shaped restrictive immigration laws.¹⁰⁵ Immigrants historically have been treated as a source of labor—valued when economically useful, discarded when politically inconvenient.¹⁰⁶ The rise of neoliberalism in the 1980s reinforced this logic, but new considerations shaped the cost-benefit analysis. As welfare policies unraveled, “migrant workers expanded the pool of people who were underserved by the market.”¹⁰⁷ Criminality, in turn, became a proxy for determining which immigrants were expendable.

Neoliberal immigration policy in the 1980s thus embodied a dual logic. It embraced legal immigration as a flexible source of labor, catering to market demands for low-wage workers, while simultaneously reinforcing the ‘criminal alien’ stereotype to justify exclusionary enforcement. Criminalization and commodification worked in tandem: by heightening precarity, the state

¹⁰² Garland, *The Culture of Control: Crime and Social Order in Contemporary Society*; Loïc Wacquant, “Crafting the Neoliberal State: Workfare, Prisonfare, and Social Insecurity,” *Sociological Forum* 25, no. 2 (2010): 197–220, <https://doi.org/10.1111/j.1573-7861.2010.01173.x>.

¹⁰³ *The Culture of Control: Crime and Social Order in Contemporary Society*.

¹⁰⁴ Francis T. Cullen, Bonnie S. Fisher, and Brandon K. Applegate, “Public Opinion about Punishment and Corrections,” *Crime and Justice* 27 (2000): 1–79.

¹⁰⁵ James Hollifield, Phillip L. Martin, and Pia Orrenius, eds., *Controlling Immigration: A Global Perspective* (Stanford: Stanford University Press, 2014).

¹⁰⁶ James Hollifield, *Immigrants, Markets, and States: The Political Economy of Postwar Europe* (Cambridge: Harvard University Press, 1992).

¹⁰⁷ Gil-Vasquez, “A Regional Great Transformation: U.S. Contractualization of Citizenship and Cimmigration Regime,” 574.

ensured non-citizen workers remained disposable when no longer economically useful. This logic shaped IRCA, which granted amnesty to millions of undocumented immigrants while laying the foundation for crime-based deportation as a tool of social control. These shifts mirrored neoliberal welfare retrenchment, as Reagan-era rhetoric not only justified rollbacks but also redefined the very notion of deservingness. The “controlling image” of the welfare mother¹⁰⁸ served as a racialized archetype of dependency, paralleling the construction of the ‘criminal alien’ as a threat to economic stability and social order.

In sum, two primary streams—cultural-demographic and political-economic—converged in 1986, creating a window of opportunity for the shift toward crime-based deportation. Crime-control rhetoric rebranded racial animus, making non-citizens, especially those labeled criminals, prime targets of punitive policymaking. Meanwhile, neoliberalism eroded public faith in the welfare state, promoting individualism and market-driven governance. This ideological shift empowered President Reagan and his congressional allies to advance retributive crime-control policies that deepened racial disparities and exacerbated inequality through deregulation and social spending cuts. Rather than addressing structural failures, these crises were scapegoated onto an undeserving ‘other’ through immigration policy: the so-called ‘criminal alien.’

4.2 1986: Section 701 and the Passage of IRCA

The IRCA provision that required the Attorney General to deport non-citizens convicted of removable offenses “as expeditiously as possible” was quintessentially contingent. It was not included in the original version, or any previous versions, of the House of Representatives version of the 1986 immigration reform bill (H.R.3810). Rather, the provision was added on the final day

¹⁰⁸ Patricia Hill Collins, “Black Women and Motherhood,” in *Justice And Care: Essential Readings in Feminist Ethics* (Routledge, 1995).

of debate when the House passed the bill. On October 9, 1986, Kenneth Hood “Buddy” MacKay, Jr. (D), from Florida’s 6th district, presented Amendment 1293 (H.Amdt.1293) titled “Federal Responsibility for Deportable and Excludable Aliens Convicted of Crimes.” The Amendment had three sections: (1) expeditious deportation of convicted aliens; (2) transfer of certain deportable aliens from state and local penal facilities to federal penal facilities; and (3) identification of facilities to incarcerate deportable or excludable aliens.

MacKay, a moderate Democrat, showed some interest, albeit limited, in immigration issues before IRCA. In March 1983, less than two months into his first term in Congress, he and fellow Florida representative Bill McCollum (R) introduced H.R. 2356, a bill co-sponsored by all but one member of Florida’s House delegation, proposing the creation of a specialized immigration court system. The bill failed to advance beyond committee. MacKay’s legislative priorities were focused more consistently on federal budgetary reform, foreign policy, environmental protection, and, most importantly, drug policy.¹⁰⁹ As a well-connected member of Florida’s political elite, he maintained close ties to the state’s key power brokers, having previously served in both the Florida House and Senate. MacKay had a particularly close relationship with Lawton Chiles (D), who at the time represented Florida in the U.S. Senate and later served as the state’s governor.¹¹⁰ In 1981, Chiles publicly called for stricter immigration controls in response to Florida’s refugee crisis.¹¹¹

MacKay’s engagement with immigration, particularly through his amendment to IRCA, appears to have been driven by concerns over drug-related and violent crime in Florida. In late August 1986, during the final months of debate on IRCA, local Florida media reported Mackay’s

¹⁰⁹ Buddy MacKay and Rick Edmonds, *How Florida Happened: The Political Education of Buddy Mackay* (Gainesville: University Press of Florida, 2010).

