UNIVERSITY OF CALIFORNIA,
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"Nobody Wants These People": Reagan's Immigration Crisis and America's First Private Prisons

DISSERTATION

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for the degree of

DOCTOR OF PHILOSOPHY

in History

by

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Dissertation Committee:
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DEDICATION

To

Andis
and those still on the inside we promised never to forget.

~

i have been locked by the lawless.
Handcuffed by the haters.
Gagged by the greedy.
And, if i know anything at all,
it's that a wall is just a wall
and nothing more at all.
It can be broken down.

i believe in living,
i believe in birth.
i believe in the sweat of love
and in the fire of truth.

And i believe that a lost ship
steered by tired, seasick sailors,
can still be guided home to port.

Assata Shakur

TABLE OF CONTENTS

	Page
ACKNOWLEDGMENTS	iv
CURRICULUM VITAE	v
ABSTRACT OF THE DISSERTATION	vi
INTRODUCTION	1
CHAPTER 1: "Nobody Wants These People": Reagan's Immigration Crisis and the Detention of Mariel Cubans at Fort Chaffee, Arkansas	13
CHAPTER 2: "We Have Been Unable to Find Any Precedent for Such an Operation": The Extension of Executive Authority through Haitian Interdiction and Detention	41
CHAPTER 3: "The Emergency Nature of the Problem": Contingency Planning Along the U.S.-Mexico Border	81
CHAPTER 4: "Give Us Liberty, or We Will Tear the Place Apart": Resistance and Control in Immigration Detention	123
CHAPTER 5: "Thirty Years of Service to America": The Corrections Corporation of America and the Birth of the Neoliberal Security State	166
CONCLUSION	219
BIBLIOGRAPHY	223

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CURRICULUM VITAE

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ABSTRACT OF THE DISSERTATION

"Nobody Wants These People": Reagan's Immigration Crisis
and America's First Private Prisons

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In 2013, the United States detained approximately 400,000 people in immigration custody in a network of 250 local, federal, and private jails across the country as they awaited deportation or release, at a cost of over $1.7 billion. This dissertation situates the rise of the current U.S. immigration detention system in the early 1980s within the broader context of Ronald Reagan's Cold War foreign policies and growing public xenophobia after the Vietnam War. When President Reagan entered office, he sought new ways to curtail a perceived "mass immigration emergency" caused by an increasing flow of Cubans, Haitians, and Central Americans to the United States. As the American public continued to express "compassion fatigue" towards new migrant populations, the Reagan Administration established a new security state that included the building of immigrant detention centers throughout the United States, Puerto Rico, and Guantanamo Bay, Cuba; the interdiction of migrants on the high seas; heightened border security under the "War on Drugs"; and the first uses of private prison contracting. This work traces the narratives surrounding these new enforcement measures by using Reagan Administration files, media portrayals of migrant groups, and evidence of

community and public support for and against the practice of immigration detention in order to demonstrate how an ongoing fear of future mass migrations continued to justify more permanent structures of immigration detention—trends that persist to the current day.

INTRODUCTION

> They are getting the worst ready to leave—the prostitutes and homosexuals, and the crazy people, too…like Castro taking out his garbage. They took everyone straight from the prison to the boat.
>
> -"Freedom Flotilla" boat crew member, June 6, 1980[1]

Between April 21 and September 29, 1980, 125,266 Cuban refugees arrived in Key West, Florida, transported on American vessels from Mariel Harbor, Cuba, in what is now known as the Mariel Boatlift. This exodus, sparked by many factors, including economic and political strife in Cuba and U.S.-Cuban negotiations for family reunification, began under assumptions that the United States would accept 3,500 refugees. But shortly after Fidel Castro announced the opening of Mariel Harbor to American vessels wishing to pick up family members, the operation spiraled out of control and five months of mass migration ensued. Shortly after the first arrivals in the United States, reports of Castro purposefully infiltrating the boatlift with criminals and other social "undesirables" began to circulate in the media. Overwhelmed, President Jimmy Carter's administration declared a state of emergency in South Florida. While roughly half of the arrivals were reunited with family members or resettled in the Miami area in a relatively timely manner, the other half were sent to one of four military bases across the country that served as temporary camps for processing.[2]

On the night of May 26, 1980, two hundred of the eighteen thousand Cuban refugees housed at Fort Chaffee, Arkansas, walked out of an unlocked gate in protest against their

---

[1] "Carter Says Illegal Boatlift Must Stop, Orders Prosecutions," *Los Angeles Times*, June 6, 1980, p. A9.

[2] The four military bases were Eglin Air Force Base in Florida, Fort Chaffee in Arkansas, Fort Indiantown Gap in Pennsylvania, and Fort McCoy in Wisconsin. See Alex Larzelere, *The 1980 Cuban Boatlift: Castro's Ploy—America's Dilemma* (Washington, D.C.: National Defense University Press, 1988) for boatlift statistics.

detainment by the Immigration and Naturalization Service (INS) and the slow resettlement process. As they entered the adjacent rural community of Jenny Lind, armed residents on rooftops fired hundreds of rounds into the night sky. No one was harmed, and U.S. Army officers in charge of camp security rounded up and returned the Cubans with little incident. Later that night, hooded Ku Klux Klan members appeared outside the fort carrying torches and signs reading, "Kill the Communist Criminals," while a vigilante security patrol of armed Jenny Lind residents circled the camp in pickup trucks.[3]

Six nights later, on June 1, tensions flared again. An estimated one thousand Mariel Cubans set fire to five army buildings and stormed the front gates, chanting "Libertad!" as they marched down Route 22 toward the small community of Barling. Arkansas state troopers fired over their heads and held them back with rifle butts and billy clubs just outside the town limits, while the Cubans threw rocks, bottles, and pieces of concrete. Federal troops, unable to intervene due to the law of *posse comitatus*, stood in the middle yelling, "Don't hit them! Don't hit them!" to the troopers and onlooking armed civilians. After a couple of hours the state troopers, using clubs and tear gas, finally contained the unruly Cubans within the camp. The "Fort Chaffee incident" left one Cuban dead, forty injured, and eighty-four jailed. One civilian and fifteen state troopers were also injured.[4]

Livid that federal troops had been unable to use restraining force, Governor Bill Clinton immediately called in the National Guard and summoned President Carter's aide Gene Eidenberg

[3] Mark S. Hamm, *The Abandoned Ones: The Imprisonment and Uprising of the Mariel Boat People* (Boston: Northeastern University Press, 1995) 55; José Llanes, *Cuban Americans: Masters of Survival* (Cambridge, MA: Abt Books, 1982) 178.
[4] "Cubans Refugees Riot at Fort Chaffee," *Washington Post*, June 2, 1980; "The Refugees: Rebels with a Cause," *Newsweek*, June 16, 1980, 28–29.

to demand tighter security at the refugee camp. The night after the disturbance, Clinton took Eidenberg on a tour of Barling and Jenny Lind in his car; he recalled:

> It was well after midnight, but down every street we drove, at every house, armed residents were on alert, sitting on their lawns, on their porches, and, in one case, on the roof. I'll never forget one lady, who looked to be in her seventies, sitting stoically in her lawn chair with her shotgun across her lap. Eidenberg was shocked by what he saw. After we finished the tour he looked at me and said, "I had no idea."[5]

Clinton also recalled that there had been a run on handguns and rifles in every gun store within fifty miles of Chaffee, while Gun City in Barling sold T-shirts after the incident depicting crowds of Cubans through a gun sight with the caption, "I survived the Cuban Rock Festival."[6]

The panic displayed by local residents at Fort Chaffee mirrored widespread panic expressed in local and national media reports. On May 26, coincidentally the same day as the initial disturbance at Fort Chaffee, *People* magazine quoted an INS officer claiming that, "85 percent of the refugees are convicts, robbers, murderers, homosexuals, and prostitutes." This figure was a gross overestimate, but it fueled fear. [7] On June 7 White House press secretary Jody Powell further stoked Cold War anxieties and xenophobia by announcing that among the agitators were a "few hardened criminals" positively linked with Cuban Intelligence efforts.[8]

Eidenberg reflected on the media's role in the incident: "I was in Chicago in 1968. What happened at Ft. Chaffee was a disturbance but it became a riot in the public mind. The national

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[5] Bill Clinton, *My Life* (New York: Vintage Books, 2004) 275–77.
[6] Karen De Witt, "New Cuban Influx at Fort Chaffee Arouses Hostility," *New York Times*, Aug. 11, 1980.
[7] "Freedom Flotilla: A Brave Skipper, a Grateful Family and Angry Florida Critics," *People*, May 26, 1980, 29. The sociologists Brian Hufker and Gray Cavender, in a study on negative portrayals of the Mariel Cubans in national newspapers, concluded that actual criminals, homosexuals, and mental patients "constituted less than 5% of the immigrants." However, "the attention focused on that small group eventually stigmatized the entire population" See Brian Hufker and Gray Cavender, "From Freedom Flotilla to America's Burden: The Social Construction of the Mariel Immigrants," *Sociological Quarterly*, vol. 31, no. 2 (1990) 322.
[8] Mario Antonio Rivera, *Decision and Structure: U.S. Refugee Policy in the Mariel Crisis* (Lanham, MD: University Press of America, 1991) 10.

media defined the character of 127,000 Cubans…. People wandered off the base on a hot summer night to stretch their legs, they were scared, nervous, bored, but not about to take on the U.S. Army."[9] Lieutenant Francisco Bazán, stationed at Fort Chaffee during the disturbances, later recalled, "The majority who wandered off that night were not considered undesirables when the investigation was completed." He cited frustration with bureaucratic delays as the cause of the protests. He also added, "The locals were not very hospitable, and some had reason not to be. They did not feel adequately protected by their police, and they were being told daily by television, newspapers, and radio that these Cuban refugees right at their doorstep were potentially dangerous people." One Cuban detainee, Estanislao Menendez, did not condone the actions of the agitators who escaped that night but identified with their grievances, saying, "I was taught as a child to respect the law and the military… I would never do what the others were doing… But I can see there was a reason for what they were doing—throwing stones, running away—and the reason was that we were not free, and we did not know what was going to happen to us."[10]

The Fort Chaffee incident did not occur in isolation; disturbances ranging from peaceful protests to hunger strikes and outright violence frequently punctuated the indefinite detention of Mariel Cubans that, for some, lasted for years. This specific incident, however, introduces the various actors that were involved in what would be called a growing national immigration "crisis": displaced migrants, the mass media, local communities, camp administrators, and various levels of government officials. It also reveals some of the many administrative questions

[9] "Gene Eidenberg unrehearsed conversation Sept 3 81," Folder 1, "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980–1981," Box 1, Fort Chaffee Collection, Cuban Heritage Collection, University of Miami.
[10] Llanes, *Cuban Americans*, 179–81.

that arose: Where do migrants seeking asylum belong? Who should house them? Who should adjudicate their cases? Who has the right to exert physical control over their bodies? Fort Chaffee provides a fitting beginning for an exploration of the "mass immigration emergency" that the administration of Ronald Reagan, which entered office in 1981, felt it inherited. The fear associated with the Mariel migrants powered the Reagan administration's establishment of a new kind of biopolitics: a system of immigration detention characterized by extensive privatized facilities along with a virulent rhetoric of xenophobic American nationalism.

Today, the U.S. government maintains an immigration detention "bed mandate," or quota, of around thirty-four thousand undocumented persons at any given time in a network of nearly three hundred local, federal, and private facilities. Immigration and Customs Enforcement currently targets 400,000 people a year for detention and expulsion, and nearly half of migrants who are detained are held in private facilities.[11] The central aim of this dissertation is to reveal how this vast detention system originated in the Reagan Administration's specific responses to Mariel Cuban, Haitian, and Central American migrations in the early 1980s. This burgeoning detention system may be imagined as a carceral *palimpsest*, in much the same way that architectural critic Reynor Banham has used the term "transportation palimpsest" to describe the Los Angeles freeway system as the result of a series of iterations from mission trails to streetcar lines to freeways.[12] In this sense, "palimpsest" implies a re-inscription of new design practices over old ones. Meanwhile, old practices are not entirely obscured, but still visible. The modern

[11] In effect, ICE removed 409,849 people in FY2012 and 368,644 people in FY2013. Immigration and Customs Enforcement, "Removal Statistics," http://www.ice.gov/removal-statistics/index.htm. The "bed mandate" quota was established in 2006, reinforcing an ever-growing immigrant detention population since the Reagan Administration's first term. See Nick Miroff, "Controversial Quota Drives Immigration Detention Boom," *Washington Post*, October 13, 2013.

[12] See "The Transportation Palimpsest," in Reynor Banham, *Los Angeles: The Architecture of Four Ecologies* (Berkeley: University of California Press, 1971).

U.S. immigration detention system developed within broader historical trends of anti-immigrant sentiment, white nationalism, and America's conservative political turn after the Vietnam War. Its implementation drew upon preexisting practices and spaces of incarceration. However, the Reagan Administration adopted markedly *new* enforcement practices: the use of detention as a deterrent to future migration, interdiction on the high seas, militarization along the U.S.-Mexico border, and prison privatization. Together, these have had lasting ramifications.

This study, the first archival-based history of the rise of the United States' contemporary immigration detention system, is urgently relevant today as policymakers in the United States continue to weigh the benefits and costs of delegating the functions of incarceration to the private sector in a depressed economy. Private contract facilities (for both citizens and non-citizens) have spurred highly-charged policy debates as human rights organizations label them as the most abusive while successive administrations have upheld them as the most efficient and cost-effective detention option. However, while there exists a vast body of literature on immigration policy and prison privatization, there is no suitable bridge between the two fields. As David Hernández notes, "The criminalization and detention of immigrants has not yet been satisfactorily addressed in the emerging discourse on the 'prison-industrial complex.'"[13] Indeed, works such as Aristide R. Zolberg's *A Nation by Design: Immigration Policy in the Fashioning of America*, Daniel Kanstroom's *Deportation Nation: Outsiders in American History*, and Mae Ngai's *Impossible Subjects: Illegal Aliens and the Making of Modern America* all establish an extensive history of the criminalized immigrant in the United States and argue that immigration policy has always been carefully crafted to ensure the exclusion of undesirable populations. But

[13] David Manuel Hernández, "Undue Process: Racial Genealogies of Immigrant Detention," in *Constructing Borders/Crossing Boundaries: Race, Ethnicity, and Immigration*, ed. Caroline B. Brettell (Lanham, MD: Rowman & Littlefield, 2007) 67.

none of these seminal texts consider the significance of the recent development of immigration detention policy in the trends they identify.[14] And works such as Michelle Alexander's *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* and Donna Selman and Paul Leighton's *Punishment for Sale: Private Prisons, Big Business, and the Incarceration Binge* rightfully identify political, economic, and cultural dynamics driving prison privatization in the United States, but they fail to consider the central role of migrants and immigration policy formation in the adoption of privatization. Even when Selman and Leighton and others note the first uses of privatization by the Immigration and Naturalization Service, for example, they gloss over this phenomenon as inconsequential.[15] The lack of attention to immigrant detainees in the existing literature reveals their ongoing invisibility in a system designed for that very effect.

By bringing together oft-divergent immigration, foreign policy, cultural and ethnic histories, this transnational study bridges gaps in explaining the conservative turn of the Reagan era and places immigration and migrants at the center, rather than on the periphery, of Cold War politics and Reagan's nationalist and neoliberal economic visions. Reagan Administration files, organizational action, litigation, media sources, memoirs and migrant testimonies reveal how the interplay of local and national narratives shapes immigration policy formation and the

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[14] Kanstroom's work addresses deportation policies, but pays less attention to the history of detention in the United States. As of yet, there is no comprehensive survey of immigration detention in the U.S. For works that address the escalating use of detention after the 1996 immigration laws and after 9/11, see Mark Dow's *American Gulag: Inside U.S. Immigration Prisons,* Michael Welch's *Detained: Immigration Laws and the Expanding I.N.S. Jail Complex* and Deepa Fernandes's *Targeted: Homeland Security and the Business of Immigration.*

[15] Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010); Donna Selman and Paul Leighton, *Punishment for Sale: Private Prisons, Big Business, and the Incarceration Binge* (Lanham, MD: Rowman & Littlefield, 2010). Christian Parenti's *Lockdown America: Police and Prisons in the Age of Crisis* and Alexander Tabarrok's edited volume *Changing the Guard: Private Prisons and the Control of Crime* also highlight the critical role of race and public anxiety in privatization, but they do not consider immigration's role either.

implications of confining unwanted bodies in the liminal legal and physical spaces of national belonging.[16] These implications extend to other disciplines and lend historical understanding to today's assessments of immigration detention and of the extension of executive authority in immigration enforcement and security contracting. One such assessment is ethnographer Elena Zilberg's work on the transnational gang crisis of Los Angeles and San Salvador. She identifies how a "dialectic of mobility and immobility," inherent in the frictions of globalization and neoliberalism, has resulted in the creation of "neoliberal securityscapes" that have fueled rather than stemmed violence and undocumented migration.[17]

The U.S. immigration detention center is both a transnational space and a foreign policy microcosm. Its detainees reside physically within the nation yet legally outside, while its walls, fences, and doors clearly demarcate those bodies that do not belong to the nation from those that do. The detention center is not merely a domestic place where foreign policy is executed. It is a place both locally and globally defined, where social interactions and cultural narratives transcend concrete walls and nation-state boundaries. Bodies are controlled, marked, and contested in this liminal space. Chapter One explores the detention and processing of Mariel Cubans at Fort Chaffee as exercises of biopolitical management in the era of Reagan's revitalized nationalism. Through a process of inclusion and exclusion, a previously welcomed

[16] There exists a vast body of excellent literature on migrant experiences during this time period, such as María Cristina García's work on Mariel Cubans, Alex Stepick's work on Haitians, and Ann Crittenden's chronicling of the Sanctuary movement. While I draw largely upon these and other primary sources to give voice to the migrant experience, the larger contribution of this dissertation is to consider these voices together and within a larger public discourse of Reagan-era immigration and foreign policymaking. Indeed, I reveal that migrant and community action on behalf of migrants significantly shaped decision-making at the top levels of government.
[17] Elena Zilberg, *Space of Detention: The Making of a Transnational Gang Crisis between Los Angeles and San Salvador* (Durham, NC: Duke University Press, 2011) 1-3.

"anticommunist" exile group suddenly became cast by the media and politicians as "undesirable." While some Cuban refugees were rendered acceptable additions to the national body through "American" cultural training, sponsorship, and resettlement, nonnational "excludables" were simultaneously rendered invisible through the act of detention.[18]

After Cubans left Fort Chaffee, however, the specter of the Mariel boatlift would remain as a portent of future immigration crises for the Reagan Administration. As Latin American migration to the United States increased, the intent behind detention turned increasingly punitive. By considering another population that was detained by the Reagan Administration during this time, Haitians, along with the actions of legal aid and civil rights groups that advocated for them, Chapter Two posits the mutually constitutive relationship between migration and foreign policy. At the same time the Reagan Administration was articulating its new detention policy in the summer of 1981, it began another new practice of interdicting Haitian migrants on the high seas. Refusing to embrace Haitians as political refugees and wishing to secure an ally in the Caribbean, Reagan increased aid to Haiti in hopes of stemming the flow of migration. Interdiction served to accelerate the process of Haitian repatriation while demarcating a physical and legal extension of the boundaries of immigration enforcement. As the Reagan Administration sought ways to justify extending executive authority into the liminal spaces of migrants and migration, these maneuverings laid the legal foundations of immigration enforcement that would lead to private prison contracting. Despite Reagan's differing policies on

[18] A statement by Nick Nichols, Deputy Assistant Director for Carter's Cuban-Haitian Task Force, exemplifies this dual nature of detention as he legitimized their use: "The centers allowed the government to do a better job of identifying dangerous refugees and isolating them from the community. The second purpose was to encourage private citizens to sponsor the Cubans, thereby taking them off the government's hands." Felix Roberto Massud-Piloto, *From Welcomed Exiles to Illegal Immigrants: Cuban Migration to the U.S., 1959-1995* (Lanham, MD: Rowman & Littlefield, 1996): 94.

Cuba and Haiti, I complicate the traditional view that Cubans and Haitians experienced vastly different fates in the U.S. detention system and instead highlight the significance of the ways in which both populations were imagined together as two parts of the same migration crisis, contributing to the perceived need for more permanent structures of immigration detention. This chapter also concludes that resistance to the Haitian interdiction program and the rise of US advocacy groups working for detainees had the unintended consequence of strengthening the administration's resolve to enforce its new detention and interdiction policies.

Chapter Three further explores the development of the Reagan Administration's drive towards privatization as policy discussions turned to the U.S.-Mexico border and continued to reflect fears of a perceived immigration emergency in an era of growing mass incarceration. Migration spurred by Reagan's Cold War interventions in Central America, especially in El Salvador, and accelerating border enforcement under the "War on Drugs" exacerbated tensions along the U.S.-Mexico border and gave the administration cause to explore further solutions in immigration detention. Like Haitians, Salvadoran migrants were largely denied asylum in the United States due to the administration's foreign policy commitments and placed further pressure on the growing need for prison space—a need reinforced by Reagan's resolve to remain tough on crime. The specter of another mass Mariel-type migration continued to color the administration's crisis rhetoric while "low-intensity conflict" doctrine developed in El Salvador was reflected in both the militarization of U.S.-Mexico border enforcement practices and the administration's preventative 1982 "Mass Immigration Emergency Plan" that provided for the readying of detention space for up to ten thousand migrants.

The Reagan Administration's implementation of these new enforcement measures, however, met with opposition. Chapter Four documents the range of administrative responses to

growing resistance to new detention trends. Forms of resistance such as detainee hunger strikes, riots, and protests garnered international media attention and clashed with forms of bodily control built into detention center planning and design. Understanding the detention center as a site of punishment and deterrence is an essential part of illuminating the move towards the privatization of the security functions of jailkeeping. And, as administration officials grappled with increasing security concerns, advocacy by local community members and civil rights organizations on behalf of migrants, most visible in the Sanctuary movement, often had the unintended consequence of facilitating swifter policies of detention and deportation, as the Reagan Administration sought to quell dissent and reduce the negative publicity surrounding detention.

The implementation of Reagan's Mass Immigration Emergency Plan called for the location of new detention sites to fulfill urgent detention needs. As prison overcrowding increased and communities across the country vehemently opposed migrants being detained in their own backyards, the result was a haphazard set of new rules and procedures concurrent with existing legal and physical enforcement structures in the emerging detention palimpsest. Chapter Five details how the administration scrambled to locate immigration detention space in this time of crisis and found solutions in the economic opportunities foreseen by depressed Sunbelt communities in prison-building and by enterprising businessmen looking to sell their expertise in prison-keeping to the Reagan Administration. In addition to using existing federal and local facilities to house migrants, the administration sought to build a large-scale "modern" mixed-use facility in Oakdale, Louisiana, and relied on "tents" (temporary detention camps) and "turnkeys" (private contract facilities) as "interim" solutions. This chapter also provides a history of the various uses of privatization in carceral functions in the United States and debates over the

benefits and costs of private contracting, before detailing the granting of the first federal prison contract to the Corrections Corporation of America, now the largest corrections company in the United States, to build an INS facility in Houston, Texas, in 1983.

Prison privatization exemplifies Reagan's new security state as the use of private contracting to carry out immigration enforcement functions shows: a further extension of executive authority in defining the parameters of national security operations; an effort to scale back "big government" as part of Reagan's neoliberal economic vision that favored the privatization of many government functions; another layer of controversy as critics charge a lack of oversight and transparency in private facilities; and a new instrument of biopolitics in which unwanted bodies are further hidden from the general public and excluded from the nation. Today, migrants comprise the fastest-growing segment of the for-profit prison industry.

While the U.S. government created private detention centers and controlled the flow of who went in and out, wider-reaching currents of anti-immigrant sentiment, fostered by the resurgent nationalism of what Sean Wilentz calls the "Age of Reagan," preceded the migrants before they entered and followed them after they left. Since Mariel, the detention system has grown rapidly and now partners with a multibillion-dollar private prison industry. The "detention center," though a center of private profit, transcends the categories of nation and place, as circulating narratives of the threat posed by foreigners and the need for physical containment of bodies reinforce the legitimacy of detention policies within a feedback loop that simultaneously reinforces the biopolitics of who belongs in and out of the nation.

CHAPTER ONE
"Nobody Wants These People": Reagan's Immigration Crisis and the Detention of Mariel Cubans at Fort Chaffee, Arkansas

> I can't say bad things about the people out there. They are not bad people. Do they know we are here?
>
> -Estanislao Menendez, Mariel detainee, 1983[1]

From Open Arms to State of Emergency

Large-scale migration to the United States from Cuba during Fidel Castro's reign was not an unprecedented phenomenon. Since its diplomatic break with Cuba in January 1961, the United States had adhered to a policy of granting entering Cubans immediate parole and hailing them as "freedom fighters" who had bravely escaped Castro's communist regime.[2] In September 1965 Castro announced the opening of Camarioca port in Cuba to Cuban Americans wishing to pick up relatives for emigration to the United States. Through mutual negotiations between Cuba and the United States, this began an eight-year "Freedom Flight" during which 268,000 Cubans entered the United States as legal refugees.

Despite this precedent of Cuban migration, the Mariel boatlift of 1980 posed new problems for the United States. The boatlift brought in approximately half of the number of refugees that came in 1965 in only six months' time and with far less notice, greatly straining government resources.[3] The demographic composition of the Mariel Cubans also differed from those who had emigrated previously. Whereas the earlier wave consisted mainly of older, white, and upper- or middle-class Cubans seeking family reunification, the Mariel Cubans comprised a

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[1] Llanes, *Cuban Americans*, 182-3.
[2] David W. Engstrom, *Presidential Decision Making Adrift: The Carter Administration and the Mariel Boatlift* (Lanham, MD: Rowman & Littlefield, 1997) 28.
[3] Ibid., 63.

predominantly younger, male, and single population, representing "a mix of races more typical of the island's multiracial population."[4] Even though the Mariel Cubans were on average more educated than their predecessors, the racial composition of this group aided in their ultimate labeling by the government as "undesirables."

A confluence of political factors further distinguished the Mariel Cubans from previous refugees, leading them to become one of the most stigmatized groups in recent history.[5] While the Carter administration's initial response to the boatlift aligned with the customarily receptive stance of the United States toward refugees from communist countries, this stance was quickly revised upon rumors that Castro's real aim was to relieve Cuba of its prisoners and social undesirables. Less than three weeks after the boatlift began, President Carter announced at a press conference on May 5, 1980, "We'll continue to provide an open heart and open arms to refugees seeking freedom from Communist domination, brought about primarily by Fidel Castro and his government."[6] At the same time, however, stirrings of negative publicity began surrounding the Mariel exodus, and the very next day Carter declared a state of emergency in southern Florida.[7] A week after Carter's initial endorsement, a U.S. State Department bulletin accused Castro's government of "taking hardened criminals out of prison and mental patients out of hospitals and forcing boat captains to take them to the United States." The bulletin concluded,

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[4] Miguel Gonzalez-Pando, *The Cuban Americans* (Westport, CT: Greenwood Press, 1998) 66 (quote); María Christina García, *Havana USA: Cuban Exiles and Cuban Americans in South Florida, 1959-1994* (Berkeley: University of California Press, 1996) 68. While the term *undesirables* quickly increased in usage throughout media and government sources, it appeared earliest in a White House policy memorandum dated May 13, 1980. See Engstrom, *Presidential Decision Making Adrift*, 105–6.

[5] García, *Havana USA*, 69–74.

[6] Steven R. Weisman, "President Says U.S. Offers 'Open Arms' to Cuban Refugees," *New York Times*, May 6, 1980, sec. A.

[7] Criminologist Mark Hamm notes that by May 1, "American INS officials at the Key West marina began to notice Cuban men who were 'more hardened and rougher in appearance' than earlier arrivals." Hamm, *The Abandoned Ones*, 51.

"We will not permit our country to be used as a dumping ground for criminals who present a danger to society."[8]

Indeed, Castro wanted to perpetuate the belief that Cuba was purposefully infiltrating the boatlift with a hard-core element in order to combat the embarrassment caused by the unexpected and overwhelming numbers of Cubans trying to emigrate. Eyewitness accounts confirm that Cuban officials were releasing people whom they deemed "lumpen"—so-called loafers, parasites, criminals, and addicts—from prisons and forcing them onto boats bound for the United States, as Castro announced in a May Day rally speech. However, the actual extent of the infiltration of hardened criminals in the boatlift was grossly magnified both by the Cuban government's commitment to remaining ambiguous on the subject and by U.S. media and bureaucratic responses to the Mariel Cubans.[9]

[8] U.S. Department of State, *Cuban Refugees* (Washington, D.C.: Government Printing Office, 1980) 71.

[9] Cuba did not cooperate with U.S. efforts to obtain immigrant prison records, which caused further screening burdens and delays for the U.S. government. The situation was further complicated by the fact that many were jailed in Cuba for crimes that the United States would not have considered worthy of incarceration, such as participation in the black market, homosexuality, and dissenting with the communist government. For more on Castro's purported purposeful infiltration of the boatlift and the Cuban government's and media's role in mobilizing a narrative of Mariel deviance, see Gastón A. Fernández, *The Mariel Exodus: Twenty Years Later: A Study on the Politics of Stigma and a Research Bibliography* (Miami: Ediciones Universal, 2002) 23–41.



An undated 1980s pamphlet released by immigration restrictionist group Federation for American Immigration Reform (FAIR) contained this and other cartoons depicting Mariel Cubans. Accompanying this cartoon was the caption: "As many as 40,000 criminals, homosexuals, and mentally defective persons, excludable under U.S. immigration law, may have come to the United States in the Mariel boatlift."
Heidi Beirich, "The FAIR Files: Marielitos are 'Criminals, Homosexuals, and Mentally Defective Persons,' *Southern Poverty Law Center*, July 23, 2010. http://www.splcenter.org/blog/2010/07/23/fair-marielitos-criminals-homosexuals-and-mentally-defective/.

The Carter Administration faced a dilemma, wanting to offer open arms to refugees from communist countries while also appearing tough on illegal immigration. The United States had traditionally defined refugees as persons fleeing from countries ideologically opposed to the United States, but the 1980 U.S. Refugee Act, which went into effect in March, a month before the boatlift arrivals began, expanded this category to any persons fleeing fear of persecution. Despite this, the Carter administration sidestepped its dilemma by determining that the Mariel Cubans did not qualify as refugee bodies under the new Act. Even though they are often referred to as "refugees" in media and government sources, they were granted the temporary status of "entrant"—not yet an accepted part of the nation. Ironically a month after the Refugee Act's passage, the Mariel Cubans were the first immigrant group from a communist country since the start of the Cold War to whom the U.S. government denied refugee status.[10]

[10] To complicate matters, the Carter administration established a Cuban-Haitian Task Force to deal with the unprecedented number of both Cuban and Haitian arrivals by sea in the summer of 1980, which remained in place into Reagan's first term. Policy discussions regarding this "immigration emergency" in the Reagan administration often lumped Cubans and Haitians together, despite their different classifications in the U.S. legal system and the varying stances on Cuba's communist and Haiti's oppressive governments. However, their shared experience of

The political climate in 1980 played a large role in this decision to exclude the Mariel Cubans. During the previous decade the United States had accepted thousands of refugees in the wake of war and persecution, most notably from Vietnam and Southeast Asia, the Middle East, the Soviet Union, Central and South America, and the Caribbean. Americans' rising hostility toward the Mariel Cubans and immigrants in general, labeled in the media as "compassion fatigue," was compounded by an economic recession marked by oil embargoes and high interest and unemployment rates. Many believed immigration burdened social services and increased job competition. Reports that the U.S. government had spent $400 million on processing and resettling Cuban and Haitian entrants by August 1980 only aggravated these sentiments. In the economic downturn U.S. citizens were reluctant to sponsor refugees, while Cuban entrants also had to compete with refugees from other countries, including the fourteen thousand a month who were arriving from Southeast Asia.

Cuban émigré communities in Miami and throughout the United States were initially sympathetic to the Mariel Cubans. In the early days of the boatlift, government agencies provided security and kept order at makeshift camps, and the local Cuban American community and charitable organizations raised funds to provide for the welfare needs of the migrants. As reporting of Castro's plan and Mariel criminality increased, however, anxiety flared and émigrés took care to distinguish themselves from the new immigrants by calling them *Marielitos*, a term that quickly took on pejorative connotations. Nicasio Lopez-Puerta, a first-wave émigré and Cuban American political leader, explained this process: "[Castro] tried to get the American people to turn against us by sending . . . his worst social beings to pollute the image we had so carefully cultivated. . . . I have relatives who came in from Mariel. I am aware of the suffering

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detention and their being considered together in policy discussions may have further contributed to the stigmatization of Mariel Cubans.

and the sacrifice. That's not new. What is new is that our relationships with other communities in Miami deteriorated, and xenophobia reared its ugly head."[11]

The "compassion fatigue" displayed by Americans during this time is indicative of a larger shift rightward in U.S. political culture after the end of the Vietnam War. Historian Natasha Zaretsky identifies a resurgent Cold War nationalism that she labels a "conservative counteroffensive" in reaction to both the failure of the Vietnam War and the visibility of the New Left movements of the 1960s and early 1970s. Zaretsky links this nationalism to a constructed perception of national decline that was "experienced as a crisis of reproduction: reproduction of national authority, reproduction of collective sentiments of patriotism, reproduction of postwar affluence, and reproduction of U.S. world dominance . . . also cast as a crisis of generational reproduction."[12] Zaretsky's familial description of nationalism as a reproductive crisis helps facilitate an understanding of growing anti-immigrant sentiment as migrants seemingly posed a threat to the national body. Together these larger national trends set the stage for the real and imagined immigration "crisis" in which bodies that were increasingly represented as dark, criminal, and deviant took on symbolic overtones that resonated with larger narratives of national decline.

Shortly after the Fort Chaffee incident and at Governor Clinton's urging, the Pentagon granted federal troops the emergency power to use restraining force to contain Cubans within the camps across the country where they were being processed, and the White House promised that

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[11] García, *Havana USA*, 69–73; Llanes, *Cuban Americans*, 164–65.
[12] Natasha Zaretsky, *No Direction Home: The American Family and the Fear of National Decline, 1968-1980* (Chapel Hill: University of North Carolina Press, 2007) 144–45. Similarly, historian Robert Self argues that "family values" conservatives, reacting to perceived threats to the American family posed by the new rights movements of the 1960s and 1970s, "paved the way" for Reagan's economic neoliberalism. Robert O. Self, *All in the Family: The Realignment of American Democracy Since the 1960s* (New York: Hill and Wang, 2012).

no more Cubans would be sent to Fort Chaffee. However, as the boatlift drew to a close, Fort Chaffee became the consolidation site for 9,500 unsettled Mariel Cuban detainees in the fall of 1980. A total of 19,060 Cubans were processed through Fort Chaffee, until the fort's closure in February 1982 sent the remaining 392 who were labeled "antisocial" to several prisons across the country. There they joined 1,200 Cubans who were already imprisoned based on suspected felony charges. An additional 600 labeled "serious mental cases" were housed at St. Elizabeth's Hospital in Washington, D.C.[13] Many of these detainees, still with indefinite legal status and unable to repatriate due to cold relations between the United States and Cuba, remained in INS or Bureau of Prisons custody for years, and some for well over a decade.

Fort Chaffee, the largest resettlement camp in the United States and in operation the longest, serves as a site of inquiry into the narratives concerning the need to contain foreign bodies that reverberated throughout the media, among governmental officials, and in expressions of xenophobia in the adjacent town of Fort Smith, Arkansas.

"Fort Chaffee's Unwanted Cubans": Resettlement and Detention as Exercises of Inclusion and Exclusion

After the Fort Chaffee incident, Siro del Castillo, a Cuban émigré and the associate director of human resources for Carter's Cuban-Haitian Task Force stationed at the camp, addressed the Cuban community there. Reminding them of their conditional freedom, he stated:

> Let's compare this waiting period with that of those Cubans who stayed in Cuba… Let's have, as we said before, a little more humility and maybe a little gratitude… Let's keep in mind that the behavior of each and every one of you who leaves the camp and the

[13] Larzelere, *The 1980 Cuban Boatlift*, 379; 434.

> behavior of every one of you inside the camp, this is what will determine if the doors of Fort Chaffee are opened or closed to each and every one of you.[14]

Castillo seemed to warn detainees that the doors to joining the outside society were open to them only if they acted not only more civilly but more *American* as well.

A close look at the local community interactions and life inside Fort Chaffee will help explain the dynamics behind Castillo's words. Efforts to obtain sponsorship and resettlement for Cubans involved cultural training and an affirmation of "American" values; by contrast, those who remained excludable to the nation were rendered invisible by continued detention. Moreover, the stigma attached to the Mariel Cubans extended beyond the walls of the camp and ultimately colored the entire migrant population inside and outside of the detention center.

The largely xenophobic reception of the Mariel Cubans in the adjacent town of Fort Smith highlights familiar anti-immigrant themes seen at various times throughout U.S. history: namely, the foreign threats to national security of criminality, financial burden, disease, and sexuality.[15] The national media's role in circulating these themes helped shape local concerns even before the Cubans arrived at Fort Chaffee. The first 128 Mariel Cubans to arrive in Arkansas on May 9, 1980, received a mostly warm welcome. However, the *New York Times* reported that "some residents of the Fort Smith area were concerned about reports that there were diseased people and criminals among the refugees." And right before the refugees' plane landed, a man dressed in Ku Klux Klan robes ran through the Air National Guard Station, yelling, "Don't let them Cubans in! Hoodlums! They're gonna come in here and get a free ride for

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[14] Siro del Castillo, "One Day More or One Day Less," Folder 1, "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980–1981," Box 1, Fort Chaffee Collection, Cuban Heritage Collection, University of Miami.

[15] See, for example, narratives surrounding the threat of Chinese migration at the turn of the last century in Erika Lee, *At America's Gates: Chinese Immigration During the Exclusion Era, 1882-1943* (Chapel Hill: University of North Carolina Press, 2007).

everything!"[16] On February 12, 1982, after the last Cubans were moved out of Fort Chaffee, a *Times* article noted, "What is left behind, in the case of Fort Smith, is 71,000 people with a touch of xenophobia," and quoted Fort Smith mayor Jack Freeze as he recounted the experience: "People here decided they didn't want the Cubans before they saw them. The press had already said they were bad. I knew they couldn't be productive. There might be a Desi Arnaz or two out there, but mostly they were going to be killing one another."[17] Both of these articles make reference to how the preexistence of negative press surrounding the Mariel Cubans helped shape local perceptions.

In addition to widespread media coverage of Cuban criminality, concerns over the economic impact of the Mariel Cuban population also greatly influenced the views of Fort Smith residents. A May 10, 1980, *New York Times* article describing a picket at Fort Chaffee cited fears of economic recession as paramount. One young and unemployed mother carried a sign reading, "What are they going to do now—relocate us Americans?" Another young man remembered that Fort Chaffee served as a processing site for fifty thousand Vietnamese refugees back in 1975, relating, "Everywhere you go there's a Vietnamese working now—at least one."[18] A June 30 article quoted a man standing in an unemployment line in Illinois, saying, "I bet that if we were Cubans we wouldn't have to wait this long." However, the same article also mentioned the softening of attitudes toward Cubans in Fort Chaffee due to the two thousand jobs that detention

[16] William K. Stevens, "Arkansas Fort Receives First of Thousands of Cubans," *New York Times*, May 10, 1980.
[17] Gregory Jaynes, "Fort Smith Has a Bad Morning After," *New York Times*, Feb. 12, 1982; Hufker and Cavender, "From Freedom Flotilla to America's Burden," 332.
[18] William K. Stevens, "Pickets Add to Problems for Refugees in Arkansas," *New York Times*, May 11, 1980.

had created for local residents.[19] This economic concern continued, however, as evidenced by a letter from a citizen addressed to President Reagan on March 28, 1981. The letter asks why "good, law abiding, concerned, underpriviledged [sic] Americans" were paying the expenses of "bad, unlawful, non-caring, CUBAN PRISONERS." The letter concludes with the plea, "Please do something about this prediciment [sic] that Carter got us into!"[20] Here the recurring themes of financial burden, Cuban criminality, and Carter's failure became intertwined. Economics would continue to play a key role in the Reagan administration's handling of Fort Chaffee and the immigration crisis.

The threat of disease and sexual deviance was also a concern, as reporting highlighted the spread of tuberculosis and sexually transmitted diseases like gonorrhea and syphilis inside the camp. Male homosexual detainees also received much media attention and were segregated in separate barracks.[21] A memorandum from Fort Smith chief of police Henry J. Oliver in February 1981 details the death of a young Cuban male in a Fort Smith bar. Oliver describes the need to perform an autopsy: "We were all concerned that even though foul play might not be involved, some contagious disease might be involved." The memo also addresses the dilemma of Cubans being able to acquire guns: "Fort Smith has many, many outlets for firearms… There is no gun registration law in Arkansas and as a result there is no legal way to know whether a Cuban has or

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[19] Nathaniel Sheppard Jr., "Economic Standings Reflect Attitudes on Cuban Refugees," *New York Times*, June 30, 1980. That immigrants pose a threat of job competition with citizens has been a long-standing argument against immigration in the United States; however, this prospect of job creation that immigration detention provides foreshadows the dynamics underlying the creation of the highly racialized privatized prison industrial complex. See Michelle Alexander, *The New Jim Crow.*

[20] Letter, unsigned, to Ronald Reagan, Mar. 28, 1981, folder "General Correspondence," box 9, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library, Simi Valley, California.

[21] Homosexuality was a potential ground for exclusion from the United States during this time, justified under the 1965 amendment to the 1952 Immigration and Nationality Act, which added the phrase *sexual deviation* as a medical ground for exclusion. The Immigration Act of 1990 withdrew this phrase.

does not have a gun… It is felt these people will continue to be a problem as long as they are in this area."[22] After a disturbance in April 1981 in which one Cuban was shot, the local newspaper, *Arkansas Democrat*, ran an article with the opening "Fort Chaffee—The insane who huddle under blankets are sedated lest they cut their wrists to get attention. Homosexuals swish along dusty streets in drag. Single young women bear children conceived in the American resettlement camp. These are the unwanted Cubans at Fort Chaffee." The Republican governor of Arkansas Frank White sent this article to the White House with a note relaying the "desperate need to resolve this situation."[23]

With a lack of government funding, refugee resettlement required the help and sponsorship of private volunteer organizations such as Church World Service and Lutheran Immigration and Refugee Service. Despite xenophobic responses to the resettlement camp expressed by the local community, Mariel Cubans did receive some community support, especially in the boatlift's earlier days, preceding consolidation. Before the Fort Chaffee incident, KKK members demonstrated outside the camp's fences, but so did those in support of Cubans receiving refugee status. Many community members from churches, volunteer agencies, and local schools and colleges volunteered their time, money, and energies at the camp, providing English lessons, trade classes, sports and recreational activities, and training in job interviewing and life skills. Contestations over their status show how Cubans became symbols of very different views of how to protect and promote the American national body.

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[22] Memo, Henry J. Oliver to Mr. Steve Lease, Feb. 16, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.
[23] Letter, Frank White to Rich Williamson, Apr. 20, 1981; Peter Arnett, "Cubans Caught in 'Beauty, Tragedy' of System," *Arkansas Democrat*, Apr. 19, 1981, folder "General Correspondence," box 9, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.

While at capacity of around nineteen thousand Cuban detainees in addition to army officers and camp administrators, Fort Chaffee became the third largest "city" in Arkansas. It was a truly transnational space—at once American, Cuban, both, and neither. Some detainees had experienced the outside world and returned after their sponsorships broke down for a variety of reasons. Fort Chaffee ran two newspapers, *La Vida Nueva*, initially in Spanish and later in Spanish and English, for the Cubans, and *Crossroads*, for camp and army personnel. At first detainees were fairly free to re-create Cuban social structures and cultural activities. They were encouraged to play traditional sports and games such as boxing, baseball, and dominoes, and they followed Catholic religious practices. Single men, single women, homosexuals, and families were housed separately, but personal relations and the development of a black market based on cigarettes, blue jeans, and other commodities, including sex, was not regulated.[24] Sylvia Gonzalez of the Cuban-Haitian Task Force noted that homosexual life in the camp was freer than in Cuba or the United States: "We have to impress upon them that homosexuality is not an accepted thing by Americans at large… So once they've been assigned a sponsor, you'll see that the eyebrows tend to grow out and the make-up fades as they prepare for reality."[25] This freedom inside the camp proved a liability for obtaining freedom outside the camp, however, as an abundance of media reporting on the phenomenon of male detainees dressing in drag highlighted public anxieties surrounding sexual deviance.

Instrumental to sponsorship and resettlement was Cubans' demonstration of willingness and ability to "fit in" with American society. As Paula Dominique of the Church World Service told the *New York Times*, "There are people who call up and request a white, college-educated

[24] Fernández, *The Mariel Exodus*, 42–43.
[25] Paul Heath Hoeffel, "Fort Chaffee's Unwanted Cubans," *New York Times*, Dec. 21, 1980.

Cuban who speaks English… We remind them that we're not a Sears catalogue."[26] Most sponsors preferred women, children, or entire families, but the majority of detainees at Fort Chaffee were young, single men. Over half were Afro- or dark-skinned Cubans, many were unskilled or uneducated, and 16 percent were reported to have spent time in jail in Cuba or the United States.[27] Efforts in the camp to increase Cubans' prospects for sponsorship included a variety of educational techniques and programs focused on the teaching of English, American cultural practices, and democratic values. Local high school students visited the camp for boxing matches, baseball games, and on one occasion to give Cubans a presentation on the success of capitalism in the United States. The fact that male detainees were encouraged to engage in masculine activities such as sports and discouraged from overtly expressing nonnormative gender identities in order to obtain sponsorship exemplifies camp efforts to prepare detainees to become model American citizens.[28]

The *La Vida Nueva* newsletter, edited by the Cuban-Haitian Task Force in charge of camp administration with the help of detainees, served as an educational tool as well as a form of transnational media that tried to mediate the detainees' liminal status. The newsletter, which ran three times a week, provided updates on camp happenings, world news, health tips, lessons on U.S. history and politics, and messages from the camp director Barbara Lawson. The newsletter also took opportunities such as holidays to educate detainees about American customs and values. On Thanksgiving in 1980, for example, the camp held a "Turkey Trot" race, served a Thanksgiving dinner, and published Lawson's message in *La Vida Nueva*:

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[26] Ibid.
[27] García, *Havana USA*, 71.
[28] *La Vida Nueva* (Fort Chaffee), no. 152 (Dec. 13, 1980), CHC Exile Journals, Cuban Heritage Collection, University of Miami. Translated from Spanish by author. (Hereafter CHC Exile Journals).

> On this first Thanksgiving, it is especially important to remember those first refugees, the pilgrims… They had been able to overcome obstacles and… reach their proposed goal: freedom, just like millions of immigrants after them who triumphed over the barriers of language and culture. My prayer on this day of giving thanks is that we will soon have sponsors for each of you, so you can begin your new life in the U.S. as thousands of refugees have done before you.

