

IMMIGRATION, DETENTION, AND PROFIT: EXAMINING THE IMMIGRATION-  
INDUSTRIAL-COMPLEX IN CALIFORNIA

A Thesis

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by

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Abstract  
of  
IMMIGRATION, DETENTION, AND PROFIT: EXAMINING THE IMMIGRATION-  
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California has been at the forefront of advocacy on issues related to immigration—becoming a sanctuary state on October 5, 2017. However, while state policies have taken progressive and noteworthy efforts to integrate immigrants regardless of their immigration status, the state also has the second-largest number of detention centers federally funded. This thesis will address this paradox by focusing on how political, social, and economic interests at the level of the county determine contracting with U.S. Immigration and Customs Enforcement. More specifically, the paper will utilize a case study of two county hubs of detention in California—Orange County and Los Angeles County. Using an institutional lens, coupled with the framework of crimmigration, this thesis will examine how immigration detention centers became established in these two particular counties. Traditional approaches to immigration have focus on the impact of the U.S. broken immigration system on individuals, and this thesis seeks to add to this literature by revealing the role framing and politics play at the county level in building up the detention of migrants. The data for this analysis comes from two major newspaper publications covering Los Angeles and Orange County. For Los Angeles, Los Angeles Times articles are examined from 2014-2019. In the case of Orange County, Orange County Register is examined. I explore how issues are framed and presented, such that detention facilities become established. Furthermore, I will also examine city records such as intergovernmental agreements, resolutions, policy, and

ordinances to make sense of politicians' stance on immigration, internal politics, and economic profit from such practices, as well as how counties frame these arrangements.

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## CHAPTER 1-INTRODUCTION

### **Purpose**

California's progressive politics have demonstrated commitment to supporting undocumented immigrant communities residing in the state. However, while the state has made noteworthy efforts to integrate immigrants regardless of their immigration status, it is also the state with the second-largest number of detention centers, both privately and federally funded. This research focuses on the institutionalization of the immigration-industrial-complex, defined as "the confluence of public and private sector interests in the criminalization of undocumented migration, immigration, law enforcement, and the promotion of "anti-illegal rhetoric's" (Golash-Boza 2009: 295). I examine the paradox that exists in California regarding the mass detainment of undocumented immigrants. Specifically, how can a state be both progressive (declare itself a sanctuary state for immigrants) and be the state with the second-largest number of private detention centers. California operates 120 federally funded detention centers with a total of 2,092,021 mandates for FY2017-18.<sup>1</sup>

### **Problem**

This paper examines the aforementioned paradox by focusing on the question: how do political, social, and economic interests in counties shape contracting with U.S Immigration and Customs Enforcement? To explore the paradox, the paper utilizes a case study of two county hubs of detention—Orange County and Los Angeles County<sup>2</sup>. This research is necessary because California is home to more than 10 million immigrants. There are important chilling effects and

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<sup>1</sup> This data is as reported by A FOIA report of the EOR Custody Division on November 6, 2017. A Total Mandate is defined as the total population in a given fiscal year. A midnight count mandate quantifies the number of detainees in the specified detention facility at midnight. Average Daily Population is calculated by taking the number of midnight count mandate for a given period and dividing by the number of days in that period.

<sup>2</sup> See appendix table 1 for information on detention centers.

fiscal impacts to be considered when a state or any local government targets immigrant communities on the basis of immigration status. Using an institutional lens coupled with a lens of crimmigration, this paper examines the role of local politics in facilitating the immigration-industrial-complex. Traditional approaches to immigration have focus on the impact of the U.S. broken federal immigration system on individuals. This thesis examines both the macro and the micro forces that shape the oppressive immigration system in the U.S. This research approaches the topic by examining the institutional impact of the local-level decision-making on enforcing immigration. To make sense of this topic, this paper draws on primary and secondary sources of data. The background section of the data is used to set up the context, understand the issue, and provide statistical data. The literature section provides the theoretical foundation for analysis and also draws from reports by think-tank research organizations which is analyzed for framing, stance, advocacy, and language. The primary data for this analysis consists of governmental data obtained from two major California counties: Los Angeles Times and Orange County Register from 2014-2019<sup>3</sup>. I examine city records such as intergovernmental agreements, resolutions, policy, and ordinances to make sense of cities' stance of immigration, internal politics and economic profit from detention.

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<sup>3</sup> These years were selected because they marked a shift in national politics. On January 20, 2017 Donald Trump was inaugurated as the 45<sup>th</sup> president of the U.S. His campaign platform ran on a rhetoric of overt racist nativism and xenophobia. However, his predecessor Barack Obama detain and deported more immigrants than any other administration. The selected years mark an interesting overlap in public perception of immigrants during two distinct presidencies.

## CHAPTER 2-LITERATURE REVIEW

### **Frames of Illegality**

Frames of illegality in migration are not a product of chance, but a social construction that is produced and reproduced through social institutions (Sassen 1998). The state, through law, has defined the parameters of who belongs, it produces illegality, and has been instrumental in its reproduction. De Genova (2004) examined the historical legal framing of undocumented immigrants and the constructions of illegality, race, deportability, and citizenship from a macro perspective. He has examined the paradox that exists in the U.S. between supplying immigrants to serve the economic needs of the country and the increase of immigration restrictive laws that hinder legal migration specifically from Mexico. De Genova's macro-structural review of illegality and its framing can also be applied to the existing California paradox. California, by law, is a sanctuary state; but it is also the second-largest state contracting with privately funded detention centers. In California, immigrants are protected by state law but are not afforded the same protection at the local level. In California, the frames of illegality contribute to this paradox through the use of language such as "illegal", "unauthorized," and "unlawful" reproducing notions of an "alien other." These attacks motivated California—a state with a large number of immigrants to pass SB54<sup>4</sup> to protect its immigrant community. However, the frames of illegality have had an opposite effect on local governments' contracting practices in four cities (Los Angeles, Orange, Santa Ana, and Irvine) in Southern California. The illegality frames have influenced constituents' xenophobia. Consequently, LA and Orange Counties hold contradictory laws for immigrants: one offers sanctuary and the other punishment. The contradiction between

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<sup>4</sup> Governor Jerry Brown signed California Sanctuary Law (SB54) making California a "sanctuary state". This law revoked a preexisting statute that permitted the collaboration of local and state agencies with ICE regarding illegal criminals who have committed misdemeanors. Under SB 54 such collaboration is outlawed, making CA a sanctuary state for immigrants. The law took effect in January 2018.

state and local laws impact the protections that immigrants are afforded within California. De Genova uses a historical analysis to examine the impact of distinct immigration laws and how they have created a revolving door of undocumented immigration (2004). The historical analysis serves to see how notions of illegality have changed over the years and how the law shapes, validates, and reinforces nativist beliefs about immigrants. This thesis, by focusing on the local context, adds to our understanding of how illegality is constructed and supported locally.

Illegality is not only produced by the state, the media also dehumanizes immigrants, framing them as burdens and creating support for xenophobic laws that legalize racism and oppression of immigrants. According to Chavez (2008), the media has played a fundamental role in publicizing the objectives of the Minuteman<sup>5</sup> and validating their perspective. The rise of these racist vigilantes can be attributed to a racist nativist discourse which continually positions immigrant as a threat to the native population. The native population often feels that immigrants displace them and exploit their economic resources. Media debates about the U.S-Mexican border and its role in preventing unauthorized immigration is a product of the racist nativist discourse in the U.S. The border servers as a symbolic and physical barrier that advances notions of who belongs and who does not. The racist nativism discourse present in immigration policies allows for the detainment and dehumanization of immigrants (Golash-Boza 2009). This study observes the framings portrayed in media publications in Orange County and Los Angeles County to see the role they played in the normalizing of contracts allowing the establishment of immigrant detention centers. In addition, an analysis of the effects of institutional capacity in the vicinity of cities and how this influences the likelihood of contracting with U.S and Customs Enforcement will also be explored.

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<sup>5</sup> The participants of the Minuteman project a civilian group that operated like militia and patrolled the U.S.-Mexican boarded in Arizona. The group began operations in 2005 (Chavez 2008).

### **Mechanism of Incarceration: The Immigration-Industrial-Complex Core**

The U.S. has historically utilized the prison system for social, economic, and political gains. For example, inmates who received a felony conviction cannot vote while in probation, integrate themselves in the states' social and economic spaces; thus, forcing them to work specific jobs and industries<sup>6</sup>. Beyond imprisonment, these barriers are additional forms of control placed on Latino/a, Blacks, and immigrant groups. Thus, understanding the evolution of incarceration through the lens of colorblindness is critical because it helps understand how white supremacy has used the law and legality to justify the mass detention and incarceration of immigrants. The current immigration-industrial-complex<sup>7</sup> is an extension of the prison-industrial complex<sup>8</sup>. The goals of both complexes are similar: to generate profit based on incarcerating people of color.

Foucault states that the prison system never succeeds in living up to its promises of ridding society of crime and other social problems; he says, "Success in the penitentiaries lay in that they were a main part of the control of anomalies in the social body" (Foucault 1979). That is, prison punishes what society deemed as deviant. This notion is similar to the contemporary tactics of incarcerating immigrants-undocumented bodies in detention centers; detention has not succeeded in reducing the undocumented population in the U.S. The ultimate goal of prisons and similarly of the immigration-industrial-complex, that is, to manage a perceived deviant community and generate profit. For example, in Los Angeles County the city of Glendale provides detention services for Immigration and Customs Enforcement agency (ICE). The city of

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<sup>6</sup> Anon. n.d. The Sentencing Project. Retrieved (<https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>).

