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Three Papers on the Politics of Immigration in the United States: Asylum Adjudication,
Detention Levels in County Jails, and Geographic Access to Health Services and Legal Aid

by

Stephanie Peng

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Political Science

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Sarah F. Anzia, Chair

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Spring 2024

Three Papers on the Politics of Immigration in the United States: Asylum Adjudication,
Detention Levels in County Jails, and Geographic Access to Health Services and Legal Aid

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Stephanie Peng

Abstract

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Doctor of Philosophy in Political Science

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Professor Sarah F. Anzia, Chair

Political actors embedded in the labyrinthian U.S. immigration system make decisions every day that either uphold or challenge the state's inherent punitiveness towards noncitizens. I argue that some of the variation in punitive outcomes can be explained by partisanship of these actors – including judges, legislators, and voters themselves. My dissertation evaluates this argument from three different angles. In each paper, I spotlight a different set of political actors and institutions and examine different immigration outcomes depending on the scope of the said political actor or institution's power. First, federal immigration judges have the ability on a daily basis to decide legal outcomes of deportation for many asylum seekers, so I look at whether the appointing party of an immigration judge affects asylum grant rates in immigration courts. Second, county legislators decide whether and how much local detention space to contract to ICE, playing a key role in determining ICE's detention capacity. I conduct a national analysis of whether the partisan majority of a county council affects their local ICE detention capacity over time. Third, given that health and legal nonprofits bear the responsibility of providing vital human services for many immigrants, I examine whether the spatial accessibility of immigrant-serving nonprofits correlates with political characteristics of cities. Across these three separate analyses, I find that the partisan affiliation of appointed and elected officials does shape punitive outcomes of detention and deportation, while non-electoral political mobilization predicts better access to immigrant-serving health and legal services. In the rest of the abstract, I provide a more detailed synopsis of each study.

In my first paper, "The Role of Party Politics in Asylum Decisions of Immigration Judges," I examine the puzzling variation in asylum grant rates, both between different courts and between judges in the same court. I argue that the mass hiring of new immigration judges (IJs) in an increasingly polarized political era opens the possibility that party politics plays an important role in asylum adjudication today. Indeed, I find that the appointing party of an IJ likely shapes their asylum adjudication patterns and that IJ behavior has polarized

over time. Evaluating all asylum cases between 2003 and 2020, on average, Republican-appointed judges are more likely to deport asylum seekers by 3.8%. Upon further analysis, I find that this difference is entirely attributed to Trump-era IJs, who are more likely to deport by 6.0% compared to all other Republican or Democratic-appointed IJs. My results complement other studies that find no role of partisanship in asylum adjudication during older time periods, because partisan polarization of IJ behavior appears to be a starkly contemporary phenomenon.

In my second paper “Do ICE Detention Levels in County Facilities Depend on Partisanship of County Legislators?” I shift my focus away from the federal government to examine the politics of immigration enforcement in counties. Previous studies have shown that a) local legislators behave differently in some policy areas depending on their partisanship and that b) local immigration policy differs based on the partisanship of voters. Yet, little is known about the mechanism that links the partisanship of local voters with local immigration enforcement outcomes. I posit that the linking mechanism could be local legislators directly influencing immigration detention in their jurisdictions. I also posit that local legislators behave differently in the immigration policy area based on their partisan affiliation. I conduct a multi-method analysis to examine whether electing a Democrat or Republican-majority county council affects the level of immigration detention in their respective local jails and prisons. A quantitative “difference-in-difference” analysis shows that newly-elected Democratic majority county councils tend to house about 20 to 40 fewer detainees daily, relative to comparable counties over time. On the other hand, newly-elected Republican-majority county councils tend to have similar levels of ADP as comparable counties over time. I also conduct a qualitative analysis of county minutes and find that federal policies can restrain newly-elected Republican counties’ attempts to achieve more punitive detention outcomes. There are also stark discursive differences between newly-elected Republican-majority and Democratic-majority councils; the Republican-led councils focused on fiscal consequences of the details of detention contracts whereas the Democrat-led councils moreso led ideological and morality-focused discussions around immigration policy more generally.

My third paper, “Examining Civic and Political Contexts: Why Do Immigrants Have Better Access to Health Services and Legal Aid in Some Places?,” examines some of the city-level characteristics that might explain why human services are more accessible to immigrants in some places than in others. This paper takes a slightly different approach than the previous two papers, in that it examines a network of non-state entities and focuses on immigrant integration outcomes instead of enforcement outcomes. A spatial analysis of all cities in California, Nevada and Arizona shows that partisan vote share does not meaningfully predict spatial accessibility of health and legal services for immigrants. Instead, non-electoral political characteristics of a place — namely, civic infrastructure and social movement history — are better indicators of whether immigrants can more conveniently access affordable health and legal services. These non-electoral political characteristics likely serve the key function of increasing “civic visibility” of the immigrant community as legitimate and deserving

recipients of aid. My results bolster the prevailing idea that immigrants in “established gateway” cities tend to benefit from a long-standing, robust network of immigrant organizations and public-private partnerships. In an analogous way, immigrants in cities with historical NAACP chapters and/or 2006 immigration reform protests likely also benefit from the community’s long-standing organizing power and advocacy expertise. In sum, at a grassroots level, electoral party politics are not the end-all-be-all. Investing in civic infrastructure and building organizing power in a place can lower the barriers of advocating for, establishing, and continually funding immigrant-serving health and legal clinics.

Taken altogether, this dissertation illustrates the politicization of immigration processes and outcomes at the federal, county, and city-levels. Life-altering outcomes of detention, deportation, and access to human services should not depend on the political preferences of individual actors or the political characteristics of a place. In raising questions about the integrity and legitimacy of the U.S. government’s approach to immigration and integration, my work supports scholars and activists who envision an alternate approach to immigration policy that is human-centered instead of security-centered.

To my grandma, my mom and the long line of women in my family who had to accept
scarcity when they deserved abundance

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Chapter 1

The Role of Partisanship in Asylum Decisions of Immigration Judges

“In essence, we’re doing death penalty cases in traffic court.” – Dana Leigh Marks, immigration judge

In February 2020, Senate Democrats wrote a complaint letter to the Department of Justice (DOJ) about the Trump administration’s alleged politicization of the immigration courts. Specifically, Senators alleged that immigration judge applicants with law enforcement experience and little immigration law experience were favored over other applicants. Furthermore, job training for new hires were reported to heavily emphasize their role as an arm of enforcement under the Trump administration, not as an independent judicial body. The Government Accountability Office (GAO) has since opened an ongoing investigation about whether the Trump administration has unlawfully embroiled immigration courts in partisan politics. This is the second time the Executive Office for Immigration Review (EOIR) has been investigated for politically-motivated hiring of immigration judges; the first was in 2008 when W. Bush officials were found to have violated federal law by considering candidates’ political affiliations in the hiring process.¹

Immigration judges (IJs) are important political actors who make decisions that directly affect tens of thousands of immigrants and asylum seekers each year. Wielding nearly unilateral power in deciding whether non-citizens can stay in the U.S., IJs are responsible for all hearings related to “deportation, exclusion, removal, rescission [of green card status], and bond [for detained individuals]” according to the DOJ’s job description. Furthermore, IJs are “administrative judges” who occupy a unique position within both the judicial and executive branches; they adjudicate based on federal statutes like federal judges, but work within an executive agency like bureaucrats.

¹See the U.S. DOJ’s 2008 report, “An Investigation of Allegations of Politicized Hiring by Monica Goodling and Other Staff in the Office of the Attorney General”: <https://oig.justice.gov/sites/default/files/legacy/special/s0807/final.pdf>

Although IJs adjudicate important cases and occupy a unique institutional position, political science literature has not looked at the role of partisanship in immigration court. Legal scholars have studied individual-level, judge-level, and geography-level determinants of asylum denial, but these studies largely relegate the role of partisanship to the back burner. I differ from the previous literature by taking a closer look at the role of partisanship in asylum decisions over a longer and more contemporary period of time.

I argue that partisanship may help explain why individual IJs grant asylum at vastly differential rates today. In 2019, the Transnational Records Access Clearinghouse finds that, from fiscal years 2015-2019, individual IJs grant asylum between 2% and 98% of the time.² Are the dramatic differences in asylum denial rates solely due to differences in types of cases each court receives, or is there a more political explanation? Ongoing patterns of partisan polarization provide a strong reason to take a closer look at the role of party politics in courts. Since the 1970s, partisan polarization has grown substantially among both elites and voters. More recently, since the 1990s, public opinion about the specific issue of immigration has become increasingly divided by party affiliation as well (Pew Research Center 2019).³ And since the 2000s, immigration has become visibly more central to state and national-level party platforms (Walters & Skocpol, 2023).

IJ decision-making has larger direct impacts than ever before; both the number of case decisions and the national asylum denial rate (~70%) reached record-highs in 2019. To battle the increasing case backlog, the number of IJs on the bench increased from ~200 in 2010 to over 500 in 2020.⁴ The mass hiring of IJs means that the most recent Attorney Generals (AGs) are theoretically more effective in “stacking” courts with new hires that adjudicate in a certain way. Hiring power is key because the sitting AG cannot easily fire IJs or discipline them based on their asylum denial rate. As a result, the composition of mass hires can significantly alter the culture of working environments in immigration courts for years to come.

In this study, I leverage random assignment of asylum cases within courts to analyze whether the appointing party of an IJ predicts their likelihood to deport an asylum seeker. I use two sources of data: EOIR case-level data for all immigration court cases through December 2020 and EOIR judge biographies released in public memos at time of hire. I merge a comprehensive and up-to-date dataset of all asylum case decisions from 2003-2020

²See the Transactional Records Access Clearinghouse (TRAC) 2019 report, “Judge-by-Judge Asylum Decisions in Immigration Courts FY 2014-2019”: <https://trac.syr.edu/immigration/reports/judge2019/denialrates.html>.

³According to the 2019 American Trends Panel Survey, the Pew Research Center finds that “Republicans and Democrats have sharply diverged in views of whether immigrants do more to strengthen or burden our country.” Public opinion appears to begin diverging slowly since 1994, and most sharply around 2010, with Democrats increasingly supporting immigrants over time, and Republicans reporting consistent levels of support over time. See Pew’s 2019 report “In a Politically Polarized Era, Sharp Divides in Both Partisan Coalitions: Views on Race and Immigration”: <https://www.pewresearch.org/politics/2019/12/17/views-on-race-and-immigration/>

⁴See the Executive Office for Immigration Review’s 2020 report, “Adjudication Statistics: Immigration Judge (IJ) Hiring”: <https://www.justice.gov/eoir/page/file/1242156/download>.

with individual characteristics of the presiding IJ, including the name and partisanship of their appointing AG.

Looking at the entire universe of asylum cases from 2003-2020, Republican-appointed IJs are about 3.8% more likely to deport compared to Democratic-appointed IJs. Upon closer analysis of how and when this difference occurred, I find that IJs appointed under the Trump administration catalyzed the pattern of polarized judge behavior. Trump-era appointees are 6.2% more likely to deport asylum seekers than all other IJs. Moreover, the behavior of Trump-era appointees accounts for all of the apparent partisan differences in asylum deportation from 2003-2020.

My results suggest that AGs under the purview of the Trump administration strategically hired IJs who would decide asylum cases more punitively. In 2018, AG Jeff Sessions also implemented agency directives that potentially emboldened his appointees to behave this way. My analysis importantly sheds light on the conditions under which partisan biases can play a role in the hiring and decision-making of IJs. Specifically, existing literature finds that, among *all* removal cases, there doesn't appear to be a difference in removal rates by Trump-appointed IJs compared to other IJs (Hausman, Ho, Krass, & McDonough, 2022; Kim & Semet, 2020). However, my analysis reveals differential behavior when examining only asylum cases. My analysis also speaks to the lives of about 5,300 asylum seekers⁵ who which were influenced disproportionately by the political ideology of their judges' appointee.

Immigration Judges as Administrative Judges

U.S. immigration courts are housed within the executive branch instead of the judicial branch. Further, IJs are "Article II" or "administrative judges" (AJs), meaning they are directly hired for a lifelong appointment by the AG, with no Senate confirmation process, and can be fired after an independent evaluation. Essentially, IJs serve in a unique role as both "judges" and "bureaucrats" due to 1) the high volume of cases they are responsible for; 2) their direct hire by the AG within the Executive Branch; and 3) their duty to adjudicate court cases based on federal statute.

Legal and public administration scholars find that, compared to other federal judges, AJs have the least judicial independence from their agency (Barnett, 2016; Chand, Calderon, Hawes, & O'Keeffe, 2020; Moliterno, 2006).⁶ IJs are unique from other AJs in that they are not protected under the Administrative Procedure Act (Durham, 2006). Rather, immigration court procedures are established by the agency head, the AG. For example, the AG can change metrics of performance evaluations, require a certain threshold of evidence in court, or take any case onto their own docket to set a precedent – essentially, exercising influence on daily operations that are not formally encoded in statutes but that plausibly alter adjudication.

⁵This estimate is 6% of all case decisions made by Trump-era appointees from 2017-2020.

⁶Administrative judges (AJs) cannot be conflated with another type of federal judge, "administrative law judges" (ALJs). ALJs operate under significantly greater levels of political independence, due to entirely different statutes of hiring, firing, and evaluation.

On the other hand, IJs face nearly no constraint under asylum case law itself.⁷ Case law notoriously leaves ample room for the personal discretion of the IJ, to the extent that seminal asylum scholars Ramji-Nogales, Schoenholtz, and Schrag (2007) refer to the process of testifying in immigration court as a game of “roulette.” Thus, the AG may actually have more power “ex ante,” or in hiring IJs on the basis of their perceived immigration views, than “post ante,” or in influencing sitting IJs to adjudicate a certain way Baum (2010).

If an asylum seeker or DHS attorney feels the case was not granted a fair hearing, either party can file an appeal to the Board of Immigration Appeals (BIA). The BIA theoretically exercises constraint over IJs but the magnitude of constraint is limited, in large part due to historically low appeal success rates coupled with high appeal backlogs.⁸ In practice, the sheer number of cases on the docket implies little institutional oversight over individual cases.

Legal scholars have raised normative discussions regarding biases of administrative judges more generally, including efficiency of hearings and lack of judicial independence from the interests of the agency (Barnett, 2016; Moliterno, 2006). The conflict of interest is especially stark in immigration court because the AG is responsible for both supervising IJs and overseeing the prosecution of immigration violations (Chand, 2019). Although IJs are the largest group of non-APA AJs, they report significantly lower levels of judicial independence compared to other non-APA AJs in agencies who do not experience the same conflicts of interest between prosecution and adjudication (Chand, 2019).

In 2018, immigration judge Dana Leigh Marks publicly remarked, “in essence, we’re doing death penalty cases in traffic court.” This analogy succinctly captures the challenges that IJs face as AJs, and creates room to re-open questions about whether party politics influence their decision-making.

Immigration Judges as Political Actors

IJs can be viewed as judges, both by name and in their primary job function – to adjudicate based on federal statutes in courts of law. Political scientists have long viewed courts as political institutions (Rosenberg, 1991) and judges as political actors who exercise political

⁷U.S. asylum law states that the asylee must prove “beyond reasonable doubt” that they face distinct persecution due to their “membership in a social group” and receive no “government protection” from said persecution. The statute does not provide guidance as to which social groups “count,” nor does it specify how much or what type of evidence would prove the case “beyond reasonable doubt.”

⁸The BIA only overturns an IJ’s verdict about 14% of the time, despite the 47% overall appeal rate (Miller et al 2015). There is a backlog of 15,000-70,000 appeals depending on the year, according to most recent EOIR statistics. Only 3% of all appeals are initiated by the DHS contesting asylum relief, whereas 97% are initiated by the asylum seeker or a third party contesting asylum denial (Miller et al 2015), so the potential scope of this constraint is largely one-directional (against IJs with higher asylum denial rates). IJs cannot be disciplined on the basis of their rate of asylum denial, only their rate of overturned appeals. Furthermore, the BIA operates as an arm of the AG, as the AG directly appoints the members of the Board to match his or her own ideological views, can determine the size of the BIA, intervene in any of its decisions, and reform BIA operations as they see fit (Ramji-Nogales et al 2007).

discretion in addition to considering the facts of the case (Segal & Spaeth, 2002). Judicial discretion is at least partially informed by policy preferences and careerism (Epstein & Knight, 2013). In a seminal study, Segal and Spaeth (2002) find that a Supreme Court judge's personal policy preference, as proxied by the party of the appointing administration, predicts their decision-making. While most studies exclusively examine the partisanship at the Supreme Court level, recent evidence suggests that partisan incentives also influence judicial selection in lower federal and state courts (Bonica & Sen, 2017; Hübert & Copus, 2022) find that the appointing party of federal circuit and district judges matters significantly in the adjudication of civil rights cases, and that the partisan effect increases over time. I expect that the partisanship effect now extends to federal immigration courts as well.

We can also view IJs as federal bureaucrats who are hired to work within an executive agency. Presidential administrations commonly politicize executive agency appointments to tighten their control over how the agency functions day-to-day and to fulfill patronage promises (Lewis, 2008, 2009). The literature about the politicization of executive appointments may apply to AGs, higher-level appointees who oversee IJs, but not to IJs themselves, who are careerists. Regarding careerist bureaucrats, formal models and qualitative studies find that bureaucrats generally self-select to have strong policy preferences and sometimes do act on them (Ellermann, 2005; Gailmard & Patty, 2007; Golden, 2000).

However, it is still unclear the over-time dynamics of the relationship between party politics and bureaucratic behavior. Survey research and campaign contribution data can estimate the ideologies of different federal bureaucrats in relation to the President and Congress (Chen & Johnson, 2015; Clinton et al., 2012), but these studies only speak to a particular point in time and exclude significant swaths of federal employees who do not answer surveys or contribute to campaigns. Using campaign contribution data, Chen and Johnson (2015) do find that federal unionization helps moderate the influence of partisan politics on agency policies and employee turnover. Interestingly, the Trump administration successfully de-certified the immigration judge union in November 2020; Biden reversed this de-certification in 2022.⁹ This direct connection between the academic literature and partisan current events further motivates my inquiry.

Regarding bureaucrats who deal with immigration enforcement specifically, Thompson (2020) and Farris and Holman (2017) find that Republican and Democrat elected county sheriffs behave similarly in adhering to ICE detainer requests. However, these studies find that sheriffs, as members of law enforcement, are much more homogeneously conservative in their ideology compared to the general public. The wider variation in employment backgrounds and ideologies of IJs may provide a better context for exploring the extent that immigration-related bureaucrats act differently based on their partisan affiliation.

Legal studies and sociology literatures have investigated why detention and deportation rates vary widely between and among immigration courts. Scholars attribute varia-

⁹See the American Immigration Lawyers Association's 2022 report, "FLRA Refuses to Throw Out Decision Decertifying Immigration Judge Union": <https://www.aila.org/infonet/doj-move-decertify-immigration-judge-union>.

tion to structural differences such as nonrandom geographic distribution of cases Moinester (2018) and access to legal resources Eagly and Shafer (2015), organizational factors such as constraint from the presiding AG (Legomsky, 2005), and personal factors such as gender (Ramji-Nogales, Schoenholtz, & Schrag, 2007), work experience (Keith, Holmes, & Miller, 2013; B. Miller, Keith, & Holmes, 2015), and perception of deservingness based on the defendant’s criminal records (Ryo, 2022). Asad (2019) finds that IJs do reveal personal attitudes, biases, and motivations when justifying their decisions in removal proceedings. However, older studies of IJs either ignore partisanship or have found the role of appointing party to be insignificant in immigration court (Keith, Holmes, & Miller, 2013; B. Miller, Keith, & Holmes, 2015; Ramji-Nogales, Schoenholtz, & Schrag, 2007; Ryo, 2022). Recent studies have attempted to isolate an adverse “Trump” effect in immigration court but find no evidence for politicized IJ hiring. Hausman, Ho, Krass, and McDonough (2022) finds that although the mass hiring of IJs led to higher aggregate removal rates, there is no notable variation between removal patterns of Trump appointees and earlier appointees. Hausman, Ho, Krass, and McDonough (2022) builds off of the work of Kim and Semet (2020), who similarly find that the appointing president does not predict outcomes in merits hearings for removal cases.

I build off of these excellent existing studies in several ways. First, I take a closer look at a subset of cases – asylum cases – which arguably offer a more clear test of whether Trump politicized IJ hiring. Both Hausman, Ho, Krass, and McDonough (2022) and Kim and Semet (2020) analyze all removal cases, which may have obscured any differences in behavior between Trump appointees and other appointees. Asylum case law is uniquely more discretionary,¹⁰ more dynamic,¹¹ and more politicized¹² than other types of hearings, such as bond hearings and family-based immigration cases. All of these elements motivate my inquiry into the role of party politics in asylum cases instead of removal cases more generally.

Second, my study will examine trends over time at a more granular level. I build off of Kim and Semet (2020)’s analysis of removal cases by including year-fixed effects, which accounts for idiosyncrasies within each individual year, instead of controlling for a time-trend variable (which speaks to gradual trends over time) or controlling for presidential era (which may obscure variation within a presidential term.) I build off of Hausman et al (2022)’s analysis of asylum cases by looking at a longer period of time than the 180 days before and after Sessions’ enactment of specific policies.

¹⁰Party politics is plausibly more meaningful in asylum cases than in non-asylum cases because the federal statutes for migrants seeking humanitarian aid are more ambiguous than federal statutes for migrants who are undocumented but not seeking humanitarian aid.

¹¹There may be more variation in the role of partisanship in asylum case adjudication over time due to the more substantial evolution of asylum case law over time compared to non-asylum removal case law: [<https://www.justice.gov/eoir/bia-precedent-chart-ai-ca>\\](<https://www.justice.gov/eoir/bia-precedent-chart-ai-ca>){.uri}.

¹²AG Jeff Sessions targeted asylum asylum specifically by altering decades-old precedent in the interpretation of asylum case law, which drastically lowered the likelihood of asylum relief for Central Americans (Hausman et al 2022). Sessions (2018) also publicly emphasized his crackdown on asylum relief, specifically stating his intention to “restore sound principles of asylum and long standing principles of immigration law.”

In sum, I argue that we need to take a more nuanced look over a longer time period, with a more central focus on asylum adjudication, in order to detect changes in polarization in immigration courts.

Partisan Polarization of Immigration

Why might we expect federal party politics to newly impact immigration court outcomes? Scholars agree that the U.S. is experiencing increasing polarization¹³ and sorting¹⁴ between the two parties today (Hetherington, 2009; Hopkins, 2018; Levendusky, 2009; Mason, 2015). Polarization on a number of policy issues has been asymmetric between the two parties among both voters and elites, which means that Republicans have generally swung more extremely towards conservative views than Democrats have towards liberal views (Hacker & Pierson, 2005; Hetherington & Rudolph, 2015; McCarty, Poole, & Rosenthal, 2006). The modern era of “strong parties” is distinctly characterized by heightened emotions of “party teammanship” (F. Lee, 2015) and the nationalization of state and local politics (Hopkins, 2018).

Do these macro-level phenomena of polarization map onto the specific issue area of immigration? The early 2000s appear to be pivotal in the shift from bipartisanship towards polarization when it comes to immigration policy. In the past, “Reagan-era” Republicans aligned with pro-immigrant business interests, a pattern that persisted until around 1996, when Congress passed the last bipartisan immigration bill. Soon after, in the early 2000s, a growing number of Republican Senators diverged from the alliance with pro-immigrant business interests and cited security concerns to oppose higher numbers of migrants (G. Miller & Schofield, 2008). By 2006, congressional voting on immigration policy already fell neatly along partisan lines (Casellas & Leal, 2013; Wong, 2017). Walters and Skocpol (2023) similarly find that state and national party platforms have focused more on immigration since the early 2000s. Moreover, the content of Republican state and national party platforms appear to be asymmetrically polarized; Republican platforms have been consistently restrictive on immigration while Democratic platforms have contained both inclusive and restrictive content since 2000.

Importantly, Walters and Skocpol (2023) argue that the GOP’s restrictive immigration stances have enflamed ethno-nationalist and nativist sentiments among voters. Sides, Tesler, and Vavreck (2018) find that Trump’s nativist rhetoric may have asymmetrically tapped into the heightened emotions of “party teammanship” among Republican voters. It wasn’t all

¹³I define polarization as the growing distance between party positions on policy issues. This means that one or both parties have more ideologically extreme and defined stances on issues today than they have in the past.

¹⁴I define sorting as the high correlation between policy views and partisan identification. For example, almost all pro-life voters are Republican and almost all pro-choice voters are Democratic.

talk either; the Trump administration made public-facing nativist policy changes¹⁵ perhaps to better match the preferences of their electorate. On the other hand, the Obama and Biden administrations have not enacted comparatively strong or consistent inclusionary immigration policies.¹⁶

In sum, the different magnitudes of ideological movement between the two parties on the topic of immigration - evident in party platforms, public opinion, and enacted policy – suggest that immigration policy has become increasingly and asymmetrically polarized. As such, there is strong reason to believe that immigration courts have become an arena for party politics.

Mechanism and Timing

Has immigration become politicized as a partisan issue gradually over many years, or did it occur all of a sudden? Political scientists agree that general partisan polarization and sorting among both the masses and elites has increased gradually over the years since the 1970s (Abramowitz & Saunders, 2008; Fiorina & Abrams, 2008; McCarty, Poole, & Rosenthal, 2006). However, other scholars suggest that a more sudden partisan “realignment” on a particular issue may occur due to interest group or mass public pressure, like it did with the Labor movement, abortion, and the Civil Rights movement (Carmines & Stimson, 1989; Karol, 2009; O’Brian, 2020; Schlozman, 2015).

I contribute to the view that the politicization of immigration courts either started or accelerated dramatically under the Trump administration, as part of Trump’s larger project of exploiting administrative loopholes to subvert judicial autonomy (Parshall & Twombly, 2020). Between 2003-2017, AGs had relatively nondescript tenures in regards to issuing EOIR directives. In 2018, AG Sessions visibly politicized asylum by setting new precedents in a string of controversial actions.¹⁷ The policy impacts of Sessions’ 2018 actions include: 1) fewer ways for asylum seekers to qualify for relief, 2) fewer ways for IJs to manage the number of cases on their dockets, and 3) unprecedented pressure for IJs to decide cases as quickly as possible.

¹⁵In 2017, Trump signed Executive Order 13769, more commonly known as the “Muslim ban.” In 2018, the Trump administration implemented the “zero-tolerance” policy at the border and the Migrant Protections Protocol, more commonly known as the “Remain in Mexico” program.

¹⁶Despite enacting DACA in 2012 to protect undocumented youth from deportation, Obama was also famously dubbed “deporter-in-chief” for his shift in interior enforcement priorities from informal returns to the border to formal deportation proceedings, according to the Migration Policy Institute (see MPI’s 2022 report: <https://www.migrationpolicy.org/article/immigration-court-ice-guidelines>.) Shortly after Biden took office in 2021, he similarly faced intra-party criticism for supporting Trump’s annual refugee cap of 15,000. Only after public backlash did Biden eventually raise the annual refugee cap to 62,500 (see BBC News’s 2021 coverage: <https://www.bbc.com/news/world-us-canada-56975402>).

¹⁷Sessions used traditional, but rarely used, powers of self-referral to reshape how asylum law is interpreted. In other words, he took specific cases to his own docket and his decisions in those cases set a precedent for all immigration judges. A circuit court can overturn an AG’s self-referral decision, but only immigration courts in the geographic scope of that circuit court would be affected.

First, Sessions dramatically altered the substance of asylum law. In 2018, the *Matter of A-B-* drew widespread controversy because Sessions denied asylum to a victim of domestic violence, delegating domestic violence as a “private” issue unrelated to “public” government responsibility. This ruling essentially rolled back AG Janet Reno’s more liberal precedent, which was established in 2001.

Second, Sessions changed procedural rules in immigration court to place pressure on IJs to decide cases more quickly and punitively. IJs could no longer use long-standing administrative options¹⁸ to indefinitely delay low-priority cases. Moreover, Sessions replaced these long-standing administrative options with a more punitive option, allowing IJs to reject some asylum claims without holding initial hearings.¹⁹

Last, Sessions implemented an agency-wide quota stating that each IJ must complete 700 cases per year with fewer than 15% of their decisions overturned by appeals.²⁰ This was the first time in history that the agency bound IJs to a strict case completion quota, as opposed to mere guidelines. The quota faced criticism from the National Association of Immigration Judges for undermining judicial independence and due process.

It is clearly time to revisit the role of partisanship in immigration court, as well as examine its mechanism and timing. Are Republican-appointed IJs more likely to deport asylum seekers? If so, when and how did this occur? I argue that, by taking a nuanced look at a longer time period including the most recent politically charged years, we will be able to better answer the questions of whether, when, and how the asylum adjudication process has newly become embroiled in party politics. Furthermore, this inquiry will improve our understanding of the specific timing of polarization in the key issue area of immigration at the national level.

Data

My primary source of data is case-level data from the Executive Office for Immigration Review (EOIR), which documents all immigration court proceedings. This data contains key variables for each case, such as the case outcome, year of the case outcome, presiding IJ, defendant’s country of origin, defendant’s primary language, defendant’s detention status, presence of legal representation, and whether the outcome was appealed. EOIR makes the data publicly available and updates it monthly with new cases. My version of the data

¹⁸See the *Matter of Castro-Tum*. Sessions ruled that IJs cannot “administratively close” low-priority removal cases. In previous years, administrative closure often placed those low-priority removal cases on infinite pause and allowed the individual to remain in the country. Sessions also restricted the use of “continuances” which IJs used to postpone removal hearings if an asylum seeker had a concurrent filing for some other form of relief (e.g. legal status with USCIS).