¹¹⁰ Buddy MacKay, “Lawton Chiles - Florida’s Governor, 1991-1998,” *Florida State University Law Review* 26 (1999 1998): [ix].

¹¹¹ Lindskoog, *Detain and Punish*, 53.

intention to introduce an amendment to the bill that would later become H.Amdt.1293.¹¹² He emphasized that “of particular concern are the hordes of illegal aliens who deal drugs, most notably crack cocaine, but are not put in jail because Immigration and Naturalization is undermanned and underfunded.”¹¹³ MacKay’s critiques of the INS extend back at least to earlier that year, when he pressured the agency to inspect a construction site for unauthorized workers at the request of a local sheriff.¹¹⁴

When introducing H.Amdt.1293, Congressman MacKay’s remarks again framed the issue of immigrant criminality within the broader context of the federal government’s drug-related crime-control efforts. He stated:

Let me tell you what is happening in California; 63 percent of the narcotics arrests in southern California are illegal aliens. These people are going into a system [the state and local penal system] that is already overfilled, they are being released; they are committing further crimes and we have got a revolving door effect there; we have got that same effect in New York; in a very exaggerated fashion we have got it in Florida; in Texas, and every place where the drug problem and the immigration problem coincide.¹¹⁵

MacKay links drug-related crime and immigration, connecting the experience of his home state to similar trends across the country. His rhetoric reflects the political and demographic sequences discussed above, particularly the turn toward social control measures and the growing concern over unauthorized immigration. By framing “illegal aliens” as the primary culprits, he shifts blame for drugs and crime away from structural causes and onto a specific group. He also underscores the apparent burden that immigrants place on state and local jails, advocating for their transfer to federal facilities—a move that reinforced federal preemption in criminal justice policy.

¹¹² Robert Lystad, “MacKay Proposes Letting State Arrest Illegal Aliens,” *Gainesville Sun*, August 27, 1986, sec. Region, Google News.

¹¹³ Lystad, 9A.

¹¹⁴ Alwyn Cassil, “Sheriff Seeks MacKay’s Help with Illegal-Alien Complaints,” *Gainesville Sun*, January 7, 1986, sec. Region, Google News.

¹¹⁵ 132 Cong. Rec. H30,069 (Oct. 9, 1986) (statement of Rep. MacKay).

Mackay proceeds to argue that his amendments to H.R.3810 are necessary to force the INS to change its institutional priorities and address the issue of immigrant criminality.¹¹⁶ H.Amdt.1293 was well-received by MacKay's colleagues, especially other members of the Florida delegation. Representatives Dante Fascell (D-FL), Lawrence Smith (D-FL) and Bill McCollum (R-FL) all rose to laud the Amendment for tackling the issue of immigrant criminality.¹¹⁷ At the end of debate, the full version of H.Amdt.1293 was passed by a voice vote. Although MacKay's original Amendment 1293 included provisions for transferring deportable aliens from state facilities to federal custody and expanding detention infrastructure, only the expeditious deportation provision survived the resolution of differences between the House and Senate versions of IRCA. The "expeditious deportation" provision became Section 701 of IRCA, which was signed into law on November 6, 1986. Section 701 was originally codified as amendments to Section 242 of the Immigration and Nationality Act (8 U.S.C. § 1252).¹¹⁸

The fact that H.Amdt.1293 was advocated by a bipartisan group of Florida legislators has gone largely unnoticed. These public officials interwove crime, drugs, and the "growing sense of crisis"¹¹⁹ in immigration policy in response to events at home, such as the Haitian refugee crisis and Mariel Boatlift, and then transported them to Congress. This phenomenon has clear historical precedents, as various aspects of U.S. immigration enforcement have percolated up from state and local levels to the federal government. On the West Coast, vicious anti-Chinese ordinances in California that sought to restrict Chinese labor and bar Chinese women from entry led to the Page Act of 1875 and the Chinese Exclusion Act of 1882, the first federal restrictions on immigration.¹²⁰

¹¹⁶ Ibid.

¹¹⁷ 132 Cong. Rec. H30,069-30,070 (Oct. 9, 1986).

¹¹⁸ Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, § 701, 100 Stat. 3445 (1986).

¹¹⁹ Miller, "Citizenship and Severity: Recent Immigration Reforms and the New Penology," 8.

¹²⁰ Erika Lee, ed., *At America's Gates: Chinese Immigration during the Exclusion Era, 1882-1943* (Chapel Hill: University of North Carolina Press, 2010).

