




Immigrant and Citizen Reincarceration in Pennsylvania

Terrence A. Alladin¹ · Don Hummer² 

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Abstract

Despite numerous studies debunking the association between immigrants and crime, many residents in Pennsylvania continue to associate immigration with criminal offending, and some communities have enacted (or attempted to enact) more restrictive policies towards immigrants. These policies, and the anti-immigrant rhetoric that has become commonplace at the national level, have created a caste system in which immigrants are seen as criminals and more likely to offend than native-born citizens of the United States. This study examines reincarceration of immigrants and citizens who were released from Pennsylvania's state correctional institutions (SCI) in 2010. An analysis of reincarceration using logistic regression – and including, in addition to country of birth, variables such as race, age, and type of crime committed—was conducted. The results indicate that immigrants are significantly less likely to be reincarcerated for a new criminal offense than citizens. Further, relative to their numbers in the Commonwealth's population, immigrants are underrepresented in the overall correctional population for the time period covered by the Pennsylvania Department of Corrections' (PDOC) data, and an even smaller proportion of the offending population that is reincarcerated. These findings counter the politically charged rhetoric that new immigration to communities brings along with it dangerous and/or violent offenders and increased crime rates.

Keywords Immigrants · Criminal justice · Recidivism · Reincarceration · Crimmigration

Crime and reoffending in the United States continue to be major public policy concerns. Despite a decline in the overall number of persons incarcerated - from 2.2 million in 2010 to 2.1 million in 2018 - the prison system in the United States leads the world in the number of people incarcerated (Carson, 2020; Gramlich, 2018). This

✉ Don Hummer
dch18@psu.edu

¹ Department of Sociology and Criminal Justice, Lebanon Valley College, Annville, PA, USA

² School of Public Affairs, Penn State Harrisburg, Middletown, PA, USA

number, however, does not include 563,000 immigrants held in detention centers across the United States (Baker, 2018). Many of these immigrants are detained only for entering the country illegally and are fighting deportation from the United States as a result of Immigration and Custom Enforcement (ICE) policies. Immigrants and crime have become a part of the daily narrative of politicians from both political parties. Depending on their party affiliation, politicians have been using immigration issues to further their agendas, even though the facts about immigrants and crime may not necessarily support their narratives. Although the number of illegal immigrants in the United States varies depending on estimates from sources across the political spectrum, it is safe to say that there are more than 11 million illegal immigrants residing in the United States (Lee & Baker, 2017; Nowrasteh, 2017; Robertson, 2019; Yee, Davis, & Patel, 2017). However, only 820,000 or 7.5%, have been convicted of a crime and less than 3% or approximately 300,000 have been convicted of a felony (Yee et al., 2017). This is substantially less than the 8% of American citizens who have been convicted of a felony (Flurry, 2017).

Although studies have concluded that immigrants are significantly less likely to be involved in criminal behavior (Stumpf, 2006; The Sentencing Project, 2017a; Yee et al., 2017), few studies have examined immigrant recidivism. There is a growing body of literature that examines the extent criminal behavior of illegal immigrants (e.g., Gunadi, 2019; Orrenius & Zavodny, 2019) and concludes definitively that immigrants, particularly those who are undocumented, offended and are incarcerated less than their native-born American counterparts. Similarly, a recent study of offending in the state of Texas found that while legal immigrant offending was higher than their undocumented counterparts, both groups of immigrants offend at a rate lower than native-born citizens (Light, He, & Robey, 2020).

Using data from the Commonwealth of Pennsylvania, Department of Corrections, this study will examine whether those inmates who immigrated to the United States, and who were convicted of criminal offenses and sentenced to a period of incarceration in the Pennsylvania state prison system, were more likely to reoffend than native-born American citizens. As defined for this study, ‘immigrant’ will include those offenders who are foreign-born and not naturalized citizens: permanent residents of the United States who are not naturalized citizens, and both documented and undocumented immigrants. The findings of this study will provide criminal justice policy makers in Pennsylvania and across the United States with additional information to evaluate their desistance strategies for immigrants in the correctional system.

Literature Review

A Brief History of Immigration in US

The history of immigration in the United States is rife with restrictions against certain groups entering the country. The early colonial period saw fairly lax immigration policies as people enter the United States for economic opportunity and religious freedom. Convicts were also deported to the United States from England as a form of punishment. However, after the Revolutionary War, immigration policies began to change. As early as 1790, the first Immigration Act restricted citizenship and

naturalization to only free white persons of good moral character who resided in the United States for at least two years (Cohn, 2015). This meant Native American Indians, Blacks, and others were excluded. In 1798 The Naturalization Act was passed which increased the residency requirement for American citizenship from 5 years to 14 years. This law was enacted as an attempt to suppress voters who disagreed with the Federalist party. Further the Alien Friends Act was passed which allowed the President to imprison and deport aliens who were considered dangerous to the peace and safety of the United States. The Sedition Act was also passed in 1798 and it restricted those who were critical of the federal government from obtaining United States citizenship (Farber, 1976).

