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**Fear and Discipline in a Permanent State of Exception: Mexicans, their  
families, and U.S. immigrant processing in Ciudad Juarez**

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**Fear and Discipline in a Permanent State of Exception: Mexicans, their  
families, and U.S. immigrant processing in Ciudad Juarez**

**by**

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**Thesis**

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## **Dedication**

I dedicate this thesis to all families separated by borders, real or imagined. May their love and strength sustain them, and give them power to exist as they so choose.

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## **Abstract**

### **Fear and Discipline in a Permanent State of Exception: Mexicans, their families, and U.S. immigrant processing in Ciudad Juarez**

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The United States recently completed the construction of a new Consulate compound in an underdeveloped site in Ciudad Juarez, Chihuahua, Mexico. Mexican applicants for U.S. Immigrant Visas, particularly those who had previously entered the United States without inspection, are sent to the facility to apply through a mandatory personal interview. The interview process necessitates highly invasive medical exams at designated militarized facilities, followed by a series of interviews with consular officers.

Applicants, many of whom are visiting Juarez for the first time, must wait in the city for days or weeks as they attempt to navigate the requirements. Even as the city has become more violent, the U.S. Consulate mission in Juarez has become an economic driver as it processes more immigrant visas than any other U.S. Consular office in the world. It is also the largest U.S. Consulate building on the planet and the immigration complex is drawing new migrants who are both seeking asylum through it and aiding in its construction.

U.S. immigration policies and the administrative procedures that accompany them also serve to discipline immigrant visa applicants long before they arrive in Juarez as they navigate a system built on penalties and waivers. The effects of these policies transcend borders and citizenship, impacting not only the immigrant applicant, but their U.S. families as well. The normalization of violence towards Mexicans and their families is becoming entrenched in a culture of impunity, both in Mexico and the United States.

The immigrant processing and *maquiladora* manufacturing that take place in Ciudad Juarez play a specific role in U.S. / Mexico relations and are representative of the intersection of immigration policy, labor desires, and neoliberal and post-neoliberal

policies of structural violence. The United States has developed, in Juarez, an economic development and security program and immigrant processing center concomitantly and Mexico has worked lockstep to fortify this position. I examine this historical occurrence, and the experiences of immigrant applicants and their families, using Foucault's theories of discipline.



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## Introduction

“Roll your windows down so they can see your face!” the taxi driver tells me as we make our way from the Juarez airport through the city. “If anybody asks you, we are friends,” he says nervously. “I had a lot of problems getting through today,” he says. My husband and I are in the city for the first time to seek a visa for him from the U.S. Consulate and we are unfamiliar with our surroundings.

I don’t know what the taxi driver is talking about, but I look docilely towards the window so that the soldiers guarding the perimeter of the airport can get a good look at me as we turn slowly out of the parking lot. They look, size my husband and myself up in a few seconds, and then wave us on. I have seen *militares* before, but never to this extent. President Calderon is scheduled to arrive on a flight in about forty-five minutes, and he has brought 2,000 extra troops with him. The road through the city is filled with checkpoints and we make our way slowly past cars that have been pulled over by military police, drivers standing by as their vehicles are taken apart and put back together again. The police, their faces covered with ski masks, move quickly, guns drawn, as they rip open seat covers, look under hoods, and search trunks for whatever it is that they are looking for. We drive past road after dusty road that has been barricaded off. It is February 17, 2010 and the police are omnipresent. (Field notes from author, 2010)

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The premise of this thesis is that the U.S. Consulate Mission in Ciudad Juarez, Mexico reflects the intersection of immigration policy, labor desires, and neoliberal and post-neoliberal policies of structural violence that are increasingly enforced through techniques of discipline. This paper will examine how the neoliberal modernist machine is embodied in Ciudad Juarez and the U.S. immigrant visa processing that takes place there and argue that the neoliberal project, although in a profound social crisis, is flourishing in the production and accumulation of capital at all costs, while at the same time creating an ever-violent system of discipline that is reaching into a new era of post-neoliberal expansion. The hostility of the modern condition effectively tightens the space available for alternative *cosmovisions* and ensures that conceptual lenses remain blurred by residents’ and would-be immigrants’ demands for justice, and in some cases,

forgiveness, from a dominant state (see Escobar 2010 for cosmovisions). I will examine the role U.S. economic and immigration policy has played in creating a geography of fear, controlling the bodies that flock to Ciudad Juarez and pass through it, in addition to considering the role Mexican policy has played in the courting of and acquiescence to these U.S. policies.

This paper is primarily an examination of how Mexican applicants for U.S. Immigrant Visas, and their U.S. families, experience entering and proceeding through the legalization (or regularization of immigrant status) process. The majority of applicants in my study had been present in the United States illegally for significant amounts of time before entering the legalization process through a qualifying relationship, such as marriage, with a U.S. citizen or legal permanent resident. Throughout the course of my research, I learned that the arduous administrative procedures and the physical processing of applicants at the U.S. Consulate and U.S. Citizenship and Immigration Services (USCIS) Ciudad Juarez Field Office created a combined effect of extreme anxiety, depression, fear and stress in applicant families. The physical violence and insecurity of Ciudad Juarez as it enters its fifth year as a staging point for the Mexican-led, U.S. endorsed, war against narcotraffickers has served to exacerbate the vulnerability of applicants as they travel to the city in hopes of making it through the visa process. In addition to creating a sense of terror for many applicant families, the violence of the city has also resulted in the murder of visa applicants as they await the outcome of the USCIS findings in Ciudad Juarez.

I draw from the work of French philosopher Michel Foucault for the theoretical framework of my research, as I will discuss in detail in Chapter One. Foucault's theories of discipline, as outlined in *Discipline and Punish: The Birth of the Prison* (1995), are particularly relevant for analyzing the impact the immigration process exerts on those who pass through it. I discuss the components of discipline as outlined in *Discipline and Punish* and use them as the analytical structures for the contextualization and interpretation of my research findings.

## POSITIONALITY

My research is informed by personal observation during a one-week stay in Ciudad Juarez in February, a two-week stay in March, and a one-week stay in December 2010. All three trips were conducted in the company of my husband, a Mexican national, as we negotiated appointments at the U.S. Consulate seeking first his immigrant visa, then a waiver of the ten-year bar against reentering the United States he received on grounds of “inadmissibility.” The first two trips happened to correspond with President Calderon’s arrival to the city and allowed me a unique perspective on the creation and demarcation of space by the police state.