On the East Coast, state officials in Massachusetts and New York, driven by nativist fears and economic concerns over destitute Irish immigrants, implemented aggressive removal practices that culminated in the Immigration Act of 1882.¹²¹ On the southern border, informal vigilante groups and local law enforcement had long targeted Mexican migrants through racialized policing, laying the groundwork for the creation of the Border Patrol in 1924.¹²² The efforts of the Florida delegation should also be examined through this lens, demonstrating how state and local initiatives have continued to shape the origins and evolution of immigration law well into the post-Civil Rights era.¹²³

Florida legislators responded to shifting state-level conditions, which fueled the process of interest reinterpretation central to coalition formation and institutional innovation.¹²⁴ Once united behind a certain institutional approach—the crime-based deportation model embodied by H.Amdt.1293—they assumed the role of *political entrepreneurs*.¹²⁵ First, these actors identify and frame issues “in a way that engages a new or latent dimension of conflict,” which is precisely what MacKay and his Florida colleagues did by linking drug-related and immigration issues.¹²⁶ Second, they act as policy innovators, investing resources into new initiatives¹²⁷ such as H.Amdt.1293, the first immigration provision to shift INS enforcement priorities toward crime-based deportation.

¹²¹ Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy*, 1st ed. (Oxford University Press New York, 2017), <https://doi.org/10.1093/acprof:oso/9780190619213.001.0001>.

¹²² Kelly Lytle Hernández, *Migra! A History of the U.S. Border Patrol*, American Crossroads 29 (Berkeley, CA: University of California Press, 2010).

¹²³ Stephens, “Making Migrants ‘Criminal.’”

¹²⁴ Hall, “Politics as a Process Structured in Space and Time.”

¹²⁵ Dahl, *Who Governs? Democracy and Power in an American City*; Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development.”

¹²⁶ Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development,” 188; Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 2009).

¹²⁷ Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development.”

Third, entrepreneurs consolidate policy innovations into enduring institutional change,¹²⁸ a process I examine at length below.

In historical institutionalist terms, these actors responded to a specific conjuncture by forming a new coalition aimed at shaping institutional development within their policy domain of interest. Some of the earliest members included Florida representatives Buddy MacKay, Dante Fascell, Lawrence Smith, and Bill McCollum, whose ambition to expand their influence was evident from the outset. In the early stages of institutional development—particularly with Section 701 of IRCA—members of the Florida delegation exemplified the first two features of political entrepreneurship. As Representative Dante Fascell (D-FL) stated:

The MacKay amendment complements our efforts on the drug bill and gives the Federal Government some of the tools it needs to have a positive effect on both the immigration and drug problems. This amendment requires Federal cooperation in incarcerating Mariels and other illegal aliens who have been convicted of drug crimes and requires that these individuals be deported in an expedited manner.¹²⁹

By focusing on “Mariels,” a derogatory nickname for Cubans on the Mariel boatlift, and “other illegal aliens who have been convicted of drug crimes,” he activates a complementary dimension of the tough-on-crime crusade. His approach represents a targeted policy maneuver with ultimately outsized consequences by strategically “joining problems, policies, and politics.”¹³⁰ In other words, Fascell and his colleagues capitalized on the conjuncture discussed above, selling an interpretive lens that framed “immigrant criminality” as a national crisis requiring an institutional solution. Through this process, the issue diffused well beyond its original context, as members of Congress from other jurisdictions adopted and reinforced crime-based deportation.

¹²⁸ Sheingate.

¹²⁹ 132 Cong. Rec. H30,070 (Oct. 9, 1986) (statement of Rep. Fascell).

¹³⁰ Kingdon, *Agendas, Alternatives, and Public Policies*, 182.

Date	Legislative Development
November 1986	The Immigration Reform and Control Act (IRCA) is signed into law. While best known for employer sanctions and amnesty programs, it also includes Section 701, which directs the Attorney General to begin deportation proceedings “as expeditiously as possible” after conviction for a deportable offense, marking an early shift toward prioritizing crime-based enforcement.
November 1988	The Anti-Drug Abuse Act (ADAA) is enacted, introducing the term aggravated felony as a new ground for deportation. Initially, this category is limited to murder, drug trafficking, and firearms trafficking, while also strengthening detention measures for non-citizens convicted of these offenses.
November 1990	The Immigration Act of 1990 expands the definition of aggravated felony to include money laundering and crimes of violence with sentences of at least five years. It also eliminates Judicial Recommendations Against Deportation (JRADs) for aggravated felonies, severely limiting discretionary relief.
April 1996	The Antiterrorism and Effective Death Penalty Act (AEDPA) is signed into law. It expands the list of aggravated felonies while retroactively applying deportability provisions to past offenses. The Act also restricts judicial review and mandates detention for certain non-citizens convicted of aggravated felonies.
September 1996	The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) further intensifies crime-based deportation policies. It significantly expands the list of aggravated felonies, creates expedited removal procedures, and reduces judicial review. The law also authorizes the 287(g) program, enabling local law enforcement to collaborate with federal immigration authorities.