The election of Thomas Jefferson in 1800 repealed the Naturalization Act of 1798 and the residency requirement was scaled back to 5 years. However, although the slave trade was officially outlawed in 1808, African slaves continued to be brought to America until 1860. Additionally, crop failures in Germany and Ireland in particular, led to mass migration from Europe to America. Immigrants from Europe more than doubled from approximately one million to more than two million during the nineteenth century (Alperin & Batalova, 2018). The mid 1800s saw efforts to limit immigration to Protestant men by the Know Nothing movement. The Know Nothings are considered the first anti-immigration movement and wanted to purify society and politics by increasing restriction on immigrants. The movement used fear of the country being overrun by German and Irish Catholics as being a scourge to those Americans whose families had been in the country for generations (Farber, 1976). Many native-born Americans resorted to violence to keep immigrants from entering the country. In May 1844, riots broke out in Philadelphia, anti-immigrant mobs burned two Catholic churches and a Catholic school, and twenty people were killed as a result of the unrest (Hirschman, 2007). The nineteenth century continued with the Chinese Exclusion Act of 1882 that restricted Chinese workers from entering the country and levied a head tax of fifty cents on each immigrant. The Act was later extended to ban immigrants from most Asian countries. The Alien Contract Laws of 1885 and 1887 prohibited certain laborers, convicts and persons likely to become a public charge from entering the country (Hirschman, 2007).

Many anti-immigrant groups, including the Ku Klux Klan, the Progressive Movements of the Midwest and old-line New England Elites worked tirelessly from the 1880s to the 1920s to promote the ideology of the inherent superiority of the Anglo-Saxon race. The Immigration Restriction League advocated a literacy test in an attempt to slow the flow of immigrants from Europe. Immigrant communities developed reputations as undesirable and places to fear (Hirschman, 2007). The Immigration Act of 1924 was passed to limit the number of immigrants allowed entry into the United States via a quota system that held numbers low (history.state.gov). The quota system resulted in a highly restrictive immigration policy that lasted from the 1920's until the 1965, when the Hart-Cellar Act was passed. This Act was intended to repeal the national quota system that was considered by many to be discriminatory. The main goal of Hart-Cellar Act was the reunification of immigrant families and attracting scarce occupational skills (Center for Immigration Studies; history.com). The policy led to the admission of 18 million immigrants from Southeast Asia, Cuba, African, Central America and Eastern Europe between 1965 and 2000 (history.com).

In addition to the legal immigration of the Hart-Cellar Act, illegal immigration was seen as perhaps a greater concern. A temporary farm worker program was terminated in 1964, and as a result, immigration from Mexico and Central America increased. Spanish-speaking immigrants crossed the southern border from Mexico and from other ports of entry (history.com). By 2000 there were over 60 million people, or 1 in 5 Americans, with in from a foreign country (Hirschman, 2007). The most recent immigration statutes have been enacted to limit individuals from Central America, Asia and the Middle East from entering the country (Cohn, 2015), reflecting an unfounded fear that these immigrant groups contain a high proportion of potential criminal offenders, particularly those who may perpetrate violent acts.

Immigration and criminal justice in the United States are entwined. Throughout American's immigration history, fear of criminal behavior has been used to curtail the entry of foreigners. Immigrants are perceived as criminals and persons to be feared. Policies are enacted to limit immigrants' access to achieve the American dream, and laws are enacted to criminalize the actions and behaviors of immigrants who seek to participate in political discourse. Ultimately, discriminatory immigration policies and laws are enacted to appease the fears of those whose ancestors have been in America for a longer period of time.

Immigrants and Crime in Pennsylvania

Immigrants in the Commonwealth of Pennsylvania have had to navigate the same discriminatory policies and laws that existed elsewhere in the United States. Given the historical foundations of the state, with its Quaker traditions, one would tend to believe that the treatment of immigrants would be different from the rest of the nation, however this history is complex. William Penn, a Quaker who fled England as a result of religious prosecution, founded Pennsylvania in 1682. Pennsylvania was established as a safe place for Quakers to live and practice their faith. The Quakers were instrumental in the abolition of slavery and participated in the Underground Railroad to assist escaped slaves in finding freedom. They wanted to eradicate poverty, the abuse of prisoners and the mistreatment of Native Americans. They also promoted education, the humane treatment of prisoners, women's rights, pacifism, and the reform of corrupt institutions (www.quakerintheworld.org; www.learnreligions.com/quakers). Quakers became involved in the civil rights movement of the 1960 and helped to organize the March on Washington where Dr. Martin Luther King, Jr. made his famous "I Have a Dream" speech. They demonstrated against the Vietnam War and were involved in many social welfare issues. However, as society changed, interest and adherence to Quakerism declined. This shift can be attributed to many factors, including splits based on biblical beliefs, and declines in membership due to the popularity of other religions (Woods, 2018).

The traditions of Quakerism are no longer present in Pennsylvania, and immigrants have found that residing in Pennsylvania can be harsh. There is perhaps no better example of this phenomenon than the town of Hazleton, Pennsylvania. At the turn of the twenty-first century, Hazleton exemplified a northeastern former industrial boomtown that had fallen on hard times. Area mines, mills, and factories had shuttered over the decades previous, remaining older residents were dying off, and young people fled the 'coal regions' to growing areas with better job prospects (typically in the southern

and/or western states). While many of these towns considered themselves ‘melting pots’ of peoples from different backgrounds, a look at census demographics shows those differences were primarily based on from which region of Europe residents’ ancestors had emigrated. Non-whites certainly resided in Hazleton in the late twentieth century, though the majority of ‘old timers’ were from Scots-Irish, German, Italian, Polish, Croat, Serbian, and other European backgrounds. Into the void left by the declining white population came Latino immigrants attracted by low housing costs and proximity to Philadelphia and New York City. In short order, the city’s Latino population grew from 4% to 40% (Blanco, 2016). With this demographic shift, a corresponding rise in criminality was not realized. Crime data over an almost two decade period shows rates of violent and property offending similar to or below the U.S. national average (City-Data.com, 2018). Interestingly, while rates of criminality are in line with national averages, median household incomes for the roughly 24,000 residents of Hazleton means that 22.5% of the population lives in poverty (United States Census Bureau, 2019a) – a proportion far higher than the national average of 11.8% (United States Census Bureau, 2019b). It may certainly be argued that, for a community that continues to be economically depressed, Hazleton is doing well from a criminal-offending standpoint.