As a Mexican-American woman from the South Texas Gulf Coast, my perspective has been framed by the experiences I have had there and in the United States as a whole. Not quite the Borderlands, but not quite like the rest of the state, Corpus Christi, Texas has a large Mexican-American population and a complicated and often contentious history of social and political tension between the Anglo and Hispanic population (Montejano 1987; Carroll 2003; Paredes 1970). South Texas politics and the way they have translated into social policy at the local level have played an important role in the formation of my sense of place in the world. Farmlands roll out for miles in the circumference of the city with the petrochemical industry at its core.

Countless histories of state violence have taken place in the cotton and grain fields over the past century. The Texas Rangers law enforcement officers that roamed the region, particularly from the mid 1800s to the early 1900s, were notorious for their use of brutal tactics against Mexican, Mexican-American and African-American laborers on behalf of the Anglo elite (Paredes 1970). In more recent decades, lack of economic opportunity and conservative policies have led many young people (including myself) to move farther north to major metropolitan centers, such as Austin, Houston, and San Antonio to pursue improved cultural, social and educational opportunities and find employment outside of the refining and chemical production industries. The long story

of human migration for improved standards of living is replicated here as it is in Mexico and in countless regions across the world.

As a product of this region, I am a Tejana through and through. My grandfathers were Mexican nationals who came to the United States as children as their families fled the violence caused by the Mexican Revolution. They both became naturalized citizens and lived in rural agriculture-based communities within the Corpus Christi region. My maternal lineage can be traced back over 150 years in Texas. My grandmothers, both of Mexican descent, were born in the Texas/ Mexico border region in the early 1900s. My father picked cotton and worked as a grocery sacker before he attended college on the G.I. bill. My mother was the child of a Mexican entrepreneur who crossed the U.S. / Mexico border regularly in order to purchase goods and sell those imported goods at his store along the highway. The texture and smell of dusty wrought-iron furniture, wild-eyed ceramic animals, piñatas and cowboy hats sold in his store are emblazoned on my memory. My grandfather's store, which has since been demolished, was located in a South Texas town that only now has a population of 1,000, with a per-capita income of \$8,864, according to the 2000 Census.

Although both of my parents grew up in rural poverty, I was raised in relative middle-class comfort. Even so, I myself have been searched for drugs, frisked by the police, and profiled and questioned by U.S. Border Patrol regarding my country of origin and legal status, especially when traveling alone. This, combined with the collection of oral histories my parents have passed down to me about their lives growing up, has admittedly resulted in a bias when considering questions of immigration policy and enforcement. It has also allowed me an insider perspective, however, on the sense of "otherness" created by enforcement actions as they relate to geographic areas and the control of human movement in real time.

Since me and my husband's first two trips to Juarez in the Spring of 2010, I have traveled to Mexico on five separate occasions to his hometown in the state of Tlaxcala, Mexico where I have gotten to know first-hand the community from which he, and many



other immigrants to the U.S, comes from. The employment opportunities he was able to identify were limited to working in a Dow chemical plant making bleach and other chemicals, a fertilizer plant, a plastic bag fabricator, or a *maquiladora* that produces textiles for Speedo and Danskin. None of the jobs paid more than \$60 USD per week. Previously, I have spent time in Mexico City, Dolores Hidalgo, Guanajuato, Tlaxcala, Oaxaca and in the border cities of Piedras Negras and Ciudad Acuña. These prior experiences have enabled me to build my knowledge of Mexico over the past five years.

My experiences working on multiple occasions as a Spanish-English interpreter for the Austin-based non-profit *Austin Tan Cerca de la Frontera* (Austin So Close to the Border or ATCF) have been especially insightful.<sup>1</sup> ATCF has been organizing solidarity delegations from the United States to Mexican border communities since 1999 to allow people from *el norte* to meet with maquiladora workers in their homes and learn about the realities of the worker experience, especially since NAFTA. Delegates also learn about the work being done by the Mexican labor-rights organization, *Comite Fronterizo de Obeas/os* (Border Committee of Workers or CFO), as they struggle not only to survive, but to make advances towards more just and humane working conditions in the maquilas. The CFO works in major production centers along the border, including Ciudad Juarez, Ciudad Acuña, Piedras Negras, and Reynosa. My experience with them has primarily taken place in Piedras Negras, Coahuila, which is the site where my husband was trafficked across the border the year before I met him. I draw from the insight shared by the CFO and its workers as a foundation for my understanding of working conditions in the maquilas and the dangers faced by those who dare to stand up for justice.

While I use Ciudad Juarez as the geographic nexus for this examination, it is also the metaphor embodied of the story of thousands of Mexicans that pass through its gates or become ensnared, along with other economic migrants, in the magnetic pull of its industrial center and its function as a strategic staging area for U.S. manufacturing and

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<sup>1</sup> See [www.atcf.org](http://www.atcf.org) for information on Austin Tan Cerca de la Frontera

immigrant processing. In some ways, this is the story of my family as well, and how I came to be.

## **METHODS**

I used four different research methods: (1) participant observation; (2) an on-line interactive survey (3) informal semi-structured interviews and; (4) collection of secondary data such as reports, newspapers, and comments on electronic forums such as websites, blogs, and social networking sites.

### **Participant Observation**

As mentioned before, my husband and I are living the immigrant experience and have felt firsthand the brutal effects of forced family separation caused by U.S. immigration policy. He entered the United States in 2004 as an economic refugee, fleeing a precarious life in one of the most dangerous informal settlements in Mexico City. Because he “entered without inspection” (to use immigration parlance), his application for an immigrant visa, which we sought in Ciudad Juarez, was denied. We lived apart in our respective countries of origin from February to December 2010. I use autoethnographic techniques by maintaining notes on observations and self-reflections during our experiences as we crossed the border out of Texas through Nuevo Laredo, then Monterrey, Tlaxcala, and then back through Ciudad Juarez for appointments at the U.S. Consulate and related service centers. Our experiences as clients of federally-subsidized immigration service centers and private legal practices in Austin, Texas also informally inform this research. The information gathered through participant observation serves to provide context to my understanding of the formal research conducted for this project and is not used as a primary data source.

## **On-line Interactive Survey**

An online survey titled “Survey on the Immigration Process through Ciudad Juarez” (or “Encuesta sobre el proceso de inmigración por Ciudad Juarez,” referred to as Encuesta CDJ for the rest of this paper) was developed to measure fear and anxiety associated with being undocumented in the United States, negotiating the U.S. Citizenship and Immigration Services (USCIS) administrative process towards legality, and completing the mandatory physical interview at the U.S. Consulate in Ciudad Juarez. The methodology was based on a model developed in the 1960s by American sociologists to assess fear and anxiety in children. The Fear Survey Schedule for Children (FSS-FC), which was conducted as a paper-based survey in a controlled setting, used a five point scale of “none, a little, some, much, and very much” to measure fear levels associated with eighty items selected to fit into eight conceptual categories (Scherer and Nakamura 1968). The term “items,” in this context, refers to specific situations or stimuli. Items in the FSS-FC included things like “Guns,” “Flying in a plane,” “Making mistakes,” “The sight of blood,” and “Taking a test” amongst others (see Nakamura for a complete listing) which were then grouped into conceptual categories of “School, Home, Social, Physical, Animal, Travel, Classical Phobia and Miscellaneous” (Scherer and Nakamura 1968).