Figure 1: Timeline of Crime-Based Deportation Laws (1986-1996)

4.3 Post-1986: Larger-Scale Reforms

Beginning in 1986 with Section 701 of IRCA, the institution of crime-based deportation developed along a reactive sequence. This process unfolded throughout the late 1980s, as backlash episodes fueled institutional transformation. A nascent group of political entrepreneurs reinforced

the link between immigrant criminality and drug-related crime, ensuring that the issue remained a congressional priority. The image of the ‘criminal alien’ became a politically expedient “shifting signifier” with “no specific legal definition” that served as a tool to label undesirables as targets for deportation.¹³¹

Through steadfast discursive efforts during a period of heightened legislative activity, the coalition’s objectives became a normalized feature of congressional politics, a core component of the backlash dynamics that define reactive sequences.¹³² In 1987, the General Accounting Office (GAO)¹³³ released two reports expressing mounting concern about immigrant criminality, one requested by Senator Alfonse D’Amato (R-NY) and the other by Representative Romano Mazzoli (D-NY).¹³⁴ Both reports framed immigrant involvement in crime as a large-scale and worsening problem, despite limited data and questionable analysis.

For example, the report sent to Congressman Mazzoli relies on arrests data from only five cities (Chicago, Denver, Houston, Los Angeles, and Miami) gathered by the Federal Bureau of Investigations in FY 1985. The statistics indicate that in these cities the percentage of arrests involving non-citizens (when the offender’s country of birth was even identified) ranged from 7% (Denver) to 38% (Miami).¹³⁵ The report does not include any data about convictions, nor is there any information related to how these communities were policed. Regardless, political

¹³¹ Robert Hallam Tuck, Dorina Damsa, and Elizabeth Kullman, “All-Foreign Prisons in the United States, England and Wales, and Norway: Related Logics and Local Expressions,” *Theoretical Criminology* 26, no. 4 (November 2022): 563, <https://doi.org/10.1177/13624806221116092>.

¹³² Alter and Zürn, “Conceptualising Backlash Politics: Introduction to a Special Issue on Backlash Politics in Comparison.”

¹³³ The General Accounting Office was later renamed the Government Accountability Office in 2004.

¹³⁴ U.S. Government Accountability Office, “Criminal Aliens: INS’ Enforcement Activities” (Washington, DC, November 10, 1987), <https://www.gao.gov/products/ggd-88-3>; U.S. Government Accountability Office, “Criminal Aliens: Majority Deported From the New York City Area Not Listed in INS’ Information Systems” (Washington, DC, March 3, 1987), <https://www.gao.gov/products/ggd-87-41br>.

¹³⁵ U.S. Government Accountability Office, “Criminal Aliens: INS’ Enforcement Activities.”

entrepreneurs used what they could as firepower to generate a sense of crisis and push their narrative.

Some of the first post-IRCA efforts came from another Florida legislator, Senator Lawton Chiles (D-FL), a close associate of Buddy MacKay. In April 1987, he introduced a series of five bills to the Senate (S.972-976) targeting “Illegal Alien Felons.”¹³⁶ These measures proposed: mandatory detention of immigrants convicted of “aggravated felonies”; harsher criminal penalties for immigrants who re-entered the U.S. after deportation; criminal penalties for failing to appear at immigration court; criminal penalties for assisting undocumented immigrants enter the U.S.; and the creation of an information-sharing system between the INS and local law enforcement to identify deportable non-citizens. When introducing these proposals, Senator Chiles declared:

In Florida, and other regions of the country this banding together of two of the Nation's most difficult domestic problems has created an even more difficult and dangerous problem-expansive drug syndicates established and managed by illegal aliens...Their presence in the United States is so widespread and lucrative that they are attracting other aliens into the United States to join in the illegal enterprises.¹³⁷

The idea that certain groups of immigrants are responsible for crime and violence is a recurring theme in U.S. history.¹³⁸ Upon closer inspection, however, the features of the 1980s are clear. Senator Chiles explicitly links immigrant criminality to drug-related issues, framing this compound problem as a national crisis demanding urgent legislative action. He even suggests that immigrant involvement in drug trafficking is actively *encouraging* unauthorized immigration for criminal purposes.

¹³⁶ 133 Cong. Rec. S8,771 (Apr. 9, 1987).

¹³⁷ Ibid (statement of Sen. Chiles).

¹³⁸ Kanstroom, “Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws Make Bad Cases”; Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America*.

Such “extraordinary claims” reflect the primary concern of most immigration policymakers during the 1980s: reducing unauthorized border crossings.¹³⁹ Yet Chiles shifts the dominant narrative,¹⁴⁰ recasting the immigration debate around the figure of the so-called ‘criminal alien.’ He then proceeds to single out specific nationalities—“illegal Colombians,” “Nigerians,” and “illegal Haitians”—as the alleged leaders of widespread drug operations. These racialized portrayals reify a narrative of otherness conforming to the long history of anti-Black racism in the U.S.