This reconstitution of the racial and ethnic makeup of Hazleton did not sit well with the older (white) residents, who despite their dwindling numbers continued to constitute a formidable voting bloc, and had recently elected a firebrand mayor named Lou Barletta, who proposed new city ordinances to punish businesses that employed illegal immigrant workers or landlords who rented to them (Blanco, 2016). These political actions brought national attention to both Hazleton and Barletta¹ even though the mayor’s actions did not withstand legal challenge. The episode marked a blossoming of nativist politics in Pennsylvania, and further fomented the false assertion that an increase in immigration, specifically non-white immigration, was inextricably linked to increases in criminal offending by those immigrant groups. Referring specifically to Hazleton, Flores (2015:378) found:

“[T]hough there could be preexisting concerns about immigration among local residents, anti-immigrant policies may contribute to growing anxieties over crime and disorder by cementing the association between immigrants and criminal behaviors among local residents. As public leaders make the case for anti-immigrant ordinances by linking immigrants with crime, illicit activities, and social disorder, these menacing portrayals of immigrants, reproduced in local media outlets, intensify social anxiety. Natives increasingly associate immigrants with crime and lawlessness, which bolsters native anxiety over safety and disorder. Such growing fear of crime and lawlessness then triggers several self-defensive behaviors, including avoidance of areas associated with...immigrants, out-migration, and...handgun acquisition.”

¹ Lou Barletta parlayed this attention into an increasingly ambitious political career. He ran for election to the U.S. House of Representatives three times, finally succeeding on the third try. In 2018 he was encouraged, and endorsed by, President Trump to challenge incumbent U.S. Senator Bob Casey, but lost that election thus putting his political future in doubt.

Immigrants and Citizens Involvement in Crime

Despite the many stated and real efforts to limit immigration, the United States continues to be a melting pot of ethnicities. Though, comparatively, the United States is a very diverse country that is made up of immigrants from all over the world, each immigrant community faces its own challenges as individuals assimilate into American society. Criminal behavior can become a part of the assimilation process for some immigrants. However, as Martinez (2000) explain there is little evidence to support the claims that high levels of crime are an unavoidable product of immigration. A study of Latino immigrants of the early 1990s found that homicide rates remained stable despite a large influx of Latino immigrants (Martinez, 2000).

Ousey and Kubrin (2009) also dispel the stereotypical perception of that there is a correlation between immigration and higher crime rates. Their study of macro-level relationships between immigration and crime concluded that immigration lowers violent crime rates by bolstering family structures (2009). They further support Martinez (2000) 'revitalization theory' that social support among immigrants lessens the opportunity for criminal behavior. Evidence supports that rather than adding to the existing decay and disorganization in a community, increased immigration serves to stabilize and revitalize the community (Ousey & Kubrin, 2009) – an outcome demonstrated in Hazleton.

Further evidence of this phenomenon comes from Reid, Weiss, Adelman, and Jaret, (2005) who found that immigration does not increase crime rates, and in some contexts, lessens crime in population centers. The authors combined data from the 2000 US Census and 2000 Uniform Crime Report to ascertain what effects immigrants had on crime in over 200 metropolitan areas. They controlled for demographic and economic characteristics and concluded that immigrants were less likely to be involved in criminal behavior than citizens. Further, there was evidence to support the notion that immigration into a community may actually suppress overall crime among all groups in that community (Reid, Weiss, Adelman, & Jaret, 2005). Similarly, Davies and Fagan (2012) in their study of immigrants in New York City found that immigration appears to be a protective factor that reduced crime. Higher proportions of immigrants were not correlated with higher crime rates. Controlling for variables such as poverty, education and employment, there was no evidence of higher crime rates among immigrant communities in comparison with those comprised of native-born individuals (Davies & Fagan, 2012).

A recent study by the US Department of Justice (2019) found that federal arrests for non-US citizens increased from 37% in 1998 to 64% in 2018; approximately 78% of these arrests were prosecuted for immigration-related offences. Conversely, federal arrest of US citizens declined from 63% in 1998 to 36% in 2018; approximately 71% were for drugs, weapons violations, and fraud (Motivans, 2019). Despite the over-policing of immigrants by federal law enforcement, the data indicates that immigrants are in general less likely to be involved in crime. Other studies (Butcher & Piehl, 2007; Landgrave & Nowrasteh, 2019) further dispel the rhetoric that immigrants are conveyors of crime for communities by providing evidence of comparable, or lower, rates of offending in immigrant communities as compared to state or national averages.