The FSS-FC survey calculated “fear scores” based on the total number of items selected at any fear level and then the degree of fear based on the ranges indicated with “none” being a factor of 1 and “very much” a factor of 5. This model has since been updated (Fear Survey Schedule for Children - Revised or FSSC-R) to add adolescents and to account for contemporary factors to make them more socially relevant. Issues such as “AIDs,” “gangs,” and “being kidnapped” have been added to the list of items (Muris and Ollendick 2002).

The Encuesta CDJ was structurally modeled on the FSS-FC and FSSC-R through its simple use of a rating scale to assess fears associated with a list of items selected in

line with conceptual categories. The categories were based on six of the seven sections from Foucault's chapter on "Discipline" from *Discipline and Punish* (1995). These sections are:

- "The Art of Distributions"
- "The Control of Activity"
- "The Organization of Geneses"
- "The Composition of Forces"
- "Hierarchical Observation"
- "The Examination"

No items were perceived to fall under the "Normalizing judgement" category and efforts were not made to capture those in this particular survey.

A list of fifty items was developed with the assistance of a small focus group of immigrant men living in Austin, Texas. I also chose these items/ stimuli based on areas of concern commonly addressed on an internet forum dedicated to immigration through Ciudad Juarez, which I use for secondary data as described in the next section. Seven items were repeated from the FSS-FC or FSSC-R. These repeated items are: "Having to go to the hospital," "Gangs," "Getting lost in a strange place," "Being kidnapped," "Being killed or murdered," "Being alone," and "Getting an injection from the nurse or doctor." A complete listing of the surveyed items may be found in Appendix A. The survey was provided in both English and Spanish. I first listed the items alphabetically by category and then assigned a random number based on a random number generator with a 95 percent confidence level and a confidence interval of four. This random order was used to determine the listing in the actual on-line survey form.

Whereas the FSSC-R utilized a prompt asking children to "find the words which best describe how much fear you have" (Ollendick 1983, 686), feedback from the focus group indicated that the word "fear" did not have the same meaning in Spanish, especially in the context of the immigration process, and recommended that the words "Preocupaciones" (worries) or "Nervios" (nerves) be used instead. The use of the word

*preocupaciones* was selected as the prompt indicator based on this feedback and due to its relevance for an adult target population versus children. Survey participants were required to have either gone through or be scheduled to go through consular processing at Ciudad Juarez as either a petitioner or a beneficiary.

### **Informal Semi-structured Interviews**

I conducted ten informal semi-structured interviews in person, via e-mail and over Skype with representatives of immigrant and border activist organizations both in Mexico and in the United States, immigration attorneys, and individuals who had been or were in the process of going through immigrant visa processing at the Ciudad Juarez field station. These “key informant” interviews were utilized to gain a macro-level view of the issues covered in this thesis, as well as micro-level, personal narratives that provided me with extremely informative in-depth qualitative data from which to draw. For those interviews conducted in person, I introduced myself, explained the purpose and subject matter of my thesis and gave the participant a written summary of my research goals. After potential participants gave verbal consent to be interviewed, we established a time and location to conduct the interview, which lasted thirty minutes to one hour. Interviews were recorded with a digital voice recorder at the participants’ permission. Aside from individuals involved with formal organizations, individuals were contacted using the snowball sampling method, often through lead contacts at the formal organizations.

For those interviews conducted electronically, I introduced myself via e-mail, explained the purpose and subject matter of my thesis, and provided potential interviewees with an overview of my research goals. I then proposed to conduct the interview via Skype so that the interviewee would be able to see me or via telephone at the participant’s preference. I also offered to conduct the interview via e-mail at the participant’s discretion. These methods were chosen due to my inability to return to Ciudad Juarez during the official “research” period of this thesis.

Several sets of general questions were prepared, depending on the participant's location and/or role. In addition to the general guiding questions, all participants were encouraged to speak openly on any other items they felt were important and to ask questions of the author if desired. Because members of formal organizations may sometimes desire to be cited in document references, all participants were given the option to remain anonymous or to be cited in the document.

For those participants with firsthand knowledge of Juarez, questions included:

- What is your experience with U.S. immigration policy?
- How does migration and immigration affect the city?
- How do you see the relationship between immigration and the economy?
- How has the city changed since NAFTA came into effect in 1994?
- How do you feel about the city and how does this affect your daily life?
- What do you see for the future?

For those participants primarily involved in organizations based in places other than Juarez, questions included:

- What is your experience with U.S. immigration policy?
- How has immigration policy changed over time?
- How do you see the relationship between immigration and the economy?
- What is your knowledge of/ experience with Ciudad Juarez, particularly as it relates to immigration?
- What do you see for the future?

For those participants who were not from Juarez and whose primary experience of the city was related to visa-related functions at the U.S. Consulate, and/or who are immigrants/ economic migrants both in Mexico and in the United States, questions included:

What is your experience with U.S. immigration policy and how has it made you feel?

How do you see the relationship between immigration and the economy?

What is your knowledge of/ experience with Ciudad Juarez, particularly as it relates to immigration?

How do you see the administrative/ paperwork requirements and rules of the USCIS? (i.e. excessive, easy to negotiate, complicated, etc.)

Describe your experience at the U.S. Consulate in Ciudad Juarez. In particular, describe your medical appointments and interviews with Consular officials.

What do you see for the future?

## **Secondary Data**

I focused heavily on newspaper coverage immediately before and during my trips, mainly El Diario de Juarez, the El Paso Times, CNN, Univision and MSN en Español. I read every article I encountered that dealt with Juarez specifically and most articles that covered immigration in the United States. When these websites were linked to content to other papers, such as the Los Angeles Times or the New York Times, I referred to the referenced articles and used them as part of my knowledge base as well. In some instances I refer to quotes of everyday individuals, many of whom were victims of or witnesses to extreme violence, in these newspaper articles and selected them because of their emotive, and often unguarded, content. These quotes were selected for their keen insight into the situation in the city of which they serve as “organic intellectuals” and as part of the non-hegemonic class (see Gramsci, Hoare, and Nowell-Smith 1972 for organic intellectual). The organic intellectual may be understood to be a person who has actually lived “a particular class experience” and is able to express this implicit knowledge of his experience (Crehan 2002, 115). I followed broadcast television news coverage closely while in Ciudad Juarez and referred to YouTube for playback on media coverage of local

events. This qualitative data is supplemented with demographic data from both the Mexican and U.S. census bureaus and economic indicators from other reports.