¹⁹See the *Matter of E- F- L- H-*.

²⁰Failure to meet the quota would lead to an “unsatisfactory” performance review. The judge has at least 90 days to demonstrate “acceptable performance” in the specified area and then must sustain that performance for at least one year. Otherwise the judge may be removed or reassigned. See “Article 22: Performance Appraisals (Effective Date 12/6/17)”: https://www.americanimmigrationcouncil.org/sites/default/files/foia_documents/immigration_judge_performance_metrics_foia_request_article_22.pdf

includes all cases until December 2020. I also gathered all judge biographies published by EOIR since 2003. From these biographies, I coded the hiring date, appointing AG, gender pronouns, and employment history of each IJ. There have been 785 unique and identifiable IJs who have ruled on asylum cases in 68 immigration courts from 2003-2020. Figure 1 shows how the hiring volume of IJs spiked dramatically in 2016.

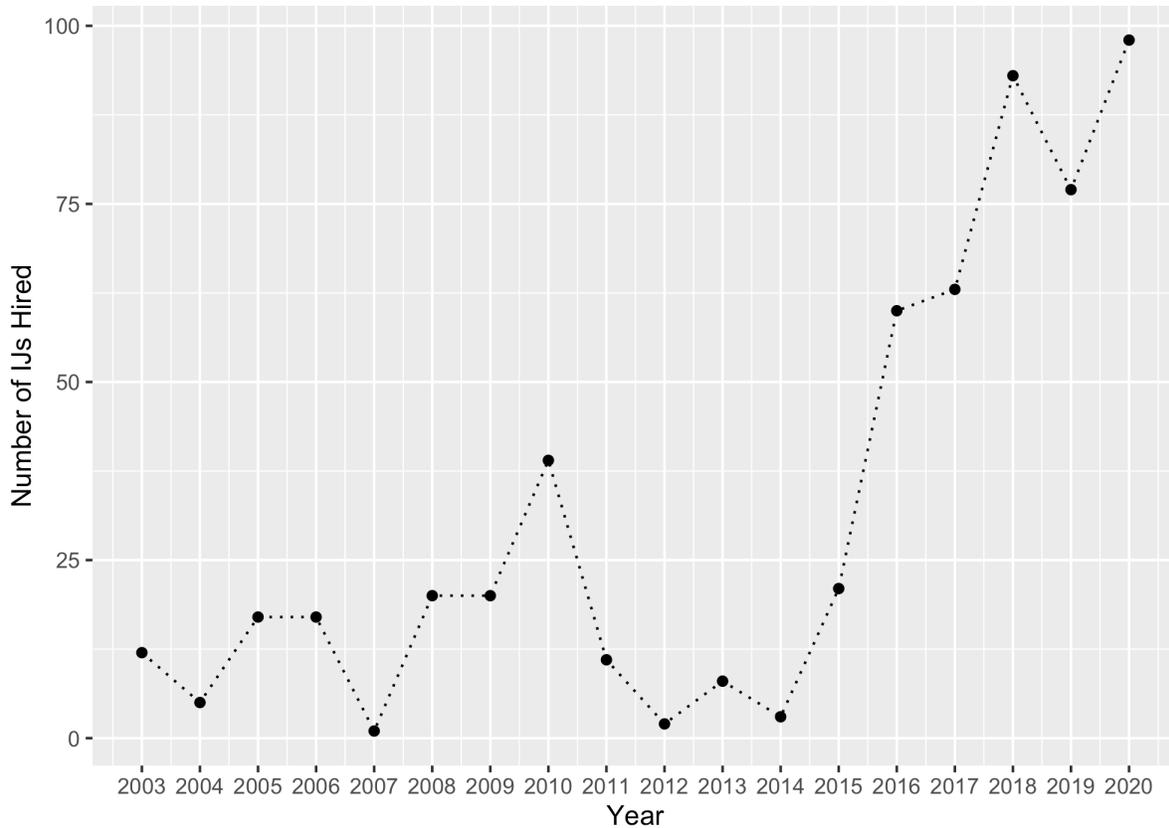


Figure 1: IJ Hiring by Year

Currently, 68 immigration courts operate across the country, with vastly differential numbers of cases distributed between them (see Figure A.1 in the Appendix). The four courts with the highest aggregate number of asylum cases are Los Angeles, Miami, New York City, and San Francisco. The average denial rate varies quite drastically between even these four courts: from 32% in New York, 44% in San Francisco, 58% in Los Angeles, and 72% in Miami. These widely-ranging court denial rates can plausibly be explained by the fact that different courts receive systematically different groups of asylum seekers. Each court is defined geographically, meaning individual cases are allocated to a court based on the asylum seeker's residence or the port of entry. However, all cases within one court are

randomly assigned to judges, making it possible to meaningfully compare IJs within the same court, but not between them.²¹

I constrained the data to 869,424 asylum cases from 2003-2020 because EOIR only provides judge biographies in public memos starting in 2003. I also limit the data to asylum cases only because asylum case law operates under different federal statutes than immigration case law. In cases that were appealed to the BIA and remanded, meaning the BIA reviewed the decision and sent the case back to court for repeat adjudication, I keep only the initial case decision. The initial decision better reveals the original IJ’s unconstrained behavior.

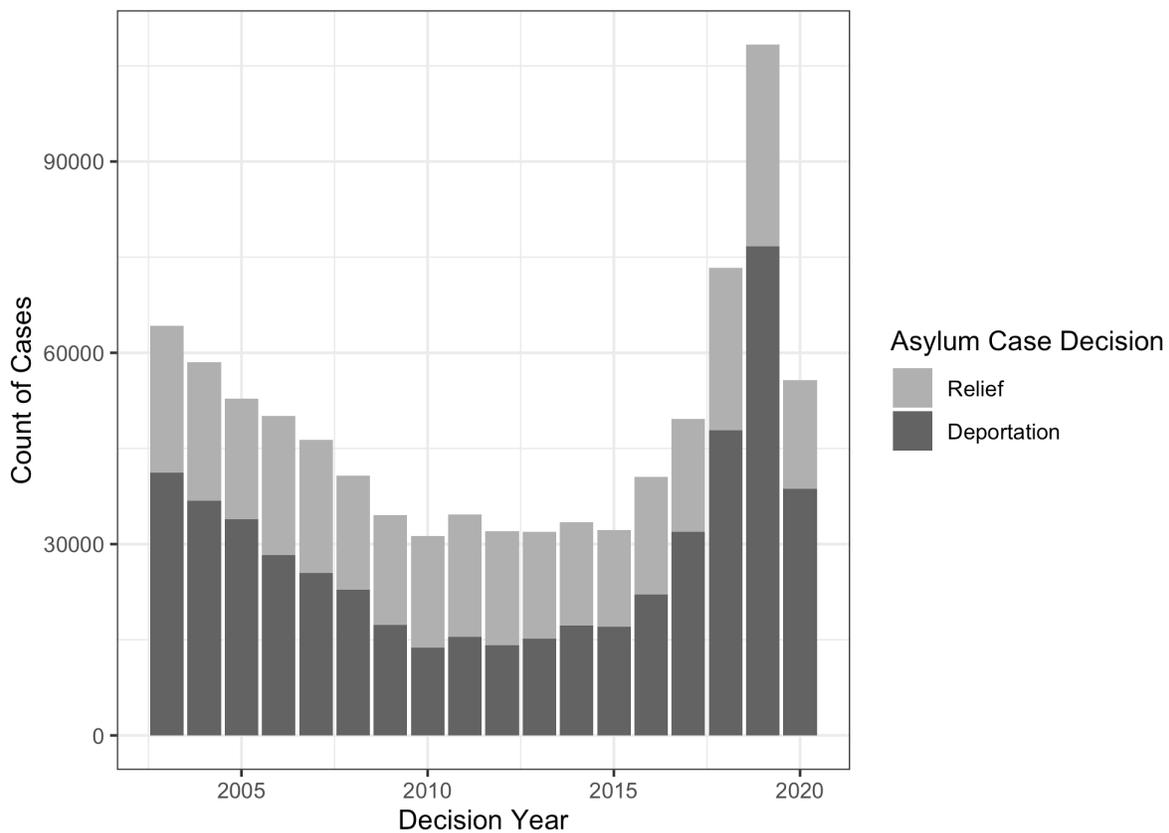


Figure 2: Asylum Cases by Year

Asylum Case Outcomes

My outcome variable is a dummy variable representing whether the case outcome resulted in some form of deportation. Asylum case outcomes are not simply “relief” or “denial”; they include a range of intermediary outcomes. I argue that deportation holds the most substantive importance for a defendant, as it describes whether the individual is allowed

²¹See TRAC’s 2016 report: <https://trac.syr.edu/immigration/reports/447/>.

to remain in the U.S. I followed precedent from EOIR’s statistical handbook from 2017,²² TRAC’s methodology,²³ and Hausman, Ho, Krass, and McDonough (2022) ’s methodology in regards to a blanket-coding of the outcome of deportation and non-deportation.²⁴ See the Appendix for a more detailed description of coding case outcomes.

Figure 2 shows the number of asylum cases decided²⁵ each year from 2003-2020; each bar is split to show the proportion of asylum seekers who were deported. While the number of decisions has dramatically increased in 2018 and 2019, the number of asylum seekers who gained some form of relief increased only slightly.

Judge-Level Variables

My main independent variable of interest is the partisanship of the appointing AG. I coded the name and partisanship of each IJ’s appointing AG from EOIR judge biographies.

The employment history and the gender of an IJ have been significant predictors of asylum denial in the past (Keith, Holmes, & Miller, 2013; B. Miller, Keith, & Holmes, 2015). I follow similar coding schemes to create two employment variables and a gender variable based on EOIR judge biographies. One binary employment variable indicates whether an IJ had a background history with a more conservative bend (e.g. IHS, ICE, or DHS), and the other binary employment variable indicates whether an IJ had a employment history with a more liberal bend (e.g. private practice, professor, or public defender).²⁶ I code each IJ’s gender based on the gender pronouns in their EOIR biography.

B. Miller, Keith, and Holmes (2015) find suggestive evidence that Democratic administrations tend to appoint IJs with diverse employment backgrounds, but Republican administrations show a trend of appointing more IJs with conservative employment backgrounds.²⁷ Similarly, the data suggest that Republican administration are slightly more likely to hire male judges than Democratic administrations are: 64% of Republican appointees (n=453) are

²²See EOIR’s annual statistical handbooks: <https://www.justice.gov/eoir/statistical-year-book>

²³See TRAC’s 2010 report: https://trac.syr.edu/immigration/reports/243/include/side_2.html

²⁴B. Miller, Keith, and Holmes (2015) elegantly provide a model in which they distinguish between types of relief (asylum vs. withholding of removal vs. protection under CAT) on a scale of 0 to 3, but note that the results do not differ if they simply use an indicator variable for some type of relief vs. no relief.

²⁵This figure reflects the final decision year, not the initial date of the asylum application. It does not speak to levels of migration flow necessarily, but rather to levels of case completion.

²⁶I was not able to code for having worked for an NGO because there is no universal key word that I could scan for in the biographies to indicate such an employer. Keith et al (2013) found that having worked for an NGO is highly indicative of liberal ideology. As a result, I may be underestimating the effect of having a liberal employer.

²⁷My more coarse, binary coding scheme shows a smaller difference; of IJs with some type of ideologically-relevant work history, 56% of Republican appointees have “conservative” work histories compared to 53% of Democrat appointees. However, Republican appointees also hire distinctly more individuals with neither conservative or liberal work histories (31% of all R appointees compared to 22% of all D appointees have neither history). In any case, it appears plausible that there is some non-random hiring pattern by employment history between the two parties.

male while 57% of Democrat appointees (n=333) are male. Given the plausibly non-random relationship between a) appointing party and employment background and b) appointing party and gender, employment background and gender are best viewed as post-treatment variables. Controlling for a post-treatment variable introduces bias and underestimates the effect of the treatment, so I exclude employment history and gender in the models that I present in the results section. However, the Appendix (Tables A.2 and A.3) includes robustness checks that separately control for employment history and gender, as well as robustness checks that control for both variables together.

Case-Level Variables

I control for key case-level variables that previous studies have found to be highly predictive of the likelihood of asylum relief or denial in addition to the facts of the case, following coding schemes developed by previous studies: a binary variable for attorney representation; binary variables for whether the defendant’s primary language is English, Arabic, or Spanish; a categorical variable for whether the asylum seeker was detained, released, or never detained; and a categorical variable for case type.

Case type differentiates between affirmative and defensive applicants. An affirmative asylum seeker applies from within U.S. borders at an asylum office; these applicants typically have temporary legal status through a visa. A defensive asylum seeker is any individual who presents themselves at a port of entry, who was detained at the border, or was detained within U.S. borders.²⁸ Affirmative applicants have higher literacy, stronger ties within the U.S., more resources, and significantly higher rate of success in the immigration court process than defensive applicants. However, both types of applicants are evaluated under the same federal statutes in immigration court. Therefore, I include both affirmative and defensive cases in my analysis but control for case type.

Methodology

Because cases are randomly assigned to judges within the same court, the appointing party of each judge can effectively be viewed as a “treatment” (Hübert & Copus, 2022). Based on the structure of my hierarchical data, I use a mixed-effects hierarchical model with three levels: cases, judges, and courts. Case decisions are perfectly nested in judges, but judges are not perfectly nested into courts because individual judges can serve in multiple courts during their lifetime tenure. The data show that many (but not all) IJs have large numbers of cases in multiple courts during their tenure. While each IJ is assigned to one court at any point in time, over time the same IJ may move to a different court. IJs with long tenures often have records of a significant number of cases in multiple courts. My

²⁸17,538 asylum case decisions had a missing value for being affirmative or defensive. I included these cases and imputed the missing value with the median value, “defensive.” I ran all models without imputing the missing value for these 17,538 cases and all results were robust (e.g. Table A.4 in Appendix).

mixed-effects model incorporates a) partially-nested effects for cases perfectly nested within judges and b) partially-crossed random effects for judges imperfectly nested within courts.

A partially-nested and partially-crossed model uses random effects for judges and for courts to account for the fact that individual judges can “belong” to multiple courts. This is important because while cases decided by one judge are more likely to be similar, cases decided within one court are also more likely to be similar due to geographic variation. In other words, when a judge moves from Court A to Court B, their decision-making will only be compared to other cases/judges in Court A before the move and likewise only be compared to other cases/judges in Court B after the move. Random effects for both judges and courts are the only way to account for this partially-nested and partially-crossed structure (Bates, 2018).

All models include year-dummy fixed effects to control for temporal idiosyncrasies.

Results

Do Democrat and Republican-Appointed IJs Grant Asylum at Different Rates?

Across all courts in 2003-2020, Republican appointees deported about 3% more asylum seekers than Democrat appointees (Figure A.2 in Appendix). Since cases are not allocated randomly across courts, this statistic does not consider the fact that different courts receive systematically different types of asylum seekers. However, all cases are randomly assigned to IJs within the same court. I exploit within-court random assignment to make a more meaningful comparison between IJs appointed by different parties.

Out of 68 courts, I first focus on the four courts that decided the most cases by far in 2003-2020: Los Angeles (LOS), Miami (MIA), New York (NYC), and San Francisco (SFR). These courts decided about half of all asylum cases in the country in this time period. Figure 3 shows that partisan differences sometimes occur within courts when we aggregate all cases across all years. It appears that Republican-appointees denied asylum at a slightly higher rate than their Democrat-appointed counterparts in 3 of the 4 courts (by 7% in SFR, 4% in LOS, 2% in MIA, and no difference in NYC). Given random assignment of cases, these within-court discrepancies suggest that, all-else-equal, the appointing party of an IJ does matter in asylum cases.

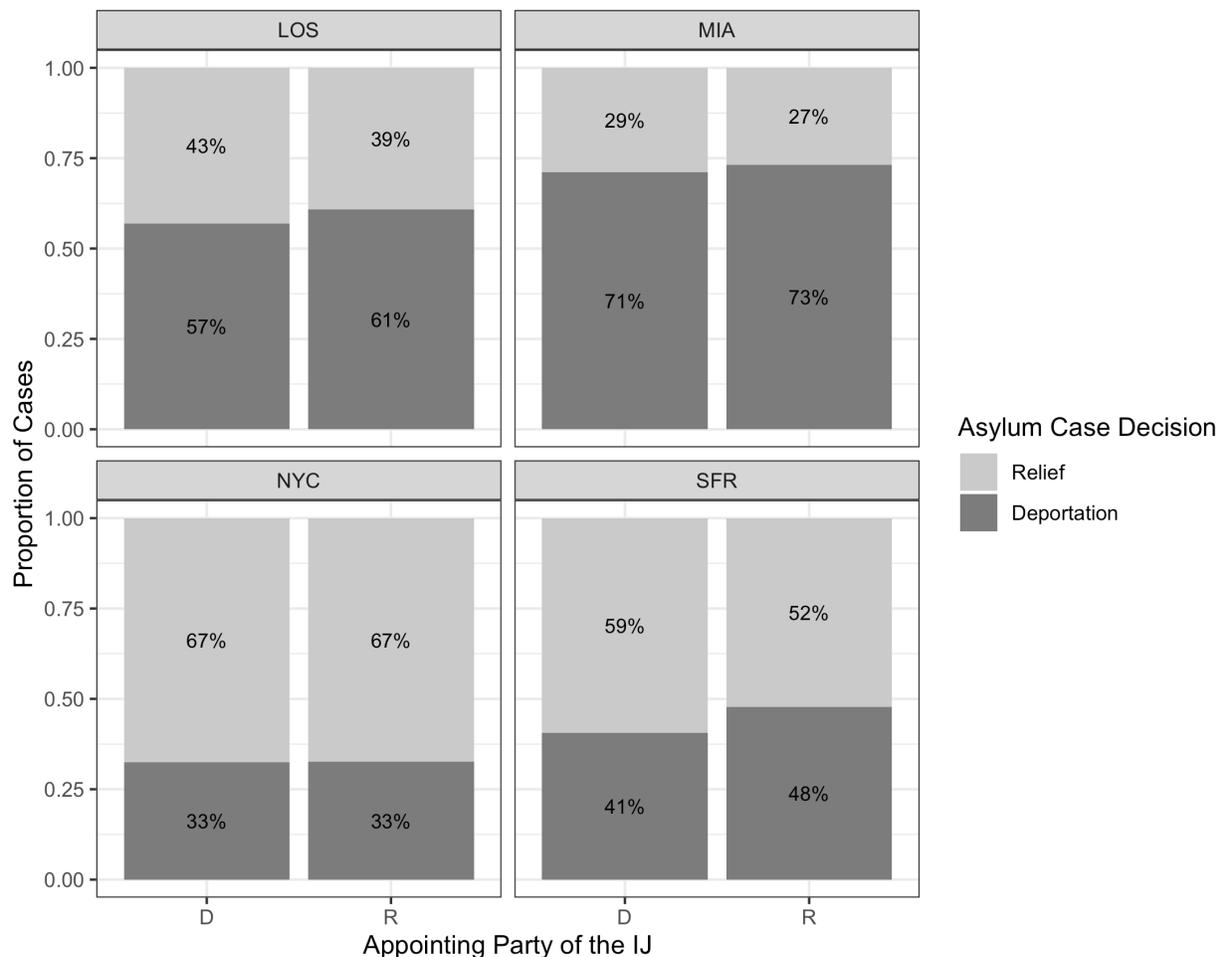


Figure 3: Appointing Party and Asylum Denial in Busiest Courts, 2003-2020

However, my descriptive analysis is limiting because I cannot extend a finding about four courts to the other 64 courts. In order to look at all courts, I run a model examining whether the appointing party of an IJ matters in their likelihood to deport, controlling for decision year and case-level characteristics. The independent variable, “appointing party,” indicates whether the presiding IJ was appointed by a Democratic or Republican AG. Table 1, Model 1 shows that, on average, Republican-appointees are about 3.8% more likely to deny asylum.²⁹ The results of Model 1 bolster the results of the simple bivariate differences within courts in the descriptive findings above: on average, it appears that the AG bears some “ex ante” political power, or power through their hiring decisions. See the Appendix (Tables A.2 and A.3) for robustness checks that include post-treatment “judge-level” variables as controls. In all models, partisanship is still a significant predictor even when “employment history” and “gender” are included.

²⁹The coefficients for presidential administrations in Model 3 are in relation to W. Bush years.

Table 1: Appointing Party

	Outcome: Deportation
	Model 1
Republican-Appointed	0.038*** (0.009)
Attorney Representation	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)
Num. obs.	862255
Num. groups: JUDGE_NAME	785
Num. groups: COURT	68
Var: JUDGE_NAME (Intercept)	0.015
Var: COURT (Intercept)	0.008
Var: Residual	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

What About the Current President at Time of Case Decision?

IJs appointed by different parties appear to behave differently in adjudicating asylum cases. This brings to bear an alternative explanation: does the current administration at the time of case decision play a role? The current administration can plausibly exercise constraints on sitting IJs by changing agency procedures and policies. To test whether this is happening, I run separate models using “current party at the time of case decision” (Republican, Democrat) and “current president at the time of case decision” (W. Bush, Obama, Trump) as the independent variables. I include the “appointing party” in both models to see if the magnitude of the coefficient for appointing party changes once we include the current administration in the model.

Table 2, Models 2 and 3 show that IJs are about still 3.8% more likely to deny asylum, regardless of the partisanship of the administration in office or the specific President in

Table 2: Current Party and Current President at Time of Decision

	Outcome: Deportation	
	Model 2	Model 3
Republican-Appointed	0.038*** (0.009)	0.038*** (0.009)
Republican Year Decision	0.041*** (0.003)	
Obama Year Decision		-0.122*** (0.003)
Trump Year Decision		-0.081*** (0.003)
Attorney Representation	-0.168*** (0.001)	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)	-0.100*** (0.004)
Num. obs.	862255	862255
Num. groups: JUDGE	785	785
Num. groups: COURT	68	68
Var: JUDGE (Intercept)	0.014	0.014
Var: COURT (Intercept)	0.008	0.008
Var: Residual	0.181	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

office.³⁰ In both models, the coefficient of the appointing party remains constant, which means that the party or administration in the White House at the time of case decision does not explain why Republican-appointees behave differently than Democrat-appointees.

Is There a Pattern of Polarization Over Time?

Based on Part I of my analysis, it is not yet clear the mechanism or the timing through which Republican appointees tend to deny asylum at a higher rate than Democrat appointees. Have the asylum denial rates of Republican-appointees and Democrat-appointees always been different or have they diverged over time? In my next analysis, I clarify how and when the polarization has occurred. I look at two elements: the “hire year” of each IJ and the “decision year” of each case. For each element, I ask: is there some pattern of increased polarization over time?

To better understand the mechanism behind the apparent polarization, I run a model to explore whether partisan polarization increased gradually based on the hire year of each IJ, which would signal increased influence of the appointing AG. However, the interaction term between “Republican-appointee” with “hire year” is effectively zero, so there appears to be no detectable gradual polarization in judge hiring (see Table A.1 in the Appendix).

Next, I explore an alternate explanation – did partisan polarization change over time based on case decision year? Such an effect would signal an increasing influence of the current AG at the time of the decision. To take a more granular look at decision-year trends over time, I run separate yearly models on the effect of being a Republican appointee on likelihood to deport in each given year. Figure 4 plots the coefficients for being a “Republican appointee” for cases decided each year along with the corresponding 95% confidence interval. See Tables A.5-A.8 for each year-by-year model’s full results.

We see that starting in 2018, Republican appointees have been significantly more likely to deny asylum than their Democrat appointed counterparts for the first time in modern history. Specifically, Republican appointees were 5.8% more likely than Democratic appointees to deny asylum in 2018, 5.2% more likely in 2019, and 4.1% more likely in 2020. Notably, coefficients for being a Republican appointee are statistically insignificant for all prior years. A descriptive analysis of the raw data shows a similar pattern, when looking at both the aggregate number of cases decided in all courts and within different courts (see Figures A.3-A.6 in the Appendix).

³⁰The coefficients for presidential administrations in Model 3 are in relation to W. Bush years.

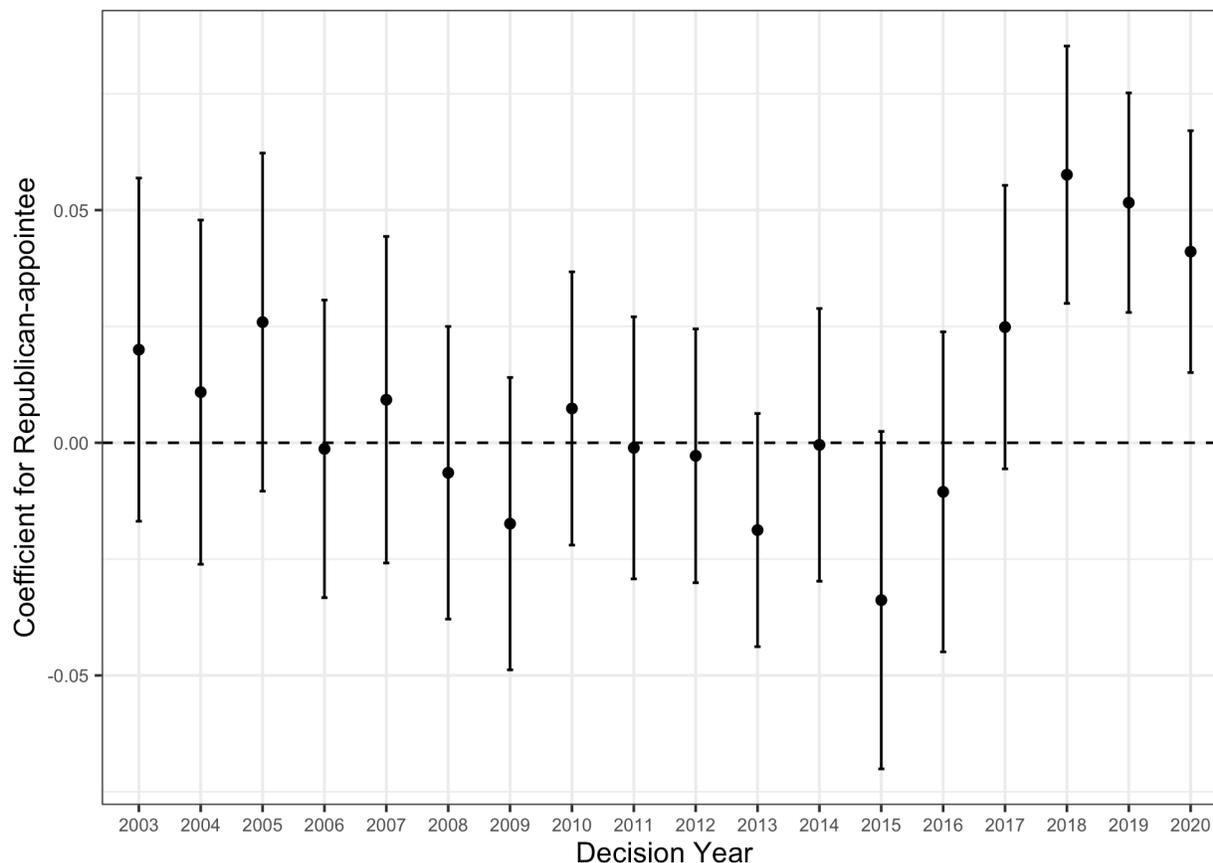


Figure 4: Polarization by Decision Year, 2003-2020

In order to further understand the mechanism behind the break point in 2018, I create a dummy variable for whether an IJ was hired in 2018 or later. Table 3, Model 4 shows the coefficient of “appointing party” controlling for “post-2018 hire,” again looking at the likelihood of deportation.³¹ It appears that IJs hired in or after 2018 explain nearly all of the differential behavior between Republican and Democrat-appointees. The overall “Republican appointee” coefficient drops to null, but IJs hired in or after 2018 are 6.2% more likely to deny asylum than IJs hired before 2018.

We know a new kind of Republican IJ was being brought into the court during the Trump administration, but were IJs appointed before Sessions also affected by him? In other words, did the behavior of previous Republican-appointees change after Sessions became AG? To answer this, I take a closer look at the years after Sessions became Trump’s first AG in 2017. I again run year-by-year models on likelihood of deportation. This time, the coefficients of interest are a “Post-Sessions” Republican appointee being the judge of a case compared to a

³¹I could not run an interaction between “appointing party” and “post-2018 hire” because all IJs hired after 2018 were appointed by a Republican. Therefore, there is no IJ who was appointed by a Democrat after 2018 to compare with.

Table 3: Polarization by Hire Year

	Outcome: Deportation
	Model 4
Republican-Appointed	0.003 (0.011)
Post-2018 Appointment	0.062*** (0.012)
Attorney Representation	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)
Num. obs.	863270
Num. groups: JUDGE_NAME	785
Num. groups: BASE_CITY_CODE	68
Var: JUDGE_NAME (Intercept)	0.014
Var: BASE_CITY_CODE (Intercept)	0.008
Var: Residual	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

“Pre-Sessions” Republican appointee being the judge of a case. The baseline comparison is being a Democrat-appointee. In Figure 5, I plot the coefficients for being a “Post-Sessions” Republican appointee compared to being a “Pre-Sessions” Republican appointee. We see a stark divergence in the behavior of Trump-era appointees. Moreover, there is no discernible difference between Democrat-appointees and earlier Republican-appointees. It is evident that AG Sessions affected asylum decisions primarily by politicizing his hiring power, not by polarizing sitting IJs. The effect appears to wear off in 2019 and 2020 under AG William Barr. Barr may have appointed new IJs that behaved in a less polarized manner than Sessions appointees did, as there is no longer a statistically significant difference in behavior between Post-Sessions appointees and Pre-Sessions appointees beginning in 2019. However, Figure 4 showed that even in 2019-2020, all Barr and Sessions appointees continued to deny

asylum at about a 4-5% higher rate than all Democrat-appointees.