Cuban detainees contributed to this effort to weave themselves into this Thanksgiving narrative of American immigration history. Ramón Valdes Hevia's piece in the Thanksgiving newsletter read, "We Cuban exiles, who have found freedom in this land of open arms, which opens the great gates of life, we join the Christian sense of this town commemorating the 27th of November… I thank God for being in this land of freedom."[29] A group of older Cubans in the camp known as "the Abuelas" held a small demonstration to show what Thanksgiving meant to them, with signs that read, "The Communism Is Cancer," "Muera el Comunisma," and "Thanks to the American People!"[30]

Despite Cuban efforts such as these to combat negative stereotypes in the media and claim belonging in American society, and despite the fact that all but several thousand Mariel Cubans were resettled within two years of arrival, the act of detention itself perpetuated the stigma of criminalization placed on the Mariel Cubans. As time went on, especially after the disturbances and consolidation at Fort Chaffee, the "camp" environment became increasingly more punitive as the concentration of hard-to-sponsor Cubans increased. As conditions deteriorated, so did Cubans' hopes, as they faced a lack of employment, boredom, and frustration. The longer they remained at Fort Chaffee, the lower their chances of being sponsored. A December 1980 *New York Times* article titled "Fort Chaffee's Unwanted Cubans" detailed the hardships detainees faced in obtaining sponsors, a situation exacerbated by negative

[29] *La Vida Nueva*, no. 142 (Nov. 27, 1980), CHC Exile Journals.
[30] *La Vida Nueva*, no. 143 (Nov. 29, 1980), CHC Exile Journals.

media reporting and lack of coordination between government bureaucracies and volunteer agencies.

The experience of detention often hardened detainees and kept them from the doors to freedom. Dave Lewis of the Catholic Conference, in explaining a system of green, yellow, and red lights for profiling Cubans for sponsorship, noted, "There's no telling how many have crossed from green to yellow because of their experiences in here… but you know there have been casualties."[31] Immigration guards carrying Mace and clubs had by this time taken control over a "segregation" area at the fort called "Level II," where fence jumpers and troublemakers were kept. The "stockade" was a place of solitary confinement for those who committed more serious crimes, and those who were considered most threatening were sent to prisons in Texas and throughout the South to be detained indefinitely. Criminals were not the only detainees that were further isolated at Fort Chaffee; mental patients who were considered "red" lights were kept in a psychiatric ward that barred journalists from entering. In one example, accusations of negligence surrounded the October 1980 death of a twenty-three-year-old female patient with a history of seizures left alone in a seclusion area.[32] The more "excludable" that Cubans were deemed to be, the more hidden in the vast network of detention centers, mental facilities, and prisons they became.

"Nobody Wants These People": From Panic to Policy

Mariel Cuban detention at Fort Chaffee was so contentious in Arkansas that it became the central issue during the gubernatorial election of 1980. Republican candidate Frank White used

[31] Hoefel, "Fort Chaffee's Unwanted Cubans."
[32] Ibid.

Fort Chaffee against incumbent Bill Clinton, saying that Clinton had not "stood up" to the White House and that he had passively accepted the refugees. White promised to empty Fort Chaffee within a year and aired commercials showing rioting Cubans to assist his successful election in November.[33] A White House memorandum in June 1981 concluded, "It is the opinion of the Governor, his political advisors, and those of us who have analyzed the 1980 election that Governor White was elected solely on the basis of this issue."[34] The *New York Times*, detailing the upcoming rematch of White and Clinton in 1982, also confirmed that Fort Chaffee was a central issue in the previous election by recalling that Clinton was "perceived as having allowed the state to be used as a dumping ground for Cuban refugees."[35]

On a national level, Reagan's election linked rhetoric of national renewal with denunciation of an immigration "crisis" inherited from the Carter administration. Sean Wilentz notes, "Reagan had the excellent fortune to emerge as a presidential contender just as Democratic liberalism fell into intellectual confusion and political decay… The electorate, despite misgivings, was prepared to give antigovernment conservatism a chance. More important, Reagan had the optimistic temperament and rhetorical skills to turn right-wing Republicanism into Reaganism."[36] Reagan's antigovernment conservatism also embraced neoliberalism, which Elena Zilberg defines in three ways: as an economic model of free trade, deregulation, and the privatization of government functions; as a political philosophy that privileges freedom of individuals over state power and private goods over public ones; and as a

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[33] "Politics Key to the Fate of Camp's Last Cubans," *New York Times*, Jan. 4, 1982.
[34] Memo, Lyn Nofziger and Richard Williamson to James Baker and Edwin Meese, June 11, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.
[35] Wendell Rawls Jr., "Arkansas Gubernatorial Candidates in Close Race," *New York Times*, Oct. 28, 1982.
[36] Sean Wilentz, *The Age of Reagan: A History, 1974-2008* (New York: Harper, 2008) 137.

mode of personal conduct that favors personal responsibility over social welfare.[37] In addition to the political and economic conditions that gave way to "Reaganism," it is also essential to appreciate the cultural dimensions of Reagan's appeal. Gil Troy's *Morning in America* provides a useful exploration of how Reaganism resonated in 1980s popular culture as he writes, "we need to recognize Regan's presidency as a cultural and political phenomenon."[38] A collection of essays edited by Kyle Longley, *Deconstructing Reagan: Conservative Mythology and America's Fortieth President*, explores President Reagan's use of grand narratives and myth-making to garner national consensus and to demarcate areas of inclusion and exclusion.[39]

Indeed, very few presidents are as known for their mastery of grand narrative and assertion of "imagined community" as President Reagan. In his inaugural address of January 20, 1981, Reagan emphasized themes of rebirth and recovery from decline, stating, "And as we renew ourselves here in our own land, we will be seen as having greater strength throughout the world. We will again be the exemplar of freedom and a beacon of hope for those who do not now have freedom."[40] Here, Reagan played upon a fear of decline to create a sense of unity to invoke the values of freedom. Hugh Heclo labels Reagan's ability to convey dramatic narratives as a "public philosophy." Reagan's public philosophy, "asserts ultimate values transcending mere events. On both sides, a public philosophy draws us into the subject of storytelling… Reagan did

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[37] Zilberg, *Space of Detention*, 4-5.
[38] Gil Troy, *Morning in America: How Ronald Reagan Invented the 1980s* (Princeton: Princeton University Press, 2005) 11.
[39] See also Melani McAlister's discussion on the creation of "moral geographies" in *Epic Encounters: Culture, Media, & U.S. Interests in the Middle East Since 1945* (Berkeley: University of California Press, 2001). Rick Perlstein also provides a definitive new account of how Reagan rejected the failures of Watergate and Vietnam to instead embrace America's moral superiority in *The Invisible Bridge: The Fall of Nixon and the Rise of Reagan* (New York: Simon & Schuster, 2014).
[40] Ronald Reagan, "First Inaugural Address, Tuesday, January 20, 1981," in *Inaugural Addresses of the Presidents of the United States* (Washington, D.C.: United States Government Printing Office, 1989): 335.

this work in his political life by serving as narrator, a teller of many stories that all served to expound and defend what he regarded as the one American story."[41] By channeling policy issues through an emotional or dramatic narrative, Reagan aimed to garner support through an appeal to shared values, often simplifying or generalizing conclusions about events in the process.

On the campaign trail, Reagan promised to "renew" America and to "get tough with Cuba" by threatening a naval blockade.[42] Once in office, he sought ways to further restrict contact with Fidel Castro, a move that prolonged the detention and indefinite status of the Mariel Cubans as Cuba continued to refuse repatriation. Extensive media focus on the Mariel boatlift, and on Fort Chaffee in particular, made immigration an issue the incoming administration could not ignore. Similar to Natasha Zaretsky's identification of the link between the rise of Cold War nationalism and a fear of national decline, Melani McAlister draws a connection between the maintenance of foreign policy and a discourse of danger. She asserts, "The nation finds itself threatened by the specter of doubt or dissent within, and by the very real possibility of challenge by those outside its borders. In fact, this sense of danger and instability in foreign policy discourse is central to its success."[43] Immigration as a policy issue in particular also portends a challenge to national security and identity interests, as Robert L. Bach relays that "refugee-like flows" like the Mariel boatlift, "gave solid testimony to the charge that the U.S. borders were

[41] Hugh Heclo, "Ronald Reagan and the American Public Philosophy," in *The Reagan Presidency: Pragmatic Conservatism and its Legacies*, ed. W. Elliot Brownlee and Hugh Davis Graham (Lawrence, KS: University Press of Kansas, 2003): 17-8.
[42] Maria de los Angeles Torres, *In the Land of Mirrors: Cuban Exile Politics in the United States* (Ann Arbor: University of Michigan Press, 1999) 105, 117; Ronald Reagan, "First Inaugural Address, Tuesday, January 20, 1981," in *Inaugural Addresses of the Presidents of the United States* (Washington, D.C.: United States Government Printing Office, 1989) 335.
[43] McAlister, *Epic Encounters*, 6.

'out of control' and raised the specter of loss of national sovereignty."[44] In the Reagan Administration's management of the Fort Chaffee crisis in particular, narratives of danger and the threat posed by immigration are pervasive and continually reaffirmed.

When Reagan took office 5,200 unsettled Cubans still remained at Fort Chaffee, and on March 6 Reagan formed the President's Task Force on Immigration and Refugee Policy headed by Attorney General William French Smith.[45] Reagan highlighted the prominence of the Fort Chaffee dilemma in his diary: "Bill Smith came in with a task force report on immigration. Our 1st problem is what to do with 1000's of Cubans—criminals & the insane that Castro loaded on refugee boats & sent here."[46] Reagan had quickly adopted the dominant yet simplified view of the Mariel Cuban migration. White House files reveal that the dilemma of how to handle the Cubans at Fort Chaffee remained a pressing issue for the administration in its first year, and both the political fallout from the Mariel migration and the specter of future potential mass migrations played a central role in immigration policy formation in the coming years.

Closing Fort Chaffee was a priority for the Reagan administration, but the political problem remained of where to send the remaining Cubans. The White House articulated its dilemma regarding the fort's closure in that "political obstacles prevent a solution" and "political commitments prevent its use," but the welfare of Cuban detainees was not high on the administration's list of priorities.[47] Chief of Staff James Baker and Vice President George H. W.

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[44] Robert L. Bach, "Immigration and U.S. Foreign Policy in Latin America and the Caribbean," in *Immigration and U.S. Foreign Policy,* ed. Robert W. Tucker, Charles B. Keeley and Linda Wrigley (Boulder, CO: Westview Press, 1990): 138.
[45] Robert Pear, "Plan Aims to Free Refugees in Jails for Crimes in Cuba; Most Have Confessed Crimes Refugees Await Sponsors," *New York Times*, Jan. 30, 1981.
[46] Reagan, "May 18, 1981," Ronald Reagan, *The Reagan Diaries* (New York: Harper Collins, 2009) 20.
[47] "INS Detention Policy," undated, folder "Detention Center and Chaffee Working Files (6)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.

Bush both expressed their commitment to solving the problem to Governor White. Baker wrote to White in May of 1981, "Your problem at Fort Chaffee is receiving priority attention at the cabinet level. Nobody wants these people. As you pointed out, the Reagan Administration did not admit them." On June 3 Bush wrote, "I have your letter on the undesirables at Fort Chaffee and have been pressing the system for an answer. Your concern is widely shared but by no one as strongly as me… This is a high priority matter in the Administration. As soon as I can report progress on the undesirables, I will be in touch with you."[48] Both letters express solidarity with White and agree upon the excludable status of the Cubans.

Shortly thereafter Baker wrote to Presidential Counselor Edwin Meese recommending the closure of Fort Chaffee based on political concerns: "White was elected solely on the basis of this issue. His re-election in 1982 is contingent upon a favorable resolution of the situation…. The Governor indicates he was under extreme political pressure in Arkansas to close Ft. Chaffee immediately.[49] In January of 1982 the *New York Times* opined that the unsettled Cubans remaining at Fort Chaffee "have become more important as political symbols than as individuals" and cited a letter from White to Secretary of Health and Human Services Richard S. Schweiker, stating, "I don't need to tell you how important it is to the Republican Party and to my own political future that these people be moved."[50]

Finding an alternative home for the unsettled Cubans, however, became increasingly difficult. An idea to return them through the U.S. military base at Guantánamo Bay circulated in

[48] Letter, George Bush to Frank White, June 3, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.
[49] Memo, Lyn Nofziger and Richard Williamson to James Baker and Edwin Meese, June 11, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.
[50] "Politics Key to the Fate of Camp's Last Cubans," *New York Times*, Jan. 4, 1982.

government and in the media.[51] An internal White House memo noted that using Guantánamo Bay "would avoid the domestic political costs of continuing to hold them within the United States; getting undesirable Cubans out of the U.S. would be viewed as an Administration victory."[52] However, this solution was untenable given relations with Cuba. The White House and the State Department later denied reports that the administration was considering Guantánamo as a means of solving the problem.[53]

As efforts to relocate the detained Cubans within the United States proved equally difficult, the White House expressed an increased sense of emergency in the search for long-term detention solutions. Most states were unwilling to accept or detain the Cuban population. Texas state representative Buck Florence said that he did not want Cubans moving to Texas because "they urinate in public and are prone to masturbation."[54] Governor Harry Hughes of Maryland declared his "most vigorous opposition" to a proposal to build a detention facility in Bainbridge, and the mayor of Port Deposit stated, "There is apprehension here and a few people have become

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[51] This idea first appeared in June of 1980 as President Carter requested a report on possible ways to deport Mariel Cubans found to be criminal. Senator Daniel Inouye (D-Hawaii) suggested in Congress: "Take them to Guantanamo and open the gate and say go through there." Florida Governor Bob Graham also recommended this action to Deputy to Chief of Staff Frank Hodsoll early in the administration's first year, saying "I can't think of a better place to have a confrontation than our own military base." Don Irwin, "Study Outlining Possible Ways to Deport Criminal Refugees Ordered by Carter," *Los Angeles Times*, sec. B, June 5, 1980. For more on considerations of Guantanamo Bay under the Carter Administration, see Engstrom, *Presidential Decision Making Adrift*, 136 (n121); James Gerstenzang, "Graham Refugee Plan Goes to White House," *St. Petersburg Times* news clipping, folder "Florida", box 8, Francis S.M. (Frank) Hodsoll Files, Ronald Reagan Library.

[52] "Using Guantanamo to Hold the Undesirables who Arrived in the Mariel Boatlift," undated, folder "Detention Center and Chaffee Working Files (5)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.

[53] "U.S. Officials Call Cuba Deal Story 'Absolutely False,'" *Washington Post*, July 5, 1981.

[54] Charles R. Babcock, "Resettling of Cuban Refugees Is Proceesing at a Slow Pace: Criminal Records, Homosexuality, Mental Illness Are Factors," *Washington Post*, Feb. 10, 1981.

so alarmed as to say, 'Oh, I have to buy a gun.'"[55] Attorney General Smith noted that Cuban and Haitian "release into Florida adversely affects the local community; Governor Graham and the Congressional delegation urge dispersal of the illegals to other areas of the country." He also called for the expansion of other facilities to "meet a possible immigration emergency."[56] Doris Meissner, commissioner of the INS, said the remaining detainees at Fort Chaffee were "mostly single men, with limited education, limited skills, almost no English ability… We believe that most of these people will have to be held for some considerable period."[57] On August 9, 1981, the *New York Times* reported that there were "720 refugees left at Fort Chaffee, Ark., most of them classified as 'antisocial,' and, according to Federal officials, no one wants them."[58] As negative publicity continued, viable options for the transfer of Mariel Cubans grew slimmer for the administration.

The need to pass off the political hot potato of Cuban detention ultimately led the administration to arrive at the most expedient solution available. As a White House proposal outlined, "Termination of Ft. Chaffee operations is the major priority at this time… If greater speed is required… [an] alternative would be faster and millions of dollars less expensive… Our proposal will permit Ft. Chaffee to be closed sooner and can be implemented at less cost."[59] The proposal recommended that Cubans from Fort Chaffee be transferred to various Bureau of Prisons facilities instead of a permanent facility to be built in Glasgow, Montana, that was under

[55] Jura Koncius, "Bainbridge Is Leading Refugee Site Choice," *Washington Post*, July 13, 1981.
[56] "Cabinet Administration Staffing Memorandum," from William French Smith, July 6, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.
[57] Dale Russakoff, "Bainbridge Is Unlikely Refugee Site," *Washington Post*, July 14, 1981.
[58] Robert Lindsey, "U.S. Is Finding That No One Wants to Accept Last Cuban Refugees," *New York Times*, Aug. 9, 1981.
[59] "Termination of Ft. Chaffee Operations," undated, folder "Immigration Policy: Cubans and Haitians," box 10, James Cicconi Files, Ronald Reagan Library.

consideration. This recommendation became a reality. As Fort Chaffee closed and the last Cuban detainees disappeared into the prison system in February 1982, Justice Department officials legitimized the decision, claiming, "It's cheaper to keep them there" and that it was an "interim solution."[60] It was also the least visible, and therefore least politically costly, solution.

The unrelenting need for an expedient solution for the placement of Mariel Cubans and anticipated future migrant flows continued to influence decisions on the administration's handling of immigrants and refugees. In April 1981 Kenneth Starr, counselor to the attorney general, declared the new administration's commitment to preventing another Mariel crisis: "It is absolutely clear that this administration would not tolerate a massive influx of the type we witnessed in 1980."[61] This sentiment was reflected in two proposals by the Task Force on Immigration on detention policy that summer. Under the heading "Contingency Planning," the Task Force recommended the following: "Identify suitable facilities to hold 10,000 to 20,000 people; plan for activation of the facilities on short notice, but maintain the facilities on an inactive basis prior to an emergency." And under the heading "Enforcement Options," it suggested, "Detain undocumented aliens upon arrival pending exclusion or granting of asylum. This requires facilities with a capacity of 5,000–10,000 assuming more rapid exclusion hearings and high apprehensions."[62] These policy recommendations mark important new strategies utilized by the Reagan administration to assure the exclusion of unwanted immigrants: the use of the specter of another "Mariel" to legitimize more permanent detention facilities, the use of

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[60] "Cubans in Arkansas Will Be Transferred to 2 Federal Prisons," *New York Times*, Jan. 23, 1982.
[61] Edward Walsh, "Next Cuban Exodus May Not Get as Warm a Welcome as '80 Boatlift," *Washington Post*, Apr. 28, 1981.
[62] Memo, William French Smith to Ronald Reagan, June 26, 1981, folder "Report of the President's Task Force on Immigration and Refugee Policy," box 15, Francis S. M. (Frank) Hodsoll Files, Ronald Reagan Library.

detention as a deterrent to illegal immigration, and the detention of asylum seekers upon arrival. In July Attorney General Smith addressed the House, claiming, "The problem has been out of control for years… Detention of aliens seeking asylum was necessary to discourage people… from setting sail in the first place."[63]

In an interview on December 3, 1981, Reagan was asked about the current refugee problem. He replied, "In 1980—the administration then was caught by the great exodus from Cuba… No planning had been made for that. We're also looking at available sites and facilities for a detention center for those who are apprehended and are illegal aliens, who will probably be returned." Here Reagan alluded to the administration's plans for larger illegal immigration enforcement structures for detention and deportation. He also admitted problems with "finding [a site] that the inhabitants of the State would be willing—you'd be surprised how difficult it is to find some State that wants it."[64] These statements also reveal an important transformation that occurred within the administration; the refugee "resettlement camp" had now become inseparable from the "detention center" for the "illegal alien," highlighting the continued need to render such unwanted bodies invisible within the nation.

The Reagan administration's handling of Fort Chaffee left its legacy: the continued criminalization of Mariel Cubans and the buildup of a more permanent immigration detention system that included the unprecedented use of private contract facilities beginning in 1983. In March 1982 the Office of the Attorney General described the foreseen need for detention: "A very real possibility exists for other major movements of illegal entrants from Central America

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[63] Charles R. Babcock, "Immigration Plan Includes Amnesty, Tighter Controls," *Washington Post*, July 31, 1981; Timothy Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home* (Austin: University of Texas, 1996) 46.
[64] "Remarks in an Interview with Managing Editors on Domestic Issues December 3, 1981," *The Public Papers of President Ronald W. Reagan*, Ronald Reagan Presidential Library, accessed Nov 4, 2013, http://www.reagan.utexas.edu/archives/speeches/1981/120381e.htm.

and the Caribbean into the United States during the next several years. A new permanent detention facility would allow the Department to enforce its illegal alien detention policy more equitably nation-wide."[65] Not only more equitably, but more palatably, as prison building served the dual function of bringing jobs to low-income communities and keeping unwanted immigrants out of sight. Journalist Mark Dow credits the Reagan administration for the establishment of what began as a "contingency plan," based on the "detention of hundreds of thousands of undocumented aliens in the case of an unspecified national emergency," but is now common practice.[66] The perceived threat of immigrant bodies has remained pervasive and continues to buttress today's highly racialized and lucrative private prison and detention industry.

Conclusion

> Are we gonna keep people forever? That's the issue. Do you warehouse people, or do you provide some kinds of services so that we can release them into our country?
>
> -Barbara Lawson, director of Fort Chaffee, 1981[67]

Paul Heath Hoeffel presciently commented in the *New York Times* in December 1980 that "the plight of the Cubans at Fort Chaffee may be the beginning rather than the end of a problem of national and international proportions."[68] Shortly after all of the Mariel Cubans had been moved from Fort Chaffee in February 1982 and while the problem of their detention still remained, Reagan wrote in his diary, "What to do with 3000 jailed Cubans. Castro infiltrated

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[65] "Federal Prison and Alien Detention Policy" from Edward C. Schmults to James A. Baker III, Edwin L. Harper, Annelise Anderson, and James W. Cicconi, Mar. 10, 1982, folder "Immigration Policy: Cubans and Haitians," box 10, James Cicconi Files, Ronald Reagan Library.
[66] Mark Dow, *American Gulag: Inside U.S. Immigration Prisons* (Berkeley: University of California Press, 2003) 8–9.
[67] "RE Montana Transfer, B. Lawson," cassette tape, August 1981, Box 2, Fort Chaffee Collection, Cuban Heritage Collection, University of Miami.
[68] Hoeffel, "Fort Chaffee's Unwanted Cubans."

with the Mariel refugees. These have criminal records and history of mental problems. They are truly violent and were evidently released from prison and hospitals in Cuba just to be dumped on us. A judge threatens to release them from our jails and turn them loose on society. The problem—as yet unsolved is how to return them."[69]

The status of Mariel Cubans was finally resolved in 2005, when the U.S. Supreme Court ruled unconstitutional the indefinite detention of Cubans who arrived in the boatlift. For twenty-five years the United States had reserved the right to keep Mariel Cubans imprisoned, even after they had served their sentences for crimes. This ruling freed around 750 Cubans still being detained, and as Mark Dow concludes, "Detainees who came here during the 1980 Mariel boatlift are probably the most lasting victims of U.S. immigration detention."[70]

Cubans were not the only immigrant group to be detained en masse during this time, nor was the practice of immigration detention a new phenomenon.[71] However, the size and scope of the U.S. immigration detention system grew exponentially after the "crisis" of the early 1980s that began with the Mariel Cuban migration and continued as Haitians and Central Americans increasingly sought refuge in the United States. Mariel became a key symbol of the specter of future immigration emergencies for the United States, and narratives surrounding the urgent need to contain and eradicate the threat of foreign bodies became the necessary counterpart of a reinforced vision of who was to be included in the nation. As the next chapter shows, the policies outlined by the Reagan administration in response to Cuban and Haitian "boat people" marked a new departure in U.S. immigration policy that remains firmly in place today.

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[69] Reagan, "February 26, 1982," *The Reagan Diaries*, 71.
[70] Dow, *American Gulag*, 16, 297; Mirta Ojito, "The Long Voyage from Mariel Ends," *New York Times*, Jan. 16, 2005.
[71] Haitian boat people, for example, were being systematically detained since the early 1970s. See Rivera, *Decision and Structure*, 13–16; Jake C. Miller, *The Plight of Haitian Refugees* (New York: Praeger, 1984).

CHAPTER TWO
"We Have Been Unable to Find Any Precedent for Such an Operation": The Extension of Executive Authority through Haitian Interdiction and Detention

> Can we doubt that only a Divine Providence placed this land, this island of freedom, here as a refuge for all those people who yearn to breathe free?
>
> -Ronald Reagan, Presidential Nomination Acceptance Speech, July, 1980

> You can imagine that if we risked our lives by leaving our country on sailboats and planes it was in order to find a haven on the soil of America… Why are you letting us suffer this way, America? Don't you have a father's heart? …Why among all nations that emigrate to the United States have only the Haitians known such suffering?
>
> -Open letter to the United States Immigration Service from "The Unhappy Refugees of Enclave VI," Fort Allen, Puerto Rico, November, 1981[1]

On October 9, 1980, a United States Coast Guard plane conducting a routine search discovered over one hundred Haitians marooned on Cayo Lobos, a deserted Caribbean island the size of a football field. With nothing but an unmanned lighthouse and a few abandoned buildings for shelter, the island lay twenty-five miles off the coast of Cuba and within jurisdiction of the Bahamas. The USCG immediately alerted the Bahamian government of the Haitians' presence and dropped food and medical supplies on the island by air, but Bahamian officials did not take immediate action. When the USCG's cutter *Dallas* landed on Cayo Lobos to administer medical examinations on October 20, Haitian boat captain Claude Pierre related that a storm had forced the migrants ashore, including twenty-five women with several among them pregnant, after they left Haiti on September 22 for Miami. Six passengers died before their arrival on the island, and five had starved since landing.[2]

The stranded Haitians found themselves at the center of an international "jurisdictional squabble" between Haiti, the Bahamas, the United States, and the United Nations High

[1] "Haitians: We'll Kill Ourselves," *New York Times*, sec. E, November 29, 1981.
[2] "Bahamians Agree to Rescue 102 Haitians Marooned for a Month," *New York Times*, sec. A1, November 9, 1980; Miller, *The Plight of Haitian Refugees*, 69.

Commissioner for Refugees. According to a spokesman for the Bahamian Prime Minister Lynden O. Pindling, his government was willing to release the migrants to the UNHCR, but only on the condition that, "The United Nations and the United States would accept full responsibility for all illegal aliens in the Bahamas, estimated to number 20,000 to 40,000."[3] Finally, after the Haitian government expressed it would take the migrants back but could not transport them, Bahamian police officers landed on the island on November 11 in an attempt to evacuate them. Starving but not wanting to return home, the Haitians turned the officers away with knives, sticks, and bottles. Claude Pierre protested: "I can't go any place but Miami… We lost everything in Haiti. They will beat us up, kill us, put us in jail. It is a decision between life and death."[4] The next day, the director of Miami's Haitian Refugee Center Reverend Gerard Jean-Juste landed on the island in a CBS helicopter and advised the Haitians not to return to Haiti, suggesting instead that the United States accept them. However, the Bahamian police officers soon returned, this time wielding clubs and tear gas, and the weary migrants submitted to going back to Haiti on November 16.[5] U.S. President Jimmy Carter's assistant for intergovernmental affairs Gene Eidenberg, claiming that the White House was unaware of the situation until the *Miami Herald* brought it to their attention only days before the Bahamians' attempted evacuation, stated, "I'm outraged… the White House is looking into the question of how this

[3] Thomas, Jo, "Sadly, the Marooned Haitians Return Home: Some Will be Hospitalized Vessel is Delayed," *New York Times*, sec. A3, November 17, 1980.
[4] "Marooned Haitians Resist Rescue, Bahamians Say: A Radio Call for Help," *New York Times*, sec. A28, November 12, 1980.
[5] Although the Haitian government claimed it would not take action against those who attempted to leave, one man who later migrated to Miami reported to the *Miami Herald* that Haitian police went to his home, found him gone, and arrested his father instead. Miller, *The Plight of Haitian Refugees*, 71.

situation was allowed to occur and be known to officials of the American Government for 30 days without higher authorities being advised of the situation and action taken."[6]

The confusion over Haitian immigration in the last years of the Carter Administration foreshadowed larger dilemmas that would emerge as one of the biggest foreign policy and immigration challenges of the 1980s. In his first year in office, President Reagan began taking unprecedented measures to assert jurisdiction over Haitian migration through a policy of interdiction on the high seas. By Executive Order 12324 and an agreement with Haiti in September of 1981, Reagan directed the U.S. Coast Guard to patrol the waters between Haiti and Florida and intercept refugee vessels. INS officers on board would then interview Haitian migrants; those found to have credible claims of asylum would be brought to the United States, and those found excludable would be returned to Haiti.[7] The USCG began patrolling the Windward Passage off the northwest coast of Haiti on October 11, and its first interdiction by the cutter *Chase* occurred on the night of October 25. The leaking Haitian boat sank shortly after its fifty-seven passengers were transferred to *Chase,* and all were taken directly back to Port-au-Prince.

The very next morning, in "wretched symmetry" as a *New York Times* editorial described it, the bodies of thirty-three Haitians who had drowned when their small boat capsized washed up on the shores of the resort community of Hillsboro Beach, Florida. According to the INS, it was the worst accident of its kind since the INS began processing Haitian boat arrivals in Florida in the early 1970s. Governor Bob Graham called the event "a human tragedy which has been

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[6] "Bahamians Agree to Rescue 102 Haitians Marooned for a Month," *New York Times,* November 9, 1980.
[7] Reagan, Ronald, "Executive Order 12324 – Interdiction of Illegal Aliens," September 29, 1981; Michel S. Laguerre, *Diasporic Citizenship: Haitian Americans in Transnational America* (New York: St. Martin's Press, 1998), 82.

waiting to happen," while a Coast Guard spokesman in Miami said, "it's what we were hoping to avoid" through the new policy of interdiction. Thirty-four survivors from the shipwreck were apprehended and sent to the Krome North detention facility south of Miami, joining a thousand other Haitian migrants who had been detained for months.[8] After the drownings, the NAACP, which had previously labeled the policy of interdiction a "barbaric assault on human freedom," sent a "fact-finding team" to Miami to interview INS officials, survivors, and Haitian nationals. NAACP Executive Director Benjamin Hooks sent a telegram to President Reagan demanding a meeting with him and urging the president, "to rescind the interdiction order which has been applied in a discriminatory manner towards Haitians fleeing their country."[9] Meanwhile, relatives of detainees and civil rights activists continued to demonstrate on the streets outside of Krome, chanting things like, "Hey hey, USA, stop supporting Duvalier," and drawing international attention to the detention center.[10]

Just as Fort Chaffee became a site representative of the experience of detained Mariel Cubans, Krome North exemplified the experience of Haitians who made it to American soil. The sharp increase in Haitian arrivals after 1980 paralleled the Mariel migration.[11] Cubans and Haitians were most often detained separately once in the United States— Cubans on military

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[8] Jaynes, Gregory, "33 Haitians Drown as Boat Capsizes off Florida," *New York Times*, sec. 1A, October 27, 1981; Stuart Taylor, Jr., "Deciding How to Stop Haitians—And Why," *New York Times*, sec. E4, November 1, 1981.

[9] Taylor, Stuart, Jr., "Deciding How to Stop Haitians," *New York Times*, October 27, 1981; Hooks, Benjamin, telegram to Ronald Reagan, November 6, 1981, Folder "December '81 (2 of 2)," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[10] Miller, *The Plight of Haitian Refugees*, 129.

[11] Desperate economic and political conditions in Haiti drove the number of Haitian arrivals from 3,859 total in 1979 to 22,499 in 1980 and 9,505 in 1981. Miller, *The Plight of Haitian Refugees*, xii.

bases and Haitians in detention centers, reflective of the Cold War protocol of receiving Cubans as anti-communist political refugees and rejecting Haitians as economically-driven "illegal immigrants." The procedures and outcomes of their adjudication also followed different paths. As repatriation was not an option for Cubans, it was a reality for Haitians. Haitians who set out for the United States without a visa most likely faced one of the scenarios described above: denial on the high seas, detention, deportation, or death. Indeed, as a migrant group, Haitians stand out as being overwhelmingly denied refugee status in the United States. Between 1972 and 1980, out of the approximately 50,000 Haitians who sought asylum in the United States, only twenty-five succeeded. And during the first term of Reagan's policy of interdiction, from September of 1981 to March of 1985, not one of the nearly 3,000 Haitians intercepted by the Coast Guard was found to have a valid asylum claim, and not one was taken to the United States for adjudication.[12] Despite Cubans and Haitians' different fates in the U.S. immigration system, Haitian "boat people," much like Cubans, became central figures in U.S. immigration and foreign policy-making and in media narratives.

Perhaps because of the complex histories of each migrant group, existing scholarship on Cuban and/or Haitian migration during this time period fails to consider the significance of the fact that U.S. officials and media tended to *imagine* these groups together, even though they were processed very differently.[13] Both groups were lumped together in a shared "Cuban-Haitian

[12] Laguerre, *Diasporic Citizenship*, 82.

[13] I do not aim to minimize the importance of understanding the contingencies and impacts of each group's experiences and the legal histories of their respective immigration statuses, but it is beyond the scope of this study to delve into them and it has already been done extensively. For example, Alex Stepick's vast body of work on U.S. policy towards Haitian boat people and Michel S. Laguerre's historical survey of Haitian migration to the United States in *Diasporic Citizenship*, which asserts that "The treatment of Mariel Cubans and Haitians arriving in Florida… exemplified the double standard of US policy *vis-à-vis* the Haitian refugees," emphasize the unique experiences of Haitian migrants in order to underline the injustices of their

entrant" status in 1980, in immigration policy discussions (in Carter's creation and Reagan's continuation of a "Cuban-Haitian Task Force," for example), and in media narratives describing the influx of dark-skinned "boat people" from the Caribbean. Also, both groups' shared experience of detention, albeit in different facilities, served to criminalize and stigmatize both Cubans and Haitians. The parallel spikes in Cuban and Haitian migration in 1980 remained a key symbol for the Reagan Administration as it continued to envision the specter of such migrations as an ongoing crisis. Knowing what the political costs of the mass migration of boat people had been to Carter's unsuccessful run for re-election in 1980, Reagan entered office ready to tackle what his administration had labeled "the worst immigration problem imaginable."[14] In his diary on July 16, 1981, Reagan wrote, "the Haitians and the criminal Cubans Castro sent us mixed in with the refugees [are] our 2 greatest problems."[15] Here, Reagan describes detained Haitians and Cubans together as two aspects of the same "crisis."

While un-deportable Cubans presented the administration with a dilemma resolved through new detention policies, deportable Haitians gave further cause for extending executive power beyond the nation's borders to control immigration through the unprecedented policy of

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exclusion (Laguerre, *Diasporic Citizenship*, 82). Alternatively, María Cristina García, who provides one of the most thorough treatments of the Mariel Cuban Boatlift to date, argues that "Few immigrant groups elicited as much negative response as the *marielitos,*" [*Havana USA,* 46]. Scholarly work that does consider Cuban and Haitian immigrants together, such as Alejandro Portes and Alex Stepick's "Unwelcome Immigrants: The Labor Market Experiences of 1980 (Mariel) Cuban and Haitian Refugees in South Florida," often focuses on integration once in the United States, not on U.S. immigration policy formation [*American Sociological Review* 50, no. 4 (August 1985) 493-514.]. Literature on Cuban and Haitian arrivals during this time period on the whole fails to consider the ways in which both migrant groups together shaped Reagan's immigration, and especially detention, policies.

[14] William French Smith, *Law and Justice in the Reagan Administration: The Memoirs of an Attorney General* (Stanford: Stanford University, 1991), 193.

[15] Ronald Reagan, *The Reagan Diaries,* 30.

interdiction. Together, the policies inspired by these two migrant groups comprise Reagan's new departure in immigration enforcement.

This chapter focuses on the Haitian case in particular in order to explicate three assertions that have broader implications for the overall study. First, the legal justifications sought and established by the administration for Haitian detention, deportation, and especially for interdiction, mark an extension of executive authority into the liminal spaces of migration that would further serve as justification for the use of private contracting in immigration enforcement functions. Second, the Haitian case demonstrates that migration and foreign policy take shape within an interactive relationship; they often inform one another. And third, as the plight of Haitian migrants garnered much support from civil and human rights organizations, it had the unintended consequence of the Reagan Administration deeming it necessary to detain and deport Haitians more urgently to diffuse case backlogs and media attention. Ultimately, public support for *and* against Haitians being granted refugee status served to solidify a policy of repatriation.

Although this chapter focuses primarily on Haitian migration and the actors involved in debates over Haitian interdiction and detention, it is crucial to keep in mind how Haitians, alone but primarily in conjunction with the Mariel Cuban boatlift, fit into the larger picture of detention policy formation. As will be shown in chapter three, it was the specter of an overall Latin American immigration crisis, beginning with Cubans and Haitians in southern Florida and extending to Salvadorans, Mexicans, and other migrants from Central America along the U.S.-Mexico border, that ultimately legitimized the need for a more permanent immigration detention system.

Reagan's Task Force on Immigration and Refugee Policy: "A New and Important Beginning"

Cuban and Haitian "entrants" during the period of the Mariel boatlift heightened public and media anxieties over race, crime, and a perceived immigration emergency. But advocacy in their favor, led by the Cuban émigré community, African-American civil rights groups, and other human rights, legal aid, and faith-based organizations, also attracted some positive media coverage. Although (or perhaps because) Haitians had been considered more excludable than Cubans up to this point, support for Haitians was more widely publicized and longer lasting than support for Mariel Cubans.[16] Already by this time, criticism of the United States' friendly relationship with Jean-Claude "Baby Doc" Duvalier's totalitarian regime and the U.S. government's handling of Haitian arrivals had been mounting, along with legal actions seeking to redress the discriminatory processing of Haitian refugees and to secure due process rights.[17] Early Reagan administration immigration policy discussions took place within this oppositional climate, as quelling dissent and justifying Haitian detention and interdiction policies required: 1) creating new legal spaces in which to exert executive authority over immigration enforcement, and 2) maintaining that Haitians were economically-driven "illegal" immigrants rather than politically-driven refugees, in alignment with Reagan's foreign policy goals in the Caribbean. In effect, the Reagan Administration affirmed xenophobic responses to Haitian migration and justified its policies by relying upon the extension of executive authority *in times of crisis.*

[16] Although the well-organized Cuban émigré community, especially in southern Florida, maintained a strong lobby in Washington and inside the Republican Party during this period, negative media coverage surrounding the Mariel migration caused more established Cuban-Americans to turn away from supporting the new arrivals, even coining the term *marielitos* to differentiate themselves—a term that quickly took on negative connotations (García, *Havana USA*, 46-47).

[17] See *Haitian Refugee Center et al. v. Benjamin Civiletti*, for example.

At the outset of the Mariel boatlift, various groups in support of Haitians, including the Congressional Black Caucus, criticized Carter for accepting Cubans and rejecting Haitians as refugees because migrants from both groups claimed they were fleeing harsh economic and political conditions in their home countries. The Carter Administration outwardly condemned earlier discrimination against Haitians and promised equal treatment of both groups through the granting of a temporary "Cuban-Haitian entrant" status until October 10 of 1980.[18] However, it was tacitly recognized within government that because of relations with Cuba, Cubans would ultimately have to be accepted while Haitians could still be deported.[19] The Mariel boatlift ended by October of 1980, but Haitians who remained in detention with their asylum cases backlogged and those who continued to arrive after the October 10 cutoff date for Cuban-Haitian entrant status were subject to exclusion.[20]

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[18] Haitians were regularly detained and deported beginning with the first arrivals of "boat people" from Haiti in the early 1970s. Facing case backlogs, the INS instituted its "Haitian Program" to streamline asylum applications and facilitate mass deportations in 1978. Under the program, asylum hearings in Miami increased from fifteen a day to one hundred and fifty a day, all under no more than five judges. Judge James L. King's 1980 decision in *HRC v. Civiletti* declared the Haitian Program unconstitutional, marking the first major win for Haitian refugees in the court system. Media coverage of this case highlighted the plight of Haitian refugees to the public during an election year, and Carter's establishment of the "Cuban-Haitian entrant" status was, in part, an attempt to redress King's decision. See Laguerre, *Diasporic Citizenship*, 81, and Alex Stepick, "Unintended Consequences: Rejecting Haitian Boat People and Destabilizing Duvalier," in *Western Hemisphere Immigration and United States Foreign Policy,* Christopher Mitchell, ed. (University Park: The Pennsylvania State University Press, 1992) 137.

[19] Laguerre, *Diasporic Citizenship*, 81; Stepick, "Haitian Boat People: A Study in the Conflicting Forces Shaping U.S. Immigration Policy," in *U.S. Immigration Policy*, ed. Richard R. Hofstetter (Durham: Duke University Press, 1984), 188.

[20] It was not until the Immigration Reform Act of 1986 that Haitian entrants who arrived during the boatlift were provided permanent status, whereas Cubans had been able to obtain permanent resident status under the Cuban Adjustment Act of 1976. Loescher, Gilburt, and John Scanlan, "Human Rights, U.S. Foreign Policy, and Haitian Refugees," *Journal of Interamerican Studies and World Affairs* 26, no. 3 (August 1984) 344; Stepick, "Unintended Consequences: Rejecting Haitian Boat People and Destabilizing Duvalier," 141.

When Reagan took office, there was a backlog of 11,000 Haitian asylum cases.[21] Only 5,200 Cubans and 2,000 Haitians remained in detention; the vast majority of Cubans had been released and resettled into society, and Haitians arriving before October 10, 1980 were paroled while they awaited their exclusion hearings.[22] However, although those still in detention comprised a small percentage of the original arrivals, media attention focused on them continued to stoke public anxieties. Nation-wide media coverage of disturbances surrounding Haitian detention at the Krome North facility in Miami mirrored coverage of disturbances at Fort Chaffee, Arkansas, and other military bases where Cubans were held.[23] In one incident, demonstrators on the outside of Krome started a disturbance after Haitian detainees staged a hunger strike during Christmas in 1981. Three hundred local Miami residents stormed a gate at Krome North on December 27, throwing stones and bottles in a scene reminiscent of the riots at Fort Chaffee a year earlier. The INS responded with tear gas, and over one hundred Haitians escaped the facility; forty were later recaptured. Reverend Gerard Jean-Juste of the Haitian Refugee Center said the disturbance began after the protestors heard that some detainees had fainted from hunger. Directly underneath the *New York Times*' article on this incident was a headline reporting a "Brief Disturbance at Ft. Chaffee" between Cuban refugees and Federal officers that occurred on the same day as the unrest at Krome.[24] Frequent coupling of Fort Chaffee and Krome news stories such as this exemplifies the ongoing difficulties the administration faced in its detention efforts while serving to confirm sentiments that Cuban and Haitian boat people posed a threat to public safety. Immigration policy discussions in the early

[21] Ibid.,188-9.
[22] Ibid.
[23] Miller, *The Plight of Haitian Refugees*, 125-9.
[24] "Immigration Service Says Over 100 Fled from Haitian Camp," *New York Times*, sec. B8, December 29, 1981. See Chapter Four for further discussion about how this disturbance and others posed problems for the Reagan Administration.

Reagan Administration focused on these populations and the need to streamline Haitian case backlogs for expedient repatriation and make provisions to stem the tide of Caribbean migration.

During his first one hundred days, Reagan set up a cabinet-level Task Force on Immigration and Refugee Policy, chaired by Attorney General William French Smith, whose goals were to resolve the perceived crisis by strengthening U.S. immigration laws. The Task Force set out to tackle two main issues. First, the administration saw that it needed to be prepared with a contingency plan in the event of another Mariel-type migration (as explored in Chapter One), and second, the administration wanted to curb "illegal" immigration at its source. The issue of stopping unauthorized Haitian migration by sea was addressed immediately. On March 13 chief of staff James Baker informed the president:

> For every boat apprehended more get through. The Haitian population in South Florida is probably now increasing at a rate of 1,500 – 2,000/month… In the view of Justice, there is no clear legal authority to take persons without valid visas on such boats back to the country of their origin, even though that country is willing to receive them and there is no evidence of potential persecution. Your Task Force is looking at these issues (including contingency plans in the event of another major influx) on a priority basis.[25]

Already, the administration had placed a priority on exploring the possibility of turning back Haitian boats and investigating the legal authority of the executive to do so.

In a report for the Immigration Task Force's Policy Group in April, the Attorney General's Office of Legal Counsel confirmed the lack of legal precedent for interdiction: "We have been unable to find any precedent for such an operation. Nor have we found any example of the President's using inherent executive authority to regulate immigration in the years before Congress first enacted extensive immigration legislation." However, the report posed two possible legal justifications for interdiction in "broad statutory provisions coupled with the

[25] Memo, James A. Baker to Ronald Reagan, March 13, 1981, folder "[Haitian Refugees] (5 of 6)," J. Michael Luttig Files, Ronald Reagan Library.

President's implied powers under Article II of the Constitution."[26] The first and more substantial justification, the report argued, invokes statutory power based on the "flexibility" of sections 1182(f) and 1185(a)(1) of the 1952 Immigration and Nationality Act, which state: "Whenever the President finds that the entry of any aliens or any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate," and, "Unless otherwise ordered by the President, it shall be unlawful—(1) for any alien to… attempt to… enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe," respectively.[27] The second justification outlined by the report underlined the implied Constitutional power of the president to exclude aliens as an act of national sovereignty, as supported by the 1950 Supreme Court decision *Knauff v. Shaughnessy*, which states: "The exclusion of aliens is a fundamental act of sovereignty. The right to do so stems not alone from the legislative power but is inherent in the executive power to control the foreign affairs of the nation."[28] Thus, based on these arguments the president could, "make a finding that the entry of all Haitians without proper documentation is detrimental to our interests and issue a proclamation suspending their entry," and, "to protect the United States from massive illegal immigration… may act to return the boats

[26] Larry L. Sims, "Memorandum for the Attorney General Re: Authority to return undocumented aliens to Haiti after interdiction of Haitians vessels on the high seas," April 10, 1981, folder "[Haitian Refugees] (5 of 6)," J. Michael Luttig Files, Ronald Reagan Library.
[27] 8 U.S.C. §1182(f) and 8 U.S.C. §1185(a)(1).
[28] *United States ex rel. Knauff v. Shaughnessy,* 338 U.S. 537 (1950). Also cited is *Ekiu v. United States,* 142 U.S. 651, 659 (1892).

with Haiti's permission as an exercise of his power in the field of foreign relations."[29] The Office of Legal Counsel's report acknowledged possible counter-arguments to these claims in the courts' previous reluctance in granting implied powers in returning migrants to their home counties and the possibility of third parties challenging the interdiction plan in the district court of Florida, and ultimately proposed legislative reform to resolve the question of executive authority to interdict Haitian vessels.[30] The Reagan Administration's subsequent immigration enforcement proposals, including legislative reform, all hinged upon the need for expanding executive authority in the wake of Mariel and in the face of a perceived ongoing Caribbean immigration emergency.[31]

Reagan's Task Force marked a new departure in enforcement policy when it released its recommendations in July of 1981 of two new and complementary sets of enforcement practices: the detention of asylum-seekers and Haitian interdiction. The inception of the Haitian interdiction program marked the first time in American history the government extended its authority (through Executive Order and Proclamation) beyond U.S. borders to halt the flow of

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[29] Sims, "Memorandum for the Attorney General," April 10, 1981, folder "[Haitian Refugees] (5 of 6)," J. Michael Luttig Files, Ronald Reagan Library.

[30] As the report admits, "There is some doubt whether anyone would be able to challenge the plan. It is possible, as recognized by the Criminal Division, that the district court in Florida might be sympathetic to suits filed by third parties challenging the plan. Although the Haitians returned to Haiti would probably lack standing to sue… there is a statute which permits aliens permission to sue for torts committed in violation of the law of nations," Ibid.

[31] While broader historical surveys of U.S. immigration policy, such as Aristide Zolberg's *A Nation by Design: Immigration Policy in the Fashioning of America* and Daniel Kanstroom's *Deportation Nation: Outsiders in American History* acknowledge the larger trend of Congress and the Supreme Court gradually ceding authority over immigration enforcement to the executive branch over the past century and a half, they fail to take the significance of the Reagan Administration's expansion of executive authority through Haitian interdiction into account. For a more detailed legal account of challenges to Haitian interdiction concluding in the Supreme Court confirming executive authority in immigration enforcement on the high seas, see David E. Ralph, "Haitian Interdiction on the High Seas: The Continuing Saga of the Rights of Aliens Outside United States Territory," *Maryland Journal of International Law* 17, issue 2 (1993) 227-251.

migration. In late July, Attorney General Smith addressed the House, claiming "the problem has been out of control for years," and "detention of aliens seeking asylum was necessary to discourage people like the Haitians from setting sail in the first place."[32] Here, the use of detention as contingency planning in the event of another immigration emergency like Mariel, and as a deterrent to illegal immigration like that of the Haitians, both legitimized increasing executive resources to enforce immigration laws. The administration's outline of the interdiction program made these recommendations for legislation:

> 1. To prohibit bringing undocumented aliens to the U.S., and to strengthen existing authority for the interdiction, seizure and forfeiture of vessels used in violation of our laws.
> 2. To authorize the President to direct the Coast Guard to interdict unregistered vessels and to assist foreign governments that request such assistance to interdict on the high seas their flag vessels, suspected of attempting to violate U.S. law.[33]

It also sought to find "additional resettlement opportunities for Haitians in Western Hemisphere countries," and "secure the cooperation of the Haitian government in restraining illegal immigration of its nationals to the U.S. and accepting the return of Haitians attempting to enter the U.S. illegally."[34] As indicated, the interdiction program was targeted entirely towards Haitians.