<sup>7</sup> the Immigration-Industrial- Complex, defined as "the confluence of public and private sector interests in the criminalization of undocumented migration, immigration, law enforcement, and the promotion of "anti-illegal" rhetoric's" (Golash-Boza 2009: 295).

<sup>8</sup> Angela Davis describes the prison-industrial complex as the marriage or overlapping interest of government and industries (technology, business, etc.) that rely on surveillance, policing and imprisonment of people of color in order to solve social, economic, and political problems.

Glendale received in 2016 \$6,035 million for detention services render (Contract with Glendale Police Department, 2016).

Legal institutions in the U.S. have operated to maintain the social structure of the U.S. and systematically blended the criminal justice system and immigration policy to give birth to a practice called by scholars crimmigration (Chacon 2013). The practice of crimmigration has been an ongoing process, but intensified was a result of both the 1986 Immigration Reform and Control Act (IRCA) and the Illegal Immigration Reform and Responsibility Act (IIRIRA) of 1996, which further criminalized immigration by (1) increasing funding for enforcement and persecution of immigrants (2) the prioritization of the removal of immigrants that committed a “crime” (3) the expansion of types of “crimes” by the courts that prohibited immigrants from adjusting their status (Beckett and Evans 2015). Over the years, federal immigration enforcement authorities have added many programs that seek to systematically and progressively enforce the criminalization of unlawful entry into the U.S., shifting the act of immigrating from a civil violation to a criminal violation (Beckett and Evans 2015). Laws and programs such as Secure Communities, Operation Streamline, and the Alien Transfer and Exit Program are among some policies and laws that have been enacted by different states, thus creating a legal structure that maintains a subordinate Latino immigrant population and a supply of labor for the immigration-industrial-complex (Friedman, 2002).

Jails who take part in Secure Communities are required to submit the arrestee’s fingerprints to both criminal databases and immigration databases (Kubrin, 2014). The program has essentially turned law enforcement officers into immigration officials. Secure Communities specifically targets people who are already settled in the U.S. The Immigration and Policy Center stated that that Secure Communities deportees have roughly an average of at least 8.6 years living in the U.S. (Kubrin 2014). Secure community does little to prevent undocumented immigrant’s

entry into the U.S. or to solve the issue of unauthorized immigration in U.S. society, instead it acts as a punitive program that punishes those already in the U.S. and hinders the ability of law enforcement to actually deal with real crimes such as rape and murder. Since successful law enforcement requires the cooperation of law enforcement and the community; when an undocumented person is victim of a crime, they might choose not to report it because they fear contacting law enforcement (Kubrin 2014). A critical race theory lens allows us to examine (a) how the framing of illegality informs racist nativism and xenophobia and (b) how these frames inform support for the detention of immigrants within cities, thus institutionalizing the immigration-industrial-complex.

The mass detention and deportation of immigrants for profit is rooted in nativism and historical and legal practices of incarceration. For example, in 1995 the U.S. detained approximately 85,000 people compared to fiscal year 2017 were 323,591 individuals were detained<sup>9</sup>. Policy convergence in the area of correctional services gives rise to privately own, for-profit, detention centers that incarcerate adults (Wood 2007). The “spatial and temporal order” of prison privatization in the U.S. since the 1980s has been a result of the influence of policy convergence (Wood 2007). Wood’s findings conclude that patterns of prison privatization are structural and are not explained by global policy convergence. His work is noteworthy in that it explains the structural yet local process that shapes the detention of immigrants in cities is of California despite the state’s rejection of the practice.

Tanya Golash-Boza defines the immigration-industrial complex as “the confluence of public and private sector interests in the criminalization of undocumented migration, immigration, law enforcement, and the promotion of ‘anti-illegal’ rhetoric’s” (Golash-Boza 2009:

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<sup>9</sup> <https://www.globaldetentionproject.org/countries/americas/united-states>

295). Golash-Boza provides a historical genealogy of the immigration industrial complex by positioning it within a context of the prison-industrial-complex and the military-industrial-complex (2009). Utilizing Golash-Boza's historical genealogy it can be concluded that Congress has not passed an immigration reform, because national economic interests benefit more from using a narrative of xenophobia justified through a framing of national security and enforcement to facilitate the rise of the immigration-industrial-complex. A recent surge in immigration law enforcement, prison expansion, and the rise of punitive legislation inform the complex (2009). This thesis builds on her definition by expanding these forces to include not only the influences of rhetoric on a county's decision to contract with ICE but also the influence of such rhetoric in the justification and legitimization of detention.

The privatizing of crime and prison has been a long-established practice; for example, in 1983 Corrections Corporation of America became the first U.S private prison company (Freedom for Immigrants 2018). The practice of detention for immigration purposes has intensified under Trump's administration anti-immigrant policies. However, the detention of immigrants in the U.S has deep historical roots, in 1991 for example the U.S. Open the Migrant Operation Center at the U.S. Naval Base in Guantánamo Bay, Cuba to hold refugees and asylum seekers (Freedom for Immigrants 2018). Private prison corporations facilitate the immigration-industrial-complex and the vital systems that allow the immigration-industrial-complex to thrive. Doty and Wheatley (2013), examine how the detention and incarceration of immigrants generate profits for correctional institutions.

Moreover, Trujillo Pagan (2014) focuses on the distinct mechanism of incarceration that contributes to the immigration-industrial-complex. Pagan explores how the law regulates migration and constructs illegality in the interest of capital by maintaining the immigration-

industrial-complex. He argues that immigration policy and the construction of illegality are the two critical factors that fuel the immigration-industrial-complex. Corporations and their economic interest then push for the shaping of immigration policy that generates profit and business. The cases under consideration for this thesis engage in detention practices voluntarily.

Existing literature notes a correlation between the framing of immigrants and their profitability through incarceration. Dehumanizing them as the impossible members of society allows government entities to incarcerate them without much objection from society. Their vulnerable immigration status provides grounds for such dehumanization. The national debate, pro-immigrant movements, and scholarship have highlighted the vulnerability of immigrants, critiquing national and federal policies that permit their abuse. However, little attention has been given to individual state's modus operandi in dealing with domestic immigrant populations. Politically, California is an agenda-setter in national politics and has made numerous efforts to integrate immigrant communities in California through the passage of sanctuary state policy, education and health policy. However, California is also a state with the 2nd largest population of immigrants in privately owned and federally funded detention centers. This thesis contributes to the existing literature by addressing the California paradox. It will do so by interrogating the paradox from three different angles that affect contracting: political, social and economic. This examination of the California paradox will be situated in two of California's largest counties LA and Orange county whose population demographics, economies, and level of education are distinct yet they both share the commonality of operating detention centers within their vicinity (see Table 1 in appendix for data). Moreover, this paradox is analyzed by using an institutional lens and a lens of crimmigration to determine how the immigration detention centers became establish in these counties. More specifically I examine the role that local politics play in the institutionalization of detention at the county level.

## **Theory**

In the analysis of the California Paradox, this paper will deviate from the traditional perspectives such as push-pull and structural analysis of immigration. While these approaches account for European-Origin immigration, they do not account for Mexican-Origin immigration (Barajas 2012). This distinction is important because the victims of the contemporary immigration-industrial- complex are primarily from Mexico. Instead, this paper will use interactive colonization theory to explain the trajectory and systemic oppression that lead to the immigration of individuals from Mexico (Grosfoguel, 2003). Within the immigration of people from Mexican it is important to note that the shift in their perception from illegality to criminality justifies their detention and incarceration. This shift is rooted in coloniality and internal colonial domination (Quijano 2000). These practices dictated the interactions of Mexico and the United States, and they are part of history that accounts for the mass migration of individuals from Mexico. The theory of internal colonization assists analyzing the framing in mass media of immigrants and the justifications for local contracting—racialized as aliens, exploitable, and disposable (Mignolo 2007). Moreover, this paper will also use the theory of intersectionality to analyze the practice of contracting within Orange County and Los Angeles County (Crenshaw 2017). Specifically, intersectionality will provide an analytical tool were contracting can be examined as (a) a relational bond existing among various types of social inequalities (social, political and economic), (b) how systems of power meshed with relational bonds create the conditions for unequal access to social regards like, for example acceptable (immigration status), and (c) how social inequalities vary across time and space (Collins 2015). Furthermore, it is important to note that while these perspectives inform the approach of the research crimmigration will be the perspective that guides the analysis.

## CHAPTER 3-METHODS

### **Operationalization**

This thesis addresses the paradox that exists in California regarding the mass detention and incarceration of undocumented immigrants. I address the question of, how can a state be both progressive (declare itself a sanctuary state for immigrants) and also be the state with the second-largest number of private detention centers? This paradox will be interrogated by focusing on how political, social, and economic interests at the county-level shape local contracting with U.S. Immigration and Customs Enforcement (ICE) to detain undocumented immigrants? To address this paradox, this study offers a qualitative analysis of how local politics, media, and people frame the justification to detain undocumented immigrants. The analytical frame for this research will be institutional, focused on crimmigration and the immigration-industrial-complex which will serve as a means for providing interpretation and context.