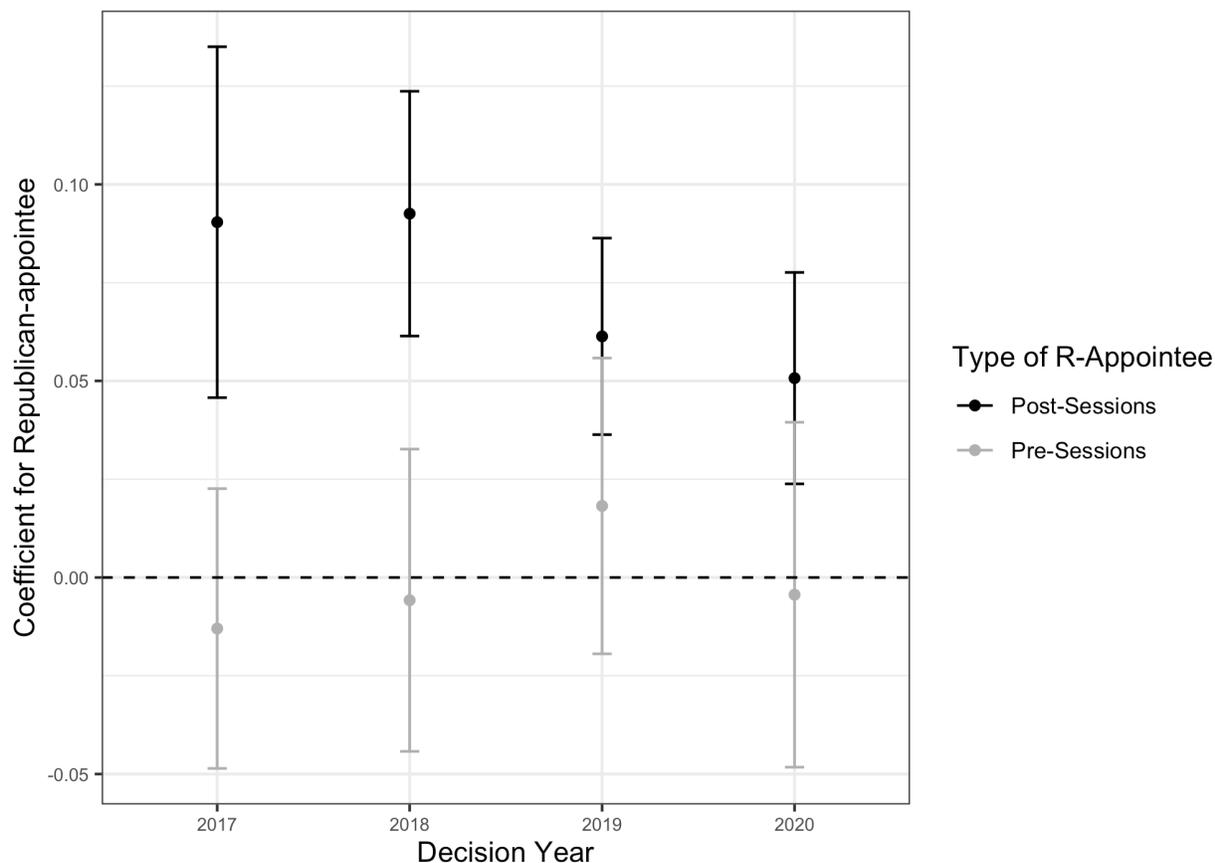


Figure 5: Polarization by Decision Year, 2017-2020

Conclusion

The new evidence presented in this paper suggests that a sudden shift in the polarized hiring of Republican-appointed IJs occurred under the Trump administration, largely spearheaded by AG Sessions. My original hypothesis stands that the appointing AG can influence immigration court outcomes by strategically hiring IJs whose immigration attitudes align with their own, since IJs appointed under Trump are significantly more likely to deny asylum compared to all other IJs. However, it does not appear that the current President or AG has significant influence on the behavior of co-partisan IJs appointed by previous administrations. IJs appointed by Republican administrations prior to Sessions do not adjudicate asylum cases differently than Democrat-appointees.

Nonetheless, the sheer number of IJs hired during Trump presidential years has changed the litigation landscape for years to come. The politicization of judicial appointments raises

the normative question of whether our legal system can withstand the partisan forces that undermine its legitimacy. Whether such partisan polarization of judicial appointments continues under future administrations is yet to be determined.

My results have important theoretical implications regarding long-standing debates about judicial independence of administrative judges (AJs) more generally. Congress and executive agencies today are increasingly opting to hire AJs and moving away from hiring “administrative law judges” (ALJs), a category of more statutorily-protected judges. Congress and executive agencies may be choosing to do so because they know they can exert more control over AJs (Chand, Calderon, Hawes, & O’Keeffe, 2020). My study is the first that comprehensively quantifies the magnitude by which AJs are influenced by the agency head in a partisan manner. Future studies could look at the behavior of AJs in other executive agencies. It would be particularly interesting to explore whether partisan bias differs in form or magnitude across agencies.

The magnitude in behavioral difference between a Trump-era appointee and other appointees (about 6%) is not as large as other factors that significantly influence an asylum case outcome, such as having an attorney (about 20% less likely to be deported) or having an affirmative case (also about 20% less likely to be deported). However, the apparent effect of partisanship is not negligible, either. My results suggest that, from 2017-2020, Trump-appointees denied about 5,300 more asylum cases than any other group of IJs would have over a span of just three years. Given the lifetime appointment of IJs, that number can multiply in coming years.

My study bolsters the findings of previous studies, in that individuals seeking asylum on American soil may not be entirely judged by the merits of the case, but also by the characteristics of the judge. Importantly, judge-level determinants can shift over time; the political party of the AG who appointed a judge now predicts that judge’s asylum adjudication patterns in immigration court for the first time. This new and evolving form of partisan polarization appear to unfairly bear punitive consequences for asylum seekers who are inevitably entangled in the immigration enforcement system.

Chapter 2

Do ICE Detention Levels in County Facilities Depend on Partisanship of County Legislators?

Although Democrats and Republicans are split by party lines on their views about immigration policy, among both voters and members of Congress, we do not have a clear grasp on whether partisan polarization maps onto actual immigration enforcement outcomes. If party politics do impact immigration enforcement outcomes, we also do not have a clear grasp on which local actors are responsible for implementing more or less punitive immigration enforcement policies.

Scholars of local politics have made a strong case that partisanship matters in city and county elections like it does in national elections. Despite traditional beliefs in the idea that there is no “Republican way to pave a street and no Democratic way to lay a sewer” (Adrian, 1952), a growing number of studies find that the ideological preferences of local constituents correlates with local government policy (Einstein & Kogan, 2016; Hajnal & Trounstine, 2010; Tausanovitch & Warshaw, 2014) and that partisan control of city and county government offices similarly predicts real policy differences (de Benedictis-Kessner & Warshaw, 2016, 2020; Einstein & Glick, 2018). These studies focus exclusively on fiscal policy, finding that Republican-elected officials are more fiscally conservative than Democrat-elected officials.¹

However, whether local partisan control maps on to observed differences in all policy areas has yet to be determined (de Benedictis-Kessner & Warshaw, 2020). Local governments deal with issues that differ from those of state and national government, and it is likely that only some of these local issues are partisan (Anzia, 2021). For example, Gerber and Hopkins (2011) find that electing a Democratic mayor leads to decreased police and fire spending,

¹Ferreira and Gyourko (2009) find no effect of a major’s partisanship on the size of government spending. However, other scholars argue that most of the data used in Ferreira and Gyourko (2009) were from smaller cities and towns (under 75,000 population). Smaller cities and towns are less likely to show variation in government size and their majority in the sample may obscure the effect of partisanship on medium-sized and large cities (de Benedictis-Kessner & Warshaw, 2016; Gerber & Hopkins, 2011).

but does not lead to any other types of expenditure changes or revenue changes; in the wake of activism against police brutality, police spending has arguably garnered more national partisan attention compared to other types of local expenditures. Therefore, partisanship might only matter in local politics to the extent that the policy is a nationally partisan matter. I argue that immigration policy fulfills that condition.

Given the salience of partisanship in other local policy areas and the salience of immigration in national party politics, I suggest that the partisanship of elected county councilmembers is a determinant of local immigration detention outcomes in their jurisdictions. Interdisciplinary scholars find evidence that Republican-leaning electorates live in areas with higher detention levels and more punitive municipal immigration policies (Moinester, 2018; Ramakrishnan & Wong, 2010; Ryo & Peacock, 2020). Therefore, I expect Republican county councilmembers to be more permissive of higher immigration detention in local jails and prisons than their Democratic county councilmembers are. Specifically, I look at whether the election of a Democratic-majority or Republican-majority county council affects the county's immigration detention capacity. To do so, I leverage an original national time-series dataset of each county's average daily population (ADP) of ICE detainees, alongside time-series county elections data from 2005-2014. My analysis finds causal evidence that when a county council flips from to a Democratic majority, the ADP of detainees in that county decreases by between 20 to 40 beds in the years following the flip. However, when a county council flips to Republican majority, ADP levels do not significantly change, so there appears to be an asymmetrical partisan effect at play.

Further, a qualitative analysis of county meeting minutes sheds some light on why this asymmetry exists. Within my albeit limited time period, I find that when Republican-led county councils try to make extremely punitive immigration detention decisions, they face pushback from Democratic-led federal agencies. There also appeared to be an asymmetric interest in the economics of local immigration detention, with Republican-led county councils openly expressing desires to increase profit by increasing detention levels. This study not only bolsters the existing evidence that local politics can be driven by partisanship, but also newly contributes to the discussion by focusing on the specific policy area of immigration. Further, my analysis directly tests the mechanism that other interdisciplinary immigration scholars have suggested by their work - that local elected Republicans and local elected Democrats play different roles in a rapidly expanding, hyper-punitive immigration enforcement apparatus.

The Politics of Crimmigration

The politics of immigration are indelibly linked to the politics of the expanding carceral state more generally in the United States. Stumpf (2006) coined the term "crimmigration" to describe the punitive and hybridized nature of the criminal justice system and immigration enforcement system, evident not only in the U.S. but across many other Western democratic countries. Stumpf further argues that "membership theory" undergirds the creation and maintenance of crimmigration infrastructure. Membership theory proposes that the state

justifies denying rights and privileges to noncitizens because they are not recognized as “in-group” members. The state then wields its powers to punish and morally condemn noncitizens for their lack of citizenship – resulting in a melding of the harshest aspects of both criminal law and immigration law to alienate and exclude “non-members.”

Crimmigration at the National Level

Historically, the War on Crime and ensuing systems of mass incarceration served as a blueprint to justify more punitive approaches to detention and deportation, guiding the evolution of the modern immigration system to have a strong focus on “crime control” (Macías-Rojas, 2016; Simon, 2006). Today, mass incarceration and mass detention/deportation arguably serve as parallel arms of social control by facilitating the disproportionate over-policing, criminalization, and imprisonment of people of color (Golash-Boza, 2015). Perhaps most tellingly, ICE detainees (who face civil violations) are frequently detained in the same jails and prisons as people facing (or convicted of) criminal offenses. Further, both mass incarceration and mass detention/deportation operate in an era of neoliberal capitalism, with higher levels of economic profit accompanying higher levels of imprisonment (Golash-Boza, 2015). In both the immigration detention and mass incarceration contexts, we see the common thread of combined profitability and punitiveness, with public and private jails directly profiting from a system that disproportionately punishes people of color, perhaps by intentional design. The economic incentives of immigration detention, like the economic incentives of the larger prison industrial complex, could contribute to the decisions of local partisan actors.

Interestingly, the political parties’ stances on immigration have evolved dynamically over time, but their stances on crime have remained largely static. At the national level, the politics of immigration shifted dramatically from a bipartisan issue during the Cold War and Reagan years to a cleanly-split partisan issue by the early 2000s (Wong, 2017). On the other hand, the politics of crime have remained largely bipartisan from the Civil Rights Movement to today. After the victories of civil rights activists in the 1960s, Republican elites strategically and successfully initiated a “tough on crime” political agenda (Western, 2006) — a political move that Weaver (2007) calls a “frontlash,” or an attack on civil rights from a new angle. “Dog-whistle” messages – that were positioned to be anti-crime but were actually carefully coded to be anti-Black – effectively garnered the electoral support of economically vulnerable and socially conservative white voters for the Republican party. Soon thereafter, the national Democratic party platform on crime became nearly indistinguishable from that of the national Republican party, perhaps to remain electorally competitive (Weaver, 2007). More recent evidence suggests that burgeoning incarceration rates are a bipartisan effort at the state-level too; specifically, electorally vulnerable Democratic governors actually outspend and out-incarcerate compared to electorally vulnerable Republican governors (Gunderson, 2022)). At the state and national levels, it’s clear that both Democratic and Republican elites have supported (and continue to support) punitive carceral policies in general.

Crimmigration at the Local Level

However, whether the expansion of the immigration detention system is a bipartisan effort at the local level is yet to be determined. I contribute to the view that the politics of local government is “nationalized” to the extent that the issue area in question is polarized in national politics; immigration policy is center stage in national party politics today, with both constituents and political elites divided clearly along party lines. During the Trump presidency, the Republican Party made dramatic nativist policy shifts (e.g. the “Muslim ban,” the “zero tolerance” policy, and the “Remain in Mexico” program), perhaps to better match the policy preferences of the Republican electorate (Sides, Tesler, & Vavreck, 2018). On the other hand, the Democratic party has not taken a comparatively definitive stance on immigration policy in the liberal direction.² The different magnitudes of ideological movement between the two parties suggest that national views towards immigration at both the voter and elite-levels have become increasingly and asymmetrically polarized.

At the subnational levels, there is strong descriptive evidence that states and counties with a large Republican constituency are more likely to hold ICE detainees and to have higher annual detention rates³ (Moinester, 2018; Ryo & Peacock, 2020). Ramakrishnan and Wong (2010) find that, even in the early 2000s, higher Republican vote share at the county-level predicted the introduction and passage of anti-immigrant municipal ordinances in ways that demographic factors did not. However, no studies to my knowledge have satisfactorily isolated the mechanisms through which partisan vote share impacts local immigration policy.

Although elected county sheriffs play a large role in immigration enforcement outcomes, studies find that Republican and Democrat elected sheriffs behave similarly when it comes to immigration enforcement (Farris & Holman, 2017; Thompson, 2020). In light of these findings, it’s important to note that sheriffs are a self-selected group of people who tend to have ideologically homogeneous views on the topic of immigration; Thompson (2020) ’s national survey results reveal that sheriffs are more homogeneously conservative in their immigration views than the public and other partisan officials are. This may explain why county sheriffs behave similarly regardless of their partisanship.

Since sheriff partisanship is not the mechanism that links the preferences of the local electorate to tangible local immigration enforcement outcomes, I pivot our attention to a largely understudied group of elected officials: county legislators. Ryo and Peacock (2020)

²Despite having enacted DACA in 2012 to protect many undocumented youth from deportation, Obama was also famously dubbed the “deporter-in-chief” for his shift in interior enforcement priorities from informal returns to the border to formal deportation proceedings, as well as enacting heightened enforcement at the border (Golash-Boza, 2018). Shortly after Biden took office in 2021, he similarly faced intra-party criticism for making a public statement in support of Trump’s annual refugee cap of 15,000. Only after public backlash did Biden eventually raise the annual refugee cap to 62,500 later that year (see BBC News in 2021: <https://www.bbc.com/news/world-us-canada-56975402>). Then, in 2022, Biden further raised the cap to 125,000, the highest number since 1993 (see Migration Policy in 2023: <https://www.migrationpolicy.org/programs/data-hub/charts/us-refugee-resettlement>).

³Ellermann (2005) also contends that U.S. immigration officers are more willing to implement immigration enforcement in more ideologically conservative areas, but does not focus on vote share specifically.

suggests that local officials are influenced by either anti-immigrant or pro-immigrant sentiments among their constituents, but the study does not test this claim directly. The most relevant study to my knowledge is Chacon (2019) 's case study comparing the local immigration enforcement realities in a more Democratic-leaning Los Angeles (LA) County with a more Republican-leaning Orange County (OC).⁴ Chacón's case study reveals significant variation in whether county council members decide to check the power of pro-enforcement sheriffs – LA county council members were far more willing to do so than OC county council members. Chacón did not look at the partisanship of the legislators, since partisanship was not her main focus. Nonetheless, her findings do inform my theory in two ways: 1) elected local legislators have discretion in deciding how much to constrain the behavior of law enforcement, perhaps to credit-claim in future elections, and 2) ideologically liberal local legislators may behave differently than ideologically conservative ones. In addition, county council members do not suffer the same type of candidate self-selection that sheriffs do in having homogenous views on immigration enforcement. Candidates who run for a legislative position are arguably a distinct pool of people from those who run for a law enforcement position (Thompson, 2020). Further, elected city and county council members are the actors who ultimately decide whether (and to what extent) to contract local jails and prison space to ICE.⁵

Federalism and Immigrant Detention

State, county, and city governments play a large role in the enforcement of federal immigration law. For example, ICE relies heavily on states and localities to screen people for evidence of federal immigration violations, to comply with ICE detainer requests, and to contract bedspace in local jails and prisons to ICE. There is interesting variation in local governments' responses to ICE's requests for cooperation on all of these metrics. For example, some jurisdictions pass legislation that actively prohibit local law enforcement from cooperating with ICE, often called "sanctuary law," while other jurisdictions sign 287(g) memorandum that formalize an agreement to offer complete cooperation.

Discussions and research about local immigration enforcement policy typically focus on these formal (non)cooperation policies (Chand, Calderon, Hawes, & O'Keeffe, 2020; Ryo & Peacock, 2020; Wong, 2012). However, it is important to note that these for-

⁴See California Secretary of State's Report of Registration for the contrast in Republican vs. Democratic voter affiliation between the two jurisdictions: https://www.sos.ca.gov/elections/report-registration/ror-odd-year-2023_

⁵See local news coverage: "New Hudson ICE contract has potential end date of 2020" (https://www.nj.com/hudson/2018/10/new_hudson_ice_contract_has_potential_end_date_of.html); "Williamson County agreement with ICE detention center ends Thursday" (<https://www.kxan.com/news/local/williamson-county/williamson-county-agreement-with-ice-detention-center-ends-thursday/>); "McHenry County Board votes to keep ICE contract" (<https://chicago.suntimes.com/2021/5/18/22442311/chicago-immigration-ice-mchenry-county-board>). See county report: "Max Huntsman, Office Of Inspector General County Of Los Angeles, Immigration: Public Safety And Public Trust" (<https://perma.cc/S2HP-VP3S>), 13–14 in Chacón (2019).

mal (non)cooperation policies can be “an imperfect proxy for the degree of actual enforcement cooperation in particular places, either because formal policy is subverted by informal workarounds or because the existence of overlapping yet distinct formal regimes means that some governmental actors can will undercut the cooperation policies of other governmental actors in the same geographic space” (Chacon, 2019, p. 302). Complicated layers of federalism, discretion of governmental actors, and contradicting jurisdictions make these (non)cooperation agreements only somewhat effective in their purported goals. Further, the binary outcome of formally “cooperating” or “not cooperating” with ICE obscures important variation that lies in between the two poles of the spectrum; for example, looking at a binary outcome equates a county that only allows ICE to detain a few individuals at one local jail with a county that allows ICE to detain hundreds of individuals across all local jails.

Therefore, I pivot our attention to a less discussed enforcement outcome, the Average Daily Population (ADP), or the county’s local capacity for the purposes of ICE detention. Ryo and Peacock (2020) conducted an impressive and comprehensive analysis of national county-level immigration detention. However, this study examines only whether a county held any ICE detainees each year, and does not speak to the question of capacity. I argue that ADP is more relevant to my question than simply whether a county held detainees. Even the total number of detainees admitted each year would not capture the outcome I’m interested in. This is because the length of detention is highly variable, so even if a jail admitted more detainees each year, it doesn’t necessarily mean that the jail offered more bed space at any point in time. In fact, detention capacity could actually be lower in a county that admits a high total number of detainees each year who stay shorter periods of time, compared to a county with fewer total admitted detainees each year who are detained for longer periods of time. Based on this logic, ADP better captures the average number of detainees held at any given day within that year, as it directly speaks to the daily capacity of bedspace that a county is willing to use for immigration detention purposes.

The decision for local governments to cooperate with ICE is both political and economic in nature. Political subdivisions (e.g. state, county, city) can sign direct contracts with ICE, or Intergovernmental Service Agreements (IGSAs). Private companies can also make contracts with ICE separately, but must abide by regulations (or lack thereof) specific to the local or state-level jurisdictions in which their prisons are located. Evidence suggests that local governments are at least in part economically motivated when deciding whether and how much bedspace to contract to ICE because ICE pays a premium for each rented bedspace (Chacon, 2017; Jaeger, 2016; Ryo & Peacock, 2020; Stageman, 2013). Furthermore, rapidly increasing rates of immigration detention mean that state and local governments are playing a larger role than ever in their decisions to contract jailspace to ICE and/or to permit private companies to do so within their jurisdictions. Annual immigration detention rates doubled from ~150,000 in 1999 to ~300,000 in 2011 (Moinester, 2018) and peaked at ~510,000 in 2019.⁶ Today, the large majority of detainees are housed in bedspace contracted by public

⁶See ICE report, “Fiscal Year 2019 ICE Enforcement and Removal Operations Report” (2019): <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>

or private actors as opposed to bedspace in federally-owned facilities.⁷

Importantly, detention levels have not increased uniformly across all regions. At the state level, Moinester (2018) finds evidence that states' per capita detention rates have grown increasingly varied since 2001. At the county-level, Ryo and Peacock (2020) finds that rural and medium-sized counties, predominantly Republican strongholds in the South and Midwest, explain the higher number of counties who are willing to hold ICE detainees from 1983 to 2013. However, no studies that I'm aware of examine the political determinants of variation in immigration detention capacity over time and across counties. I newly suggest that the partisanship of elected county officials will explain variation in county-level immigration detention capacity.

Alternative Theories: The Role of Demographic and Economic Threat

Demographic or economic changes over time could be the main drivers of immigration enforcement changes at the county level. The "group threat" hypothesis (Blumer, 1958; Quillian, 1995) suggests that if a dramatically higher number of immigrants suddenly moves to a county, that county might enact more restrictionist policies to pacify its residents. The mechanism behind such an effect is the dominant group — the nation's white (and primarily U.S.-born) population — experiencing increased fear of demographic or racial/ethnic threat, which might then lead to more ICE-friendly policy changes. Quillian (1995) finds that increased group threat, measured by population data, predicted feelings of racial prejudice across 12 European countries; in this study, it is unclear whether feelings of group threat or prejudice actually manifest into policy changes, though. In the U.S. context, Abrajano and Hajnal (2015) show that increased partisan polarization among white voters is a direct consequence of feelings of "group threat" against new immigrants. Changing racial/ethnic, cultural and economic landscapes appears to move many white voters into the Republican electorate and keep them there. Furthermore, Abrajano and Hajnal find compelling evidence that states with more immigration — and white "backlash" against it — have successfully legislated enduring cuts in public funding for education, welfare, and healthcare.

An "economic threat" hypothesis extends the "group threat" hypothesis a step further by stating that demographic change is threatening only if economic conditions also seem dismal for the dominant group. There is mixed support for this hypothesis. Filindra and Pearson-Merkowitz (2013) find that perceived demographic change must be accompanied by perceived economic scarcity in order for people to prefer more restrictionist immigration policies. In another study, Carmichael and Kent (2014) find that increased racial threat and economic inequality work both independently and together to predict larger municipal police forces. However, other studies find significant evidence that feelings of economic threat are actually eclipsed by feelings of cultural threat or racial/ethnic threat (Hainmueller & Hopkins, 2014; Valentino, Brader, & Jardina, 2013).

⁷See ACLU report, "More of the Same: Private Prison Corporations and Immigration Detention Under the Biden Administration" (2021): <https://www.aclu.org/news/immigrants-rights/more-of-the-same-private-prison-corporations-and-immigration-detention-under-the-biden-administration>

Whether anti-immigrant attitudes are rooted in perceived economic threat, some form of racial/ethnic threat, or both, it is unclear the extent to which party politics mediates the translation from perceived threat to actual policy changes. For example, when Presidential vote share is introduced to the picture, Wong (2012) finds that partisan composition and demographic pressures work in tandem to predict a county's cooperation with ICE through the 287(g) Program. Specifically, there is an increased likelihood of formal cooperation with ICE primarily in counties that a) are not historically established immigrant destinations and b) are already more Republican-leaning. Given this observation, the question remains: what is the mechanism between the partisanship of voters and actual policy outcomes? After all, Republican-leaning voters cannot themselves enact policy. Legislators must do so, which motivates my inquiry into the role of partisan county legislators.

Why County Officials? Which County Officials Matter?

State legislatures have been largely silent on the issue of local immigration detention until 2019. After 2019, several states – California, Illinois, Maryland, Washington, New Jersey – have passed or proposed policies to limit or end current detention contracts with ICE or to forbid localities from entering new ones.⁸ However, most of the active state bills are not comprehensive; for example, the 2019 California bill bans privately-owned prisons, but it is permissible for private companies to run operations in city or county-owned jails.⁹ In 2021, Illinois became the first state to enact legislation to comprehensively ban all ICE detention centers, which will go into effect in 2022.¹⁰ Thus, up until very recently, state-level actors have played no role in determining the ADP of ICE detainees housed within their jurisdictions. The brunt of the decision-making exclusively fell on local governments.

Not all elected county officials matter in the decision-making process that I am interested in. Based on a cursory online newspaper scan, it appears that members of the county legislative body (sometimes called the county board, council, or commission) and the county executive (the head of a county's executive branch) decide whether to begin, maintain, or end detention contracts with ICE. County legislators are the main actors who pass legislation

⁸See local news coverage: “Maryland House passes bill ending county jail contracts to house ICE detainees” (<https://www.baltimoresun.com/politics/bs-md-pol-ga-no-ice-20210322-ddqs35vsyfaldbxzx27vxydt4m-story.html>); “Northwest detention center in Tacoma slated to close under bill passed by Legislature” (<https://www.seattletimes.com/seattle-news/politics/legislature-passes-bill-that-will-close-northwest-detention-center-in-tacoma/>); “New Jersey is the First East Coast State to Ban Further Contracts with ICE” (<https://documentedny.com/2021/08/23/new-jersey-is-the-first-east-coast-state-to-ban-further-contracts-with-ice/>). See Center on American Politics report: “State and Local Governments Opt Out of Immigrant Detention” (<https://www.americanprogress.org/article/state-local-governments-opt-immigrant-detention/>).

⁹See local news coverage: “California banned private prisons, immigrant detention centers. Will the law survive court?” (<https://www.latimes.com/california/story/2021-06-15/california-banned-private-prisons-immigrant-detention-centers-will-the-law-survive-court>)}.uri}.

¹⁰See local news coverage: “Illinois Legislature Passes Bill To Close State's Immigration Detention Centers” (<https://borderlessmag.org/2021/06/01/illinois-legislature-passes-bill-to-close-states-immigration-detention-centers/>).

that approves, limits, or bans the contracting of county jails to ICE.¹¹ In some counties, county executives have the power to veto legislation passed by county legislators.¹² I am not able to look at the role of county executives given my data constraints, so I restrict my analysis to elections of county legislators only.

Data

Average Daily Population (ADP) in ICE Facilities

My outcome of interest is the average daily population (ADP) of ICE detainees per county-year. In order to measure county-level detention capacity, I collected and compiled detention facility data from fiscal years (FY) 2006-2019.¹³ This data includes the name, address, city, state, zip code, facility type, average daily population per fiscal year, and contract type of any facility that housed ICE detainees at any point since 2006. The FY 2006-2018 detention facility data is publicly available thanks to FOIA requests.¹⁴ The FY 2019 detention facility data is publicly available on ICE's website.¹⁵ Using the facilities data, I geocoded and aggregated the ADP of individual facilities for each county-year.

A county's ADP is a relevant outcome because it is directly influenced by the restrictive or permissive policy decisions of elected county legislators. ADP is also the relevant number that ICE uses to pay out counties for their contracts. The local jail or prison that serves as a detention center receives a per diem payment from ICE for each filled bed, regardless of whether the individual was transferred from a different locality and regardless of how long the individual is detained for. While sheriffs can determine whether to screen arrested individuals in their jurisdictions for immigration violations and to comply with ICE detainer requests, these law enforcement actors ultimately do not determine whether individuals can be detained for federal immigration violations, where detainees are housed, or for how long. ICE alone determines this and, in doing so, often transfers detainees to detention centers outside of the locality where they were initially arrested, screened, and detained. County councils alone decide whether or not to enact policies that permit, restrict, or deny ICE's use of local jail space for federal immigration detention.

The ICE facilities data is reported in fiscal years (FY) whereas the county elections data is reported in regular calendar years. In order to temporally match the ICE facilities data

¹¹See news coverage *supra* note 5.