Six months later, in October 1987, Representative Lawrence Smith (D-FL) introduced a nearly identical set of five House bills under the banner of “Cracking Down on Criminal Aliens.”¹⁴¹ When presenting these proposals, Smith stated:

I believe that we are faced with a problem that needs immediate congressional action the problem of criminal aliens. All too often, these aliens—whether here legally or illegally—who are arrested for various felonious crimes, evade deportation, dodge trials, and continue with their recidivist activities...Although the majority of these crimes are drug-related, alien criminals have been connected with money laundering, racketeering, weapons sales, prostitution rings, and a host of other heinous crimes.¹⁴²

Echoing his Florida colleagues Senator Chiles and Buddy MacKay, Representative Smith presents immigrant criminality as inextricably linked to the War on Drugs. He invokes an image of the criminal alien “folk devil”—a personified symbol of drug-related, violent crime.¹⁴³ His rhetoric also reflects the neoliberal logic of punishment and retribution, advocating for the use of deportation as a state-sanctioned penalty for a litany of “heinous crimes.”

¹³⁹ Schuck and Williams, “Removing Criminal Aliens: The Pitfalls and Promises of Federalism.”

¹⁴⁰ Alter and Zürn, “Conceptualising Backlash Politics: Introduction to a Special Issue on Backlash Politics in Comparison,” 567.

¹⁴¹ 133 Cong. Rec. H28,840 (Oct. 22, 1987).

¹⁴² Ibid (statement of Rep. Smith).

¹⁴³ Tosh, “Drugs, Crime, and Aggravated Felony Deportations: Moral Panic Theory and the Legal Construction of the ‘Criminal Alien.’”

The racial undertones of his comments become even clearer when recounting a story about a criminal organization in New York engaged in drug and firearms trafficking, allegedly run by undocumented Jamaican immigrants.¹⁴⁴ In these ways, the “retrograde politics” of his comments,¹⁴⁵ which reflect the broader coalition’s agenda, come into focus. These actors seek a return to an earlier social order in which ‘law and order’ prevailed and undesirable non-citizens were swiftly removed.

These efforts by Florida legislators are best understood as the formation of an emergent coalition of political entrepreneurs who framed immigration enforcement in ways that reinforced existing policy priorities for other lawmakers. In introducing their proposals, Chiles and Smith positioned their nearly identical bills as an institutional complement to the War on Drugs, a strategy that continued to achieve success.

In 1988, the House and Senate passed an omnibus spending bill that became the Anti-Drug Abuse Act (ADAA) of 1988, a legislative milestone in the War on Drugs. Whereas the MacKay Amendment to IRCA had been a last-minute add-on, both the House and Senate versions of the ADAA contained a subtitle (J) dedicated to “Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies.” Most significantly, ADAA introduced the “aggravated felony” as a new legal basis for crime-based deportation, which included murder, drug trafficking, and weapons trafficking. The law mandated the Attorney General to detain and deport non-citizens convicted of aggravated felonies using “expedited procedures” under the “presumption of deportability.”¹⁴⁶

¹⁴⁴ Ibid.

¹⁴⁵ Alter and Zürn, “Conceptualising Backlash Politics: Introduction to a Special Issue on Backlash Politics in Comparison,” 566.

¹⁴⁶ Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, Sec. 7347, 102 Stat. 4181 (1988).

With these institutional measures in place and continued legislative attention, the issue of immigrant criminality was not just kept on the agenda, but magnified. Senator D’Amato (R-NY), an early proponent of targeting incarcerated non-citizens for deportation,¹⁴⁷ joined forces with partners like Senator Chiles to vouch for the ADAA “aggravated felony” provisions. In October 1988, Senator D’Amato declared:

Today, a conviction for even the most heinous crime is anything but conclusive evidence of deportability. Instead, a long list of defenses and complicated procedures—and the absence of time limitations to prevent these cases from dragging on for years—make it almost impossible to deport noncitizen drug dealers and violent criminals.¹⁴⁸

D’Amato frames restrictive immigration measures as a necessary response to drug crime, an urgent and interrelated crisis that other legislators can easily grasp. His remarks on the endless timeline of deportation proceedings reflect the core position of his coalition: in the fight against crime, due process and judicial review are insufficient safeguards for a federal government overwhelmed by immigrant involvement in drug-related and violent offenses. Notably, D’Amato represented New York, another state where the structural forces driving Florida legislators’ concerns were highly visible. This shared context likely facilitated alignment between Florida and New York lawmakers in shaping federal immigration policy.

The ADAA passed overwhelmingly in both the House and the Senate, including Subtitle J. Shortly thereafter, the institutional restructuring pursued by the new coalition and its political entrepreneurs began to take shape. In 1988, INS established two programs to comply with Section 701 of IRCA (the “MacKay Amendment”) and to pursue the enforcement objectives of Subtitle J of the ADAA: the Institutional Removal Program (IRP) and the Alien Criminal Apprehension Program (ACAP). Through these programs, the INS collaborated with state corrections facilities

¹⁴⁷ D’Amato, “Aliens in Prison - The Federal Response to a New Criminal Justice Emergency”; Loyd and Mountz, *Boats, Borders, and Bases*, 129–31.