Moreover, this research uses ground theory to unpack the economic, social, and political framings in California that shape the justification and legitimation behind contracting with private detention centers (Glasser & Strauss, 1967). In order to make sense of the paradox due to the many intricacies of the California paradox, the process of detention, state politics, local politics, and complexities of immigration law, a comparative case study helps illuminate the local process. In this comparative case study, two county hubs of detention in California—Orange County and Los Angeles County—will be examined to determine how immigration detention centers became established in two counties and how their establishment relates to the California paradox, and how the justification was framed. The analytical strengths of comparing the framings —of these contracts of the detention facilities in Orange and Los Angeles counties— help illuminate the factors that shape how the framings are articulated.

These two counties were selected for this study because of their location. I have a personal connection to them; I grew up in Los Angeles County. I witness the poverty, the detrimental effects, and fear surrounding lack of immigration status, the segregation of communities of colors and the everyday interactions of law enforcement with communities of color. On the other hand, Orange County is where I attended college and learned to make sense of what it meant to be undocumented for me. I saw a contrast between the poverty and insecurities of life in Los Angeles County and life in Orange County. Orange County was primarily white; employment was plentiful, communities of color were incorporated within the white community but in comparison made up a numerical minority. Fear of lack of immigration status seemed to intensify in Orange County and racism, as I experience through my work and schooling, was overt. These experiences are what prompted me to select these two counties as my case studies.

Table 1 (in appendix) illustrates the numerical difference between Los Angeles County (LA) and Orange County (OC). County-level data in the table demonstrate that LA is more heavily populated in comparison to OC. In 2016, LA had a population size of 10,137,915 compared to OC with a population of 3,172,532 in the same year. Additionally, there is a higher concentration of Hispanics in LA County 48.5% vs. OC with only 34.3% of Hispanics. LA County also has higher unemployment at 5.3% and poverty at 23.4% in comparison to OC with an unemployment of 4.0% and poverty rate of 14.5%. Education-wise there are more college-educated people in OC at 30.8% vs. LA county with only 24.9% of college-educated individuals. This education difference partially accounts for the income disparity between the two counties. In general, OC is wealthier with a median household income at \$81,642 vs. LA with a median household income of \$61,308. Finally, politically there are more registered Republicans in OC 40.0% than in LA 20.26%. Moreover, in terms of immigration detention practices, OC supersedes LA, with three detention centers vs. only 1 in Los Angeles. This data further expanded my

interest in the two counties as case studies prompting my need to explore how these discrepancies take place.

Overall LA county has a larger population, more Hispanics, more poverty, more unemployment, less education but only one detention center; whereas Orange county has the stability and conditions to have no detention centers, yet it has three. If we consider the Latino threat narrative (Chavez, 2008) the conditions in these two counties should account for a reversal in the number of detention centers. Given how the perceived threat of the foreigner is less in Orange County it should have no or fewer detention centers than LA county. In comparison the Latino presence in LA county, the limited resources should push this county to enforce and heighten its xenophobia against immigrants. In Los Angeles County there is only one facility that contracts with Immigration and Customs Enforcement which is the Glendale Police Department located in the city of Glendale. In contrast, Orange County has three facilities Theo Lacy Facility located in the city of Orange, Orange County Intake Release Facility located in the city of Santa Ana and the James A. Musick Facility (JAM) situated in the city of Irvine. This discrepancy between the numbers of detention centers and population size further increase my interest in these two counties. These counties are comparable because they are two large metropolitan counties in California. Regionally they are in close proximity from each other which makes their significant difference in detention facilities a phenomenon worth examining. This research interrogates the institutional forces that account for the difference in detention centers per county.

Since this thesis is examining two cases, it will utilize a method of similarity-and-difference comparison. The analytical frame utilizes a comparison between cases to determine how institutional processes and crimmigration shape contracting in counties and how this informs the immigration-industrial complex at a state level. Moreover, this design is best suited for this thesis as it is not trying to analyze a statistical relationship between variables rather it will address

why some counties have more detention centers than others. This research will also use ground theory to expose patterns and relationships within the data. These patterns and relationships will then be coded to identify emerging theory.

This small sample of two cases provides a strong comparison because the two counties being analyzed are part of the metropolis of Southern California. Their economies are similar despite the variation in internal demographics. Moreover, the two counties are border counties; the conditions of each (see data in Table 1 in appendix) appear to be ground for similar sentiment regarding immigrants yet, due to the difference in detention facilities per county it can be predicted that sentiments vary greatly between county. This thesis seeks to explain why one county with less than half the population of the other needs three detention centers. It seeks to explore the justification at the county level for the contracting of these facilities. Moreover, this comparison between counties will also look into dynamics and power structures between the cities; that make-up each of these counties where the detention facilities are located.

### **Data**

The data for this research was collected from two sources (1) secondary data which will assist in setting up context, help in the understanding of the issue, and provide descriptive statistics; (2) and primary data constitutes media, newspaper article, internal county contract, county records, and detention data (appendix table 2). To collect data for this research, I make use of archives, online and print publications; including business contract documents between cities in Los Angeles and Orange County and private detention facilities; newspaper article and publications from Los Angeles Times and the Orange County Register; minutes and agendas on meetings the county and or specific cities within it had to discuss or receive community input on the counties contracting with detention center; detention data from think thank organizations, Census, Department of Homeland Security, and California's state reports on detention conditions

and oversight. The data collected are from years 2014-2019. These years were selected as they correspond with the beginning of the 2016 Donald Trump presidential campaign and election, but also with the previous presidential administration. These specific years gave rise to a period of implicit xenophobia in the media to a period of explicit xenophobia at the national and local levels. Given how state politics and decision-making is influenced by the national agenda positioning the data gathering within this time frame allows for a contemporary analysis of the California paradox. Moreover, it is important to note that the facilities use for detention began such practices before 2016 and detention practices were not a result of the surge in anti-immigrant sentiment that took place from 2016-2018. The Orange County Intake Release Facility (OCI) began immigration enforcement in 2006, Theo Lacy Facility (TLC) in 2010, James A. Musick Facility (JAM) 2014, and Glendale Police Department (GPD) in 2007.

### **Analysis**

The data collected for this thesis is analyzed by using ground theory and coding to identify emerging theory. Table 2 (in appendix) provides a list of the types of data that will be examined for this thesis. For example, media, internal county contracts, county records, and detention data will be reviewed to identify themes and emerging topics that contribute to explain the California Paradox. Focus is placed on themes that inform the political, social and economic structures that shape the contracting of detention facilities within California boundaries. This thesis employs a strategy of comparison to by looking at the similarities and differences between each county.

## CHAPTER 4-ANALYSIS OF THE DATA

### Overview

This chapter analyses the immigration-industrial-complex as it pertains to the California Paradox. Golash-Boza defined the immigration-industrial-complex as a confluence of interests invested in the profiting of immigrants placed in detention centers (Golash-Boza, 2009). The criminalization, racialization, dehumanization, and alienation of immigrants is accomplished through the media which serves to shape a negative public perception of immigrants; business interest who profit from the detention of immigrants; and the law (see figure 1.1 in Appendix B). These interests work together to create a threat narrative that serves as a justification for the immigration-industrial-complex. Figure 1.1 is built from Golash-Boza's position which states the immigration-industrial-complex contains three features (a) rhetoric of fear, (b) convergence of powerful interest, and (c) a discourse of other-ization (Golash-Boza, 2009). Figure 1.1. identifies the convergence of interest that go into building the immigration-industrial- complex and argues that the rhetoric of fear and other-ization operate within the convergence of interest and are not exclusive features of the immigration-industrial-complex, but rather part of the whole which is the convergence of interest.

The immigration-industrial-complex is a business and its operation are permitted through a meticulously crafted system in which the media shapes public opinion regarding the criminalization of immigrants. Then this public opinion is used to justify policy at the state and local level that negatively impacts the lives of immigrants and perpetuates criminalizing immigrants through laws that detain and ultimately generate profit. Moreover, the laws that guide the interactions between local, state, and federal governments are vague with loopholes, ambiguities, and clashes between the levels of government which permit them to detain immigrants to further their operations and profits.

Applying the relationship between media, business practices, and the law (see figure 1.1 in Appendix B) to the California's Paradox<sup>10</sup> it becomes evident that the paradox is the result of contradictions between laws pass at the state, local, and federal levels regarding immigration enforcement. In other word the matrix demonstrates how crimmigration is justified. Despite California being a sanctuary state for immigrants; it is the lack of alignment between the laws passed by the three bodies of government that allow for the distinct political, social, and economic interests within California's counties to inform contracting with Immigration and Customs Enforcement (ICE). These contradictions between the laws passed by the federal, state, and local government are a result of the business interest and the medias' frame that strategically work together to profit from the incarceration of immigrants. In order to make sense of the California Paradox and provide context, in the next section I will evaluate the clashes between federal, state, and local laws as well as the business gains that result from the clash. Moreover, I will provide an analysis of the social, political, and economic interests that allowed detention practices to be established in the Los Angeles and Orange Counties.