¹²See local news coverage: "Howard County Council passes bill to end ICE contract, but County Executive Calvin Ball says he will veto it" (<https://www.baltimoresun.com/maryland/howard/cng-ho-ice-contract-vote-20201006-q2kehcbjavdrldmckbiizq7r4a-story.html>); "Howard County clarifies contract with ICE to accept only detainees who are convicted of violent crimes" (<https://www.baltimoresun.com/maryland/howard/cng-ho-ice-contract-policy-20200918-uamymojrzrg7hlg6jlbpgz4oyi-story.html>)

¹³For FY 2018, the NIJC data only reports up until November 2017. Thus, the ADP for FY18 is only representative of October-November 2017. I will send a FOIA request to ICE requesting the facility statistics for the entirety of FY 2018.

¹⁴Data is available at <http://www.ice.gov/doclib/foia/dfs/avgdailypopasof121208.pdf> and <https://immigrantjustice.org/transparency/detention>.

¹⁵See <https://www.ice.gov/detain/detention-management>.

with the county elections data, I lag the ICE facilities data by one year. This accounts for the fact that a federal fiscal year spans from October of the previous calendar year and ends in September of that calendar year. For example, each county-year row that is labeled 2015 contains data about the partisanship of the county legislative majority that started office on January 1, 2015 and the ADP of that respective county in FY16, which spanned from October 1, 2015 through September 30, 2016.

Partisanship of County Councils

My independent variable of interest is whether an elected county council is majority-Democratic or majority-Republican, each year. I draw from de Benedictis-Kessner and Warshaw (2020)'s dataset of county-level elections, which was compiled from www.OurCampaigns.com, county websites, local election officials, local newspaper archives and elections data previously collected by other scholars, including Jessica Trounstein and the Local Elections in America Project. Using 10,000 partisan elections in 298 large counties¹⁶ from 1990 through 2014, de Benedictis-Kessner and Warshaw have calculated the partisan composition of many of these county councils through the year 2016. From this data, I have coded for whether a county council has flipped from a Democratic-majority to Republican-majority (what I will call a "Dem flip"), or from a Republican-majority to Democratic-majority (what I will call a "Rep flip") each year from 2005-2016.

In order to incorporate the demographic and economic threat theories the best I can, I include panel data from the American Community Survey (ACS) and the Bureau of Labor Statistics (BLS) for relevant county-level demographic and economic variables: foreign-born population, non-citizen population, college-educated population, and unemployment rate. While I do not have access to county-level public opinion panel data for *perceived* threat, I use *actual* demographic and economic changes from the ACS and BLS as a proxy for the perceived threat. The inclusion of the panel data will allow me to account for both "between-county" demographic/economic differences and "within-county" demographic/economic changes over time.

Descriptive Analyses

There are 857 counties (out of 3,143 total counties in the U.S.) that have held ICE detainees in local detention facilities at any point between FY 2006-2019. While private facilities do contract with ICE, the large majority of detainees are housed in publicly-owned jails and prisons. Table 1 shows the breakdown: 73% of the average daily population (or ~29,000 detainees) were detained in city or county facilities compared to a mere 17% detained in private facilities. Importantly, local governments have the power to restrict or permit private facilities to be built and/or contracted to ICE within their jurisdiction (cite). Therefore, county legislators are arguably still involved when immigrants are detained in privately-owned facilities within county lines. For this reason, I include all local public and

¹⁶De Benedictis-Kessner and Warshaw define a large county as having a population over 150,000 in 2010.

private facilities in my analysis. I exclude all federal prisons, service processing centers, and Office of Refugee and Resettlement centers because county legislators do not have a say in how federal space is used.

Table 1: ADP by Facility Type

TYPE	FY18 ADP	% FY18 ADP
IGSA (city/county contract)	22,177	56%
USMS IGA (city/county contract)	6,832	17%
CDF (private)	6,871	17%
SPC (service processing center)	2,802	7%
Other (holding or staging facility)	610	2%
BOP (federal bureau of prisons)	31	<1%
TOTAL	39,322	100%
TYPE	FY18 ADP	% FY18 ADP

Once I limit the scope of counties to those that a) contain local detention facilities and b) have partisan county elections data, there are 244 counties. Figure 1 depicts all counties in the U.S. and highlights which counties satisfy which conditions. The counties that detain people for ICE but do not contain partisan elections data are shaded yellow. The counties that satisfy all conditions are shaded orange – these are the counties I use in my analysis. The counties of interest span across the entire continental U.S. and contain both border and non-border, rural and urban counties.

It's important to note that the primary reason there are so many counties with ICE data but not elections data is that De Benedictis-Kessner and Warshaw primarily limited their election data collection to counties a) with over 150,000 people and b) that hold partisan county elections. This decision was likely made because it is extremely difficult to collect such detailed panel elections data from smaller, less-resourced counties. As a result, my analysis largely only applies to more populous counties. Perhaps there is a different pattern at play for less populous counties.

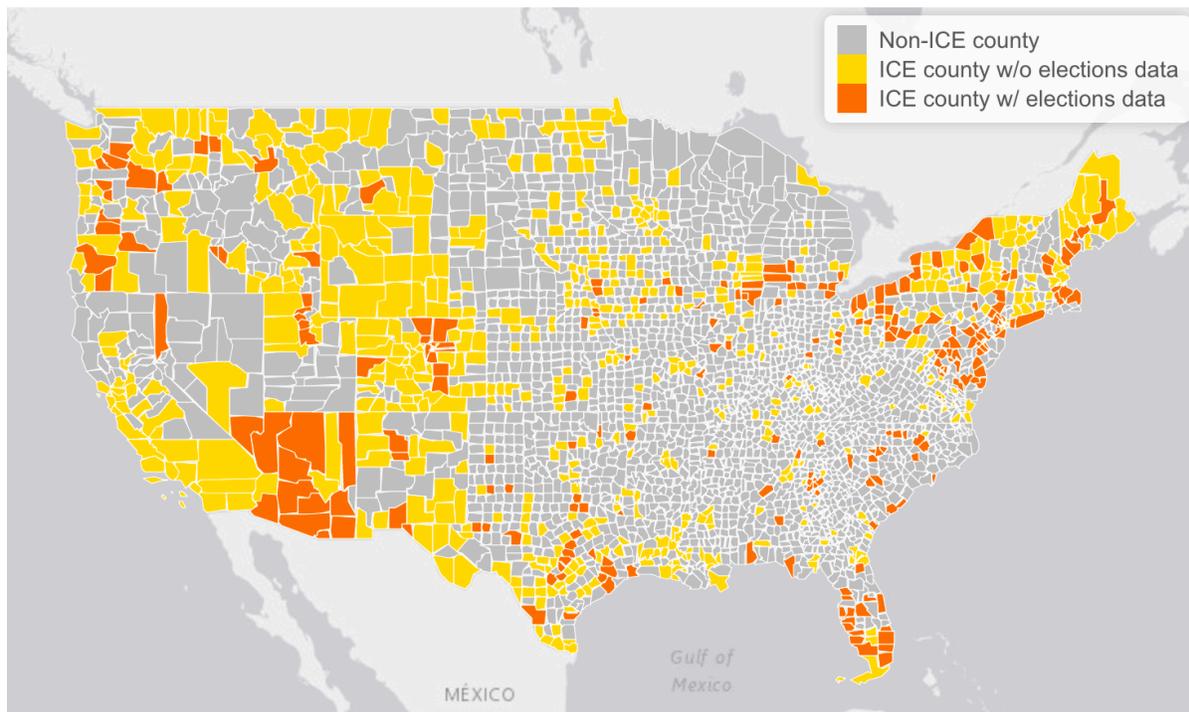


Figure 1: U.S. Counties with ICE Detention Contracts & Partisan County Elections Data

Table 2: Demographic Composition of Counties (ACS 2019 5-Year Estimates)

	ICE + Elections	ICE only	Neither
Number of Counties	244	613	2,285
Population (median)	291,736	40,904	20,119
Income (median)	32,203	28,401	26,409
% Hispanic (median)	9.6	7.0	3.4
% Hispanic (average)	15.4	15.1	7.3
% White (median)	80.6	89.3	90.6
% White (average)	78.2	83.6	83.2
% Clinton Voteshare (median)	44.9	31.0	26.0
% Clinton Voteshare (average)	44.7	34.7	29.3
% Non-Citizen (median)	4.0	2.3	1.2
% Non-Citizen (average)	5.2	4.2	2.1

My analysis also excludes all states that hold nonpartisan local elections, including California and Wyoming. As a result, I cannot speak to the role of local partisanship on detention outcomes in these places. However, it's hard to say whether removing these counties from my sample introduces bias as it pertains to ICE detention capacity. The modal voter tends to prefer nonpartisan local elections, both among Republicans and Democrats (Crawford,

2022). Table 2 shows some descriptive statistics of the demographics between the ICE counties included in my sample and the ICE counties not included for either of the reasons listed above. As expected, the counties in my sample are more populous, voted at a higher rate for Clinton in 2016, are less White, are more Hispanic, and have more non-citizen residents compared to the smaller and/or nonpartisan counties.

It's also important to note that complete time series county elections data is difficult to gather, even for medium to large counties. Most of the counties included in my sample are missing elections data in at least one year between 2006-2016. I assume that there is no systematic bias in the missing election data as it pertains to ICE detention levels.

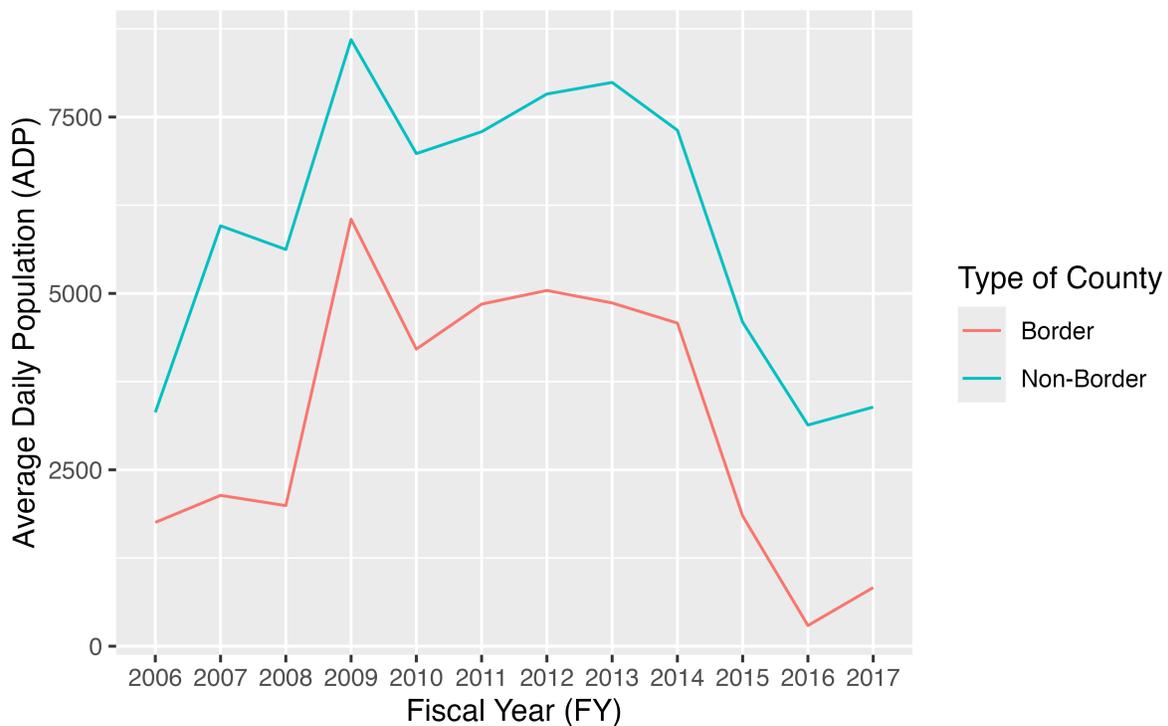


Figure 2: Average Daily Population of ICE Detainees in Local Jails

How have the numbers of detainees housed in local jails and prisons changed over time? Figure 2 depicts the aggregate ADP of all counties that housed ICE detainees at any point, in either public or private local facilities, from FY 2006-2017. The ADP dramatically increased between FY 2008-2013, when the Secure Communities Program was being rolled out to all jurisdictions. First piloted by President George W. Bush in 2008 with only 14 cooperating jurisdictions, the program expanded dramatically under President Barack Obama to include all 3,141 jurisdictions (state, county, and city jails and prisons). Secure Communities sought to integrate data-sharing between the federal, state and local levels by requiring local governments to check the immigration status of every arrested person, share that information with

ICE, and comply with detainer requests from ICE. Secure Communities was discontinued between FY 2015-2016, when we see a significant drop in ICE detention in local jails and prisons, before being reinstated by President Trump from 2017-2020.

Figure 2 also compares aggregate ADP levels in border counties with non-border counties. We see consistently higher detention levels in non-border counties. Moinester (2018) finds similar geographic heterogeneity at the state level in 2008-2009, with some “heartland” states, such as Wyoming, Montana, North Dakota, and South Dakota, experiencing the highest per capita levels of immigration detention.

Geography is important because ICE detainees in rural places are more likely to be detained for longer periods of time and more likely to be eventually deported compared to detainees in urban places (Ryo & Peacock, 2019). Rural detention centers may be more geographically isolated from community resources, such as nonprofit legal aid. If Republican-majority county councils are more likely to house more ICE detainees in local prisons and jails, ICE may be transporting detained immigrants away from urban (and more Democratic-leaning) counties to rural (and more Republican-leaning) counties. This movement would systematically increase detainees’ likelihood for deportation due to geography alone. There are nuanced implications for pro-immigrant advocates, in considering whether lowering detention rates in some places might have the adverse unintended effect of increasing detention rates in other places that have worse conditions or fewer legal aid resources (Ryo & Peacock, 2019, 2020) .

Are there any obvious patterns between a council’s partisanship and detention capacity? Figure 3 plots the total ADP and total Democratic seat share of the county council. The scatter plot includes all county-years with both ICE facilities data and partisan county elections data; each dot is one “county-year.” Since there are many overlapping dots, the darker dots indicate a higher number of observations and the lighter dots indicate fewer observations. We see a positive correlation in the opposite direction that we would expect; the more Democrats are on a county council, the higher the ADP is in that county. However, this correlation may be misleading because other demographic covariates may explain this correlation (e.g. Democratic-leaning counties also tend to be more populous).

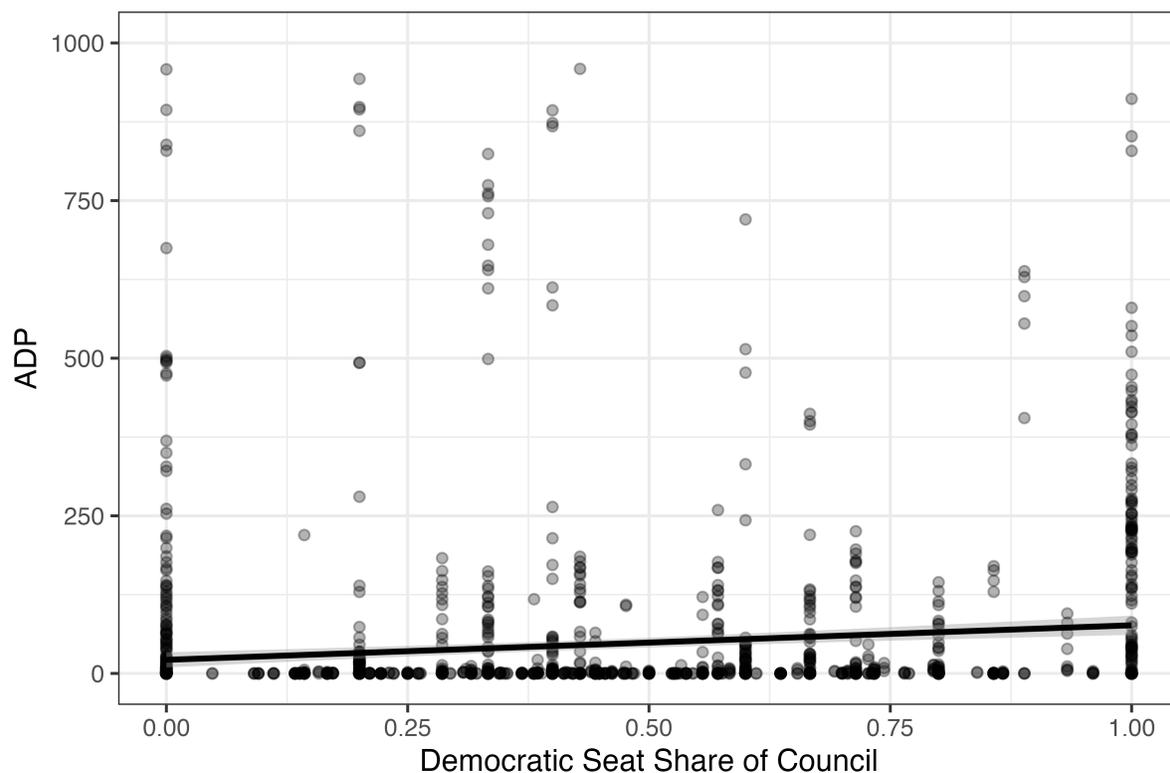


Figure 3: ADP by Democratic Seat Share of Council

In order to control for these covariates, I plot the change in ADP by the change in Democratic seat share of the county council each county-year. Figure 4 shows that there is no correlation between ADP and Democratic seat share when looking at changes instead of totals. Similar to Figure 3, each dot in Figure 4 represents a “county-year” and the darker dots indicate a higher number of overlapping observations.

One caveat is that these scatter plots do not show change over time in a nuanced way; it is likely that we see a stronger policy effect in one, two or three years after the partisanship of a council shifts (which would be many of the points clustered at 0 on the x-axis). Also, a positive shift in the Democratic seat share does not necessarily mean that there is Democratic majority in the council after the shift. After all, a majority is needed to pass legislation. Further analysis is required to examine whether a) the partisan majority of the county council matters, b) policy changes take time to enact, and c) policy outcomes take time to detect.

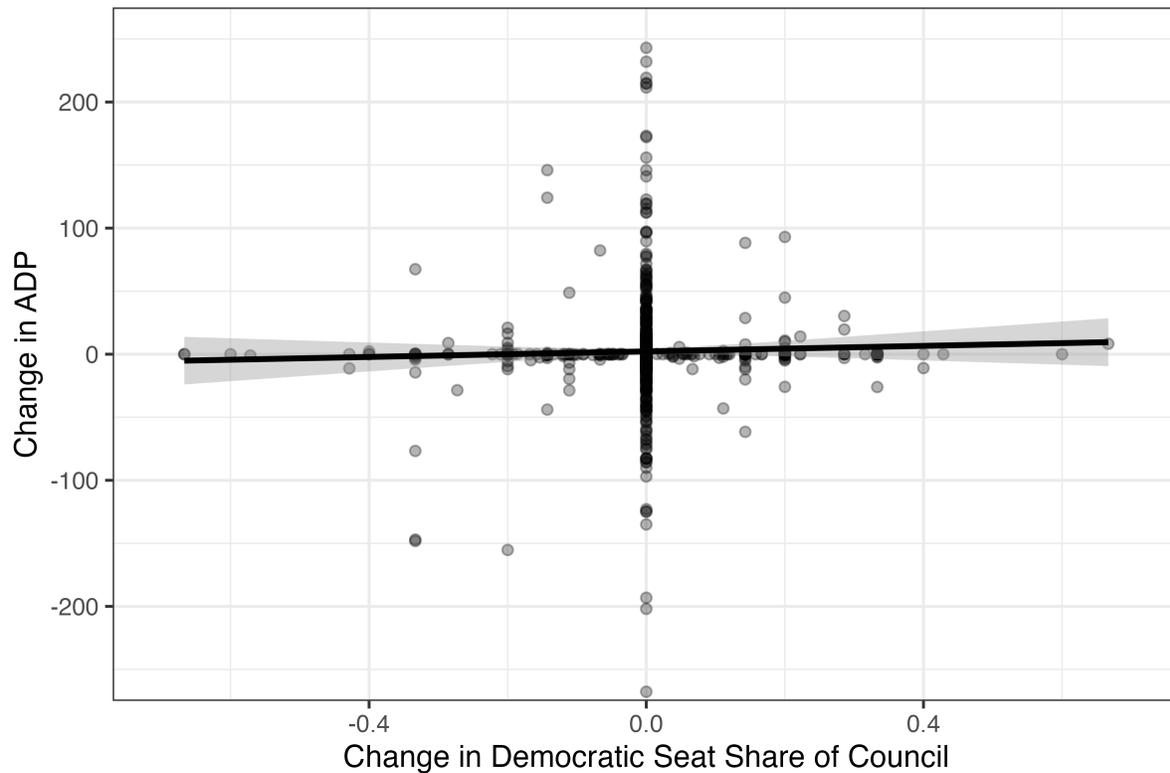


Figure 4: Change in ADP by Change in Democratic Seat Share of County Council

How might the timing of partisan flips fit into the broader context of national politics, and does that national context have implications for my analysis? Political scientists have observed an increasing “nationalization” of local politics, which primarily happens through “straight-ticket” voting – in which voters choose every candidate from the same political party for every office on the ballot, from city councilmember to the President (Hopkins, 2018). Perhaps the timing of partisan flips in county elections also mirrors shifts in Republican or Democratic power at the national level.

To look at whether the nationalization of politics is happening in the counties in my sample, I tabulated the years that county councils experienced a flip to a new partisan majority. Table 3 shows a distinct temporal pattern: most of the flips to a Democratic majority (25 out of 31) happened in the 2006-2008 elections, concurrent with President Obama’s election to office and the Democrats taking the majority in both houses of Congress. On the other hand, most of the flips to a Republican majority (23 out of 34) happened in the 2010-2012 elections.¹⁷ In 2010 and 2012, the Republican party re-took and held the majority in the House during Obama’s presidency. The timing of partisan flips at the county level does appear to roughly mirror patterns in federal elections.

¹⁷Table 3 refers to the year after the election, when elected officials begin their tenures as a part of the county council (e.g. a 2007 majority corresponds to the results of a 2006 election).

Table 3: Timing of Partisan Flips in the Seat Majority of County Councils

	Rep Flip	Dem Flip
No Flip	210	212
2006	0	1
2007	4	14
2008	1	5
2009	2	6
2010	3	0
2011	10	0
2012	7	1
2013	6	3
2014	1	0
2015	0	2

Most of the flips are clustered within different time periods for each party. Are there changes in immigration detention happening in either of these time periods that would make for an unequal comparison between Democratic flips and Republican flips? To test this, Figures 5 and 6 show the same county-year level changes in ADP from Figure 4, except that I subset for the periods in which each cluster of partisan flips occurred. Figure 5 shows all county-years in 2007-2009 in order to encompass the majority of Democrat flips and Figure 6 shows all county-years in 2011-2013 in order to encompass the majority of Republican flips. We still see no real correlations of immediate change in ADP with county-level election results in either period, suggesting that a more nuanced over-time analysis is necessary. There is also a similar distribution of changes in ADP between the two graphs, suggesting no obvious bias in comparing flips between the two periods.

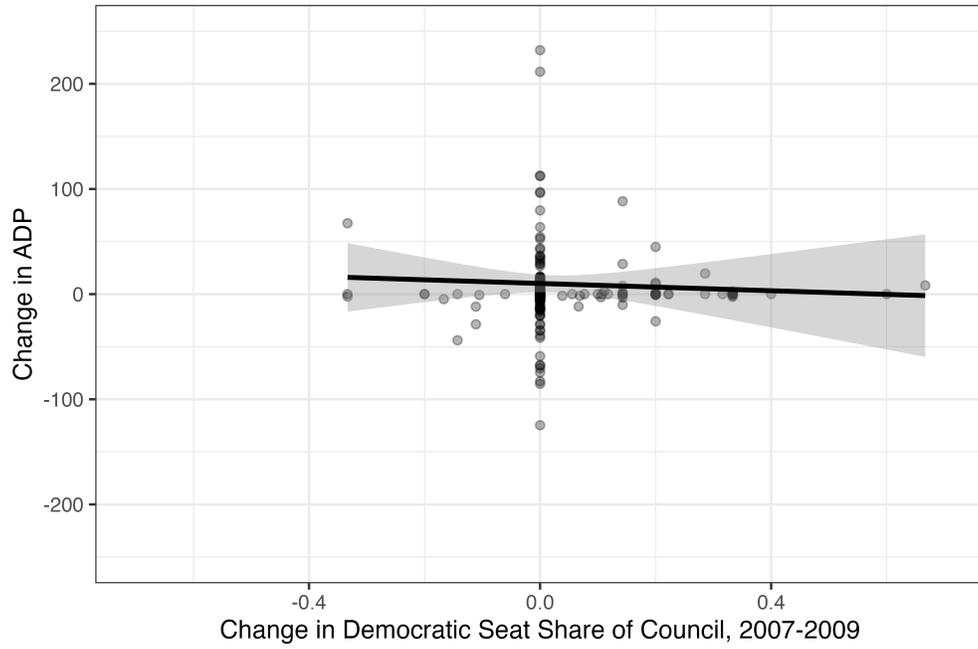


Figure 5: Counties in 2007-2009

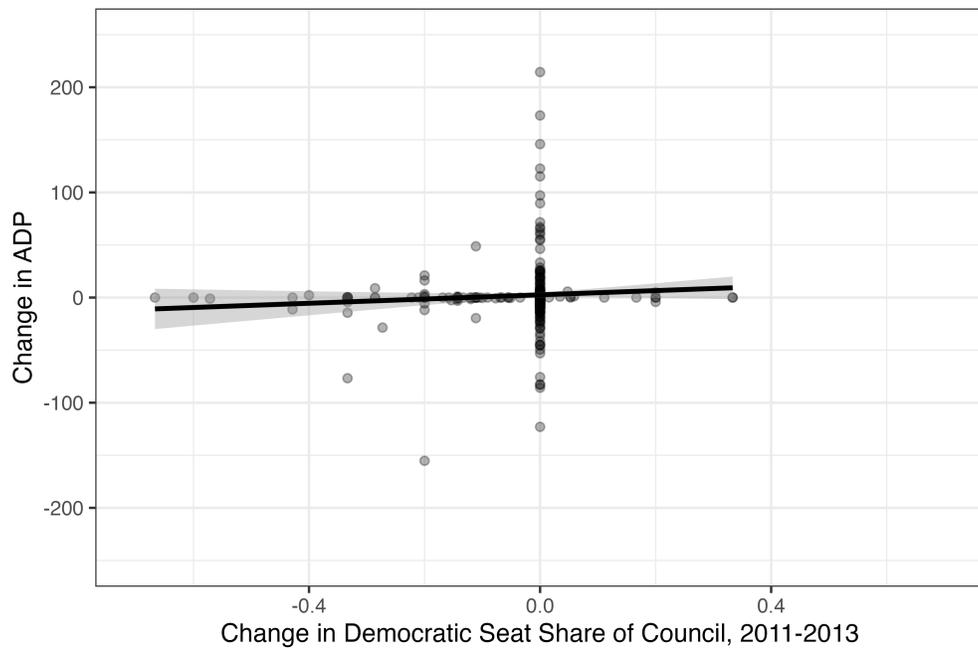


Figure 6: Counties in 2011-2013

Methodology

In order to examine whether immigrant detention capacity correlates with partisanship of sitting county council officials, I use OLS regressions with two-way fixed effects. The dependent variable is ADP and the independent variables are a) the Democratic seat share of the council and b) whether the Democrats held a majority of the seats in the city council. In all models, I use two-way fixed effects for counties and for years to control for temporal and geographic idiosyncrasies. I also account for potential demographic and economic change over time within counties by controlling for total population, percent foreign-born, and unemployment rate in each county-year.¹⁸

In order to better investigate over-time effects and to lay a causal claim, I then leverage the fact that some counties experienced a flip in the partisan majority of a county council while other counties did not. A quasi-experimental “dynamic” difference-in-differences (DiD) design allows me to leverage partisan flips as a “treatment,” in order to more directly examine the effect that a change of partisanship has on ADP levels. A DiD essentially compares whether the ADP in counties that did experience a partisan flip in the council majority changed in a different magnitude than the ADP in counties that did not. The underlying assumption is that, all else equal, counties should generally share parallel trends in their ADP patterns based on national changes in immigration enforcement policies and priorities. If the group of counties that receive a certain treatment tend to have different trends than the control group, then the treatment must be the cause of the difference in trend. In our case, if the counties that flipped to a Democratic or Republican experience a majority divergence from the general pattern in change in ADP over time, the difference can be explained only by the flip in partisanship.

The dynamic design is also effective at accounting for treatments that are “staggered,” or that did not happen at the exact same time. For example, the dynamic DiD is often used to look at the effects of staggered rollouts of policies across different localities; thus, the model will similarly account for the fact that counties experienced partisan flips, or “treatments,” in different years.

I run two different DiD models: one looks at the treatment effect of “Democratic flips” on changes in ADP over time and another looks at the treatment effect of “Republican flips” on changes in ADP over time. The parallel trends assumption we must hold is: if the “flip” in partisan majority had never occurred, the “treated” counties would have experienced similar changes in ADP over time compared to “untreated” or “control” counties. I consider all counties that experience neither a Democratic or Republican flip to be “control” counties.

Looking at the counties with both ICE facilities and election data, there were 31 instances of Dem flips and 34 instances of Rep flips. “Treated” counties are counties that experienced a flip at any point. I calculated two “time-to-treat” variables for each county-year, one for

¹⁸I created panel data from the ACS 1-year estimates for 2005-2008 and the ACS 5-year estimates for 2009-2016. The Census Bureau currently only offers 1-year estimates for pre-2009 data. Six counties were missing some of the ACS data between 2005-2008. For these missing values, I manually imputed the missing data based on either the 2005 ACS, the 2000 Census or USAFacts.