Larsen (2018) states that many of the crimes committed by immigrants go unreported or are not prosecuted. She asserts that approximately 51% of Hispanic and

Latino victims did not report a violent crime to law enforcement authorities and that prosecutors drop pending charges against immigrants when they are deported by Immigration and Custom Enforcement (Larsen, 2018). The argument becomes that measuring unreported and unprosecuted crimes would provide a more comprehensive understanding of immigrant criminality, though doing so with validity has proved challenging. Kirsanow (2018) similarly concluded that immigrant crime is likely understated because immigrant victims are less likely to report crimes and, even if the crime were reported, immigrant victims are less likely to follow through on the judicial process (Kirsanow, 2018). However, both Larsen (2018) and Kirsanow (2018) failed to also consider that more than half of the violent crimes and about a third of the property crimes in the U.S. do not result in arrest, charging or prosecution of a suspect, many of whom are U.S. born citizens (Bialik, 2018; The Crime Report, 2017). According to a Justice Policy Institute (JPI) report (2017), heightened and negative immigrant crime reports have allowed federal immigration enforcement agencies to entice local law enforcement agencies to form partnerships for increased funding (JPI, 2017). However, many local enforcement agencies are discovering that this increased funding does not cover many of the overall costs - such as increased spending for detention beds, overtime for deployment of staff, and other public safety concerns - and the enforcement partnerships eventually become an additional expense.

According to The Sentencing Project (2017a) higher levels of immigration may have contributed to the historic drop in crime rates across the United States in the late 20th and early 21st centuries. An increase in immigrant populations in many communities coincided with these significant declines in crime. Communities with large immigrant populations reduced crime at a faster rate than other similar communities with significantly smaller immigrant populations. The Sentencing Project (2017a) credited strong familial bonds of immigrants within immigrant communities that help to foster desistance. Cole (2018) explains that immigrant assimilation will differ based on socioeconomic status, geographic distribution, language attainment, and rates of inter-marriage. Marginalized groups will tend to assimilate downward since they have more difficulty with their assimilation into mainstream society. However, wealthier groups will tend to assimilate upward more easily and more quickly since they have the resources to attain the necessary knowledge and services necessary to support their assimilation (Cole, 2018). The question becomes whether marginalized immigrants are more prone to *sustained* criminality than U.S. citizens. Much of the evidence asserts that immigration does not increase crime rates, and quite the opposite, may ameliorate offending in communities, but the question of whether these preventatives to offending extend to recidivism.

In sum, a multitude of studies have concluded that there is no evidence to substantiate the popular perception that increased immigration and crime are entwined. In fact, it is quite the opposite – increased immigration into a community has been shown in multiple contexts to have a positive impact on crime rates. As immigrant populations increase, they stabilize (and can reinforce) the existing disorganization, poverty, and decay. Revitalization of communities has occurred with increased immigration. Crime rates have remained stable or declined where there were large increases in immigrant populations. The empirical literature has suggested that there are many reasons for the positive change, including strong social capital and family structure, increases in the

formal social control capacity, and immigrant selection effects (Ousey & Kubrin, 2009).

Immigrants and Citizens Incarceration

The incarceration of immigrants has long been justified as a public safety prerogative by political elites in the United States. However, Hernandez (2019) explains that the incarceration of immigrants is a result of financial, racial, and political causes. He states that America's political system exploits immigrants, and then when it is convenient, criminalizes them (Hernandez, 2019). This pattern of immigrant exploitation can be traced from the near extinction of the American Indian, the enslavement of African Americans, and the dire treatment of many other ethnicities that have migrated to the United States. The rhetoric of the Know Nothings is modernized and repackaged to imprison newer arriving immigrants in the name of preventing community violence (e.g., MS-13) and promoting national security (bans on Muslim immigrants) despite the lack of evidence to support the perception that immigrants are a danger to the safety of American and should be incarcerated. A body of literature exists which concludes that immigrants are less likely to be incarcerated than natives. Butcher and Piehl (2007) conclude that immigrants have a much lower incarceration rate than native born – as little as one-fifth the rate of natives. Further, the newest immigrants tend to have even lower rates of incarceration (Butcher & Piehl, 2007).

According to some researchers (e.g., Ousey & Kubrin, 2009; Butcher & Piehl, 2007) immigrant selection effects explain the negative immigration-crime relationship. They posit that immigrants are a self-selected group with relatively high levels of achievement and ambition and low criminal propensity. Therefore, immigrants are less likely to end up incarcerated because they avoid criminality and instead work hard to achieve the better lives they seek. Since emigrating to another country is a difficult process, many of the immigrants who are successful in their quest for a better opportunity in a new nation are better educated, less criminally inclined, and do not want to squander that opportunity (Ousey & Kubrin, 2009). To that end, Bondarenko and Gould (2017) found that first generation adolescent immigrants were almost 10% less likely to commit crimes than those who were born in the United States. Their analysis of existing data showed that despite significant growth in the foreign-born population in the United States – from 7.9% in 1990 to 13.1% in 2013 – the incarceration rates of citizens were anywhere from 2 to 5 times higher than that of immigrants. (Bondarenko & Gould, 2017). Landgrave and Nowrasteh (2019) also assert that both legal and illegal immigrants are less likely to be incarcerated than native-born citizens. Their study suggests that as immigrants become “Americanized” they are more likely to become involved in criminal behavior. Though they did find that immigrants who migrate at younger ages (0–17) are more likely to be incarcerated than those who migrate as adults, and adults tend to be more law abiding than younger migrants (Landgrave & Nowrasteh, 2019). Nowrasteh, Forrester, and Landgrave (2020), in a follow up study, found that the conviction rate for both undocumented (782/100,000) and documented (535/100,000) immigrants was lower than that of native born (1422/100,000) Americans (Nowrasteh, Forrester, and Landgrave, 2020). There is an established correlation between convictions and incarcerations; therefore, lower conviction rates would indicate that immigrants are less likely to be incarcerated than natives.