### **Clashes Between the Law**

The U.S. Congress has control over all immigration-related regulations, while the White House is in charge of enforcing immigration law, changes in presidential administration influence the degree of immigration enforcement. Given the separation of powers design in the constitution, immigration law is a federal mandate, but also a consolidation of different levels of powers. In exploring the California Paradox, a noteworthy overarching theme relates to the clash between federal, state, and local government in the enforcement of immigration law. Amendment 10<sup>th</sup> of the U.S. Constitution states that "The powers not delegated to the United States by the

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<sup>10</sup> This thesis defines the California Paradox as the contradiction that exists in California between its pro immigrant politics and being the second-largest state that detains immigrants.

Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” This amendment has been interpreted by local government to grant them the authority and autonomy to choose whether or not to participate in the federal government’s efforts to enforce immigration law. As stated by the Immigration and Nationality Act of 1952 violations of immigration law are a civil violation; thus, the involvement of local law enforcement whose purpose is to oversee criminal violations is unnecessary in the enforcement of immigration violations. This lack of clarity regarding under what conditions and for what reasons can the distinct governments (local, state, and federal) cooperate for purpose of immigration enforcement creates tension between governments and results in distinct interpretations regarding the enforcement of immigration law at a given jurisdiction. In the following section I will show how federal immigration law has had varied subjective interpretations regarding whose responsibility it is to enforce it. These interpretations are important because often it is these interpretations that justify the contracting, sub-contraction, and or collaboration between law enforcement agencies of the state and local levels to detain undocumented immigrants.

#### *Federal Immigration Law*

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 made significant changes to the Immigration and Nationality Act of 1952. The changes enacted were in relation to the criminalization of immigrants by broadening the scope of deportable offenses, setting new parameters for removal procedures, and allowing state and local governments to enforce detention. Specifically, section 287(g) of the IIRIRA notes:

*Notwithstanding section 1342 of title 31, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or*

*political subdivision and to the extent consistent with State and local law...  
(Section 287 (g) of IIRIRA, 1997).*

The 287(g) is a program that became implemented through the Illegal Immigration Reform and Responsibility Act (IIRRA) of 1996, the program takes its name after a provision in the aforementioned act. The 287(g) program allows local law enforcement to become immigration enforcers within their jurisdictions (American Immigration Council, 2019). This federal statute expanded the jurisdiction of local governments to have contracts directly with ICE. Additionally, this allows local law enforcement officers to become immigration agents as they are able to detain individuals for immigration related offenses. It is important to note that this expansion in scope of authority given to local law enforcement agents hurts community relations as individuals who lack immigration status might feel less inclined to cooperate with law enforcement.

At the federal level, the 287 (g) program is only one of two other tools used to enforce immigration law at the state and local level. The other two programs are Secure Communities and the Criminal Alien Program (CAP). Secure Communities is a program overseen by the Department of Homeland Security (DHS) and operated in U.S. jails. Through the program U.S. jails collaborate with DHS by submitting fingerprints of arrestees to both immigration and criminal databases. Through this information sharing Immigration and Customs Enforcement (ICE) is able to obtain the information on individuals detain in jails. If an individual is identified as undocumented ICE is notified before their release from the jail and decides whether or not the individual should be transferred into federal custody for deportation or release (American Immigration Council, 2011). Moreover, the third tool used by the federal government to enforce immigration law is the Criminal Alien Program (CAP), under this program ICE is provided with access to jails and prison to screen and or interview individuals in order to identify noncitizens (American Immigration Council, 2011).

These programs only operate in states or local jurisdictions on a voluntary basis. These programs work independently from one another; however, they also interact in that they contribute to the immigration-industrial-complex. The state of California no longer has active 287(g) agreements due to the passage of the Values Act<sup>11</sup>. It is important to note that 287 (g) does not mandate the collaboration between federal and local governments or state rather it creates a path for it. After the passage of the Values Act in California, all local police and sheriff was prohibited from inquiring about an individual's immigration status in the state. Given that the 287(g) program is a voluntary program any agreement entered between local government and federal government became unlawful and had to be terminated to comply with the Values Act. With this said, it is important to highlight the fluidity of immigration law; prior to the Values Act California did actively engage in Secure Communities and the 287(g) programs, the degree of enforcement or activity with these programs varied significantly by county. Thus, at the federal level the degree of enforcement of immigration policy will be dictated by the priorities of a given presidential administrations. For example, the Bush administration was responsible for setting the infrastructure of programs like 287 (g), however subsequent administrations have made use of it.

#### *Executive Order*

In 2017 President Trump issued executive order 13768 entitled "Enhancing Public Safety in the Interior of the United States." The executive order aimed to limit federal funding for states and or local governments who enact sanctuary policies. Sanctuary policies are usually aimed at safeguarding undocumented immigrants by limiting the jurisdictions' collection of immigration information and collaboration with ICE and other immigration enforcement agencies. Sanctuary policies are enacted by cities often referred to as Sanctuary Cities; these cities symbolically

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<sup>11</sup> SB 54 also known as the Values Act is California State law passed in 2017 which aims at preventing local and state law enforcement agencies from using existing resources to collaborate with federal immigration enforcement.

decide that their jurisdiction will not cooperate with the federal government in the enforcement of immigration law. Given the symbolic nature of these policies any new administration or shift in political affiliation of a given city dictates if a city continues to uphold its sanctuary policies. Sanctuary cities are usually cities with large concentration of immigrants both documented and undocumented. Give California's large immigrant population the Values Act enacted the spirit of the sanctuary policies already in existence in distinct city of California in order to limit the ability of local governments to cooperate with the federal government in the enforcement of immigration law. The Values Act achieved this by limiting the contracting abilities of local governments with the federal government. Executive order 13768 stated:

*Although Federal immigration law provides a framework for Federal —State partnerships in enforcing our immigrations laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies to employ all lawful means to...enforce the immigration laws of the United States (President Trump Executive Order 13768, 2017).*

Before we begin the analysis of this executive order it is important to note that an executive order is a declaration by the President of the U.S.; the authority for issuing executive orders is drawn from the constitution, statutory law, and/or congressional interpretations. Moreover, presidential executive orders are fluid as one presidential administration can dismantle orders established by previous administrations. This executive order is significant because it was aimed at penalizing entities by withholding federal funding to state and local jurisdictions who did not follow the “framework for Federal-State partnerships” in the enforcement of immigration law. Moreover, the order also seeks to reestablish federal “sovereignty” and prevent states’ and/or local jurisdictions from protecting immigrants through the passage of sanctuary policies. The outcome of this executive order, which is the withholding of funding for states’ or local

governments that choose to protect immigrants, points to a clash in the law, as current federal law cannot require state or local government to cooperate or enforce immigration law. In other words, the state law cannot stop federal agents from enforcing immigration law and Federal law can only provide opportunities for partnerships and prohibit state and local government from infringing upon the federal government, but it cannot require state and local government to cooperate with enforcement practices. This order demonstrates the complexities of federal, state, and local government regarding the enforcement of immigration law. This specific executive order penalizes local and state jurisdictions for protecting immigrants through the passage of sanctuary legislation, even though such legislation does not prevent federal immigration enforcement. Sanctuary policies only serves as symbolic law and states' and or local governments choose not to cooperate with federal government in the enforcement of immigration. This executive order ignores the difference between "choosing not to cooperate" and "infringing" on the federal government's efforts to enforce. This executive order resumes that choosing not to cooperate is equivalent to infringement, the state and local governments that enact sanctuary policies are choosing not to cooperate; however, they are not infringing on the ability of federal government to enforce immigration law. Cooperation of states or local governments is not mandated in federal immigration law, thus monetarily penalizing states for lack of cooperation points to clashes between federal, state, and local governmental authority.

In the cases of the California paradox we see the clash between federal, state, and local governments. This is apparent in that the federal government, particularly the Trump administration, is interested in mass enforcement of immigration law; California choose not to cooperate with enforcement by passing the California's Values Act which does not infringes the federal governments enforcement of immigration law it simply limits the cooperation.-The California Values Act (SB 54) was sign into law on October 5, 2017 and it went into effect on

January 01, 2018. The law limited the interactions between law enforcement agents and community members for purposes of enforcing immigration law. After this law was enacted, California passed another law (AB 32) which address some of the gaps of SB 54. As mentioned before SB 54 limited the cooperation between law enforcement and immigration officials; however, it could not completely put an end to such cooperation, because in some counties the county or city had entered into contracts with the Department of Homeland Security (DHS) or private detention facilities. SB 54 could not infringe on business practices. Thus, California law AB 32 was sign October 11, 2019 and went into effect on January 01, 2020. The goal of this law is to bar the California Department of Corrections and Rehabilitations (CDRC) from entering or renewing contracts with private prisons and or detention centers (Office of the Governor, 2019). This made California the first state to end contracting with private detention facilities (Los Angeles Times, 2019)

### **Business Gains**

The contracting of the Department of Homeland Security (DHS) with local and private detention facilities has expanded in the last couple years. Specifically, after the terrorist attacks of September 11, 2001, immigration law became more draconian and enforcement of immigration law increased rapidly. The Department of Homeland Security was established in 2003 as a response to the terrorist attacks since inception the department launch programs like the National Fugitive Operations program in 2003 a program to deport those who have fail to leave the country after a final order of deportation. From years 2003-2010 the program increased its budget from \$9 million to \$230 million (Chishti & Bergeron, 2011). Moreover, after September 11, 2001 the number of 287 (g) agreements increased for example between 2006 and 2010 went from 8 to 69 (Chishti & Bergeron, 2011). Also, it is important to note that the Secure Communities program

was launched in 2008 and in year 2010 it accounted for the arrest of 90,937 immigrants (Chishti & Bergeron, 2011).