Dem flips and one for Rep flips. For example, if a county only experienced a Dem flip in 2013, its treatment variable is “1” across all years, its “time-to-treat” variable for a Dem flip in 2013 is 0, in 2012 is -1 and in 2014 is 1, and its time-to-treat for a Rep flip is 0 across all years.¹⁹

In a parallel study of the effect of a county legislator’s partisanship on fiscal policy, De Benedictus and Warshaw (2020) use a regression discontinuity design (RDD) to examine the effects of electing a Democratic legislator in a close election on the county’s fiscal spending outcomes. While I use similar data and variables, I make different modeling decisions due to data limitations. My policy area of interest, immigration detention, lends itself to much more limited data for my outcome variable – every county in the nation has fiscal spending data, but only about a quarter of all counties held ICE detainees. While I don’t emulate De Benedictus and Warshaw’s modeling decisions exactly, the dynamic DiD model that I use shares the same causal legitimacy as an RDD for several reasons. First, I compare counties that elect a bare Democrat majority with counties that elect a bare Republican majority. Second, I hold the assumption that county-level immigration policies in these places would otherwise be similar if the “treatment” had not occurred. Plus, a major advantage of the DiD approach over the RDD approach is that I can look at “over time” effects, given that legislative decisions often take time to make and that those policies often take time to enact in tangibly measurable ways.

Results

First, I discuss the results of the OLS models that examine whether partisan seat share or partisan majority correlates with the average daily population of ICE detainees. I include county and year fixed-effects in all models, but the coefficients are not listed in the results table for brevity’s sake. For each county-year, I control for a) the percent of the population that is foreign-born to account for the “group threat” hypothesis, b) the unemployment rate to account for the “economic threat” hypothesis, and c) the total population to account for different baselines for jail/prison capacity. While these OLS models do not leverage causal claims, their strength is that the coefficients speak to all counties in my dataset instead of only the counties that experienced a flip in the partisan majority of the council. Table 4 shows the results of the two OLS models. Across all county-years, Model 2 shows that the Democratic seat share of the council correlates with a slight decrease in ADP. Specifically, we can expect a statistically significant decrease in ADP by about 42 filled detention beds per day when there is a complete shift from 100% Republican seat share to 100% Democratic

¹⁹There were 14 counties that experienced two flips in partisan majority (one Dem flip and one Rep flip) over the given time period. For these counties, I recoded “time-to-treat” as zero after the second flip and before the first flip for each respective party. For example, if a Dem flip occurred in 2013 and then a Rep flip occurred in 2015 in the same county, I recode the time-to-treat variable for a Dem flip from 2015-2016 as 0 (instead of 2 and 3), and the time-to-treat variable for a Rep flip from 2006-2013 as 0 (instead of -9 to -2). This ensures that I am not mis-attributing treatment effects from “opposite” flips into my analysis.

Table 4: OLS Models with County and Year Fixed-Effects

	Outcome: ADP	
	Model 1	Model 2
Dem Majority	1.32 (7.79)	
Dem Seatshare		-42.31** (16.00)
% Foreign-Born	217.79 (309.54)	236.57 (306.60)
% Unemployed	427.81 (248.49)	432.93 (246.76)
Log(Population)	436.14*** (58.15)	439.24*** (57.61)
R ²	0.86	0.86
Adj. R ²	0.84	0.84
Num. obs.	2354	2371

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

seat share in a county council. The coefficient can be scaled in proportion to the actual percent seat change, if below 100%.

The statistically insignificant coefficients for percent foreign-born and percent unemployed indicate that the “group threat” and “economic threat” hypotheses likely do not explain changes in local detention capacity.²⁰ The models do estimate that a 1% increase in total population is associated with a statistically significant increase in detention capacity by approximately 4 beds.²¹ The correlation makes intuitive sense, in that the overall capacity of local incarceration facilities is sensitive to changes in population size.

Model 1 shows that having a Democratic majority of the council does not significantly correlate with ADP at all. This could be due to the fact that we are not looking at changes over time in a nuanced way. It takes time to detect the impact of a policy change for two reasons: it takes time for the majority to enact the policy and it takes time for the enacted policy to have a measurable impact on outcomes like detention capacity.

In order to better get at the question of over-time, causal effects of local party politics on immigration enforcement outcomes, I use a dynamic differences-in-differences analysis

²⁰The coefficients for the controls are large because they estimate the change in ADP that correlates with, for example, going from 0% to 100% of the population being foreign-born. A more realistic interpretation would be that a 10% increase in the population being foreign-born correlates with an ADP increase of about 21 in Model 1 and about 23 in Model 2.

²¹I took the logarithm of the population variable because the distribution is otherwise right-skewed. Taking the logarithm makes the estimation less sensitive to outliers (e.g. very large counties) and easier to interpret.

focusing on the councils that flipped to a Democratic majority or a Republican majority. I run separate analyses for Democratic majority flips and Republican majority flips in case there is an asymmetric effect.

Figure 7 shows the coefficients from the DiD model that estimates treatment effects of a county council flipping to a Democratic majority at any point between 2006-2016. These coefficients estimate the differences in ADP change over time between treated counties (counties that experienced a Democratic flip) and control counties (counties that did not experience any flips) in the years before and after the treatment. The reference point, or baseline ADP, is lagged by one year in order to allow time for policy changes to be enacted, given that there were no immediately detectable effects from my preliminary descriptive analyses in Figures 4, 5, and 6.

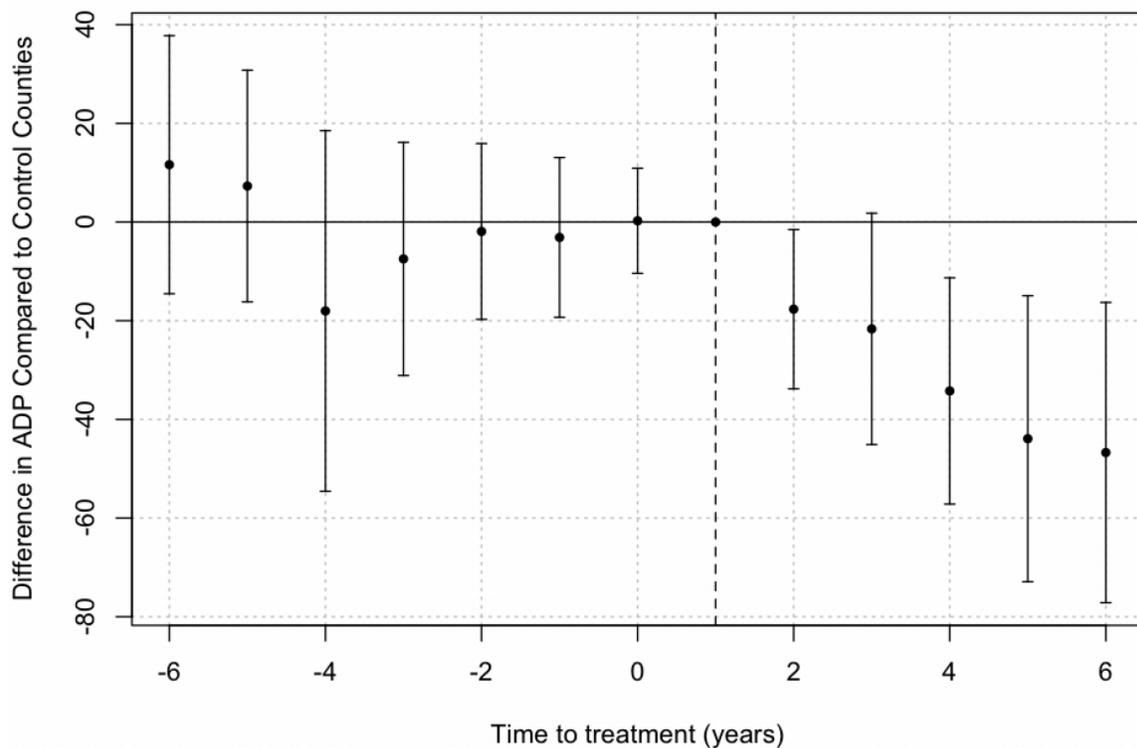


Figure 7: DiD Analysis of County Councils Flipping to Democratic Majority (Staggered Treatment of 31 Flips)

Figure 7 shows that councils that flipped to a Democratic majority jailed about 20-40 fewer ICE detainees each day compared to other counties, with the most pronounced effect in the 4-6 years after the partisan flip. Interestingly, most of the Democratic flips happened in the beginning of our time period (2006-2008), so the comparably lower ADPs in these flipped counties exist amidst a national context of a steadily high ADP from 2009 to 2014 (see Figure 2). Thus, it is unclear whether these newly Democratic councils are a) lowering how

many jail beds they contract to ICE despite rising national levels, b) keeping the contracted number of jail beds constant over time despite rising national detention levels or c) ending ICE contracts altogether.

Next, I discuss the results of the “Republican flip” DiD model, which compares changes in ADP between county councils that flipped to a Republican majority and county councils that did not experience any flips. Figure 8 shows that newly-Republican county councils do not experience statistically significant change in ADP over time compared to other counties. This holds true in all years after the Republican flips.

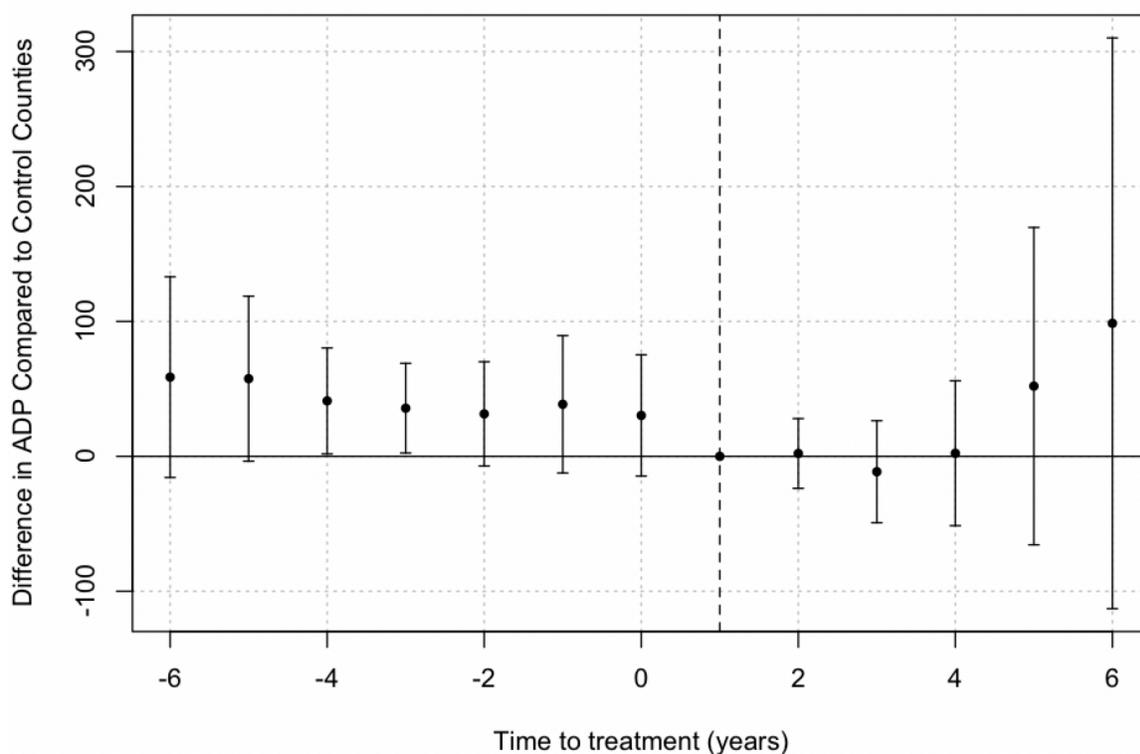


Figure 8: DiD Analysis of County Councils Flipping to Republican Majority (Staggered Treatment of 34 Flips)

For context, the majority of the Republican flips occurred in 2011-2013, when national ADP was already at a record high (see Figure 2). When Republicans newly take the majority of a county council, it appears that they typically uphold an already punitive status quo in regards to detention levels. It is difficult to isolate the mechanism at play using only quantitative data, but one conjecture is that the choice to stick to the status quo may be a sufficient signal to the Republican electorate.

In sum, my quantitative analysis shows that partisanship in county councils does appear to matter to a certain extent in immigration policy decisions. When counties newly elect a Democratic majority of the county council, ICE detention levels tend to be relatively

lower over time compared to similar counties – specifically, these county facilities end up contracting about 20-40 fewer occupied jail beds daily, on average, in the 6 years after the flip. On the other hand, newly electing a majority Republican county council tends to ensure the maintenance of an already-punitive status quo, with no statistically significant variation compared to what is happening in other counties. However, it's not clear the mechanism through which partisanship leads to such differences. Are elected officials themselves initiating policy changes, is there pressure from interest groups and/or the public, or are there other constraints that are not immediately apparent in a quantitative analysis?

Case Studies: Pinal County, AZ and Alamance County, NC

In order to better understand the mechanism behind the role of party politics, I conduct case studies of meeting minutes in counties where a partisan flip occurred. I skim all meeting minutes in the calendar year of each flip and in the calendar year immediately after each flip.²² Then, I deductively close-read, bookmark, and summarize any relevant discussion of immigration detention, the county jail, the 287(g) program, or the sheriff's activity. Out of a sample of six counties, only two counties held council meetings that discussed immigration detention contracts: Pinal County, Arizona and Alamance County, North Carolina. Below, I tie the two cases together by discussing general themes that emerged from an inductive analysis of both sets of county minutes.

Emerging Themes: Profit, Ethics, and Federal Constraints

Pinal County, Arizona and Alamance County, North Carolina are located in opposite corners of the country with different demographic compositions, but their county minutes reveal a few parallel themes.²³ When comparing two years of minutes from a Democrat-led council with four years of meetings from Republican-majority councils, I find that it is not always as simple as Republicans increase detention and Democrats decrease detention. The more nuanced story is that the local Republican governments more enthusiastically sought to increase their revenue stream from ICE detention contracts but did not have the authority to do so, whereas the local Democratic governments did not share the same profit fervor, plausibly for ethical or ideological reasons. To summarize, I find that (1) the most punitive detention actions by county governments are constrained by federal agencies and

²²For feasibility purposes, I first narrowed down the sample of counties to counties that experienced at least one partisan flip (n=51). Then, I narrowed down the sample further to counties that have ever had a record of a 287(g) agreement, an intergovernmental service agreement (IGSA), or a detention facility contract agreement in ICE's FOIA library. Out of these twelve counties, the following six counties either had publicly available records online or responded to my requests for all minutes during the year(s) that the flip(s) occurred: Alamance County, NC; Calhoun County, MI; Charleston County, SC; Douglas County, NE; Pinal County, AZ; Salem, NJ.

²³Based on the 2020 Census, Pinal County, Arizona has a population of about ~450,000 people, of which ~30% are Hispanic or Latino. Alamance County, North Carolina is home to a smaller general and immigrant population; of the total population of ~150,000, about ~15% are Hispanic or Latino.

(2) a partisan difference is most apparent in the rhetorical framing of immigration detention as a fiscal vs. ethical concern. These themes are consistent with my quantitative evidence and shed new light on how the decision-making of county councilmembers might vary based on partisan affiliation, as well as suggest the socio-economic ideologies that their partisan affiliation might be a proxy for.

Friction with Federal Agencies under the Obama Administration

First, I was surprised to find that federal agencies could constrain hyper-punitive actions of local government within my time period, when the local government was Republican and the White House was Democratic. Specifically, both Republican-led Alamance and Pinal counties faced dramatic friction with federal agencies under the Obama administration. Before the Republican flip in Alamance, someone tipped off the Department of Justice (DOJ) with allegations of racial profiling against the Alamance County Sheriff. It is unclear in the minutes exactly who tipped off the DOJ; there were multiple people who spoke up against the sheriff in the months before the DOJ investigation formally began in late 2010. Most of the duration of the ensuing investigation occurred in 2011 and 2012 under a Republican-led county commission. The DOJ faced months of bureaucratic push back from the county; the County Attorney seemed to withhold cooperation with the Obama-era DOJ, and there was no movement by county commissioners to encourage cooperation.

Similarly, in Pinal County, there was over a year-long stand-off between the Republican majority commissioners and ICE over details of the contract, which ended poorly for both parties involved. Commissioners requested that the ICE contract be both more lenient and more profitable for their county jail, but the deal fell through because ICE insisted on enforcing federal detention facility standards: “[the County Manager] explained that back in [December] it went from just discussing the per diem rate to discussing proposed changes in the contract so that the two can be handled at the same time. Staff’s effort has been to identify what can be done to deviate from the performance base standards because ICE made it clear that they would require the performance base standards.” (Pinal, 2014) Media and advocacy reports suggest there were high levels of public attention to the county jail’s poor conditions, which might have played a role in ICE’s decision to decline the county’s request for special exceptions to federal standards.²⁴

Because all the years of my case studies (2009-2013) were exclusively Obama years, I can’t speak to whether these federal constraints are similar or different under a Republican Presidential administration. If different, it could introduce an even more complex story under which specifically co-partisan local and federal governments could exacerbate polarization of immigration enforcement at the local level. In my limited sample, there does not appear to be evidence of either friction or cooperation between co-partisan Democratic local and federal

²⁴See ACLU report in 2011 (<https://www.acluaz.org/sites/default/files/documents/detention%20report%202011.pdf>), Detention Watch Network report in 2012 (<https://www.detentionwatchnetwork.org/sites/default/files/reports/DWN%20Expose%20and%20Close%20Pinal%20County.pdf>), and Arizona Capitol Times in 2012 (<https://azcapitoltimes.com/news/2012/12/12/groups-object-to-housing-immigration-detainees-in-pinal-county-jail/>).

governments on the topic of immigration enforcement. Further research is needed to speak to the dynamics of a Democratic local - Republican federal relationship or a Republican local - Republican federal relationship.

Tenor of Republican-led Meetings: A Profit Model

My second main finding is that the Republican and Democrat-led commissions clearly differed in their rhetorical approach to immigration enforcement. The Republican-led Alamance and Pinal county commissions consistently framed cooperation with ICE as a practical economic solution to balancing the county budget, whereas the Democrat-led Alamance County commission placed more weight on moral and ethical appeals.

Regarding the economic aspect, Alamance County Commissioners (2012, R majority) openly questioned the Sheriff about why revenues from the 287(g) program were low and urged the Sheriff to increase numbers of detainees in order to balance the county budget on March 19, 2012. “Commissioner Sutton stated that he was not trying to criticize Sheriff Johnson; he just wanted information to see if more could be done to increase the numbers. Commissioner Sutton added that his responsibility and concern as a Commissioner was to inquire why the county was receiving only \$3 million if the program was budgeted for \$6 million” (Alamance, 2012). The Sheriff responded that there was no guaranteed minimum in place and he largely blamed the lower detention numbers on “a leniency of the rules towards illegal immigrants by Washington D.C. as to when detainers are filed and the length of detainment.” The Sheriff further emphasized that the federal government’s internal enforcement priorities determined whether detention beds were filled by non-local immigrants. He concluded that “as long as there is the 287g Program, Alamance County will participate and do the best that it can do in the program,” plausibly referring to the arrest and detention of local undocumented immigrants.

In a more concerted effort to boost revenues from their ICE contract, Pinal County Commissioners (2013, R majority) tried to negotiate a guaranteed minimum number of detainees and an increased per-diem price per bed: “[The County Manager] sent a letter [to ICE] on Feb 21, 2014 including clarification regarding cost, proposed direct supervision model, deviations from their detention standards and an estimated per diem rate based on their acceptance of the proposals. In addition, the letter expressed the County’s desire for a guaranteed payment for a minimum number of detainees” (Pinal, 2014). However, the negotiation slowly turned into an impasse that devolved into a mutual termination of the entire contract, a county budgetary crisis, and a reduction in county jail staffing. Local media²⁵ reported: “following the ICE contract’s expiration, the county hired MGT of America to do a jail staffing study, which recommended four options for reducing staff, including one that would eliminate 112 positions in detention operations. The board and the sheriff agreed that letting 112 positions go dark was the right move.” Local media also

²⁵See “Audits don’t support Babeu’s claims on ICE contract”: https://www.pinalcentral.com/coolidge_examiner/news/audits-don-t-support-babeu-s-claims-on-ice-contract/article_59b01af0-bc70-11e4-8895-a338c445170c.html.

reported that ICE detainees from the Pinal county jail were transferred across the street to a private detention facility, which the county chose not to restrict or regulate. Thus, the ADP in Pinal county actually stayed the same after the public ICE contract expired; the county government merely transferred responsibility of the detainees to the local private prison.

Tenor of Democrat-led Meetings: Ethical Considerations

Although I only had two years of relevant minutes to examine under a Democrat-led commission (2009-2010 in Alamance County), there was a distinct contrast in the tenor of the discussion being more focused on ethical concerns instead of fiscal concerns. The Democrat-led Alamance county commission did not mention revenue as a reason to (dis)continue cooperation with ICE. However, in these years, the commissioners and the public openly voiced their opinions for or against the concept of criminalization of immigrants, e.g. on April 9, 2009, “Several members of the audience made comments in support of the Sheriff and the 287(g) Program, stating they are not against immigration, only illegal aliens. Others commented against the Sheriff and the 287(g) Program, with some calling for an outside agency review of the Sheriff’s Office... Commissioner Vaughan moved that the Attorney General’s Office be contacted to investigate the Sheriff’s Office enforcement of the 287(g) Program to give the citizens faith in the Sheriff’s Office, and Chair Massey stated the motion was out of order” (Alamance, 2009). There was frequent discussion of the merits of the issue, from both sides, which did not occur in the four years of meeting minutes under Republican-led commissions.

Outside of public comments and commissioner responses, the Democratic-led commission also provided formal agenda space for presentations from both sides of the issue. On October 9, 2009, the meeting agenda included a formal presentation by a representative from Fairness Alamance, “an organization of about 100 county residents who came together in 2008 in response to extreme immigration enforcement in the county” (Alamance, 2009). The representative requested a re-evaluation of the new 287(g) Memorandum of Agreement (MOA), pushing the Commissioners to exercise more oversight in enforcement priorities by only pursuing the detention and deportation of immigrants who commit high level crimes. “[The representative] stated the purpose of the Memorandum of Agreement (MOA) for the 287(g) program is to enhance the safety and security of communities by focusing resources on identifying and processing for removal [of] criminal aliens who pose a threat to public safety or a danger to the community. He stated the MOA also refines the stated purpose by placing level one priority on aliens who have been convicted of or arrested of major drug offenses and/or violent offenses such as murder, manslaughter, rape, robbery, and kidnapping. He stated that points of agreement are that everyone wants what is best for Alamance County.” The Sheriff responded in a neutral manner, stating that “he does not make the decision of who gets detainers filed on them, that is ICE’s job.”

About a year later, on October 18, 2010, the meeting agenda included an analogous presentation from the Sheriff’s Office that emphasized the ideological and moral importance of cooperating with ICE: “[The Sheriff] stated the presentation will help the Commissioners

see how the 287(g) Program and the Secure Communities Project help when identifying criminal, illegal aliens in our jails and getting those persons, once they are prosecuted and dealt with in the criminal justice system, out of our country. He stated this is an issue of national security and part of the solution is securing our ports and our borders. He encouraged the Commissioners to talk to the representatives in Congress, who can commit the funds and resources to make it happen. He opined Secure Communities need to be established throughout the state and the 287(g) Program needs to be supported” (Alamance, 2010). Compared to the same Sheriff’s consistent emphasis on budgetary concerns under the Republican-led commission, the rhetoric in this presentation was far more ideological in nature.

Under the Republican-led years, neither Pinal nor Alamance County commissioners made agenda space for the ethical or moral considerations surrounding immigration enforcement from either side of the issue. Even after the DOJ released a report²⁶ about the Alamance County Sheriff’s Office’s acute “pattern or practice of discriminatory policing against Latinos” and “misconduct that violates the Constitution and federal law,” it was striking that Alamance County commissioners did not discuss any implications of the report in any meeting minutes, nor did the public comment on it.

A Direct Mechanism?

My case studies, albeit limited in scope, reaffirm that my proposed direct mechanism can exist. County governments alone have the power to start, negotiate, or end detention contracts with ICE. For example, Alamance County (2009, D majority) held a motion to end 287(g) Program on ethical grounds and Pinal County (2014, R majority) held a motion to end the detention contract if ICE did not meet their terms. However, a county’s decision-making power appears to be skewed towards either (1) starting/ending a contract or (2) keeping the status quo, and less towards (3) increasing detention levels after a contract is in place. Specifically, neither Pinal nor Alamance were able to voluntarily increase the ADP under a Republican majority (despite expressing interest in doing so) because ICE had its own internal enforcement priorities. These one-sided institutional constraints are in line with my quantitative findings, in that a Republican flip is unlikely to lead to any relative change in ADP.

All this being said, my limited case study analysis does not satisfactorily provide evidence of the exact mechanisms that explain my quantitative results. That is, we see that the partisanship of county officials affected Average Daily Population of ICE detainees in local jails, but how exactly did that happen? I have a good idea about why we might not be seeing much change in newly Republican counties that already have an ICE contract in place — federal agencies appear to limit how punitive counties can be, after a certain threshold. But I still don’t know much about how newly Democratic counties are handling ICE detention, and why their relative detention levels are lower. I believe a more in-depth qualitative analysis is required to fully answer that question, which I can’t do here unfortunately. Nonetheless,

²⁶See DOJ report in 2012: <https://www.justice.gov/opa/pr/justice-department-releases-investigative-findings-alamance-c>

my case studies do provide a compelling starting point, illuminating both the contours of federal constraints and the tenor of conversations under different party leaderships. Further research is needed to illuminate the exact mechanism through which county-level policy outcomes might differ based on partisanship of elected county officials.

Conclusion

The partisan dynamics surrounding the economic stakes of local immigration detention challenge the idea that local governments across the board will always prioritize boosting their local economies and balancing their budgets, regardless of partisanship (Adrian, 1952; Oliver, Ha, & Callen, 2012). Anzia (2021) notes that a large part of county budgets is allocated for corrections (e.g. jails, prisons, and the sheriff's office), a policy dimension which (Grumbach, 2018) finds to be largely nonpartisan even at the state level. However, my case studies point to a stark difference in whether partisan county councils approach immigration detention as an important revenue stream. Some Republican-led councils appear to fervently buy into (and want to expand) the profit incentives of the detention apparatus. This fervor makes sense within the theoretical framework of an increasingly punitive state married with the profit incentives of the prison industrial complex. However, I find no evidence of Democratic-led councils openly sharing any similar fervor. After all, earning money by detaining immigrants reasonably comes with heavier ideological considerations compared to pursuing other sources of federal funding.

The data nonetheless suggest that Democrat-led counties may instead be quietly complicit. When I was reading minutes of counties with partisan flips and ICE contracts, I found that neither Charleston County, SC (2009 D flip) nor Douglas County, NE (2009 D flip) discussed immigration detention in any county meetings, even though ICE detainees were being jailed within their county lines in 2009 and 2010. My qualitative findings are in line with my quantitative results: newly Republican-led counties might not have relatively higher ADP levels than other counties because there is a nation-wide ceiling imposed by ICE's internal activity and priorities; on the other hand, newly Democrat-led counties might show relatively lower ADP levels than other counties because they might not push all the way towards that ceiling.

My findings also fit in with the findings of adjacent studies, bolstering the tenuous link that other scholars have made between similar partisanship measures and similar immigration policy outcomes; specifically, states and counties with more Republican-leaning voters tend to have higher annual detention rates (Moinester, 2018; Ryo & Peacock, 2020) and tend to pass more anti-immigrant municipal ordinances (Ramakrishnan & Wong, 2010). My study suggests that, holding all else equal in a quasi-experimental setting, the flip to a majority Republican county council matters leads to an asymmetrically higher Average Daily Population in their county jails. However, further multi-methods research is needed to confirm the specific mechanism through which partisanship of elected officials affects local immigration policy. For example, does civil society push a particular agenda on to their elected officials, or is it the ambitions of the elected officials themselves, or some combination

of both? Further, has this pattern been attenuated or accentuated over time, especially during the Trump and Biden administrations?

All this being said, the results of my analyses do have direct implications for advocates, interest groups, and other stakeholders in the immigration policy space. Elected members of county governments – including councils, boards, and commissions – appear to hold an important locus of power in immigration policy. They can make decisions that either uphold the status quo level of immigration detention in local jails and prisons, or they can limit their level of cooperation with ICE in this way. Furthermore, elected county officials can be held accountable electorally by their constituents based on their immigration policy decisions, and perhaps in a more direct way than federal officials can be held electorally accountable, given the sprawling nature of the federal immigration enforcement apparatus.

Chapter 3

Examining Civic and Political Contexts: Why Do Immigrants Have Better Access to Health Services and Legal Aid in Some Places?

Co-Authored with Irene Bloemraad, Ph.D and Ethan Roubenoff, Ph.D

Non-profit organizations are sometimes called the “delegated state” or the “shadow state” for their role as critical providers of public goods and services in the United States (M. Weir & Schirmer, 2018; Wolch, 1990). While the non-profit sector serves many different populations, it is especially salient to immigrants who face a distinct combination of language, cultural, legal, and/or economic barriers to access (Cordasco et al., 2011; Gleeson, 2016; R. Weir et al., 2010). Historically, the federal government has not only failed to provide intentional safety nets for immigrants, especially those without legal status, but has also actively made it more difficult to access existing resources. This political legacy is evident in current federal legislation that prohibits most undocumented immigrants from accessing a) public health insurance such as Medicaid or Medicare (Ornelas, Yamanis, & Ruiz, 2020) and b) legal aid through any legal organization that receives federal funding.¹ In cases where non-citizens can access public assistance programs, they may fear being “public charge” to the state will result in negative consequences, such as deportation or inability to gain permanent residence in the future (C. Lee, 2019). There is a need for scholars to engage more directly with the unique challenges faced by immigrant-serving organizations as a direct result of the precarious legal statuses of their clients and the linguistic, racial, or cultural “foreignness” ascribed to immigrants (Bloemraad, Chaudhary, & Gleeson, 2022).