Ghandnoosh and Rovner (2017) determined that immigrants are under represented in US prisons. Immigrants comprise approximately 7% of the US populations and account for only 6% of both state and federal prison population. Immigrants are overrepresented in Federal prison populations as a result of increases in Federal sentencing and incarceration. However, most of those incarcerated are for immigration related offences. Light, Massoglia, and King (2014) found that immigrants face harsher criminal punishments when citizenship is a marker of stratification in the U.S. Courts. He explains that citizenship status is a salient predictor of sentencing outcomes (Light et al., 2014). This finding further supports the premise that racial, financial, and political factors cannot be disentangled within the American immigration discourse.

Since immigrants are less likely to be involved with criminality then it can be extrapolated that they were less likely to be incarcerated. Incarceration is a result of a criminal conviction, therefore, because immigrants have a lower crime rate, they are less likely to be convicted, and thus incarcerated. Further, incarceration of immigrants is more often for immigration related offences. The most recent increases in immigrant incarceration are a result of the criminalization of more immigration violations, increased enforcement of immigration policies, and harsher sentences for immigration offences.

Conceptual Framework

Studies investigating the immigrant-crime relationship have often focused on the social disorganization perspective. Sibila, Pollock and Menard (2017) cite several previous early twentieth century studies (Shaw, 1929; Shaw & McKay, 1931; Thomas & Znaniecki, 1958) that have influenced their work on immigrant offending (Sibila et al., 2017). Similarly, Bernat (2019) states that when communities experience an increase in immigrant populations, poverty, and crime, along with a decrease in racial and ethnic homogeneity, crime was attributed solely to the increased immigrant population. While community decay, crime, delinquency, and poverty are by-products of social disorganization, it does not provide an explanation for the false immigrant -crime perception. Perhaps a better explanatory model is that of ‘communitarianism’ offered by George P. Fletcher, 1998, 2006 to describe how citizens perceive themselves as either ‘insiders’ or ‘outsiders’, and view their relationship to others in society and to the law through this lens. Those who hold a communitarian perspective believe that people are situated in a culture, are formed by it, and are part of a larger social contract that identifies them as part of an in-group (Fletcher, 2006). This membership in the community is perceived as having been bestowed at birth, and thus fosters a sense of loyalty as an insider that protects the in-group and is wary of outsiders. A strong communitarian orientation can easily lead to the development of two distinct criminal laws – criminal law for ‘friends’ and criminal law for ‘enemies’ (Fletcher, 2006). A convincing argument could be made for communitarianism being the basis for systemic racism in the American justice system, but even more generally, in older, more established communities, this notion is evident in the way all ‘outsiders’ are viewed, whether their behavior is criminal or not. These types of communities are often labeled ‘provincial’, and an argument could be made that rural areas of

Pennsylvania (which make up the bulk of the state) are as provincial as any region in the United States due to the very large numbers of distinct municipalities and the homogeneity of the rural population through much of the Commonwealth's almost 250 years of statehood (The Center for Rural Pennsylvania, 2020).

The false narrative that an increase in the number of immigrants will result, specifically, in increased crime may emanate from Fletcher's (1998, 2006) idea of communitarianism, but can actually be further refined via a different lens. Criminality has always been the popular answer for the enactment of restrictive immigrant policies. However, although criminal behavior has been the guise for immigration policies, only since the late 1980s have the enforcement of immigration laws and criminal laws been unified to deter migration. 'Crimmigration' attempts to explain the synthesis of criminal law and immigration law (Justice Policy Institute, 2017). Historically, criminal law was separate from immigration law, in that a person convicted of criminal violations did not face immigration sanctions. Likewise, a person who committed immigration violations did not face criminal punishment. However, as a result of the fusion of criminal law and immigration law, both documented and undocumented immigrants convicted of a crime now can be deported from the United States. The list of non-violent crimes for which an immigrant can be deported has been increasing steadily. Some of the immigration statutes that have been criminalized include: reentry of deported alien, bringing in and harboring certain aliens, fraud and misuse of visas, permits and other documents, entry of alien at improper time and place, and false statement in application and use of passport. Many of these immigration offences carry terms of imprisonment.

Stumpf (2006) details how the convergence of immigration law and criminal law are at the core of 'crimmigration.' She explains that membership theory is the rationale for why these areas of law have become unified. Membership theory restricts individual rights and privileges of certain members of society and provides decision makers with justification for excluding other members from a philosophy similar to Fletcher's idea of communitarianism. Thus, using immigration and criminal law to label immigrants as outsiders who are undeserving of the same rights and privileges that citizens enjoy in turn become justifications for lawmakers to draft more punitive immigration statutes (Stumpf, 2006).

Data & Analytic Plan

This research used official data obtained from the Pennsylvania Department of Corrections (PDOC). The PDOC Research Review Committee approved this study and provided a portion of the relevant data requested. Data included all offenders released from State Correctional Institutions (SCI) in calendar year 2010, accounting for a total of 18,417 offenders. Of this total, 5787 offenders were subsequently reincarcerated in an SCI prior to the end of calendar year 2013. The PDOC database also contained demographic characteristics of the offenders associated with this study, including: a non-identifier inmate number, date of birth, country of birth, race, type of offense associated with the current incarceration, date of release, and date of re-incarceration.