Moreover, laws such as the Intelligence Reform and Terrorist Prevention Act of 2004 were enacted to criminalize immigrant communities (Detention Watch Network, 2015). The act required that Immigration and Customs Enforcement (ICE) increase the number of beds for use of the detention of immigrants. In addition, arbitrary numerical goals and bed minimums were set to 34,000 per year (Detention Watch Network, 2020). The incarceration of immigrants has become a profitable business where immigrants used to fill bed space and then coerced to participate in Voluntary Workers Program. In the case of the California Paradox it is the economic incentive of detention that contributed to the counties' choice to establish contracts with ICE for the purpose of detention. The reason for Los Angeles County ending contracts with ICE sooner than Orange County has to do with the fact that Los Angeles County had less detention centers than Orange County, making it easier for the city of Glendale to justify the end of contracting. Moreover, Los Angeles as a County has historically been more pro immigrant than Orange County.

In the development of their contracts ICE makes use of homogenous language. The following is the opening paragraph to both Orange County and Los Angeles County intergovernmental agreements with ICE:

*This term recognizes that ICE detainees are not charged with criminal violations and are only held in custody to assure their presence throughout the administrative hearing process and to assure their presence for removal from the United States pursuant to a lawful final order by the Immigration Court, the Board of Immigration Appeals or other Federal judicial body (ICE Contract, 2015).*

The Department of Homeland Security (DHS) acknowledges in its intergovernmental agreement between itself and the contracting party—in this case the county—that the immigrants detained are not charged with criminal violations. However, their placement in County jails helps advance

notions of illegality, criminality and further contributes to a system of crimmigration<sup>12</sup> that profits from the incarceration of immigrants. The detention and the removal of immigrants is what fuels the system of crimmigration. The department also acknowledges that detained immigrants are held in order to ensure they follow an administrative process. This distinction between “criminal violation” and “administrative process” is noteworthy because it points to the enforcement of immigration and the expansion of the web of criminality that allows for the detention of immigrants to be justified.

Moreover, currently the contracts between the counties and ICE all have guarantee minimums that establishes a numerical quota system of the amount of beds a county has to remain occupied with ICE detainees. With this practice, the counties are housing both immigrants and criminal convicts within the same facility leveraging profit. The following statement is a blanket statement that appears in both Orange County and LA County contracts. The statement is as follow:

*If the inmate population of the County Jail begins to increase to a point where it appears to the Sherriff's Department that the number of guaranteed beds for detainees may need to be reduced, the Sheriff's Department shall notify ICE, and the Sheriff's Department and ICE will work to resolve the issue within 90 days (ICE Contract, 2015).*

The counties have a vested interest in actively profiling immigrant communities. It is within these communities that the County finds the individuals to fill its beds space. When the City of Glendale has an active contract between the Glendale Police department and ICE the bed allocation was 32 beds to hold immigrant detainees for a maximum of 45 days. Currently, the bed space allocation for the County of Orange is 838, distributed as follow: 472 male bed for Theo Lacy facility, and 256 male and 110 female beds for James A. Musick (ICE Contract, 2015). Failure to notify USCIS of limited bed space due to increase in general jail population can cause

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<sup>12</sup> The relationship or overlap between immigration policy and policing (Garcia, 2015).

the County of Orange to lose its contract with DHS (ICE Contract, 2015). Moreover, reallocation of immigrants to other facilities would mean a loss of revenue for the County of Orange as immigrants would be sent to alternate locations to await their administrative process. These quota system causes an increase in enforcement of immigration law by local law enforcement. In the contract it is the responsibility of the County of Orange to ensure that it complies with the terms of conditions of the contract; meaning that's it is its contractual responsibility to ensure that 500 beds per day remain occupied for the duration of the contract term. Thus, as individuals are released the demand for new immigrant detainees increase.

#### *Other Economic Incentives*

The Voluntary Workers program is available in county and private facilities that contract with DHS. This program exists since the 1950 and it is model after a law that came out of the Geneva Convention which mandated that prisoner of war be paid fair wages for work performed in detention (U.S. Commission on Civil Rights, 2017). The quote below defines the parameters of the Voluntary Workers Program available to detainees at the James A. Musick and Theo Lacy detention facilities in Orange County. The following statement is also a blanket statement appearing in all contracts between the county and ICE.

*Detainees may have opportunities to work and earn money while confined, subject to the number of work opportunities available and within the constraints of safety, security, and good order...The negative impact of confinement will be reduced through less idleness, improved morale and fewer disciplinary incident...There will be no discrimination regarding voluntary work program access based on any detainee's race, religion, national origin, gender, sexual orientation, or disability (ICE Contract, 2015).*

In all intergovernmental agreements between ICE and the County jails the Voluntary Workers Program allows detainees earn \$1.00 per day for working in duties that ensure the operations and maintenance of the detention facility. These duties include general cleaning, scrubbing toilets and showers, laundry and other operations (ICE Contract 2015). The framing of DHS regarding the

benefits of employment position the program as an “opportunity” for detainees; however, it is hard not to see the profits and earnings accrued by county jails by not having to employ non-detained individuals to perform these operational services. The detainees earn \$1.00 per day and work 8 hours a day for 40 hours a week that is \$40.00 a week in comparison the minim wage in CA is \$12.00 at 40 hours a week of week of work and individual can earn \$480 a week (Immigration and Customs Enforcement on Voluntary Workers Program Memo, 2016). The profits of localities providing detainees with Voluntary Workers Program are significant; having to contract staff to perform the duties being performed by detainees through the program would cost the jail an average of \$125,000 per year, were as they are only spending \$1,680 per year by using detainees as labor (U.S. Commission on Civil Rights, 2017). The work program is ironic as immigrant detainees in the United States are not permitted to work because of the lack of proper documentation. However, when jailed the DHS has no issue with their legality or requires immigrants to provide employment authorization in the U.S. The program also builds protections regarding discrimination for individuals in detention participating in the program. These protections mean that a detained employee will get more protections working in confinement than they would while seeking employment as unauthorize workers in the U.S.

### **The Cases**

For purposes of this analysis we will look at LA County and Orange County as case studies that will help us understand the California paradox and determine how do immigration practices become established at the county level. This thesis will particularly explore how the economic, social, and political interest of the county determine the contracting with ICE.

#### *The Case Of LA County*

The City of Glendale in LA County demonstrates the changing nature of f immigration law and further the clash between federal and local government in the enforcement of

immigration law. It also demonstrates how enforcement becomes draconian and immigrants criminalized depending of the composition in leadership of the officers tasked with carrying out the law.

During a City Council meeting in 2017, the City of Glendale police Chief Robert M. Castro made a distinction between crime and an immigration offense which is consider a civil violation. The language and framing Chief Castro used to describe immigrants is more tolerant and explicitly conveys their belonging in society. In comparison language used by President Trump's Executive Order is dehumanizing and criminalizes all immigrants. The Statement by Chief Robert M. Castro is as followed:

*The Glendale Police Department does not have the authority nor the responsibility to incarcerate or detain individuals solely based on immigration status. Our fundamental duties are based on public safety serving the—community, while focusing efforts primarily on crime prevention and law enforcement. Our responsibility is to protect the lives of the community we are sworn to serve and honor the principles of democracy upon which this country was founded (Glendale City Council Report, 2017).*

In order to understand this quote, it is important to note the history of the City of Glendale. The City of Glendale, particularly the Glendale police department used to collaborate extensively with ICE and honoring the provisions of 287(g). They would honor ICE detainers<sup>13</sup> and had an intergovernmental agreement where they received \$89.00 per every night, they held someone for ICE. In response to the executive order by president Trump, the Glendale Police department the new Chief of Police opted to end the contract with ICE and discontinue the detainment of individuals for ICE. In 2015, LA County has demonstrated to stand with immigrant communities and as a county opted out of participating in 287(g). This decision by the county made it

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<sup>13</sup> A Detainer is a tool use by the Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS) to deport individuals serving sentences in jails or prisons. Through this detainer also refer as a request the immigration enforcement agency asked the jail or prison to hold an individual at least 48 hours after they have served their criminal sentence in order to allow time for the immigration enforcement agency to arrest.

politically acceptable for the City of Glendale to honor the Chief's decision and terminate its relationship with ICE. It is important to note that this termination could not be done sooner as the City of Glendale had an existing active contract with ICE which prevented them from ending the relationship before the expiration of such contract. It was the change of federal leadership and community concern that prompted the Glendale City Council to support the decision of the Chief Castro.

The City of Glendale is part of LA County, politically LA County as a whole is more pro-immigrant than the City of Glendale. The City of Glendale demographically compares significantly to the County of Orange in terms of social and political stance; the city has always been more conservative regarding issues of immigration. However, after the 2016 presidential election, the city decided to uphold the social and political stance of Los Angeles County and pass a resolution to end contracting with ICE and bridge its relationship with immigrant communities.