I also examined a public-access Internet forum dedicated to immigration through Ciudad Juarez and used an embedded Google search function to identify the first one hundred posts that contained the word “afraid.”<sup>2</sup> The key word “afraid” was chosen in order to complement the on-line interactive fear assessment survey Encuesta CDJ. The statements surrounding the key word were then copied into an Excel database and analyzed to inform my research.

### **Limitations/ Caveats**

This paper is not a study of migration per se and I do not go into great detail regarding theories of migration such as those, importantly, charted by Massey, Papademetriou and Portes (Massey 1990; Massey, Durand, and Malone 2003; Papademetriou and Martin 1991; Papademetriou 2001; Portes 1997). Although equally important, I do not examine at length theories of citizenship and subject-making or citizenship and power (Ong et al. 1996; Schinkel 2010; Löwenheim and Gazit 2009). While this research informed my previous understanding of migration and citizenship, fully engaging these fields of theory is beyond the scope of this paper and focus of this study.

I also do not thoroughly engage issues of gender here.<sup>3</sup> Much has been written on the gendered aspect of the femicides of Juarez, and rightly so, as hundreds of young women have been brutally murdered over more than a decade (Alba and Guzmán 2010; Fragoso 2003; Rodríguez, Montané, and Pulitzer 2008; Valdez 2006). Many of the women murdered were employed at maquiladoras at the time of their death and the connection between their role in the labor system and the violence which they suffered is

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<sup>2</sup> I do not disclose the name of the Internet forum out of respect for privacy.

<sup>3</sup> I highly recommend reading *Gendered Transitions: Mexican Experiences of Immigration* by Pierrette Hondagneu-Sotelo for a thoughtful analysis of gender and migration (Hondagneu-Sotelo 1994).



undeniable. However, Hector Dominguez Ruvalcaba points out that approximately 30 percent of the 4,500 murdered in Juarez between 2008 and January 2010 were youth under the age of twenty (Ruvalcaba 2010). In addition, of the Juarez homicide victims from 1985 to 1997, almost half of them (47.6 percent) were young men between the ages of twenty to twenty-four years old, compared to a rate of 3.1 percent for females of the same age group (Ruvalcaba 2010). Young men make up a disproportionate share of the actors and victims in the war taking place, and their plight merits a thoughtful gendered analysis that is beyond the scope of my research.

This is also not an in-depth analysis of media coverage or media representation. Although I pull heavily from a variety of media sources because of their access and their timeliness, I recognize that the voices and statements fore-fronted often signify a choice in representation. The voices not represented in the media also tell an important story and their non-selection is in itself significant. Issues regarding the partiality of the U.S. media portrayal of Mexico's drug violence, in particular, have been discussed sparingly. Mexico's own media has been embattled to operate freely, ranked as "one of the world's most dangerous countries for media personnel," (Reporters Without Borders 2011) and the limitations placed upon them, including forced self-censorship, are taken into consideration (Ellingwood 2011; Hughes 2006; Reporters Without Borders 2011).

Other possible obstacles to data collection for this paper include;

- Topic Sensitivity: Individuals of questionable legal / residency status in the U.S. may be understandably hesitant to come forward and disclose their immigration status or speak of their experiences crossing the border.
- Geographic Distance: Due to the author's primary location in Austin, and the difficulty of making repeat trips to Juarez, the physical distance creates an obstacle to grassroots networking which may have yielded a greater number and variation of contacts.
- Government Secrets: The U.S. Consulate and USCIS do not give interviews regarding the Juarez compound, especially in light of the Consulate murders in the Spring of 2010. Photographs of the facilities are not allowed and recording devices are not allowed. Formal solicitation of interviews with individuals at the compound is not permitted.

- Limited data set: The quantitative and qualitative data acquired for this project are constructed from thirty-four survey questionnaires, approximately ten personal interviews, and one hundred internet postings. The questionnaires were collected over a two week period. An expanded study period would allow for a larger data set from which to pull.

## CHAPTER OUTLINE

I place this thesis within the context of a literature review on Foucault, discipline and planning in Chapter One. I also consider works on physical and perceived space and borders as they relate to the construction of experiencing one's sense of place and how this impacts the movement of bodies. These issues of discipline and of controlling and negotiating space are researched by planners, geographers, anthropologists and sociologists alike and I discuss writings from these and other interdisciplinary fields to connect them with the contemporary experience of immigrant visa applicants in my study. I weave together research from these varied perspectives precisely because I propose a more complex understanding of the immigrant experience that encompasses the physical/spatial, psychological, sociological and political realms simultaneously.<sup>4</sup>

In Chapter Two I discuss the historical progression of U.S. immigration policies as they relate to the creation of contemporary immigration law and economic strategies. I focus on how these U.S. policies relate to Mexico in particular and consider Mexican contributions or responses to such policies as applicable. I then build on the discussion of national policies in Chapter Two to scale down to a discussion of the regional geography of Ciudad Juarez in Chapter Three. This includes an analysis of the impact of neoliberal policies on the economic and social fabric of the city, particularly as implemented through the industrialization of the border and the development of export-oriented, low-wage manufacturing zones. I examine the insecurity and violence generated by this type

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<sup>4</sup> I do not contend that a quintessential or archetypal "immigrant experience" exists. However, for purposes of this paper, I use the phrase in general terms precisely so that I may focus on the fine details of the experiences of the individuals in my study.

of economic structure and how it contributes to the increased vulnerability of individuals in Ciudad Juarez and to the contraction of space within and between Mexico and the United States. The insecurity is not experienced on an equitable basis, however, and is especially unforgiving on migrants and the working poor.

With the theoretical and historical foundation established, I bring forth the findings of my research in Chapter Four and provide a critical analysis of the data I acquired through the on-line survey, in-depth interviews, and secondary data sources. I frame my findings around the Foucauldian categories of discipline outlined in the discussion of theory and examine the punitive and reformatory impact of the immigration process on visa applicants. Notably, expressions of fear and anxiety were extremely pronounced amongst the individuals in my research group. I examine the role of the U.S. Consulate and immigrant processing in fanning the flames of these perceptions of fear and how the instillation of such fear serves to control and discipline the daily lives of immigrants throughout and beyond the span of their official entry into the legal immigration process.

I summarize and discuss the implications of my findings in terms of disciplining in Chapter Five. I explain what the implications of my research are for planning theory and refer back to the Foucauldian planning and spatial theorists discussed in the theory chapter and show how my research and theorization contributes to that field of literature.