As shown in Table 1, the variable birthplace provided offenders country of birth. Offenders were separated into two groups, foreign born (0) and native born

Table 1 Birthplace of Inmates Released from Pennsylvania SCI's, 2010

	#	%
Foreign Born Offenders	761	4.1
Native Born Offenders	17,656	95.9
Total	18,417	100.0

(1). Foreign born are the offenders who are identified as previously convicted and incarcerated immigrants. Native born are the offenders who are identified as previously convicted and incarcerated American citizens. Offenders' individual date of birth was provided in the data, however individual birthdates were converted to an ordinal scale. Offenders race and type of crime committed were also converted into 2 dichotomous measures (White/Non-White and Violent/Non-Violent, respectively) to facilitate analysis. Reincarceration is also operationalized as a dichotomous variable (Yes/No).

The primary research question is: Are immigrants who are convicted and incarcerated for criminal behavior more likely to reoffend than citizens?

- H1: Previously convicted and incarcerated American citizens/natives are significantly more likely to be recidivist than previously convicted and incarcerated immigrants

Rationale: Numerous studies have concluded that immigrants are less criminogenic than native-born citizens. Further, with recent increases in immigration enforcement immigrants are more likely to be arrested. However, since immigrants are less likely to be convicted for criminal actions than citizens, this study hypothesizes that immigrants who have been convicted and incarcerated for a criminal offense will have a significantly lower rate of recidivism than their native-born counterparts.

Dependent Variable

The dependent variable for this study is recidivism. Recidivism will be operationalized as an offender's reincarceration in an SCI. It is important to detail the rationale for this outcome measure. Reoffending, or recidivism, is a term that is defined differently by agencies, organizations, and researchers. According to the National Institute of Justice (2008) recidivism has two parts: the acts or events that constitute recidivism and the amount of time after release before a criminal act is committed. Alper and Durose (2018) of the Bureau of Justice Statistics measured recidivism using three characteristics:

1. A starting event, such as release from prison.
2. A measure of failure following the starting event, such as a subsequent arrest, conviction, or return to prison.

3. An observation or follow-up period that generally extends from date of the starting event to a predetermined end date (e.g., 6 months, 1 year, 3 years, 5 years or 9 years).

This study measured recidivism following the three characteristics of the Bureau of Justice Statistics as outlined above with the starting point being release from an SCI in calendar year 2010, a measure of failure being reincarceration in an SCI, and the follow-up period extending through the end of the 2013 calendar year.

As previously stated, immigrants are more likely to be arrested than the average American citizen as a result of increased immigration enforcement efforts (Calderon & Li, 2019; Williams, 2019). According to a recent report by the Justice Department, immigrant arrests account for 64% of all federal arrests (Witsman, 2019). These strategies resulted in immigrants being arrested and detained for lengthy periods of time (American Immigration Council, 2020; Calderon & Li, 2019). However, these arrests and detentions skew not toward criminal activities, but for immigration infractions (Calderon & Li, 2019; Williams, 2019). Further, of the more 422,778 immigrants arrested in 2017, who had prior criminal convictions, less than 15% of the prior convictions were for a violent crime, and 77% were for traffic, drug, or immigration offenses (Bialik, 2018).

Therefore, to accurately measure immigrant recidivism, and compare it to citizen criminality, it is important to examine only those who have been reincarcerated for a criminal act. Consequently, immigrants who were reincarcerated solely for immigration enforcement events were excluded from the analyses. Immigrants who were reincarcerated after conviction for a criminal act only (immigration, technical parole violations and minor traffic offenses were excluded) were used as the measure of failure. Only citizens who were reincarcerated after the conviction of a criminal act (technical parole violations and minor traffic offenses were excluded) were included in the study. Finally, a follow up or observation period of 3 years was employed. This follow up period of 3 years is consistent with other studies (Alladin & Hummer, 2018; National Institute of Justice, 2008; Connecticut General Assembly, 2001) that have examined recidivism in terms of release from prison, reoffending, and reincarceration.

Key Predictor Variable

The independent variables are previously convicted and incarcerated foreign-born residents of the United States and previously convicted and incarcerated native-born American citizens. Since the data does not separate offenders who have permanent resident status, foreign-born residents includes offenders who are permanent residents but who are not United States citizens as well as offenders who are undocumented immigrants. It was possible that more undocumented offenders occurred in the dataset, but were not reported, as some would be reluctant to honestly state citizenship for fear of deportation. Therefore, only offenders who are foreign-born (but not citizens) are considered ‘immigrants.’ Offenders who indicated that they were foreign-born and United States citizens were excluded from the analysis. The category “previously convicted and incarcerated American citizens” includes only those offenders who indicated that they were born in the United States and are citizens of the United States.

Demographic Variables

To flesh out the characteristics of released inmates who reoffend, a multivariate analysis was used to test a set of demographic variables along with the key predictor of country of birth. Since the concept of recidivism is indicated by a Yes/No response, logistic regression was employed as the analytical technique ‘Birthplace’, ‘Race’, and ‘Type of Crime Committed’ were coded as dichotomous measures, while ‘Age’ was coded to an ordinal scale.

Results

As shown in Table 1, “Birthplace of Offenders Released from Pennsylvania’s State Correctional Institutions in 2010” which consists of the total number of offenders released from Pennsylvania SCI’s in 2010 was 18,417. The number of immigrant offenders released was 761, or approximately 4% of the total, and native-born offenders were 17,656, or approximately 96% of the total.