*The Glendale City Council has taken the formal step and supported the Glendale Police Department's statement on immigration...The Glendale Police Department released a statement that affirmed the department's role as protectors of public safety, not federal immigration officials... (City of Glendale Immigration Policy statement, 2018).*

After the 2016 presidential election, LA county became very vocal about ensuring the immigrant communities residing in the county felt a sense of belonging. These efforts lead cities like the City of Glendale to adopt more pro-immigration policies. The statement reference above is found in the police departments website and it makes an important distinction between "protecting public safety" and the duties of "federal immigration officials." With this statement the city aligned the purpose of its police department with the pro-immigrant stance of the County of Los Angeles. The City of Glendale decided to terminate its contract with ICE and end the

cooperation between the Glendale Police Department and immigration law enforcement agencies.

The Departments website notes:

*“The federal government has the exclusive authority to enforce the civil provisions of federal immigration law relating to issues such as admission, exclusion, and deportation. Current law generally allows the federal government to permit, but not require, the assistance of local officials in such efforts.” (City of Glendale Immigration Policy statement, 2018).*

The City of Glendale notes the separation of powers between federal and local governments. Its decision reflects a commitment that goes beyond a termination of a contract that minimizes a relationship between the city and ICE. The city’s decision is in part related to the political and social stance of the County as a whole. Since LA county reinforces the Glendale’s Police Department through the passage of policy and programs that are attuned to the needs of immigrants. The Police Department notes “the exclusive authority of the federal government” and the permissible but not require the cooperation to reference the autonomy of the county to make decision between what is enforce within its parameters. As long as the County does not infringe upon the federal government’s efforts of enforcement.

#### *The Case of Orange County*

The passage of the California Values Act in 2017 significantly limited the interactions of California with ICE. It particularly prohibited state and local police agencies from notifying ICE officials that they had an undocumented immigrant in custody. In practice through this law California as a state made the decision to stop honoring ICE detainers. Despite the Values Act, Orange County, unlike LA county, continued its relationship with ICE, making it the only government entity in 2017 to participate in the 287(g) programs (The State of Orange County, 2019). It was not until the passage of SB 29; this bill was passed in October of 2017 and took effect in January 2018. The bill prevents California municipalities from entering into contracts with the Federal Governments for the purpose of detaining immigrants. This bill forced Orange

County to terminate its relationship with ICE. Before SB29, Orange County would frame the relationship between the county and ICE as part of their contractual responsibility to ICE. As a reaction to SB 29 the County of Orange Sheriff's Department made the following statement in a press release:

*I have made the decision to make two significant changes to our jail operations...the decisions are intended to mitigate the risk of litigation from the state while, at the same, minimize costs to Orange County taxpayers. Jail Operations at the James A. Musick Facility will be temporarily suspended and our agreement with the Federal Government to house Immigration and Customs Enforcement (ICE) detainees will be ended (Orange County Sheriff Department Press Release March 27, 2019).*

According to the Orange County Sheriff's jails under the jurisdiction of the Sheriff Department will no longer collaborate with Immigration and Custom Enforcements (ICE). Although the sheriff, in the press release, frames his decision as a shift in priorities for the department and inmates currently in custody; language in the statement like "mitigate risk of litigation from the state" point out to the departments' reluctance to end this collaboration voluntarily. It is the passage of SB 29 that force the department to end contracting with ICE. Thus, the States' push for pro-immigrant legislation has provided the social and political landscape to end long standing practice and collaboration between ICE and Orange County. The laws at the Federal levels historically contributed to the establishment of detention and local jurisdictions have capitalized on the opportunity of detaining immigrants for profit at the county level. The California paradox is thus the result of the interconnectedness of immigration enforcement and the distinct separation of powers between local, state, and federal law.

Contractual agreements between Immigration and Customs Enforcement (ICE) and counties are dictated in part by the framing, politics, and sentiments that the counties constituents hold regarding immigrant communities. The following quotes demonstrate how the framing of immigrants as deviant, criminal, and non-belonging justify Orange county's contracts with ICE.

Orange County began contracting with ICE in 2006, this contracting generated approximately \$340,000 per month, and about \$3 million in profit per year to the county; this contract ran from 2006 to 2010 then renewed from 2010-June 2020 (Orange County Register, 2019). Recently, the county underwent a shift in priorities for the Orange County Sheriff's department and provided this shift as the justification for opting to terminate the contract with ICE. The Orange County Sheriff Department provided the following statement regarding its decision to terminate contraction:

*The conclusion of the ICE agreement will allow maximized use of jail bed space and focus on the needs of the mentally ill. The loss of revenue will be offset by the savings through the temporary closure of housing operations at the Musick Facility (Orange County Sheriff Department Press Release March 27, 2019).*

It is important to note that even in its termination of contracting practices the county makes it so that immigrants continue to be criminalize. The decision to enter into a contractual agreement with ICE was voluntary. Each county or city jurisdiction had the capacity to choose whether or not they wanted to collaborate with ICE in the enforcement of immigration law. Housing immigrant detainees at the James A. Musick Facility, Theo Lacy Facility, and the Intake Release Center provided the county with a revenue of \$118.00 per detainee per night. The statement above mentions "loss of revenue" describing a view in which immigrant are a source of funding. The county has made immigrants a profitable commodity that is justified by the constructions of illegality perpetuated by the media, policy, and research which frames them as "tax evading", "taking jobs", "breaking the law", and "using our resources" (Hing 2006). This framing is problematic as it criminalizes immigrants making them a target of law enforcement and helping counties justify contacting with ICE for the detention and deportation of immigrants. Due to the politics of Orange County and it being a republican county with significant anti-immigrant sentiments, the county did not have to justifies contracting with ICE for purposes of

immigration enforcement, rather it had to justified ending its contacts. It did so by alleging a change in priorities for the Sherriff Department, in cities where you have immigrant detainees and inmates being detain in county facilities the County frame its termination of immigration enforcement as a refocus in the mental health of its inmate population (Orange County Sheriff Department Press Release March 27, 2019).

The termination of the Orange County's agreement with ICE was more due to California's stance on immigration rather than a change in politics within the county. The Orange County Sheriff Department issue a press release to inform the community about the termination of the contract and the language and framing use in the press release point to a political climate within the county that is not tolerant of the immigrant population.

*The decision to end the ICE agreement will not impact public safety. OCSO will continue to work with ICE within the confines of SB-54 to ensure they are alerted to the release of serious and violent offenders within our custody who have ICE detainees (Orange County Sheriff Department Press Release March 27, 2019).*

Phrasing such as “the release of serious and violent offenders within our custody who have ICE detainees” showcase that 1) immigrants are prone to crime. In the statement the sheriff reaffirms the county that termination of the contract will not impede collaboration between ICE and the County of Orange. Under the ICE detainees Immigrants release from jails are release to ICE who then proceeds to process them for their immigration offense. Any other individual with the appropriate immigration status who commits a crime after complying with its jail sentence is reincorporated into society. The County of Orange makes it clear that it will not violate state law (SB 54) as it will “continue to work...within the confines” of it; however, their decision to honor ICE detainer is following the Immigration and Nationality act Section 287 (g).

## **Conclusion**

This section evaluated the clashes between law and business gains that account for the California Paradox. Moreover, I provide an analysis of the social, political, and economic interests that allowed detention practices to be established in Los Angeles County and Orange County. Ultimately clashes between the law, economic gains and/or the media all played a role in 1) a county's decision to collaborate with ICE, and 2) a county's decision to end its contracting practices. Thus, it is this criminalization that California try to address and, in some ways, dismantle though the passage of SB 54 and SB 29; however, clashes between federal, state, and local government create this paradox where California is a sanctuary state and also the second-largest state involved in the detention of undocumented immigrants. California's detention machine is both corporate and via county jurisdictions. Through is legislation California has tried to control County's involvement in detaining immigrants; however, 287(g) grants county or local government the authority to be an active player in immigration enforcement. Separation of powers has made it so that Federal government creates the laws that bind every single person and or entity specially when it comes to matters of national security; State government only has limited authority under the 10<sup>th</sup> amendment that reserves some discretion to states. Thus, local government has to obey federal government and state government has the authority to make any laws necessary for the operations and administration of the state so long they do not conflict with federal law. The cases of Orange County and LA county exemplify these clashes between law and two distinct takes on a County's role in the enforcement of immigration law.

## CHAPTER 5-FINDING AND INTERPRETATIONS

### **Overview**

This thesis examined the California paradox as it pertains to how a state can be both pro immigrant and also be the state with the 2<sup>nd</sup> largest immigrant detain population. In order to make sense of the paradox the paper focused on political, social, and economic interests at the level of the county which determined contracting with U.S. Immigration and Customs Enforcement. More specifically, the paper utilized a case study of two county hubs of detention in California—Orange County and Los Angeles County. In Orange County the paper examines three detention facilities Theo Lacy Facility located in the city of Orange, Orange County Intake Release Facility located in the city of Santa Ana and the James A. Musick Facility (JAM) located in the city of Irvine. In Los Angeles County it examined the Glendale Police Department located in the city of Glendale.