While immigrant-serving health clinics and legal aid organizations fill an important vac-

¹See the LSC website: <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/can-lsc-grantees-represent-undocumented>

uum in providing public services, these organizations are not always spatially accessible. In mapping health clinics and legal aid nonprofits in relation to where immigrants actually live, Roubenoff, Slootjes, and Bloemraad (2023) find that uninsured and low-income immigrants in some places have significantly better access to health and legal services than others. For example, smaller cities tend to offer better service access than larger cities, but rural areas have the worst access. Access is generally better in California than Arizona and Nevada, but is still largely absent in large swaths of California. In a nation-wide study, Kerwin and Millet (2022) similarly find great disparities in legal aid capacities across states, counties, and metropolitan areas. The question remains: which characteristics of place explain the larger pattern of why there is better access in some geographies than in others?

We present a novel theoretical and methodological approach to identifying the population demand, resource supply, and civic/political determinants of the geography of immigrant-serving organizations. We collected a comprehensive data set of key demographic, institutional, political, and fiscal characteristics of all cities in California, Arizona, and Nevada and an original data set of the locations of all immigrant-serving health and legal clinics in these states. Using both sets of data, we conducted a spatial auto-regressive analyses and find a wide range of significant determinants across all three theoretical buckets: demand, supply, and political/civic. Notably, the strongest predictor of both health and legal service access is whether a politically progressive social movement occurred in a city – we look specifically at the locations of historic NAACP chapters and 2006 immigrant rights protest. More traditional measures of political ideology, such as Democratic vote share and fiscal ideology of local government, do not predict access. Population demand is important, but depends on the demographic; low-income immigrants are consistently under-served based on their population size compared to general populations. Supply of human resources appears to be a consistent predictor of service access as well; there are relatively more organizations in places with law schools and medical schools, potentially due to a higher concentration of legal and medical professionals in those places. We hope that by identifying the contexts of place that correlate with spatial (in)accessibility, we can help elucidate the mechanisms through which human service provision can be improved for those who need it most.

Federally Qualified Health Clinics

Federally qualified health clinics (FQHCs), sometimes called community health clinics (CHCs), receive subsidization from the federal government in order to offer comprehensive health services to all patients in medically underserved areas, regardless of income-level or insurance status. While the FQHC network is intended to provide a crucial health safety net for vulnerable, uninsured populations such as migrant, rural, and homeless individuals, these clinics are particularly salient for uninsured immigrants who cannot access public insurance due to their citizenship status. Further, FQHCs differ from traditional medical centers by offering “enabling services” that increase medical access for culturally and linguistically diverse patients; examples of these services include language interpretation, health education, and insurance eligibility assistance (R. Weir et al., 2010). In order to keep up with a high

demand, FQHCs are rapidly growing in number and capacity. In 2021, there are about 14,000 FQHC delivery sites operating across the nation serving over 28 million people, almost double the number of sites in 2010 (National Association of Community Health Centers 2021).

The first handful of federally-funded health clinics were established in the 1960s during the War on Poverty. However, the comprehensive, nation-wide system as we know it today was not established until 1989, when Congress amended the Social Security Act in a series of Omnibus Budget Reconciliation Acts to mandate that the federal government subsidize Medicare and Medicaid reimbursements to FQHCs. For context, private health providers often prefer not to serve Medicare and Medicaid patients because public insurance reimbursement rates are lower than those of private insurance companies (Kelleher & Gardner, 2016). However, the federal government's subsidization of these public insurance reimbursement rates to FQHCs successfully encouraged the creation and expansion of these health centers (Chang, P.W. Bynum, & Lurie, 2018).

The FQHC program has largely enjoyed bipartisan support in contemporary years, evident by the program's substantial expansion under both the Bush and Obama administrations (Heisler, 2017). Most notably, the Affordable Care Act (ACA) in 2010 invested \$11 billion to expand the number and capacity of FQHCs across the country (Heisler, 2017), effectively making the FQHC system a permanent part of the health infrastructure in the U.S.

Metrics of evaluation for health centers to obtain federal funding have largely remained unchanged in the past 30 years, raising the question of whether funding is dispersed in a way that accurately reflects changing populations and needs. The metrics of evaluation for an area to qualify as a "Medically Underserved Area" (MUA) or contain "Medically Underserved Populations" (MUP) are based on four criteria: poverty rate, infant mortality rate, provider to population ratios, and elderly to population ratios. Scholars suggest these outdated metrics may create bureaucratic inefficiencies and lack of responsiveness (Chang, P.W. Bynum, & Lurie, 2018; Hennessy, 2013).

The question of equitable geographical distribution of FQHCs is salient because scholars and policymakers alike agree that the FQHC program is an exceptionally successful public health program, both in improving patient outcomes and in saving costs for the entire health-care system. A summary of studies finds that areas with higher densities of FQHCs also have patients with "greater use of physician services, reduced unmet need, lower hospitalizations and emergency department use, with greater effects among low-income and uninsured populations" (Saloner, Wilk, & Levin, 2020). The successful reduction in disparities in health care outcomes also means that avoidable visits to emergency rooms are reduced, in turn saving the entire healthcare system billions of dollars annually (Heisler, 2017; Hennessy, 2013)

Legal Aid for Immigrants

Similar to the health care context, nonprofit organizations also bear the brunt of providing affordable legal services to immigrants. Legal aid nonprofit organizations offer a wide variety of crucial services, including but not limited to assistance with Deferred Action for

Childhood Arrivals (DACA) status, family-based petitions, and representation in immigration court. However, unlike federally qualified health clinics, immigrant-serving legal aid nonprofits must operate without any assistance or subsidization from federal grants. In fact, the Legal Services Corporation (LSC), the nonprofit tasked with allocating federal money for legal aid, is prohibited by Congress from spending federal dollars on legal services for most immigrants without permanent residence.² The federal government does offer an “accreditation” certificate that permits non-attorney staff at nonprofit organizations to provide legal representation before USCIS (partial accreditation) or immigration court (full accreditation) (Kerwin & Millet, 2022). Accreditation provides a potential avenue for the private sector organizations to increase their legal capacity to serve non-citizens, but the recruitment and training process is also another administrative and financial hurdle for organizations to overcome.

The battle over legal aid to immigrants began in 1980, when Congress excluded undocumented immigrants from access to federally-funded legal aid (Campos, 2003). This was part of a larger conservative legal movement that gained political momentum during the 1980s and 1990s, when publicly funded legal aid faced attacks on many fronts by an increasingly conservative Supreme Court, a conservative Reagan presidency, and a national conservative legal organization, the Federalist Society (Albiston & Nielsen, 2014; Smerbeck, 2012). In 1996, Congress further restricted legal aid to immigrants by prohibiting any organization that receives LSC funding to use private, non-LSC funds to represent “ineligible aliens” (Heeren, 2011). As such, even organizations who used outside funding to provide legal counsel to undocumented immigrants could no longer do so. Furthermore, the 1996 category of “ineligible aliens” extended beyond undocumented immigrants to include many documented immigrants, including non-agricultural seasonal or temporary employees on H-2B visas (Diller & Savner, 2009). This means that when an employer commits wage theft, fraud, or abuse against an undocumented or H-2B worker, the worker is left without legal recourse – unless a non-LSC affiliated legal aid organization offers accessible and low-cost legal services.

Today, these long-standing institutional barriers to accessing federally-funded legal aid remain in place and legal aid nonprofit organizations are the primary providers of crucial legal services to undocumented immigrants and most documented immigrants without permanent residence. In spite of the current restrictive atmosphere of legal aid policies at the federal level, legal aid nonprofit organizations appear to be effective when they are able to serve their intended populations, especially in reducing punitive detention outcomes and in engaging in policy advocacy (Calderon, Chand, & Hawes, 2021; Chand, Calderon, Hawes, & O’Keeffe, 2020; Ryo & Peacock, 2019).

²Exceptions exist for individuals with visas that are specific to victims of abuse, trafficking, and other humanitarian concerns. For details, see the LSC website, accessed September 2021.

Quantifying and Comparing Spatial Accessibility

Existing literature offers insight into the current landscape of health and legal service provision for immigrants and suggests a need for further research into why geographic inaccessibility to services exists. The two types of service providers differ greatly, so we separately examine existing studies of legal aid access and health service access. We build off both these bodies of knowledge to inform our theoretical and empirical inquiry into the contexts of place that might shape the spatial mismatches of health and legal service access to immigrants.

Legal aid organizations tend to be located in more urban, politically progressive, wealthy, populous places, as well as places with a history of immigrant settlement (Albiston, Li, & Beth Nielsen, 2017; Joassart-Marcelli, 2013; Yassenov et al., 2020). For example, in California, access is particularly good in the legislative and judicial center of Sacramento and near the border city of San Diego (Roubenoff, Sloop, & Bloemraad, 2023). However, in rural areas such as large swaths of the agricultural Central Valley, access to legal aid organizations is significantly worse, suggesting that immigrants in rural areas must travel farther to seek affordable services (Roubenoff, Sloop, & Bloemraad, 2023). Across the nation, both legal access and legal outcomes are substantially worse for immigrants in rural areas; for example, detention in a rural area correlates with a longer detention time and a higher number of facility-related grievances (Kerwin & Millet, 2022; Ryo & Peacock, 2019). Legal aid providers also play a crucial role in helping low-wage immigrants navigate labor laws, but capacity constraints often mean that most providers can only offer limited assistance instead of full counsel to those facing labor violations; providers often must turn some cases away entirely (Gleeson, 2016). Even in large, urban metropolitan areas, the ratio of accredited legal staff to the estimated undocumented population can vary widely (Kerwin & Millet, 2022).

The literature about access to FQHCs is more mixed. Some scholars argue that spatial equity of FQHCs is worsening due to outdated funding metrics that do not match the nuances of modern geographies and health needs (Hennessy, 2013). For example, new FQHC sites are less likely to be established in rural and high-poverty areas (Chang, P.W. Bynum, & Lurie, 2018). Other scholars argue that existing clinics generally do tend to serve populations in need. When looking at the demographics of patients and service areas, existing FQHCs appear to be serving the most marginalized communities (e.g. Black, Hispanic, American Indian, publicly insured, uninsured, low-income, non-English speakers) (Chang, P.W. Bynum, & Lurie, 2018; Nath, Costigan, & Hsia, 2016) While the FQHC program has also undoubtedly closed the health service gap in many immigrant communities³ (Parker, 2021), there are still many communities that remain under-served, particularly in rural and suburban areas (Roubenoff, Sloop, & Bloemraad, 2023).

³Parker (2021) finds that the majority of low-income Hispanic immigrants are close to an FQHC and new FQHCs are expanding to serve Hispanic immigrants in newer destinations.

Explaining Variation in Spatial Accessibility

Traditional Theories of Supply and Demand

A long tradition of nonprofit research would predict that immigrant-serving organizations will be established where population demand is high, or in places with a rich supply of financial and human resources. The *demand-style argument* emphasizes that non-profits emerge to fill a vacuum left by the business and public sectors, intending to serve a population's need where the government and the markets fail to do so (Grønbjerg & Paarlberg, 2001). Consistent with demand arguments, some researchers find more immigrant-serving organizations in places with a greater concentration of poor, recent immigrants who face high integration barriers because of limited language skills or lack of citizenship (Chan, 2014; Hung, 2007; Joassart-Marcelli, 2013). The *supply-style argument* emphasizes that the supply of material and human resources determines where nonprofits emerge; not all demands can be met due to the finite nature of resources (Grønbjerg & Paarlberg, 2001). The availability of private donations, public contracts with governments, leadership skills and working professionals are all integral to nonprofit creation and survival. In line with supply arguments, researchers find variation in nonprofit formation among immigrant communities that appear tied to the material and human resources internal to the community (Chaudhary & Guarnizo, 2016; Joassart-Marcelli, 2013) and to public funding efforts from state and local governments (de Graauw, Gleeson, & Bloemraad, 2013).

Civic and Political Context

In traditional “demand” and “supply” narratives, the dynamics of competing needs and resources are often portrayed as relatively apolitical. The amount of spending on nonprofit contracts might fluctuate, but relatively little attention is paid to the intersection of political context and the communities that are served. We posit that the specificity of the immigrant community—residents' legal status and cultural, religious or linguistic ‘foreignness’—affects the nonprofit sector through dynamics of political legitimacy and mobilization. There are a few existing theoretical frameworks that inform and motivate our inquiry: contexts of reception, civic infrastructure, and social movement history.

Immigration scholars have long discussed how the “contexts of reception,” meaning the characteristics of a host society, matter for individual integration outcomes (Portes & Rumbaut, 2006; Reitz, 2002). The theory of “contexts of reception” marks a shift in focus away from micro-level individual characteristics and towards macro-level institutional characteristics in shaping the immigrant experience. Within this framework, immigrant organizations have long served as a main fulcrum of service provision, religious and cultural community, and civic engagement, lying somewhere in between the “micro” and “macro” levels. Yet, we know little about how social, political and geographic contexts affect the ecology and efficacy of immigrant organizations (Bloemraad, Chaudhary, & Gleeson, 2022). We contribute to the literature by examining characteristics of place that might explain where immigrant organizations are more or less accessible to their intended beneficiaries.

While studies show that electoral politics do matter in municipal policies towards immigrants (Ramakrishnan & Lewis, 2005; Ramakrishnan & Wong, 2010), we argue that civic and political contexts extends beyond voter partisanship and ideology models. Specifically, “civic infrastructure” of a place and “civic visibility” of immigrant communities are crucial for favorable outcomes for immigrant organizations. (de Graauw, Gleeson, & Bloemraad, 2013) finds that the strength of an existing network of public and private stakeholders, who share knowledge, resources, and responsibility for human service provision, is a better indicator of tangible support for immigrant-serving organizations among cities that share similar levels of progressive political ideology and similar supplies of wealth. Thus, we posit that civic infrastructure plays a key role in understanding where immigrant-serving organizations thrive (or not), and in turn, where immigrants can more easily access services (or not).

Cities with a long-standing history as an immigrant destination tend to have better civic infrastructure for immigrants. A robust network develops and grows through “civic visibility” of organizations and in turn, the communities they serve, “civic visibility” referring to whether a group is seen as deserving and legitimate recipients of policy attention and political inclusion (de Graauw, Gleeson, & Bloemraad, 2013; Ramakrishnan & Bloemraad, 2008). Strong civic infrastructure in turn increases civic visibility, creating a feedback loop. Even in the politically progressive region of the Bay Area, differences in levels of civic infrastructure and civic visibility help explain why suburban immigrant organizations receive disproportionately less (or no) local public funding compared to their counterparts in older destination cities; elected officials in suburbs can be either be unaware of immigrant needs or be aware but view those needs as the responsibility of larger nearby cities instead of building their own infrastructure (de Graauw, Gleeson, & Bloemraad, 2013).

We also magnify the role of social movements as a non-electoral political activity that builds civic visibility and infrastructure, especially given that non-citizens cannot vote. Social movements can foster the civic visibility of represented groups via highly visible protests and foster the civic infrastructure of a place via organizers leveraging existing expertise and activist networks. In the specific case of immigrant mobilization, there is evidence that a history of Black mobilization for civil rights can carry long impact for Latino immigrants in that same place. For example, Southern Black civil rights organizers and Latino immigrants have formed interracial alliances to increase political strength and visibility (Brown & Jones, 2015). Social movement history plausibly contributes to favorable outcomes for immigrants in other regions too.

Based on our review of both the broader immigrant organization literature and the specific literature about FQHCs and legal aid for immigrants, we have developed a number of hypotheses about the determinants of health and legal service accessibility for immigrants. We propose these four buckets of potential determinants: population demand, supply of resources, political ideology, and civic infrastructure.

1. **Population demand: We expect better access to health clinics where there the general population is larger, the low-income population is larger, and the low-income foreign-born population is larger.** To test the demand-style

arguments, we posit that the magnitude of the needs of a population might correlate the number of health and legal aid nonprofits in a place. FQHCs are intended to serve *low-income* populations, and legal aid clinics are intended to serve *foreign-born* populations. We compare how well both types of organizations meet the demands of these more general populations with how well they serve *low-income foreign-born* populations who arguably need these organizations the most.

2. **Population demand: We expect better access to legal aid in cities with immigration courts.** Cities with immigration courts also have a higher demand for legal aid due to the high volume of non-citizens who are facing removal. A demand-style argument would predict that more legal aid nonprofits emerge in these cities to serve a greater need.
3. **Supply of financial resources: We expect that immigrants have better spatial access to legal aid in wealthier places, but worse access to FQHCs in wealthier places.** Non-citizen and undocumented immigrants depend heavily on either private funding (for legal clinics) or federal funding (for health clinics). Places with *more* taxable wealth per capita (which I refer to from hereafter as “public wealth”) would theoretically have *more* resources to invest towards legal clinics, which are funded privately. On the other hand, places with *more* taxable wealth per capita would be *less* likely to qualify for federally-funded health clinics based on federal eligibility criteria for being a “medically under-served area.”
4. **Supply of professional resources: We expect better access to health clinics in cities with medical schools. We expect better access to legal clinics in cities with law schools.** Professional schools plausibly draw in a large network of students, recent graduates, and working professionals to provide leadership and human resources to the surrounding community.
5. **Political ideology: We expect that immigrants have worse access to both types of services in cities with more fiscally conservative local governments.** In addition to resource constraints, the ideological bend of a community could constrain the establishment of immigrant-focused aid. In more fiscally conservative areas, we expect people may be less likely to apply for grants from the federal government or ask for donations from private donors.
6. **Political ideology: We expect worse access to both types of services in cities with more socially conservative electorates.** A more socially conservative community would also be less likely to take the initiative to expand the social safety net for immigrants due to more restrictive and punitive views about immigration policy.
7. **Civic infrastructure: We expect better access to health and legal clinics in cities with legacies of political activism.** Places with histories of social movements

could leverage existing knowledge, will, and community organizing to facilitate the establishment of immigrant-serving non-profits.

8. Civic infrastructure: We expect better access to health and legal clinics in cities that are established immigrant gateways compared to new gateways.

We expect that social service access tends to be better in cities with a longer history of receiving immigrants. “New gateway” cities and suburbs may not have caught up to established gateways in terms of nonprofit establishment to accommodate a newer influx of immigrant residents.

Data

Our place-level data encompasses all cities and towns in CA, AZ, NV as recognized by the U.S. Census Bureau, Population Division in 2012. For each city or town, our data includes measures of population demand, fiscal and professional resources, fiscal and social ideology, and civic infrastructure, as well as counts of immigrant-serving health clinics and legal aid clinics.

Population Demand

Following the logic from Joassart-Marcelli (2013), an adjacent study of immigrant-serving nonprofits, we choose to use older Census data to ensure that our independent variables sufficiently predate our dependent variables. All models include relevant population controls from the 2012 American Community Survey: general population, total low-income population, and low-income foreign-born population. We define low-income as under 150% of the federal poverty level.

Supply of Fiscal and Professional Resources

In order to capture actual measures of public wealth, we use fiscal capacity. Fiscal capacity measures public wealth by capturing how well potential tax capacity matches with expenditure needs. Following the methodology presented in Joassart-Marcelli (2005, 2013), I first estimated the total potential tax capacity by multiplying the average regional tax rate by aggregate household income in 2012 in each city. Then, I added the actual property taxes and intergovernmental transfers because municipalities have limited control over these revenues. Finally, to incorporate the element of expenditure needs, I divide the potential tax capacity by the total city population, which generates a per capita measure.

To account for better infrastructure due to a more available workforce, we code a binary variable for whether each city contains an immigration court, a law school, or a medical school.

Table 1: **Characteristics of Continuous Variables**

Variable	N = 592
Democratic Vote Share, 2008	57 (45, 70)
Low Income FB Population	2,826 (859, 8,267)
Uninsured FB Population	1,274 (205, 4,173)
Proportion Sales Tax	0.39 (0.30, 0.51)
Fiscal Capacity	1,763 (1,329, 2,487)

Table 2: **Characteristics of Binary Variables**

Variable	N = 592
NAACP Chapters, 1957-1964	59 (10.0%)
2006 Protests	34 (5.7%)
Established Gateway	318 (55%)
New Gateway	92 (16%)
Immigration Court	11 (1.9%)
Medical School	12 (2.0%)
Law School	15 (2.5%)

Political Ideology

Fiscal Progressiveness of Local Government

For each city or town, we gathered the following raw fiscal variables from the 2012 Census of Governments: general revenue, general expenditure, public health expenditures, public welfare expenditures, sales tax, property tax, total tax, and intergovernmental revenue. The U.S. government Census of Governments collected the most complete, disaggregated budgetary data for all cities and towns every 5 years until 2012. After 2012, the data is no longer easily disaggregated by individual place and fiscal category. Based on these constraints, we use data from the year 2012. However, using this older data is justified because it aligns with the theoretical underpinnings of our hypotheses. There is plausibly a multiple-year lag in municipal budgetary policy and its fiscal influence on the public sphere, especially in the establishment or growth of nonprofit organizations. Joassart-Marcelli (2013) takes a similar approach in using fiscal data that predates non-profit data in an adjacent study about the locations of immigrant-serving nonprofits in Boston.⁴

Using the Census of Government data, we calculated the proportion of total taxes derived from sales tax in each municipality. The higher the proportion of total tax that comes from sales tax, as opposed to property or income tax, the more fiscally conservative the local tax

⁴Jossart Marcelli (2013) used Census data from six years before the collection of her nonprofit data; our Census data predates the collection of our nonprofit data by about eight years.

structure is. Larger proportions of general revenue from sales tax means that more of the tax burden falls on poor residents (Tausanovitch & Warshaw, 2014). I also calculate a general expenditure per capita variable (Trounstine, 2016) and an anti-poverty expenditure per capita variable (Joassart-Marcelli, 2013; Joassart-Marcelli, Musso, & Wolch, 2005). These two measures similarly capture the fiscal ideology of the local government in its willingness to spend. There is evidence that variation in the spending and tax policies of local governments correlates with Democratic vote share (Einstein & Kogan, 2016). Thus, measures of actual expenditures and revenues do not capture actual public or private wealth, but rather, fiscal ideology as it shows up in the local government's budgetary policy.

Social Progressiveness of Residents

Electoral presidential vote share is a widely accepted measure of political ideology even at the state and local level, in part due to the increasing nationalization of politics (Hopkins, 2017). (Einstein & Kogan, 2016) aggregated 2008 precinct-level presidential vote share data for nearly every city and town in 38 states. From this publicly available dataset, we use city-level vote share to proxy for the social progressiveness of the electorate in almost every city in California, Arizona and Nevada.

Civic Infrastructure

Gateway Cities

We posit that municipalities with more established histories as immigrant gateways also have better non-profit infrastructure compared to newer destinations. To distinguish established gateways from newer gateways, we use U.S. Census Data, drawing heavily from methods in (Crowley & Lichter, 2010; Parker, 2021). Established immigrant gateways are places with populations that were at least 10% foreign-born in 1990 and experienced sustained growth between 1990-2000 or 2000-2010. Newer immigrant destinations did not have at least 10% foreign-born in 1990, but experienced at least 150% foreign-born growth between 1990-2000 or 2000-2010.⁵

Social Movement History

Civic infrastructure can also be built through non-electoral activism and advocacy. We draw from two other sources: the Wilson Center's 2006 Immigration Marches Database and the University of Washington's Mapping American Social Movements project. To proxy for legacies of immigration activism, we collect the names of cities in CA, AZ, and NV where immigration protests took place in 2006. This information is publicly available through the

⁵Following the precedent set by Monnat (2017), we also take into account each place's population size. For places with populations over 20,000, we include an additional condition that the total foreign-born population growth must exceed 1,000 persons between any decade. For cities with populations lower than 20,000, we instead include the condition that the percent foreign-born is greater than the national average (11% in 2000 and 13% in 2010).

Wilson Center's 2006 Immigration Marches Database,⁶ which contains records of 268 distinct marches in 2006, based primarily on newspaper reports. To proxy for legacies of civil rights activism, we also collected the names of cities with NAACP chapters in 1957-1964. This information is also publicly available on the University of Washington's Mapping American Social Movements website⁷.

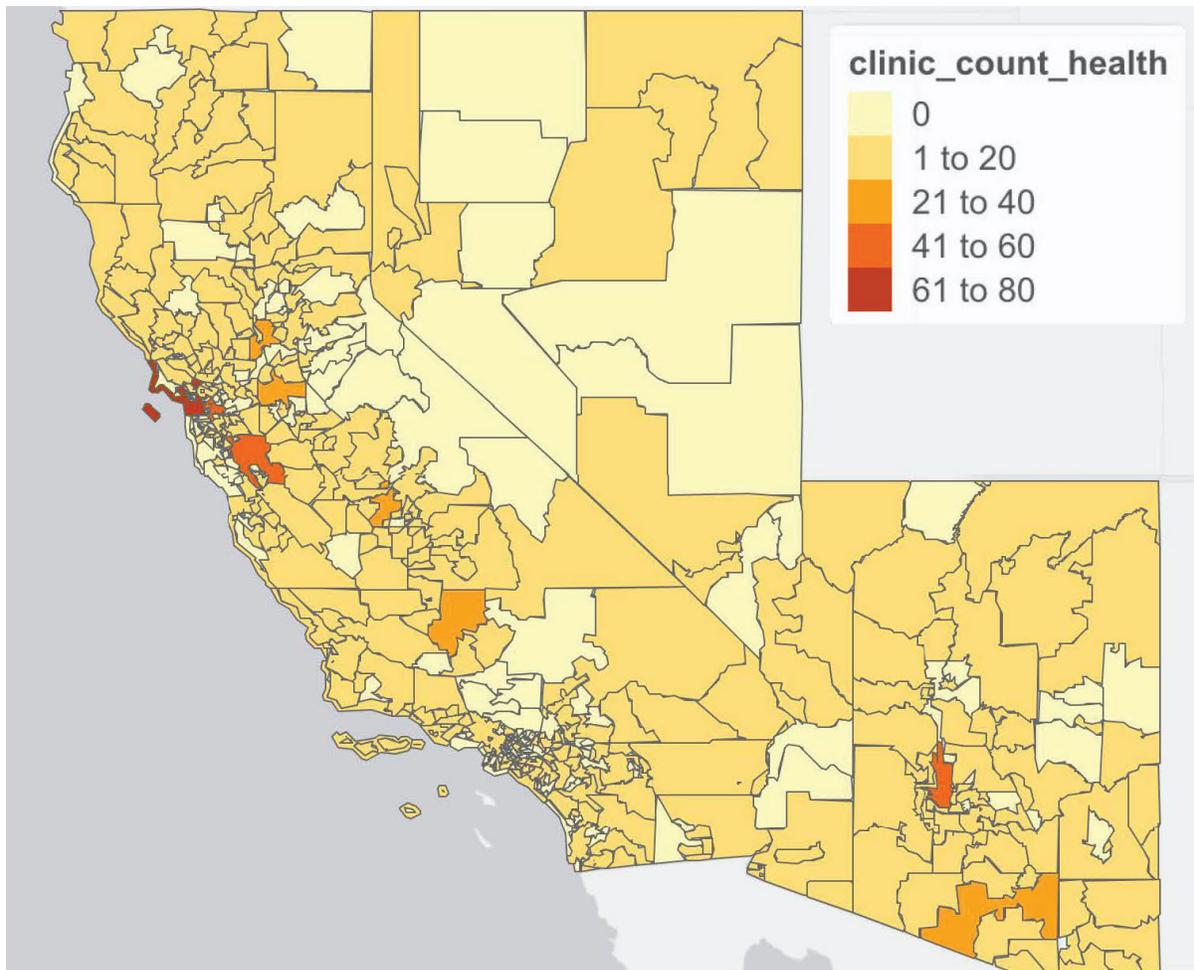


Figure 1: Number of Immigrant-Serving Health Clinics Per Metropolitan Area

Number of Health and Legal Aid Clinics

Our dependent variables are the counts of health clinics and counts of relevant legal aid nonprofits in each city or town. The raw clinics measure is drawn from a comprehensive and original data set of all federally qualified health clinics and immigrant-serving legal aid nonprofits in California, Nevada, and Arizona. In compiling this data set, our research team

⁶<https://www.wilsoncenter.org/publication/2006-immigration-marches-database>

⁷https://depts.washington.edu/moves/NAACP_database.shtml

gathered the names, addresses, websites, and contact information of a) all federally qualified health clinics from the U.S. Health Resources and Services Administration (HRSA) and b) all immigrant-serving legal aid nonprofits from the U.S. Executive Office for Immigration Review (EOIR), Catholic Legal Immigration Network, Inc. (CLINIC), and Immigration Advocates Network (IAN). Over the course of 2019-2021, undergraduate research assistants hand-checked whether each of these health and legal aid clinics were operational and, if so, coded additional “capacity” variables, such as specific services provided, financial access support, and language access support. In total, we have a database of over 1200 immigrant-serving health clinics and over 300 immigrant-serving legal clinics with unique geographic addresses across CA, NV, and AZ. Figures 1 and 2 show the variation in clinic count per metropolitan area.