## Chapter One: Theoretical Foundation

The planning field, by its very nature, pulls from a rich variety of interdisciplinary resources as it examines the lived and embodied experiences of people as they move through space, build, deconstruct and reconstruct human settlements and spin a dynamic, constantly-contested tapestry of resource distribution. With an estimated population of ten to twelve million undocumented immigrants living in cities and communities throughout the United States, understanding how policies and their enforcement affect the daily experiences, movement, economic activity and inter-personal engagement of immigrants is more important than ever. In order to better examine the experiences of U.S. immigrant visa seekers, I pull not only from the field of urban planning, but also from geography, anthropology, sociology and other disciplines to inform my research.

### EXCEPTIONS, BORDERS AND OTHER SPACE

Many scholars have examined the constitution of legal space, security, and spaces of “exception” (see Agamben 2005). Perhaps the most renowned of these is Italian political philosopher Giorgio Agamben, whose works the *State of Exception* and *Homo sacer: sovereign power and bare life* have contributed heavily to spatial and juridical theory (2005, 1998).<sup>5</sup> Agamben uses Carl Schmitt’s “definition of the sovereign as ‘he who decides on the state of exception’” (Schmitt and Schwab 1985) as the foundation for his work on states of exception (2005). These states of exception are understood as “the voluntary creation [by governments] of a permanent state of emergency” that are closely related to war and resistance and often, contradictorily, create legal statuses removed

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<sup>5</sup> In *Homo sacer*, Agamben discusses “the life that does not deserve to live” (1998, 136) and the contradiction between being sacrificed as a sacred man and being killed, unable to be sacrificed. His discussion of “the person whom anyone could kill with impunity” (1998, 72) is relevant to the situation of violence and impunity in Mexico, as I will discuss later in this paper. Agamben’s engagement with the work of Foucault, in particular regarding biopolitics, is also of interest to my research.

from the rule of law, resulting in the creation of unclassifiable beings (Agamben 2005, 3).<sup>6</sup>

Basaran describes this literature as related to “spaces that are under sovereign power but devoid of rights as...spaces of exception, camps, extra-territorial spaces, in-between spaces...” (2008, 340 referring to Butler 2006; Minca 2005; Morris 2003; Ramoneda 2007; Neal 2005). Basaran explains that “Governments argue that people encountered in these spaces are outside the reach of ordinary legal rights, as they have not legally entered the territory of the state” (2008, 339). The denial of these rights is often related to restricting access to administrative and legal rights, such as due process through the courts, and restricting the movement of one’s body through tactics of detention and/or isolation from others. Physical space is intertwined and inverted with administrative and legal space.

Basaran aptly points out, however, that ordinary law is a key ingredient in the constitution of border zones. He reminds us that ships at sea are floating islands of semi-sovereign space in which the deck of the ship is carved out of the surrounding jurisdictional territory for purposes of immigration (Basaran 2008). The consulate in Ciudad Juarez is a space of exception, not because it is an exemption to the rule of law, but *because* the rule of law has enabled it to exist.

Nick Vaughan-Williams also provides an analysis of Agamben’s argument and suggests that, in contrast to Foucault, western politics have been bio-political in nature since their inception (Vaughan-Williams 2009). According to Vaughan-Williams, Agamben affirms, “Living in the state of exception that has become the rule has [...] meant this: our private body has now become indistinguishable from our body politic” (Agamben 2000) as cited in (Vaughan-Williams 2009, 735). This ‘bare life’ is a form of

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<sup>6</sup> Aside from the work of Judith Butler on the detainees of Guantanamo Bay in *Precarious life: the power of mourning and violence* (Butler 2006), an extraordinary example of the state of exception in real life is exemplified by the Syrian government’s implementation of a fifty-year long Emergency Law that allowed detention without cause. The law was repealed on April 17, 2011 after violent protest and resistance (NPR Staff and Wires 2011).

expendable life that is the project of sovereign power and subject to its rule of exception (Vaughan-Williams 2009).

Agamben's theory of "inclusive exclusion," in which he utilizes Jean-Luc Nancy's spatial-ontological mechanism of the "ban" as a theoretical basis, is a critical component of problematizing the dichotomy of either exclusion or inclusion (Vaughan-Williams 2009). Vaughan-Williams explains, "If someone is 'banned' from a political community he or she continues to have a relation with that group: there is still a connection precisely because they are outlawed" (2009, 734). The issue of receiving a ban, both temporally and spatially, is a key component of my research and will be examined in depth as it relates to immigration and discipline.

In addition to considering the construction of space, it is also important to examine the act of perception within that space. In a lecture titled "Social Space and Symbolic Power," Pierre Bourdieu revisits his concept of *habitus* and speaks of the importance of symbolic power in the construction of what he terms social space (1989). *Habitus* refers to one's perception, thought, and action and "is both a system of schemes of production of practices and a system of perception and appreciation of practices" (Bourdieu 1989, 19). This is what creates how one feels about their place in the world, and how they perceive the place of others. Bourdieu argues against realist or objectivist views regarding fixed "classes" of people and instead suggests that "groups, such as social classes, are *to be made*, [emphasis in the original]" acknowledging at the same time that the task of making such a group may, in itself, not be possible (1989, 18).

The component of Bourdieu's writings that I find most useful in relation to my research is that which focuses on the importance of one's *perception* of reality and the position from which that perception takes place. Bourdieu asserts that one's point of view is born of a fixed place in social space that is constructed in part by structural constraints and from one's own cognitive structures (1989). Symbolic struggles over symbolic space take place either through "actions of representation" or "strategies of presentation of self" (Bourdieu 1989, 20). Although these symbolic struggles may take

place with some independence from the larger system within which they take place, they often reproduce the power relations from which they were born (Bourdieu 1989). It is this symbolic power, he argues, that may function as a tool of “world-making” through its construction of social categories (Goodman 1978 in Bourdieu 1989, 22).

Within this production and perception of space, feminist theory points to the complexity and possibility of multiple modes of existence. Chela Sandoval importantly examines the “decolonizing of cyberspace” in her seminal work, *Methodology of the Oppressed* (2000). Sandoval describes Donna Haraway’s work on revolutionary feminism as envisioning a human being as “a creature who lives both in “social reality” and “fiction” and who performs and speaks in a “middle voice” that is forged in the amalgam of technology and biology - a cyborg poet” (Sandoval 2000, 166). Sandoval argues that Frederic Jameson’s vision of a postmodern world is one limited to a tragic ending that includes the production of an “antinarrative” from which escape is unachievable under current conditions (see (Jameson 1984) in (Sandoval 2000, 18). In conjunction with Agamben and Bourdieu, Sandoval’s consideration of social reality and fiction inform my understanding of immigrant perception of space and fear, especially within the context of visa processing and the consular facility in Ciudad Juarez.