In this research, emerging themes that accounted for the California paradox included clashes between federal, state and local law as it relates to immigration enforcement. It became evident that in addition to the political views of each county and the frames that the media uses to report on these views, it is also the ambiguity in the different levels of law regarding immigration enforcement that accounts for the California paradox. It is important to note that through the passage of the Values Act and SB 29 California has made noteworthy efforts to stop being a paradox. In terms of the hierarchy of law it is usually Federal, State and County, by passing the previously mentioned legislation California unified its stance on immigration among all its counties, by outlawing the detention of immigrants within California. Regardless of a county's particular politics or views on immigration, due to the state-level legislation, they now cannot detain immigrants within their county jurisdictions and county police cannot enforcement immigration law.

It will take a couple years for California to lose its place as the 2<sup>nd</sup> largest state with the highest number of detained immigrant population, this is due to active contracts between some counties and Department for Homeland Security. Some of California's county jurisdictions will continue with their immigration enforcement practices until those contracts expire. It is important to point out that California's legislation to end detention only applies to law enforcement facilities such as jails and prisons administer by the state. This mean that the federal government can still contract with private business that focus on detention operating in California to hold immigrants. California taking a stance against the detention of immigrants will likely not completely end detention in California, but it does severely damage the immigration-industrial-complex. The complex will lose its arm on enforcement in California.

### **Unintended Consequences**

Some problems arising from California's decision can be an increase of number of private facilities in the state to house immigrants and a displacement of immigrant currently held in California with ties in the state. To examine the first point, with the inability of Department Homeland Security to contract with California state funded prison and jails, this opens up opportunities for private companies like Corrections Corporations or America and Geo Groups. This means that in the next years we could potentially see a rise in more private detention facilities in California and or across the U.S. This is problematic because these facilities will have very little outside oversight in terms of detention practices. The only entity really overseeing their operations will be the federal government. The second point, immigrants currently detained in California have ties to California, family, legal representation, etc. By ending the ability of California to detain immigrants in its jurisdiction, the state risk displacing this population. Immigration is federally enforced and unfortunately it will not stop, thus when an immigrant is detained, they might be sent outside of California, where they will have limited access to council and most likely limited social

ties which will limit their ability to find legal representation. Currently California as a State funds over 100 nonprofit organizations to provide immigration legal services free of cost among them is representation for removal defense (Department of Social Services, 2020). If immigrant detainees are no longer held within California boundaries, it will be difficult for them to access this legal representation. Immigrant will most likely be sent to Arizona or Texas to await their detention outcomes. These states are notorious for their anti-immigrant politics and practices.

### **Conclusion**

California's decision to end the detention of immigrants within its prisons and jails and to limit domestic law enforcements ability to enforce immigration law is a step in the right direction. However, to really hurt the immigration-industrial-complex and abolish the profiting from immigrant communities a more coordinated approach amongst all 50 states needs to be employed. While limiting the enforcement of immigration law within California helps its current community feel safer and more at ease the action does little to hurt the overall detention machine. Although California with its actions as a state has made an important step to eliminate the California paradox, the reality is that immigrants' communities all over the U.S will continue to be profiled, discriminated, detained and overall targeted for their immigration status. This is why it is important that we understand and examine the many layers of intersectional oppression (along race, gender, class, and nationality) that affect how immigrants are incorporated in the U.S. Then perhaps even if we just touch at the surface of each in each state of the U.S and get them to take similar approaches to California can we make a more significant impact that truly challenges and ends the immigration-industrial-complex and limits their grasp in using immigrants as profitable commodities.

## Appendix A. Tables

Table 1. Data of Los Angeles County and Orange County Cases (data collected to compare these two counties and keep track of where I found data with footnotes.)

DATA	The Case of Los Angeles Country	The Case of Orange County
County Level Data <sup>14</sup>		
Population (2016) (% of CA total pop)	10,137,915 (25.8%)	3,172,532 (8.1%)
Poverty	23.4%	14.5
Unemployment	5.3%	4.0%
Median Household Income	\$61,308	\$81,642
Education (College Educated)	24.9%	30.8%
% Hispanic <sup>15</sup> (2016)	48.5%	34.3%
% Registered Republican <sup>16</sup> (2016)	20.26%	40.0%
Annual Budget <sup>17</sup>	FY 2018-19 = \$32.799 billion	FY 2018-2019= \$6.5 billion <sup>18</sup>
Debt	199.71 Million <sup>19</sup>	\$82.57 million <sup>20</sup>
Immigrant Detention Centers <sup>21</sup>		
	Glendale Police Department (GPD)	Theo Lacy Facility (TLC) Orange County Intake Release Facility (OCI) James A. Musick Facility (JAM)
Detention Center Name and Zip Code	GPD / 91206	TLC /92868, OCI/ 92703 and JAM/92618

<sup>14</sup> Source: <https://www.ers.usda.gov/data-products/county-level-data-sets/>

<sup>15</sup> Source: <https://www.census.gov/data/tables/2017/demo/popest/counties-detail.html>

<sup>16</sup> Source: <https://www.sos.ca.gov/elections/report-registration/154day-presprim-16/>

<sup>17</sup> <https://ceo.lacounty.gov/wp-content/uploads/2018/11/2018-19-Final-Adopted-Budget-Charts-3.pdf>

<sup>18</sup> <http://www.ocgov.com/gov/ceo/deputy/finance/budget/fy2019/201819ann>

<sup>19</sup> <https://counties.bythenumbers.sco.ca.gov>

<sup>20</sup> [https://counties.bythenumbers.sco.ca.gov/#!/year/2017/operating/0/entity\\_name/Orange/0/category/Debt+Service+and+Capital+Outlay/0/subcategory\\_1](https://counties.bythenumbers.sco.ca.gov/#!/year/2017/operating/0/entity_name/Orange/0/category/Debt+Service+and+Capital+Outlay/0/subcategory_1)

<sup>21</sup> Source: <https://www.freedomforimmigrants.org/detention-statistics/>

Type of Contract	IGSA	IGSA
Taxpayer Cost Per Person Per Day	\$85	\$118
Population	Male	TLC-Male OCI- Male/Female JAM-Male/Female
Most Recent Population Count <sup>22</sup>	201748	TLC-497 OCI-0 JAM-291
Average Detainee Population 2017	0	TLC- 481 OCI-0 JAM-297
Facility Operator	City	Country (Sheriff)
Microdata on Detention location (by zip code)	Glendale	TLC-Orange, CA OCI-Santa Ana, CA JAM -Irvine, CA
Population <sup>23</sup> (2010-2018)	203,054	Orange-140,560 Santa Ana-334,136 Irvine-277,453
Poverty <sup>24</sup>	15.6%	Orange-12.5% Santa Ana-19.5% Irvine-13.2%
Median Household Income <sup>25</sup>	\$58,657	Orange-\$83,500 Santa Ana-\$57,151 Irvine-\$95,573
Education (College Educated) <sup>26</sup>	39.6%	Orange-34.3% Santa Ana-13.2% Irvine-67.5%
% Hispanic <sup>27</sup>	18.2%	Orange-39.4% Santa Ana-77.3% Irvine-9.7%

<sup>22</sup> <https://www.glendaleca.gov/home/showdocument?id=39130>

<sup>23</sup> <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia/PST045218>

<sup>24</sup> <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia,orangecitycalifornia,santaanacitycalifornia,irvinecitycalifornia/PST045218>

<sup>25</sup> <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia,orangecitycalifornia,santaanacitycalifornia,irvinecitycalifornia/PST045218>

<sup>26</sup> <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia,orangecitycalifornia,santaanacitycalifornia,irvinecitycalifornia/PST045218>

<sup>27</sup> <https://www.census.gov/quickfacts/fact/table/glendalecitycalifornia,orangecitycalifornia,santaanacitycalifornia,irvinecitycalifornia/PST045218>

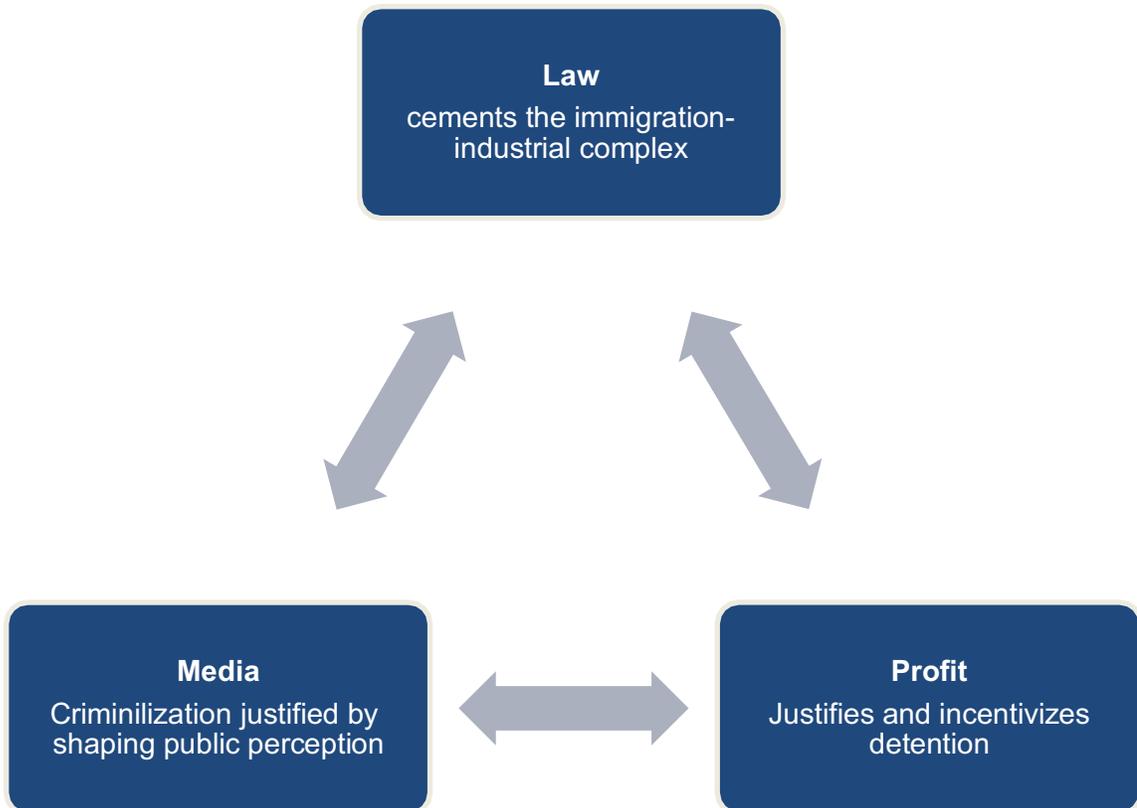
Table 2. Data on Publications Used for Case Study