In Table 2, “Birthplace of Reincarcerated Offenders” consists of the offenders who were released from Pennsylvania’s State Correctional Institutions in 2010 but were reincarcerated for the conviction of a crime. The number of immigrant offenders (Previously Convicted and Incarcerated Immigrants) reincarcerated were 165 or approximately 2.9% and American citizens/Natives (Previously Convicted and Incarcerated Citizens/Natives) were 5622 or approximately 97%.

Descriptive statistics indicate that immigrants in Pennsylvania are less likely to be reincarcerated than an offender who is a U.S. citizen /native. Immigrants are reincarcerated at a rate of 22% (165/761) and U.S. citizens at a rate of (5622/17656) 32% of offenders returning to confinement. Table 3 presents a breakdown of all 18,417 inmates released from an SCI in 2010 by categories of the predictor/demographic variables.

The results of the logistic regression, as shown in Table 4, indicate that citizens/natives are significantly more likely to be reincarcerated. The odds of citizens being reincarcerated are 1.65 times more than immigrants. The logistic regression indicates that the variable race was also a significant predictor of reincarceration. Non-White offenders were 1.3 times more likely to be reincarcerated within 3 years than were their White counterparts. While 60% of Non-White offenders were reincarcerated, only 40% White offenders were returned to prison. When analyzed by place of birth, the results are somewhat surprising. Race does not significantly impact the reincarceration of immigrants. White immigrants are reincarcerated at a rate of 48% and non-white at

Table 2 Birthplace of Reincarcerated Offenders

	#	%
Foreign Born Offenders	165	2.9
Native Born Offenders	5622	97.1
Total	5787	100.0

Table 3 Descriptive Statistics for Variables Included in Binary Logistic Regression Analysis

Variable	n	%
Birthplace		
Foreign Born (0)	761	4.1
Native Born (1)	17,656	95.9
Age		
18–30 (1)	1698	9.2
31–40 (2)	6799	36.9
41–50 (3)	4167	22.6
51–60 (4)	2182	11.8
61+ (5)	3571	19.4
Race		
White (0)	8193	44.5
Non-White (1)	10,224	55.5
Type of Offense		
Violent (0)	4880	26.5
Non-Violent (1)	13,537	73.5
Reincarcerated		
No (0)	12,630	68.6
Yes (1)	5787	31.4

52%. For the native-born subgroup, 60.3% of Non-Whites were reincarcerated compared with 39.7% of native-born White offenders.

The results further indicate that age of offenders was also a significant predictor of reincarceration. Younger inmates were more likely to be reincarcerated. This finding aligns with the literature that describes an ‘aging out’ of offending. The effect of age remained static for both immigrants and citizens/natives. The variable ‘Type of Offence’ indicates whether a violent or nonviolent offence is a significant predictor of immigrant reincarceration. There were over 123 different offences committed by offenders included in this study, including both violent and nonviolent crimes. Pennsylvania offenders released after serving time for a non-violent offense were more

Table 4 Binary Logistic Regression Analysis

Measure	<i>b</i>	<i>S. E.</i>	<i>Exp(b)</i>
Birthplace	.504*	.091	1.65
Age	-.048*	.013	.953
Race	.265*	.032	1.30
Type of Crime Committed	-.132*	.031	.876
Chi-square	139.01*		
-2Log Likelihood	22,780.89		
Cox & Snell R-Square	.008		
Nagelkerke R-Square	.011		

* $p < .00$

likely to be reincarcerated than were those inmates sentenced for violent crimes. Only 27% were reincarcerated for a crime of violence compared with 72% for a non-violent crime. However, the results show that when separated by immigrants and citizen/natives there is remarkable difference in offending rates between the groups. Immigrants account for 2% (31) of the violent and 3% (134) of the non-violent recidivists. While citizens/natives comprise 98% (1580) of the violent recidivists and 97% (4042) of the non-violent recidivists.

Discussion

The findings from this research reinforce well-documented characteristics of criminal offending, such as a greater likelihood of criminality among younger individuals and overrepresentation of non-whites in the justice system, while simultaneously helping to debunk some of the more contentious rhetoric that has become commonplace in recent years surrounding immigration. In Pennsylvania specifically, there is a troublesome history of suspicion of new immigrant communities (particularly those whose first language is not English) going back decades in traditionally majority White communities (Parra & Pfeffer, 2006; Prins & Toso, 2012). Immigration as a political topic has typically been viewed from a local perspective. For example, the impact of illegal migrant labor is more germane in a Southwestern border state than it is in New England. However, since the 2016 Presidential election, the politics of immigration has become a point of debate even in communities only modestly impacted by new immigration. In the post-industrial northern tier of the United States, depressed former manufacturing cities such as Lawrence, Massachusetts, Trenton, New Jersey, and Reading, Pennsylvania have experienced a renaissance due to new immigration, though these successes are overshadowed by contentiousness in the media and mistrust from established residents.