¹⁴⁸ 134 Cong. Rec. S27,445 (Oct. 3, 1988) (statement of Sen. D’Amato).

and law enforcement to identify deportable immigrants convicted of crimes during incarceration and assisted the Executive Office for Immigration Review in initiating deportation proceedings against them.¹⁴⁹ Early enforcement efforts focused on aggravated felons, as defined by the ADAA. During the four-year period following the passage of IRCA, the number of deportations based on “convictions for criminal or narcotics violations” rose from 1,708 in 1986 to 8,183 in 1990—a 379% increase.¹⁵⁰

The origins of the IRP date back to a 1980 program used to deport Cuban asylum seekers incarcerated in Atlanta. IRCA and the ADAA then “transformed this early experimentation,” embedding the IRP within federal prisons and detention facilities.¹⁵¹ Likewise, the ACAP formalized enforcement strategies that the INS had begun to develop in 1986.¹⁵² In just two years, a seemingly small-scale reform in IRCA and the subsequent expansion of that approach through the ADAA led “very quickly to a changing of priorities in the INS,” exactly as Buddy MacKay had envisioned.¹⁵³

The last episode in the development of crime-based deportation in the 1980s occurred at the turn of the decade with the Immigration Act of 1990. As during the prelude to the ADAA in 1987, another GAO report, requested by the House Subcommittee on Immigration, Refugees, and International Law, was published in late 1989, finding that immigration court proceedings often

¹⁴⁹ Marc R. Rosenblum and William A. Kandel, “Interior Immigration Enforcement: Programs Targeting Criminal Aliens,” *Criminal Aliens in the United States: Statistics and Immigration Enforcement*, 2012, 57–117.

¹⁵⁰ U.S. Immigration and Naturalization Service, “1997 Statistical Yearbook of the Immigration and Naturalization Service,” Statistical Yearbook (Washington, DC: Department of Justice, 1997), 187.

¹⁵¹ Ingrid Eagly and Steven Shafer, “The Institutional Hearing Program: A Study of Prison-Based Immigration Courts in the United States,” *Law & Society Review* 54, no. 4 (December 2020): 799, <https://doi.org/10.1111/lasr.12523>.

¹⁵² U.S. Government Accountability Office, “Criminal Aliens: INS Enforcement” (Washington, DC, November 1, 1989), <https://www.gao.gov/assets/t-ggd-90-6.pdf>.

¹⁵³ Supra note 6.

lasted five years or more.¹⁵⁴ Though, in contrast to 1987, the Congressional Record reveals that in 1989 and 1990, debates and proposals related to crime-based deportation *exploded*. In 1989, House Representatives Gary Ackerman (D-NY) and Bruce Morrison (D-CT), new coalition members, highlighted the problem of ‘criminal aliens’ and their links to drug crimes, per the same playbook as their counterparts from Florida.¹⁵⁵ In November 1989, the Senate Subcommittee on Immigration, Refugees and International Law held an oversight hearing on the topic of criminal aliens.¹⁵⁶ These actions map almost effortlessly onto Kingdon’s¹⁵⁷ description of “policy entrepreneurs.” They were “rehearsing their act for when they get their moment on the agenda—polishing arguments, conducting studies, building or losing personal credibility and networks.”¹⁵⁸

In 1990, several stakeholders, both old and new, offered proposals. In May, Senator Bob Dole (R-KS) introduced the National Drug Control Strategy Implementation Act (S.2652), which contained a provision providing for summary deportation of criminal aliens.¹⁵⁹ The same month Senator Phil Gramm (R-TX) introduced an amendment to a crime bill that proposed summary deportation of criminal aliens.¹⁶⁰ In the House’s June 1990 crime bill (H.R.5055), Representatives Lamar Smith (R-TX) and Clyde Holloway (R-LA) advocated for provisions accelerating the deportation of criminal aliens.¹⁶¹ A month later, Representative Smith introduced a separate bill (H.R.5284), co-sponsored by a bipartisan group of 18 House members—including Bill McCollum

¹⁵⁴ U.S. Government Accountability Office, “Immigration Control: Deporting and Excluding Aliens from the United States” (Washington, DC, October 26, 1989), <https://www.gao.gov/products/ggd-90-18>.

¹⁵⁵ 135 Cong. Rec. H17,142 (Aug. 1, 1989); 135 Cong. Rec. H25,844-25,845 (Oct. 25, 1989).

¹⁵⁶ 135 Cong. Rec. D 717 (daily ed. Nov. 1, 1989).

¹⁵⁷ *Agendas, Alternatives, and Public Policies*.

¹⁵⁸ Scott Greer, “John W. Kingdon, Agendas, Alternatives, and Public Policies,” in *The Oxford Handbook of Classics in Public Policy and Administration*, ed. Martin Lodge, Edward C. Page, and Steven J. Balla (Oxford: Oxford University Press, 2016), 420, <https://doi.org/10.1093/oxfordhb/9780199646135.013.18>.

¹⁵⁹ 136 Cong. Rec. S11,177 (May 18, 1990).

¹⁶⁰ 136 Cong. Rec. S12,337 (May 24, 1990).

¹⁶¹ 136 Cong. Rec. H14,949; 14,993 (June 20, 1990).