The issues of borders and militarization, and their effect on the body, are also key theoretical foundations to my research. Emily Hicks states that according to Virilio, “technology...can both destroy and enhance the body” (2009, 2). She also states that “to declare that Mexico is a failed state is a rhetorical strategy that can lead to a justification for further militarization of the border” (Hicks 2009, 2). Hicks relates the “border machine” to Bergson’s “zones of determination,” using Jenny Edbauer’s work to explain the blending of the animal, vegetable, mineral and human elements into a permeable, indistinct sense as posited by Deleuze and Guattari (2009, 10).

In contrast, Fazila Bhimji recounts work done by Josiah Heyman (1998) which asserts that undocumented immigrants are subjected to “super-exploitations” by the U.S. state, enabled in part by a stigmatization of migrant labor created by immigration and

border enforcement policy (Bhimji 2009). These migrants “construct the border as a transitional space which needed to be negotiated” (2009, 117) and may differ in this way from the residents of the border region. According to Bhimji, for the migrant, the situation of exploitation is less severe as they go deeper into the territory of the United States (2009). While they remained along the border in El Paso, some of the migrants in transit feared even leaving the house to go out outside, as one of them attests in an interview, “because of the situation of migrants being killed” (2009, 125). Bhimji points out that encounters with border patrol agents were recounted in interviews as having occurred in a much more normalized and less confrontational fashion, playing an expected role in the border system (2009). As I will examine later in this paper, the fear instilled by militarization and exploitation along the border takes place at a specific temporal and geographic location; forming just one part of a segmented disciplinary process that is now expanding both in scale and scope.

This body of literature on exceptions, borders and other space is integral to framing my discussion of discipline and immigrant processing. The removal of judicial oversight and the creation of spaces of limited rights, as key components of states of exception, are of importance as related to consular examinations and visa approval in Ciudad Juarez. As I will discuss in the following chapters, the rise of terrorist-related rhetoric and anti-terrorism policies are also correlated to increasingly harsh immigration policies that have led to the ever-increasing numbers of penalties and bans that are at the center of my research. The forced re-crossing of the militarized border as part of the visa process, and its effect on the body and minds of applicants, transforms from something to be negotiated in secret upon first entry, into a frightening gauntlet of self-exposure in order to gain legalization. The highly regimented and largely-autonomous administrative process of USCIS, under the umbrella of the Department of Homeland Security, is linked both to the “urgent task” of protecting the nation’s border and to the concepts of governmentality, biopolitics, and discipline as I will examine in the following section.



## FOUCAULT AND DISCIPLINE AND PUNISH

Many of the theorists of borders and space discussed in the preceding section are indebted to the writings of Michel Foucault. For the purposes of this paper, I return to the concepts put forth in Foucault's *Discipline & Punish: The Birth of the Prison* (1995) and utilize them as my primary theoretical framework. In particular, I find the parallels between the seven categories of discipline outlined in the sections "Docile bodies" and "The means of correct training" (1995) and the methods examined in this study particularly useful for analytical purposes. Although they are critical concepts and are relevant to the topic of my research, I do not focus on the Panopticon or the Prison for purposes of this paper because to give them sufficient consideration would be beyond the scope of this thesis. I will summarize the theory of these seven categories here in order to contextualize the findings of my research in Chapter Four.

"Discipline is a political economy of detail." (Foucault 1995, 139)

Foucault tells us that the classical-age utilization of the body as an object of power was analyzed by La Mettrie in his book *Man the Machine* along the tracts of "anatomico-metaphysical" and "technico-political" registers (1995, 136). This analysis developed the notion of a body made docile through its manipulability at the individual scale, including "exercising upon it a subtle coercion, of obtaining holds upon it at the level of the mechanism itself - movements, gestures, attitudes, rapidity: an infinitesimal power over the active body" (1995, 137). Foucault introduces us to the constancy of coercion, a "policy of coercion" as expressed through "time, space, movement" (1995, 137-138). This increase in economic utility occurs concomitantly with the increase of obedience and domination (Foucault 1995). The techniques of regulation, inspection and supervision of details related to life and body emerged (Foucault 1995). Foucault points out this crucial change in the technologies of discipline from one of spectacle (the

quarterming and public torture methods of prior centuries) to one of *biopower*.<sup>7</sup> This strategy of power creates the ability to control and be vigilant of the bodies of entire populations, both individually and collectively (Parrini 2010).

### **“The art of distributions” SPACE**

Foucault states that “discipline proceeds from the distribution of individuals in space” and discusses enclosure, partitioning, and functional sites (1995, 142). He uses the large manufacturing centers of the eighteenth century as an example of a new form of control through a tightly managed fortified enclosure (1995). This spatiality is at the very nature of immigration controls. The immigrant is allowed in, denied access, or denied the right to be visibly or fully present. The border wall itself seeks to claim and define territorial space.

Within this spatial distribution, Foucault describes the use of enclosure, of partitioning and dividing space as a means of eliminating “the effects of imprecise distributions, the uncontrolled disappearance of individuals, their diffuse circulation, their unusable and dangerous coagulation” (1995, 143). The perpetrators of narco-violence have been more than adept at the elimination of the ‘coagulation’ of people at parties, at bars, in public spheres by targeting gatherings for mass executions. The residents of Juarez have been partitioned into the shadows, leaving only to work and to purchase goods.

Foucault also puts forth the theory of ‘functional sites,’ particularly relevant to the field of architecture and urban planning, as the creation of ‘useful space’ which allowed for the supervision of those within these spaces and for the severance of uncontrolled communication between them (1995, 144). These sites are exemplified through the use of hospitals for medical supervision and to “individualize bodies, diseases, symptoms,

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<sup>7</sup> Although Foucault does not explicitly elaborate on the concept of biopower until later in his works, in *Discipline and Punish* he brings forth the concepts of the technology of power and the insertion of “the power to punish more deeply into the social body” as key components of discipline (1995, 82).

lives and deaths” (Foucault 1995, 144). It is the *seriation* of this placement and events, he explains, that makes the individual components of sites and spaces a disciplinary system. As with the consulate fortress and medical facilities, it is not the physical structure and one’s placement in it alone that creates discipline. It is the series of events and the creation of ranking systems in context with these facilities that is meaningful (Foucault 1995).

### **“The control of activity” BODY**

The control of activity takes place through the establishment of rhythms, the creation and regulation of repetitive cycles, and the measurement of time in a partitioned manner correlated to economic value (Foucault 1995). The work-day regimen of the seventeenth century manufactories that Foucault refers to is strongly reminiscent of the modern-day *maquiladora*, with the highly regulated break time, restroom time, and production and attendance time that is the foundation of their production processes. This same highly regimented structure dominates the consular review process, as I will examine in Chapter Four.