The race of both immigrants and citizens/natives affect reincarceration. As a snapshot in time, the data here reinforced the notion that Non-White offenders are overrepresented in the Pennsylvania correctional system. For example, African Americans comprise approximately 11% of the state's population, but represent 46% of the prison population. Conversely, Whites represent 79% of the state's population but account for just 39% of state inmates (Wagner & Sawyer, 2018). It isn't possible to come to definitive conclusions based on the data used in this research, though two disparate interpretations could be made. First, if the races of those released from prison are proportional to the overall prison population, then the representation of different races in the Pennsylvania system are slightly more in line with the racial makeup of the Commonwealth. However, the second interpretation is that it may be White offenders are more likely to be granted release than are Non-White inmates, thus perpetuating systemic bias and the overrepresentation of minorities in the incarcerated population.

Although, the results of this study show that 18–30 years old offenders were the least likely to be reincarcerated, there could be many reasons for this, including possible deportations and lengthier sentences. While this finding is not in the generally expected age-crime curve continuum, the overall analysis indicate that younger offenders are more likely to be reincarcerated than older offenders, as more than 62% of the offenders age 31–59 were reincarcerated. This finding is consistent with Landgrave and

Nowrasteh (2019) who found that among immigrant populations, adults tend to be more law abiding than the younger migrants (Landgrave & Nowrasteh, 2019). The relationship between age and crime is well documented, as crime is higher among younger individuals (regardless of background) and decreases as they become older. Studies (e.g., Cornelius, Lynch, & Gore, 2017; Rocque, Posick, & Hoyle, 2015) have concluded that the age - crime relationship is one of the most solid within the field of criminology. Therefore, it is to be expected that crime among younger immigrants would be higher than among older immigrants.

The results show that more non-violent offenders are reincarcerated. According to The Sentencing Project (2017b), nationally almost 46% of people incarcerated in state prisons in 2015 were convicted of nonviolent drug, property and public order crimes. Property-related crimes (nonviolent) were overwhelmingly the greatest reason for incarceration among offenders released in calendar year 2010. Overuse of imprisonment for nonviolent crimes is an ongoing criminal justice problem in the United States, and the phenomenon is no different in Pennsylvania, where more than 72% of the crimes committed by released offenders were nonviolent. This number may be inflated because those inmates who committed nonviolent offenses may be, proportionally, more likely to be granted release from prison. However 18,417 inmates represent a sizable chunk of the 2010 Pennsylvania state prison population (estimated at 51,264 in 2011) (Guerino, Harrison, & Sabol, 2011). The findings also indicate a trend toward decarceration in Pennsylvania, which has been in place for at least a decade (Melamed, 2019), and an indication that the state correctional population undergoes significant turnover each calendar year, detrimentally impacting institutional culture and efforts at desistance that are a part of the carceral experience (Fig. 1).

The notion that with immigration comes crime was reinforced on a national level in 2016 when presidential candidate (and Lou Barletta fan) Donald Trump stated for the world to hear that, if he were in the White House, the United States would “build a big beautiful wall and Mexico will pay for the wall.” This was necessary because of people entering the country illegally along the southern border, Trump stated, “They’re bringing drugs. They’re bringing crime. They’re rapists. And some, I assume, are good

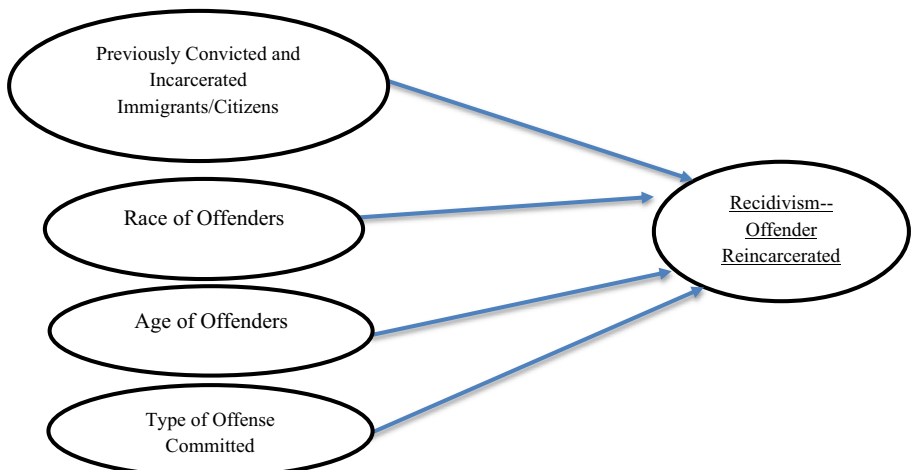


Fig. 1 Research Model

people.” This cemented the narrative in many minds that immigration and crime are inextricably linked, despite ample scientific evidence to the contrary (e.g., Higgins, Gabbidon, & Martin, 2010; Martinez, 2000; Ousey & Kubrin, 2018; Reid et al., 2005). While this idea is dangerous for a number of reasons, from a system function standpoint, erroneous assumptions about the nature of offending and offenders could potentially lead to policy decisions that exacerbate current problems, fail to address pressing issues, or create new exigencies. The administration of justice is carried out primarily on the local stage. These results demonstrate with clarity that offenders in Pennsylvania are cultivated, not imported. New immigration can effectively stem the tide of offenders and bolster collective efficacy of communities in transition or decline if these communities are not stigmatized by assertions not based on empirical evidence.

Declarations

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Terrence A. Alladin (Ph.D., Pennsylvania State University) is an Assistant Professor at Lebanon Valley College. His research interests focus on incarceration, criminal justice policy and policing.

Don Hummer is an Associate Professor in the School of Public Affairs, Penn State Harrisburg. His research interests are broadly focused on corrections policy, violence, and the implications of technological advances for justice system actors.