Another internal memo from the Attorney General's office in August of 1981 reveals the further use of loopholes found in the Immigration and Nationality Act in justifying the interdiction plan and extending executive authority into the liminal spaces of migration on the high seas. White House legal aid J. Michael Luttig's notes on the memo reveal questions raised

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[32] Charles R. Babcock, "Immigration Plan Includes Amnesty, Tighter Controls," *Washington Post*, sec. A, July 31, 1981; Dunn, *The Militarization of the U.S.-Mexico Border*, 46.
[33] Attorney General William French Smith, "The Reagan Administration Proposal," testimony before a joint session of the House and Senate Immigration Subcommittees, July 30, 1981.; Miller, *The Plight of Haitian refugees,* 72.
[34] Ibid.

about such interpretive maneuvering and ultimately a consensus on the administration's tack. Citing sections of the INA that delineate aliens' rights to asylum claims and exclusion hearings, the memo states:

> Aliens are entitled to exclusion proceedings only when they arrive 'by water or by air at any port within the United States.' 8 U.S.C. § 1221. They are entitled to deportation proceedings only if they are 'within the United States.' 8 U.S.C. § 1251. Asylum claims may only be filed by those 'physically present in the United States or at a land border or port of entry.' 8 U.S.C. § 1158(a). Since the interdiction will be taking place on the high seas, which is not part of the United States, 8 U.S.C. § 1001(a)(38), none of these provisions will apply… Since the section delegates to the President the authority to exclude entirely certain classes of aliens, we believe that a return of the Haitians can be based on the Coast Guard's power to enforce federal laws.[35]

In the margins, Luttig wrote in response: "This is quite a leap. How does Coast Guard enforce fed laws in non US or Haiti waters. The presumption here is that there is an attempted entry. Aren't we stopping them before we know… They have to get here before they can be rejected." Luttig points out an important inconsistency in this justification; although the INA would not apply on the high seas in terms of migrants' rights to apply for asylum or deportation hearings, the authority given to the executive as implied by the INA would apply in justifying interdiction practices.[36]

However, Luttig's subsequent notes reveal how the administration got around these questions by framing interdiction as an effort to enforce Haitian immigration laws rather than

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[35] Olson, Theodore B., "Memorandum for the Attorney General Re: Proposed interdiction of Haitian flag vessels," August 11, 1981, folder "[Haitian Refugees] (5 of 6)," J. Michael Luttig Files, Ronald Reagan Library.

[36] Despite challenges claiming Haitian interdiction violated the United Nations 1967 Protocol relating to the Status of Refugees and the Refugee Act of 1980 which states that "no contacting state shall expel or return" asylum seekers, interdiction has been upheld by the Supreme Court on the grounds that prohibitions against the forced return of refugees do not apply outside of the territory of the United States. See *Haitian Refugee Center, Inc. v. Gracey* [600 F. Supp. 1396 (D.D.C. 1985)], *Haitian Refugee Center, Inc. v. Baker* [789 F. Supp. 1552 (S.D. Fla. 1991) and 112 S. Ct. 1245 (1992)], *Haitian Centers Council v. McNary* [789 F. Supp. 541 (E.D.N.Y. 1992)] and *Sale v. Haitian Centers Council, Inc.*, 509 U.S. 155 (1993). See also Ralph, "Haitian Interdiction on the High Seas."

U.S. ones. He wrote: "We'd specify that only Haitian law of immigration being enforced (it's ok)… What when everyone claims asylum? Interview all. Decide pretty much on spot. 10-15 minutes each. Logistics: Ship to Guantanamo Bay, Cuba or Miami, or stay on ship… no juris to do it, all must rest on Exec. authority—no rules in area is point."[37] Luttig also confirmed the use of 8 U.S.C. § 1182(f), authorizing the president to determine whether a migrant group proves "detrimental to the interests of the United States," by writing, "this can be framed to read in interest of US to foster and continue good relations with Haiti."[38] Two important conclusions may be drawn here. First, the Reagan Administration's Haitian interdiction program was tenable because it was unprecedented. There was no clear language in the Constitution or U.S. law, or jurisdiction over the high seas, barring the extension of executive authority into this extralegal space to restrict immigration. Second, interdiction was further justified as being under the purview of the president's command over foreign policy, even as the administration acknowledged that, "Politically—we are enforcing laws which we have said are repugnant."[39] Allying with Haiti in this manner in order to halt the flow of undesirable populations to the United States would prove to have thorny implications, as explored below.

On September 29, 1981, President Reagan signed Executive Order 12324 and Proclamation 4865 establishing the Haitian interdiction program, coupled with a September 23 agreement signaling Haiti's cooperation in the plan.[40] The interdiction program outlined that

[37] Handwritten notes by J. Michael Luttig, folder "Interdiction of Haitian Vessels (2 of 4)," J. Michael Luttig Files, Ronald Reagan Library.
[38] Olson, "Memorandum for the Attorney General," August 11, 1981, folder "[Haitian Refugees] (5 of 6)," J. Michael Luttig Files, Ronald Reagan Library.
[39] Handwritten notes by J. Michael Luttig, folder "Interdiction of Haitian Vessels (2 of 4)," J. Michael Luttig Files, Ronald Reagan Library.
[40] This agreement was forged by way of an exchange of diplomatic letters between U.S. ambassador to Haiti Ernest Preeg and Haiti's Secretary of State for Foreign Affairs Edouard Francisque. The agreement states in part: "Having regard to the need for international cooperation

refugee claims were to be adjudicated on board intercepted vessels by a team of State Department members, an INS representative, and a Creole interpreter. This offshore practice effectively sidestepped U.S. immigration law and took adjudication out of the hands of the judiciary and placed it completely under the office of the executive. In October, the White House also submitted a proposal to Congress for "emergency legislation" to be passed to permit the president to "declare an immigration emergency" for up to a year in response to "the actual or threatened mass migration of visaless aliens to the United States." Citing the 1980 "Cuban Flotilla" as a portent of future possible immigration crises, the proposal identified existing emergency legislation under the International Emergency Economic Powers Act (IEEPA) as unsatisfactory, as it, "probably would not authorize such procedures as those designed to expedite exclusion and asylum claims, the detention of aliens pending deportation proceedings, and the interdiction of aliens coming to the United States."[41] Especially of note among the legislative proposals were attempts by the executive to restrict judicial review of immigration enforcement practices. The proposed legislation would grant power to the Attorney General to transfer immigrants to different detention facilities without any court authority having the ability

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regarding law enforcement measures taken with respect to vessels on the high seas and the international obligations mandated in the Protocol Relating to the Status of Refugees done at New York 31st January 1967, the United States government confirms with the government of the Republic of Haiti its understanding of the following points of the agreement," with Haiti agreeing to "stop the clandestine migration of numerous residents of Haiti to the United States" in exchange for the United States aiding in enforcing Haiti's emigration laws. The agreement also acknowledges that it is "understood that the United States, having regard for its international obligations pertaining to refugees, does not intend to return to Haiti any Haitian migrants the United States determines qualify for refugee status," while Haiti assured "that Haitians returned to their country and who are not traffickers in illegal migration will not be subject to prosecution for illegal departure." Inter-American Commission on Human Rights, "Report No. 28/93, Case 10.675, United States Decision of the Commission as to the Admissibility," October 13, 1993. http://cidh.org/annualrep/93eng/USA.10675.htm.

[41] "To amend the Immigration and Nationality Act, and for other purposes," U.S. Department of Justice Office of Legislative Affairs, folder "[Haitian Refugees] (6 of 6)," J. Michael Luttig Files, Ronald Reagan Library.

to review his decision, exempt the government from environmental laws in setting up detention camps, grant the U.S. government authority to board foreign vessels without the consent of the foreign country (in direct violation of international law), and curtail noncitizens' access to courts by way of asylum cases being adjudicated entirely within INS and without chance for judicial appeal.[42] The White House's exact proposal was not introduced in Congress, however, as a concurrent filing of a "Simpson-Mazzoli" immigration bill instead left these issues unresolved for the time being. Despite ongoing challenges to the governments' handling of Haitians in the courts with scattered victories, many of the recommendations outlined by Reagan's Task Force became standard INS practice and remain to this day such as the increased use of detention, interdiction, and the transfer of immigrant detainees without judicial review.[43]

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[42] Mary Thornton, "Reagan Wants Emergency Power: Bars to Immigration Sought," *Washington Post*, sec. A, October 22, 1981.; folder "Immigration: Press and Clippings," box OA9445, Michael Uhlman Files, Ronald Reagan Library.

[43] Despite ongoing criticism, the United States Coast Guard continues its interdiction program today. While migrants of other nationalities, most notably Cubans and Dominicans, have been subject to interdiction, the program continues to primarily target Haitians. In 1992, President George H.W. Bush strengthened the interdiction program by issuing Executive Order 12807, declaring that U.S. *non-refoulement* obligations under the 1967 United Nations Protocol Relating to the Status of Refugees did not extend outside of U.S. territory and effectively ending on-board screenings. The no-screening policy was challenged in the Supreme Court in *Sale v. Haitian Centers Council* in 1993. The court upheld the government's policy, asserting that the provisions of 1951 Refugee Convention (as confirmed by the 1967 Protocol) were inoperative on the High Seas. The ruling hinged upon the 1951 Convention's Article 33, which reads, "The Attorney General shall not deport or return any alien… if the Attorney General determines that such alien's life or freedom would be threatened." The Haitians argued that "any alien" refers to migrants in any geographic location, but the court took an even more literal reading—while the statute bars the Attorney General from returning migrants seeking asylum to their home countries, it does not bar the President or the Coast Guard. While Blackmun's dissent pointed out that such parsing of language did not translate in international law, this ruling exemplifies the growing trend of the Judiciary granting expanding powers to the Executive in immigration enforcement functions. President Clinton continued the interdiction program but resumed on-board screenings in 1994, and when violence broke out in Haiti again in 2004, creating a new wave of migrants, President George W. Bush announced: "I have made it abundantly clear to the Coast Guard that we will turn back any refugee that attempts to reach our shore." See *Sale v. Haitian Centers Council* 509 US 155 (1993); Stephen H. Legomsky, "The USA and the

Reflecting upon the Task Force's new immigration policies in his memoir, Attorney General William French Smith affirms Haitian interdiction as an appropriate administrative response to an envisioned crisis. Referencing the impact of the Mariel Cuban migration, he wrote:

> We took firm but fair steps to curb illegal immigration by sea from the Caribbean… The 1980 Mariel boatlift brought 125,000 Cubans to the beaches of South Florida. Most of them were seeking a better life, but also coming aboard were criminals and mentally ill people expelled from Cuban prisons and asylums by a hostile and cynical dictator. The effects on some U.S. communities had been devastating.[44]

Here, Smith extrapolates the administration's perceived negative impact of the Mariel migration onto the potential impact of Haitians to justify the interdiction program, and he references Cubans and Haitians jointly as indicative of the larger immigration crisis at hand. Smith then identifies the Caribbean and Central America as primary concerns, conflating Cuban migration with "illegal immigration": "The pressure to migrate from the Caribbean basin is not limited to Cuba. Political instability and poverty throughout this critical region drive illegal immigration, and these pressures could increase in coming decades. Increasing numbers of illegal immigrants have arrived by land and sea, from all the Central American countries."[45] Smith reveals the prediction that illegal immigration would only increase in the coming years, a consistent fear that drove Reagan's policy formulations. He also ironically blurs the distinction between economic and political motivations driving migration, which as will be seen, the Reagan Administration fought hard to maintain in order to justify Haitian repatriation. Reflecting on these new policy

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Caribbean Interdiction Program," *International Journal of Refugee Law* 18, vol 3-4 (September/December 2006): 677-695; Pizor, Andrew G., "Sale v. Haitian Centers Council: The Return of Haitian Refugees," *Fordham International Law Journal* 17, issue 4 (1993): 1062-1114.

[44] Smith, *Law and Justice in the Reagan Administration: The Memoirs of an Attorney General*, 196.

[45] Ibid., 194-5, 197.

directions taken by the Reagan Administration, Smith concludes, "Together, the interdiction program and the policy of detention represented a new and important beginning."[46]

"A Small Coterie of Haitian Defense Lawyers"

The Reagan Administration's moves to institute these new immigration enforcement practices were met with a growing backlash of activism, critical public opinion, and ongoing legal actions seeking fair treatment of Haitians. During the summer of 1981, around the time the president's Task Force released its recommendations, the Immigration and Naturalization Service changed its practice of regularly releasing Haitians to detaining them without parole. As the Krome North Processing Center in Miami continued to overcrowd, Haitians were sent to other centers across the country in New York, West Virginia, Kentucky, Texas, and Fort Allen, Puerto Rico. In June, mass hearings of upwards of forty Haitians at a time, often behind closed-doors and without legal access, resumed. These hearings were a ramped-up version of practices established under the INS and Justice Department's "Haitian Program," developed in 1978 as a bureaucratic backlash against Carter's humanitarian attitude towards Haiti that was feared to induce a flood of Latin American migrants claiming asylum. The program had the dual aims of denying Haitians in detention access to lawyers and prejudging them as economic migrants ineligible for political asylum.[47] These efforts to expedite Haitian repatriation generated media

[46] Ibid., 199.

[47] Challenged by the Haitian Refugee Center, the program was deemed unfair by Judge James Lawrence King's 1980 decision in *HRC v. Civiletti*, as King determined that the Haitians' "economic situation… is a political condition" and that they had not been given adequate due process in their asylum claims. Despite King's ruling that "The Haitians… shall not be deported until they are given a fair chance to present their claims for political asylum," and his recognition of racial bias in INS memoranda describing Haitians as a threat to the social and economic well-

coverage of strong voices of dissent that criticized the Reagan Administration's double-standard of accepting Cubans and rejecting Haitians, its tacit approval of Haiti's dictatorial regime, and the denial of due process rights to Haitians. Detention conditions and the legality of interdiction were also called into question. Groups vocalizing these concerns ranging from churches, African-Americans, civil and human rights organizations, public interest lawyers, and some state and local officials, continued to be a thorn in the Reagan Administration's side.

The Congressional Black Caucus, the National Association for the Advancement of Colored People (NAACP), African-American journalists, and the Reverend Jesse Jackson lent angry voices from the African-American community, framing the treatment of Haitians as a transnational civil and human rights issue. Many black Americans related the United States' complacence to human rights violations under the Duvalier regime to the oppression they felt in the United States. Congressman Walter E. Fauntroy articulated the Congressional Black Caucus's position: "We, as black people, want to make it clear that we understand the connection between the treatment of Haitian refugees and the regard for which this administration may have for black people at home…. We… plan to stand with our Haitian brothers and sisters in their quest for simple justice and will be taking the issue to every forum and community available to us." Criticizing Reagan's interdiction plan and the deportation of Haitians, CBC chairperson

being of Miami, the ruling did not grant legal status to Haitians and instead merely ordered the INS to follow the principles of due process. As the decision was delivered in the midst of the Mariel crisis and newly arriving Haitians' status would soon temporarily change to that of "Entrant," the INS subsequently returned to the practices of Carter's "Haitian Program" which were then legally defended and upheld under the Reagan Administration. See *HRC v. Civiletti, Louis v. Nelson,* and *Jean v. Nelson*; Stepick, "Unintended Consequences," 137-142; Loescher and Scanlan, "Human Rights, U.S. Foreign Policy, and Haitian Refugees," 339-40.

Shirley Chisholm stated, "The return of refugees to their country, given the gross and consistent pattern of human rights violations, makes a mockery of International Human Rights Day."[48]

Advocating racial solidarity, organizations such as the NAACP and the Southern Christian Leadership Conference adapted language and tactics of the civil rights movement to highlight racial prejudice in the Reagan Administration's treatment of Haitians. After the Haitian migrant drownings in Hillsboro Beach, Florida, the NAACP sent a legal team to Miami to investigate their deaths and detention conditions. Head of the team George Hairston then reported on the NAACP's commitment to activate, "the large network of NAACP branches nearest the centers to monitor all activities and provide as much comfort to the refugees as possible."[49] The NAACP Youth Council also appealed to President Reagan to reconsider its treatment of Haitian refugees. In a telegram from the spring of 1982, the Council wrote:

> We… detest the illegal incarceration of the Haitian Refugees. We are registered voters and we are taxpayers…As far as we can see our foreign policy is biased… We demand a stop to the illegal deportation of our brothren. Therefore, we sincerely call for a stop to the illegal incarceration of the brothren, the Haitian Refugees. We demand a stop to illegal deportation hearings. Mr. President "LET OUR PEOPLE GO"![50]

Racial identification evoked African-American sympathy for the plight of Haitian "boat people" as black civil rights leaders in the United States recognized a familiar struggle in the Haitians' efforts to secure the right to due process.[51]

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[48] Leon D. Pamphile, *Haitians and African Americans: A Heritage of Tragedy and Hope* (Gainesville: University Press of Florida, 2001) 178-80.
[49] Ibid, 181; *Crisis*, December 1981, 504.
[50] Telegram to President Reagan from William Brown and the NAACP, March 24, 1982, folder "Subject Files: Correspondence & Newspaper Clippings about Krome Detention Center," Box 2548, Cuban and Haitian: Subject Files 329-90-57 (1980-1988), Dante B. Fascell Papers, University of Miami Special Collections.
[51] This "familiar struggle" also drew upon a longer discourse in African American thought concerning U.S. policies in Haiti dating back to the 1920s. See Brenda Gayle Plummer, *In Search of Power: African Americans in the Era of Decolonization, 1956-1974* (Cambridge: Cambridge University Press, 2012); Mary A. Renda, *Taking Haiti: Military Occupation and the*

One of the loudest voices leading the charge against Reagan's treatment of Haitian migrants was civil rights activist Reverend Jesse Jackson. Jackson organized a series of rallies in support of Haitian refugees in Miami and Washington, D.C. in 1980 and 1981, culminating in a massive march in coordination with the NAACP and other religious groups in front of the White House in December of 1981.[52] Jackson toured the Krome facilities along with five others in January of 1982, threatening to stage a protest with 5,000 supporters. INS director Alan C. Nelson wrote to Associate Attorney General Rudy Giuliani of the need to monitor Jackson, and "to be sure he understands the difference between a peaceful protest demonstration and one that leads to 'rushing the barricades.'"[53] Jackson also gave a series of spirited sermons and wrote opinion pieces in newspapers nationwide. Jackson went beyond framing the issue as solely a domestic civil rights one; his speeches and writings were also highly critical of the foreign policies driving the treatment of Haitians. At a rally in Miami in 1980, Jackson stated, "There is room in the United States for Cubans trying to escape oppression. There is for Haitians trying to escape oppression." As ninety-eight percent of Haitian migrants were Catholic, Jackson even appealed to the Pope to support the Haitians as he did Polish immigrants.[54] In an opinion piece titled "White House Discriminates Against Haitian Refugees," Jackson wrote:

Culture of U.S. Imperialism, 1915-1940 (Chapel Hill: The University of North Carolina Press, 2001), and Emily S. Rosenberg, *Financial Missionaries to the World: The Politics and Culture of Dollar Diplomacy, 1900-1930* (Cambridge, MA: Harvard University Press, 1999). This broader conception of an enduring "imperialist" U.S./Haiti relationship may also help explain the higher level of advocacy efforts made on behalf of Haitian migrants as opposed to Mariel Cubans, as mentioned earlier.

[52] Pamphile, *Haitians and African Americans*, 181.

[53] Memorandum from Alan C. Nelson to Rudolph Giuliani, January 11, 1982, folder "RS/Krome-INS," Box 51, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[54] Pamphile, *Haitians and African Americans*, 181.

> Polish refugees, Soviet Jews and Nicaraguans, just to mention a few, are welcomed because they suit the Cold War foreign policy needs of the Reagan Administration… To admit that the Haitians are escaping political repression would be to admit that the United States in party to the oppression. The refusal to consider Haitians as political refugees as well as economic refugees is consistent with the racist nature of U.S. immigration policy… Until all the Haitians are released, I am urging concerned people everywhere to wear red ribbons. The red ribbons will spark interest and conversations… It will also show you care.[55]

Such dissent did not come strictly from the African-American community; religious and legal aid organizations also rallied support for the Haitians. Quoted in an op-ed written by prominent black journalist William Raspberry, executive director of the Catholic Conference's migration and refugee service John McCarthy called the treatment of Haitians, "A terrible disaster, a scar on our nation—the first time this sort of thing happened since the start of World War II, when we did it to the Japanese… I can't tell you why they are doing it. But I don't see any white faces among the detainees."[56]

In addition to the media attention surrounding actions in support of Haitian migrants, ongoing court actions had presented the most successful challenges to the U.S. government's treatment of "boat people." Reagan Administration officials, well-aware of the dangers court cases posed to their policies, labeled lawyers and judges sympathetic to Cubans and Haitians as adversaries. Shortly after Reagan entered office, he described the dilemma of Mariel Cuban detainees in his diary: "What to do with 3000 jailed Cubans… They are truly violent and were evidently released from prison and hospitals in Cuba just to be dumped on us. A judge threatens to release them from our jails and turn them loose on society. The problem—as yet unsolved is

[55] Jackson, Jesse, "White House Discriminates Against Haitian Refugees," *Gainesville Sun*, June 3, 1982, sec. A. For more on the red ribbon campaign, see also "Free Haitians from Camps, Jackson Asks," *Washington Post*, April 5, 1982, sec. B.
[56] Raspberry, William, "Why Are We Locking Up Haitians?" *Washington Post*, March 15, 1982, sec. A.

how to return them."[57] Here, Reagan cites a judge as the potential enemy who could unwittingly endanger society. Similarly, William French Smith details ongoing efforts to release Cubans and Haitians from detention through litigation in his memoir:

> An equally continuous program to release them was conducted by a group of immigration lawyers. They were aided by a federal judge, who, in my opinion, was indifferent to society's concerns. This judge—in order to impose his own system of values—determined to invade the province of the executive branch and in effect perform the functions of the INS. He was finally reined in by the United States Court of Appeals, thereby preventing even more people from being released to prey upon the public.[58]

Again, Smith depicts the court system as a hindrance to the executive branch's authority to enforce immigration controls, and speaks of detainees as an indisputable public threat. Smith is referring here to the back-and-forth battles of *Louis v. Nelson* and then *Jean v. Nelson,* which began as a successful class-action lawsuit in June of 1981 to prevent the deportation of ninety Haitians and then expanded with the backing of the Haitian Refugee Center, Inc., a legal aid organization founded in 1978 in Miami by Reverend Gerard Jean-Juste. In June of 1982, Judge Spellman found that the INS had violated the Administrative Procedures Act, and the Reagan Administration successfully appealed the decision in the Eleventh Circuit. It was ultimately concluded that the Haitians had not been treated discriminately; they had no rights under the Constitution while applying for asylum during exclusion hearings, and the President and Attorney General had the authority to discriminate against a group of aliens based on their national origin especially as, "a foreign leader… could eventually compel us to grant physical admission via parole to any aliens he wished by the simple expedient of sending them here and then refusing to take them back."[59] This statement is a clear reference to the political blowback

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[57] Reagan, *The Reagan Diaries*, 71-2.
[58] Smith, *Law and Justice in the Reagan Administration: The Memoirs of an Attorney General*, 196.
[59] *Louis v. Nelson,* 570 Supp. 1364 (1983); *Jean v. Nelson*, 711 F.2nd 1455 (1983); Ibid., p. 975.

of the Mariel migration. As Alex Stepick concludes, "Haitians now had the misfortune of being the whipping boys for frustration and fear over the U.S. relationship to Cuba."[60]

In the fall of 1981, Mike Horowitz, General Counsel for Reagan's Office of Management and Budget, pointed out the "budget crisis" the INS faced with the influx of Haitian refugees. He argued that legal action on their behalf by the Haitian Refugee Center further escalated costs as case backlogs required more detention time:

> Administration policy is to warehouse them in detention facilities and then to exclude them after hearings, including determinations on asylum claims. Unfortunately, a small coterie of Haitian defense lawyers has contrived to tie the exclusion process up in knots, preventing their exclusion and transportation back to Haiti… and the cost rises with every day and every boatload.

Horowitz continued by identifying these legal actions as an adversarial "political strategy… in order to generate pressure on the Reagan Administration to resettle the Haitians in the United States with official immigration status." Proposing a solution to the "bottleneck" that invoked Reagan's actions as the Governor of California, Horowitz wrote:

> The present procedural tangle reflects a managerial problem similar to that faced in California during the President's term at Governor when… the California Welfare Rights Organization adopted a calculated "spring offensive" to frustrate Governor Reagan's welfare reform by tying up the administrative hearing process—and temporarily succeeded. The state broke the offensive by using modern case management techniques, increasing hearing personnel, and providing full and speedy due process for

[60] Stepick, "Unintended Consequences," 143-4. While Haitian advocates made some inroads in the early 1980s by challenging the discriminatory treatment of Haitians in U.S. courts, the constitutionality of the extension of executive power through interdiction was not challenged until President H.W. Bush issued Executive Order 12807 in 1992, eliminating asylum screenings on board Haitian vessels in the wake of a new flow of migrants after the overthrow of Jean Aristide in 1991. This order was challenged, yet upheld in *Sale v. Haitian Centers Council, Inc.*, 509 US 155 (1993). The Supreme Court ruled that provisions against the forced return of refugees did not apply outside of U.S. territory, despite the language of the Refugee Act of 1980. See Thomas David Jones, "Sale v. Haitian Centers Council, Inc.," *The American Journal of International Law* 88, No. 1 (Jan 1994): 114-126; Lori A. Nessel, "Externalized Borders and the Invisible Refugee," *Columbia Human Rights Law Review* (Spring 2009): 625-629; Pizor, "Sale v. Haitian Centers Council: The Return of Haitian Refugees," 1062-1114.

> all claimants. I believe that many of the same techniques can be brought to bear to solve the Haitian problem.[61]

Interestingly, Horowitz's solution included providing Haitians with the administration's own lawyers. With the backing of INS Commissioner Alan Nelson, who served as a welfare official in California during Reagan's governorship, Horowitz proposed that the administration "concentrate its resources on the exclusion process." He reasoned that even though it is agreed upon that "the courts have overstepped their bounds in these cases," only, "by giving the refugees all the due process in the world—and fast—can we avoid our problems with the courts, and spare ourselves the budgetary and political problems involved in massive detention centers."[62] To Horowitz's chagrin, Attorney General Smith swiftly rejected this proposal based on his ideological commitments to Haitian exclusion, and the need for detention continued. Fundamentally agreed upon within the administration, however, was the overall excludability of the Haitians. Ultimately, the public attention generated by case backlogs, activism, and court actions on behalf of Haitians did not result in effective challenges to detention and interdiction policies. Instead, it only served to expedite the administration's needs to resolve the matter more swiftly by adhering to a policy of Haitian exclusion and repatriation.

Reagan's Cold War and the Growing Immigration Crisis

> They are bluffing. How come when the Polish came, they know why they came. When the Chinese came, they know why they came. And why don't they recognize the Haitians who come here?
>
> -Capois, Haitian detainee at Brooklyn Navy Yard, July 1982[63]

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[61] Memorandum from Mike Horowitz to Ed Harper, "Re: Haitian Refugees," September 16, 1981, folder "Immigration and Refugee Matters (5)," Edwin Meese III Files, Ronald Reagan Library.
[62] Ibid.
[63] *Voyage of Dreams: A Documentary Essay*.

An essential part of maintaining Haitians' excludability was defining them as economically-driven immigrants rather than political refugees eligible for asylum under the 1980 Refugee Act. As mentioned above, Cubans and Haitians were processed differently when they arrived in the United States, reflective of Reagan's foreign policy priorities. As Michel Laguerre concludes, "Allowing the refugees to freely enter the United States would have amounted to a tacit recognition that the Haitian government was persecuting its people – a move the United States was unwilling to make."[64] While most Cuban asylum seekers were afforded individual reviews and ultimately embraced as Cold War refugees, Haitians, on the other hand, were often subjected to mass asylum hearings, denied access to counsel, and swiftly deported. Interdiction, designed to provide Haitians even less of an opportunity to successfully apply for asylum, furthered this agenda of exclusion. The Reagan Administration went to great lengths to maintain a relationship with Haiti that would deny the existence of political oppression under Duvalier's regime so that it could continue to justify its policies of interdiction and repatriation. In this way, Haitian migration to the United States shaped the Reagan Administration's foreign policy towards Haiti, more so than foreign policy dictated migration patterns as is often asserted in regard to communist nations. Consideration of the Cuban and Haitian cases, here, therefore, reveals the need to view the mutually constitutive nature of the Reagan Administration's formation of immigration and foreign policies.

Granted, the Reagan Administration's hard-line foreign policy stance did result in the welcoming of refugees fleeing communism. Ninety percent of the refugees admitted to the U.S. in 1980 and 1981 were from Indochina, the U.S.S.R., and Eastern Europe.[65] Mariel Cubans are

[64] Laguerre, *Diasporic Citizenship*, 84.
[65] Stepick, "Haitian Boat People: A Study in the Conflicting Forces Shaping U.S. Immigration Policy," 173.

not included in this statistic because of the temporary status given to them as "entrants" and not official refugees. One example of immigration policy following from foreign policy is the Reagan Administration's decision to halt deportations to Poland. Secretary Kenneth Dam recommended to the Attorney General on December 18, 1982:

> In view of the policy of the United States toward the Government of Poland… the Department of State believes the 'non-enforcement of departure' policy for Polish nationals should be maintained… The U.S. and its Allies have taken a number of concerted steps to convey to the Polish authorities the seriousness with which we view their continual denial of rights.[66]

Due to the U.S.'s opposition to communist rule, Polish nationals were provided blanket relief from deportation.

A similar view was applied to Cuban refugees, as evidenced by the public outcry and corrective measures taken by the administration after the Department of Justice returned Cuban stowaway Andres Rodriguez-Fernandez to Cuba in January of 1982, the first Cuban deported since Fidel Castro came to power. The deportation sparked protests by Cuban exiles and press coverage; meanwhile, the White House rushed to find explanations.[67] An internal staff memo asked the Department of Justice why the stowaway was returned, stating: "This is not going away, the press is still on it… High-ups in DOJ have also told me that if someone gets a hold of the returned stowaway's asylum application, we will be very hard-put to explain (Freedom of Info)."[68] Even without knowing the contents of Rodriguez-Fernandez's asylum application, it is

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[66] Letter, Kenneth W. Dam to William French Smith, December 18, 1982, folder "May 1983 to November 1982," Box 1, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[67] "Around the Nation; Stowaway's Deportation is Protested in Miami," *New York Times*, sec. A, January 17, 1982.

[68] Memorandum, Jim Cicconi to James A. Baker, January 27, 1982, folder" Immigration Policy: Cubans and Haitians," box 10, James Cicconi Files, Ronald Reagan Library.

apparent that the administration saw the deportation of Cubans as a perilous move. Similarly, Associate Attorney General Rudolph Giuliani stated to William French Smith on January 28:

> This was an extremely sensitive case involving the first involuntary return of a Cuban to Castro's Cuba and contact with Cuba to request such return. It generated predictable outrage within the Cuban-American community and provided Castro with propaganda material… We are taking steps within the Department of Justice to insure that similar incidents do not occur.[69]

The attention given to the Cuban stowaway case at the highest levels of government and the administration's concerns with press coverage in the United States and in Cuba indicate the importance the Reagan Administration placed on maintaining a hard-line policy against the communist government of Cuba.

In stark contrast, while the Reagan Administration publicly maintained that Cubans were refugees, it also put forth great efforts to maintain that Haitians were economically-driven "illegal" immigrants and not refugees. Reagan's foreign policy objectives toward Haiti included supporting friendly right-wing authoritarian regimes in order to contain communist adversaries. And while the United States wanted to prevent the "maroon republic" of Haiti from falling prey to the influences of communism, it was also motivated by keeping Haiti as a trade and security ally given its key Caribbean location. Thus, the United States had little incentive to grant Haitians asylum.[70] Only one month into office, Reagan wrote in his diary: "A call in evening reported a boat load of Haitians approaching our shores. I'm all for opening the doors to refugees from totalitarianism but this is more complicated. These are just people who believe they can have a better life here. They are in fact illegal aliens. We'll have to deport them but it's a long &

[69] Memorandum, Rudolph W. Giuliani to William French Smith, January 28, 1982, folder "January '82," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[70] Laguerre, *Diasporic Citizenship,* 83-85.

complicated business due to our own laws."[71] As the Reagan Administration's foreign policy stance towards Haiti initially made the United States disinclined to grant Haitians asylum, the continued pressures of the need to curtail Haitian migration pushed the United States towards fostering even friendlier relations with Haiti. When Ernest Preeg was appointed as the U.S. ambassador to Haiti in the spring of 1981, the primary task assigned to him was to stop Haitian migration to the United States.[72] The best way the United States saw to do this was to support Duvalier's regime as a "democratic" one.

Dire living conditions in Haiti under the dictator Jean-Claude "Baby Doc" Duvalier, however, were widely acknowledged to be the result of a confluence of economic and political factors. Haiti, the poorest nation in the Western Hemisphere, sustained one of the world's most inequitable distributions of wealth. Under Jean-Claude's father François Duvalier's "reign of terror" from 1957-1971, people and capital fled the country. When Jean-Claude took over, Haiti's manufacturing sector improved but poverty, government corruption, repression, and persecution remained rampant. Official terror was coupled with lawlessness in the countryside, where government officials subsisted on practices of extortion. As Alex Stepick concludes, "From these roots—roots where economic and political factors and motivations are inextricably mixed—stem the flow of Haitians into the United States."[73] Although the United States was generally more tolerant of Jean-Claude's leadership, Haiti's oppressive regime was highly criticized by many Americans. Executive Director of the Haitian Refugee Center in Miami Reverend Gerard Jean-Juste reported on conditions in Haiti:

> In Haiti, life is a problem. We could solve the problem by improving the situation at home. Right now 50 percent of all children die before reaching four years of age. Ninety

[71] Reagan, *The Reagan Diaries*, 6.
[72] Stepick, "Unintended Consequences," 144.
[73] Ibid, 127-128.

> percent of all people do not receive a regular supply of piped water. The illiteracy rate is 85 percent. Forty percent of the people have no lodging at all. There are 35 prisons for each high school in Haiti. For each teacher, there are 189 soldiers. We have a hellish situation in Haiti. How come Mr. Reagan wants to back up this Government that has been there for 24 years and keeps getting worse?[74]

International organizations and human rights watch groups reported widely on the frequency of human rights violations under Duvalier's regime, and President Jimmy Carter sent U.S. Ambassador to the UN Andrew Young to Haiti in 1977 to announce Carter's commitment to human rights. The Reagan Administration, however, was unwilling to acknowledge the political dimensions of Haiti's troubles.

Associate Attorney General Rudolph Giuliani became the key spokesperson in the Reagan administration tasked with upholding the rationale that Haitian migrants' motivations were strictly economic. Giuliani visited Haiti in March of 1982 and received a personal promise from Duvalier that returning Haitians would not be persecuted, as stated in the United States and Haiti's exchange of diplomatic letters from the fall of 1981 instituting the interdiction program. Giuliani articulated the Reagan Administration's Haitian policy in his testimony in a New York court case in April—namely, that Haitians were not political refugees and were not subjected to persecution by Duvalier's regime upon return to Haiti.[75] In line with Reagan's stance on right-wing authoritarian regimes, William French Smith recalled: "The plight of the Haitians was particularly tragic. In their homeland many faced poverty and hunger. Economic opportunity in the United States seemed to them a concrete hope for a better life. Obviously, we cannot open our doors to all the poor people of Haiti, any more than we can accept all the poor in the rest of

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[74] Thomas, Jo, "Racism is Charged in Fort Drum Plan: Attorneys and Mayor of Miami Criticize Decisions to Move Haitians to Army Post," *New York Times*, November 12, 1981, sec. B14.
[75] Rudolph W. Giuliani, "Memorandum to Files: Visit to Haiti, March 14-16, 1982," April 7, 1982, folder "April '82," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

the world."[76] This statement neglects the possibility that Haitians had legitimate claims to political persecution as well as economic hardship, although many Haitians claimed that both factors worked together to drive their migration. The story of "Michel," a detainee in a U.S. federal prison in Otisville, New York, in November of 1981 demonstrates the relationship between political and economic conditions in Haiti:

> There is a link between political and economic problems. The reason that Haiti has political problems is because it is a poor country. The economic problem caused the political problems. I'm suffering, I can't eat, I need to go to school – I can't, school is so expensive. If I say this they will beat me up. If I write this and say that I can't eat, that I don't have any shoes, if someone in the government hears me, they say I am against the government.[77]

However, due to the Reagan Administration's reluctance to recognize political strife in Haiti as a driver of migration, the political implications of Haitian migration continued to be denied.

In addition to its efforts to prove that Haitians were strictly economic immigrants, the Reagan Administration also granted military and economic aid to Haiti to stem further migration. After his Haitian trip, Giuliani thanked U.S. Coast Guard Liaison Officer Louis Casale for his efforts in helping set up Haitian-run patrols. Giuliani wrote:

> The meeting and our tour of two Haitian navy vessels were most informative and helpful. We know that the assistance being provided to the Haitian Navy by the Coast Guard is vital if the Haitians are to develop a capability for maintaining patrols. We believe this is an extremely worthwhile undertaking and appreciate the professional and sensitive manner in which it has been handled by you and the other Coast Guard personnel involved.[78]

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[76] Smith, *Law and Justice in the Reagan Administration: The Memoirs of an Attorney General*, 198.
[77] *Voyage of Dreams: A Documentary Essay*, 1983.
[78] Letter, Rudolph W. Giuliani to Louis Casale, March 29, 1982; folder "March '82," box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

There are conflicting reports of how much assistance the United States provided in return for Haitian cooperation in the interdiction program. In addition to these efforts to help create a self-sufficient Haitian Navy that would aid in the halting of future migratory flows, the administration also sought to secure aid to Haiti to alleviate the economic causes of migration. Reagan wrote in his diary in May of 1981, "I proposed that the answer to Haitians continuing to come here as illegal aliens for ec. reasons [sic] should be a program to upgrade Haiti's economy so it could provide jobs for its people."[79] Reagan and the Congressional Black Caucus did agree on trying to improve human rights conditions in Haiti, and in 1982 Congress passed the Mica Amendment, which stipulated that aid to Haiti was contingent upon *both* aiding in halting illegal immigration to the United States, and in improving human rights in Haiti. In 1983 Giuliani made an appeal to the State Department's Agency for International Development to support the Haitian Red Cross's, "attempts to assist Haitian migrants who return to Haiti after leaving to reach the United States… We believe that projects such as this are vital for humanitarian reasons and to help mitigate the causes for mass migration from Haiti to the United States."[80] Such efforts, which aimed to stabilize Haiti and curb the flow of migration unintentionally drew further attention to the reality of economic and political oppression in Duvalier's Haiti. Duvalier would eventually be deposed in 1986 and replaced by U.S.-backed Jean-Bertrand Aristide. As Alex Stepick concludes on the United States's stance: "Ironically, an immigration policy that began

[79] Reagan, *The Reagan Diaries*, 21.
[80] Letter, Rudolph W. Giuliani to Peter McPherson, May 13, 1983, folder "April 1983," Box 1, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

with the fear of criticizing the friendly regime of Duvalier eventually contributed to its demise."[81]

While Reagan's Cold War foreign policies called for the dichotomous view of Cuban and Haitian arrivals as refugees and illegal immigrants, respectively, the conflation of Cuban and Haitian migrations under the larger specter of an immigration "crisis" continued. The resurgent nationalism accompanying Reagan's election stoked a perceived public crisis in which both migrant groups represented a combined threat to the United States. Race played a central role in the articulation of this threat. Cubans could not be deported and Haitians had to be deported, but segments of the general public and the administration deemed both populations as equally undesirable, and this crisis helped legitimize the implementation of the new detention and interdiction policies outlined above. Sociologist David Hernández asserts that the "undue process" given immigrant detainees throughout U.S. history stems from, "institutionalized racism and discrimination against noncitizens… further animated by the use of 'war' rhetoric in the construction of national crises," and, "how the *confluence* of immigration and national security crises lead to future policy changes and further cast immigrants as the enemy within."[82] This new direction in immigration policy formation must be situated within a larger historical narrative that recognizes the connection between fluctuating times of crisis and xenophobia, while identifying Reagan's conservative turn as a key moment in the establishment of the immigration detention system that exists today.

[81] Stepick, "Unintended Consequences," 147-55; Mitchell, "U.S. Policy toward Haitian Boat People," 78.
[82] Hernández, "Undue Process," 60.

Negative media coverage of Mariel Cubans in custody who could not be effectively deported and Haitians who were awaiting exclusion proceedings both placed pressure upon the Reagan Administration to house them out of public sight. William French Smith recalled, "The problem of where to locate detention centers for the Mariel boat people was extremely difficult. No one wanted one in his own backyard, and the reaction of politicians to proposed sites in their areas was strong… As it turned out, only two areas welcomed such a facility. One was in Oklahoma, and the other in Louisiana, both in areas of high unemployment with a great need for jobs."[83] Public outrage against the presence of Mariel Cuban detainees, as evidenced by reactions in Fort Smith, Arkansas, to Cubans being held at the Fort Chaffee military base, revealed the mass xenophobia that was reflected in politicians' refusals to accept proposed detention sites in areas throughout the country. This sentiment was not limited to Cubans; Texas Senator John Tower reacted with outrage against the movement of Haitian detainees to Big Springs. In a call to the White House, he complained, "You have tripled the black population of Big Springs, Texas, and not even advised me in advance." An internal White House memo detailed this complaint, and noted, "Unfortunately, the problem is compounded because Big Springs, Texas, is in the District of Congressman Charles Stenholm… This is disastrous for Congressional relations… An altogether monumental disaster."[84] Political considerations weighed heavily in the search for detention space, and White House efforts to find a solution lumped Cubans and Haitians together in the same crisis rhetoric.

[83] Ibid., 199. See Chapter Five for more on the administration's detention-building efforts in Oklahoma and Louisiana.
[84] Memorandum, Max Friedersdorf to Jim Baker et. al, July 21, 1981, folder "Detention Center and Chaffee Working Files (2)," box 8, Francis S.M. (Frank) Hodsoll Files, Ronald Reagan Library.

White House files themselves reveal the administration's joint consideration of Cubans and Haitians as two components of the larger immigration problem. Reagan appointed a "Cuban-Haitian Task Force," Cubans and Haitians entered the U.S. under the "Cuban-Haitian Entrant Program," and staff files are organized into folders labeled "Immigration Policy: Cubans and Haitians." Cubans and Haitians are both referenced in policy discussions that culminated in the "Mass Immigration Emergency Plan," a contingency plan for Mariel-type migrations that required the location of additional and more permanent detention facilities, and that served as a model for subsequent detention policy. Couched in the larger context of Reagan's promises for a War on Crime, immigration detention policy centered on the anticipation of future emergencies and shortages of prison space. Deputy Attorney General Edward Schmults outlined this crisis in March of 1982:

> Federal Prison System (FPS) is currently 17 percent over capacity… If Cubans/Haitians are excluded, FPS is 7.6 percent over capacity… A very real possibility exists for other major movements of illegal entrants from Central America and the Caribbean into the United States during the next several years. A new permanent detention facility would allow the Department to enforce its illegal alien detention policy more equitably nation-wide. A new detention facility which can be expanded easily is consistent with the Administration's Mass Immigration Emergency Plan.[85]

The policy paper outlines proposals for separate detention facilities for Cubans and Haitians. While each population provided a different challenge to the administration, as Cubans could not be repatriated and Haitians' asylum applications were heavily backlogged due to litigation, both populations comprised the imagined crisis—a crisis fueling the need for additional detention space.[86]

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[85] Edward C. Schmults, "Federal Prison and Alien Detention Policy," March 10, 1982, folder "Immigration Policy: Cubans and Haitians," box 10, James Cicconi Files, Ronald Reagan Library.

[86] The administration showed continued dismay at the amount of litigation and public protest regarding the continued denial of asylum for Haitians, and saw the delays in case processing

Conclusion

> Haiti, my home, misery surrounds me
> It grows along the alleys, the gutters
> Crawls on the fences, the railings
> In our hunger, in our suffering, in this darkness
> We deceive each other
> It's a dog-eat-dog world
> Looking for a way out is no sin
> To Miami, we are coming to look for a life.
> -"Le Grand Voyage," Farah Juste

The steps taken by the Reagan Administration during its first year to increase executive authority in immigration enforcement did not turn out to be a temporary measure during a specific time of emergency; rather, it became standard protocol. When Mike Horowitz of the Office of Management and Budget advised the administration to concentrate its resources on expediting Haitian exclusion hearings, he also advised against a long-term detention policy. He wrote, "The present policy is the worst of all possible options. We create inhumane and politically unpopular quasi-concentration camps, and produce a new fugitive class of undocumented aliens." In March of 1982, after the closing of Fort Chaffee, OMB viewed the immigration crisis caused by Cubans and Haitians as mostly resolved. Under the heading, "Cuban-Haitian Detention Needs Have Changed," OMB stated, "Many believe that interdiction has been an effective deterrent," and that, "prospects are good for continued facilitated hearings and return of aliens to Haiti. Thus Haitian detention needs in the future are unlikely to require long-term custody." Regarding the closing of Fort Chaffee and Cuban detainees, the paper

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caused by litigation as further justification for long-term detention facilities. For more on acts of resistance against Haitian policies, see Jake Miller's *The Plight of Haitian Refugees*, 128-38 and Alex Stepick's article, "Haitian Boat People" in *U.S. Immigration Policy*, ed. Richard R. Hofstetter, 187-9. See Chapter Three for developments leading up to the implementation of the Mass Immigration Emergency Plan.

argued, "an INS detention center that offers neither community resettlement nor institutional care is not an appropriate long-term custody solution for the Cubans."[87] OMB's report also questioned the management capabilities of INS and argued that expanded detention capacity may only encourage longer detention stays. Finally, on the specter of future immigrant flows, the paper determined that "the uncertainty in El Salvador and other Caribbean countries poses a threat of new groups of entrants, however it should be noted that U.S. refugee and immigration policy is oriented to orderly entry processed from refugee camps or Consular offices overseas not to housing entrants here in detention centers."[88]

Over a year later in June of 1983, the General Accounting Office released a report on the unnecessary costs of immigrant detention, also noting the human cost. The report, titled, "Detention Policies Affecting Haitian Nationals," found that the long-term detention of Haitians was quite costly at 49 dollars a day, and it pushed for alternatives:

> INS will, undoubtedly, be faced with the continuing choice of either paroling aliens or keeping them in detention for substantial lengths of time. The cost and the adverse humanitarian effects of long-term detention do not make it attractive as a normal way of dealing with undocumented aliens seeking asylum. GAO believes that INS should work to achieve better alternatives than the extremes that detention and parole now offer. Such alternatives could seek to avoid confinements of excessive length and excessive delays in processing claims of excludable aliens.[89]

Yet, despite such reports that indicated the potentially high costs of Reagan's new detention policies, the administration continued to perceive the immigration situation in crisis terms while searching for solutions that included increasing detention capacity. Although the contexts of each migration differed, both groups served to legitimize immigration detention in

[87] Memorandum, Annelise Anderson to Jim Cicconi, March 9, 1982, folder "Immigration Policy: Cubans and Haitians," box 10, James Cicconi Files, Ronald Reagan Library.
[88] Ibid.
[89] General Accounting Office, "Detention Policies Affecting Haitian Nationals," Washington, D.C., General Accounting Office, June 16, 1983, iv.

different ways: Cubans legitimized long-term detention while Haitians legitimized the detention of asylum seekers. Further, the administration viewed both groups together as part of a major—and growing—immigration crisis, as indicated by policy discussions and public agitation. The administration looked to Central America as the potential source for the next wave of such a crisis. The panic over the potential of such a series of immigration crises overrode concerns about cost. The Reagan administration would justify its continued expansion of executive authority, and set a precedent for the handling of future migrant flows from Central American countries experiencing political unrest, often as a result of its own foreign policies. But how could detention be expanded without expanding government institutions and government-employed, union-represented labor forces? Ultimately, these new directions in immigration policy led the administration to a new experiment in prison privatization in Texas in 1983.