Foucault states that it is the *synthesis* of the body/ object training that is crucial and clarifies that it is “not so much of exploitation of the product as of coercive link with the apparatus of production” (Foucault 1995, 153). The synthesis of the hand with the hammer in Foucault’s scenario, or of the *sicario*’s hand with the gun in the case of Ciudad Juarez, is the crux of what Foucault calls the “body-weapon, body-tool, body-machine complex” (1995, 153).<sup>8</sup>

### **“The organization of geneses” TIME**

The organization of genesis relates to segmenting and reorganizing activities into a series of meticulously organized exercises (Foucault 1995). Foucault describes this as

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<sup>8</sup> In this context, “sicarios” are the professional assassins of the Mexican drug war.

consisting of four general methods, which are: the division of time-specific segments in a linear or parallel fashion, the organization of these segments, or “threads,” pursuant to an analytical plan, the establishment of an examination at the end of the designated course, and the creation of “series of series” that carry on one after another as they establish ranks, levels, and categories within which the individual is placed (Foucault 1995, 157-158).

Foucault explains, “The ‘seriation’ of successive activities makes possible a whole investment of duration by power: the possibility of a detailed control and a regular intervention (of differentiation, correction, punishment, elimination) in each moment of time...” (1995, 160). It is here where he focuses closely on the manipulation of time as a disciplinary mechanism, “bending behavior towards a terminal state” (Foucault 1995, 161). This seriation is exemplified by the multiple phases of the visa process, beginning with the applicant’s submittal of the “Form DS-230 Parts I and II: Application for Immigrant Visa and Alien Registration to the U.S. Department of State.” The information submitted in the biographic data and sworn statement of the form determine the next steps, from a multitude of possible paths, which the applicant may be subject to based on the data’s triggering of corrective, punishing or eliminating factors.

### **“The composition of forces” ARTICULATION**

The key concept of the composition of forces is that the individual becomes articulated with/upon others to form “part of a multi-segmentary machine” which functions through a system of precise, signalized commands (Foucault 1995, 165-166). The individual is trained to respond automatically and obligatorily to the signal, whether it be a noise, a gesture, a visual cue or other form (Foucault 1995). Foucault uses the methods of military training as an example of a tactic used to make greatest use of the combination of individual forces (1995). Once the visa applicant has arrived at the consular facility for his appointment, he must form a line with paperwork neatly in hand, waiting for the armed guards to acknowledge his presence and allow him to move

forward. Appointments are scheduled at exact times from which the applicant may not waver. Pulling a number from a ticket machine, the applicant must watch attentively to see his number appear on a screen, assigning him to a numbered window at which he must immediately appear.

### **“Hierarchical observation” SURVEILLANCE**

Foucault states, “The exercise of discipline presupposes a mechanism that coerces by means of observation...” (1995, 171). He specifically points to the utilization of architecture as a disciplinary tool, especially as it is used to make those who are inside the facilities more visible, and therefore more docile. Hospitals and school buildings again were used as examples of the development of this mechanism, however Foucault points to the importance of the *progression* of the cumulative disciplinary tools for the effect of surveillance, or the “disciplinary gaze,” to increase its result (1995, 174).

This practice of observation was then instituted in the industrial manufacturing facilities as a key component of economic production (Foucault 1995). Clerks, foremen, and other mid-level workers became charged with the responsibility of overseeing the behavior of other workers until the practice became integrated into the machinery of production (Foucault 1995). Surveillance began to observe the observer and became permanent, uninterrupted, and began to exert a physical hold over the body (Foucault 1995). The medical review facilities and their practitioners and the waiting rooms and guards of the consulate create an atmosphere of hyper-surveillance, especially within the context of the militarization of Ciudad Juarez.

### **“Normalizing judgement” THE NORM**

According to Foucault, the space left empty of punishment within the judicial/legal system was filled with an “infra-penalty,” or a further partitioning of discipline controlling ever more human behaviors (1995, 178). This infra-penalty

encompasses a wide range of behavior, ranging from attitudes, to gestures, expressions, speech, etc. and judges/ regulates them against a measure of difference. This becomes the second part of the “juridico-natural” system, measuring and correcting an endless litany of actions or traits deemed to be faulty (Foucault 1995, 179).

The corollary component to normalized judgment is the method of “gratification-punishment” (Foucault 1995, 180). This is the system in which rewards, promotions of rank, and praise are used to maintain compliance. Together, the juridico-natural and gratification-punishment systems normalize behavior and create conformity (Foucault 1995). As we shall see in Chapter Four, the immigration system has established a system of gratification-punishment that is deeply entrenched. Mini-approvals of forms or documentation, leading to the next step in the process, are issued along the way to maintain the applicant’s engagement with the system. After passing through the arduous and lengthy visa approval process, the approved applicant is pardoned and welcomed to the U.S. as a legal resident, with a social security number and green card bestowed upon him as the ultimate reward.

### **“The examination” EXAMINATION**

Among the different methods of discipline, the examination is the most highly ritualized and is one of the most fundamental of all the procedures (Foucault 1995). It is the exam that converts the subject into an object and makes visibility an implementation of power: “It is a normalizing gaze, a surveillance that makes it possible to qualify, to classify and to punish. It establishes over individuals a visibility through which one differentiates them and judges them” (Foucault 1995, 184). Foucault points out that the practice of the examination represents a type of power in and of itself under which one is constantly visible, as an individual, feeling the objectification of one’s self take place through the examiner’s gaze (1995). The examination is also the technique through which files and documents become associated with one as he or she became a unique case, weighed against the normalized judgment and processed through a homogenous

mechanism (Foucault 1995). Foucault states that, "...as power becomes more anonymous and more functional, those on whom it is exercised tend to be more strongly individualized" (1995, 193). The technique of the examination (through both medical and oral interviews) is at the heart of the immigrant visa processing system, and has been a key component of U.S. immigration policy for over a century, as will be put forth throughout this paper.

## **DISCIPLINE IN PLANNING**

Planning theorists, in many ways, bring the theoretical discussions of political philosophy down to a more grounded level. Building upon theories of space and power, planners reframe these concepts into approaches related to the movement and experiences of individuals in their everyday lives. The overlapping daily interaction of individuals in urban geographies becomes the lens through which theory meets reality.

Raphael Fischler, for example, has examined Foucauldian theories as they relate to contemporary urban planning. In particular, he looks at the use of discourse, power, consensus, and the relationship between theory and practice (Fischler 2000). He discusses the tension, in the planning field, between a "communicative paradigm" based on consensus-building and a paradigm focused on the need to construct democracy through planning (Fischler 2000, 358).