<b>DATA TYPE</b>	<b>The Case of Los Angeles Country</b>	<b>The Case of Orange County</b>
Newspaper	Los Angeles Times <a href="https://www.latimes.com">https://www.latimes.com</a>	The Orange County Register <a href="https://www.ocregister.com/news/local-news/">https://www.ocregister.com/news/local-news/</a>
County Records	<a href="http://bos.lacounty.gov/Board-Meeting">http://bos.lacounty.gov/Board-Meeting</a>	<a href="http://www.ocgov.com/gov/bos/">http://www.ocgov.com/gov/bos/</a>
State Controller's Office	<a href="https://sco.ca.gov/sl.html">https://sco.ca.gov/sl.html</a>	<a href="https://sco.ca.gov/sl.html">https://sco.ca.gov/sl.html</a>
Census	<a href="https://www.census.gov/support/USACdataDownloads.html">https://www.census.gov/support/USACdataDownloads.html</a>	<a href="https://www.census.gov/support/USACdataDownloads.html">https://www.census.gov/support/USACdataDownloads.html</a>
Contracts	<a href="https://www.latimes.com/local/lanow/la-me-ln-ice-los-angeles-287g-20150512-story.html">https://www.latimes.com/local/lanow/la-me-ln-ice-los-angeles-287g-20150512-story.html</a>	<a href="https://www.ocsd.org/divisions/custody/ocsd_ice_ero_detention_contract_">https://www.ocsd.org/divisions/custody/ocsd_ice_ero_detention_contract_</a>
Contracts	<a href="https://www.glendaleca.gov/home/showdocument?id=36748">https://www.glendaleca.gov/home/showdocument?id=36748</a>	<a href="https://www.glendaleca.gov/home/showdocument?id=36748">https://www.glendaleca.gov/home/showdocument?id=36748</a>
Contracts	<a href="https://www.citylab.com/equity/2018/07/where-cities-help-detain-immigrants-mapped/563531/">https://www.citylab.com/equity/2018/07/where-cities-help-detain-immigrants-mapped/563531/</a>	<a href="https://www.citylab.com/equity/2018/07/where-cities-help-detain-immigrants-mapped/563531/">https://www.citylab.com/equity/2018/07/where-cities-help-detain-immigrants-mapped/563531/</a>
Detention Data	<a href="https://immigrantjustice.org/ice-detention-facilities-november-2017">https://immigrantjustice.org/ice-detention-facilities-november-2017</a>	<a href="https://immigrantjustice.org/ice-detention-facilities-november-2017">https://immigrantjustice.org/ice-detention-facilities-november-2017</a>
Detention Data	National Immigration Justice Center-List of Detention centers worked with Business insider bellow to compile list (excel and also a report by the ILRC) <a href="https://www.freedomforimmigrants.org/detention-statistics/">https://www.freedomforimmigrants.org/detention-statistics/</a>	National Immigration Justice Center-List of Detention centers worked with Business insider bellow to compile list (excel and also a report by the ILRC)
Detention Data	List of detention Centers by state: <a href="https://www.businessinsider.com/ice-immigrant-families-dhs-detention-centers-2018-6">https://www.businessinsider.com/ice-immigrant-families-dhs-detention-centers-2018-6</a>	List of detention Centers by state: <a href="https://www.businessinsider.com/ice-immigrant-families-dhs-detention-centers-2018-6">https://www.businessinsider.com/ice-immigrant-families-dhs-detention-centers-2018-6</a>
Detention Data	USCIS: <a href="https://www.ice.gov/detention-facilities">https://www.ice.gov/detention-facilities</a>	USCIS: <a href="https://www.ice.gov/detention-facilities">https://www.ice.gov/detention-facilities</a>
Detention Data	TRAC IMMigration: <a href="http://trac.syr.edu/immigration/reports/422/">http://trac.syr.edu/immigration/reports/422/</a>	TRAC IMMigration: <a href="http://trac.syr.edu/immigration/reports/422/">http://trac.syr.edu/immigration/reports/422/</a>
Detention Data	Immigration detention 2009-2010	Immigration detention 2009-2010

	<a href="https://archive.nytimes.com/www.nytimes.com/interactive/2010/02/23/nyregion/20100223-immig-table.html?ref">https://archive.nytimes.com/www.nytimes.com/interactive/2010/02/23/nyregion/20100223-immig-table.html?ref</a>	<a href="https://archive.nytimes.com/www.nytimes.com/interactive/2010/02/23/nyregion/20100223-immig-table.html?ref">https://archive.nytimes.com/www.nytimes.com/interactive/2010/02/23/nyregion/20100223-immig-table.html?ref</a>
Think Thank Organizations	<a href="https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement">https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement</a>	<a href="https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement">https://www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement</a>
Think Thank Organizations	<a href="http://trac.syr.edu/immigration/reports/222/">http://trac.syr.edu/immigration/reports/222/</a>	<a href="http://trac.syr.edu/immigration/reports/222/">http://trac.syr.edu/immigration/reports/222/</a>
Think Thank Organizations	<a href="https://www.ice.gov/foia/library">https://www.ice.gov/foia/library</a>	<a href="https://www.ice.gov/foia/library">https://www.ice.gov/foia/library</a>
Think Thank Organizations	<a href="https://oig.justice.gov/reports/USMS/a0726/final.pdf">https://oig.justice.gov/reports/USMS/a0726/final.pdf</a>	<a href="https://oig.justice.gov/reports/USMS/a0726/final.pdf">https://oig.justice.gov/reports/USMS/a0726/final.pdf</a>
Think Thank Organizations	<a href="https://www.globaldetentionproject.org/detention-centres/list-view">https://www.globaldetentionproject.org/detention-centres/list-view</a>	<a href="https://www.globaldetentionproject.org/detention-centres/list-view">https://www.globaldetentionproject.org/detention-centres/list-view</a>
Think Thank Organizations	<a href="https://www.immigrationjustice.us/viewdocument/webinar-on-family-separation-and-de-2">https://www.immigrationjustice.us/viewdocument/webinar-on-family-separation-and-de-2</a>	<a href="https://www.immigrationjustice.us/viewdocument/webinar-on-family-separation-and-de-2">https://www.immigrationjustice.us/viewdocument/webinar-on-family-separation-and-de-2</a>
Think Thank Organizations	<a href="https://www.immigrationjustice.us/home">https://www.immigrationjustice.us/home</a>	<a href="https://www.immigrationjustice.us/home">https://www.immigrationjustice.us/home</a>
Think Thank Organizations	<a href="https://www.americanimmigrationcouncil.org/litigation/uncovering-governments-internal-family-separation-policies-guidance-and-data">https://www.americanimmigrationcouncil.org/litigation/uncovering-governments-internal-family-separation-policies-guidance-and-data</a>	<a href="https://www.americanimmigrationcouncil.org/litigation/uncovering-governments-internal-family-separation-policies-guidance-and-data">https://www.americanimmigrationcouncil.org/litigation/uncovering-governments-internal-family-separation-policies-guidance-and-data</a>
Think Thank Organizations	<a href="https://www.thenation.com/article/hidden-history-alec-and-prison-labor/">https://www.thenation.com/article/hidden-history-alec-and-prison-labor/</a>	<a href="https://www.thenation.com/article/hidden-history-alec-and-prison-labor/">https://www.thenation.com/article/hidden-history-alec-and-prison-labor/</a>
Think Thank Organizations	<a href="https://americanimmigrationcouncil.org/">https://americanimmigrationcouncil.org/</a>	<a href="https://americanimmigrationcouncil.org/">https://americanimmigrationcouncil.org/</a>
Think Thank Organizations	<a href="http://immigrationimpact.com/">http://immigrationimpact.com/</a>	<a href="http://immigrationimpact.com/">http://immigrationimpact.com/</a>

Appendix B. Figures

Figure 1.1 Relationship Matrix and the Immigration-Industrial-Complex CA



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