CHAPTER THREE
"The Emergency Nature of the Problem": Contingency Planning Along the U.S.-Mexico Border

En el nombre de Dios, ayúdanos (In the name of God, help us)[1]

In late October of 1981, a month after Reagan issued his executive order launching the Coast Guard's Haitian interdiction plan, a staff member from Arizona Senator Dennis DeConcini's office traveled to the El Centro Detention Center in the Southern California desert to report on the Immigration and Naturalization Service's administration of the camp and the conditions faced by detainees there. After meeting with director Harry Malone for an hour and a half, DeConcini's aide then took a tour of the facility, ate a meal in the cafeteria, listened to detainees' stories in the recreation yard, and sat in on three deportation hearings in which "about 50 total aliens were deported within an hour."[2] His report highlights grave problems at the facility: overcrowding, poor sanitation, lack of proper nutrition and basic necessities, limited access to medical care, reports of physical abuse, and case backlogs that lengthened detainees' stays. Senator DeConcini forwarded the "appalling" fifty-page report to Attorney General William French Smith, noting, "Regardless of the reasons for these people being in the United States, they deserve to live in healthy and humane conditions while they await evaluation of their petitions to remain in this country. If my staff person's report is essentially correct, they are not

[1] Message written in fruit punch and detainee blood on a sheet and thrown over a ten-foot barbed-wire fence at the Immigration and Naturalization Service Processing Center in El Centro, California, during a vigil held outside by women from the Los Angeles religious community in the early 1980s. Renny Golden and Michael McConnell, *Sanctuary: The New Underground Railroad* (Maryknoll, New York: Orbis Books, 1986) 1.

[2] "El Centro Report to Senator Dennis DeConcini," October 29, 1981, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

receiving the minimum level of care consistent with humanitarian principles."[3] In March of 1982, the Attorney General responded to DeConcini's office with a seventeen-page refutation of the report, claiming that some of the issues raised in the report were false, while others were being addressed and corrected by INS.[4]

DeConcini describes the facility as a "refugee camp," his aide's report labels it a "detention center," while the INS considers it a "service processing center which entails, processing aliens, holding them for about three days max, then deporting them back to their country." However, as the report notes, "There is a slight problem. This was formed as a processing center five years ago when the volume of aliens coming into this country was minimal. Now it is out of control and they are carrying more than what they can handle. There are aliens that have been in this camp for almost two years."[5] At this time, the El Centro facility was responsible for the deportation proceedings of migrants apprehended in California, Nevada, Washington, Arizona, and Utah, with only two San Diego judges hearing about seven hundred cases a week, often ruling on twenty at a time.

On his tour, DeConcini's aide saw that while the administration building was under construction for expansion, there were no plans to improve other facilities. First, he visited the maximum security area, where those being disciplined or who were "mentally disturbed" were held two per room in ten by ten cells with no sinks, toilets, or electricity and "a horrible smell of

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[3] Letter, Dennis DeConcini to William French Smith, January 4, 1982, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[4] Balz, Dan. "Another War, Another Wave of Refugees." *The Washington Post*, March 15, 1982, p. A1.

[5] "El Centro Report to Senator Dennis DeConcini," October 29, 1981, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

human waste." Next, in the "holding tank," over twenty alien arrivals waited in a room for upwards of ten hours without food or drink. In the infirmary, where no medical doctors were present, "There was another alien who had some type of wound (which looked like a bullet wound) on his chest, and who was complaining of chest pains. The nurse gave him aspirin." Director Malone relayed that, "there is no money for aliens to be given medical attention, especially mental cases." The barracks each held two hundred bunk beds with one water cooler and one color television. They were closed during the day while detainees were confined to the recreation yard. The ground was all dirt with a twenty by twenty aluminum-covered patio that did not provide enough shade for the 600-700 detainees. DeConcini's aide saw detainees "sitting around the ground playing with rocks, smoking cigarettes, and leaning against a fence talking." When he asked Malone what recreation consisted of, Malone replied, "You're looking at it."

According to Malone, eighty-five percent of the detainees at El Centro were from El Salvador, with more Salvadorans deported each month than all other nationalities combined. Indeed, The State Department estimated that by 1984, around 500,000 Salvadorans, or one-tenth of the country's population, had entered the United States illegally.[6] While DeConcini's aide visited the recreation yard, a hundred men between sixteen and thirty years old surrounded him, emotional and eager to share their experiences of migration and life at El Centro. Following Salvadorans in number were Guatemalans, Mexicans, Cubans, Costa Ricans, and a small number of Asians and South Americans. DeConcini's aide concluded, "In sum, these aliens seemed to be humiliated and stripped of their dignity. I heard their testimonies, and watched them share some tears from emotional experiences they had encountered in their plight for freedom. Just being

[6] Robert S. Kahn, *Other People's Blood,* 15.

there and… seeing their relief that people outside the compound care for them, drained me emotionally."[7]

Over the summer, the church-supported Manzo Area Council from Tuscon, Arizona, began providing legal aid to Salvadoran migrants and raising money to pay bonds for their release from detention. According to Harry Malone, it was this intervention that raised the media's attention to conditions at the camp. Around the time of DeConcini's aide's visit, press reports charged that the camp's living conditions were inadequate and that INS officers' undue use of force inflicted psychological damage upon migrants. Malone reported that he and other officers received threatening phone calls at home, with one citizen calling him the "bastard of Buchenwald," referring to a Nazi concentration camp. When the camp, usually closed to visitors, invited the press in for an open house in the spring of 1981, the *Los Angeles Times* reported that the camp appeared "immaculate and meticulously run." The newspaper also concluded, "It is the presence of Salvadorans, who human rights groups claim should be accorded automatic asylum here because of war in their homeland, that has brought controversy to Malone's camp." Malone told the reporter, "We're a political football in the middle of the whole Salvadoran thing."[8]

The Reagan Administration's handling of migrants from El Salvador further confirms the previous chapter's assertion that immigration and foreign policies are mutually constitutive. As the administration fervently denied that displaced Salvadorans faced persecution by a U.S.-backed Salvadoran government entrenched in civil war and as activism in the United States on

[7] "El Centro Report to Senator Dennis DeConcini," October 29, 1981, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[8] Laurie Becklund, "Hopes for Asylum Wither in Hot, Dusty Immigrant Camp," *Los Angeles Times*, February 28, 1982, p. A3.

behalf of Central American migrants targeted Reagan's foreign policies, it is clear that the administration's resolve to detain and deport Salvadorans en masse was inextricably linked to its imagining of Latin America as a backyard Cold War battlefront.

However, while the ideological commitments shaping the Reagan Administration's policies in Latin America offers a satisfactory explanation of the administration's wholesale rejection of Salvadoran asylum-seekers, this explanation alone is incomplete. As immigration is at once a domestic and a foreign policy issue, domestic considerations must contribute equally to any overall understanding of the United States' growing detention and deportation system in the early 1980s. Journalist Robert Tomsho notes, "The administration could not have spurned the refugees and their North American advocates without the support, or at least the indifference, of the public."[9] The rising tide of anti-immigrant sentiment and "compassion fatigue" towards refugees expressed by the American public and explored in Chapter One occurred within a larger context of growing public anxieties over rising crime rates since the late 1960s. Although Ronald Reagan's economic vision emphasized scaling back "big government," his tough-on-crime political platform signaled an important shift of the government's focus from welfare to punishment and deterrence. This resulted in an increase in defense and carceral spending and the enhancement of cooperation between federal and local law enforcement capabilities. The Reagan Administration's turn toward the punitive, particularly in its War on Drugs, subsumed immigration under the larger issue of crime through its targeting of undesirable populations, citizens or non. This new commitment to combating the combined threat of crime, drugs, and immigration resulted in the administration extending domestic law enforcement efforts abroad through its drug and immigration interdiction policies. At the same time the administration

[9] Robert Tomsho, *The American Sanctuary Movement* (Austin: Texas Monthly Press, 1987) 100.

exported these domestic issues, it imported "low-intensity conflict" military techniques that were initially developed in El Salvador in its militarization of drug and immigration enforcement along the U.S.-Mexico border.[10] This phenomenon further exemplifies the interrelationship between domestic and international considerations in the formation of immigration policy.

Together, these domestic and foreign policy considerations provide the context in which the Reagan Administration formulated its "contingency" plan of immigration detention-building in the U.S.-Mexico borderlands in the wake of the Mariel Cuban migration of 1980. In addition to the influx of Cuban and Haitian migrants to the United States in 1980, the third exodus from Central America that began during this time gave the incoming Reagan Administration cause for concern. Although the administration denied having a role in exacerbating violence in Central America, it acknowledged the reality of the displacement of hundreds of thousands of Central Americans in the early part of the decade and continued to articulate fearful predictions of future mass immigration emergencies. Although some of this language of crisis was couched in Cold War terms, blaming communist agitation for migrant displacements, it more often reflected the xenophobic public reception and political blowback from the Cuban and Haitian influx of 1980-1. The most common theme articulated by Reagan Administration officials was the top priority of preventing another Mariel at all costs.

"If Central America Falls, We are going to be Flooded with Refugees": The Intersections of Reagan's Foreign and Immigration Policies

[10] See Timothy Dunn, *The Militarization of the U.S.-Mexico Border.* Dunn's thesis asserts that the range of measures implemented by U.S. government agencies during this time period amounted to a gradual "militarization" of the U.S.-Mexico border region. He defines militarization as the "use of military rhetoric and ideology, as well as military tactics, strategy, technology, equipment, and forces," (3).

Port Isabel, Texas, called the *corralón* by detainees, opened as an immigration detention center in 1977. Previously a U.S. Navy air station, the facility was turned over to the INS in 1961 for use as a Border Patrol academy. The United States Agency for International Development (USAID)'s Public Safety Program also used Port Isabel as a training site for Washington D.C.'s International Police Academy, which taught anti-communist counterinsurgency methods to police officers from Latin American countries in the 1960s and early 1970s. Subjects taught at the academy, in league with the CIA, included interrogation techniques, bomb handling and manufacture, terrorist devices, and assassination weapons. One graduate of the International Police Academy was El Salvador's Roberto D'Aubuisson, labeled the "godfather" of the country's right-wing death squads and nicknamed "Blowtorch Bob" for his interrogation techniques. USAID's Public Safety Program also worked in El Salvador in the early 1970s training the National police in "Security Investigations." Ironically, ten years later many victims and family members of victims of El Salvador's brutal death squads were imprisoned in the same Texas facility where D'Aubuisson attended class.[11]

Cold war ideology and attempts to preserve the privileged position of local oligarchs stoked the civil wars in Central America. Throughout the 1980s Nicaraguans, Guatemalans, and in highest numbers Salvadorans traveled thousands of miles to the United States escaping civil war, repression, and economic devastation, spurring a decade-long controversy over the government's asylum policies. In 1979 in Nicaragua, socialist revolutionary Frente Sandinista overthrew right-wing dictator Anastasio Samoza. The United States government subsequently

[11] Kahn, *Other People's Blood*, 53-4; Michael McClintock, *The American Connection: State Terror and Popular Resistance in El Salvador* (Avon, UK: Zed Books, 1985) 59-61; 215; 218-21.

aided "Contra" rebel groups against the socialist Sandinistas. In the developing civil wars of Guatemala and El Salvador, the United States intervened on the side of the oligarchy-controlled governments fighting against Marxist-inspired popular movements of rural peasants, unions, religious organizations, and students. The civil war in El Salvador intensified in March of 1980 as government-supported assassins killed Archbishop Óscar Romero at his altar a day after he ordered Salvadoran soldiers to obey God's orders and stop oppressing the Salvadoran people. In December, five members of the Salvadoran National Guard murdered four U.S. Catholic missionary women, raising awareness of the violence in El Salvador among the American public.[12]

From the outset the incoming Reagan Administration viewed the civil wars of Central America as theaters in the Cold War, part of a larger East-West global struggle between communism and capitalism. Purging many longstanding CIA and State Department policy advisors and regional experts upon inauguration and replacing them with "fledgling hawks," Reagan entered office determined to reverse Carter's policies, which he and his allies considered naïve and ineffective.[13] Reagan's larger foreign policy vision ultimately rejected Jimmy Carter's emphasis on détente and human rights, aiming instead to revitalize Cold War nationalism and recapture the American self-confidence supposedly lost in Vietnam.[14] What were perceived to be

[12] William M. LeoGrande, *Our Own Backyard: The United States in Central America, 1977-1992* (Chapel Hill: The University of North Carolina Press, 1998) 60-7; Stephen G. Rabe, *The Killing Zone: The United States Wages Cold War in Latin America* (New York: Oxford University Press, 2012) 159-74.
[13] Greg Grandin, *Empire's Workshop: Latin America, the United States, and the Rise of the New Imperialism* (New York: Henry Holt, 2006) 67-8; Howard J. Wiarda, *American Foreign Policy Toward Latin America in the 80s and 90s: Issues and Controversies from Reagan to Bush* (New York: New York University Press, 1992) 21-22.
[14] LeoGrande, *Our Own Backyard*, 5-6. Scholars disagree on how large Central America loomed in the Reagan Administration psyche. According to William M. LeoGrande, Central America would "dominate America's foreign policy agenda" in the 1980s, while the civil war in El

Carter's failings in Iran, Nicaragua, and Afghanistan coupled with a strengthening of the Soviet Union throughout the late 1970s further stoked anticommunist anxieties. Latin American policy advisor to the Reagan Administration Howard J. Wiarda of the American Enterprise Institute recalls, "The notion was widespread in the foreign policy community—and not just among Reagan supporters—that this new Soviet aggression and expansionism had to be resisted and that lines needed to be drawn."[15]

As Reagan's transition team of Latin American policy advisors prepared their new positions, they drew inspiration from a number of sources. These included Richard Nixon's Cold War handbook *The Real War*, a chapter on Latin America from the Heritage Foundation's *Mandate for Leadership*, a document by the Committee of Santa Fe of the Council for Inter-American Security titled, "A New Inter-American Policy for the Eighties," and the writings of Jeane Kirkpatrick, most notably her article "Dictatorships and Double Standards." Together, these documents outlined a global anticommunist "rollback doctrine" and identified Central America as a place where the United States could "salvage" a forceful foreign policy lost in Vietnam.[16] Written in 1980, the Santa Fe document opens with the declaration that "War, not peace, is the norm in international relations," and that "WWIII is almost over," with the United States "everywhere in retreat." Repudiating isolationism, containment, and détente, the Committee of Santa Fe labeled Latin America as "America's Balkans," its "soft underbelly," and its "exposed southern flank," and recommended a strong ideological and economic response to

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Salvador "held center stage" as a "test of America's mettle after the defeat in Southeast Asia." (Ibid). Latin American policy advisor Howard J. Wiarda of the American Enterprise Institute, on the other hand, asserts that during the 1980s Latin American policy ranked "among the lowest of U.S. foreign policy priorities." See Wiarda, *American Foreign Policy Toward Latin America in the 80s and 90s,* 17-8.

[15] Wiarda, *American Foreign Policy Toward Latin America in the 80s and 90s*, 19.

[16] Ibid., 21; Grandin, *Empire's Workshop*, 70-1.

the civil wars in Central America.[17] Invoking the Monroe Doctrine, the document also asserted that only the United States could "protect the independent nations of Latin America from Communist conquest," and therefore it must stop trying to force its reluctant friends to institute human rights reforms.[18] This translated to the Reagan Administration's restoration of military aid to Argentina, Brazil, Chile, El Salvador, and Guatemala upon inauguration.

Reagan's stance on supporting right-wing authoritarian regimes versus leftist totalitarian regimes was most famously articulated in Jeane Kirkpatrick's 1979 essay "Dictatorships and Double Standards." Kirkpatrick served in Reagan's cabinet on the National Security Council and Reagan appointed her as the U.S. Ambassador to the United Nations. Throughout her tenure in the administration, she maintained a staunch anti-communist line and considered Latin America "colossally important" to "vital national interests," and the "most important place in the world for the United States."[19] Central America's importance lay not in its natural resources or strategic location, but in its potential as an ideological battleground. In her essay, Kirkpatrick lambasted the Carter Administration for its failed relations with the authoritarian regimes of Iran and Nicaragua. She claimed Carter's failures paved the way for subsequent leftist takeovers. She wrote, "The Shah and Somoza were not only anti-Communist, they were positively friendly to the U.S… Although there is no instance of a revolutionary 'socialist' or Communist society being democratized, right-wing autocracies do sometimes evolve into democracies."[20] Kirkpatrick strongly supported U.S. military aid to El Salvador's government, even if that

[17] Grandin, *Empire's Workshop*, 70-1; LeoGrande, *Our Own Backyard*, 54-6.
[18] LeoGrande, *Our Own Backyard*, 55-6.
[19] LaFeber, *Inevitable Revolutions*, 271.
[20] Jeane Kirkpatrick, "Dictatorships and Double Standards," *Commentary*, Nov 1979, 35-7.

included supporting death squad activities and the selling of arms to Contras in Nicaragua.[21] Following the doctrines of Kirkpatrick and the Santa Fe Committee, the Reagan Administration justified denying claims of political persecution by El Salvador's authoritarian regime while conversely re-affirming Nicaraguan migrants as refugees fleeing communism.

However, while Kirkpatrick's doctrine remained influential, the Reagan Administration also saw the need to couch its goals in Central America in broader Cold War moralistic terms in order to maintain public support.[22] Secretary of State for Human Rights Elliot Abrams circulated a memo in 1981 urging the need for an ideological tack: "We will never maintain wide public support for our foreign policy unless we can relate it to American ideals and to the defense of freedom. Our ability to resist the Soviets around the world depends in part on our ability to draw this distinction."[23] Historian Greg Grandin argues that it was in Central America more than anywhere else that the Reagan Administration "cast the Cold War as a moral struggle between good and evil," and that this was so partly because of a rising tide of public agitation against Reagan's policies in the region.[24]

Reagan and his supporters repeatedly expressed the threat of a unified global communist front in the region as the originating source of violence, likening U.S.-backed Nicaraguan

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[21] There is much evidence that Kirkpatrick and Reagan Administration officials were well-aware of government-supported death squad atrocities in El Salvador. See Grandin, *Empire's Workshop*, 76-7; Stephen G. Rabe, *The Killing Zone*, 156-8; Benjamin Schwartz, "Dirty Hands: The Success of U.S. Policy in El Salvador—Preventing a Guerilla Victory—Was Based on 40,000 Political Murders," *Atlantic Monthly*, December 1998.

[22] This included Reagan's prompting of El Salvador to institute human rights and democratic reforms, despite the United States' resumption of military aid before any reforms were actually instituted. See Richard Halloran, "Salvador Gets Rights Lesson from the U.S.," *New York Times*, April 18, 1982.

[23] Grandin, *Empire's Workshop*, 80; Steven Strasser, "Teaching the ABC's of War, *Newsweek*, March 28, 1983.

[24] Grandin, *Empire's Workshop*, 81-2. See Chapter Four for more on public criticism of and activism against Reagan's interventions in Central America.

Contras and Salvadoran counterinsurgents to freedom fighters and identifying communist aggression as the sole cause of refugee displacement. In a televised address to the nation in May of 1984, Reagan stated:

> Central America is a region of great importance to the United States. And it is so close… Central America is America; it's at our doorstep. And it has become the stage for a bold attempt by the Soviet Union, Cuba, and Nicaragua to install communism by force throughout the hemisphere… What we see in El Salvador is an attempt to destabilize the entire region and eventually move chaos and anarchy toward the American border… If the communists can start war against the people of El Salvador, then El Salvador and its friends are surely justified in defending themselves… This is not only in our strategic interest, it is morally right.[25]

Here, Reagan justified increased military aid to El Salvador as a necessary component to winning a broader global war against the threat of communism. The assertion of the United States' moral obligation to the Cold War battlefront of Central America appeared even during Reagan's campaign in 1980, as soon-to-become Reagan's national security advisor Richard Allen warned of "Fidel Castro's Soviet-directed, armed and financed marauders in Central America," while supporting U.S. military power as the "basis for the development of a just and humane foreign policy."[26] A month into office, Secretary of State Alexander Haig also warned NATO delegates of, "A well-orchestrated Communist campaign designed to transform the Salvadoran crisis from the internal conflict into an increasingly internationalized confrontation."[27]

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[25] Ronald Reagan, "U.S. Interests in Central America," in Marvin E. Gettleman, et al, eds., *El Salvador: Central America in the New Cold War* (New York: Grove Press, 1987) 12-3. Reagan often invoked Eisenhower's "domino theory," and famously stated: "The Soviet Union underlies all the unrest that is going on. If they weren't engaged in this game of dominoes, there wouldn't be any hot spots in the world." Rabe, *The Killing Zone*, 156.
[26] Walter LaFeber, *Inevitable Revolutions: The United States in Central America* (New York: W.W. Norton & Company, 1984) 274.
[27] Ibid.

The administration's adherence to this imagining of Central America as a symbol of a larger clash between superpowers committed it to military victory in the region. In addition to arming Contras in hopes of destabilizing Nicaragua and resuming aid to the rightist Guatemalan government despite the ongoing brutality of its generals, the Reagan Administration focused on El Salvador as a prime testing ground for its new militant Cold War policy. Once in office, Reagan began to pour both economic and military aid into El Salvador at an astonishing rate. Over the course of the administration's time in office, military aid to El Salvador rose to an average level per *day* what it had been per year between 1950 and 1979, reaching over half a million dollars. El Salvador's military grew from ten thousand soldiers to fifty thousand, and Salvadoran soldiers also received special training in North American camps.[28] These efforts were coupled with a large increase in direct economic aid and with the Caribbean Basin Initiative, a trade pact through which El Salvador would receive the lion's share of funds. This Central American "Marshall Plan," as Kirkpatrick called it, only served to exacerbate violence in the region and make the governments of El Salvador and Guatemala both more brutal and more dependent upon the United States.[29]

The violence of these interventions forced an estimated one million Central American migrants, made pawns in this larger ideological struggle, to flee their homes and travel to the United States in the 1980s. The administration denied its role in contributing to the violence in Central America through military aid and training of counterinsurgents by asserting that communist agitation was the sole cause of migrant displacement. In September of 1982, Elliot Abrams told a Miami audience, "It is Communist rule that has caused the greatest refugee flows of recent years. We can, therefore, have a very firm notion of what the expansion of communism

[28] Rabe, *The Killing Zone*, 167.
[29] Kahn, *Other People's Blood*, 32; LaFeber, *Inevitable Revolutions*, 286-91.

to El Salvador and Guatemala would mean. It has the potential to create a Southeast Asian refugee crisis right here on our doorsteps."[30] At a fundraising dinner in Mississippi in 1983, President Reagan spoke of the consequences of a failed foreign policy in Central America. He warned that the result would be, "a string of anti-American Marxist dictatorships," and "a tidal wave of refugees. And this time, they'll be 'feet people' and not 'boat people' swarming into our country, seeking a safe haven from Communist repression to our South. We cannot permit the Soviet-Cuban-Nicaraguan axis to take over Central America."[31] This message also reverberated among Reagan's supporters in Congress, as senior Republican on the Senate Foreign Relations Subcommittee on Western Hemisphere Affairs Jesse Helms often sounded a similar alarm with comments such as, "If Central America falls, we are going to be flooded with refugees."[32]

"This is One You Can Win"

It may seem unlikely that Central America could play such a central role in the formulation and implementation of the Reagan Administration's larger Cold War foreign policy goals, but it had been within the United States' sphere of influence for nearly a century. And scholars argue that the area's relative tactical unimportance was the key to its ideological significance as a Cold War battleground. As a country lacking in vital natural resources and in America's "backyard" away from significant Cold War foes, El Salvador in particular offered an ideal testing ground for Reagan's new counterinsurgency tactics. In 1977, U.S. Ambassador to El Salvador Ignacio Lozano told Congress, "The United States really has no vital interest in the

[30] U.S. Department of State, *Bulletin* 82 (September 1982) 44; Lars Schoultz, "Central America and the Politicization of U.S. Immigration Policy," in Mitchell, ed., *Western Hemisphere Immigration and United States Foreign Policy*, 158.
[31] *Weekly Compilation of Presidential Documents* 19 (27 June 1983) 901.
[32] Schoultz, "Central America and the Politicization of U.S. Immigration Policy," 158.

country." Additionally, when Reagan entered office guerillas in El Salvador were on the defensive and the U.S.-backed government appeared ascendant. Alexander Haig, considering Central America a "strategic choke point," told President Reagan, "This is one you can win."[33] As historian Greg Grandin concludes, "The fallout that resulted from a hard line there could be, if not managed, then easily ignored."[34] However, the reality of one million displaced migrants, the majority of them Salvadoran, could not be easily ignored by the administration. The lasting importance of the Reagan Administration's adherence to a hard-line Cold War foreign policy stance in Central America is the impact it had on the lives of the victims of these civil wars, and in particular, the thousands of Salvadorans in the United States subjected to blanket detention and deportation.

When Reagan entered office, El Salvador's raging civil war was inflicting up to five hundred civilian casualties a month. The administration's support for 17,000 U.S.-trained and supplied army and security forces against 4,000 rebels seemed like a safe bet, but the war soon stalemated, and the United States committed itself further by increasing military aid. The war escalated, and although the United States supported the re-election of President Jose Napoleon Duarte's Christian Democratic Party in the spring of 1982, the better-organized right-wing ARENA party led by Roberto D'Aubuisson strong-armed its way into the ballot box. U.S. efforts were failing, but the Reagan Administration found itself forced to support D'Aubuisson, and in effect his party's right-wing death squad affiliates.[35]

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[33] LeoGrande, *Our Own Backyard*, 80-1. Stephen G. Rabe notes that while some analysts argue that Reagan's foreign policies were more cautious and benign than his Cold War rhetoric might imply, this was not the case in Central America where Reagan waged "violent Cold War." Rabe, *The Killing Zone*, 158.
[34] Grandin, *Empire's Workshop*, 71-2.
[35] LaFeber, *Inevitable Revolutions*, 284-91.

Despite the administration's use of Cold War rhetoric, large portions of the American public initially opposed Reagan's hard-line stance on El Salvador. In efforts to reverse public opinion, the State Department released a White paper on El Salvador in February of 1981 titled, "Communist Interference in El Salvador: Documents Demonstrating Communist Support of the Salvadoran Insurgency," supposedly based on nineteen recovered guerilla documents. The paper identified El Salvador's civil war as a, "textbook case of indirect armed aggression by Communist powers," and asserted that Fidel Castro and the Cuban government played a key role in unifying a Salvadoran Communist guerilla front.[36] The American press mostly accepted the White Paper as truth, save for critiques from the *Los Angeles Times, Washington Post, Wall Street Journal*, and *The Nation*.[37] Critics labeled the White Paper propaganda aimed at using the false threat of communism to divert attention away from the realities of El Salvador's repressive regime. After a three-hour interview with White Paper author Jon D. Glassman, Jonathan Kwitney of the *Wall Street Journal* reported that Glassman admitted using extrapolated statistics and "mistakes and guessing" on the part of the intelligence analysts translating the guerilla documents. Kwitney concluded, "A close reading of the white paper indicates… that its authors probably were making a determined effort to create a 'selling' document, no matter how slim the background material."[38] The White Paper only further stirred public dissent as indicated by the proliferation of a bumper sticker reading, "El Salvador is Spanish for Vietnam," throughout the 1980s.[39]

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[36] ""Communist Interference in El Salvador": The U.S. State Department White Paper," in Gettleman, et al, eds., *El Salvador: Central America in the New Cold War*, 314-5; LeoGrande, *Our Own Backyard,* 86-7.
[37] LaFeber, *Inevitable Revolutions,* 276.
[38] Jonathan Kwitney, "Apparent Errors Cloud US 'White Paper' on Reds in El Salvador, *The Wall Street Journal,* June 8, 1981; LaFeber, *Inevitable Revolutions*, 285.
[39] Grandin, *Empire's Workshop*, 100.

The Reagan Administration's ongoing commitment to El Salvador's tiny and brutal ruling oligarchy only seemed to intensify its ongoing denial of the atrocities committed by the right-wing death squads that did its bidding. Thereby, the United States also denied its implicit role in spurring migration from the region. After a visit to the country in February of 1983, Jeane Kirkpatrick applauded the country's "legitimate democratic government," yet sounded the alarm that more military aid was needed to defeat guerilla forces that in reality were fragmented and disorganized.[40] Three years after the White Paper asserted that communism was the root cause of violence in El Salvador, President Reagan announced on television in May of 1984:

> Right now in El Salvador, Cuban-supported aggression has forced more than 400,000 men, women, and children to flee their homes… Concerns about the prospect of hundreds of thousands of refugees fleeing communist oppression to seek entry into our country are well founded… It would be profoundly immoral to let peace-loving friends depending on our help to be overwhelmed by brute force if we have any capacity to prevent it.[41]

Still supporting U.S. military aid to the Salvadoran government, Reagan also acknowledged the strong link between American foreign policy and immigration. However, this viewpoint failed to acknowledge the United States' hand in exacerbating the violence.

Glaringly at odds with the administration's descriptions of the causes of violence in El Salvador were the testimonies of Salvadoran migrants in the United States describing violence at the hand of National police forces rather than communist rebels. Reporter Robert Tomsho, assigned to cover illegal immigration for a San Antonio newspaper in 1982, recalls Border Patrol agents noticing an upsurge in apprehensions of "OTMs" or "Other Than Mexicans," most of whom were from El Salvador or Guatemala. While the Border Patrol at this time had mainly been focusing on apprehending Mexicans who could be quickly returned to Mexico within one

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[40] LaFeber, *Inevitable Revolutions*, 289-90.
[41] Ronald Reagan, "U.S. Interests in Central America," in Gettleman, et al, eds., *El Salvador: Central America in the New Cold War*, 12-3.

or two days, OTMs posed the problem of requiring lengthier stays in detention. And unlike many Mexicans, Tomsho noted, "They were not people who joked about being sent home. Some told me they were certain it would mean death." As Tomsho met more migrants from El Salvador and Guatemala, he found that many of their stories were like those of Juan, who eventually found refuge in a San Francisco church after making the long journey from El Salvador to a Guatemalan refugee camp to Tijuana, Mexico, where he paid a smuggler to take him across the U.S. border. Juan's numerous scars, he claimed, were from being captured and interrogated by Salvadoran National Guardsmen who raided a refugee camp near San Salvador where he worked as a medical student in December of 1980. During his capture, he was accused of aiding Communists and guerillas and exposed to a variety of interrogation and torture techniques, including having his head covered by a leather mask, being hung from the ceiling by a rope around his waist, and electric shocks.[42] Despite the preponderance of testimonies such as this given by Salvadorans applying for political asylum in the United States, Salvadorans were consistently detained, denied refugee status and deported throughout the 1980s.

Akin to the U.S. government's wholesale rejection of Haitian migrants' appeals for political asylum due to its support for Duvalier's regime in Haiti, Salvadoran asylum denials were rooted in the United States' Cold War stance in support of the Salvadoran government. In both cases, the U.S. government denied that migrants faced persecution upon their return, but in the case of El Salvador, the administration's efforts to cover up the reality of violence (that subsequent investigations have confirmed was nearly genocidal in level) went even further than it did in Haiti.[43] The administration also articulated its asylum policy towards Salvadorans in

[42] Robert Tomsho, *The American Sanctuary Movement*, foreword; 2-4.
[43] See Chapter 2 for an explanation of the Reagan Administration's foreign policy aims in Haiti and how they impacted immigration policy. In both cases, it can be seen that foreign and

hard-line terms, taking a strong position that Salvadorans were economic migrants and not political refugees. As Lars Schoultz maintains, "In the 1980s there was nothing more political than a Central American's application for asylum in the United States. To study the flow of migrants northward from Central America, then, is to learn very clearly the lesson that foreign policy intimately influences U.S. immigration policy."[44]

While a status of "extended voluntary departure," a temporary and discretionary stay of removal granted to migrants from designated countries, was granted to Nicaraguans fleeing a communist regime, this status was continually denied to Salvadorans despite public and Congressional pleas on their behalf.[45] In January of 1981, the Metropolitan Human Relations Commission of Portland, Oregon, appealed to the Reagan administration to halt the deportation of Salvadorans and extend them EVD status, writing, "Reputable sources have reported that the massive slaughter of people in El Salvador are of genocidal proportions. Therefore, it is cruel and inhumane for the United States Government to deport individuals to a country where they are likely to be subjected to unconscionable human rights violations."[46] The State Department responded, "The responsibility for establishing a well-founded fear of persecution rests with each

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immigration policies were mutually constitutive rather than one unilaterally dictating the other. For a detailed account of one significant instance of civilian massacre at the hands of the Salvadoran army in 1981, see Mark Danner's *The Massacre at El Mozote* (New York: Vintage Books, 1993), and Rabe, *The Killing Zone*, 166-70. The U.S. government maintained that reports and evidence of the massacre were mere propaganda until forensics uncovered proof of the massacre ten years later in 1992.

[44] Schoultz, "Central America and the Politicization of U.S. Immigration Policy," 218.

[45] EVD had also been granted to Afghani, Polish, Iranian and Ethiopian nationals during this time, however the State Department began to increasingly resist awarding the status to new groups after 1979 in fear that the list would be ever-expanding. See Barbara M. Yarnold *Refugees Without Refuge: Formation and Failed Implementation of U.S. Political Asylum Policy in the 1980s* (Lanham, MD: University Press of America, 1990).

[46] Letter, Armando Laguardia to the Honorable Victor Atiyeh Governor of Oregon, January 28, 1981, ID #006089, IM001, WHORM, Subject File, Ronald Reagan Library.

applicant."[47] Further, the State Department issued a directive to the INS in April of 1981 stating, "The granting of blanket voluntary departure for Salvadoran nationals now in the United States is not warranted at this time," citing the Under Secretary of State for Political Affairs Walter J. Stoessel: "We find it difficult to accept the thesis that the majority of Salvadorans now in the United States departed their country only to seek safehaven. Most traveled through third countries before entering the United States." It concludes that, "It has been and is the consensus of I&NS and Department of State that most Salvadorans in the United States migrated here for economic reasons or to avoid civil strife and are not subject to persecution upon their return."[48] Two years later in June of 1983 the State Department issued a guidance statement in response to eighty-eight members of Congress who appealed for EVD for Salvadorans, maintaining the same position and adding that granting EVD would encourage further "illegal immigration" from El Salvador. Representative Bruce Morrison repudiated the State Department's position, writing, "Between October 1982 and January 1983, out of 1,139 applicants for asylum, the… District Directors granted only 61 to El Salvador. The remaining 1,078 were deported. Upon their return to El Salvador, many of these refugees met with calamities ranging from simple custody to torture and murder." He quoted an officer from the Salvadoran army as saying, "The dangers faced by all… in El Salvador is greatly enhanced for those who are returned to El Salvador after

[47] Letter, David H. Shinn to Wally Priestly, April 16, 1981, ID#006089, IM001, WHORM, Subject File, Ronald Reagan Library.
[48] Cable, Immigration and Naturalization Service, April 27, 1981; "Asylum Applications Submitted by Nationals from El Salvador," February 3, 1982, Folder "INS" Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

being deported," and claimed that an estimated one out of five deportees was killed upon return.[49]

Although the State Department publicly maintained that it treated all undocumented migrants equally, it simultaneously issued foreign policy "advisory opinions" on each asylum case to the INS instructing that Salvadorans be viewed as economically-driven migrants. After a March 1982 *Miami Herald* article quoted INS spokeswoman Beverly McFarland as saying, "In terms of the large detention of Haitians, you may see a very similar detention of Salvadorans in a very short time as soon as we find space for them… Because thousands and thousands of them are pouring across the border from Mexico as the situation in their country worsens," Assistant Attorney General Rudolph Giuliani issued an internal memo to the INS stating the need to "publically correct the errors made in the Miami Herald article." Giuliani asserted that McFarland was incorrect in saying that the INS would, "soon target El Salvadorans for detention as well and are looking for space to put them in… Our detention policy, as you know, is to be even-handedly applied regardless of an alien's race or nationality."[50] However, by this time Salvadorans comprised an increasing percentage of those in immigration detention in the United States, and Giuliani appealed to Congress in June of 1982 for more detention space. He explained that the strain on space, "has also resulted from increased apprehensions over the last decade of other than Mexican nationals… For example, in FY 1977, INS apprehended 2,400 Salvadorans. That number has steadily grown, and 15,900 were apprehended in FY 1981."

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[49] Letter, Bruce A. Morrison to The Honorable Ronald Reagan, June 30, 1983, ID#149458, IM014, WHORM, Subject File, Ronald Reagan Library.

[50] "Salvador's refugees may face U.S. detention, official says," *Miami Herald*, March 11, 1982; Memo, Rudy Giuliani to Alan Nelson, March 18, 1982, Folder "March 1982," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Giuliani also cited the slow asylum application process as an additional pressure on detention space needs.[51] As one step of the asylum process, immigration judges were to send an I-589 form to the State Department for its "advisory opinion" on each case. For Salvadoran cases, a form letter was attached to the I-589 saying the State Department did not believe the applicant would be persecuted in El Salvador, without any reference to the specific details of each case. While immigration judges had the authority to overturn these advisory opinions, only one judge out of a sample of ten thousand Salvadoran cases from 1981 to 1986 was found to have done so.[52]

In addition, charges that the INS systematically failed to inform Salvadorans of their right to apply for asylum and compelled them to sign voluntary departure forms further raised public concern. A preponderance of media reporting on harsh conditions faced by Salvadorans at the border and in detention in early 1981 included reports that Salvadoran migrants were being threatened by INS agents and forced to sign I-284 "voluntary departure" agreement forms against their will or without their knowledge that signing the form would waive their right to a deportation hearing and an asylum claim. Senator DeConcini's staff member's report from his visit to El Centro relayed one detainee's story: "Death is a part of life in El Salvador. It's normal to see a burning decapitated body in the middle of the street. If you are a college student or a professor or are related to one of them or if you are a member of Archbishop Romero's people, consider yourself dead!" DeConcini's aide also noted, "He also showed me the intake form that INS does when processing all aliens. On a certain question it asks, 'Did you leave your country because of repression?' It was answered 'no'… I asked him who marked 'no' on the question

[51] Rudolph W. Giuliani, "Statement before the House Committee on Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice on 'Construction of Alien Detention Facilities,'" June 23, 1982, Folder "Speeches by RWG," Box 16, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[52] Kahn, *Other People's Blood*, 44.

and he said the border patrol agent."[53] The *New York Times* also relayed the story of a Mr. Mendoza who was apprehended at the border in Chula Vista, California where he told an immigration agent that he left his home because he was on a "death list" in El Salvador and he wanted to remain in the United States until the killing ended in his country. The agent responded by telling him, "Unless he agreed to return home immediately, he would spend a year or more in jail and would 'suffer a lot,'" so Mr. Mendoza signed the I-284.[54] The United Nations Human Rights Commission sent the State Department a telegram demanding an investigation of these allegations, to which the INS replied that every detained alien is advised of his right to due process and that "I&NS does not threaten or coerce illegal Salvadorans into accepting voluntary departure or deprive any individual in the United States from applying for asylum."[55]

In 1982, a group of church and legal aid organizations sued the Immigration and Nationality Service for denying Salvadoran migrants due process. The court filed a preliminary injunction in the case of *Orantes-Hernandez v. Smith*, finding that the INS did indeed violate Salvadorans' due process rights by engaging in a "pattern and practice of coercing" migrants to waive their rights and that this pattern "extended to detention centers, where their access to counsel and information about their rights was severely restricted."[56] However, this injunction

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[53] "El Centro Report to Senator Dennis DeConcini," October 29, 1981, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[54] John M. Crewdson, "Salvadoran Says Fear of Death Pushed Him on Hard Trek North," *New York Times*, March 6, 1981, A10.

[55] "Information furnished to the Department of State for their response to UNHCR cable, Geneva," August 26, 1981, Folder "INS" Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[56] Mark Forster, "Judge to Tour Salvadorans' Detention Site," *Los Angeles Times*, January 15, 1982, SD_A1; *Orantes-Hernandez v. Smith*, 541 F.Supp. 351 (C.D. Cal. 1982); Linton Joaquin, "Court Upholds Nationwide Injunction of Immigration Detention and Removal Processing

had little effect on the INS's processing of Salvadorans throughout the 1980s.[57] As reports of persecution faced by Salvadorans upon deportation persisted, however, support for Salvadorans continued as indicated by Representative Barbara Kennelly's letter to President Reagan in June of 1983 requesting EVD for Salvadorans. She also urged, "In accordance with the court findings in the Orantes case, I ask that apprehended Salvadoran refugees be notified of their right to counsel and their right to seek asylum, since a forced return to El Salvador might subject them to life-threatening violence."[58]

In order to defend its overall rejection of refugee status for Salvadorans, the U.S. government continued to deny that Salvadorans were subject to persecution upon their return. Senator DeConcini's aide's report from El Centro relayed the story of another migrant from El Salvador at the camp who, "said his brother and cousin were in this camp about 6 months ago, and were deported back to El Salvador. He showed me a letter from his aunt from El Salvador stating that his brother and cousin were executed and their bodies were found just 2 miles from the airport."[59] The *New York Times* also reported on a rumor at El Centro that "some deportees had been murdered as they disembarked at the Comalapa airport in San Salvador, the capital, on

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Abuses," *Immigrants' Rights Update* 21, issue 8 (October 5, 2007). Available at http://www.nilc.org/injunction-detention-07.html.

[57] This case was not resolved until 1991, when this injunction was upheld and stipulations addressing fair processing and improving detention conditions were agreed upon. The U.S. Department of Justice signed a consent decree that it had violated its own laws and the Geneva Convention in over 100,000 Salvadoran cases. This decision marks a reversal of more cases than any other in U.S. history. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1990); Kahn, *Other People's Blood*, 1; 14-5; 22.

[58] Letter, Barbara Kennelly to President Ronald Reagan, June 24, 1983, ID#146306, IM014, WHORM, Subject File, Ronald Reagan Library.

[59] "El Centro Report to Senator Dennis DeConcini," October 29, 1981, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Christmas Day," which sparked a hunger strike at the detention facility.[60] In June of 1984 the American Civil Liberties Union Political Asylum Project gave the U.S. House Subcommittee on Rules and Elliot Abrams a report on human rights abuses inflicted upon over one hundred Salvadorans after deportation. Despite such reporting, the administration denied there was any evidence of such executions. Elliot Abrams told the Subcommittee: "Some groups argue that illegal aliens who are sent back to El Salvador meet persecution and often death… Obviously we do not believe these claims or we would not deport these people."[61] As The Reagan Administration adhered to its Cold War ideological foreign policy commitments, it continued to play political football with Salvadoran migrants who continued to be detained and deported en masse. The U.S. government's hard-line foreign policy stance on El Salvador played a key role in its rejection of Salvadoran refugees and contributed to the administration's predictions of increased Latin American migration, which in turn produced a dire need for more detention space.

"The Man with the Badge Holds it Back"

Although the plight of Salvadoran migrants reveals the mutually constitutive nature of foreign and immigration policies, domestic considerations also greatly contributed to the coalescence of the Reagan Administration's plans to expand its growing immigration detention system in the early 1980s. At home, Reagan was committed to scaling back "big government" while simultaneously enhancing the federal government's role in fighting crime. In his first inaugural address, he famously asserted, "Government is not the solution to our problem; government is the problem." Welfare and crime were two major themes of his campaign rhetoric

[60] Crewdson, *New York Times*, March 6, 1981.
[61] Kahn, *Other People's Blood*, 40-1; Tomsho, *The American Sanctuary Movement,* 108.

and were often expressed with racial undertones.[62] Decrying the dependency of "welfare queens" on government handouts and the dangers of criminal "predators," Reagan's thinly veiled rhetoric played upon the racial anxieties of disaffected whites. Twenty-two percent of Democrats defected from their party to vote for Reagan in 1980; that number rose to thirty-four percent among white Democrats who believed civil rights efforts were moving "too fast."[63] Such racial anxieties were also reflected in strong public support for stricter immigration enforcement policies and expressions of "compassion fatigue" as discussed in Chapter One. The development of the Reagan Administration's immigration detention system must be understood, then, within its larger focus of cutting government even while enhancing its punitive functions.[64]

While race plays a large role in the history of exclusion in the United States, Jonathan Simon also credits the unique late-twentieth century development that he labels the "severity revolution," or, "a transformation from a 'welfare state' to a 'penal state.'" Simon argues that in the post-New Deal era, "Americans have built a new civil and political order structured around the problem of violent crime. In this new order, values like freedom and equality have been revised."[65] Simon argues that the "War on Crime" and the vast rise in incarcerations during the 1970s transformed American society by creating a culture of fear. While Simon's work does not focus on immigration detention, his theory that this era brought a rise in the "technologies of

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[62] Alexander, *The New Jim Crow,* 48; Donna Selman and Paul Leighton, *Punishment for Sale: Private Prisons, Big Business, and the Incarceration Binge* (Lanham, MD: Rowman & Littlefield, 2010) Preface.
[63] Alexander, *The New Jim Crow*, 47-8.
[64] Concurrently, the administration's move towards the use of private prison contracting should also be understood within this context and as part of Reagan's agenda of outsourcing as many government functions as possible. See Chapter Four for a further exploration of Reagan's neoliberal economic vision of scaling back big government as it pertained to the administration's use of private contracting.
[65] Johnathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2009), 3-6.

exile" may apply to it: "It is worth considering whether the prison and its close analogues, such as immigration detention, should be seen as the hard end of a continuum of technologies for addressing threatening persons and behaviors by removing them from the community more or less permanently."[66]

One characteristic of this "severity revolution" is a turn away from the rehabilitative functions of prison-keeping and towards punishment as the primary goal of confinement. Reagan's vision was in keeping with this trend towards the punitive. While Reagan served as governor of California in the late 1960s, it appeared to conservative ideologues that growing urban unrest challenged the rehabilitative ideology of California's penal system. For example, the McCone Commission, comprised of urban sociologists and poverty experts and charged with investigating the Watts riots, described pathologies for the ghetto and its inhabitants that mirrored those ascribed to prisons and convicts.[67] Like Reagan, the commission identified state dependency as a key corrupting force in both ghetto inhabitants and criminals. On the failings of the rehabilitative prison model, Governor Reagan asserted: "We must return to a belief in every individual being responsible for his conduct and his misdeeds with punishment immediate and certain. With all our science and sophistication… the jungle still is waiting to takeover. The man with the badge holds it back."[68] Once in office, Reagan Administration officials echoed the same focus on punishment and the strengthening of law enforcement as indicated by an internal memo in the Attorney General's office in the fall of 1981:

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[66] Ibid., 173.
[67] "Reports of Consultants," California Governor's Commission on the Los Angeles Riots 17 (Los Angeles, 1965).
[68] Volker Janssen, "Sunbelt Lock-Up: Where the Suburbs Met the Super-Max," in Michelle Nickerson and Darren Dochuk, eds., *Sunbelt Rising: The Politics of Place, Space, and Region* (Philadelphia: The University of Pennsylvania Press, 2011) 224.