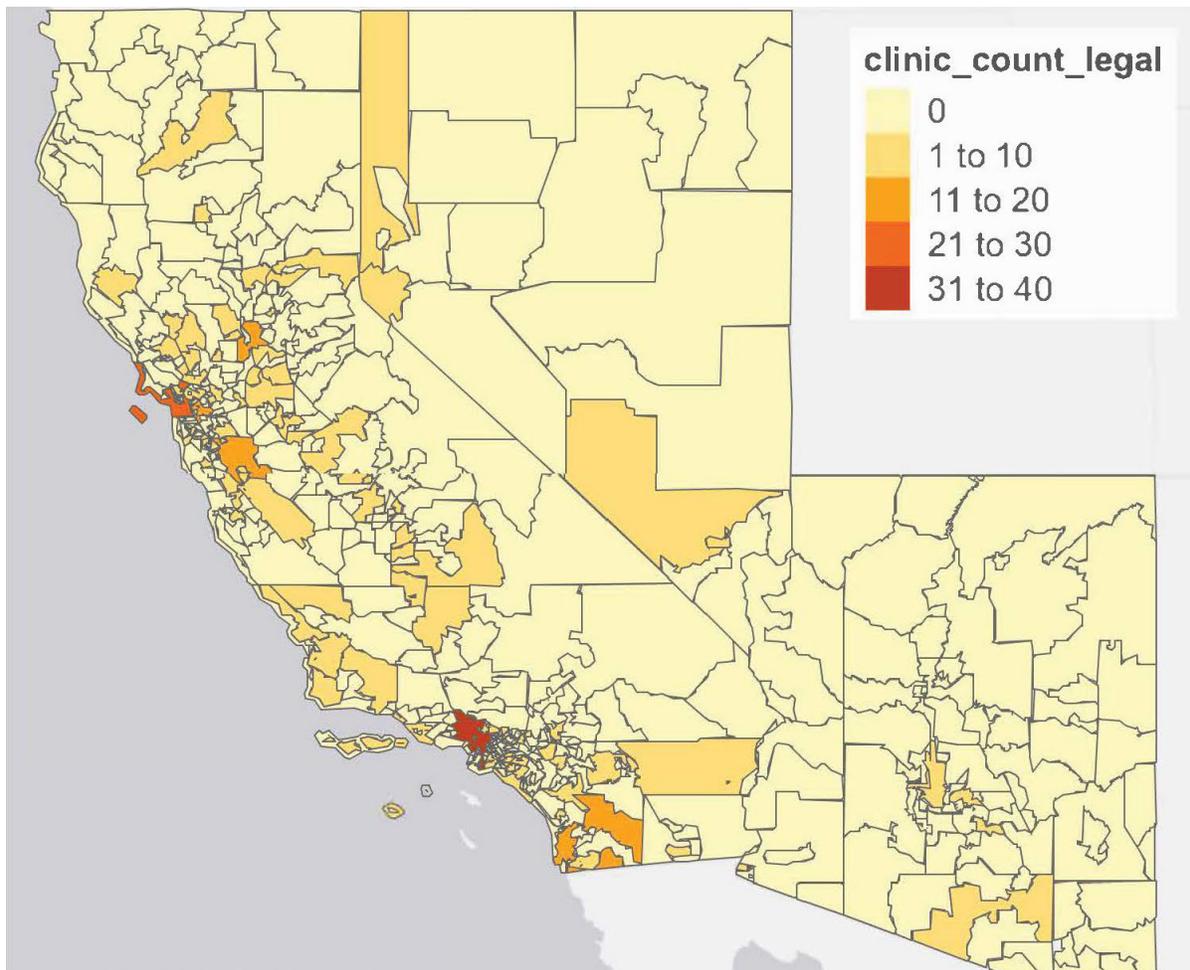


Figure 2: Number of Immigrant-Serving Legal Clinics Per Metropolitan Area

Methods

We build upon existing descriptive and optimization analyses to inform our own modeling, which substantively and methodologically differs from any previous work that we are aware of. Existing studies of the determinants of access to FQHCs, legal clinics, and other immigrant-serving organizations have relied largely on aspatial models. For example, methods include aspatial regression analysis of clinic count or clinic presence against independent variables (Albiston, Li, & Beth Nielsen, 2017; Joassart-Marcelli, 2013; Yasenov et al., 2020) or demographic statistics of areas that contain at least one clinic compared to those that do not (Chang, P.W. Bynum, & Lurie, 2018). Studies that do use spatial models to answer questions about non-profit access tend to focus on either descriptive work about where service gaps are located (Parker, 2021; Roubenoff, Sloom, & Bloemraad, 2023; Yasenov et al., 2020) or predictive work about where new clinics can be placed to optimize closing the service gap (Yasenov et al., 2020).⁸ All of these studies provide a strong foundation for us to pursue our inquiry.

By using spatially auto-regressive (SAR) modeling techniques, we can predict the determinants of service access in a city while also taking into account the clinic counts in neighboring cities. It is fair to assume that a) people will go to neighboring cities or towns for services and b) people are more likely to go to closer neighboring cities or towns than farther ones. The SAR model also corrects for the fact that our dependent variable, clinic count, is spatially auto-correlated and our error term cannot be assumed to be identically and independently distributed (iid), a key assumption of linear models. Spatial autocorrelation means that cities and towns in certain areas might have more or fewer clinics solely due to their geographic proximity to nearby municipalities' clinics. Spatial econometric-type auto-regressive models are designed to combat these so-called 'spillover effects' observed with linear models in a geographic context (Anselin, 1988, 2003).

Spatial models require that all geographies directly border at least one other geography. However, since our data set excludes unincorporated areas, or areas that are not governed by a local municipal government, many of our municipalities look like "islands" on a map, in that they do not directly geographically border other municipalities. In order to address this issue, we look at all census tracts in AZ, CA, and NV, and determine which municipality is closest to each "unincorporated" census tract. These unincorporated census tracts are then assigned a "municipality" to belong to, and are considered "part" of that municipality. Here, we make the assumption that people living in unincorporated areas are willing and able to travel to neighboring cities or towns because they likely must do so for other purposes, such as for groceries, home goods, or other services. However, because our unit of analysis is at the "city-level," our model cannot account for variation between different neighborhoods in

⁸Specifically, Parker (2021) produces summary statistics of the proportion of Hispanic populations that live within a distance threshold to any clinic and Yasenov et al (2020) runs a spatial optimization algorithm to determine where future legal clinics could be optimally placed based on where immigrants are least proximate to any existing legal clinic. Yasenov et al (2020) also runs a separate spatial optimization algorithm to determine the optimal number of clinics in each city.

large sprawling cities, such as Los Angeles; this is an important limitation to note because Koschinsky, Marwell, and Mansour (2021) finds high variation of non-profit service access within neighborhoods in Chicago. We hope our analysis provides a foundation for future studies to look at access at a more granular level within cities.

I ran separate spatial models to analyze determinants of health clinics and legal clinics. The outcome variable is the number of health clinics or number of legal clinics, respectively. I control both for general population sizes and the population sizes of the intended beneficiaries of each clinic type. In all models, I also include state-fixed effects, since every state has a unique policy landscape.

$$Y_{health} = \rho W_y + \beta_0 + \beta_1 x_1 \dots + \beta_n x_n + \epsilon$$

$$Y_{legal} = \rho W_y + \beta_0 + \beta_1 x_1 \dots + \beta_n x_n + \epsilon$$

In the equations above, Y_{health} refers to the number of health clinics in a city. Y_{legal} refers to the number of legal clinics in a city. x_n refers to each independent variable and control included in each model⁹. β_n denotes the coefficient for each independent variable. β_0 denotes the intercept coefficient, and ϵ denotes the error terms. W_y refers to the spatially lagged weighted matrix and ρ is its coefficient.

Results

Determinants of Access to Health Services

First, we present and discuss the results of the spatial regression models examining access to federally-qualified health clinics. The order of the models in Table 3 is as follows. First we test traditional theories of population demand in Model 1. Then we test traditional theories of resource supply in Models 2 and 3. Last, we test political and civic infrastructure hypotheses in Models 4-6, examining whether our new theories add to existing understandings of non-profit geography. Model 7 includes all independent variables to serve as a robustness check.

Population demand appears to be somewhat predictive of health clinic locations, but the needs of low-income immigrants remain under-served and perhaps less visible than the needs of the general population (see Model 1). Because FQHCs serve a variety of medically under-served communities, we estimate the general target population of FQHCs to be the

⁹Some of the independent variables that I initially prepared to use were highly correlated (greater than 0.6), so out of these I only include one variable out of each group of similar variables. For the hypothesis about wealth, I use the “fiscal capacity” variable but leave out “median household income” and “percent renters.” I made this decisions based on the findings of Joassart-Marcelli (2013) in the importance of fiscal capacity as determinants of access to immigrant-serving nonprofits in Boston. For the hypothesis about the fiscal ideology of local governments, I use the “proportion sales tax” variable” but leave out “revenue per capita,” “expenditure per capita,” and “anti-poverty expenditure.” I made this decision based on the findings of Tausanovitch and Warshaw (2014) in the ability of sales tax burden to predict a local government’s fiscal ideology.

low-income population. We define low-income population as the total number of people under 150% of the federal poverty level. Further, we use the general target population as a comparison point to test whether FQHC location is as sensitive to the immigrant target population, which we estimate by the size of the low-income immigrant population. We define low-income immigrant population as the number of foreign-born people under 150% of the federal poverty level.¹⁰ At first glance, FQHCs appear relatively effective in serving medically under-served populations. There are 0.35 more clinics in a city per 10,000 low-income individuals and 0.37 more clinics per 100,000 total individuals. Upon a closer look, not all medically-undeserved populations are served equally; specifically, there appears to be a penalty when foreign-born status is introduced. Holding general population and general target populations constant, there are 0.70 fewer clinics in a city for every increase of 10,000 low-income immigrants. The demand sensitivity for immigrant communities is actually negative compared to demand sensitivity for both the total general population and the general low-income population. Thus, characteristics of place beyond pure population demand are disproportionately constraining health care accessibility for immigrants.

Measures of resource supply correlate with spatial access to FQHCs in ways that traditional supply-side theories would predict. Cities with higher public wealth (i.e. higher fiscal capacity) tend to offer significantly fewer health clinics (see Model 2). FQHC applicants must meet certain demographic metrics such as the surrounding area's poverty rate and "provider to population" ratios. Areas with majority-wealthy residents likely fail to meet these metrics. The health care needs of low-income residents in wealthier areas would be less visible, and these low-income residents would have to travel farther to seek affordable health care. On the flip side, we find that cities with medical schools offer significantly better access to health clinics, aligning with a supply-side argument. Medical schools draw in large populations of students and health professionals, who provide a steady source of leadership skills and human resources.

After examining demand and supply dynamics, we finally introduce the role of civic infrastructure and politics in the remaining models. If we were to limit our focus to traditional measures of political ideology and electoral politics, our results would suggest that politics don't matter; Democratic vote share, a proxy for social progressiveness, is very weakly correlated with better access. The proportion of revenue that a local government gets from sales tax, a proxy for fiscal conservatism, similarly appears to be insignificant (Model 4).

However, when we expand our analysis beyond traditional measures of political context, we find evidence that politics matters a lot. Social movement history strongly predicts health service access: holding population constant, cities with a historical NAACP chapter have 3.77 to 4.09 more health clinics and cities that held a 2006 immigration rights protest have 6.37 to 8.86 more health clinics (Model 5).

This finding is an exciting new contribution to the literature, providing empirical evidence that a history of non-electoral political advocacy correlates with a stronger non-profit safety net today. Measures of social movement history captures political characteristics of place

¹⁰Results held when I looked at uninsured populations instead of low-income populations.

in a way that traditional measures of political ideology can not. A legacy of civil rights advocacy plausibly offers a rich foundation for contemporary grassroots organizing, which in turn builds civic infrastructure and visibility for under-served communities. Immigrants in these places benefit from community members' deeper knowledge, capacity, and will to navigate the funding process. In comparable areas lacking a legacy of advocacy, community members might choose not to or simply lack the knowledge to apply for FQHC funding in the first place.

Finally, we examine the role of our "civic infrastructure" variables: "established gateway" status and "new gateway" status. We find that low-income immigrants living in new gateways do not appear to have significantly worse access to FQHCs than those living in established gateways (Model 6), contrary to our prediction. Perhaps, since FQHCs do not exclusively serve immigrants, their establishment are reasonably less sensitive to whether a place is an immigrant destination.

Determinants of Access to Legal Aid

Pivoting to the legal aid landscape, we take a parallel approach to the health clinic analysis: we test demand-side hypotheses first, we test supply-side hypotheses second, and we test civic and political context hypotheses last. Overall, our findings support traditional supply and demand theories, in that population demand and resource supply explain some of the variation in where immigrant-serving legal aid organizations are located. We also make a new empirical contribution that civic and political contexts matter as well - namely, social movement history and migration history.

Immigrant-serving legal aid organizations differ health services in a few crucial ways. The target population of these legal aid organizations is exclusively limited to immigrants, which affects how we measure population demand. Legal aid organizations are also privately funded, which affects how we interpret resource supply. We quantify the general target population as all immigrants, defined as the number of foreign-born individuals. We quantify the most marginalized target population as low-income immigrants, defined as the number of foreign-born individuals under 150% of the federal poverty level.

We find that the needs of low-income immigrants are relatively under-served by legal aid organizations compared to wealthier immigrants. All immigrants tend to benefit from better-than-average access if their general population is larger. However, holding general population size constant, cities contain about 0.4 fewer legal aid organizations for every additional 10,000 low-income immigrants who reside there. We similarly find that access is sensitive to another obvious demand indicator, the presence of an immigration court. Holding population constant, there are about 2.95 more legal aid organizations in cities with immigration courts. Overall, the demand-side analysis suggests that legal aid organizations are being established in cities where more immigrants live, but they are still not optimally placed to serve low-income immigrants, who need these services the most.

Turning to the resource supply side, we find that human resource supply predicts better service access, but the fiscal resource supply in a community has no correlation. To quantify

Table 3: Health Clinics

	Outcome: Health Clinic Count						
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7
Low-Income FB Pop (1k)	-0.70*** (0.06)	-0.70*** (0.06)	-0.65*** (0.06)	-0.71*** (0.06)	-0.45*** (0.06)	-0.71*** (0.06)	-0.43*** (0.06)
Low-Income Total Pop (1k)	0.35*** (0.04)	0.33*** (0.04)	0.32*** (0.04)	0.35*** (0.04)	0.20*** (0.04)	0.36*** (0.04)	0.16*** (0.04)
log(Fiscal Capacity)		-1.54*** (0.37)					-1.30*** (0.35)
Medical School			5.44*** (1.54)				5.11*** (1.51)
Dem Voteshare				0.04** (0.01)			0.01 (0.01)
Proportion Sales Tax				1.27 (1.46)			-0.74 (1.35)
Historical NAACP Chapter					4.09*** (0.68)		3.77*** (0.69)
2006 Protest					6.87*** (0.90)		6.37*** (0.92)
Established Gateway						0.54 (0.49)	-0.10 (0.46)
New Gateway						-0.49 (0.63)	-0.40 (0.58)
Total Pop (10k)	0.37*** (0.05)	0.44*** (0.06)	0.35*** (0.05)	0.38*** (0.05)	0.32*** (0.05)	0.38*** (0.06)	0.38*** (0.05)
California	0.65 (0.54)	1.00 (0.53)	0.63 (0.53)	0.57 (0.93)	-0.17 (0.49)	0.31 (0.60)	-0.34 (0.86)
Nevada	-0.59 (1.16)	-0.43 (1.14)	-0.71 (1.15)	-0.03 (1.48)	-0.93 (1.04)	-0.73 (1.20)	-1.43 (1.38)
Num. obs.	584	584	584	561	584	564	543
Parameters	8	9	9	10	10	10	16
Log Likelihood	-1715.11	-1706.54	-1708.94	-1652.65	-1651.36	-1662.35	-1540.59
AIC (Linear model)	3448.00	3435.60	3437.92	3325.01	3322.62	3346.01	3114.53
AIC (Spatial model)	3446.22	3431.09	3435.89	3325.30	3322.72	3344.71	3113.18
LR test: statistic	3.78	6.51	4.03	1.71	1.90	3.30	3.35
LR test: p-value	0.05	0.01	0.04	0.19	0.17	0.07	0.07

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

human resource supply, we look at cities that contain a law school compared to cities without. Law schools plausibly supply a steady source of legal professionals and leadership skills to the surrounding community. We find that cities with a law school tend to have 1.59 more legal aid organizations than cities without. Since immigrant-serving legal aid organizations are privately funded, a supply side argument would predict that wealthier places can offer more funding. However, cities with higher fiscal capacity do not meaningfully differ from cities with lower fiscal capacity. The private funding structure of legal aid clinics might be more nuanced than what we can test in this study. For example, donors who live in wealthier areas may systematically direct donations to less wealthy places.

Demand and supply appear to explain some of the variation in whether a place offers affordable legal aid to immigrants, but do politics play a role too? Similar to the health clinic context, social movement history predict legal service accessibility in a way that traditional political measures do not. With relevant populations held constant, cities with a historical NAACP chapter offer about 0.88 more legal aid organizations and cities with a 2006 immigration protest offer about 1.43 more legal aid organizations. Social ideology, proxied by Democratic vote share, and fiscal ideology, proxied by proportion sales tax, do not meaningfully predict legal aid access.

The legal aid landscape differs from the health services landscape when we examine gateway cities. Civic infrastructure appears to be worse in “newer gateways.” Residents of “new gateways” have access to about 0.55 fewer legal aid organizations compared to residents of other cities. This finding bolsters existing studies which find that immigrants in suburbs and smaller cities tend to lack civic visibility, at least while the nonprofit infrastructure catches up to changing geographies of migration and poverty. In addition, since there are no public metrics to determine levels of need for legal aid in the same way that the FQHC system has eligibility criteria for identifying underserved medical areas, it may be more difficult for private entities to identify and fulfill changing needs for legal services in “new gateway” cities.

Conclusion

The landscape of immigrant-serving health clinics and legal aid organizations shows that inequitable access persists according to some demographic and political patterns. The intersectionality of class and immigration status is an important predictor of access to both types of services. We find consistently worse service access for the cross-cutting identity of low-income foreign-born people compared to the general population, the general low-income population, and the general foreign-born population. However, our findings more optimistically frame the politics of place; cities with a history of political activism offer significantly more robust non-profit networks than other cities. Communities with histories of civil rights activism and protests can plausibly offer better material outcomes for immigrants because these community members know how to navigate administrative and funding obstacles to aid provision. While we cannot make any sort of causal claim with surety, our finding offers compelling insight into the civic and political conditions that may foster the necessary con-

Table 4: Legal Clinics

	Outcome: Legal Clinic Count							
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7	Model 8
Low-Income FB Pop (10k)	-0.40*** (0.07)	-0.37*** (0.07)	-0.42*** (0.07)	-0.35*** (0.07)	-0.41*** (0.07)	-0.38*** (0.06)	-0.43*** (0.07)	-0.37*** (0.07)
Total FB Pop (10k)	0.19*** (0.04)	0.24*** (0.03)	0.19*** (0.04)	0.20*** (0.03)	0.17*** (0.04)	0.25*** (0.03)	0.16*** (0.04)	0.27*** (0.03)
Immigration Court		2.95*** (0.42)						2.28*** (0.43)
log(Fiscal Capacity)			-0.12 (0.09)					0.03 (0.09)
Law School				1.59*** (0.36)				0.55 (0.37)
Dem Voteshare					0.01*** (0.00)			0.00 (0.00)
Proportion Sales Tax					0.42 (0.37)			0.09 (0.34)
NAACP Chapter						0.88*** (0.18)		0.79*** (0.17)
2006 Protest						1.43*** (0.23)		1.25*** (0.23)
Established Gateway							-0.12 (0.12)	-0.23* (0.12)
New Gateway							-0.55*** (0.16)	-0.43** (0.15)
Total Pop (100k)	1.21*** (0.14)	0.87*** (0.14)	1.25*** (0.14)	0.99*** (0.14)	1.29*** (0.14)	0.80*** (0.13)	1.36*** (0.14)	0.65*** (0.15)
California	0.16 (0.14)	0.22 (0.13)	0.18 (0.14)	0.14 (0.14)	0.29 (0.23)	-0.00 (0.13)	0.13 (0.15)	0.20 (0.22)
Nevada	0.08 (0.29)	0.10 (0.28)	0.09 (0.29)	0.06 (0.29)	0.36 (0.37)	0.04 (0.27)	0.06 (0.30)	0.18 (0.35)
Num. obs.	584	584	584	584	561	584	564	543
Parameters	8	9	9	9	10	10	10	17
Log Likelihood	-916.46	-892.95	-915.64	-906.59	-879.56	-870.51	-886.57	-797.62
AIC (Linear model)	1848.19	1803.03	1848.09	1830.58	1780.59	1760.84	1793.07	1629.60
AIC (Spatial model)	1848.91	1803.91	1849.29	1831.19	1779.12	1761.02	1793.14	1629.24
LR test: statistic	1.28	1.12	0.80	1.39	3.47	1.82	1.93	2.36
LR test: p-value	0.26	0.29	0.37	0.24	0.06	0.18	0.16	0.12

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

ditions for more favorable social safety net outcomes. Our findings are in line with theories of civic infrastructure, which emphasize the importance of civic visibility in achieving better material outcomes for underserved communities.

Within the migration literature, our study is the first of our knowledge to thoroughly examine the demographic, political and geographic contexts that affect the specific landscape of immigrant-serving organizations. We contribute to the non-profit literature by building upon traditional supply and demand theories that assume a relatively apolitical system for non-profit establishment and funding. Our results challenge that assumption by showing that service access is sensitive to the politics of place and identity.

Funding structure might be a key mechanism through which demographic and political characteristics of place might exacerbate inequity. Health clinics receive federal funding by meeting a set of federally-mandated demographic eligibility criteria that “prove” their community is medically under-served. Marginalized immigrants could be systematically under-counted by these metrics. Future studies could more directly quantify how demographically equitable these federal metrics are compared to the actual landscape of poverty today. It would be useful to examine which groups in which places are most likely to have their needs made invisible. Such analysis would help identify more optimal FQHC eligibility criteria. In addition, the FQHC funding structure necessitates that communities have institutional knowledge and capacity to navigate administrative burdens, which our findings suggest is not always possible in places without a legacy of community organizing and activism.

Based on our study, it is still unclear what the economy of immigrant-serving legal aid looks like across different geographies. Unlike FQHCs, immigrant-serving legal aid organizations depend entirely on private funding. Our analysis showed that wealthier or fiscally conservative places do not have systematically better or worse legal aid than poorer or fiscally liberal places. Further study is needed to understand how private donations circulate to immigrant-serving legal aid organizations, and whether those funds circulate in an equitable way.

We highlight a few limitations to our approach that we hope future studies can address. First, our analysis cannot speak to the actual “take-up” of services by immigrants, only the potential highest level of service provision. Even in places with spatially accessible services, those organizations could still fail to reach their intended beneficiaries due to any number of other access barriers. Second, since our geographic unit of analysis is at the city-level, we lose potential variation between neighborhoods within a city. We regret that we can’t conduct the analysis at a smaller geographic level because many of our independent variables do not exist at a more granular level. We also recognize that our assumption that all non-profit organizations offer the same service capacity is a glaring over-simplification, but we again make this assumption due to data limitations. We hope our study provides the groundwork for future studies to examine human service take-up by immigrants and/or to take a more granular approach towards service capacity and geography.

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Appendix

Additional Notes on Coding in Chapter 1

Missing IJ Biographies

There were some IJs who decided cases from 2003-2020, but whose biographies were not provided by EOIR. TRAC's Judge-Lookup tool indicates they were all hired before 2003. I hand-coded their biographical information as provided by TRAC to increase the completeness of my data. After this process, I couldn't find information about 8 judges who decided cases after 2003. However, I believe that these 8 missing judges are not consequential to my analysis because they had not decided at least 100 cases between 2006-2020, or else their information would be provided by TRAC. They likely had very short tenures before quitting, or their careers were nearing their tail ends in the early 2000s.

Differentiating Asylum Cases and Non-Asylum Cases

All cases with a relevant "case decision" or an entry for "case type" were included. For "case type", I followed Ramji-Nogales et al (2007)'s coding of "E" as defensive and "I" as affirmative. According to the EOIR casebook, "E" refers to a filing through EOIR and "I" refers to a filing through DHS. I included any case with a "case decision" of "Withholding" or "Withholding against Convention Against Torture Protection," which are asylum relief outcomes.

Differentiating Affirmative and Defensive Asylum Cases

We know an applicant is affirmative if they file an asylum application in a U.S. Citizenship and Immigration Services (USCIS) asylum office, under the Department of Homeland Security (DHS). If the USCIS asylum office denies this initial application, then USCIS refers the applicant to the immigration court system, at which point the applicant is now under the jurisdiction of the EOIR. We know an applicant is defensive if they apply directly EOIR, under the DOJ.

Coding Case Outcomes

I coded these self-explanatory outcomes as "deportation": "Deny", "Deport", "Exclude", "Remove." I coded these outcomes as "relief from deportation": "Conditional Grant," "Grant-Withholding of Removal", "Grant-CAT", "Case Terminated by IJ" because they involved either withholding of removal, asylum relief, or the dismissal of removal charges.

Based on the precedent set by both the Transactional Records Access Clearinghouse and Hausman et al (2022), I coded "voluntary departure" as "deportation" instead of omitting those cases altogether. Voluntary departure is functionally the same as being removed from the country. An asylum seeker receives a voluntary departure order when they are required

to leave the country but can avoid the legal consequences of deportation, which include a bar to re-entry that lasts from five years to a lifetime.

I coded “termination” or “administratively closure via prosecutorial discretion” as “relief from deportation.” Administrative closure and termination occur when an IJ suspends or dismisses the removal charges, meaning the individual functionally remains in the U.S.