(R-FL), a longtime key player—which focused on expediting the removal of criminal aliens.¹⁶² In August 1990, a bill with nearly the identical purpose titled the “Criminal Alien Deportation and Exclusion Act” (S.2957) was introduced by Senators D’Amato (R-NY) and Dole (R-KS) and later co-sponsored by Senator Gramm (R-TX).¹⁶³ A *third* bill with the same purpose (S.3055) was presented by Senator Alan Simpson (R-WY) in September 1990.¹⁶⁴

Finally, a package of amendments that brought together several provisions from these prior legislative efforts was accepted in the final days of resolving the differences between the House and Senate version of the Immigration Act of 1990. Most importantly, these measures included expanding the definition of “aggravated felony” to include offenses such as money laundering and “any crime of violence,” shortening the timeline for judicial review of deportation orders from 60 to 30 days, and eliminating provisions for judicial recommendations against deportation (see *Immigration Act of 1990*). Senator Bob Graham (D-FL), who introduced the amendments, stated:

It is the Federal Government’s responsibility to protect our borders. If the Government fails to prevent dangerous aliens from crossing our borders, it then becomes the responsibility of the Federal Government to help the States cope with the crimes and the costs of prosecuting criminal aliens. Finally, the Federal Government must make sure that dangerous aliens are not on the streets, not allowed to commit new crimes, and not caught in a lengthy deportation process.¹⁶⁵

Whereas in the mid-1980s most of Congress was focused on securing the southern border, Senator Graham, and the rising coalition around him, achieved a new consensus. Senator Graham’s long-term commitment to the cause is particularly noteworthy. As mentioned above, he sued the Reagan

¹⁶² 136 Cong. Rec. H17,588 (July 16, 1990).

¹⁶³ 136 Cong. Rec. S21,844 (Aug. 2, 1990).

¹⁶⁴ 136 Cong. Rec. S24,597 (Sept. 14, 1990).

¹⁶⁵ 136 Congressional Record S35,621 (Oct. 26, 1990) (statement of Sen. Graham).

administration in 1981 to take custody of Cubans and Haitians in Florida jails.¹⁶⁶ He was also a strong advocate of the crime-based deportation provisions of the ADAA.¹⁶⁷

In the Senate, his cohort included familiar figures—Alfonse D’Amato (R-NY), Bob Dole (R-KS), Phil Gramm (R-TX), and Alan Simpson (R-WY). Like his colleagues, Senator Graham, connected unauthorized immigration to the issue of internal immigration enforcement. He argued that if controlling the border was infeasible, the federal government should turn inward and target a specific group: ‘criminal aliens.’ For the growing coalition of political entrepreneurs, deportation became a mechanism of social control to police migrant illegality.¹⁶⁸ The borders of immigration enforcement thus shifted inward, paving the way for later institutional changes. Following Graham’s remarks, his proposed amendments received no vocal opposition in the Senate and were approved in full by a decisive roll-call vote of 89-8.

In sum, a bipartisan coalition of political entrepreneurs focusing on immigrant criminality in the mid- to late-1980s initiated a process of institutional evolution through reactive sequencing. The elements of *transformation* through “tightly linked reactions” are clear.¹⁶⁹ From 1986 to 1988 to 1990, crime-based deportation grew from a directive requiring the Attorney General to expeditiously deport immigrants with criminal convictions to a large set of restrictions on non-citizens’ procedural rights and malleable categories of deportable offenses. These measures marked the inward turn of U.S. immigration enforcement in the post-Civil Rights era.

Throughout these legislative episodes, political entrepreneurs repeatedly responded to the conjuncture of sequences in the mid- to late- 1980s, branding immigrant criminality as an urgent

¹⁶⁶ Loyd and Mountz, *Boats, Borders, and Bases*, 129.

¹⁶⁷ Loyd and Mountz, 134.

¹⁶⁸ Inda, “Subject to Deportation: IRCA, ‘Criminal Aliens’, and the Policing of Immigration”; Kanstroom, “Deportation, Social Control, and Punishment: Some Thoughts about Why Hard Laws Make Bad Cases.”

¹⁶⁹ Mahoney, “Path Dependence in Historical Sociology,” 527.

policy concern and advancing relevant institutional reforms accessible to other stakeholders. In other words, these actors strategically leveraged institutional complementarities to anchor their proposals to the dominant policy debates of the time.¹⁷⁰ The statements of some key entrepreneurs reveal that they viewed their reforms as equally instrumental in combating both the War on Drugs and unauthorized immigration, reinforcing the reactive sequence that drove institutional change.