> The time has arrived for a major policy statement on prisons… along with a clear statement of our philosophy that prison is aimed at achieving the purposes of punishment, deterrence, and protection of society, and putting rehabilitation into its proper context—namely, as a hoped-for result, but not one which can be expected nor one as to which there are any systematic methods of achievement.[69]

In the same year, Reagan's Task Force on Immigration announced its new policy on immigration detention with these same intentions of punishment, deterrence, and the protection of society.[70] This was in sharp contrast to the previous administration's stated intent for detention. In 1979, INS Commissioner Leo Castillo told the House of Representatives that the purpose of immigration detention was not to punish migrants, but to ensure their appearance for expulsion hearings and to care for their welfare.[71]

As a result of the Reagan Administration's renewed commitment to punitive measures and the "War on Crime" that spurred prison population growth since the late 1960s, the incoming administration was immediately faced with the crisis of prison overcrowding and the need to increase criminal justice budgets. By the end of the 1970s the American public agreed that crime was the country's largest domestic problem, and although the violent crime rate declined in the United States in the early 1980s citizens continued to express fears that crime rates were increasing.[72] Reflecting political and media rhetoric that played upon underlying racial anxieties, letters to the Reagan Administration expressed overwhelming support for prison-building and harsher sentencing. One letter from a nine-year-old boy to Rudy Giuliani read, "Congratulations

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[69] Memo, Kenneth Star to William French Smith, November 31, 1981, Folder "Attorney General's Office," Box 1, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[70] See Chapters One and Two for more on the new and more punitive detention and interdiction policies of Reagan's Immigration Task Force, announced in July of 1981.

[71] House Committee on Appropriations 1979: 578; Dunn, *The Militarization of the U.S.-Mexico Border*, 39. For more on the rise of "Law and Order" since the 1960s, see Selman and Leighton, *Punishment for Sale*, 30-5.

[72] Selman and Leighton, *Punishment for Sale*, 35.

for announcing that there is a shortage of prison cells. I do not feel bad for these inmates. Keep up the good work and Merry Christmas!"[73] Before the 1980s, few new prisons had been built in the United States since before World War II, and facilities were increasingly becoming overwhelmed with a growing flood of prisoners. During his presidential campaign, Reagan promised to increase the federal government's role in combating street crime, a role traditionally taken on by state and local governments. The incoming Reagan Administration also faced lawsuits and corrections personnel unions' calls for prison building to alleviate conditions caused by overcrowding. As these conditions worsened, politicians elected on "tough-on-crime" platforms found themselves in a bind lacking the prison space to back up their promises. The immediate solution was to increase funding to improve existing prisons and build new ones. Thus, federal law enforcement budgets began to soar once Reagan entered office.[74]

The Reagan Administration's commitment to more punitive immigration enforcement policies rested within this context as it often conflated the issues of immigration and crime. The administration also allied itself with segments of the public that viewed undocumented immigration as part of a larger criminal threat to public safety. In preparation for a meeting with the Commander-in-Chief of the American Legion in the spring of 1982, the Attorney General's office stated a shared commitment to "traditional American values" with the American Legion along with its agenda of discussing the two interrelated issues of crime and immigration: "Among the threats to these values, is the crises of illegal immigration… This massive influx of illegals takes jobs from Americans, burdens social services, causes social tensions, risks

[73] Letter, Paolo Yussein to Rudolph Giuliani, December 13, 1982, Folder "December 1982," Box 1, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[74] Selman and Leighton, *Punishment for Sale*, 40-2.

bilingualism, and generally breeds disrespect for the law… [We] hope that the American Legion would vigorously involve itself in the public dialogue, as it has done in the past."[75] As the administration remained committed to viewing immigration as a criminal issue, its new immigration detention policies placed an additional strain on the problem of prison overcrowding. Looking to the American southwest, the Bureau of Prisons sought to erect a new federal correctional institution in Phoenix, Arizona, noting, "Detention of… immigration detainees plays a role in overcrowding… significantly more overcrowding will likely result from the present Administration's focus upon increased federal prosecution of violent and narcotics offenders." New INS detention facilities were also sought in the same region: "There has been a significant increase in alien apprehensions and a concomitant need for detention space in INS' Western Region… INS must compete with other Federal, state and local entities for limited jail space."[76] Undocumented immigrants and criminal offenders were thus two sides of the same coin—both identified as undesirable populations threatening public safety and requiring new structures for their removal from society.

Reagan's renewed commitment to the "War on Drugs" in particular further enveloped immigrants into the growing incarceration trend of the early 1980s. In the fall of 1981, President Reagan announced to the nation that "A wave of violent crime has engulfed our nation," and, "Just as a strong national defense is essential to protect us from our enemies in other lands, a

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[75] Memo, David Hiller to the Attorney General, February 16, 1982, Folder "Attorney General's Office," Box 1, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[76] Memo, "Justification for a new federal correctional institution in Phoenix," March 9, 1982; Memo, "Transfer of BofP Facility to INS," April 8, 1983, Folder "Bureau of Prisons," Box 3, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

strong domestic defense is necessary to protect us from our enemies within our own country." Turning to the issue of drugs, Reagan announced a "clear, coherent, and consistent national strategy designed to cripple the international and domestic drug traffic," that included drug interdiction efforts abroad and along the U.S. border, increased cooperation between federal and state law enforcement efforts, and harsher sentencing for drug-related offenses.[77] The administration further stoked public anxieties by sensationalizing the emergence of crack cocaine in inner-city neighborhoods as justification for ramped up drug enforcement efforts.[78] This antidrug media offensive and interdiction proposal also came at the same time as the announcement of the administration's Haitian interdiction program and commitment to curbing the flow of illegal immigration at the border. In sum, the administration's punitive turn envisioned crime, drugs, and immigration together as parts of an overall threat to national security, as evidenced by one of the initial questions Reagan's Task Force on Immigration set out to answer: "To what extent should border enforcement of U.S. laws be integrated, i.e., regarding immigrants and refugees/drug traffickers/smugglers?"[79] As it turned out, the administration would integrate efforts to combat this nexus to a great extent.

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[77] "Draft Presidential Crime Speech, " Folder "Statements/Testimony, Others," Box 16, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[78] Michelle Alexander argues Reagan's War on Drugs had more to do with race than addressing the social problem of drug dependency, as only two percent of the public viewed drugs as the most pressing domestic issue. Between 1980 and 1984, the FBI's antidrug funding grew from thirty-three to ninety-five million. At the same time, funding for agencies responsible for drug treatment and prevention was drastically reduced. The administration also launched a media offensive sensationalizing the emergence of crack cocaine in impoverished inner-city neighborhoods while the Justice Department shifted its focus away from prosecuting white-collar criminals to street crime and drug-law enforcement. These efforts heightened public anxieties concerning crime and drug use in predominantly African American communities. Alexander, *The New Jim Crow*, 49.

[79] Memo, Frank Hodsoll and Kate Moore to Ed Meese, "Task Force on Immigration and Refugee Policy and White House/OMB Study on Related Management Issues," March 28, 1981, Folder

In his work on the militarization of the U.S.-Mexico border, Timothy Dunn asserts that nowhere was the integration of federal and local law enforcement as intertwined under the Reagan Administration as it was in efforts linked to the War on Drugs. Once in office, the administration supported the passage of the Department of Defense Authorization Act of 1981, which loosened restrictions on military and civilian law enforcement cooperation. Dunn notes that the DOD Authorization Act's changes to the law of *posse comitatus*, which was originally established in 1879 to prohibit the deputizing of military personnel to assist in domestic law enforcement, were particularly tailored to allow for new forms of cooperation of federal and local officials in immigration as well as drug enforcement efforts. By adding a new chapter to the *posse comitatus* statute titled "Military Cooperation with Civilian Law Enforcement Officials," the DOD Authorization Act allowed for the military to assist civilian law enforcement agencies in "monitoring and communicating the movement of air and sea traffic," providing military bases to be used for law enforcement purposes, and the sharing of information and "expert advice."[80] Cooperation between military and civilian drug and immigration enforcement efforts is evidenced in the administration's 1982 "Miami Action Plan" to address the combined threats of immigration, crime, and the drug trade. The action plan begins by describing the "deplorable situation" in southern Florida:

> Many pressures have been created for Miami and the entire state of Florida by immigration policies of the prior Administration, which enabled tens of thousands of Cuban and Haitian citizens to enter the United States… Significantly, violent crime in metropolitan Miami rose… In addition, Florida has become a nexus for international drug trade operations… This Administration has given a high priority to the prompt and strong implementation of the recent amendments to the Posse Comitatus Act.[81]

"Immigration and Refugee Matters (1)," box OA6518, Edwin Meese III Files, Ronald Reagan Library.

[80] Dunn, *The Militarization of the U.S.-Mexico Border*, 106-7.

[81] Memo, "Comments by DOJ on Miami Action Plan," January 18, 1982, Folder "January '82," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General

The plan cites the Cuban and Haitian influx of 1980 and drug trafficking as equally responsible for rising violent crime rates (a common linkage popularized further by the 1983 movie *Scarface*). The points of the action plan include increasing federal-state cooperation to manage prison populations, alleviate overcrowding, and stepping up drug and immigration interdiction efforts. As part of the administration's narcotics enforcement strategy, the plan also outlines support for "a foreign policy that vigorously seeks to interdict and eradicate illicit drugs," including "the use of herbicides overseas."[82]

As the Reagan Administration exported executive authority abroad in its drug and immigration interdiction efforts, it also imported techniques developed in its involvement in El Salvador to combat drugs and immigration along the U.S.-Mexico border. Namely, these techniques amount to a domestic application of the Reagan Administration's "low-intensity conflict" doctrine. Timothy Dunn defines the characteristics of low-intensity conflict as including measures that are, "ideally to be employed in a preemptive or preventive fashion, to forestall the development of outright armed conflict," as well as having a psycho-social component of "maintaining social control over targeted civilian populations."[83] Originating in the Pentagon's division of the "spectrum of conflict" in military engagement among high, medium, and low, low-intensity conflict aims to avoid the sustained deployment of U.S. troops and its resultant American casualties. Although the origins of low-intensity conflict lie in the Kennedy Administration's development of counterinsurgency tactics, the Reagan Administration's revitalization of nonconventional warfare in the third world, and especially in

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Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[82] Ibid. President Reagan signed Public Law 97-113 on December 29, 1981, lifting the ban on the use of herbicides overseas.

[83] Dunn, *The Militarization of the U.S.-Mexico Border*, 20; 35.

El Salvador, led to the U.S. Army's official definition of LIC doctrine: "Low-intensity conflict is a limited politico-military struggle to achieve political, social, economic, or psychological objectives. It is often protracted and ranges from diplomatic, economic, and psycho-social pressures through terrorism and insurgency."[84] A critical feature of LIC doctrine, according to Dunn, is the integration of military, paramilitary, and police forces, where "military forces take on police functions, while police forces take on military characteristics."[85] Indeed, these features became apparent under the Reagan Administration's massive militaristic build-up of border enforcement provisions alongside a growing cooperative network between U.S. military forces and the DEA, FBI, CIA, and INS. The biggest beneficiaries from increased budgets granted to the INS were Border Patrol and Detention, which further indicates the administration's shift of focus away from service to enforcement. The INS's construction of twenty-two new Border Patrol stations and four traffic checkpoints, outfitted with the latest surveillance technologies and used for cooperative antidrug and immigration operations, also reveals how the War on Drugs further accelerated border militarization and its concurrent targeting of undocumented migrants.[86]

The Mass Immigration Emergency Plan

[84] Ibid.; CIA officer Theodore Shackley's 1981 book *The Third Option* served as a mass-market primer for many Reagan Administration officials on the use of guerilla warfare, counterinsurgency techniques, and covert actions especially in the third world. (The first option was direct military engagement and the second was doing nothing, as Shackley criticized Carter's foreign policies.) Grandin, *Empire's Workshop*, 92-3.
[85] Dunn, *The Militarization of the U.S.-Mexico Border*, 4.
[86] Ibid., 43-5. A massive build-up of equipment such as helicopters, spotlights, and loudspeakers were used for more than just detection and observation purposes; they were also used to intimidate migrants in order to deter them from crossing the border.

In the spring of 1982, Secretary of State Alexander Haig warned Congress, "Just think what the level [of illegal Central American immigration to the United States] might be if the radicalization of this hemisphere continues with the only alternative a totalitarian model… Why, it will make the Cuban influx look like child's play."[87] Like the Cuban and Haitian mass migrations of 1980-1, Central American migration to the United States further compelled the Reagan Administration to articulate a "contingency" plan in the face of a foreseen growing need for immigration detention space and especially as Haitians and Salvadorans in particular could not be granted asylum due to Reagan's Cold War foreign policies. The development of the "Mass Immigration Emergency Plan" originated in the Reagan Administration's response to the perceived emergency of the Mariel Cuban migration of 1980, and was further confirmed by the urgent need to detain Haitians and in even larger numbers Salvadorans. However, the crisis rhetoric in support of a growing detention system was not only framed in foreign policy or Cold War terms. It also reflected the administration's larger domestic political goals of enhancing law enforcement functions and avoiding the negative repercussions of another "Mariel."

A 1982 State Department Issue Paper pursuing the option of acquiring a former Air Force base as a possible INS detention site identifies "Emergency Detention Needs" in western and southern regions where facilities operated at or near capacity in detaining 176,000 aliens in the previous year. The paper notes that the impact of the recent Orantes injunction would, "very likely result in a higher percentage of El Salvadorans being detained… rather than being removed via I-274a as in the past… The overall instability of the Caribbean Basin, and the many thousands of El Salvadorans in refugee camps in Mexico and other countries, have, and will,

[87] Balz, *The Washington Post,* March 15, 1982.

escalate our detention needs beyond current capacities."[88] As discussed above, Reagan Administration officials and their supporters utilized strong Cold War rhetoric to warn of a domino effect of foreign policy failures in Central America on immigration more generally. General Ernest Graves, director of the Defense Security Assistance Agency, warned in 1982, if all the nations in Central America became communist dictatorships, there "would be a flood of refugees and illegal immigrants larger than any we have experienced to date."[89] However, this rhetoric appears to have had a more common function in garnering public support for Reagan's foreign policies than in driving immigration enforcement policymaking. In the administration's blueprints for detention-building, domestic political concerns appear as a more dominant theme.

The State Department's voluminous "Mass Immigration Emergency Plan," drafted in August of 1982, states its purpose: "to insure that the United States Government will be prepared to deal promptly and effectively with any sudden, illegal, large-scale immigration effort, including any effort that is deliberately generated and politically inspired by a foreign government," and it outlines five phases of operation. These are the Ready Phase, which includes the use of CIA/FBI intelligence, surveillance, threat analysis, and congressional, local official, and media liaisons; The Interdiction Phase; The Landing Phase, which includes initial custody, processing, and screening; The Movement/Detention Phase, which allows for the movement of up to 10,000 detainees at a time, and the Exclusion Phase, which provides for either deportation

[88] "Issue Paper: To justify and outline the rationale of pursuing the acquisition of the former Radar Air Defense Unit, known as Mt. Laguna, for use as a detention facility by INS." Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[89] Ernest Graves, "U.S. Policy toward Central America and the Caribbean," in Abraham F. Lowenthal and Samuel F. Wells, Jr., eds., *The Central American Crisis: Policy Perspectives* Working Papers 119 (Washington, D.C.: Latin American Program, The Wilson Center, 1982) 19.

or resettlement.[90] The plan's stated purpose of being prepared in the event of a deliberately generated mass migration clearly references Fidel Castro's intentions in the Mariel Boatlift. The administration's preventative tack is also reminiscent of its development of "low-intensity conflict" doctrine in Central America. In his analysis of militarization along the U.S.-Mexico border, Timothy Dunn identifies the use of "low-intensity conflict" doctrine in Reagan's ramping up of border enforcement. He identifies the characteristics of low-intensity conflict doctrine as most apparent in the contingency plans made by the Reagan Administration for "immigration emergencies," and especially in the Border Patrol and the Detention and Deportation units of the INS.[91] The Mass Immigration Emergency Plan reflects this preemptive intent of low-intensity conflict doctrine.

In addition to establishing its new policies on detention and interdiction as described in Chapters One and Two, The President's Task Force on Immigration also established that a contingency plan for future mass migrations must be implemented because the new administration would not tolerate another Mariel crisis. Ed Meese and Jim Baker outlined the Task Force's conclusions to Ronald Reagan in June of 1981:

> Americans perceive [immigration] as a major national problem. The Spring 1980 influx of Cubans to South Florida made it highly visible, heightening concern everywhere… The above perception has two elements: 1. Fear of racial change. While not representing America's best instincts, these are political facts that cannot be ignored. 2. Potential American displacement and adverse labor conditions… Immigration policy is "no win." With higher wages, availability of employment, and ease of entry, nothing short of a Berlin Wall could keep illegals out… Nonetheless, your Task Force has rejected the status quo. It would constitute acquiescence in lack of border control, acknowledgement of unwillingness to enforce the law. This would be intolerable. A great country should be able to enforce its borders; immigration law is not like parking tickets.[92]

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[90] "Mass Immigration Emergency Plan," August 20, 1982, ID#101591, IM010, WHORM, Subject File, Ronald Reagan Library.
[91] Dunn, *The Militarization of the U.S.-Mexico Border*, 59.
[92] Memo, Ed Meese and Jim Baker to the President, June 1, 1981, Folder "Immigration 1981(1)," box OA10587, Margaret D. Tutweiler Files, Ronald Reagan Library.

Here, domestic political concerns as well as the Reagan Administration's tougher stance on law enforcement are highlighted as justifications for establishing more stringent immigration enforcement practices. Again, an internal memo in the spring of 1982 reiterates the Task Force's conclusions: "The Federal Government was woefully underprepared for the Mariel boatlift in 1980… This situation we intend not to permit to recur… the Administration has undertaken a thorough contingency planning exercise to ensure that the Federal Government would be prepared to respond in a timely fashion to a new crisis." The memo also confirms the administration's new detention policy in its rejection of the previous administration's practices: "The wholesale release of excludable aliens prior to their hearings would impede the hearing process itself, unacceptably burden local communities, and encourage further illegal migration… These consequences in fact resulted when the Carter Administration abandoned the policy of detention in late 1977."[93] The same themes of tougher enforcement and avoiding the political fallout from another immigration crisis are apparent here, as well as an acknowledgement that the general public feels that immigration has a negative impact on local communities.

The Mass Immigration Emergency Plan, although inspired by one instance of mass migration, continued to serve as a blueprint for future detention planning. In the spring of 1983 the Attorney General set out plans to expand the contingency plan to the southern border: "The current Mass Immigration Emergency Plan is, in some instances, tailored specifically to a Mariel-type scenario… [the Attorney General] requested that we develop a similar plan for use on the Southern land border."[94] Two years after the Reagan Administration settled on its

[93] Memo, "Dade County," from David Hiller to Craig Fuller, May 19, 1982, Folder "Immigration and Refugee Matters (7)," box OA6518, Edwin Meese III Files, Ronald Reagan Library.
[94] Memo, Rudolph W. Giuliani to Al Nelson, March 28, 1983, Folder "March 1983," Box 1, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the

temporary solution of housing Mariel Cuban detainees in a network of prisons, the administration continued to mobilize crisis rhetoric by evoking images of "tidal waves" of undocumented migration as a national security issue.[95] The Attorney General directed the INS and the Bureau of Prisons to work together to identify "contingency space" at INS or BOP facilities close to the U.S.-Mexico border: "As you know, record numbers of undocumented aliens are being apprehended… facilities are operating at or near capacity… It is important, therefore, that we quickly identify any land… upon which temporary tent facilities might be established… Given the emergency nature of the problem," the project must be completed, "as soon as possible."[96]

Conclusion

As each wave of Cuban, Haitian, and Central American migrations in the early 1980s amounted to a perceived crisis requiring an immediate emergency response by the Reagan Administration, makeshift and "temporary" detention solutions quickly solidified into standard practice reinforced by elaborate planning.[97] Against the backdrop of growing public anxieties surrounding undesirable groups often portrayed to be the cause of increasing crime rates and Reagan's envisioning of a "law and order" state, these solutions included new policies of

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Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[95] Dunn, *The Militarization of the U.S.-Mexico Border*, 42.

[96] Memo, "Identification of Contingency Space at Department of Justice Facilities," Rudolph W. Giuliani to Alan Nelson and Norm Carlson, April 13, 1983, Folder "April 1983," Box 1, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[97] Some expanded "tent" facilities erected during this time such as Port Isabel, Texas, which at one time in the late 1980s had a capacity of 10,000, still operate today.

systematic immigration detention, interdiction, and contingency planning along the U.S.-Mexico border. Responding to what was articulated as a combined threat of immigration, drugs, and crime to national security, these solutions also took on the character of "low-intensity conflict" doctrine in increased cooperation between military, federal, and local law enforcement capabilities and a focus on preventative measures to deter future migration to the United States.

El Salvador proved to be an "ideal testing ground" for the Reagan Administration's development of its low-intensity conflict doctrine. In 1988, four U.S. Army lieutenant colonels wrote a report entitled, "American Military Policy in Small Wars: The Case of El Salvador," concluding:

> El Salvador represents an experiment, an attempt to reverse the record of American failure in waging small wars, an effort to defeat an insurgency by providing training and material support without committing American troops to combat… we view El Salvador as providing fertile ground—until now largely uncultivated—for teaching Americans how to fight small wars.[98]

Reagan's ideological commitments to its hard-line Cold War policies in Central America, however, had the unintended consequence of spurring increased migration from the region. The large numbers of displaced Salvadorans seeking asylum in the United States and reporting horrible atrocities committed at the hands of Salvadoran soldiers backed by U.S. arms and training placed increasing pressures upon the Reagan Administration. These pressures led it to deny the atrocities were occurring, systematically reject Salvadoran asylum applications, fervently seek more space in immigration detention facilities, and erect new legal structures to step up preventative enforcement measures. Thus, the case of El Salvador further evidences the mutually constitutive nature of immigration and foreign policies.

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[98] Lieutenant Colonels A.J. Bacevich, James D. Hallums, Richard H. White, and Thomas F. Young, *American Military Policy in Small Wars: The Case of El Salvador* (Washington, D.C., Pergamon-Brassley's International Defense Publishers, Institute for Foreign Policy Analysis, Inc., 1988) 2; Kahn, *Other People's Blood*, 33.

Another unintended consequence of these interventions yet to be explored, however, was the rising tide of activism against Reagan's Central American foreign policies, its treatment of Salvadoran refugees, and conditions in U.S. detention centers. As media attention surrounding the Sanctuary and Central American peace movements grew and as ongoing legal actions against the administration mounted, these efforts further strengthened the Reagan Administration's punitive resolve. It is against such negative media attention, budgetary constraints, and reports of abuse in detention centers that the administration turned toward the use of private contracting as an ideal policy solution.

CHAPTER FOUR
"Give Us Liberty, or We Will Tear the Place Apart": Resistance and Control in Immigration Detention

On May 4, 1981, Jim Dudley picked up a Salvadoran hitchhiker in the Arizona desert south of Tucson on his way to visit his friend Jim Corbett. He was subsequently pulled over by a Border Patrol officer, who arrested the Salvadoran and accused Dudley of smuggling an illegal alien. The officer interrogated Dudley for half an hour before letting him go. When Dudley arrived at Corbett's house and relayed the story, their concern for the Salvadoran hitchhiker grew. Both men were Quakers and aware of the circumstances of El Salvador's civil war. They had heard about migrants dying in the desert, being detained by the INS, and reportedly being killed upon deportation back to El Salvador. Corbett said, "There must be some way to intervene for these people," and resolved to find and help the Salvadoran man the next day. After calling the INS and the Border Patrol in the morning, Corbett only obtained information about the whereabouts of the arrested hitchhiker by impersonating a former well-known Tucson mayor—he and the mayor shared the same name. Next, Corbett called the Manzo Area Council, a local immigrant-rights organization that had been helping detained migrants since the 1970s. He learned that he needed to get Nelson, the hitchhiker, to sign an INS G-28 form designating legal counsel in order to prevent his deportation without a hearing. When Corbett went to the Santa Cruz jail to have Nelson sign the G-28 form, he met two other detainees who said they were fleeing from torture in El Salvador. He decided he would try to help them as well. He left the jail and went to the Border Patrol office to get more G-28 forms, and when he returned and asked to see the Salvadorans again he was told by the jailer, "Oh, you wanted to see those guys? The

Border Patrol took them twenty or thirty minutes ago. They're all gone. And there's no way to know where they went."[1]

Twenty-five days later, Corbett and a friend drove to the El Centro INS Service Processing Center in California hoping to finally track down Nelson and the others transferred from the Santa Cruz jail. In the meantime, Corbett and his wife had begun raising money to bail Salvadoran migrants out of jail, starting with four women and a baby released with $4,500 borrowed against Jim's trailer. Experiencing increasing frustration in his dealings with the INS and Border Patrol himself, Corbett had also heard that an INS officer had recently torn up and threw away a set of G-28 forms a paralegal tried to file at El Centro. When Corbett and his companion arrived at El Centro, the superintendent said he had no record of Nelson. A prisoner in the room who knew Nelson, however, said that he had already been deported to El Salvador. This was illegal because Nelson had signed a G-28 form. Superintendent Aguirre ordered the prisoners back to their cells and asked Corbett to leave, but when he saw that Corbett's friend had been tape-recording the conversation he demanded to have the tape recorder. Corbett told the guards they would have to take the recorder by force and that he wanted to leave on his own accord. Aguirre locked the room's doors, still demanding the recorder. After Corbett began to lecture Aguirre about refugee rights, Aguirre angrily left the room, returning a few minutes later to release them.

Enraged by this experience, Corbett began writing "Dear Friend" letters to Quaker meetings and individuals across the country explaining the Salvadorans' plight. In addition to soliciting for bond funds to free Salvadorans from jail while their asylum applications were

[1] Ann Crittenden, *Sanctuary: A Story of American Conscience and the Law in Collision* (New York: Weidenfeld & Nicolson, 1988) 28-30; Christian Smith, *Resisting Reagan: The U.S. Central America Peace Movement* (Chicago: University of Chicago Press, 1996) 60-62.

under review, Corbett also indicated that if the U.S. government was going to violate its own laws, perhaps U.S. citizens needed to violate immigration laws as well. In his first letter, he wrote, "Active resistance will be the only alternative to abandoning the refugees to their fate." Alluding to the Quakers' participation in the Underground Railroad that helped slaves escape the South in the mid-1800s, Corbett wrote, "The creation of a network of actively concerned, mutually supportive people in the U.S. and Mexico may be the best preparation for an adequate response… A network? Quakers will know what I mean."[2]

On September 3, 1981, around six hundred Haitian detainees at the Krome INS Service Processing Center in southern Florida protested the conditions of their detention and broke down a chain-link fence at the facility while chanting, "Give us liberty, or we will tear the place apart!" Ninety-eight inmates temporarily escaped the compound until order was restored with tear gas. After the disturbance, INS officials transferred a number of Haitians determined to have been "trouble-makers" in the uprising to a federal correctional facility in Otisville, New York.[3] Agitation outside of Krome also grew during this time; Haitian residents and community supporters staged demonstrations and marches, calling international attention to "beating by guards, poor medical treatment for camp inmates, assaults against women inmates, and the imprisonment of children in the camp," in the words of Father Gérard Jean-Juste of Miami's Haitian Refugee Center.[4]

Throughout the fall, security problems mounted as hundreds of Haitians escaped from Krome. Many were never recaptured. On Christmas day, male detainees led a hunger strike at the

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[2] Crittenden, *Sanctuary*, 30-1; Smith, *Resisting Reagan*, 62-4; Robert Tomsho, *The American Sanctuary Movement* (Austin: Texas Monthly Press, 1987) 14-5.
[3] *Miami Herald,* September 7, 1981; Miller, *The Plight of Haitian Refugees*, 127-9.
[4] *Miami Herald*, September 7, 1981.

camp. Two days later, after a rumor spread that detainees had fainted from hunger, 500 Haitian Miami-area residents outside of Krome threw stones and bottles and stormed a facility gate while chanting "liberté, liberté," in the first confrontation between guards and outsiders. Inside, thirty contract guards and eight INS supervisors were unable to control 150 detainees who knocked down a fence and escaped despite having not taken part in the initial protest. Outside, county and local police officers used clubs and tear gas to disperse the crowd, while demonstrators set fires to the surrounding Everglades underbrush as they fled the scene. Afterwards, witnesses said the INS guards and Miami-Dade police officers had used unnecessary force in subduing the crowd, and nineteen Haitians who were identified as leaders in the hunger strike were transferred to Bureau of Prisons custody.[5]

On the same day as the confrontation between guards and demonstrators at Krome, a group of around thirty rock-wielding Cuban detainees at Fort Chaffee, Arkansas, threatened a disturbance of their own after witnessing an earlier scuffle between refugees and police that resulted in several arrests. Protesting the mistreatment of detainees in the arrests, the group expressed their anger but no rocks were thrown.[6] They were among the remaining 400 Mariel Cubans detained at Fort Chaffee, which closed in February of 1982. Upon the camp's closing, the remaining refugees deemed unfit for refugee resettlement were transferred to federal penitentiaries in Georgia and Texas.[7] Journalist Gregory Jaynes reported that the fort's closure left the small adjacent town of Fort Smith, Arkansas, "with a touch of xenophobia." The town

[5] Of the 150 Haitian detainees who initially escaped, 115 remained at large. "Status report on Krome escapes," December 29, 1981, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD; "Camp Disturbance Staged by Haitians," *New York Times,* December 28, 1981, p. B16; "Immigration Service Says over 100 Fled from Haitian Camp," *New York Times*, December 29, 1981, p. B8.
[6] Ibid.
[7] See Chapter One.

had rejected an offer from the federal government to make Fort Chaffee a permanent site for migrant processing, despite officials' projections that the rejection would ultimately cost the town $50 million a year. According to Jaynes, community leaders resented refugee processing's feast-or-famine impact on the local economy, Fort Chaffee's poor administration and security measures, and the notoriety Mariel Cuban detention brought Fort Smith. On the decision, Mayor Jack Freeze said, "Our people are unique in that they don't want to get involved in anything other than being happy… Quality of life is more important to our people than making a dollar."[8]

As the perceived immigration crisis continued, a growing presence of unwanted bodies in the United States put further pressure upon the Reagan Administration to find immediate detention solutions. However, the administration faced mounting problems in the implementation of its detention policies both inside and outside of the detention center. As a network of immigration enforcement and detention practices developed, so did patterns of detainee and community resistance. This chapter assesses the ways the administration responded to these acts of resistance, and how these responses served to coalesce the detention operations that emerged rather haphazardly in this climate of crisis. First, detainee resistance inside detention, in the form of riots, hunger strikes, and suicides, caused the administration to scramble to develop security plans and mitigate political and community fallout. Second, negative publicity surrounding allegations of INS abuse, misconduct, and human and civil rights violations gave the administration further concern about maintaining its image and operating with discretion. And finally, mounting public dissent against Reagan's foreign and immigration policies, especially evidenced by the Central America peace movement and its most visible arm, Sanctuary,

[8] Gregory Jaynes, "Fort Smith Has a Bad Morning After," *New York Times*, February 12, 1982, p. A16.

prompted the administration to more extreme measures as it waged a "low-intensity" covert war against its opponents to maintain its immigration and foreign policy aims. It is out of this dialectic of resistance and control that the contemporary U.S. immigration detention system emerged.

Resistance

> Yes, I am angry, because this is an injustice. I came here without any papers, that means I have a problem. If I have a problem, you're not supposed to push me away, to put me in jail. You can put me in jail for a while, but not for a year.
>
> - Michel, Haitian detainee in Otisville, New York, November 1981[9]

The Reagan Administration felt that ongoing acts of resistance inside detention centers and the formation of growing networks of resistance on the outside posed increasing problems and demanded response. Only one month after the Mariel boatlift began, administrators at the makeshift Cuban camp "Fort Libertad" on the Eglin Air Force Base in Fort Walton Beach, Florida, began having "processing problems." Refugee grievances over slow out-processing and camp conditions resulted in a series of small-scale riots. An Air Force report on the disturbances, citing coordination difficulties between the military, FEMA, and volunteer agencies, describes an "explosive situation" at the camp that could soon escalate into a "full-scale riot." In a coordination meeting, Major General Bond expressed that he had a sense of pride in the camp and did not want bad publicity. He asked, "What would Eglin and the AF look like if the nation were told that Air Police were guarding Cuban Refugees with barbwire, dogs, guns, fire trucks, and clubs… We must remember the Air Police have limited jurisdiction for arrest and detainment. If refugees go over the fence, because of slow processing, we are going to let them

[9] Michel, Haitian detainee in U.S. federal prison in Otisville, New York, November 1981. *Voyage of Dreams: A Documentary Essay*.

go… These people left Cuba because of the same conditions." He also directed that civilian and Renta-Cop police officers be spoken to about their use of "tough talk and action" with the refugees. "Gentlemen," he said, "we have developed a 'love affair' with the local community. I am concerned with backlash."[10]

A week later, Cubans staged a hunger strike at Camp Libertad, which according to reports, "spread throughout the entire camp." One of the leaders of the strike said he would not speak until he could speak to his political advisor. Thirty Cubans issued a list of grievances requesting to be released by four p.m. that day, "or else!" By seven p.m. the demonstration turned into a confrontation and several Cubans were injured. Follow-up Federal Control Center reports describing "Logistical and Administrative breakdowns," state: "The perception of coming from an armed environment in Cuba to another prison camp in the United States can be quite explosive. This plus the failure to totally segregate criminal, political agitators, prostitutes, homosexuals from family groups has caused much unrest within the camp."[11] The reports posed security questions, as military police had no authority to intervene in such situations and make arrests. One memo predicted that a murder would soon occur in the barracks because, "single men have been coming into the family barracks trying to rape any female, young or old. The men are using 2 x 4's, pipes and any other means to protect their families." When a stabbing occurred one night, nothing could be done due to the military police's inability to arrest aliens. Bob King's memo concluded, "I realize this is not our function as we are to process Refugees only, but from

[10] "Significant Activities, 18 May 80," Folder "Gastón A. Fernández: Federal Control Center Documents, 1980 (1/2)," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.
[11] "Federal Control Center Securuty Assessment (24 May 80)," Folder "Gastón A. Fernández: Federal Control Center Documents, 1980 (2/2)," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.

common sense something needs to be done immediately because the longer they are held the more these problems are going to occur."[12]

Security problems continued to recur, and experts noted early on the detrimental effects of long-term detention on detainees' mental health. Shortly after Cuban consolidation at Fort Chaffee and Reagan's inauguration, a March 1981 paper on operational and policy issues at Fort Chaffee, Arkansas, noted:

> The lack of alternatives for these people could develop into a substantial security problem… Staff consensus—including that of psychologists and psychiatrists—is that both their mental health and ability to adapt to life in the United States would be enhanced if placed in locations/situations with other than a refugee camp atmosphere. Prolonged retention of 'hard-to-place' entrants is expected to breed special security problems as anxieties and frustrations relating to absence of sponsors grow.[13]

A September 1981 report of the Cuban-Haitian Task Force reflecting upon consolidation at Fort Chaffee discussed the ongoing climate of violence that stemmed from growing frustrations with uncertain detention lengths and camp conditions. Most vulnerable amidst the violence were, "unaccompanied minors (under age 18), the emotionally disturbed, the mentally retarded, the handicapped, the elderly, and homosexuals," while "It should also be noted that many of the incidents which received news media attention resulted from the actions of the mentally ill, not criminals." The report then concluded, "The longer the Cubans remained in camps, particularly the consolidated Fort Chaffee, the links between 'camp life' and American society became more tenuous… After all, the resettlement centers were intended as an interim location to await

[12] Bob King, "Problems," Folder "Gastón A. Fernández: Security Reports and Memoranda, 1980," Box 2, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.
[13] "Operational and Policy Issues at Fort Chaffee," March 5, 1981, Folder "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980-1981," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.

placement into American society, and not as its substitute."[14] Various acts of resistance that demanded response and the notable deleterious effects of long-term detention on Cuban detainees did not elude camp administrators and mental health experts. But as the Reagan Administration's resolve to keep these populations separate from the American public continued, these problems only worsened.

Demonstrations, riots, hunger strikes, violence, mental health issues, suicides and attempted suicides continued to plague administrative efforts in detention. As established in Chapter Two, Cuban and Haitian migrations were specifically identified by the Reagan Administration as the justification for establishing more permanent structures of immigration detention. A Department of Justice paper on "Detention Options" from March of 1982 states: "Mass immigration by Cuban and Haitian citizens to the United States in the 1980s presented the Immigration and Naturalization Service (I&NS) with detention responsibilities that were new and unique to the agency." The need to explore alternatives for the operation of detention functions was "prompted by problems related to housing the Cuban and Haitian entrants and the need to formulate an effective long-term detention policy."[15] As stated in this paper, these problems, which ultimately stemmed from "long-term" detainees being held in "short-term" facilities, were exemplified by Haitian detention at Krome North in South Florida and Fort Allen in Puerto Rico.

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[14] "Overview," September 25, 1981, Folder "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980-1981," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.

[15] U.S. Department of Justice, "Issue Paper—Detention Options," March 18, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

"I wouldn't exactly recommend Krome to my friends"[16]

Concurrent with the Mariel Boatlift were increasing numbers of Haitians appearing on South Florida's shores. At the same time that camp administrators began having security problems at Camp Libertad on Eglin Air Force Base, the former missile sites Krome I and II south of Miami were being outfitted to process and temporarily hold up to 1,000 Cuban and Haitian detainees, separately.[17] Haitians who had been arriving since the early 1970s were mainly held in local jails up until this time, but as their numbers increased they were predominantly sent to Krome, which served as a main hub. It was INS practice to separate husbands and wives, and a Federal Correction Institution in Alderson, West Virginia, was used to house Haitian women.[18] Haitians were also being transferred during this time period in large numbers to Fort Allen, Puerto Rico, and in smaller numbers to facilities in Kentucky, Texas, West Virginia, and New York. Officials claimed that overcrowding was the sole reason for these transfers, but Haitian advocates maintained that transfers were a form of punishment and intended to separate Haitians from sources of legal aid.[19] Operational problems akin to those experienced by military administrators housing Cubans in the wake of Mariel abounded, on

[16] A Canadian briefly detained at Krome North. "The Others," *Miami Herald*, July 15, 1982.
[17] "FCO Report – May 26, 1980," Folder "Gastón A. Fernández: Federal Coordinating Office Reports, 1980," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.
[18] Miller, *The Plight of Haitian Refugees*, 135.
[19] Letter, Rudolph Giuliani to Congressman Larry J. Hopkins, July 31, 1981, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD; Miller, *The Plight of Haitian Refugees*, 130.

perhaps an even greater scale, in Haitian detention. And, as with Cuban refugees, Haitian unrest garnered negative media publicity that became a central concern for detention administrators.

As hunger strikes and disturbances continued to occur at Krome, the Reagan Administration tried to respond to media attention and improve conditions at Krome North.[20] Shortly after the Christmas 1981 hunger strike and confrontation, INS Commissioner Alan Nelson stated in a letter to Department of Justice director of Public Affairs, "Both national and international media, as well as the Miami press, radio and TV, have descended aggressively upon Krome, which has required a concerted effort to simply respond to their requests for tours, interviews and information about the reception and detention of Haitians coming illegally to this country."[21] Indeed, *Newsweek* called Krome a "bleak place," while the *Miami Herald* labeled it "inexcusable as a temporary-detention facility," and even more so, "in a context of indifference in which 'temporary' translates to 'indefinite.'" The *Herald* also identified "emotional abuse" inflicted upon Haitians by the trauma of family separation in INS practice.[22]

Governor Bob Graham of Florida filed a lawsuit against the federal government in July of 1981 to force the Krome North detention center to comply with state health standards or close down its operations. The lawsuit, filed more with the aim of protecting Florida residents than with the welfare of Haitian detainees in mind, accused federal officials of housing 1,600 inmates in a facility made for 524 and detailed the environmental hazards posed by overcrowding to local communities.[23] In response to the lawsuit and in hopes of reducing pressures inside the facility,

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[20] Krome South, used primarily to detain Cubans, was closed in October of 1980.
[21] "Miami PIO," January 6, 1982, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[22] *Newsweek*, February 1, 1982, p. 25; *Miami Herald*, December 30, 1981; Miller, *The Plight of Haitian Refugees*, 127.
[23] Miller, *The Plight of Haitian Refugees*, 127-9; *Graham v. Smith*, Case No. 81-1497-CIV-JE.

the INS spent over $900,000 on improvements to Krome over the next year while also transferring Haitians to seventeen locations throughout the United States and Puerto Rico to alleviate overcrowding.

After the Christmas hunger strike, Assistant Attorney General Rudy Giuliani deployed a U.S. Marshals Service Special Operations Group to investigate and restore order. Among the investigation's findings were that Haitians at Krome did not have proper access to recreation and, "had only despair, hopelessness and rumor to report to friends, relatives, supporters and the press."[24] Recommendations made by the investigation included forming a new security plan, improving recreational facilities, streamlining all statements and press releases through Miami's INS Public Information Officer, and establishing a system for briefing influential community members on detention policy through the creation of a Liaison Committee. Upon the Liaison Committee's formation, Co-Chairperson Richard McEwen of Greater Miami United, Inc. wrote to Giuliani: "It's very important to the community to know that the facilities will be much better, even though there will continue to be many different philosophies relative to detention," amidst a climate of "extreme tension now present in the Latin community as well as that of the Black segment."[25] All of these efforts, however, did little to curb subsequent unrest at Krome. As the director of the Special Operations Group concluded, "We should remain alert to the fact that by the very nature of its consequence, the entire refugee/illegal alien situation is and will continue to be explosive." Administration officials, despite being well aware of the problems inherent in

[24] "After Action Report – Miami, Florida (Krome Site), January 27, 1982, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[25] Letter, Richard W. McEwan to Rudy Giuliani, January 20, 1982, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

long-term detention, remained committed to Reagan's detention policies and continued to seek solutions.

As one solution to Krome North's problem of overcrowding, Haitians were transferred directly from Krome to Fort Allen, Puerto Rico beginning on August 12, 1981. The U.S. Department of Justice had come to an agreement with the Puerto Rican government that Fort Allen could be used to house up to 800 Haitians for a period of one year. Much like at Krome, detainee resistance and unrest persisted from the outset. Even though facilities at Fort Allen were nicer than Krome, many detainees expressed the feeling that Puerto Rico was not part of the United States and had a sense that they had already been deported. In November of 1981, three detainees attempted to jump out of the airplane bringing them to Fort Allen. Despair and frustration mounted, and several hundred detainees requested to return home to Haiti. A representative of the Puerto Rico Bar Association visited the camp, while detainees angrily shook fences and shouted when they were unable to speak with him. On the same day, nineteen women wrote an open letter to the INS, stating: "Since we arrived on American soil, we have been mistreated… Now we cannot stand it any more. It is too much. If we have not been freed by the end of November, a good number of us are going to commit suicide. Because we have sworn to die in the United States." They signed the letter the "Unhappy Refugees of Enclave VI."[26]

As Jake Miller points out, "Although the deadline came and passed and there were no massive suicides at Fort Allen, like the Krome center it has been the scene of mysterious deaths. Likewise, because of frustration over their continued detention, and anger over the separation of males and females in the compound, riots, hunger strikes, and refusals to work have taken

[26] Jo Thomas, "778 Haitians See No End to Odyssey," *New York Times*, November 15, 1981, p. 1; "Haitians: We'll Kill Ourselves," *New York Times*, sec. E, November 29, 1981; Miller, *The Plight of Haitian Refugees*, 130-3.

place."[27] In December, a riot broke out after INS officials began erecting fencing topped with barbed wire meant to separate detainees by gender during which 200 Haitians knocked the fence down and threw rocks. The Border Patrol flew in 100 agents the next day to help restore order. General Director for the Inter-Regional Council for Haitian Refugees Jean-Claude Bajeux called the situation a "tinderbox that can go off at any moment."[28] On April 4, 1982, Haitians staged a "sit-down," refusing to return to their compounds or engage in work in protest of camp conditions and slow processing. The sit-down lasted until April 15, when detainees returned to their enclaves voluntarily after an attorney for the Haitian Interregional Council negotiated with them. The INS reported that it was prepared to "quell the disturbance by other means," and after the detainees returned INS officers performed a search to locate and confiscate contraband.[29] In August, twenty-four-year-old Haitian detainee Prophete Talerant hung himself in a bathroom at Fort Allen. He had been at Fort Allen for a year and was ordered excluded and deported with an appeal pending. The INS reported: "The Haitian population at Fort Allen is tense but no violence in the compound at this time. The detainees have refused to allow INS to remove the body and we have not forced the issue yet."[30]

As in Cuban detention and at Krome, the issue of mental health loomed large for detention administrators, especially in cases of prolonged detention. U.S. attorney Joel

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[27] Miller, *The Plight of Haitian Refugees*, 133.
[28] "U.S. Aides and Haitians' Lawyers Discuss Riot in Puerto Rico Camp," *New York Times*, December 22, 1981, p. A16.
[29] "Sit-Down at Fort Allen," April 5, 1982, Folder "Misc. Renee," Box 11; "Fort Allen Disturbance during the Period of April 4, 1982 through April 15, 1982," April 23, 1982, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[30] "Memorandum of Information RE: Suicide at Fort Allen, Puerto Rico," August 10, 1982, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Hirschhorn, hired to determine the sincerity of Haitians at Fort Allen who wanted to return home, noted that "Haitians considering themselves as not having been well received in the United States, are broken hearted and have broken spirit," and no longer had the strength to "stick it out."[31] Dr. Jean-Claude Bajeux claimed, "The torture is not that they are tortured… It is that they are doing nothing. They tell me, 'I am like an animal.' They don't understand why they've not been picked and others have been released… They have a feeling of bad luck."[32] A March 1982 report on the "extremely serious" mental health conditions at Fort Allen and Krome North by the Cuban/Haitian Mental Health Unit of the Department of Health and Human Services noted an "alarming increase" in psychiatric visits and entrants with psychiatric illnesses. Among the conditions observed were frequent headaches, "feeling crazy," and depression with ideations of suicide—symptoms all beginning at the point of incarceration. Also commonly seen was "a non-psychotic dissociative phenomenon of depersonalization in which the "mind" separates from the body and sees the body as something almost inanimate and passively acted upon by events. This, I have been told, is not an uncommon phenomenon in prisoners of war." The report concludes that such "Situational Depression" stems from feelings of isolation, timelessness, confusion, and lack of information. Suggestions for alleviating these conditions included avoiding "dehumanization" by not forcing Haitians to wear uniforms, subjecting them to unnecessary handcuffing (such as during transfers), or "being subject to arbitrary, often confusing, and contradictory commands."[33] However, despite these recommendations these INS practices continued. And per the agreement between the United States and Puerto Rico to house

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[31] Miller, *The Plight of Haitian Refugees*, 131.
[32] Thomas, "778 Haitians See No End to Odyssey," *New York Times*, November 15, 1981.
[33] "Mental Health Conditions Ft. Allen and Krome North," March 29, 1982, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Haitians at Fort Allen, detainees determined as having mental illnesses were supposed to be transferred back to Krome, but many never were.