Additional Figures Cited in Chapter 1

Figure A.1: Distribution of Asylum Decisions by Court, 2003-2020

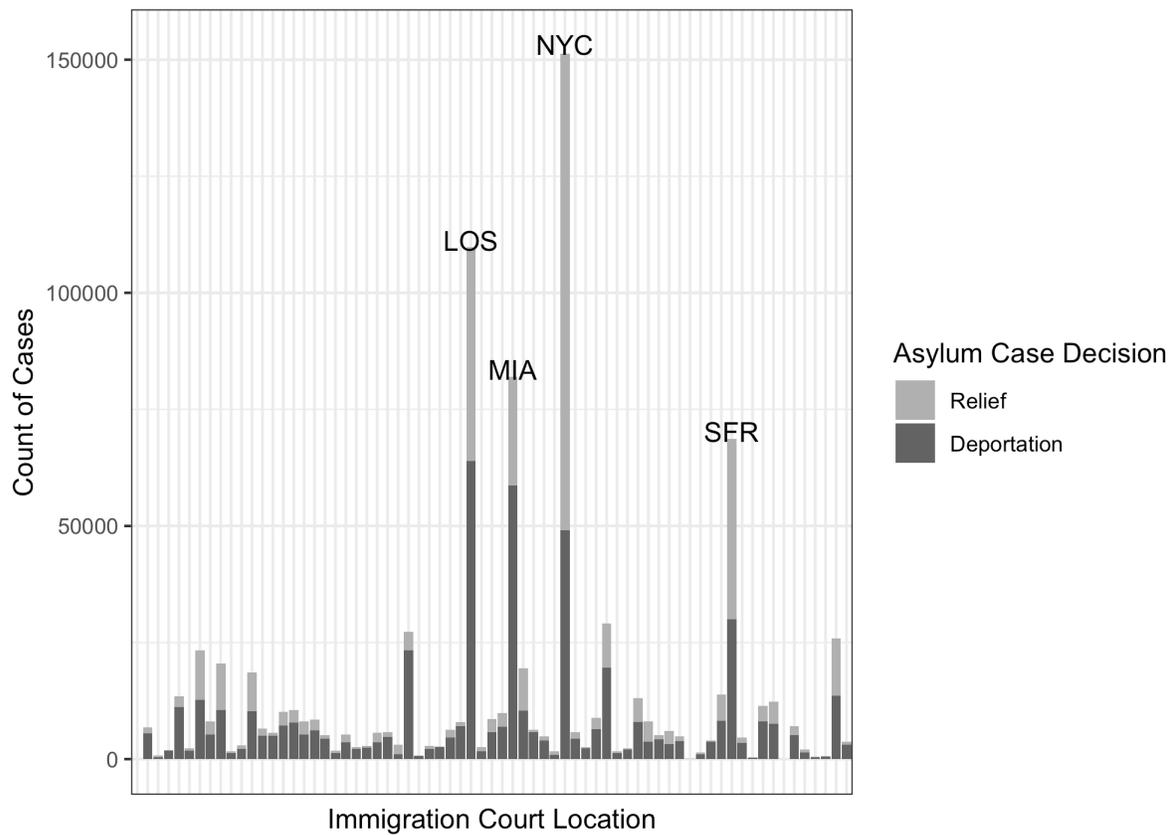
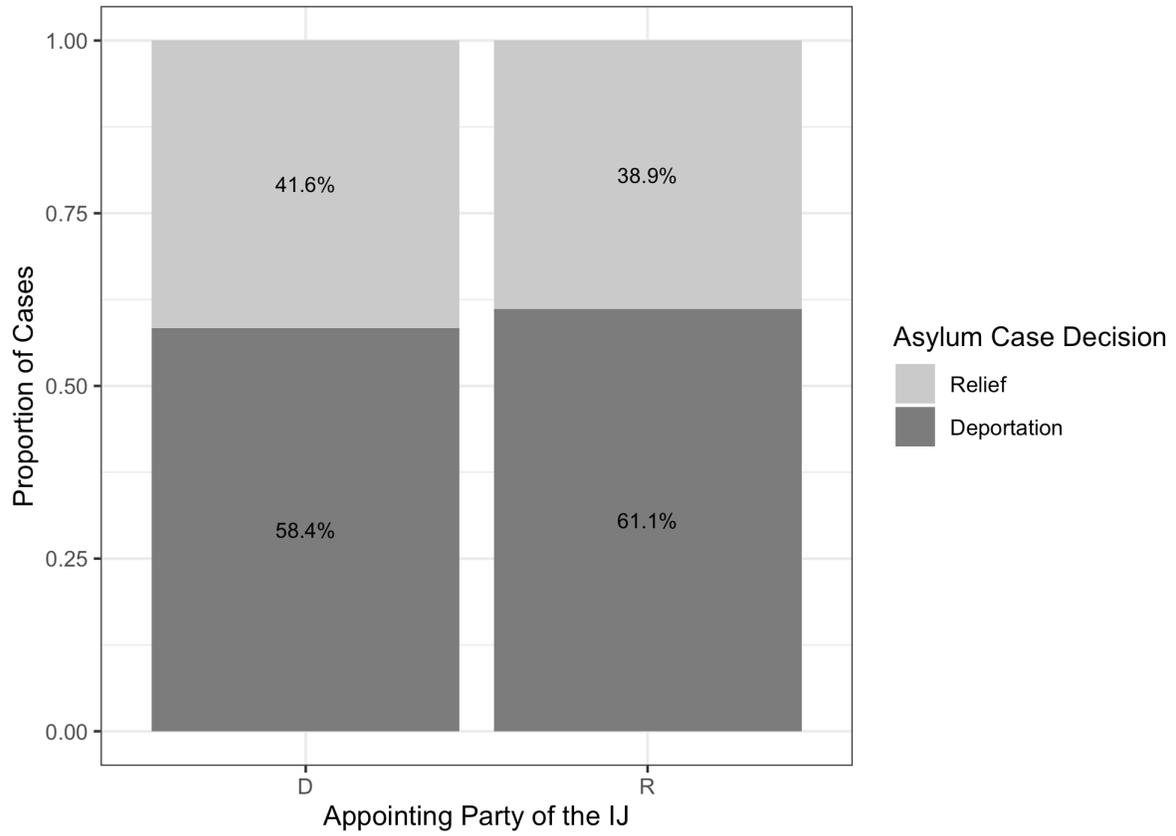
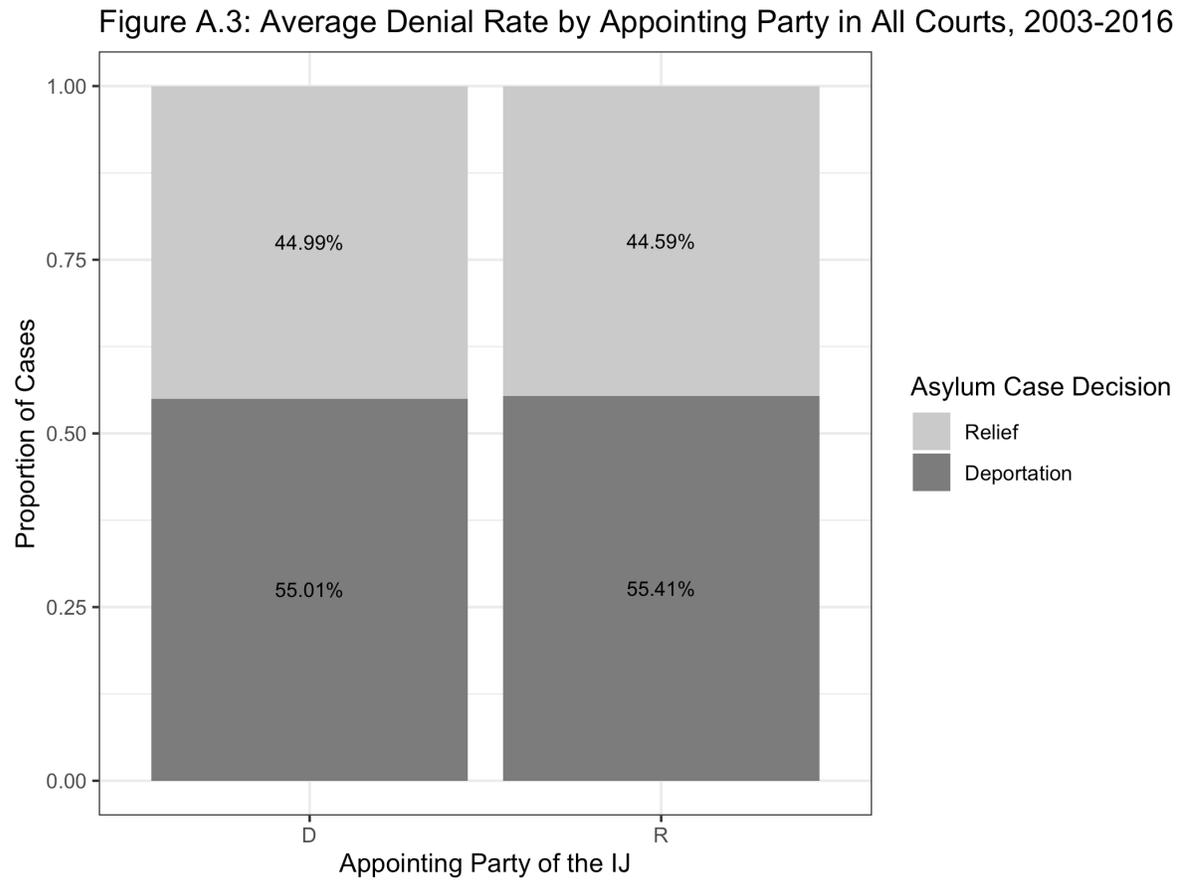
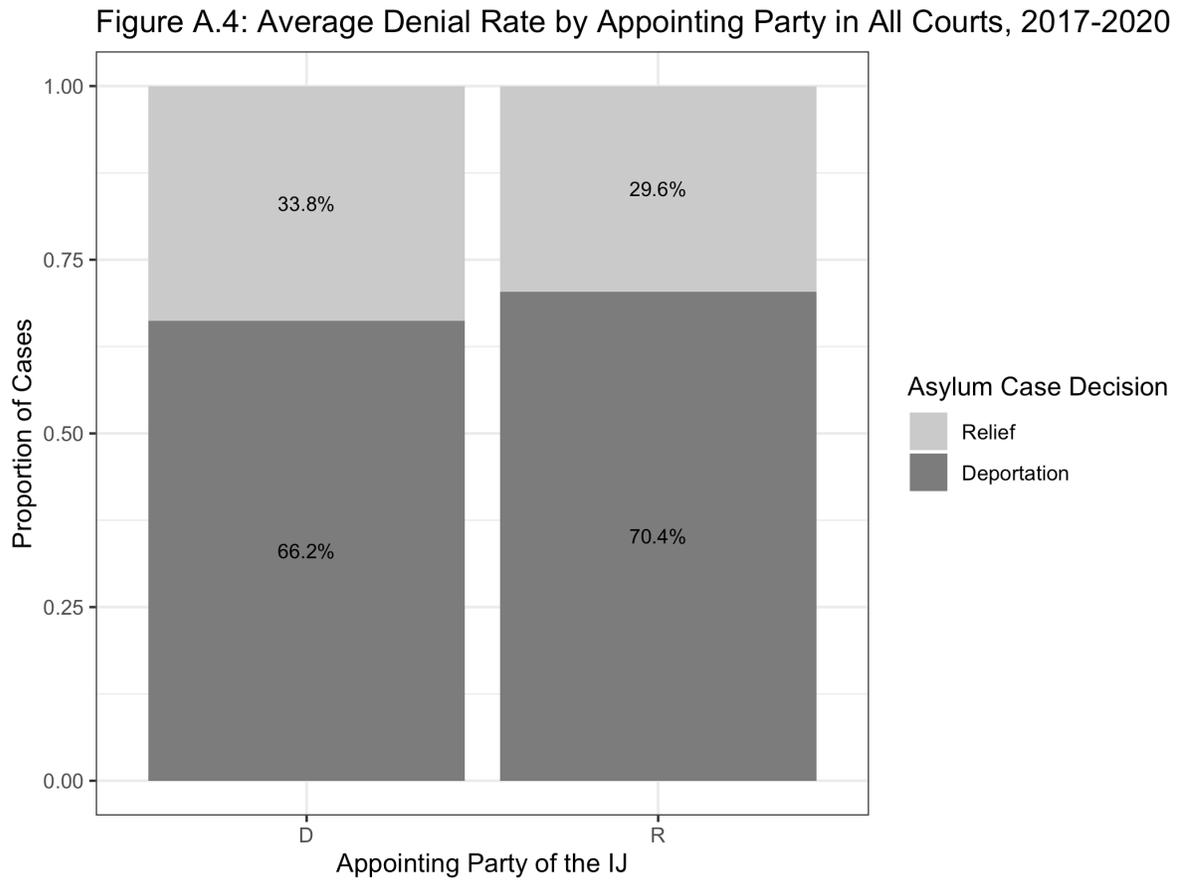


Figure A.2: Average Denial Rate by Appointing Party in All Courts, 2003-20







Descriptive Analysis of Pre-Trump and Post-Trump Decision Patterns in Chapter 1

I divided the raw data into two different eras: pre-Trump years (2003-2016) and post-Trump (2017-2020) years. I look at the aggregate rates of asylum denial within the four busiest courts, LOS, MIA, NYC, and SFR. I define “busiest” as the courts that decided the most asylum cases between 2003-2020 (see Figure A.1). Since cases are randomly assigned to IJs, any systematic pattern of differences between Republican and Democrat-appointees suggests a causal effect of appointing party on IJ behavior.

In pre-Trump years, 2003-2016, there were only small and mixed differences in the raw data between the behavior of Republican and Democrat-appointees within the same court. While Republican-appointees denied 8% more cases in SFR and 2% more cases in LOS, they actually denied 7% less cases in NYC and a similar proportion of cases in Miami. There does not appear to be a pattern of consistent partisan differences before 2017.

For cases decided in Trump presidential years, 2017-2020, we see a new behavioral pattern, with Republican-appointees now consistently denying asylum at a higher rate than their Democrat-appointed counterparts. While IJ behavior in Miami did not change, Republican-appointees in SFR, NYC and LOS denied 12% more cases. The raw data suggests that partisan polarization of IJ behavior is both new and pronounced.

Figure A.5: Appointing Party and Asylum Denial in Busiest Courts, 2003-2016

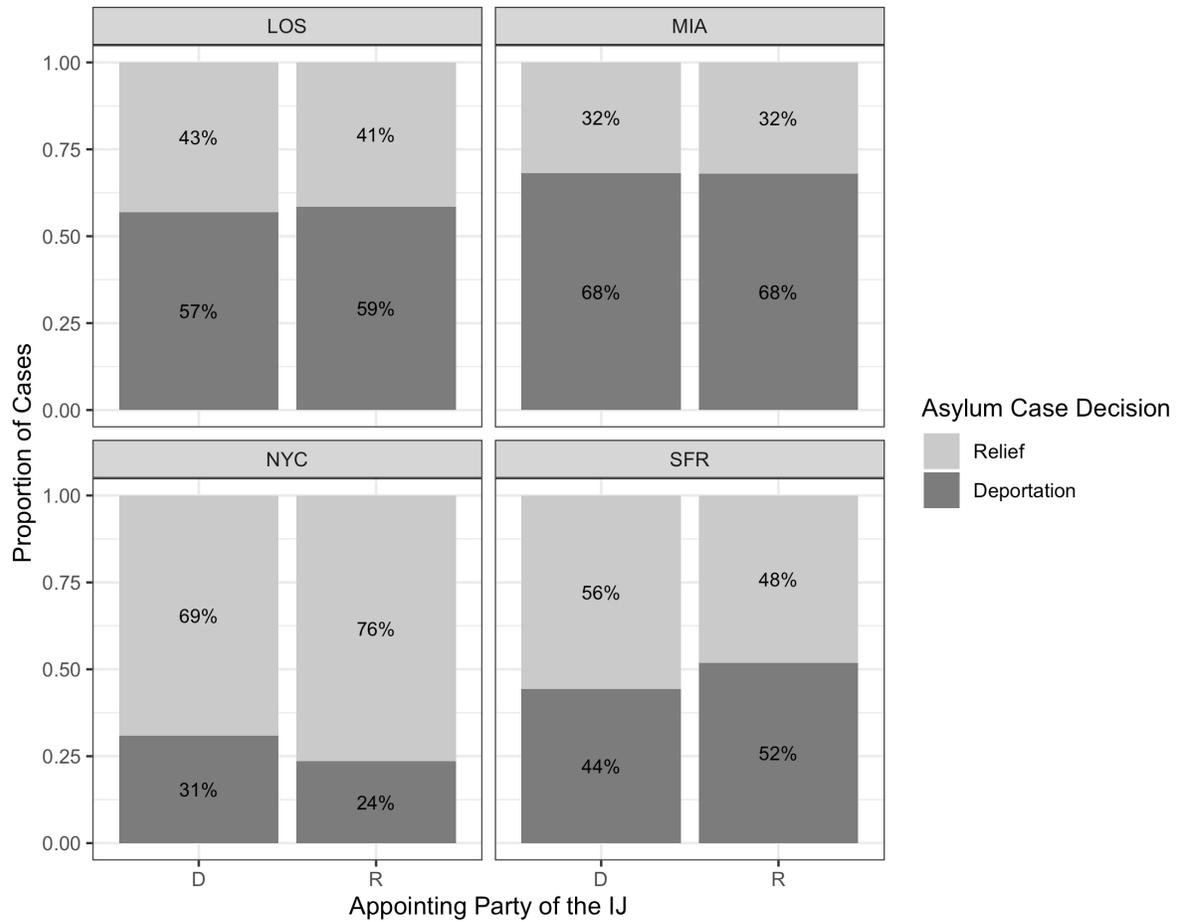


Figure A.6: Appointing Party and Asylum Denial in Busiest Courts, 2017-2020

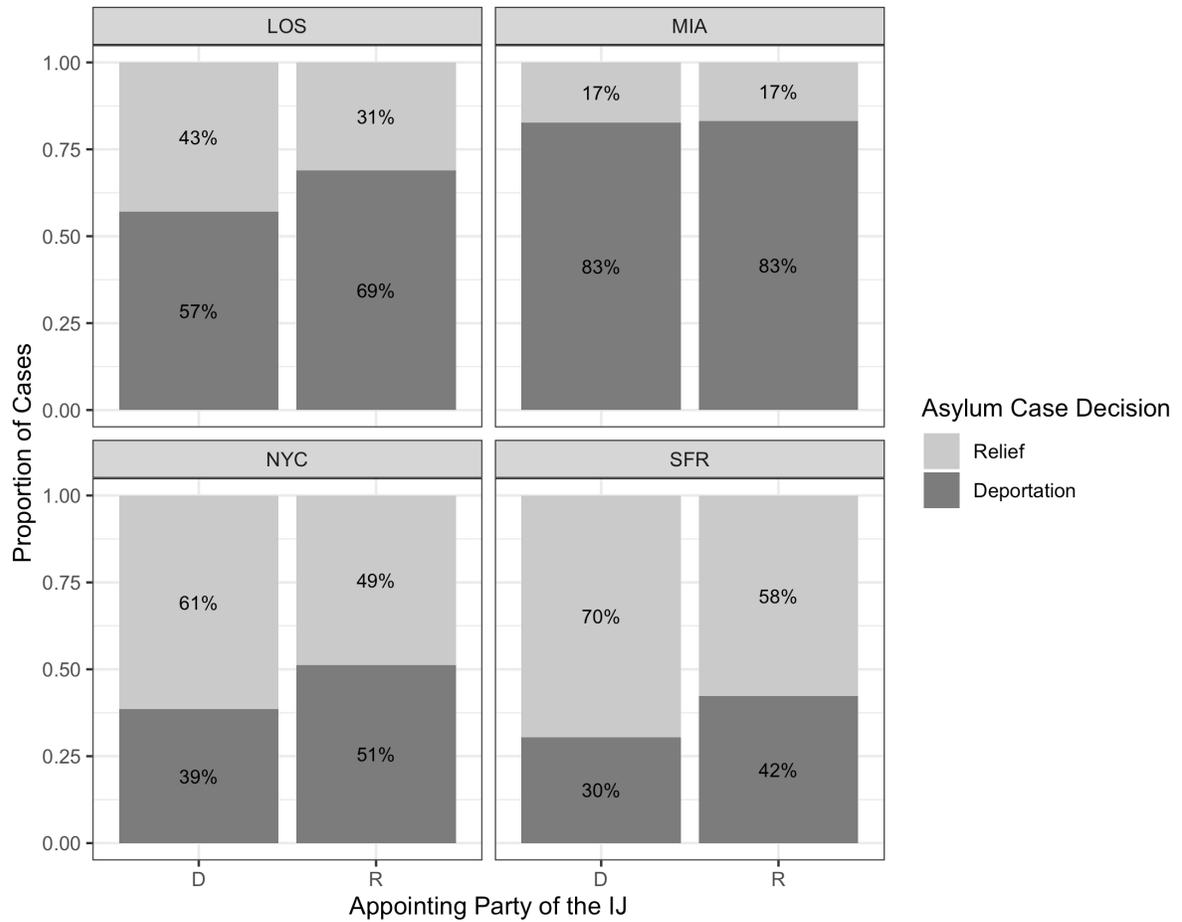


Table A.1: Gradual Polarization by Hire Year

	Outcome: Deportation
	Model 1
Republican-Appointed	-1.143 (1.741)
Hire Year	0.003*** (0.001)
Republican*Hire Year	0.001 (0.001)
Attorney Representation	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)
AIC	975805.162
BIC	976166.849
Log Likelihood	-487871.581
Num. obs.	862255
Num. groups: JUDGE_NAME	785
Num. groups: BASE_CITY_CODE	68
Var: JUDGE_NAME (Intercept)	0.014
Var: BASE_CITY_CODE (Intercept)	0.008
Var: Residual	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Additional Models Referenced in Chapter 1

The models in Table A.1, Table A.3, and Tables A.5-A.8 are printed here instead of the main text for brevity's sake. The models in Table A.2 and A.4 were robustness checks.

Table A.2: Appointing Party with Employment History and/or Gender

	Outcome: Deportation		
	Model 1	Model 2	Model 3
Republican-Appointed	0.039*** (0.009)	0.036*** (0.009)	0.037*** (0.009)
Conservative Employment History	0.024* (0.009)		0.024** (0.009)
Liberal Employment History	-0.016 (0.010)		-0.018 (0.010)
Male IJ		0.030** (0.009)	0.032*** (0.009)
Attorney Representation	-0.168*** (0.001)	-0.168*** (0.001)	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)	-0.080*** (0.003)	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)	-0.098*** (0.003)	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)	-0.201*** (0.001)	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)	-0.064*** (0.002)	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)	0.087*** (0.001)	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)	-0.100*** (0.004)	-0.100*** (0.004)
AIC	976668.226	976660.239	976665.823
BIC	977029.949	977010.293	977039.214
Log Likelihood	-488303.113	-488300.119	-488300.911
Num. obs.	863270	863270	863270
Num. groups: JUDGE_NAME	785	785	785
Num. groups: BASE_CITY_CODE	68	68	68
Var: JUDGE_NAME (Intercept)	0.014	0.014	0.014
Var: BASE_CITY_CODE (Intercept)	0.008	0.008	0.008
Var: Residual	0.181	0.181	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.3: Post-2018 Hiring Model with Employment and Gender

	Outcome: Deportation
	Model 1
Republican-Appointed	0.002 (0.011)
Republican-Appointed	0.002 (0.011)
Post-2018 Appointment	0.063*** (0.012)
Conservative Employment History	0.024** (0.009)
Liberal Employment History	-0.012 (0.010)
Male IJ	0.036*** (0.009)
Attorney Representation	-0.168*** (0.001)
Never Detained	-0.080*** (0.003)
Released From Detainment	-0.098*** (0.003)
Affirmative Case	-0.201*** (0.001)
English Speaker	-0.064*** (0.002)
Spanish Speaker	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)
AIC	976648.117
BIC	977033.177
Log Likelihood	-488291.058
Num. obs.	863270
Num. groups: JUDGE_NAME	785
Num. groups: BASE_CITY_CODE	68
Var: JUDGE_NAME (Intercept)	0.014
Var: BASE_CITY_CODE (Intercept)	0.008
Var: Residual	0.181

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.4: Main Models with Unimputed Missing Values for "Affirmative Case"

	Outcome: Deportation	
	Model 1	Model 2
Republican-Appointed	0.038*** (0.009)	0.004 (0.011)
Post-2018 Appointment		0.061*** (0.012)
Attorney Representation	-0.170*** (0.001)	-0.170*** (0.001)
Never Detained	-0.082*** (0.003)	-0.082*** (0.003)
Released From Detainment	-0.101*** (0.003)	-0.101*** (0.003)
Affirmative Case	-0.201*** (0.001)	-0.201*** (0.001)
English Speaker	-0.066*** (0.002)	-0.066*** (0.002)
Spanish Speaker	0.087*** (0.001)	0.087*** (0.001)
Arabic Speaker	-0.100*** (0.004)	-0.100*** (0.004)
AIC	961611.277	961595.694
BIC	961949.071	961945.136
Log Likelihood	-480776.639	-480767.847
Num. obs.	845817	845817
Num. groups: JUDGE_NAME	785	785
Num. groups: BASE_CITY_CODE	68	68
Var: JUDGE_NAME (Intercept)	0.015	0.014
Var: BASE_CITY_CODE (Intercept)	0.008	0.008
Var: Residual	0.182	0.182

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.5: Models Depicted in Figure 4, Years 2003-2008

	Outcome: Deportation					
	2003	2004	2005	2006	2007	2008
Republican-Appointed	0.020 (0.019)	0.011 (0.019)	0.026 (0.019)	-0.001 (0.016)	0.009 (0.018)	-0.006 (0.016)
Attorney Representation	-0.102*** (0.005)	-0.111*** (0.005)	-0.114*** (0.006)	-0.080*** (0.006)	-0.080*** (0.006)	-0.230*** (0.006)
Never Detained	-0.227*** (0.010)	-0.186*** (0.011)	-0.173*** (0.012)	-0.219*** (0.013)	-0.199*** (0.013)	-0.178*** (0.013)
Released	-0.137*** (0.010)	-0.145*** (0.011)	-0.145*** (0.012)	-0.207*** (0.013)	-0.178*** (0.014)	-0.130*** (0.014)
Affirmative Case	-0.043*** (0.006)	-0.075*** (0.006)	-0.100*** (0.006)	-0.141*** (0.006)	-0.161*** (0.006)	-0.130*** (0.006)
English Speaker	-0.125*** (0.006)	-0.114*** (0.006)	-0.102*** (0.006)	-0.096*** (0.007)	-0.109*** (0.008)	-0.081*** (0.008)
Spanish Speaker	0.052*** (0.004)	0.066*** (0.005)	0.059*** (0.005)	0.048*** (0.005)	0.051*** (0.005)	0.044*** (0.005)
Arabic Speaker	-0.062*** (0.012)	-0.069*** (0.013)	-0.073*** (0.015)	-0.099*** (0.016)	-0.077*** (0.017)	-0.050** (0.017)
Num. obs.	63831	58237	52624	49882	45792	40115
Num. groups: JUDGE	365	382	381	375	366	340
Num. groups: COURT	57	55	58	57	59	61
Var: JUDGE (Intercept)	0.018	0.017	0.018	0.013	0.016	0.012
Var: COURT (Intercept)	0.003	0.010	0.013	0.018	0.012	0.013
Var: Residual	0.199	0.194	0.190	0.206	0.207	0.199

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.6: Models Depicted in Figure 4, Years 2009-2014

	Outcome: Deportation					
	2009	2010	2011	2012	2013	2014
Republican-Appointed	-0.017 (0.016)	0.007 (0.015)	-0.001 (0.014)	-0.003 (0.014)	-0.019 (0.013)	-0.001 (0.015)
Attorney Representation	-0.264*** (0.008)	-0.268*** (0.009)	-0.237*** (0.008)	-0.248*** (0.008)	-0.221*** (0.007)	-0.219*** (0.006)
Never Detained	-0.151*** (0.014)	-0.184*** (0.015)	-0.148*** (0.014)	-0.151*** (0.014)	-0.193*** (0.013)	-0.060*** (0.013)
Released From Detainment	-0.100*** (0.015)	-0.166*** (0.015)	-0.167*** (0.013)	-0.137*** (0.014)	-0.145*** (0.013)	-0.087*** (0.012)
Affirmative Case	-0.155*** (0.007)	-0.166*** (0.007)	-0.213*** (0.007)	-0.213*** (0.007)	-0.210*** (0.008)	-0.292*** (0.007)
English Speaker	-0.060*** (0.008)	-0.041*** (0.008)	-0.038*** (0.007)	-0.032*** (0.007)	-0.042*** (0.007)	-0.048*** (0.007)
Spanish Speaker	0.048*** (0.006)	0.068*** (0.006)	0.069*** (0.006)	0.069*** (0.006)	0.073*** (0.006)	0.093*** (0.006)
Arabic Speaker	-0.046* (0.019)	-0.065*** (0.019)	-0.126*** (0.016)	-0.144*** (0.016)	-0.153*** (0.016)	-0.136*** (0.017)
Num. obs.	34048	30930	34413	31851	31685	32948
Num. groups: JUDGE	322	337	343	328	318	329
Num. groups: COURT	63	62	64	63	63	62
Var: JUDGE (Intercept)	0.012	0.010	0.010	0.009	0.007	0.010
Var: COURT (Intercept)	0.009	0.005	0.009	0.005	0.008	0.012
Var: Residual	0.197	0.197	0.184	0.174	0.163	0.154

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.7: Models Depicted in Figure 4, Years 2015-2020

	Outcome: Deportation					
	2015	2016	2017	2018	2019	2020
Republican-Appointed	-0.034 (0.019)	-0.011 (0.018)	0.025 (0.016)	0.058*** (0.014)	0.052*** (0.012)	0.041** (0.013)
Attorney Representation	-0.208*** (0.006)	-0.233*** (0.005)	-0.226*** (0.005)	-0.180*** (0.004)	-0.143*** (0.003)	-0.129*** (0.005)
Never Detained	-0.141*** (0.013)	-0.105*** (0.012)	-0.048*** (0.010)	-0.033** (0.010)	0.080*** (0.007)	-0.027** (0.008)
Released From Detainment	-0.158*** (0.013)	-0.122*** (0.012)	-0.054*** (0.010)	-0.059*** (0.010)	0.013 (0.007)	-0.149*** (0.009)
Affirmative Case	-0.226*** (0.007)	-0.269*** (0.006)	-0.258*** (0.006)	-0.228*** (0.005)	-0.248*** (0.004)	-0.295*** (0.006)
English Speaker	-0.027*** (0.008)	-0.050*** (0.007)	-0.032*** (0.007)	-0.007 (0.006)	-0.027*** (0.006)	-0.048*** (0.008)
Spanish Speaker	0.105*** (0.006)	0.065*** (0.005)	0.084*** (0.005)	0.113*** (0.004)	0.133*** (0.003)	0.099*** (0.005)
Arabic Speaker	-0.153*** (0.018)	-0.154*** (0.017)	-0.123*** (0.015)	-0.080*** (0.013)	-0.058*** (0.012)	-0.094*** (0.018)
Num. obs.	31519	39523	48804	73106	108268	55694
Num. groups: JUDGE	338	358	407	479	504	558
Num. groups: COURT	62	62	64	64	66	67
Var: JUDGE (Intercept)	0.017	0.015	0.016	0.018	0.015	0.018
Var: COURT (Intercept)	0.011	0.013	0.010	0.013	0.009	0.012
Var: Residual	0.152	0.142	0.145	0.152	0.144	0.157

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$

Table A.8: Models depicted in Figure 5, Years 2017-2020

	Outcome: Deportation			
	2017	2018	2019	2020
Post-Sessions Republican	0.090*** (0.023)	0.092*** (0.016)	0.061*** (0.013)	0.051*** (0.014)
Pre-Sessions Republican	-0.013 (0.018)	-0.006 (0.020)	0.018 (0.019)	-0.004 (0.022)
Attorney Representation	-0.226*** (0.005)	-0.180*** (0.004)	-0.143*** (0.003)	-0.129*** (0.005)
Never Detained	-0.047*** (0.010)	-0.033** (0.010)	0.080*** (0.007)	-0.026** (0.008)
Released From Detainment	-0.054*** (0.010)	-0.059*** (0.010)	0.013 (0.007)	-0.149*** (0.009)
Affirmative Case	-0.258*** (0.006)	-0.228*** (0.005)	-0.248*** (0.004)	-0.295*** (0.006)
English Speaker	-0.032*** (0.007)	-0.007 (0.006)	-0.027*** (0.006)	-0.048*** (0.008)
Spanish Speaker	0.085*** (0.005)	0.113*** (0.004)	0.133*** (0.003)	0.099*** (0.005)
Arabic Speaker	-0.123*** (0.015)	-0.081*** (0.013)	-0.058*** (0.012)	-0.094*** (0.018)
Num. obs.	48804	73106	108268	55694
Num. groups: JUDGE	407	479	504	558
Num. groups: COURT	64	64	66	67
Var: JUDGE (Intercept)	0.016	0.018	0.015	0.018
Var: COURT (Intercept)	0.010	0.013	0.009	0.012
Var: Residual	0.145	0.152	0.144	0.157

*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$