5 Conclusion

In this article, I set out to explain why the U.S. federal government expanded criminal grounds for immigrant deportation beginning in the 1980s. I argue that the origins of crime-based deportation as a formal political institution can be traced back to Section 701 of the Immigration Reform and Control Act of 1986, followed by two subsequent reform episodes in 1988 and 1990. This analysis provides a critical examination of the period prior to the passage of two pivotal 1996 laws—the Illegal Immigration Reform and Immigrant Responsibility Act and the Antiterrorism and Effective Death Penalty Act—which solidified the federal crackdown on ‘criminal aliens.’¹⁷¹

Methodologically, I apply Mahoney’s¹⁷² “reactive sequences” framework to analyze institutional change. I identify two sequences—cultural-demographic and political-economic—that converged in 1986, triggering a conjuncture: the incorporation of the MacKay Amendment (Section 701) into IRCA. While this framework focuses on macro-level transformations, I extend it by incorporating micro-foundations, highlighting the role of political actors in driving backlash processes. Viewing institutions as the product of social coalitions,¹⁷³ I argue that small-scale

¹⁷⁰ Hall and Soskice, *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*.

¹⁷¹ Jennifer M. Chacón, “The Security Myth: Punishing Immigrants in the Name of National Security,” in *Governing Immigration Through Crime*, ed. Julie A. Dowling and Jonathan Xavier Inda (Stanford: Stanford University Press, 2013), 77–94, <https://doi.org/10.1515/9780804785419-005>; Mathew Coleman, “A Geopolitics of Engagement: Neoliberalism, the War on Terrorism, and the Reconfiguration of US Immigration Enforcement,” *Geopolitics* 12, no. 4 (September 28, 2007): 607–34, <https://doi.org/10.1080/14650040701546087>.

¹⁷² “Path Dependence in Historical Sociology.”

¹⁷³ Hall, “Politics as a Process Structured in Space and Time.”

reforms initiated from below can, through reactive sequences, reshape institutions in both arrangement and scale. I conceptualize the relevant actors as political entrepreneurs¹⁷⁴ who respond to conjunctures, rally around institutional reforms, and catalyze interest reinterpretation among new stakeholders, strengthening their coalition.

Through an analysis of the Congressional Record (1986–1990), I reveal how the politicians who advanced crime-based deportation in the 1980s transformed incremental policy shifts into lasting institutional change. Florida legislators such as Congressman MacKay took the initiative, connecting immigrant criminality to anxieties about crime and drugs, securing the incorporation of Section 701 into IRCA. Capitalizing on this early success, they expanded their coalition and reinforced their agenda through later reform episodes in 1988 and 1990. Their efforts redefined the immigration debate for decades, setting the stage for the modern U.S. crime-based deportation system. As Newton¹⁷⁵ observes, by the mid-1990s, legislators had fully entrenched the “Criminal Alien Narrative,” depicting immigrants as inherently unlawful and undeserving.

By underscoring the instrumental role of congressional actors from states such as Florida, this article contributes to a growing body of research that identifies local and state levels as key sites for understanding the origins of national immigration law and policy.¹⁷⁶ Yet, one of the lasting legacies of the 1980s was the gradual nationalization of the U.S. immigration debate, as local policymakers increasingly had to operate within the constraints of national political discourse.¹⁷⁷ The political entrepreneurs of the IRCA era strategically leveraged the broad concerns of the War on Drugs to elevate localized interests to the national stage, foreshadowing the deeply nationalized

¹⁷⁴ Dahl, *Who Governs? Democracy and Power in an American City*; Kingdon, *Agendas, Alternatives, and Public Policies*; Sheingate, “Political Entrepreneurship, Institutional Change, and American Political Development.”

¹⁷⁵ *Illegal, Alien, or Immigrant: The Politics of Immigration Reform* (New York City: New York University Press, 2008).

¹⁷⁶ Hernández, *Migra! A History of the U.S. Border Patrol*; Hirota, *Expelling the Poor*; Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882-1943*; Stephens, “Making Migrants ‘Criminal.’”

¹⁷⁷ Hopkins, *The Increasingly United States*.

and partisan immigration battles of today. Future research should further explore how local political dynamics continue to shape federal immigration policy, particularly in the context of nationalized partisan conflicts, and examine the conditions under which state and local actors can still exert meaningful influence over immigration enforcement and reform.

These questions are even more pressing today. With the passage of the Laken Riley Act and a presidential administration actively hostile to immigrants, crime-based deportation is poised to reach new heights. In this sense, the U.S. immigration debate may seem worlds apart from where it stood four decades ago, especially compared to fading moments as Reagan's call to provide undocumented immigrants with work permits during the April 1980 Republican primary debate.¹⁷⁸ Of course, Reagan's business-first approach to immigration was more welcoming, at least on the surface, than the open nativism and restrictionism of the Trump era. Yet these differences should not be seen as a departure from past governance, but rather as an intensified iteration of long-standing strategies that balance economic exploitation with exclusion. Liberal democracies such as the U.S. have long wrestled with this apparent "paradox,"¹⁷⁹ commodifying immigrants when profitable while sustaining their precarity through surveillance, criminalization, and deportability. As the history of crime-based deportation shows, the line between inclusion and exclusion is razor-thin, and for immigrants, it has always been a moving target.

¹⁷⁸ George H. W. Bush And Ronald Reagan Debate On Immigration In 1980 | TIME, 2017, https://www.youtube.com/watch?v=YsmgPp_nlok.

¹⁷⁹ Hollifield, *Immigrants, Markets, and States: The Political Economy of Postwar Europe*.