Cubans and Haitians were briefly relocated to Fort Allen during the Mariel Boatlift under the Carter Administration in 1980, in a decision that was strongly opposed by Puerto Ricans and made unilaterally according to San Juan mayor Hernán Padilla. In a statement against the use of Fort Allen as a detention site in October of 1980, Padilla argued, "The Carter Administration's recent decision… is further evidence of the colonialistic attitude which the Federal government all too often exhibits towards Puerto Rico."[34] Although supportive of the Reagan Administration, Padilla again spoke out against the use of Fort Allen to house Haitians in July of 1981, citing reasons that indicate a mixture of self-determination and xenophobia. These include concerns over the environmental impact on the local community (reminiscent of Florida Governor Bob Graham's case against Krome), the potential for Haitians to bring malaria to Puerto Rico, that "Puerto Rico has traditionally accepted more than its fair share of refugees," "Puerto Ricans feared [Haitians] would become a permanent part of our community," a fear of violent acts perpetrated by the refugee community "similar to those that have occurred in other refugee camps," and the negative impact Haitian detention may have on Puerto Rican-U.S. relations due to "unpopular" Reagan Administration economic policies that amounted to, "unfair and discriminatory treatment being accorded our island."[35] However, in January of 1982 Padilla wrote to the U.S. Attorney General with a new critique:

> Initially, many Puerto Ricans were opposed to the Federal government transferring Haitian refugees to Fort Allen. However, as the first group arrived here in early August

[34] "Puerto Rico and the Refugee Issue: Statement by the Honorable Hernan Padilla," October 16, 1980, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[35] "Puerto Rico and the Refugee Issue," July 18, 1981, Ibid.

> of last year, the Puerto Rican people were able to view first-hand the political, economic and social plight of these people. Gradually, the public mood became more receptive… there has been a greater public awareness of the living conditions which exist at Fort Allen. Aided by reports from visitors to the facility, as well as by the local news media, the public image of Fort Allen today is one of a Federal government-sponsored prison or concentration camp, with severe environmental problems and living conditions not suitable for human habitation.

In a draft response to Mayor Padilla's letter, Rudy Giuliani promised improvements and admitted, "Fort Allen was never intended to be a long term solution to the Haitian problem."[36] The oft-described "explosive" environment of Cuban and Haitian detention camps, created by increasingly lengthy stays in detention, detainee unrest, and unacceptable living conditions continued to attract local, national, and international attention—attention that demanded a response from the Reagan Administration.

Sanctuary

> I still have plenty of fear. But I am more afraid to remain silent. My fear here is nothing compared to that of my friends and family back home… You have beautiful concepts here. You believe in truth. The people react when they hear the truth.
>
> - Juan, Salvadoran migrant addressing churchgoers in San Francisco[37]

While ongoing acts of resistance created mounting pressure from within detention centers, on the outside local, national, and transnational networks formed and strengthened in opposition to the growing detention network. Wherever detention cropped up, so did organizational resistance to it. As explored in Chapters Two and Three, the ongoing legal battles waged by migrants and the legal and church groups that supported them made some inroads to

[36] Letter from Hernán Padilla to Honorable William French Smith, January 12, 1982; Draft, Letter from Rudolph W. Giuliani to Mayor Padilla, February 5, 1982, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[37] Tomsho, *The American Sanctuary Movement,* 5-6.

slow down the deportation process and protect the rights of these migrant groups, but ultimately did little to attract media attention and public support as on the whole Haitians and Salvadorans continued to be detained and excluded from the United States. As Robert Kahn notes, despite media coverage, "the legal struggle was all but invisible to the public, proceeding as it did in remote prisons."[38] However, U.S. citizen civil disobedience and activism opposing Reagan's Central American foreign policies, especially as it manifested in the Sanctuary movement, became highly visible during Reagan's first term.

According to Sociologist Christian Smith, more than one hundred thousand U.S. citizens were mobilized in the larger 1980s' "Central America peace movement," which he calls one of the most significant foreign policy-oriented grassroots movements in post-WWII America and of which Sanctuary arguably formed the largest and most visible arm. However, Smith notes that both popular and scholarly literature have paid little attention to this movement as a whole, despite its size and the conspicuousness of the broader political battle over Central American foreign policy.[39] It is, therefore, important to explore the Sanctuary movement's impact on the Reagan Administration's immigration detention policy-making.[40] Organizational resistance most often began locally, in communities whose members witnessed the direct impact of Cuban, Haitian, and Central American migrations or the immediate conditions surrounding immigrant detention. Historically, the U.S. government had looked to religious and charity organizations to

[38] Kahn, *Other People's Blood, 18*.
[39] Christian Smith, *Resisting Reagan*, xvi-xviii.
[40] There does exist quite a vast amount of literature on the history of the Sanctuary movement itself. While a brief history is provided here, this study cannot do it justice. See Crittenden, *Sanctuary*; Miriam Davidson, *Convictions of the Heart: Jim Corbett and the Sanctuary Movement* (Tuscon: The University of Arizona Press, 1988); Golden and McConnell, *Sanctuary: The New Underground Railroad*; Robin Lorentzen, *Women in the Sanctuary Movement* (Philadelphia: Temple University Press, 1991); and Tomsho, *The American Sanctuary Movement*, to name a few.

help with immigrant resettlement efforts.[41] These organizations maintained national and international networks that social workers, attorneys, volunteers, and church members were able to tap into when the issues of detention began to intensify. This is how the Sanctuary movement began, as a 1981 declaration of civil disobedience intended to prevent Salvadoran and Guatemalan migrants from being detained and deported grew into a network of five hundred churches and tens of thousands of supporters across the United States and Mexico operating a "New Underground Railroad" by the middle of the decade.[42]

On the afternoon of February 19, 1981, Father Ricardo Elford led a prayer vigil in front of the new Federal Building in Tucson, Arizona, to raise public awareness about the wars in Central America. Little did the twenty vigil participants know, this act was part of what would become one of the longest-running demonstrations in U.S. history—the U.S. Central America peace movement. Two vigil participants, Margo Cowan and Lupe Castillo, worked with the Manzo Area Council, a private agency that aided undocumented Hispanics, mostly Mexicans, with immigration problems. Manzo was also one of the first grassroots organizations to be legally certified to assist migrants under the Carter Administration. Lupe Castillo recalled that in 1979, a man from El Salvador appeared in Manzo's office with a still-bleeding bullet wound,

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[41] See John Bodnar, *The Transplanted: A History of Immigrants in Urban America* (Bloomington: Indiana University Press, 1995) for a historical overview of religious and charity organizational involvement in "old immigration" to the United States at the turn of the twentieth century, and Alex Stepick, Terry Rey, and Sarah J. Mahler, *Churches and Charity in the Immigrant City: Religion, Immigration, and Civic Engagement in Miami* (New Brunswick: Rutgers University Press, 2009) for a more specific overview of religious and charity organizational involvement in post-1965 "new immigration" to Miami. See Chapter One for a discussion of volunteer agencies, known as VOLAGS, working closely with the U.S. government in Mariel Cuban processing, detention, and resettlement efforts.

[42] Although today a simple Internet search will reveal myriad uses of the term "New Underground Railroad," the 1980s Sanctuary movement was the first to revive the term in order to relate "sanctuary" for migrants to Quakers' assistance of escaped slaves on the Underground Railroad of the pre-Civil War era. See Crittenden, *Sanctuary*, 62-3.

asking for help avoiding deportation. Lupe said, "That really dramatized the problem for us."[43] As more and more Central American migrants began appearing in southwest border towns throughout 1980, Manzo coordinated with the Tucson Ecumenical Council, a coalition of sixty local churches, to create the Interfaith Task Force on Central America. It was on almost the same day that Jim Dudley picked up the Salvadoran hitchhiker and discussed what to do about it with his friend Jim Corbett.[44]

In August of 1981, sociology professor Chad Richardson in Edinburg, Texas, gathered a group of clergymen, nuns, lay people, and professors together at Pan American University and formed BARCA (Border Association for Refugees from Central America). Shortly thereafter, attorney Lisa Brodyaga founded the non-profit law office Proyecto Libertad in response to abuses to Central American migrants she had witnessed at the Port Isabel Processing Center twenty miles east of Edinburg on the Gulf of Mexico. Proyecto Libertad was the first law office in the United States dedicated to fighting for legal rights for imprisoned Central American refugees.[45] Meanwhile in California, immigration attorney Bruce Bowman founded El Rescate in June of 1981 with loans obtained though his connections to the Interfaith Task Force on Central America. Bowman, Salvadoran asylum-seeker Angela Rivera, and a number of volunteers worked at the small Los Angeles office providing immigration legal services and social aid in the form of securing food, clothing, jobs, and housing for migrants. El Rescate also trained volunteers to assist Salvadorans detained at the El Centro Processing Center and teach them about their rights. Rivera spoke of her work: "One man died in the immigration detention camp in El Centro, and the authorities kept his body for 15 days. His family had no money to send for

[43] Crittenen, *Sanctuary*, 26-7.
[44] Ibid., 28.
[45] Tomsho, *The American Sanctuary Movement*, 119; Kahn, *Other People's Blood*, 17.

it. We publicized the case and got money to send the body back… We try to do anything that needs to be done."[46] As Robert Kahn summarized this growing web of responses to detention: "Other lawyers and religious groups opened law offices to represent refugees imprisoned in Miami, Florida; El Centro, California; and Florence, Arizona. When the INS opened new prisons in Houston and Laredo, in Texas, and in Oakdale, Louisiana, prison projects sprang up to represent refugees there too. When refugees gained access to legal representation, it increased pressure on the entire INS system."[47]

Tucson's Southside Presbyterian Church would become the first officially-declared "sanctuary" church for Salvadoran migrants. Pastor John Fife had years of experience in social justice work, from the civil rights movement in Alabama in the 1960s to ministry in the black slums of Canton, Ohio, and on an Indian reservation in Arizona. In the 1970s he became a leader on the national policy-making council of the Presbyterian Church and was influential in convincing Exxon and General Motors to divest from South Africa, recognize black unions, and desegregate their facilities. Fife recalls, "I was literally bouncing back and forth between the boardroom and the barrio. It was a fascinating kind of existence… In retrospect I think that it was all one hell of a training program for when the refugees started showing up."[48] In Tucson, Fife joined forces with Jim Corbett's growing network to help Central American migrants. After six months of frustrations with legal efforts that Fife concluded, "were neither effective nor moral," Fife had what he later called the only original thought of his life—why not announce that churches were declaring sanctuary for undocumented refugees?[49] The concept of sanctuary was

[46] Ursula Vils, "Relieving Plight of the Salvadorans: L.A.'s El Rescate Provides Legal and Social Aid to Refugees," *Los Angeles Times*, February 12, 1982, p. OC-D28.
[47] Kahn, *Other People's Blood*, 17.
[48] Crittenden, *Sanctuary*, 5-11.
[49] Ibid., 62; Golden and McConnell, *Sanctuary: The New Underground Railroad*, 46.

as old as the Bible, and in U.S. history, used in the establishment of the Underground Railroad for runaway slaves and during the Vietnam War when churches and universities sheltered draftees seeking to avoid military service. On the growing movement's decision to "go public," Jim Corbett said, "We had all become aware that a full-scale holocaust was going on in Central America, and by keeping the operation clandestine we were doing exactly what the government wanted us to do—keeping it hidden, keeping the issue out of the public view."[50]

And so on March 24, 1982, the second anniversary of the assassination of Archbishop Romero in El Salvador, Fife hung two banners outside of Southside church that read: "This is a sanctuary for the oppressed of Central America," and "Immigration: do not profane the sanctuary of God." To a crowd of reporters in front of the church, he introduced "Alfredo," a Salvadoran refugee wearing a bandana over his face to protect his identity. The *Tucson Citizen* labeled him, "one of the most publicized undocumented aliens here ever." Jim Corbett appeared that night on the "CBS Evening News," calling Salvadoran deportations "a clear violation of international law and of the most fundamental standards of human decency. Yet the US government is telling us that it is the victims who are illegal."[51] The day before the declaration, Southside delivered a letter to Attorney General William French Smith stating:

> We are writing to inform you that the Southside Presbyterian Church will publicly violate the Immigration and Nationality Act Section 274(a). We have declared our church as a "sanctuary" for undocumented refugees from Central America… We believe the administration of the law to be immoral, as well as illegal… Obedience to God requires this of all of us.[52]

Thus, the Sanctuary movement officially began, and while it dwindled into the 1990s, it has recently been revived in what is now known as the New Sanctuary Movement. At its peak in the

[50] Golden and McConnell, *Sanctuary: The New Underground Railroad*, 47.
[51] Crittenden, *Sanctuary*, 72-3.
[52] Golden and McConnell, *Sanctuary: The New Underground Railroad*, 47-8.

mid 1980s, over five hundred Christian and Jewish congregations in the United States and Mexico declared themselves as sanctuary churches.[53]

Sanctuary quickly blossomed into a national movement, mobilizing 70,000 U.S. citizens within the first three years of its operations even though it did not always have a clear organizational structure. The characteristics of the "loosely knit, decentralized activist networks coordinated by regional and national organizations of limited authority," such as Sanctuary, may be considered a strength or a weakness.[54] Lacking the hierarchical, centralized command structure of more traditional political organizations, Sanctuary's congregations were largely autonomous and only minimally coordinated nationally by the Chicago Religious Task Force on Central America, which took over in 1982 after the movement grew so quickly it became unmanageable for Fife and Corbett's Tucson group. Movement along the "New Underground Railroad" began with coordination between the Sanctuary of Our Lady of Guadalupe Catholic Church on the Mexican side of Nogales and the Sacred Heart Church in Nogales, Arizona, which was visible from the border.[55] Migrants would make the short journey from one church to the other and take refuge at Sacred Heart where the first "conductors" Tony Clark and Mary K. Espinosa welcomed them. At first, Fife and Corbett flew refugees to designated sanctuary cities, but as the flow increased a pattern emerged and a highway relay system became possible. Then, as Crittenden describes, it, "The new underground railroad was, more than anything, housewife

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[53] For a case history of the clandestine Sanctuary movement in Mexico, see Golden and McConnell, *Sanctuary: The New Underground Railroad*, 95-123. For more on the central role of women in the movement, especially at it operated from its subsequent hub in Chicago, see Robin Lorentzen, *Women in the Sanctuary Movement*.

[54] Smith, *Resisting Reagan*, 120.

[55] Although Southside Presbyterian was declared as the first sanctuary church to the U.S. government, Sacred Heart in Nogales had been effectively operating as a sanctuary church before Corbett and Fife's announcement, thus technically making it the first American sanctuary church.

chauffeurs driving station wagons and compact cars, carrying their charges from McDonald's and Roy Rogers to overnight stops in church basements. The final destination was often a garage apartment near a small church in a university community."[56]

Christian Smith explains the "potency and endurance" of the movement in the role played by "feeder organizations" in mobilizing people. Within the peace movement, Sanctuary was the most visible due to the strength of the religious and political organizations already in place for it to tap into. When church leaders decided their church would become a sanctuary, their entire congregation was drawn into the Central American issue.[57] Church leaders, however, were often more to the left than their membership. As Ann Crittenden explains, although the leadership of mainline Christian denominations were at the forefront of social change in the 1960s and 70s, by the 1980s, "when the secular left virtually evaporated in the face of the popularity of Ronald Reagan, the mainline churches were left virtually alone as the only outspoken opposition party in the United States. While the press celebrated the Reagan magic, and the public turned to its own concerns, religious leaders challenged almost every aspect of the administration's policies."[58] Perhaps this isolated position contributed to Sanctuary's visibility.

On the whole, the press treated Sanctuary quite favorably. Mounting criticism against U.S. foreign and immigration policies placed further pressure upon the Reagan Administration, but Sanctuary's designation of the issue as a religious one placed it in the realm of untouchable

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[56] Hilary Cunningham, *God and Caesar at the Rio Grande: Sanctuary and the Politics of Religion* (Minneapolis: University of Minnesota Press, 1995) 26; Crittenden, *Sanctuary*, 87. At first, part of the efforts of the New Underground Railroad was getting migrants to Canada to claim asylum, but after the U.S. government pressured Canada's new conservative government to tighten its border controls and exclude more Central Americans, more sanctuary churches were established in the United States, thus fueling the movement's growth. See Randy K. Lippert, *Sanctuary, Sovereignty, Sacrifice: Canadian Sanctuary Incidents, Power and Law* (Vancouver: University of British Columbia Press, 2005).
[57] Christian Smith, *Resisting Reagan*, 60; 113.
[58] Crittenden, *Sanctuary*, 12.

for authorities. In August of 1982, *People* magazine ran a six-page story about Corbett smuggling a Salvadoran couple with three children, as "no pain or weakness or uncertainty showed on his face. The fact that he was about to commit a federal crime troubled Jim Corbett not at all."[59] Media attention to Sanctuary and its leaders seemed to taunt immigration enforcement efforts and angered many governmental leaders such as Arizona Senator Barry Goldwater who pushed for the INS to prosecute the defiant churches. INS commissioner Alan Nelson was more hesitant to act, and he instructed his associates, "Don't let them get our goat; don't let's make martyrs out of them."[60] He also worried that action would draw more attention to the movement—how would it look if INS officers began arresting church people? In a March 1983 memo to the Attorney General, he wrote: "Although the movement is relatively small, it has attracted major media attention… The Service's basic posture at this time is to avoid inflammatory confrontations which could increase the visibility and scope of the movement beyond its present limited extent."[61]

The acts of Cuban and Haitian resistance within the walls of detention and the development of the American Sanctuary movement to shelter migrants from detention and deportation discussed here are by no means meant to be comprehensive—they comprise only a small fraction of the ongoing and various manifestations of opposition to the Reagan Administration's detention policies. The cases discussed here, however, are presented in order to highlight the fact that immigration detention was met with resistance at every step, and at each

[59] Crittenden, *Sanctuary*, 77.
[60] Ibid., 78.
[61] "Church Sanctuary for Nationals of El Salvador Illegally in the U.S.," Memo from Alan C. Nelson to William French Smith, March 25, 1983, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

step the administration was confronted with the growing problems of detainee unrest, operational and security issues, visibility, and growing public dissent.

Control

> The detention in Federal and State prisons and special camps of aliens arrested on suspicion of illegal entry is the sole discretion of the Attorney General, with severe restrictions on access to the courts and without regards to violations of environmental laws at the camps.
>
> - Attorney General William French Smith, October 1981[62]

How did the Reagan Administration and the Immigration and Naturalization Service respond to these growing problems surrounding detention? Detainee unrest and public opposition did not just target Reagan's immigration and foreign policies or the idea of detention itself, but also the living conditions, curtailment of civil and human rights, and alleged abuses occurring in detention operations, which at this time were under the purview of the INS. As the administration remained committed to carrying out its new detention policies, it found itself having to address these allegations while deflecting negative publicity. The result, in practice, was a range of responses that included borrowing operational tactics from the Bureau of Prisons, maintaining discretion and secrecy, disregard of detention rules and guidelines, outright denial of abuses and rights violations, and more extreme measures that included legal and covert attacks on Reagan Administration opponents.

Addressing Operational Problems

[62] Stuart Taylor, Jr., "Smith Sees Immigration Plan As a Means to Avert Boatlifts," *New York Times,* October 23, 1981, p. B6.

As discussed above, attempts made to address the volatile situation and public criticism of conditions at Krome North included transferring Haitians to other facilities and investing in facility improvements. After the Christmas hunger strike and disturbance of 1981, the U.S. Marshals Special Operations Group's After Action Report identified three main contributors to such disturbances: lack of recreation/occupation for detainees, lack of a "tactical operational security plan," and lack of information to ease the public's concern.[63] In response to the second issue, the INS invited two Bureau of Prisons officials to bring their expertise to manage Krome for the duration of one year, "in order to establish professional operations at Krome and train INS personnel." This came after the BOP had consulted with the INS on improving operations and conditions at Krome, which was touted as a great success by the administration (even though detainee unrest continued). It also reflected both an affirmation of the administration's turn towards long-term detention and the further enfolding of migrants into the criminal justice system.[64]

In March of 1982, the Department of Justice outlined four possible alternatives for addressing operational problems. Under consideration was a full or partial transfer of immigration detention functions to the Bureau of Prisons. The four options, with perceived pros and cons, were:

> 1. Status Quo, or leaving the responsibility of detention within the INS. This would be the least costly and avoid the "stigma of criminalization," but it would not address the problems surrounding long-term detainees.
> 2. Status Quo with Bureau of Prisons technical assistance. This would be slightly more costly, but "The successes in improving both the physical and programmatic aspects of operations at Krome are supportive of this option."

[63] "After Action Report – Miami, Florida (Krome Site), January 27, 1982, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[64] See Chapter Three for a further exploration of the origins of this trend.

> 3. Transfer of long-term detention to BOP. This would be even more costly, but would allow for "prompt implementation of an effective long-term detention policy because of BoP's proven experience in handling a long-term population."
> 4. Total transfer of detention to BOP. This would be the most costly option. In addition, "political reaction would be adverse; and statutory changes would be extensive."[65]

The Attorney General's office responded by calling the option paper "extremely disappointing" because, "It contains no recommendations and little helpful guidance on implementation." But it supported Option Three, the transfer of long-term detention to the Bureau of Prisons, stating: "INS has no expertise in this area and has housed long-term detainees in sub-standard conditions. Until BOP… provide[d] assistance to INS at Krome, the facility was a disgrace." In response to one of the "cons" of a BOP transfer listed by the DOJ issue paper, that, "The stigma of holding aliens in penal institutions could create a negative public reaction," the Attorney General's office wrote: "This may be true to some extent. On the other hand, the change might be publically viewed as a positive step motivated by concern for the aliens' welfare, which is what it is. Many alien detainees are currently held in actual penal institutions without any great public outcry." Also, it argued any stigma would be reduced after the transfer because, "those in BOP facilities would no longer be housed in 'penal' institutions but rather in facilities called something like 'Immigration Detention Service Centers' managed by a separate section of BOP."[66]

At this point, the question still remained of whether to transfer the responsibility for long-term detainees along with the responsibility for long-term facilities. It is important to note in these discussions of the responsibilities of detention operations, however, the simultaneous

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[65] U.S. Department of Justice, "Issue Paper—Detention Options," March 18, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[66] "Responsibility for Alien Detention," Memo from Renee L. Szybala to Rudolph W. Giuliani, March 26, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

concern over political and public fallout, and the recognition that a large segment of the public did not express opposition to current detention operations. The attitude seemed to be that as long as there was no "great public outcry," operations could continue to run as they did. Also, the fewer and least costly changes there were to be made, the better. As will be seen, (especially as options and time began to run out), there emerged a hodge-podge network of local, INS, BOP, and private contract facilities, which still operate in much the same way today.

Parallel to the question of who should be responsible for the planning, construction, and operation of detention facilities was the question of who had the authority, and what were the best methods, to control the potentially "explosive" detention population itself.

Exercising Detainee Control

A summary of major cases against the INS involving Cubans or Haitians prepared by the Attorney General's office in 1981 states: "The Government, and especially INS, finds itself in a Catch-22 situation where, no matter what action it takes, someone sues to prevent it." For example, INS was simultaneously being sued by Florida Governor Bob Graham "to prevent resettlement of Haitians in South Florida," and by the Haitian Refugee Center "to require parole of Haitians in South Florida." The summary concludes, "To say the least, it is difficult for INS to know what it can and cannot do."[67] In the face of such questions, legal obfuscations coming from proponents and opponents of Reagan Administration's detention policies had the unintended consequence, at least in part, of helping coalesce a system of INS operations that fell back on

[67] Renee L. Szybala, "Summary of Cases," August 24, 1981, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

business-as-usual attitudes that disregarded detention rules and judicial injunctions. A look at three disciplinary and operational procedures carried out by INS officers—transfers, segregation, and isolation—reveals vast discrepancies between official rhetoric and on-the-ground realities in detention. These discrepancies reflected the conflicting pressures on INS efforts and the perceived need to keep detainees under control and out of sight.

Although the routine transfer of detainees was highly criticized by detention's opponents and even challenged in court, the administration maintained that transfers were only made to relieve overcrowding and were made in the detainees' best interest. In his testimony to the House Subcommittee on Courts, Civil Liberties and the Administration of Justice in June of 1982, Arthur R. Helton of the Lawyers Committee for International Human Rights cited numerous reports of abuses and human rights violations experienced by Haitian migrants in detention. Helton criticized the transfer of detainees to inadequately equipped facilities in remote locations, where they had no access to family, friends, or legal counsel. Opposing the construction of new detention facilities and Reagan's detention policies on the whole, Helton concluded, "It is hard to believe this is happening in the United States of America."[68] When Haitians were transferred to Bureau of Prisons facilities in Big Springs, Texas and Lexington, Kentucky in July of 1981 to relieve overcrowding at Krome, Rudy Giuliani wrote to Congressman Larry Hopkins of Kentucky and Senator Lloyd Bentsen of Texas, who expressed opposition from their constituencies. He reassured both Congressmen:

[68] "Statement of Arthur C. Helton of the International Committee for International Human Rights on The Haitian Detention Program," June 23, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

> This action, and the other transfers which were recently made, is being taken in the interest of the health and welfare of the detainees. There is no long term plan to use Bureau of Prisons facilities to house Haitian undocumented aliens. These are well-behaved people who have posed no disciplinary or security problems at Krome North. Those who would be held… will be segregated, for their own protection, from the prison population.[69]

Neither of Giuliani's assertions here were entirely accurate, however. Detainees who were identified as agitators or "troublemakers" were often the ones targeted for transfers, and the Attorney General's office did approve of BOP facilities as a long-term detention solution.

Giuliani's indication that the purpose of segregation, like transfers, was to protect detainees does not reflect the reality of unequal treatment and conditions detainees actually faced. The INS 1980 Standards for Detention state, "Administrative segregation should be used to protect detainees from other detainees." Giuliani's assertion that the segregation of migrants at BOP facilities was for their protection accorded with these standards, but the actual conditions within the walls of these facilities proved otherwise. The INS detention standards also provided that each facility grant each person the right to a "healthful place in which to live," including basic medical care and, "the same right to bodily integrity as if he or she went to a community hospital facility." The standards also required access to recreational facilities, equipment, and outdoor exercise.[70] According to warden George Rodgers at the Ray Brooks BOP facility in Lake Placid, New York, however, Haitian detainees were restricted to their dormitory and a small fenced-in area of black top they used to play soccer, while the other inmates played

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[69] Letter, Rudolph W. Giuliani to Congressman Hopkins, July 31, 1981; Letter, Rudolph W. Giuliani to Senator Bentsen, July 24, 1981, Folder "RS/Krome – INS," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[70] "Immigration and Naturalization Service Standards for Detention," August 1, 1980, USCIS History Office and Library, Washington, D.C.

softball and had the freedom to walk around the 55-acre facility grounds.[71] Arthur Helton's June 1982 testimony to the House on human rights abuses in detention also cites inadequate recreational facilities and INS failures to provide access to medical care. In one case, detainee Albetre Mauclair died after sustaining an injury during a soccer match and no doctor was available for his request for medical treatment.[72] The INS's frequent denial of recreation and medical care, among other failures to comply with official Detention Standards, became a common complaint that continues to this day.

The practice of putting detainees in isolation, or "administrative detention," also fell under the category of segregation in the INS written detention standards, and its use was also intended to be limited only to instances of protecting a detainee from other detainees. However, isolation is an inherently punitive measure. As Volker Janssen explains, "Isolation from family and community has, of course, been a persistent part of carceral punishment throughout the history of prisons."[73] Furthermore, official versus operational statements on the use of isolation are found to contradict each other. In 1984, the INS directed that administrative detention was, "in no way meant to be punishment, it is administrative segregation only," and should be limited to 72 hours maximum.[74] This is in keeping with the 1980 detention standards. But Fort Chaffee's Joint Security Plan of 1980 states, "Certain aliens within the camp will not conform to the established rules and will require confinement in administrative detention, a stockade or a federal

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[71] *New York Times*, August 30, 1981; Miller, *The Plight of Haitian Refugees*, 134.
[72] "Statement of Arthur C. Helton of the International Committee for International Human Rights on The Haitian Detention Program," June 23, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[73] Volker Janssen, "Sunbelt Lock-Up," 231.
[74] R.M. Kisnor, "Uniform Disciplinary Procedures at All Service Processing Centers," August 1, 1984, USCIS History Office and Library, Washington, D.C.

correctional institution." The plan lists behavior that could be detrimental to other detainees and thus meriting administrative detention, including "non-criminal harassment," "badgering," and "instigation."[75] This allowed for looser interpretations. In August of 1981, one Haitian detainee at Ray Brook in New York lay down in front of a truck in protest of the duration of his detention and was placed in administrative detention for this action. Another detainee, Bernaivil Elisnord, was placed in isolation after being accused, perhaps falsely, of encouraging Haitians to hunger strike. He was isolated for eight days and only allowed to leave his room twice during that time for fifteen minutes of exercise and a shower.[76] In sum, despite the stated intent of such operational procedures and the strictly "civil" nature of immigration detention, transfers, segregation, isolation, and other security measures typically used in jailkeeping such as counts and shakedowns ultimately served the purpose of both punishing undocumented migrant populations and rendering them invisible in the system.

Beyond these rather routine and perhaps unsurprising INS tactics intended to quell detainee unrest were allegations of physical and sexual abuse perpetrated by INS officers. Such abuse has been uncovered to be widespread in immigration detention. The 1980 INS Standards for Detention forbid corporal punishment: "Personal abuse and conditions and practices injurious to the well-being of detainees violate the legal protections available under the U.S. Constitution." Yet, detainees were often threatened and denied such rights by INS officers.[77] The INS "Immigration Detention Officer Handbook" opens with the officer's central mission: "The fair and humane treatment and transportation of detained aliens." The handbook also forewarns,

[75] "Joint Security Plan," Folder "Gastón A. Fernández: Security Reports and Memoranda, 1980," Box 2, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.
[76] *New York Times*, August 30, 1981.
[77] See Kahn, *Other People's Blood*.

"Many of our detention officers, by the nature of their work, are rendered highly visible and vulnerable to public scrutiny and possible criticism. It is therefore essential that the highest standards of personal conduct be maintained to ensure fair and decent treatment of all aliens in Service custody." With an emphasis on attitude, dignity and self-control, the handbook expressly forbids detention officers from accepting gratuities or bribes, transacting business with detainees, or having any contact with detainees of the opposite sex.[78]

In 1980-81, complaints of INS corruption and criminal civil rights violations increased by 79% from the previous year. These complaints included allegations of officers taking bribes, the unlawful use of force, and "serious supervisory misconduct."[79] In a memoir about his experiences as a guard at the Port Isabel Service Processing Center in Texas in the early 1980s, Tony Hefner documents the shocking number of incidents of abuse and corruption that took years to come to light. Reflecting on the culture of secrecy at the detention center, Hefner claims, "If guards witness or are victims of wrongdoing on government property, they can and do lose their livelihoods by reporting it."[80] He recalls assistant district director Cecilio L. Ruiz, Jr. addressing the new guards on Hefner's first day:

> Women are my passion. I am not homosexual. It is not allowed. No homosexuals will be running my camp… If you girls have any trouble at all… come to my office… I will personally take care of you… But if one of you men darkens my doorstep asking for any help, I will fire you. Do you understand? I am not here to hold any man's hand. It is my camp, and those who are hired will soon learn how I want it run.[81]

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[78] United States Department of Justice Immigration and Naturalization Service "Immigration Detention Officer Handbook," USCIS History Office and Library, Washington, D.C.
[79] "Hiring at Krome," Memo from Giuliani to Nelson, April 5, 1982, Folder "Budget – INS," Box 1, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[80] Tony Hefner, *Between the Fences: Before Guantanamo, there was the Port Isabel Service Processing Center* (New York: Seven Stories Press, 2010) 16.
[81] Ibid., 33.

Hefner described Port Isabel, over capacity by 100, as, "A slaughterhouse… The rancid smell of urine and feces, stale tobacco, and sweaty bodies packed tightly together permeated the concrete rooms and hallways… In my mind it would always be the smell of corruption." Still new on the job, Hefner asked his coworker Juanita where a male guard had taken a female detainee brought out of a van one morning, and she replied, "We are told that the girl is being taken to Processing to clean the offices, but she comes back and tells us differently. She told us the officers promised to get her out of here earlier if she has sex with them." Juanita then told him to drop the issue or they would both be fired.[82] Hefner's other accounts describe INS officers stealing belongings and money from detainees, destroying belongings, buying and selling drugs, pregnant female detainees alleging rape being deported before delivering their babies, threats and assaults made on female guards, assaults on minors, and male officers paying male and female minors for sex. After witnessing these abuses, Hefner, along with detainees and several other guards, reported them on radio and television news programs, and prompted government investigations that did not bear fruit until the Clinton Administration.[83]

Although legal battles against these rights violations made some progress, the INS often failed to comply with court injunctions aiming to curb abuses. In one Salvadoran woman's testimony in the case of *Orantes-Hernandez v. Smith* over civil rights violations at the El Centro Processing Center, INS agents had forced Valium down her throat and guided her hand to force her to sign an I-247 form, waiving her right to seek asylum. Judge Kenyon reprimanded the INS attorney: "You don't treat people like that. I wouldn't do that to the worst criminal who came

[82] Ibid., 35; 42-3.
[83] For more on contemporary efforts to document such abuses, see *Lost in Detention: President Obama's Tough Immigration Enforcement*, DVD, written and directed by Rick Young (2011; Boston: WGBH Educational Foundation, 2012).

into this courtroom."[84] Although the court ordered an injunction ordering the INS to follow proper legal procedures, Robert Kahn documents that INS officers systematically violated the terms of such injunctions. Kahn also shows, however, that activism did slow down the deportation process and secure some rights for detainees. The 1984 INS directive limiting the use of administrative detention, for example, was a direct response to the *Orantes* case.

Battling a Movement

> We have reason to believe that these outside agitators intend to continue in this effort… This is a matter of high priority for the Department and your agencies should cooperate fully in an effort to investigate and prosecute any persons who already have or who may, in the future, violate federal laws in this regard.
>
> -FBI Director Judge William H. Webster, December 1981[85]

As indicated in Hefner's memoir, INS operations were entrenched in a male-dominated culture of secrecy. According to Hefner, it took so many years for the abuses he described to come to light because of the reluctance of well-paid guards in an impoverished area to step forward and risk losing their jobs, aided by higher-up officials wishing to keep allegations of such abuses quiet. As discrepancies between top-level administration intentions and enforcement practices on the ground widened, however, Reagan Administration officials tried to minimize negative publicity surrounding its immigration enforcement efforts. The administration's responses to legal aid groups such as Proyecto Libertad, the Central America peace movement, and the charges it brought against Sanctuary members reveal another dimension to the

[84] Kahn, *Other People's Blood*, 18.
[85] Memo to FBI Director Judge William H. Webster requesting an investigation of the protesters at the Krome Christmas 1981 disturbance, "Krome North," December 29, 1981, Folder "December '81 (2 of 2)," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

administration's culture of secrecy as INS and FBI clandestine operations sought to intimidate and prosecute those wishing to aid migrant detainees.

The INS closely monitored its image in the press, and kept the Attorney General's office apprised of controversies or potentially negative publicity. Acting INS Commissioner Doris Meissner released regular "Hot Items" bulletins expressing the need to address such situations. In one case, the press reported that the INS had "dumped" 70 Haitians arriving late at night in Miami off of a bus when in reality they were being connected with community sponsors. Meissner's bulletin also provided routine updates about indictments of abuse at detention facilities and reports of INS corruption, expressing a desire to keep the press away from such stories:

> We expect an article in the Washington Post… regarding investigation of INS personnel in the Washington, D.C. district office. The investigation involves selling permanent resident adjustments to Iranian nationals. Large amounts of money have been involved… We have managed to keep the reporter away from the story for several months. He has gathered enough information, now, however, to have decided to print it.[86]

The administration also wanted to monitor and restrict the media and public's view into detention. The INS Deportation Officer Handbook mandates that news representatives who wished to visit any facility must first make an appointment in advance, then obtain approval from a detainee if they wished to interview him or her, then obtain approval in writing from District Director. "Before any such interview is approved… the detainees must authorize the INS to respond to comments made in the interview and to release information to the news media relative

[86] "Hot Items" Bulletin, Memos from Doris M. Meissner to Rudolph W. Giuliani, June 23 and 24, 1981, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

to the detainees comments."[87] In other words, the INS reserved the right to have the final word coming out of the detention center.

As explored in Chapter Three, the Reagan Administration adopted a "low-intensity-conflict" doctrine in its Central American foreign policies. One aspect of this doctrine was the increased use of surveillance, intelligence gathering, and covert operations. This can be seen not only in the U.S. government's involvement in El Salvador, but in its view of Salvadoran migrants as potential "terrorists." As Ross Gelbspan explains, the FBI during this time began "gearing up for a major investigation of Salvadoran terrorism," and the Bureau was concerned that a massive influx of Salvadoran refugees arriving in the United States, "either on their own or with the help of members of the newly emerging Sanctuary movement—could, indeed, be a channel by which Salvadoran left-wing terrorists could be infiltrating the United States to plan a campaign of covert violence."[88] As a result, the FBI launched an investigation of the legal aid group Proyecto Libertad, among others, from 1982 to 1985. Robert Kahn worked for Proyecto at the time and lived in its office. He remembers the phone ringing every morning at six a.m., and he would answer and hear a click, and then a hang-up. He obtained the FBI's file on its investigation of Proyecto and it revealed that its monitoring activities directly violated a 1981 consent decree in which the FBI agreed to cease illegal spying on activities protected by the First Amendment. The investigation did not find any evidence that Proyecto had any terrorist connections.[89]

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[87] Immigration and Naturalization Service, "Deportation Officer's Handbook," USCIS History Office and Library, Washington, D.C.
[88] Ross Gelbspan, *Break-ins, Death Threats, and the FBI: The Covert War Against the Central America Movement* (Boston: South End Press, 1991) 36-7.
[89] Kahn, *Other People's Blood*, 54-6.

Although the FBI and INS had been informed of the Sanctuary movement's intentions from the very beginning and continued to monitor it, INS Director Alan Nelson was hesitant for the INS to invade American churches.[90] Nelson's position on the Sanctuary movement was that it was, "At base a foreign policy disagreement between the churches' view of present conditions in El Salvador and the U.S. Government's assessment of those conditions." The Attorney General agreed that the INS, "should not escalate this problem." Nelson told PBS's "Frontline" that Sanctuary activists were "well-meaning," but, "Many of them will admit what they are really doing is opposing the president's policy in Central America." Although Nelson claimed, "Active investigations of the churches involved in sanctuary are not underway at this time," he also noted, "although legally we can enter churches, private residences, theaters, schools and similar institutions with court-ordered search warrants. A recent INS legal review establishes that there is no legal basis to support church sanctuary in the United States."[91] Although Nelson denied in 1983 that investigation was underway, INS officers and the FBI had already been monitoring the movement closely.

On the day of Sanctuary's announcement, John Fife recognized a man in plainclothes taking photographs of Southside church as a Tucson Border Patrol agent. Fife joked to reporters about it, wondering why INS agents felt the need to attend the event in an undercover capacity. That night, a second intelligence agent attended the march and ecumenical church service, and reported to his superiors: "Aside from the old people, most of them looked like the anti-Vietnam

[90] A dissenting member of Southside had in fact informed the FBI of Corbett and Fife's intentions before their official declaration of sanctuary in March of 1981. Crittenden, *Sanctuary*, 69-70.

[91] "Church Sanctuary for Nationals of El Salvador Illegally in the U.S.," Memo from Alan C. Nelson to William French Smith, March 25, 1983, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD; Tomsho, *The American Sanctuary Movement*, 93-4.

war protestors of the early 1970s. In other words, political misfits." He reported that the "Frito Bandito," the, "alleged El Salvadorian wearing a black mask," was trotted out purposefully for the cameras, and concluded:

> It seems that this movement is more political than religious but that a ploy is going to be Border Patrol "baiting"… in order to demonstrate to the public that the U.S. government via it's [sic] jack-booted gestapo Border Patrol agents think nothing of breaking down the doors of their churches to drag Jesus Christ out to be tortured and murdered. I believe that all political implications should be considered before any further action is taken toward this group.[92]

Tucson Border Patrol chief and thirty-five-year veteran Leon Ring was also hesitant to act, remembering that years before there was a public outcry over Border Patrol agents arresting several undocumented maids as they left church on a Sunday morning. Since then, there was an unwritten rule among Border Patrol agents that churches were hands-off.[93]

The FBI, however, had no such unwritten rule, and active FBI investigations of Sanctuary activists and churches were already well underway. In the summer of 1982 FBI agent Frank Varelli, who was involved in the El Salvador terrorist investigation from the beginning, was tasked with creating a "Terrorist Photo Album." The operation was named "Pipil" after a native group that originally inhabited present-day El Salvador. Varelli compiled around 700 entries, ranging from people with known ties to Soviet bloc agents to political and religious activists, members of U.S. Congress, Mexican president Lopez Portillo, and former U.S. Ambassador to El Salvador Robert White for having "terrorist tendencies." Varelli admitted to Congress in 1987, "In reality, the album frequently contained the names of people who simply opposed the Central America policies of President Reagan."[94] One album entry was for Sister Peggy Healy, a major Sanctuary figure convicted in 1986 of violating immigration laws by sheltering

[92] Crittenden, *Sanctuary*, 75-6.
[93] Ibid.; Tomsho, *The American Sanctuary Movement*, 93.
[94] Gelbspan, *Break-ins, Death Threats, and the FBI*, 97-8.

undocumented Salvadoran migrants. Varelli's notes read: "She is a nun with the Maryknoll Order… It is a community of priests, brothers, sisters and lay people that are supposed to be spreading the gospel all over the world. Instead they are front runners in preaching the Marxist-Leninist 'Liberation Theology.'… Operating under the banner of 'human rights violations,' they are operating against the U.S. government."[95]

Over time, the INS began to shift its view on making Sanctuary-related arrests. In 1982, INS assistant general counsel Bill Joyce said, "We're not about to send investigators into a church to start dragging out people in front of television cameras. We just want to wait them out… there are plenty of "illegal aliens" out there." But by 1984, Alan Nelson indicated a shift in INS policy: "Religious affiliation or motives cannot insulate anyone from the consequences which flow from a violation of other criminal or civil laws… No special exemption from prosecution can be tolerated."[96] And so, in 1984 the INS began making arrests of Sanctuary refugees and those assisting them—the first arrested were Stacy Merkt and Jack Elder, Sanctuary workers in Texas.[97] In 1985 the INS launched "Operation Sojourner," sending paid informants into Sanctuary communities.[98] In 1986 the U.S. government brought a seventy-one count criminal indictment against leaders of the Sanctuary movement from Arizona and Mexico, including Jim Corbett, John Fife, and Mary K. Espinoza, which culminated in a high-profile series of trials in Arizona. During the trial there was an escalating series of break-ins and harassments at Sanctuary churches and at the defendants and other organizers' homes. In 1986, Mary K. Espinoza's home was broken into three times, with files taken and nothing else. The intruders set a house fire, poisoned her dog, and witnesses said they wore the khaki and

[95] Ibid., 98-9.
[96] Golden, *Sanctuary: The New Underground Railroad*, 71-2.
[97] Ibid., 64-73.
[98] Crittenden, *Sanctuary*, 139-148.

camouflage-cap uniform of a mercenary group working with Nicaraguan contras and the Border Patrol.[99] Ultimately, eight leaders were charged with alien smuggling, while the rest were acquitted or given brief house arrest. Christian Smith concludes that opponents of the Central America peace movement successfully suppressed the movement in some cases through fear or instances of especially repressive tactics, but on the whole, "The intensity of repression was sufficiently moderate and the nature of the anti-movement actions so infuriating that they actually provoked Central America activists to greater levels of dedication and involvement in opposing administration Central American policy."[100] Using paid informants, private investigations, and tactics of fear and intimidation, agents of the Reagan Administration's immigration and foreign policies waged a "low-intensity" war against their opponents, all while placing a high priority on conducting these operations under the radar.

Conclusion

> I grew up in a very middle-class neighborhood. So it was incredible to hear Salvadorans talk about their horrible experiences. I had always heard about people far away, but they had never been 'real.' This hit me like a bomb. When I realized that I could make a difference, I jumped all over it, and my life changed.
>
> -Participant in the Central America peace movement[101]

> It wouldn't hurt for you to listen to a 'grassroots' person like me.
>
> -Citizen letter to Ronald Reagan[102]

[99] Gelpspan, *Break-ins, Death Threats, and the FBI*, 197-205.
[100] Smith, *Resisting Reagan*, 280-324.
[101] Ibid., xv.
[102] Citizen letter to Ronald Reagan requesting to sponsor a Cuban in a penitentiary in Atlanta, 1981, ID #031307, IM002, WHORM, Subject File, Ronald Reagan Library.

The contemporary U.S. immigration detention system emerged out of these patterns of resistance and control as detainees and advocates clashed with the Reagan Administration over its new detention policies. In the face of mounting criticism from pro and anti-migrant sectors and growing problems inside detention centers, the administration's response was marked by an increasing reliance on secrecy, denial, and covert tactics to minimize negative publicity.

The implementation of Reagan's Mass Immigration Emergency Plan called for the location of new detention sites to fulfill urgent detention needs. The result was a haphazard implementation of new rules and procedures concurrent with existing legal and physical enforcement structures. In addition, new solutions were pitched to the Reagan Administration by depressed communities seeking the economic opportunities that new prisons might bring and by enterprising businessmen looking to sell their prison-keeping expertise. Privatization—a policy that the Reagan Administration embraced in many areas of governance—became embedded in detention practices and strengthened the buffer between immigration enforcement and public visibility.

CHAPTER FIVE
"Thirty Years of Service to America": The Corrections Corporation of America and the Birth of the Neoliberal Security State

> Although Americans like to believe the words on the Statue of Liberty… there may be latent anti-immigrant sentiment in the country.
>
> -*Reagan-Bush '84* Campaign Memo[1]

The first private prisons in the United States were immigration detention centers. The Corrections Corporation of America and the Wackenhut Corporation each received INS contracts to build and run immigration detention centers in Houston, Texas, and Aurora, Colorado, respectively. Both opened in 1984.[2] There is a long history in the United States of the use of private contracting in various prison functions and an even longer history of incarceration "for profit." And yet, immigration historians and scholars of prison privatization have paid very little attention to the significance of the relationship between the establishment of the first contract facilities and immigrant detention. The rise of private contracting in incarceration during the Reagan era was not solely confined to immigration detention, but this moment of prison privatization marks the final step in the establishment of Reagan's new set of immigration enforcement practices. Migrants detained in private facilities are, perhaps, the most invisible and lasting victims of Reagan's new security state.

Reagan's Mass Immigration Emergency Plan emphasized emergency preparedness, yet left open the question of who should be responsible for detaining immigrants—the INS, the Bureau of Prisons, local and county jails, or a private entity. As local communities demonstrated ongoing resistance to the establishment of permanent detention facilities in their own backyards,

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[1] "Immigration Memo," July 26, 1984, Folder "[Reagan-Bush '84] Attitudes on Immigration Prepared by Reagan-Bush '84 July 26, 1984 [1]," OA 10871, Box 23, Michael K. Deaver Files, Ronald Reagan Library.
[2] Dow, *American Gulag*, 97.

the administration utilized prison space where it already existed while carving out new spaces for detention where it could. The result was a haphazard network of all of the above facility types, a palimpsest (still in existence) whereupon new detention practices have been adopted and inscribed upon existing ones. Ultimately, private contract facilities emerged as the most ideal solution and exemplify the coalescence of the Reagan Administration's new security state—yet, implementation did not occur smoothly or without criticism.

Prison Boosterism

As explored in Chapters One through Four, the scramble to locate more permanent sites for migrant detention began with mounting pressures placed upon the Reagan Administration to close Fort Chaffee, Arkansas, and relocate Mariel Cuban detainees. Local communities and politicians also strongly opposed the idea of the use of existing facilities such as Krome North in Florida and Fort Allen in Puerto Rico for long-term detention of Cubans and Haitians. And as the Reagan Administration began to consider alternative sites for long-term detention in other states, it faced opposition from pro, but mostly anti-migrant segments of the public. Given the administration's priorities and constraints, it soon became apparent that detention efforts would be most viable in economically depressed Sunbelt communities that foresaw the benefits of prison-building as outweighing the costs.

Attorney General William French Smith, staunchly committed to the administration's new detention policy, explained the urgency of securing new detention space to the Office of Management and Budget near the end of 1981: "A quick decision is necessary on the resource requirements of the Administration's detention policy… given the local political and/or legal

obstructions we face in Puerto Rico, Florida and Arkansas." At this point, the administration had identified McAlester, Oklahoma, as an ideal site to build a permanent facility but also continued to explore other options while McAlester was being built. To Smith, the only three available options were: To continue the use of Fort Chaffee, which would exacerbate existing political dissent but reduce "local citizen concerns in other areas"; locate an existing facility similar to Fort Chaffee, which the Secretary of Defense was not willing to allow; or acquire new types of facilities such as one being offered by Valley Industrial Park in Glasgow, Montana, but, "Even if the facilities and funds were available, the operational difficulties caused by decentralized facilities would preclude an effective and cost efficient program."[3] To the administration, cost, efficiency, and location were top priorities for the establishment of a detention center, but local opposition proved to be one of the greatest hurdles.

The federal government's initial dealings with local community leaders to explore the possibilities of constructing detention centers showed great promise. In November of 1981 the Department of Justice sent two representatives to Oklahoma to discuss the government's proposal for building a facility in McAlester with the public. Attorney General Smith wrote to Pittsburg County commissioners after this visit thanking them for the warm welcome his representatives received and affirming the administration's new detention policy. The main purpose of his letter, however, was to reassure community leaders that migrant detention would not have a negative impact on the local community and would instead benefit the local economy. Smith writes:

> The method of operation of the processing centers by the Immigration and Naturalization Service is strictly controlled so as not to adversely affect the local communities in any

[3] Letter, William French Smith to David A. Stockman, undated, Folder "INS," Box 8, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

> way. Thus, for example, illegal aliens detained in the processing center would not be released temporarily into the local community, nor would they be resettled in the community on a permanent basis. In virtually all respects the processing center would be a self-sufficient operation, though relying to a significant degree upon private contractors to deliver goods and services on the premises.

Promising that detention operations would result in around five hundred local hires, or even more in "emergency circumstances," Smith concludes: "We frankly believe that the economic opportunities afforded by the location of a deportation center would promise healthy economic expansion to the local community."[4] On a related note, the use of language such as "processing" and "deportation center" also reveals the administration's viewing of detention as an economic transaction in which non-citizens were akin to goods to be processed and shipped.[5]

Entrepreneurs in the transitional program and security industries also seemed eager to offer their services to the Department of Justice and capitalize on detention needs. In December of 1981, a private consortium of the PHP Corporation of Virginia, Security Associates International of Texas, and the board of directors of Valley Industrial Park (VIP), a former Air Force base near Glasgow, Montana, pitched VIP's "modern" facilities to the Reagan Administration. D.C. Beckman's letter to James Baker lists the reasons why Glasgow would be the "most logical location for an Alien Processing Center," including the polled approval of local officials and the public, a lease agreement ready to be signed with the INS, and "Turnkey" facilities ready for over 2500 detainees and superior in quality to conditions at Krome, Fort Chaffee, or Fort Allen. Beckman also counters the arguments against relocating detainees to

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[4] Letter, William French Smith to Commissioners, December 16, 1981, Folder "Attorney General's Office," Box 1, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records.
[5] Indeed, immigration has historically been viewed as being under the purview of economics, as immigration regulation initially resided in the Treasury Department from 1891 to 1903, then the U.S. Department of Commerce and Labor until 1913, and the Department of Labor until being transferred to the Justice Department in 1940. See Zolberg, *A Nation by Design.*

Montana, claiming that, "During the time the base was operational, minorities were present in significant numbers and found no problem with the climate," and, "Isolation of the facility has one definite advantage, in that it tends to make the facility secure. If an escape is attempted, the open prairie, good visibility, and large distances make apprehension most certain." In a follow-up letter the next month stressing the "readiness" of Valley Industrial Park to receive Cubans, Beckman concluded enthusiastically: "In short, we are Ready, Willing, and Able!"[6]

As Fort Drum, New York, was rejected as a relocation site for Mariel Cubans at Fort Chaffee, the OMB made an "eleventh hour" decision in December of 1981 to transfer responsibility for Cuban detention at Fort Chaffee from the Department of Health and Human Services to the INS.[7] This prompted the Reagan Administration to take VIP's Glasgow proposal under serious consideration, even though the Carter Administration had rejected Glasgow Air Force Base the year before as a "totally inappropriate place to house people from the Caribbean."[8] The INS planned for Glasgow to hold three populations: Cubans in an ORR-sponsored rehabilitation program, "antisocial" Cubans from Fort Chaffee unsuitable for resettlement (together about 550 detainees), and the remaining 1,150 capacity to be filled by Haitians or other nationalities for whom space could not be found elsewhere.[9] VIP's proposal

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[6] Letter, D.C. Beckman to James A. Baker, December 3, 1981, ID #052812, IM005 WHORM, Subject File, Ronald Reagan Library.; Letter, D.C. Beckman to Craig Fuller, January 20, 1982, Folder "February '82," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[7] See Chapter One; Memorandum, Edward C. Schmults to James A. Baker III, January 8, 1982, Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[8] Robert D. Shaw, Jr., "Carter Team Reportedly Rejected Montana for Refugees," *The Washington Post*, September 3, 1981, p. A15.

[9] Doris Meissner, "Cost and Staffing Analysis for Glasgow, Montana AFB," Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General

was especially attractive to Department of Justice officials as it offered, "A total turnkey package provided by a private sector consortium," and, "A primary objective of removing the entrants from government dependence."[10]

However, akin to legal battles in Florida over the Krome facility in Florida, litigation threatened to stymie detention efforts—this time by local Native American tribes claiming the INS had not filed an Environmental Impact Statement. The INS hoped that it could avoid litigation by meeting with local Indian leaders to explain its intentions. In the event that such "educational efforts" were unsuccessful, the INS Land and Natural Resources division planned to sidestep the National Environmental Policy Act using the NEPA exemption for detaining "Cuban/Haitian Entrants" included in the 1980 Refugee Education Assistance Act. INS litigation counsel Kathryn Oberly reasoned, "If, at a later date, INS wants to introduce other nationalities into the facility, it would be relatively easy to argue that the environmental impact of substituting, say, a Nicaraguan for a Haitian is zero, and thus no EIS would be required for a change in nationalities once the facility is operational."[11] Although this exemption had been and would continue to be useful in coordinating Cuban and Haitian detention efforts, such maneuvering in the case of Glasgow was unnecessary as the administration did not accept VIP's proposal after all. Associate Attorney General Rudolph Giuliani informed Montana Congressman Ron Marlenee in July of 1982 that while the Department of Justice appreciated the

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Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[10] PHP Corportation, "A Proposal to Operate a Transitional Center at Valley Industrial Park Montana," February 22, 1982, Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[11] Memorandum, Kathryn A. Oberly to David Crosland, September 21, 1981, Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

support and cooperation of the leaders of Glasgow, they had decided instead to, "locate the facility at the site of an existing Bureau of Prisons facility in order to obtain the cost savings and efficiencies which would result." Giuliani also noted that Montana's isolated location would make "alien transportation expenses" too high. "We continue, however, to consider Glasgow a viable option, on a contingency basis, in the event that space presently available proves insufficient to meet current needs."[12] A key part of implementing the administration's Mass Immigration Emergency Plan was maintaining a network of detention options such as this on a "stand-by" basis.

By the spring of 1982, the administration had narrowed down a list of several other locations to consider for a permanent detention site in addition to McAlester and Glasgow: El Reno, Oklahoma, Petersburg, Virginia, and Oakdale, Louisiana. El Reno and Petersburg were seen as advantageous locations because Bureau of Prisons facilities already operated there, removing land acquisition costs, and were more reasonably located near larger cities and the southern border. The administration also reasoned that local communities would be more likely to support the building of detention centers adjacent to existing prison facilities. In May of 1982 the INS and BOP, with congressional support, proposed that 1,000-bed facilities be established in both locations rather than a 2,000-bed facility in one location for "greater flexibility." The INS and BOP's first choice was La Tuna, Texas, but the administration decided that, "our historical difficulties with Texas should lead us to reject this option." A "fall-back" option was also established, "which could be quickly acted upon should serious difficulties arise in gaining political or community support. There is extremely strong congressional and community support,

[12] Letter, Rudolph W. Giuliani to Ronald C. Marlenee, July 16, 1982, Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

for example, for development of a facility in Oakdale, Louisiana, which INS believes is geographically well-situated for its purposes."[13]

Although public officials of McAlester, Oklahoma, initially approached the administration with their proposal for a detention center and early discussions were favorable, the site was ultimately rejected due to public opposition. Representative Frank Harbin, chairman of an ad hoc committee in charge of assessing public support for the detention center, conveyed what he believed would be his community's concerns about the project to the Attorney General. He asked if the facility would be different from Fort Chaffee, Arkansas, what the average length of detention would be, if aliens would be permitted to post bond and be released into the community, if there would be immunization controls put in place to protect the community from disease, if alien children would become students in local schools, and what kinds of jobs would become available for local citizens. Attorney General Smith responded that a detention center in McAlester would have very little impact on the local community and school system, would have "ample security," and the projected employment level of 300 to 700 for a detainee population of 2,000 to 5,000 would be comprised mainly of new hires from the local area.[14] Despite these reassurances, a public opinion poll of three hundred McAlester residents conducted by the University of Oklahoma revealed the public's opposition. Those polled by telephone opined that the two biggest problems facing McAlester at the time were Crime at 22.4 percent and the Alien Detention Center at 12.5 percent. The poll did not ask residents the reasons behind their support

[13] Memo, Rudolph W. Giuliani to William French Smith, May 5, 1982, "Site Selection for INS Detention Facility," Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[14] Letters, Frank Harbin to William French Smith and William French Smith to Frank Harbin, December 28, 1981 and February 9, 1982, Folder "RS/INS – McAlister [sic]," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

or opposition, but ultimately 30.9 percent were in favor of the detention center, 46.3 percent opposed, and 22.9 percent were unsure.[15]

The proposed facility in Petersburg, Virginia, faced even fiercer public opposition, reflecting high levels of anti-migrant sentiment. After meeting with prison officials, three congressional leaders in Prince George County concluded in a letter to Smith in July of 1982: "It is our collective judgment that the problems this facility will create in this area of Virginia far outweigh any possible related economic benefits…. The officials and residents from this area… are united in their opposition to this proposal." They attached resolutions from the cities of Prince George, Hopewell, and Petersburg confirming their unanimous opposition to the facility. Reasons for their opposition included specific references to Cuban detention at Fort Chaffee and general concerns about the impact of the presence of migrants on the local community. They wrote, "Based upon the real experience of other detention centers, it appears that many illegal aliens have been detained for durations extending from months to years. Usually, relatives or friends of the detainees move to close proximity of the center so they can be near them. Often this creates an additional financial and social burden to the community." Also cited throughout were references to the recent Supreme Court decision in *Plyler v. Doe* deeming it unconstitutional to deny public education to non-citizens. One attached city resolution concluded that the building of a detention center and the increased presence of migrants, "could lead to a dramatic increase in disease, crime and other civil unrest."[16]

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[15] The University of Oklahoma Research Center, "A Research Project Conducted for the Community of McAlester, OK," February 12, 1982, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[16] Letter, John W. Warner, Jr., Harry F. Bird, Jr., and Robert W. Daniel, Jr. to William French Smith, July 26, 1982, Folder "RS/INS – El Reno/Petersburg," Box 51, Subject Files of Associate

Anti-migrant sentiment was also expressed by those in favor of building detention centers in their communities, however, as proponents wanted their towns to contribute to increased immigration enforcement efforts while also benefitting economically. After Glasgow, McAlester, and Petersburg were discarded as viable detention locations, the choices were narrowed down to El Reno, Oklahoma, and Oakdale, Louisiana. By April of 1982, the Attorney General's office instructed the BOP and INS to work together on the detention project and choose a site as soon as possible.[17] By August, it appeared that budgetary constraints would not allow for two locations, and although the BOP was assigned the primary task of site selection, there was disagreement between the two agencies. The BOP preferred El Reno, a city of 17,500 in central Oklahoma, because it could be co-located with an existing facility on tax-exempt government property, while the INS favored Oakdale, a city of 7,155 in south-central Louisiana, because it better fulfilled their requirements overall.

El Reno citizens and public leaders debated the pros and cons of building a detention center in a congressional hearing in the summer of 1982, revealing an overall neglect of migrant welfare in favor of economic concerns on both sides. Those opposed to the facility were (predictably) concerned about the impact of the presence of migrants on the local community and the burden to taxpayers, while those in favor revealed a faith in the possibilities provided by the corrections industry for economic growth and effective immigration enforcement. Wade B. Houk of the Bureau of Prisons spoke first, addressing the general concerns of El Reno citizens. He asserted that most immigration detainees were single males, so their families would not be

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Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[17] "Responsibility for Proposed Alien Detention Facility," Memo from Rudolph W. Giuliani to Alan C. Nelson, April 14, 1982, Folder "RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

compelled to move to the area. Regarding security, he stated there had been very few escapes from detention centers overall and that most detainees were not criminals, they just did not have papers. "You have probably read about the violence associated with some alien detainee groups," he said, "Possibly some of the Cubans currently in detention at the U.S. Penitentiary in Atlanta, Ga. It is clear that these detainees who have been deemed nonreleasable by the Attorney General would not be held in the type of detention facility proposed for El Reno." He also claimed that comparisons to Fort Chaffee were not valid, as Fort Chaffee was a "temporary processing camp run by the State Department, not a permanent detention center run by the Bureau of Prisons and the Immigration and Naturalization Service."[18]

Support for the detention center was divided by gender. Out of twelve citizens who testified, all four who opposed the facility were female and seemed unconvinced by Houk's reassurances. They, like Petersburg residents, feared the recent *Plyler v. Doe* decision would impact the local school system and referenced the negative publicity surrounding Fort Chaffee. Two of those who were opposed questioned the Reagan Administration's detention policies in general, but even though Dolores Sanders expressed sympathy for Mexicans who were, "always deported," she did not express the same sympathy toward other migrant groups. She asked:

> Why is it that the Cubans, the Haitians are all brought into this country and considered legal, aided, given aid eventually. The Mexican comes in here the best way he can... I cannot understand why we have to hunt him down like an animal, why he has to go back into the conditions that he comes from when we bring other people into this country to live here in a great land and we give them everything.

Reflecting resentment towards migrant groups perceived as being unworthy recipients of government aid, Sanders' comments reveal the primacy of economic concerns. The other two

[18] "Proposal for Detention Center for Illegal Aliens in El Reno, Okla." Hearing before a Subcommittee of the Committee on Government Operations, House of Representatives, Ninety-Seventh Congress, Second Session, July 8, 1982 (Washington, D.C.: U.S. Government Printing Office Washington, 1982) 2-11.

female citizens who opposed the facility also expressed concerns over detention's social and financial impact on taxpaying citizens. Sylvia Robbins asked, "Why should we spend this much money to entertain illegal aliens and as I said, to fly them back to their country, when we would like to have money to go on vacations ourselves? …We want a better community and we need our policemen to get out there and make it better and get these illegals and delinquents, straighten what we've got right here instead of bringing more in and putting a greater burden on our community."[19]

The eight male respondents who favored the facility all cited the economic opportunities immigration detention would bring to El Reno. Local department store manager Delbert Simmons supported the facility because "very seldom" was there, "an opportunity to have a business come in that will bring 300 employees." The benefits to El Reno, he reasoned, would be "not only in increased employees… but also the tax dollars that we will receive as the facility is being built." Charles Beecham, a part-time college faculty member, decried a circulating petition against the facility that argued, "We're going to get Fort Chaffee moved over here next week. The whole town is going to be running with dope peddlers and things like that and people are going to have to take special precautions because of the undesirable element that is going to be brought in here." Beecham described those believing such "scare tactics," including his own 88-year-old mother, as uninformed, and supported the building of a detention center in El Reno for the growth and economic progress it would bring.[20]

In addition to arguing that such a facility would benefit El Reno economically, many male respondents also revealed a high level of support for the "law and order" the detention center would signify. William Audie Sherron, whose father was a warden at the federal

[19] Ibid., 29-31; 21-23.
[20] Ibid., 23-29.

penitentiary in El Reno, testified that "they operate to an outstanding degree on everything they do," and in response to those opposed to the facility who "don't want all the illegal aliens running around in our town," stated: "That is not what the center is going to be here for. It's a stopping place because it is a deportation center and they are being deported out of the country." Sixty seven-year-old Del Derigo appealed to El Reno's successful detention history: "We had a center during World War II for the Italian prisoners in El Reno, for the German prisoners in El Reno; no problem… When you've got the proper personnel controlling something, you're not going to have your problems." He also appealed to the center's purported economic benefits: "We know that this oil thing that we have here is very shortly going to depreciate… we have got to look in the future because El Reno has to grow. … It will bring money to the area, it will bring taxes to the area. It will help the building industry and we've got a lot of people around here in the building industry that would like to be working. Thank you." His statements, along with thirty-four-year El Reno resident Bill Copeland's, were met with applause. Bill Copeland was so supportive of the Reagan administration's policy of detaining immigrants that he stated the policy was "30 to 50 years behind time," and echoed the Reagan Administration's intention of deterring undocumented migration:

> True, there may be millions of aliens in the country and we would only be picking up a token number but by that picking up, say, 100,000, that will possibly deter others. Somehow they will develop a philosophy to convince these people that if they want to become United States of America citizens, they must do it correctly and not by whatever means… If we do not undertake to do something about the alien problem, there will be others who—just like Cuba, just by inundation, dumped many of their people on us… You've got to spend a little money to save thousands over a period of years. And if we should solve the alien problem, what would be wrong with making an additional corrective area out of what is constructed? [21]

[21] Ibid., 31-33; 26-27; 33-34.

At the hearing's end, it was apparent that a majority of the citizens had spoken in favor of the facility and El Reno mayor John Peddis concluded, "I feel that what has taken place today has been good."

Mirroring the reasoning of Bill Copeland and others, Senator Don Nickles of Oklahoma wrote to the Attorney General in support of the proposed El Reno facility, stating, "Not only do I support this because the majority of the people of El Reno desire the Center's location within their community, but more importantly, because I am convinced that El Reno will prove the more economical location in the long run." He concluded, "You have my full support for the Alien Detention Center because of my desire to see measures enacted which will discourage illegal immigration in our country."[22] Criminal justice policy analyst Judith Greene identifies a distinct rise in what she calls "prison boosterism" in the 1980s at the intersections of public anxieties surrounding rising crime rates (as explored in Chapter Three) and a "greed is good" flamboyance that epitomized the investment banking industry. Greene writes that this trend "entered its zenith when hundreds of tiny rural towns, desperate to stave off economic ruin triggered by mass capital flight overseas, reversed a long-standing tradition of "not in my backyard" and jumped into cutthroat competition to win the prison sweepstakes."[23] Indeed, not all American communities protested the building of detention centers as described in prior chapters. Some towns, such as Oakdale, Louisiana, welcomed the prospect of prison-building and bid for detention site selection with surprising passion.

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[22] Letter, Don Nickles to William French Smith, December 16, 1982, Folder "RS/INS – El Reno/Petersburg," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[23] Judith Greene, "Banking on the Prison Boom," in *Prison Profiteers: Who Makes Money from Mass Incarceration*, eds. Tara Herivel and Paul Wright (New York: The New Press, 2007) 13.

"A Recession-Proof Industry"

The choice between El Reno and Oakdale ultimately resided in the Attorney General. William French Smith's final selection of Oakdale in February of 1983 boiled down to two factors: public support and acceptance that Oakdale be used as a contingency facility in fulfillment of the Mass Immigration Emergency Plan. In the small town of Oakdale, public support for a detention center was overwhelming. When the administration indicated that it was leaning towards El Reno for a permanent detention site in April of 1982, Louisiana residents and officials did not give up. On April 29, one hundred and fifty telegrams from Oakdale residents flooded the Attorney General's office along with congressional pleas that jobs were "desperately needed in this area."[24] Indeed, the United States was in the midst of a deep economic recession in 1981 and 1982 with unemployment rates at their highest since the Great Depression. Inflation had been on the rise since the 1973 and 1979 oil and energy crises, yet the sharp recession of the early 1980s was immediately caused by Federal Reserve Board chairman Paul Volcker's effort to clamp down on money supplies by raising interest rates. While this effort did decrease inflation, the government's tight money policy triggered international recession, adding further pressures on patterns of migration and anti-immigrant sentiment in the United States.[25] Despite

[24] Memo, Renee L. Szybala to Ron Waldron, "Oakdale Louisiana," April 30, 1982, Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[25] Although Volcker was named chairman of the Federal Reserve Board by Carter in 1979, Reagan supported Volcker's policy while blaming inflation and the recession on Carter and previous Democratic administrations' "binge" tax and spend governments. Reagan sought no tax increases in 1982, which arguably exacerbated the recession further. See Wilentz, *The Age of Reagan*, p. 96, 147-8; Robert M. Collins, "The Reagan Revolution and Antistatist Growthsmanship," in *More: The Politics of Economic Growth in Postwar America* (New York: Oxford University Press, 2000).

these pressures, the more immediate need for employment in Oakdale overcame any concerns over the presence of undesirable migrants.

To the Bureau of Prisons, which favored El Reno, shared land use and cost were the most important factors in site selection. The Immigration and Naturalization Service, however, believed, "community acceptance to be an extremely important factor based on its experience," and also ascribed great importance to Oakdale's potential as a contingency site.[26] The Attorney General's office called it a "close call," but acted upon an INS recommendation that, "A decision to locate the permanent facility at a specific location could be tied to an agreement that would provide for a suitable contingency site that would accommodate 2,000 to 5,000 aliens in temporary quarters."[27] BOP officials arranged a meeting with local Oakdale officials on February 2, 1983, to discuss details regarding the final selection of Oakdale. The crucial aim of the meeting was to ensure the public officials' acceptance of and flexibility in using Oakdale in other capacities beyond a service processing center for migrants such as Krome or El Centro—namely, to also be used as a "contingency" site or as a federal correctional facility. Public officials unanimously agreed to these two options in a letter of understanding: "In the event that there is a mass influx of Alien Detainees, a temporary facility may be activated at the Oakdale ADC within a fenced perimeter… In the event there is not a sufficient population of Alien Detainees to permit utilization of the ADC, the ADC may be partially or wholly converted into a

[26] Memo, Rudolph W. Giuliani to The Attorney General, "Site Selection for New Alien Detention Facility," n.d., Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[27] "Site Selection Analysis for the Alien Detention Center," n.d., U.S. Department of Justice, Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Federal correctional facility."[28] The importance the administration placed on establishing this new facility as a multi-purpose one further reveals the new trend of enfolding of migrants into the criminal justice system.

On February 11, Attorney General Smith officially announced the selection of Oakdale, citing three main reasons: its location would lower alien transportation costs compared to El Reno, construction costs would be lower than El Reno, and "Community acceptance, which we consider to be an extremely important factor, has been overwhelming at Oakdale. Local, state and congressional representatives, as well as the citizens of Oakdale themselves, have given the facility enthusiastic support from the beginning because the new jobs created will help ease the city's high unemployment rate."[29] He did not reveal that the calculated overall operating costs at Oakdale would be higher than El Reno, but in an internal memo the Attorney General's office had decided, "The somewhat higher overall costs at Oakdale would be justified if we are able to use it as a contingency site." Also, "The overwhelming community support at Oakdale means it is highly unlikely that lawsuits would be brought in an attempt to block our efforts."[30] The administration predicted that a "tent-city" erected in an emergency situation would meet opposition in El Reno, but not in Oakdale. Thus, Oakdale became the Attorney General's final choice.

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[28] Memo, Alan C. Nelson to Rudolph W. Giuliani, "Meeting with Oakdale, Louisiana officials on Proposed Detention Center," February 9, 1983, Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[29] "Talking Points for the Attorney General: Selection of Oakdale, Louisiana as a Site for 1,000 Bed Alien Detention Facility," n.d., Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[30] Memo, Rudolph W. Giuliani to The Attorney General, "Site Selection for New Alien Detention Facility," n.d., Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

Upon the announcement of Oakdale's selection, the weekly *Oakdale Journal* published in the city of seven thousand ran a five-inch headline in red: "WE GOT IT!!" Mayor George Mowad related, "The mood of this town changed from depression to euphoria." Interestingly, the mayor's view of migrants differed from that of many other small town public officials, as he said, "The aliens are only poor people who came to this country to earn a living. They aren't criminals. The only crime they're guilty of is being born into abject poverty." Mowad's comments indicate a belief that the detention center would be beneficial to migrants, perhaps helping to fuel public support for the facility. However, the promise of new jobs trumped all other reasons for community support. Residents of Oakdale had sent hundreds of letters and telegrams to Reagan Administration officials, and Reverend Charles Soileau of the Sacred Heart Church held an all-night prayer vigil in support of the federal detention center. The year before, after a paper company closed in the nearby town of Elizabeth, Oakdale's unemployment rate soared to 30.2 percent. At the time of the announcement of Oakdale's selection, the unemployment rate was "down" to 24.5 percent. Fifty-nine-year-old Resident John Trahan said, "Man, I tell you, it's like a blessing. Hundreds of prayers have been answered. Now I pray I can get a job there." The Industrial Development Board of Elizabeth-Oakdale, Inc. played a large role in the site's selection. Chairman Jim Sandefur concluded, "It took 13 months of hard work and a lot of faith but now we've got a recession-proof industry."[31]

Three years later, construction of Oakdale was complete. "Oakdale is a real proud day for a lot of people," said Warden Steve Schwalb to a crowd of five hundred. "Never before have I seen such an esprit de corps and a sense of purpose among a group of employees." After the

[31] Sam LaSpada, "Center for aliens town's salvation?" *USA Today*, February 17, 1983.

invocation, the presentation of the colors, music performed by the U.S. Army band, the warden's speech, and the benediction, the dedication ceremony for the Federal Detention Center in Oakdale, Louisiana, on March 21, 1986, concluded with the band playing "God Bless America." The credits at the end of the INS video-recording of the dedication ceremony read: "A Premier Mission, A New Location, A Community Asset, A Safe Humane Environment, An Opportunity for Due Process, A Self-Supporting Entity, A Career Opportunity, A Source of Pride: The Federal Detention Center, Oakdale, Louisiana."[32]

BOP representative Wade Houk's reassurances to El Reno residents that the administration's new detention facility would not compare to refugee camps such as Fort Chaffee, Arkansas, were correct; the new facility was markedly more punitive. The first forty-six detainees arrived at Oakdale from the INS El Centro Service Processing Center on April 7. They were thirty men and sixteen women from Mexico, Central and South America, with twenty from El Salvador. Special assistant to the warden Ray Rowe relayed that the new prison was "a rather unique institution," with a higher capacity than all other existing detention centers combined. The American Civil Liberties Union had unsuccessfully tried to block Oakdale's construction on the grounds that its remote location would limit detainees' access to legal counsel, but the case was dismissed as premature. Reverend Ted Keating, a lawyer with the Ecumenical Immigration Services who planned on establishing a legal aid center for the detainees in Oakdale protested, "These people are utterly abandoned, innocent people ripped off the streets and put into a prison

[32] "Federal Detention Center, Oakdale, Louisiana: Dedication, March 21, 1986," Video 208, USCIS History Office and Library, Washington, D.C.

in the middle of Louisiana. This will create tremendous social needs. These people are not criminals. It's called a detention center, but it is a United States prison."[33]

The *New York Times* reported that upon arrival, the detainees were "Led into the handsome new prison, fingerprinted, told to shower, given new prison garb and taken to their quarters, doorless cubicles with bars on the windows. Outside the fence, two armed vehicles patroled." Rowe said the detainees would be given a recreational program, prison work for eleven to thirty-eight cents an hour, and Spanish lessons. "We will not give them lessons in English," however. "That only equips them to be better aliens."[34] Fort Chaffee, in contrast, had provided English lessons to Cuban detainees and its camp newsletter transitioned from all-Spanish to bilingual.[35] The difference lies in the evolution of detention's stated intent. While administrators at Fort Chaffee hoped to prime un-deportable Cubans for sponsorship and resettlement in American communities, detention at Oakdale aimed to sequester migrants for the sole purpose of removal. The Department of Justice's draft press release from the date of Oakdale's selection as a site for a permanent detention facility, February 11, 1983, originally stated that the new facility was part of "The Administration's program to detain excludable aliens and to ensure their ultimate deportation." Before final release, the words "their ultimate

[33] Frances Frank Marcus, "Prison for Aliens Opens in Louisiana," *New York Times*, April 8, 1986. The Oakdale facility, along with a federal penitentiary in Atlanta, would be the site of a major riot by Mariel Cuban detainees in 1987 after the president signed an agreement with Cuba providing for repatriation of some of the inmates. See Hamm, *The Abandoned Ones*; Kahn, *Other People's Blood;* and Robert Pear, "Behind the Prison Riots: Precautions Not Taken," *New York Times*, December 6, 1987.
[34] Ibid.
[35] See Chapter One.

deportation" were revised to read, "adequate enforcement of our immigration laws."[36] Although edited, the underlying intention remained, and Oakdale's remote location helped fulfill this goal.

The overall pride and excitement expressed by the community surrounding the establishment of the Oakdale facility may seem surprising but it evidenced a growing trend. As Judith Greene asserts, "Prison boosterism has come to pervade the thinking of many small-town mayors and county legislators, for whom prisons represent a "clean industry" more than a penal institution."[37] Volker Janssen has similarly noted that the growing prison industry, particularly in the U.S. Sunbelt, has likened prisons to military bases. "In this logic," he writes, "imprisonment might be considered a recession-proof service profession, offering steady sources of income and employment, no pollution, and no threat of downsizing… Faith in such economic benefits encouraged hundreds of rural communities across the country, particularly in the Sunbelt superstates of California, Texas, Florida, North Carolina, Georgia, and Colorado, to deputize themselves in the war against crime."[38] Calvin L. Beale, senior demographer at the Economic Research Service of the U.S. Department of Agriculture, has also concluded: "More than a Wal-Mart or a meat-packing plant, state, federal and private prisons, typically housing 1,000 inmates and providing 300 jobs, can put a town on a solid economic footing."[39] Although there is

[36] "Department of Justice: For Immediate Release," February 11, 1983, Folder "RS/INS – Oakdale," Box 53, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.
[37] Greene, "Banking on the Prison Boom," 13.
[38] Janssen, "Sunbelt Lock-Up," 230-1.
[39] Ibid.; Peter T. Kilborn, "Rural Towns turn to Prisons to Reignite Their Economies," *New York Times*, August 1, 2001, p. A1.

widespread belief in the economic benefits of prison building, recent studies indicate that prison-building does not necessarily benefit local economies.[40]

Whereas the Reagan Administration had in many instances met with fierce opposition to its immigration detention efforts, such as the opposition seen in Texas against Mariel Cuban relocation, rural areas like Oakdale hit hard by economic recession began envisioning new opportunities in prison building. In these cases, faith in the economic growth detention centers promised to bring overrode concerns over the negative impact of the presence of unwanted migrants in American communities. But the new detention facility at Oakdale did not only represent economic stability; it also stood as another symbol of Reagan's new security state—a modern, state-of-the-art facility, a "source of pride" that would streamline immigration enforcement and in so doing, reify American identity and belonging. In a further ideological step in keeping with the growing belief in the opportunities provided by prison expansion, the administration looked to private prison contracting as another solution to America's "alien problem."

"A Modern Facility for Aliens": The Rise of Private Contracting in Immigration Detention

> "Private prisons would be great if the primary purpose of the criminal justice was to warehouse inmates without providing them with meaningful opportunities for rehabilitation."
>
> -Alex Friedmann, prison commentator[41]

Jails operated by private parties originated in England in the Middle Ages, where profits were derived from fees charged to prisoners for the costs of food and lodging. Private party

[40] See Clayton Mosher, Gregory Hooks, and Peter B. Wood, "Don't Build It Here: The Hype Versus the Reality of Prisons and Local Employment," in *Prison Profiteers*, Herivel and Wright, eds., 90-7.
[41] Dow, *American Gulag*, 97.

jailers also sold meals to pretrial detainees in colonial America, but in sentencing fines and public punishments were favored over confinement itself. Penitentiaries emerged in the United States in the early nineteenth century, wherein incarceration again became the main form of punishment.[42] These institutions were predominantly established by state and local governments, but private interests became heavily involved, especially through the exploitation of prison labor. As David Shichor explains, "Because the modern prison was developed during a period of rapid industrial development in the Western world, it fit into the system of mass production. Almost from its inception, it opened the opportunity for various forms of private sector involvement in the organization of prison industry."[43] Prisons became an important source of inexpensive labor to fuel the Industrial Revolution. Towards the mid-century the "Auburn system" became widespread, modeled after the use of congregate, factory-type work done in complete silence in a penitentiary in Auburn, New York. In theory, this work would make incarceration pay for itself, but the power differential favored the contractors and surpluses were extracted for the government.[44]

Soon, the leasing of prisoners to private interests became the norm in the United States. The first such lease arrangement occurred in a Frankfort, Kentucky, state prison in 1825. The state, facing financial crisis and unable to turn a profit on convict labor, accepted a five-year offer from businessman Joel Scott of a thousand dollars a year for the work of convicts which he would manage.[45] Over the next several decades, some southern states leased prison inmates to work outside of the penitentiary, while other states resisted using inmate labor for profit. The

[42] David Shichor, *Punishment for Profit: Private Prisons/Public Concerns* (Thousand Oaks, CA: Sage Publications, 1995)19-26.
[43] Ibid., 29.
[44] Selman and Leighton, *Punishment for Sale*, 6-8.
[45] Shichor, *Punishment for Profit*, 34.

passing of the Thirteenth Amendment and the abolishment of slavery, which allowed for the exception of "involuntary servitude" in punishment for crimes, gave new impetus to expand the practice of leasing. The "Convict Lease" system operated from 1865 to 1923 and essentially served as a replacement for slave labor. As W.E.B. DuBois noted in 1901, "The South believed in slave labor, and was thoroughly convinced that the free Negroes would not work steadily or effectively. The whites were determined after the war, therefore, to restore slavery in everything but name."[46] Under this system, blacks comprised the majority of those leased out and private contractors profited at much higher rates than governments. The Convict Lease system was targeted by Progressive reformers in the early twentieth century and by 1923 was wholly replaced by the "state use" system in which inmate labor was used for public works.[47]

Today, private-contract prisons in the United States comprise the fourth largest prison system after the Federal, Texas, and California systems, and criminologist Michael A. Hallett identifies, "Three ominous similarities between the justification of for-profit imprisonment in the postbellum South under the Convict Lease system and the private prison industry of today." They are: "First, the social construction of a "Negro crime problem" after the Civil War; second, a dramatic corresponding rise in the incarceration rate of African Americans; and third, the existence of a well-connected cabal of for-profit "entrepreneurs" willing and eager to develop

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[46] Michael A. Hallett, *Private Prisons in America: A Critical Race Perspective* (Urbana: The University of Chicago Press, 2006) 1-4; Shichor, *Punishment for Profit*, 34-5. For more on the convict lease system as an extension of slavery, see A. Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Free Labor in the New South* (New York: Verso, 1996) and Mildred C. Fierce, *Slavery Revisited: Blacks and the Southern Convict Lease System, 1865-1833* (Brooklyn: Africana Studies Research Center, Brooklyn College, 1994). For more on for-profit incarceration in Texas in the nineteenth century, see D.R. Walker, *Penology for Profit: A History of the Texas Prison System 1867-1912* (College Station: Texas A&M University Press, 1988) and Robert Perkinson, *Texas Tough: The Rise of America's Prison Empire* (New York: Macmillan, 2010).

[47] Shichor, *Punishment for Profit*, 42.

means of private profit through incarceration."[48] Prison industry entrepreneurs of the late 1970s and early 1980s who touted the benefits of privatization, however, did not draw such connections between their vision and the racialized history of Convict Lease system. Instead, they viewed themselves as purveyors of an exciting new concept.

Prison analyst Judith Greene relates, "The economic downturn in the late 1970s provided an opportunity for ideologues at conservative think tanks such as the Heritage Foundation in Washington, D.C., and the Reason Foundation in California to push for privatization of government services." A few small facilities for juveniles and community-based programs such as halfway houses and drug rehabilitation centers began to operate on a for-profit basis in the late 1970s, but the use of private prisons to incarcerate adults was not attempted until after the Reagan administration launched its broad privatization initiative.[49]

How did the idea of prison privatization gain traction during this time period? I argue that immigration detention provides a crucial link in understanding the growth of private contracting in prisons from a local to a federal scale and from the contracting of discrete services in prisons to the building and running of entire facilities. The climate of immigration crisis as articulated by the Reagan Administration justified the use of the first federal contract detention facility, and migrants served as a convenient test population for such an experiment.

Generally, prison privatization means the transfer of prison functions from the government to the private sector. This can occur on various levels:

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[48] Hallett, *Private Prisons in America*, 31.
[49] Judith Greene, "Entrepreneurial Corrections: Incarceration as a Business Opportunity," in *Invisible Punishment*, Maurer and Chesney-Lind, eds., 96. See Philip E. Fixler and Robert W. Poole, Jr., "The Privatization Revolution: What Washington Can Learn from State and Local Government," *Policy Review* (June 1986) 68-73 for arguments in favor of privatization from the Reason Foundation.

1. The contracting out of specific services such as food, laundry, education, medical and mental health care.
2. The contracting out of prison labor, as seen in the Convict Lease system.
3. The construction and lease or purchasing of facilities, as an alternative to funding by cash appropriations or public bonds.
4. The complete ownership and operation of prisons.

Arguments in favor of all four of these increased in circulation into the late 1970s. By the early 1980s, most states were employing the use of contracts for the supply of various services in prisons.[50] Contracting for food and security services was also commonplace in the detention of Mariel Cubans and immigrants on U.S. military bases and in INS detention centers. By the late 1970s, state and federal measures were enacted to lift restrictions on private sector use of prison labor. In 1981, Florida became the first state to contract out its entire prison industry to the management of Prison Rehabilitative Industries & Diversified Enterprises, Inc. (PRIDE).[51] This study focuses on the third and fourth levels of privatization described above, as privatization in immigration detention in the early 1980s marked the first time federal contracts were granted for entirely *new* prisons built from the ground-up.

Amidst public fearfulness of growing crime rates, prison overcrowding in the late 1970s and early 1980s provided the foundation for arguments in favor of prison privatization. Advocates argued that privatization would address overcrowding because facilities could be built at a faster rate with more innovation, would be more flexible in addressing correctional needs, and would attract higher quality workers, all at less cost.[52] In 1981, Peter Greenwood of California's RAND Corporation argued that, "bigger, newer prisons will not necessarily be better prisons… We need a better way to handle society's offenders." On the failure of the government

[50] Shichor, *Punishment for Profit*, 14.
[51] Dana Joel, "A Guide to Prison Privatization," *The Heritage Foundation*, May 24, 1988, http://www.heritage.org/research/reports/1988/05/bg650-a-guide-to-prison-privatization.
[52] Shichor, *Punishment for Profit*, 15-7.

to fix the issues of prison overcrowding and violence, he claimed: "The government is not going to give us better prisons, better programs or better personnel. It has tried, but it can't… There is absolutely no reason why the operation of our prisons could not be contracted out… There is nothing about running a prison that requires the government to be involved." He suggested that one prison be run on an "experimental basis" for a limited time to test privatization's effectiveness. Reflecting a faith in the free market, Greenwood concluded that private prison managers would be free to innovate and "use the latest technology and management techniques as in any profit-motivated service industry."[53] This line of reasoning went hand-in-hand with the growing disdain for government waste and bureaucracy articulated by Reagan in his inauguration speech.[54]

Selman and Leighton assert, "Privatization thus requires both a strong antigovernment sentiment and a simultaneous pro-business bias. In the case of private prisons, this combination must be strong enough to overcome concerns about contracting out what many consider to be a core government function."[55] The move toward prison privatization must be understood, then, within a larger movement to outsource many government functions—a movement strong enough to reject critics' assertions that the power to incarcerate is "intrinsically governmental in nature." The question of who ought to administer justice harks back to Max Weber's definition of the modern state as a legitimate monopoly over the use of force. Indeed, critics of privatization have pointed to the nondelegation clause of the U.S. Constitution in questioning the legality of

[53] Peter Greenwood, "Private-Enterprise Prisons? Why Not? The Job Would be Done Better and at Less Cost," *Los Angeles Times*, May 11, 1981, p. C5.
[54] See Chapter Three.
[55] Selman and Leighton, *Punishment for Sale*, 48.

delegating responsibility for the restricting of liberties.[56] As Selman and Leighton conclude, however, "These concerns did not stop prison privatization from taking root."[57] In 1981, the White House launched The President's Private Sector Survey on Cost Control, better known as the Grace Commission. Reagan announced, "We're asking to form a partnership between the private and public sector," marking his intention to promote a free market ideology.[58] The commission resulted in one hundred and sixty-one executives from the private sector releasing a 23,000-page report on government waste and inefficiency, determining that privatization could save $424 billion over the following three years.[59] According to many, the Grace Commission's findings marked an important turn revealing the president and the public's heightened interest in privatization.

The first entire facility to be contracted out to private management in the modern era was the Weaversville Intensive Treatment Unit for juveniles in Pennsylvania in 1975. The state Attorney General had mandated that prisons could no longer hold "hard core" juvenile delinquents, and so the state, unable to provide a new facility on short notice, turned to the Radio Corporation of America which was already running educational programs for juveniles. RCA took only ten days to set up one of its facilities and sign a contract. The facility operated like a college, providing educational services, a structured daily schedule, and housed around twenty

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[56] Ira Robbins, *The Legal Dimensions of Private Incarceration* (Washington, D.C.: The American Bar Association, 1988).
[57] Selman and Leighton, *Punishment for Sale*, 55. For more on the debate over prison privatization, see also Shichor, *Punishment for Profit* and Alexander Tabarrok, ed., *Changing the Guard: Private Prisons and the Control of Crime* (Oakland, CA: The Independent Institute, 2003).
[58] "Report of the Secretary of Transportation and Public Safety on Privatization in Corrections," House Document No. 7 (Richmond: Commonwealth of Virginia, 1987) 4; http://leg2.state.va.us/dls/h&sdocs.nsf/fc86c2b17a1cf388852570f9006f1299/8c8bad0081a19af285255fda00752620/$FILE/HD7_1987.pdf.
[59] Ibid., 53-4.

"residents" who had their own keys to dorm-like rooms.[60] On a federal level, private industry made inroads in "less visible regions of the penal system" in the late 1970s and early 1980s. By the late 1970s, for example, seventy percent of federal contracts to place inmates in community treatment centers were with private providers.

The INS began contracting with private firms in 1979 to hold pre-trial migrant detainees, and in 1980 the first facility-management contract via competitive bidding was granted to Ted Nissen's California-based company Behavioral Systems Southwest. Nissen, a former guard at San Quentin prison and parole supervisor, ran a non-profit drug treatment center in California in the mid-1970s. According to his partner, he initially "didn't want to make money off inmates and addicts," but when she incorporated the company as a for-profit, Nissen finally agreed to it.[61] Selman and Leighton argue that, "while these developments went relatively unnoticed and provoked little controversy, this emerging market, especially at the federal level, was critical to the private prison companies of today." Selman and Leighton aptly identify the importance of the link between private contracting in these "less visible" areas of penology that provided, "the principle financial seedbed for the wave of private companies that would become involved in the imprisonment of adult inmates in the 1980s and beyond." However, their work, like many others, glosses over the central role migrant detainees and the Reagan Administration's new policy commitments to immigration detention played in the turn toward privatization.[62]

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[60] Peter Young, "The Prison Cell: The Start of a Better Approach to Management," (London: The Adam Smith Institute, 1987) http://www.adamsmith.org/sites/default/files/images/uploads/publications/prisoncell.pdf.
[61] Selman and Leighton, *Punishment for Sale*, 60-1.
[62] Ibid., 61. Selman and Leighton argue that the Corrections Corporation of America's failed bid in 1985 to take over the Tennessee prison system, and the media attention it garnered, was a "crucial event" for private prisons to gain traction in adult (citizen) incarceration. While I wholeheartedly agree, the role of immigration detention in this process as explored in this study fills in missing gaps in Selman and Leighton's account. Granted, immigration detention may be a

Debates over the use of privatization and its effectiveness in immigration detention within the Reagan Administration reveal that private contracting was not necessarily embraced by all or seen as the best solution, but in the hurried climate of prison overcrowding and foreseeable immigration emergencies it was adopted in many cases as a quick fix. In developments leading up to the first fully contracted facility, small-scale experiments in privatization were assessed, and deemed acceptable, by the Reagan Administration.

As was becoming more common in incarceration administration by the late 1970s, FEMA used various service contracts in the processing and detention of Mariel Cubans in 1980. The Carter Administration, overwhelmed and underprepared for the large number of Cuban arrivals, found itself with "a scarcity of enforcement assets" in the activation of its four military camps. Administrators at Camp Libertad at Eglin Air Force Base, Florida, for example, discussed how best to handle growing security concerns. They believed military personnel should be phased out in favor of civil and private sector "Renta Cop" policing. Service needs such as food, recreation, and medical treatment were also met through contracts. Private contracting was desirable for three stated reasons. First, it was more economical; local food service hires could be paid three dollars an hour versus the Air Force mandate of five. Second, private contracting could provide expertise where needed, such as in field medicine where FEMA did not have the "technical competence to assess medical guidelines." And third, contracting was seen to have an added benefit of being "a good way to dump money on the local

"less visible" form of incarceration in the United States, but that is precisely *why* it was so instrumental during this period of experimentation with privatization.

economy."[63] Administrators concluded, "The ultimate purpose of these contracts and any other's [sic] yet to be determined are to relieve military costs from operations, management and support of all refugee function at Camp Libertad," and recommended that the camp "expedite implementation of all contracts."

Service contracts were also used in the detention of Haitians at Fort Allen, Puerto Rico, and deemed highly effective by administrators. Much like in the case of Cuban detention needs, contracts were necessary for the activation of the detention facility in "the most expeditious manner," in an "emergency situation."[64] After a BOP staff visit to Fort Allen in November of 1981, warden Thomas Keohane, Jr. from Miami's Federal Correctional Institution relayed his strong praise for Fort Allen's management, especially its successful use of contract food and guard services. He stated that both the food service program, provided by Indiantown Gap International, and the Securities Association International contract guard service were the "best I have ever seen." The contract guards, he reported, related well with the Haitians and showed professionalism and compassion. As a "necessary force," the guards' drilling in view of the enclaves, "serves as a deterrent to Haitians who would be inclined toward being rebellious," and, "there is no other resource to draw from to get emergency assistance." He concluded, "There is a prevailing sense of pride at Fort Allen and I believe it is a result of capable leadership by INS and the outstanding qualifications of the Puerto Rican contract and temporary hired personnel on

[63] "Federal Control Center, Status of Commercial Contracts, 20-23 May," Folder "Gastón A. Fernández: Federal Control Center Documents, 1980 (2/2)," Box 1, Fort Chaffee Collection, CHC 5175, Cuban Heritage Collection, University of Miami.
[64] Memo, Doris M. Meissner to Rudolph W. Giuliani, "Start-Up Contracts in Support of Fort Allen, Puerto Rico," September 8, 1981, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

the base. The professionalism and performance of all the staff at Fort Allen is an example for all other similar centers to emulate."[65]

Beyond the use of service contracts to facilitate camp administration, the first considerations of *federal* contracts for the leasing of entire detention facilities were prompted by the urgent need to detain immigrants, beginning with the relocation of Mariel Cubans from Fort Chaffee, Arkansas. Valley Industrial Park's Montana bid to the Reagan Administration (as discussed above) was pitched as a "transition center" for both Mariel Cubans and other migrants with a "primary objective of removing entrants from government dependence."[66] VIP's bid reassures: "We have made preliminary determinations of availability of contractors for security, food service, and maintenance of the compound," and touts its "capability to be in readiness on short notice."[67] Giuliani's thank you for the bid expresses the administration's desire to "develop a modern facility for aliens" and the attractiveness of a "quick start-up time," but at the time co-location with an existing Bureau of Prisons facility was deemed more cost-effective. It is important to note here, though, that at this point detention's stated purpose of transition and reintegration into the American community still existed, much like how Behavioral Systems Southwest's contract facility in Pasadena, California, operated. The Pasadena facility, a converted convalescent home, described by the *Los Angeles Times* as an "experimental sort of

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[65] Letter, Thomas F. Keohane, Jr. to Stanley McKinley, November 3, 1981, Folder "RS/Fort Allen – INS," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[66] PHP Corportation, "A Proposal to Operate a Transitional Center at Valley Industrial Park Montana," February 22, 1982, Folder "RS/INS – Glasgow," Box 52, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[67] Letter, D.C. Beckman to Craig Fuller, January 20, 1982, Folder "February '82," Box 3, Chronological Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

cozy custody… the first of its kind," opened in December of 1980 as a "money-saving effort" according to INS representative Francis J. Hicks. It housed a dozen Cubans from Fort Chaffee along with Central American migrants fleeing war-torn Nicaragua and Honduras waiting on asylum trials. Residents expressed appreciation for the family unity hostel-like living conditions allowed, while Hicks said centers like it could both save money and provide a "far less threatening" kind of security. "We've tried to keep it as un-penal as possible."[68] As detention needs accelerated and detention's intent turned more towards the punitive, the use of contract facilities continued to be debated.

Not all Reagan Administration officials were convinced of the effectiveness of private contracting. When the administration considered transferring responsibility for migrant detention from the INS to the BOP in the spring of 1982, the Attorney General's office weighed the pros and cons. It noted that a transfer would result in higher government employment levels because the BOP would not use contract guards as the INS had, which would be a "disadvantage." The Attorney General's office concluded, "The INS contract guards have not performed well, however, and not using contract guards is an advantage from a management perspective."[69] In the spring of 1983, the administration still found itself pressed with the issue of overcrowding and the need to locate detention space. A proposal to transfer a BOP facility in Florence, Arizona, to the INS justifies the transfer in a "significant increase in alien apprehensions and a concomitant need for detention space in INS' Western Region… INS must compete with other

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[68] Patt Morrison, "Alien Families Find a Refuge From Fear at Detention Center," *Los Angeles Times* April 10, 1981, p. B3.

[69] Memo, Renee L. Syzbala to Rudolph W. Giuliani, "Responsibility for Alien Detention," March 26, 1982, Folder RS/INS – Detention BOP," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD. See Chapter Four for more on the transfer of detention responsibility to the Bureau of Prisons and administrative problems in the use of INS/contract guards.

Federal, state and local entities for limited jail space. Acquisition by INS of the Florence facility will diminish INS dependence on scarce and expensive contract facilities."[70] The BOP and the INS did not seem to favor contract facilities and even considered them expensive, yet it would only be a few months before the Corrections Corporation of America landed its first contract with the INS to build a detention center in Houston, Texas. What explains this decision?

The selection of Oakdale, Louisiana, for the building of a permanent immigration detention site marked one step towards the fulfillment of the Reagan Administration's long-term enforcement plans, but it still left the INS under immediate pressure to locate interim detention space. The decision to use contracting to establish new detention space, which arguably resulted in the birth of a whole new industry, was made within the larger context of a perceived immigration crisis, INS budgetary constraints, and a broader turn towards privatization as a solution to the inefficiencies of "big government." The Attorney General ordered a directive to the INS and BOP in April of 1983 that emergency "temporary tent facilities" be established near the southern border, "as soon as possible." INS Commissioner Nelson and BOP Director Carlson responded:

> Because of significant increases in the number of alien apprehensions and detentions on the southern border, the need for a dual approach to acquiring additional detention space is evident. This will require the use of both contract "turnkey" facilities and preparation of sites suitable for activation as temporary tent enclaves… Further, BOP/INS are exploring the feasibility of a joint venture of acquiring new contract detention space in Texas to be shared by the two agencies.[71]

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[70] Memo, Norman A. Carlson and Alan C. Nelson to Rudolph W. Giuliani, "Proposed Transfer of the Federal Detention Center, Florence, Arizona from the Bureau of Prisons to the Immigration and Naturalization Service," Folder "Bureau of Prisons," Box 3, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

[71] Memo, Alan C. Nelson to Rudolph W. Giuliani, "Contingency Detention Space at BOP/INS Facilities," May 20, 1983, Folder "RS/INS – Detention Facilities," Box 51, Subject Files of Associate Attorney General Rudolph W. Giuliani, General Records of the Department of Justice, Record Group 60, National Archives and Records Administration, College Park, MD.

They also noted that funding for new detention space had not yet been identified, a problem that a contract facility could solve. For short-term detention solutions, the Reagan Administration turned to "tents" and "turnkeys"—a hasty decision that would have lasting ramifications.

In his work on the proliferation of prison-building in the American Sunbelt, Janssen posits, "Neoliberal forms of state governance that have shaped the region's post-Fordist economies, housing, education, politics, and public spaces have also born strange fruits in American punishment—like private corrections, supermax prisons, and soaring incarceration rates." The "Sunbelt" as a concept itself originated in Republican strategist Kevin Phillips' resurrection of the World War II military term "sunshine belt" describing favorable training conditions south of the thirty-seventh parallel. Phillips used the term in 1969 to describe an "emerging Republican majority" aligned by a pro-growth, pro-family, pro-defense, antilabor, and antistatist agenda.[72] Nickerson and Dochuk characterize the Sunbelt as an imagined "frontier-for-the-taking," as, "Americans saw this terrain as a blank slate upon which a prosperous future could be built."[73] Indeed, America's first enterprising prison profiteers emerged from this new Sunbelt coalition. Janssen asks, "Could the suburban landscapes of the Sunbelt, which are so deeply invested in fantasies of growth and consumption, have fostered a political approach to crime and social disorder that drove the prison boom of the last quarter century?"[74]

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[72] David R. Goldfield, "The Rise of the Sunbelt: Urbanization and Industrialization," in *A Companion to the American South,* John B. Boles, ed. (Malden, MA: Blackwell, 2002) 474-93; Kevin Phillips, *The Emerging Republican Majority* (New Rochelle, NY: Arlington House, 1969).

[73] Nickerson and Dochuck, *Sunbelt Rising*, 4.

[74] Janssen, "Sunbelt Lock-Up," 219. It should be noted that although scholars of prison privatization in the United States (and the English-speaking countries of Australia and the United Kingdom) have on the whole identified it as a "neoliberal" ideological project, and I highlight

Perhaps it is no coincidence that the first two companies given federal prison contracts were Tennessee's Corrections Corporation of America (CCA) and Florida's Wackenhut Corporation to build immigration detention facilities in Texas and Colorado, respectively.[75] A closer look at CCA's founding reveals the socioeconomic, cultural, and political conditions in which today's "immigration-industrial complex" was born, exemplifying the coalescence of Reagan's new security state.[76]

"Just like you were selling cars, or real estate, or hamburgers"

At a Republican presidential fundraiser early in 1983, Nashville businessmen and former West Point roommates Thomas Beasley and Doctor ("Doc") Crants hit upon the idea of prison privatization during a conversation with a Magic Stove Company executive who, "said he thought it would be a heck of a venture for a young man: To solve the prison problem and make a lot of money at the same time."[77] Beasley was the Tennessee Republican Party chairman and had served on a committee in the late 1970s researching state corrections. He believed that "the

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the punitive intent of immigration detention as established by the Reagan Administration in this study, studies of prison privatization in other nations have uncovered alternative, more humane, motivations behind privatization. See Michael Flynn and Cecilia Cannon, "The Privatization of Immigration Detention: Towards a Global View," *Global Detention Project* (Geneva, Switzerland: The Graduate Institute of International Studies, 2009).

[75] Today, the Corrections Corporation of America is the largest private prison contractor in the United States, and the Wackenhut Corporation, now the GEO Group, Inc., is the largest private prison contractor in the world. "CCA – Welcome to CCA!," http://cca.com/; "GEO Facts," http://www.geogroup.com/geo_facts.

[76] First coined by Deepa Fernandez, Tanya Golash-Boza defines "immigration-industrial complex" as: "The public and private sector interests in the criminalization of undocumented migration, immigration law enforcement, and the promotion of 'anti-illegal' rhetoric." Tanya Golash-Boza, "The Immigration Industrial Complex: Why We Enforce Immigration Policies Destined to Fail," *Sociology Compass* 3 (2009) 2; Deepa Fernandez, *Targeted: National Security and the Business of Immigration* (St. Paul, MN: Seven Stories Press, 2007).

[77] Selman and Leighton, *Punishment for Sale,* 55-6.

application of a few simple business practices," could address problems of tight budgets and prison overcrowding, and recalled, "We knew the era of big government was over. We could sell privatization as a solution, you sell it just like you were selling cars, or real estate, or hamburgers."[78]

Beasley and Crants incorporated the Corrections Corporation of America in January of 1983 with the stated purpose: "To provide an innovative alternative to the problems of corrections and detention facility planning, financing design, construction and management."[79] They recruited American Corrections Association president and Virginia corrections director T. Don Hutto as a co-founder. Beasley and Crants needed Hutto to lend credibility to CCA as neither of them had any experience with prisons. Hutto had been the director of corrections for the state of Arkansas in the 1970s, during a time of much litigation over prison conditions. While CCA champions Hutto as a reformer, critics point out the Supreme Court's 1978 decision in *Hutto v. Finney* that conditions in Arkansas prisons and the use of administrative segregation constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments and that prison officials had "acted in bad faith in failing to cure the previously identified violations." The Supreme Court decision speaks of rape, torture, and ten-hour prisoner workdays, which prompted the court to comment: "The administrators of Arkansas' prison system evidently

[78] Ibid.; Tina Gant, ed. "History of Corrections Corporation of America," *International Directory of Business Histories, volume 23* (Farmington Hills, MI: St. James Press, 1998) 158. Available at fundinguniverse.com/company-histories/Corrections-Corporation-of-America-Company-History.html.

[79] "Report of the Secretary of Transportation and Public Safety on Privatization in Corrections," House Document No. 7 (Richmond: Commonwealth of Virginia, 1987) 70; http://leg2.state.va.us/dls/h&sdocs.nsf/fc86c2b17a1cf388852570f9006f1299/8c8bad0081a19af285255fda00752620/$FILE/HD7_1987.pdf.

tried to operate their prisons at a profit." The court also noted Hutto's failure to hire an adequate number of African Americans during his tenure.[80]

Together, Crants, Beasley, and Hutto pitched their private prison concept to venture capitalist Jack Massey in February of 1983. Massey's investment group, Massey Burch, had also funded Kentucky Fried Chicken, the Hospital Corporation of America, Mrs. Winner's Chicken and Biscuits, and a major franchisee of Wendy's hamburgers.[81] After a fifteen-minute presentation, Massey floated the partners half a million dollars. Within six months CCA had its first contract, $8.2 million to build a 350-bed INS detention facility in Houston, Texas. Two years later, Beasley told *Financial World* magazine, "We're on the ground floor of a multibillion-dollar industry," and in 1988 Doc Crants admitted that the company's profit-making formula was "so simple, it's shocking."[82]

In a video interview set to upbeat big band music, Beasley recalls, "[Hutto's] reputation caused a meeting to occur between the Federal Bureau of Prisons and the immigration service about a joint venture in Texas to house illegal aliens. And out of that grew… the first contract *ever* to design, build, finance, and operate a secure correctional facility in the world." CCA

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[80] *Hutto v. Finney*, 437 U.S. 678 (1978). See also Selman and Leighton, *Punishment for Sale*, 56-8; Craig Becker and Amy Dru, "The Downside of Private Prisons," *The Nation*, June 15, 1985, p. 728; Philip Mattera and Mafruza Khan, "Corrections Corporation of America: A Critical Look at its First Twenty Years," Grassroots Leadership, Good Jobs First, and Prison Privatisation Report International, December 2003. Available at http://www.goodjobsfirst.org/sites/default/files/docs/pdf/CCA%20Anniversary%20Report.pdf.

[81] Although Beasley touted the success of the Hospital Corporation of America, claiming "CCA will be to jails and prisons that are owned and managed by local, state and federal governments what Hospital Corporation of America has become to medical facilities nationwide," HCA had been accused of "cherry picking profitable admissions, cream skimming and patient dumping," and went under investigation in the largest health care billing fraud case in U.S. history. Selman and Leighton note this history is important, as CCA would be accused of the same practices over the next several decades, and "CCA legitimated private prisons partly based on the "success" of for-profit health care." Selman and Leighton, *Punishment for Sale*, 58-9.

[82] Gant, "History of Corrections Corporation of America," 158.

promised the INS they would design and build their new facility in ninety days. Hutto relays that as the deadline drew near, he and Beasley flew to Houston on New Year's Eve to find a site. By one a.m., "We were both getting pretty weary… And we saw this big ol' sign, 'The Olympic Motel.' Made an offer to lease the hotel for four months and… Finally, after hiring all his family, and paying everyone that he knew a salary during the four months that we'd have that and agreeing to give it back to him in three-times as good of condition as we got it in, and to leave all the improvements in place, we finally signed the deal." The motel-turned-detention center, with a twelve-foot high cyclone fence erected around its perimeter and bars put over its windows, opened on Super Bowl Sunday. The first detainees arrived at ten o'clock that night. Beasley chuckles at the memory as Hutto recalls, "I actually took their picture and fingerprinted them… and several other people walked them to their 'rooms,' if you will, and we got our first day's pay for 87 undocumented aliens."[83]

The Olympic Motel, lying on the edge of a residential neighborhood, was a temporary arrangement while CCA constructed its larger facility south of the Houston airport. Soon after the detainees arrived, seven of them escaped by pushing the air conditioning units out of their room's windows, crawling through the holes, and climbing over the fence.[84] Hired ABM Security Services guard Joe Beezley said, "It's not bad for a jail… but still, I think if I were here I'd try to climb that fence." The *New York Times* reported that the escapes did "nothing to calm the fears of some area residents who were already jittery about having the detention facility in

[83] Video, "Corrections Corporation of America's Founders Tom Beasley and Don Hutto," You Tube, accessed May 11, 2014. https://www.youtube.com/watch?v=DAvdMe4KdGU. This interview originally appeared on the CCA website, but was removed after it was criticized by migrants rights groups.

[84] Philip Mattera and Mafruza Khan, "Jail Breaks: Economic Development Subsidies Given to Private Prisons," (Washington, D.C.: Good Jobs First, October 2001) 1. Available at http://www.opensocietyfoundations.org/sites/default/files/jb_complete.pdf.

the neighborhood."[85] The escapes also raised questions of the legality of contracting out detention functions, as guards were powerless to chase and apprehend the non-citizens. But detaining immigrants proved convenient to CCA's aims as it enabled the company to conduct this first experiment in prison privatization in a minimum-security setting while garnering relatively little attention, despite local public concerns. As Beasley told the American Bar Association, "We plan to do minimum security facilities first, develop a track record, then go into other possibilities… We're on the cutting edge of a new industry."[86]

Beasley continued, "The first question we had to explore was whether the operation of a prison was a delegable power… And we quickly concluded that it was. There was substantial precedent for that. There are guard services and security services that deputize their employees and give them sufficient authority to deal with force with prisoners." He did expect legal challenges, though. "That's just the nature of the beast."[87] Before CCA was awarded its contract, the ACLU's local Houston chapter had brought a suit against the INS in 1981 over the use of contract guards after sixteen Colombian stowaways were held by a private security agency pending deportation. When they attempted escape and were recaptured, a guard's shotgun discharged and one detainee was killed and another injured. In May of 1984, a federal judge ruled in favor of the ACLU, stating, "Because both immigration and detention are traditionally the exclusive prerogative of the state, it is evident that the actions of all the defendants were state action within the purview of the public function doctrine."[88] The government successfully

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[85] Wayne King, "Contracts for Detention Raise Legal Questions," *New York Times*, March 6, 1984, p. A10.
[86] Vicki Quade, "Jail Business: Private Firm Breaks In," *American Bar Association Journal* 69, No. 11 (November 1983) 1611.
[87] Ibid.
[88] Martin Tolchin, "As Privately-owned Prisons Increase, So Do Their Critics," *New York Times*, February 11, 1985.

appealed the decision and maintained the right to use contract guards.[89] The National Sheriffs' Association also immediately opposed the privatization of jails. H. Jerome Miron contended, "The prospective benefits are being promoted without looking at the civil liabilities," and that sheriffs were legally bound to be, "the sole agent to manage and operate jails… Can you set up a contract that covers all the issues? The facts aren't in."[90]

The *Wall Street Journal* opined that only intellectuals on the far left (such as the ACLU) and government employee organizations opposed privatization, however, and supported proponents' beliefs that bypassing civil service and union restrictions would enable efficiency and lower costs.[91] CCA acknowledged that construction in suburban Sunbelt regions had the benefit of avoiding heavily unionized areas.[92] The Sunbelt was also ideal for tapping into the growing network of immigration and border enforcement. And so, privatization began to proliferate. After CCA secured its first contract, it was awarded a second to build a 175-bed INS facility in Laredo, Texas, and it began negotiations to manage a medium-security 300-bed workhouse-penal farm in Hamilton County, Tennessee, as well as jails in Florida, Nevada, New Mexico, and West Virginia. The Wackenhut Corporation (which would later become The GEO Group, Inc.), headquartered in Palm Beach Gardens, Florida, and already the largest independent private security firm in the United States, was awarded an INS contract to build a detention facility in Aurora, Colorado, shortly after CCA's first. Its future contracts would include two

[89] King, "Contracts for Detention Raise Legal Questions." March 6, 1984.; "Private Firms Operate Jails, Legality Challenged," *The Washington Post*, December 20, 1984, p. E1.
[90] "Private Firms Operate Jails," *The Washington Post*, December 20, 1984.
[91] Philip E. Fixler, Jr., "Behind Bars We Find an Enterprising Zone," *Wall Street Journal*, November 29, 1984, p. 34.
[92] Gant, "History of Corrections Corporation of America," 158.

500-bed INS facilities in Texas, and a monumental 1,300-bed medium-security facility in Florida.[93]

Debates over the use of prison privatization continue to this day, but successive administrations have continued to affirm it as an efficient and economical solution. The initial debates that arose after the government's first experiments with privatization reflected the tensions that grew out of the Reagan Administration's extension of executive authority in immigration enforcement as explored in this dissertation. Major organizations in favor of privatization were the American Correctional Association and the National Governors Association, and major organizations against it were the American Bar Association, the ACLU, the American Federation of State, County, and Municipal Employees, the National Sheriffs' Association, and the National Association of Criminal Justice Planners.

Some early reviews of CCA's Houston facility were positive. American Correctional Association director Anthony Travisono told *U.S. News and World Report* in 1984, "Many public officials hate running jails and find it attractive to get the problem off their backs while saving tax money."[94] Houston INS Director Peter B. O'Neill called CCA's Houston facility "a perfect installation" and related, "It's been an absolutely outstanding relationship. They know just exactly what they are doing."[95] Former INS director Leo Castillo also praised the

[93] Jay P. Pederson and Tina Gant, *International Directory of Company Histories, Volume 63* (Farmington Hills, MI: St. James Press, 2003). Available at http://www.fundinguniverse.com/company-histories/the-wackenhut-corporation-history/.
[94] "Legislative Update and Research Reports," South Carolina House of Representatives, vol. 2, no. 13 (April 1985). Available at http://dc.statelibrary.sc.gov/bitstream/handle/10827/9762/HOUSE_Legislative_Update_1985-4-1.pdf?sequence=1.
[95] Marjorie Anders, "Profiting from Prisons," *The State*, August 11, 1985.

establishment, saying, "Physically, by INS standards, this facility is one of our best."[96] Reverend Thomas Sheehy of the Roman Catholic Diocese of Galveston-Houston in charge of liaison with the detention center said, "If I had a choice of the private organization, or it being run by the INS, I would take this private organization. They're much more humane. The guards haven't been in the business that long, so they're not calloused."[97] London's Adam Smith Institute also heartily endorsed CCA and the United States' experimentation with prison privatization, and recommended that Britain adopt a similar model to address its growing prison management concerns. The institute concluded that CCA's Houston facility would have taken the INS two extra years to build and, "CCA's speed of construction and low cost is due to innovative private-sector design and construction techniques and the ability to avoid time-consuming bureaucratic procedures."[98]

Upon assessing these early experiments in prison privatization, the Reagan Administration also concluded that on the whole its benefits outweighed costs, even with little data and lingering concerns. Pennsylvania Republican Senator Arlen Specter and Wisconsin Democratic Representative Robert W. Kastenmeier called for congressional hearings on prison privatization in 1985, which Specter called "the major unexamined new social policy of the 1980s." Also in the same year, the National Institute of Justice, the research branch of the Justice Department, held a three-day conference to evaluate the advantages and disadvantages of prison privatization. The institute also commissioned studies on the growth of prison privatization at

[96] Randy Fitzgerald, "Free Enterprise Jails: Key to our Prison Dilemma?" *Reader's Digest*, March 1984.
[97] Martin Tolchin, "As Privately-owned Prisons Increase, So Do Their Critics."
[98] Peter Young, "The Prison Cell: The Start of a Better Approach to Prison Management," (London: The Adam Smith Institute, 1987) 10. Available at http://www.adamsmith.org/sites/default/files/images/uploads/publications/prisoncell.pdf.

local and state levels.[99] The main questions raised by these inquiries were those of liability and the use of force, but these concerns did little to slow down the trends of privatization. The American Bar Association passed a resolution in 1986 recommending that jurisdictions not authorize prison privatization, "until the complex constitutional, statutory, and contractual issues are satisfactorily developed and resolved."[100] A report by the independent Economic Policy Institute found that, "Neither theory nor the limited data which exist suggest that the task of incarceration is very well suited to the advantages offered by profit-seeking organizations." It concluded that private prisons did not appear to foster innovation or competition, nor were they in the public or inmates' best interests.[101] The President's Commission on Privatization, however, concluded that privatization was the most economical solution and recommended that its use be continued. The commission's report states that issues of liability could be resolved through contracts and state laws permitting guards to carry guns, and that the ABA would be working with the administration to create model prison contracts.[102]

Perhaps this era of uncertainty helped facilitate the growth of private prisons. A South Carolina House of Representatives 1985 assessment of prison privatization noted that it was not yet a profitable enterprise and one resorted to only in areas where, "voters are reluctant to finance the replacement of archaic prisons," and that, "Federal officials who must deal with the influx of illegal aliens also use private companies, such as the Houston facility owned by CCA."

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[99] Tolchin, "As Privately-owned Prisons Increase, So Do Their Critics."
[100] Dana Joel, "A Guide to Prison Privatization," *The Heritage Foundation*, May 24, 1988. http://www.heritage.org/research/reports/1988/05/bg650-a-guide-to-prison-privatization#18.
[101] John D. Donahue, "Prisons for Profit: Public Justice, Private Interests," (Washington, D.C.: Economic Policy Institute, 1988. Available at http://epi.3cdn.net/e6e28612a19ac589e8_ozm6ibbye.pdf.
[102] David F. Linowes, "Privatization: Toward More Effective Government," A Report of the President's Commission on Privatization, March 1988. Available at http://pdf.usaid.gov/pdf_docs/PNABB472.pdf.

The legislative report concludes, "Companies like CCA don't expect to make profits right away. They are using their jails in operation as showplaces to attract clients. Big money will only come if these companies can crack the market for housing dangerous prisoners."[103] As mentioned above, CCA banked on building its reputation through less visible forms of detention like the detention of migrants. The first private jails in the country were immigration detention centers, but private jails for citizens followed suit shortly thereafter and both grew in tandem. However, migrants in private facilities have comprised a larger percentage of the overall immigrant detainee population as compared to U.S. citizens incarcerated in private facilities. Today, migrants in private facilities comprise nearly fifty percent of the overall immigration detention population, while U.S. citizens incarcerated in private facilities only make up around ten percent of the state and federal prison population.[104] However, most media, public, and scholarly scrutiny has focused on the use of prison privatization for incarcerating citizens even though immigration detention has expanded at higher rates. Prison companies like CCA can attribute much of their success, then, to migrant detention's relative invisibility.

Even though the Bureau of Prisons was running three private prison facilities for citizens by 1985, BOP director Norman Carlson expressed a telling critique: "Everybody wants a Band-Aid solution. A number of politicians may use privatization to avoid facing up to real problems. It's not going to solve our problems. But we ought to go ahead and look at it." Judge Abner Mikva of the District of Columbia's U.S. Court of Appeals also recognized this dilemma as he

[103] "Legislative Update and Research Reports," South Carolina House of Representatives.
[104] "The Influence of the Private Prison Industry in Immigration Detention," Detention Watch Network, http://www.detentionwatchnetwork.org/privateprisons; Suevon Lee, "By the Numbers: The U.S.'s Growing For-Profit Detention Industry," *ProPublica*, June 20, 2012, http://www.propublica.org/article/by-the-numbers-the-u.s.s-growing-for-profit-detention-industry.

said, "The confusion between the objectives of the private and public sectors worries me. Are we looking for an institution to maximize its profits or promote justice?"[105] Sandy Rabinowitz of the ACLU predicted to *Newsweek*, "Food and medical care isn't terrific now. It's easy to see everything going downhill rapidly once money is involved."[106]

Wackenhut official George Zoley argued the opposite: "There is a sense of competition in the private business sector. If we do not provide good service, we will not get any more contracts… It would just not be in our long-term self interest."[107] Emphasizing transparency, Bob Brantley of CCA told Americans, "We want you looking over our shoulder," on a "60 Minutes" television segment in November of 1984.[108] A narrative of CCA's history on its company website maintains that its operations have remained professional and efficient. It reads:

> Experience proved the term "private prisons" to be a bit of a misnomer. Indeed, CCA prisons would be transparent and in many ways just like the correctional facilities of government. CCA facilities would be guided by the tight accountability, stringent guidelines, strong oversight and high standards of government partners. But they would bring cost savings, design and technology innovations and business agility to government.[109]

This reflects Selman and Leighton's examination of the prison industry's early claims, which reveals, "A script that over the coming years would be repeated and manipulated to fit political, economic, and societal concerns about imprisonment." The early script of prison profiteers focused on economics, cost savings and efficiency, and evolved to align itself with "many of the dominant cultural values, such as entrepreneurialism, innovation, and the get-tough mentality."[110]

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[105] Tolchin, "As Privately-owned Prisons Increase, So Do Their Critics."
[106] "Legislative Update and Research Reports," South Carolina House of Representatives.
[107] Fixler, Jr., "Behind Bars We Find an Enterprising Zone."
[108] "Legislative Update and Research Reports," South Carolina House of Representatives.
[109] "CCA – Our History," http://cca.com/our-history.
[110] Selman and Leighton, *Punishment for Sale*, 60.

However, critics argue that CCA operations have been anything but transparent and instead marked by corruption, detainee abuse, and horrible conditions. The company almost collapsed in the 1990s after a series of riots and scandals, but stricter immigration laws passed in 1996 and again after 9/11 paved the way for the "immigration-industrial complex" to rebound and make unprecedented gains over the past decade.

In its first year of operation, CCA's Houston immigration facility was under fire in the media after reports that a Salvadoran woman in detention had been in a "catatonic trance" and in dire need of psychiatric care but had been ignored for six weeks before being removed from the facility.[111] Cost overruns at CCA's Silverdale prison in Chattanooga, Tennessee, became a local and national news story, and in 1985 CCA made a bid to take over the entire state prison system of Tennessee. Selman and Leighton argue the attention garnered by this bid helped legitimize prison privatization, even though the bid was unsuccessful and it was revealed that Tennessee Governor Lamar Alexander's wife Honey and Speaker of the House Ned McWherter had profited greatly from their CCA stock holdings. This is just one example of the close ties CCA has maintained with public officials, stemming from Beasley's early involvement in the Republican Party—an ongoing conflict of interest often raised by critics.[112]

CCA began trading stock publicly in 1986 and it ventured abroad in 1989, winning a contract in Australia and then Great Britain in 1992. But the early 1990s saw slow growth in both immigration detention and prison contract awards for CCA and an increase in private contractors

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[111] Tolchin, "As Privately-owned Prisons Increase, So Do Their Critics."

[112] Mattera and Khan, "Corrections Corporation of America: A Critical Look at its First Twenty Years."; Selman and Leighton, *Punishment for Sale*, 60-7. To provide another example, several former BOP directors such as J. Michael Quinlan, who resigned admist a sex scandal in the early 1990s, have moved to the private sector to serve on the board of CCA. See James Ridgeway, "Federal Prison Director Defects to Private Prison Company," *Mother Jones*, June 3, 2011, http://www.motherjones.com/mojo/2011/06/federal-prison-director-takes-job-private-prison-company.

experiencing the kinds of operational problems explored in Chapter Four, such as lawsuits over inadequate medical care, escapes, riots, and being investigated for bribing public officials and drug trafficking. A June 1995 migrant uprising at the Elizabeth Detention Center in New Jersey run by ESMOR Correctional Services prompted an INS investigation. Cuban detainee Akenis Montane Santos said a meeting in which administrators dismissed detainee complaints of being forced to wear used underwear and drink spoiled milk triggered the riot. After the uprising, detainees were transferred to facilities across the country and lawyers struggled to locate them.[113] Although citizens of Elizabeth protested the further use of private jail facilities, and although the INS's report concluded that "no real control was exercised over ESMOR guards by their mid-level supervisors," and, "examples of abuses reported to the Assessment Team were serious," CCA took over the contract for the facility with the support of Elizabeth's mayor.[114] In August of 1996, 400 federal prisoners rioted at CCA's Eden Detention Center in Texas, and six prisoners—three of them convicted murderers—escaped two months later. Incidences such as these continued to generate media attention and caused CCA to lose some of its contracts.

In 1996, however, the Clinton Administration passed the Illegal Immigration Reform and Immigrant Responsibility Act and other laws that broadened the mandate for immigration detention, and once again local officials saw prison-building as an opportunity to bring jobs to depressed areas. In large part due to these laws, the average daily INS detention population

[113] Lisa Peterson, "Detainee still hears the crash of glass in 'night of screams,'" *The Star-Ledger*, June 23, 1995; David M. Levitt, "Lawyers looking for ex-Esmor clients," *The News Tribune*, June 23, 1995, p. A-3.
[114] "The Elizabeth, New Jersey Contract Detention Facility Operated by ESMOR Inc. Interim Report Executive Summary," INS Historical Reference Library, Washington, D.C.; "Detention Center Ban a Must," *Elizabeth Reporter*, June 23-29, 1995.

tripled between 1994 and 2001.[115] Echoing sentiments of residents of Oakdale, Louisiana, a decade before, a New Mexico county commissioner said to a newspaper reporter, "It's terrible to say, but prisoners and trash are big business."[116] The practice of immigration detention in the United States accelerated further after September 11, 2001, and the passage of the 2003 USA PATRIOT Act that created the Department of Homeland Security and granted the Attorney General exceptional powers to detain immigrants.[117]

Conclusion

> New companies are created every day. But it's not every day that new industries are established.
>
> -Corrections Corporation of America website, "Our History"

In 2013, CCA celebrated its thirtieth anniversary with a series of birthday parties thrown at its facilities across the country, as its website touts "Thirty Years of Service to America." Since the company's founding, the rate of incarceration in the United States has risen five hundred percent to over 2.2 million people. Those held in immigration detention comprise an ever-growing fraction of this total, from an average of 54 per day when Reagan took office to 34,000 today.[118] Texas group Grassroots Leadership who opposes prison privatization claims there is nothing to celebrate about thirty years of for-profit incarceration. The organization

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[115] Kristina Shull, "War on Drugs," in Kathleen R. Arnold, ed., *Anti-Immigration in the United States: A Historical Encyclopedia* (Santa Barbara, CA: Greenwood Press, 2011) 493-4.
[116] Mattera and Khan, "Corrections Corporation of America: A Critical Look at its First Twenty Years," 15.
[117] Shull, "War on Terror," *Anti-Immigration in the United States*, 496-8.
[118] Jacob Fenton, Catherine Rentz, Stokely Baksh and Lisa Hill, "Map: The U.S. Immigration Detention Boom," PBS/Frontline, October 20, 2011. http://www.pbs.org/wgbh/pages/frontline/race-multicultural/lost-in-detention/map-the-u-s-immigration-detention-boom/. The average number in detention in 1981 was actually higher; this map and statistic does not include Mariel Cubans or Haitians detained at Krome.

released a report detailing thirty incidents in CCA's past that give cause for grave concern, including the company's controversial economic and political ties, operational and labor cost-cutting, scandals, systematic detainee abuse and deaths in detention as a result of inadequate medical care. For example, the report cites CCA's "disregard for public opinion" in detailing CCA's efforts to build an immigration detention center in Pembroke Pines, Florida, in 2012. When residents organized in opposition and local officials refused to supply the proposed site with water and sewer services, CCA sued the city and barraged the town with robocalls, continuing its case even after ICE abandoned its plans for the facility. Resident Ryann Greenberg said, "They're trying to bully their way into this contract."[119] Yet, to private prison proponents CCA has been a model of success. Managing nearly fifty percent of privately owned prison beds today, CCA is a highly profitable multi-billion-dollar-a-year business operating over sixty facilities across the country.

In sum, immigrant detainees have comprised the backbone of the private prison industry's success. A 2014 ACLU report on prison privatization argues that the criminalization of immigration has both exacerbated the current mass incarceration crisis while enriching the private prison industry. Indeed, CCA's 2012 Annual Report admits: "Our growth is generally dependent upon our ability to obtain new contracts to develop and manage new correctional and detention facilities. The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts."[120] That private prison companies rely upon increasing

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[119] Holly Kirby et al., "The Dirty Thirty: Nothing to Celebrate About 30 Years of Corrections Corporation of America," Grassroots Leadership, June 2013, 22. Available at http://grassrootsleadership.org/sites/default/files/uploads/GRL_Dirty_Thirty_formatted_for_web.pdf.

[120] "Warehoused and Forgotten: Immigrants Trapped in Our Shadow Private Prison System," American Civil Liberties Union, June 2014. Available at https://www.aclu.org/sites/default/files/assets/060614-aclu-car-reportonline.pdf.

incarceration rates to remain in business reveals the conflict of interest inherent in delegating justice to the private sector. Since 2003, CCA has contributed an average of $3 million a year to lobbying efforts in Washington, and to Immigration and Customs Enforcement directly, to keep immigration enforcement structures intact.[121]

Today, it appears that the enfolding of immigrants into the U.S. criminal justice system as described in Chapter Three has become near complete, as the U.S. Customs and Border Protection now refers more cases for federal criminal prosecution than the FBI and since 2009 more people have entered the federal prison system for immigration offenses than for violent, weapons, and property offenses combined. The ACLU concludes that now, more than ever, private prison companies stand to profit from the criminalization of immigration as most federal non-citizen prisoners are segregated into thirteen privatized Criminal Alien Requirement (CAR) prisons across the country. Five of these facilities are located in Texas, such as the Willacy "tent city" facility in Raymondville run by the Management and Training Corporation. Previously an immigration detention facility that was built in ninety days, Willacy closed in 2011 due to

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[121] "The Influence of the Private Prison Industry in Immigration Detention," Detention Watch Network, accessed July 19, 2014. Available at http://www.detentionwatchnetwork.org/privateprisons; In October of 2010, National Public Radio ran a report exploring the probable link between private prison interests and the formulation of Arizona's highly controversial Senate Bill 1070 that provides for local-level enforcement of federal immigration laws. Noted for being one of the strictest anti-immigration measures in decades, the legislation's stated intent as drafted identifies itself as following an "attrition through enforcement" doctrine. This doctrine has become widely adopted by those in support of stemming the flow of undocumented migration to the United States through the use of heightened security and enforcement measures. While public criticism of the law has focused mainly on SB 1070's implicit encouragement of racial profiling, more overlooked in the current discourse is the history of the "attrition through enforcement" doctrine in U.S. immigration law and the private-interest impetus driving such legislation. NPR's report revealed that many of SB 1070's legislative co-sponsors received donations from private prison companies and their lobbyists. Laura Sullivan, "Prison Economics Help Drive Arizona Immigration Law," *National Public Radio*, October 28, 2010. Available at http://www.npr.org/templates/story/story.php?storyId=130833741&ft=1&f=1001; Arizona SB 1070, §1.

charges of detainee abuse but then reopened a month later as a BOP CAR prison, still run by MTC.

Chronicling conditions of overcrowding, medical understaffing, and abuses in Texas's five CAR facilities, the ACLU's report states, "Until now, the CAR prisons have not attracted the attention they deserve."[122] Twenty-six-year-old Honduran detainee Sergio says he feels like an animal: "They don't have a job for us. They don't have any education. They just don't have any space for all of us. Sometimes it makes me go crazy. I just want to do something." Dante, a thirty-eight-year-old Mexican detainee held in a Kevlar tent with two hundred other men at Willacy says, "Sometimes I feel suffocated and trapped. A lot of people get very upset and angry. Sometimes they become so frustrated that they even speak of burning down the tents. But what's the point? They'd build them back up."[123] The ACLU maintains that the current criminalization of immigrants has been developing only over the past decade, while many scholars of prison privatization also mark September 11, 2001, and the creation of the Department of Homeland Security as a significant turning point for these trends. Although immigrant incarceration has certainly accelerated in our post-9/11 world, this study has shown that the origins of today's "immigration-industrial complex" stem much farther back in the Reagan Administration's dealing with a perceived Latin American immigration crisis.

[122] "Warehoused and Forgotten," ACLU, 2-3.
[123] Ibid., 4-5.

CONCLUSION

> A few years from now, when this country looks back at the 1980s, we are going to ask ourselves as a nation, "How could this have happened in the U.S.? How could we have kept thousands of individuals locked up in indefinite detention year after year, warehousing them without any kind of civil rights… locking them up, throwing away the key, under the legal fiction that, although they are physically present in the United States, they haven't really entered our borders, therefore, they have no rights." That has to be one of the darkest pages in the history of American justice… It goes against the grain of everything that America stands for.
>
> -Rafael Peñalver, Cuban-American exile and lawyer, 1986[1]

> I doubt that Reagan's policymakers thought that deeply. To them, refugees were a good political issue, but as individual human beings, they simply didn't matter. The history of this systematic abuse of refugees has never entered the public consciousness of the United States.
>
> -Robert S. Kahn, *Other People's Blood: U.S. Immigration Prisons in the Reagan Decade*

> Nobody wants you. You're not welcome. Go home.
>
> -Anti-immigration protesters to Central American child migrants in Murietta, California, July, 2014[2]

The 1980 Mariel Cuban boatlift marked a seminal moment in spurring the new iterations of the burgeoning immigration detention palimpsest that developed during Reagan's first presidential term. As analyst Ronald Copeland noted in 1981, while conceding that the "chronic flow" of Haitian boat people, Salvadorans, and Nicaraguans presented immigration policy concerns of their own, "The 1980 Cuban episode, however, uniquely presents a complex and highly controversial set of problems to be studied and addressed… to examine policy questions concerning the status of persons arriving in this country in unexpected mass migrations and the

[1] Gonzalez-Pando, *The Cuban Americans*, 68-9.
[2] Esther Yu-Hsi Lee, "Protesters Hound Buses of Immigrant Children, 'Nobody Wants You,'" *Think Progress*, July 2, 2014. Available at http://thinkprogress.org/immigration/2014/07/02/3455678/protesters-block-families-children-buses/.

way the U.S. government chooses to respond to such incidents."[3] Amidst a "state of emergency," the Federal Emergency Management Agency (FEMA) handled the initial processing phase of the Mariel boatlift and set up the four military bases at which Cubans were held. The Cuban-Haitian Task Force then assumed responsibility in July of 1980, reporting a year after consolidation at Fort Chaffee, Arkansas, in September of 1981: "While they awaited resettlement, the entrants' basic needs were met by a system that emerged from the disorganization of those early days."[4] As the Reagan Administration responded to the negative media publicity surrounding the Mariel migration and hastily sought more permanent detention solutions, the emerging "system" reflected this sense of urgency as it turned increasingly towards the punitive.

This system originated in the Reagan Administration's envisioning of a Latin American immigration crisis and was legitimized by circulating anti-immigrant sentiment. The manifestation of the administration's rightward turn in enforcing its immigration and foreign policies appears, on the surface, to have been a hasty and haphazard process. Yet, through this process certain patterns emerged. Some spaces and practices of incarceration remained, were built upon and even reinforced. But the new practices that defined Reagan's immigration detention system—specifically, the use of detention as a punitive deterrent to future migration, the extension of executive authority through interdiction and militarization of border enforcement, and the first uses of private contract detention facilities—were the product of a specific confluence of circumstances in which a xenophobic American public embraced the tenets of "Reaganism." Volker Janssen asserts, "Incarceration marks spaces. The bodies it

[3] Copeland, Ronald, "The 1980 Cuban Crisis: Some Observations," Folder "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980-1981," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.
[4] "Overview: Resettlement Camps, 9/25/1981," Folder "Barbara Lawson: Cuban-Haitian Task Force Documents, 1980-1981," Box 1, Fort Chaffee Collection, CHC 5175, University of Miami Cuban Heritage Collection.

removes from one site, it hides in another. The patterns of displacement through prison, thus, sever ties at the same time that they connect distinct places."[5] As a growing number of immigration detention sites began to dot the U.S. map, predominantly in rural, depressed Sunbelt areas, they remained interconnected in their endeavor of exclusion—to render unwanted bodies invisible.

Charges against private prisons have remained the same to this day: privatization interferes with detainee access to counsel and the courts, it encourages physical and verbal abuse by guards, and the profit-motive results in a lack of recreational and educational activities, inadequate medical care, overcrowding, and unsanitary living conditions. But the narratives that gave rise to Reagan's new security state also persist: migrants pose an ongoing threat to the national well-being and undocumented migration must be deterred. The adoption of private prison contracting explored here demonstrates an important ramification of Reagan's new immigration enforcement policies: migrants held in for-profit facilities have been most effectively hidden within the system.

This is the Reagan Administration's legacy. CCA's second immigration detention facility opened in Laredo, Texas, in 1985. It was the first immigration prison to detain infants and children, with "the cribs right in the cells," according to INS district director Ricardo Casillas.[6] Two years after the opening of the Bureau of Prisons' state-of-the-art mixed use facility in Oakdale, Louisiana, Mariel Cuban detainees rioted and nearly burned it to the ground. In response to a growing number of Central American migrants in the wake of U.S. interventions in civil wars, a temporary "tent city" was erected at Port Isabel, Texas, in 1989 for holding up to 10,000 detainees. This tent city is still in operation today. CCA's T. Don Hutto Residential

[5] Volker Janssen, "Sunbelt Lock-Up," 218-9.
[6] Kahn, *Other People's Blood*, 15.

Center in Taylor, Texas, stopped the practice of detaining immigrant families in 2009 after years of litigation and agitation against it. Another planned family immigration detention center in Texas was defeated by public dissent in 2012.[7]

Currently, however, the United States appears in the midst of another immigration "crisis." Fleeing poverty and violence, tens of thousands of minors without parents have been apprehended in the southern Texas and California borderlands, most of them from Central America. Children like Alejandro, an eight-year-old from Honduras, are traveling alone with nothing but a birth certificate and hoping to reunite with American family members upon arrival.[8] The Obama Administration uses the militaristic term "surge" to describe the mass migration, while migrants rights groups call it a humanitarian crisis born out of the same foreign policy failures that characterized the 1980s. The facilities used to hold the children, mostly military bases, are quickly becoming overcrowded. Immigration and Customs Enforcement's Press Secretary says, "We are committed to treating all individuals in our care with dignity and with humanity while they have due process before immigration courts," but President Obama says the children will be deported.

On June 20, 2014, World Refugee Day, Obama announced the administration's plan to expand the practice of family detention in response to the current crisis and requested emergency funding from Congress and the granting of broader powers to immigration officials in order to speed up deportations. Obama appeared on ABC's "Good Morning America" with a message to

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[7] Jason Buch, "ICE drops plans for Texas family detention center," *Express News*, February 7, 2012, http://www.mysanantonio.com/news/local_news/article/ICE-drops-plan-for-Texas-family-detention-center-3124221.php. The detention of families continues to occur on a smaller scale, however, in Berks County, Pennsylvania.

[8] Julia Preston, "Snakes and Thorny Brush, and Children at the Border Alone," *New York Times*, June 25, 2014, http://www.nytimes.com/2014/06/26/us/snakes-and-thorny-brush-and-children-at-the-border-alone.html?smid=tw-nytimes&_r=3.

the people of Central America: "Don't send your children unaccompanied on trains or through a bunch of smugglers. That is our direct message to families in Central America. Do not send your children to the borders. If they do make it, they'll get sent back. More importantly, they may not make it."[9] Obama's message to Central American families is reminiscent of the Reagan Administration's stated new intentions for immigration detention in 1981, namely, the use of detention and deportation to deter would-be migrants abroad. American communities have also responded to the current crisis as previous patterns dictate, with vehement expressions of xenophobia on one end of the spectrum and religious and legal aid organizations offering shelter to the child migrants on the other.

Although hardly present in histories of the Reagan Administration, policymaking on the immigration crises of the early 1980s was a top priority at the highest levels of government and helped drive many of the themes with which Reagan has been identified: the resurgence of nationalistic and Cold War foreign policy rhetoric; politics of fear surrounding crime, drugs, and people of color; and a neoliberal economic vision favoring privatization.

This study has shown that immigration enforcement measures quickly adopted by the Reagan Administration as interim solutions during a time of emergency have remained and become standard practice. More importantly, they have been legitimized by xenophobic public narratives that label migrants a threat to the national body. These measures include the long-term use of facilities intended to be temporary, the enfolding of migrants into the existing prison system, the interdiction of migrants on the high seas, the militarization of border enforcement,

[9] Daniel Halper, "Obama: 'Don't Send Your Children Unaccompanied," *The Weekly Standard*, June 27, 2014, http://www.weeklystandard.com/blogs/obama-dont-send-your-children-unaccompanied-trains-or-through-bunch-smugglers_795778.html.

and the hasty adoption of prison privatization despite ongoing critiques. This study also reveals the mutually constitutive nature of immigration and foreign policymaking, as the examples of Haiti and El Salvador show how the Reagan Administration shaped foreign policy to stem the flow of migrants to the United States and to deny migrants' asylum claims. Furthermore, Reagan's extension of executive authority in curbing Haitian migration through interdiction and development of a "low-intensity conflict" doctrine in El Salvador were then applied in drug and immigration enforcement along the U.S.-Mexico border. Finally, immigration policymaking was an integral part of Reagan's rightward shift from a "welfare" to a "warfare" state as many of the enforcement structures established to address the perceived Latin American immigration crisis laid foundations for and further accelerated the rise of mass incarceration.

Mediating the visibility of "unwanted" migrant populations became a central concern for Reagan Administration policymakers. Political risks became so great with the increased media exposure surrounding the immigration crises that the Reagan Administration shaped its policies to keep migrants out of sight by scattering them throughout the penal system or into privatized facilities with less public oversight. However, opposition to Reagan's new immigration enforcement policies also shaped the development of Reagan's new security state. Migrant resistance in the form of riots and hunger strikes and the actions of civil rights groups, most notably those of the Central American peace and Sanctuary movements, often had the unintended consequence of adding increased pressure on the administration and thus furthering its resolve to enforce its new policies with even less transparency. The immigration detention center, a transnational site of punishment and deterrence, exemplifies the confluence of these themes in Reagan's establishment of a neoliberal security state.

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