Fischler is particularly concerned with the relationship between planning, discourse, and power. He contrasts Habermas to Foucault, explaining that while Habermas portrayed power as people's ability to effect change, Foucault presented the struggle of individuals to effect change as a form of resistance to power (Fischler 2000, 360). It is the identification of societal problems by reexamining the world around us, as Foucault has done through his genealogical approach (Fischler 1998), that is relevant to the planning practice of using personal narratives and case studies to reinterpret the city environment (Fischler 2000).

It is Foucault's theory of governmentality, which he related to modern governments and modern rationality, and the way in which this led individuals to self-govern, that Fischler finds applicable to city planning and to the increasing utilization of communicative theory and dialogical processes (Fischler 2000). Governmentality may be understood to be the processes, institutions, agencies, discourses and norms by which the population is governed (Ferguson and Gupta 2002).

However, Fischler argues that it is Foucault's insistence "on remaining grounded in historical reality" that is particularly relevant to the planning field, more so than his analysis of power (Fischler 2000, 359,362). I agree with Fischler's interpretation on this point and structure my analysis accordingly for the purposes of this paper. Although one's view of historical reality may be inherently relative and not fixed, I utilize the contemporary occurrences in Ciudad Juarez and the landscape of the Mexican immigrant experience to construct a historical reality as I view it and then use this assembled reality as the foundation of my analysis.

Danish planner Bent Flyvbjerg also provides an examination of Habermas and Foucault, emphasizing the tension between consensus and conflict in their respective theories (Flyvbjerg 1998). Flyvbjerg, however, frames this tension in terms of its relevance to civil society and democracy. He explains that whereas Habermas viewed consensus without force as the ideal of modernity, Foucault believed that "suppressing conflict is suppressing freedom, because the privilege to engage in conflict is part of freedom" (Flyvbjerg 1998, 229). Even though Foucault's emphasis on situated actions and resistance is context-dependent and Habermas is aligned towards context-independent universalities, Flyvbjerg asserts that they are both in agreement on the importance of addressing the contemporary misuse of power (Flyvbjerg 1998).

In a direct application of Foucauldian theory in the urban setting, Joel Outtes examines what he calls "Disciplining Society through the City" in his analysis of the evolution of urban planning in Brazil and Argentina in the first half of the twentieth century (Outtes 2003). He utilizes Foucault's concepts of discipline and bio-power as the



framework for his analysis, and points to hygiene, scientific management, and eugenics as key components to the birth of planning as a tool to create an “industrial culture” (Outtes 2003, 138). Outtes also examines discourse as a planning tool and points out that even if certain parts of the city plan itself were not carried out, the use of the discourse alone could be seen as a tool of discipline and control of movement (Outtes 2003).

In Outtes’ examination of the rise of urban planning in Brazil, he points to the importance of the confluence of the development of labor and welfare policies at the same moment in history as the ascendance of city planning (Outtes 2003). Like Fischler, he reflects on Foucault’s use of discourse and points to the knowledge/ power/ discourse trilogy (Outtes 2003). Outtes adds to the critique of discourse, however, by stating that, “According to Foucault there is no truth in any discourse” (2003, 138). It is the effects of these purported truths, according to his reading of Foucault, which leads to results (Outtes 2003, 138). In the case of urban planning, isolated efforts to control negative components of the city, such as slums and poverty, developed into state institutions charged with controlling the city as a whole (Outtes 2003).

The control of free movement and the restriction of land use and activities through planning methods such as zoning are not entirely restrictive (as in a prison), but instead restrict freedom in more subtle ways (Outtes 2003). According to Outtes, this is based on a Foucauldian principle of discipline that “if power was just repressive, if it just said ‘no’ every time, it would not be obeyed” (2003, 139). This exception, or calculated leniency, is essential to the success of discipline through the immigration framework and its system of pardons and waivers as I shall discuss in Chapter Four. Outtes’ analysis of discipline through the management of movement and urban space through planning is relevant as a comparative scale against which to measure the control of migrants across borders and the fomentation of an industrial logic of control.

## **CRITIQUE OF FOUCAULT AND POST-NEOLIBERALISM**

There have been many assessments of Foucault's work, of which I will address only a few. Fischler, for example, points to John Forester's assessment of Foucault as "being inconsistent as theorist and as activist" and Flyvbjerg's critique that Foucault used only a few, carefully selected case studies to ground his arguments as shortcomings of the famed philosopher (Fischler 2000, 361). Outtes reiterates the critique that many of Foucault's findings are not evidenced by quantitative data (Outtes 2003). Although Foucault's theories have been critiqued in multitude, addressing those critiques are beyond the scope of this paper.

In contrast, Nancy Fraser provides an analysis of Foucault as a theorist of fordist regulation who presented the postwar state as "a carceral archipelago of disciplinary domination," (Fraser 2003, 160). According to Fraser, this created a legacy of associating discipline with modernity and established a realm of debate centered too narrowly on interpreting whether Foucault's treatment of the fordist regulation was unfairly pessimistic (2003). Foucault should be re-read in the contemporary context, she argues, because society has passed beyond the era of the fordist state which Foucault so ably analyzed "at the moment of its historical waning" (Fraser 2003, 160). A few of the factors that Fraser cites as linked to the fordist structure were the creation of familial, gender and social norms assumed to adhere to a network based on national frameworks and to a regulatory logic that created subjects as it fostered their autonomy (2003).

Fraser also argues that Foucault's main works of the 1960s and 1970s (including *Discipline and Punish*) were written at "the moment at which discipline's successor was struggling to be born" (2003, 160). Although the new project centered on deregulation and a new flexibility, Fraser puts forth what she calls a "transformationalist" approach in which she contends, "while the emerging postfordist mode of social regulation diverges sufficiently from the fordist one to preclude simple extension of the Foucauldian analysis of discipline, *that analysis can still serve to illuminate it*" (2003, 161), emphasis added). She argues that the facets of self-regulation that previously existed are dissolving, leaving

a space likely to be filled with increasing repression and emphasis on responsibility of self (Fraser 2003).

Fischler recounts an association between the development of planning and the welfare state in a fashion similar to Fraser's examination of Foucault in the context of fordist social reforms. Fischler also proposes that the welfare state, "aimed at securing the wellbeing of individuals and the welfare of society," and of which planning has played an important role, is coming to an end (Fischler 1998, 391). He laments its dismantling because although he viewed the system as flawed, he felt it was inherently focused on addressing human need and increasing equality amongst the population (Fischler 1998).

Acknowledging that much indeed has changed since the 1960s and 1970s, as Fraser asserts, I contend that it is imperative to reframe Foucault's analyses of discipline and power now more than ever. The ability to use his framework in a context-specific nature is of great utility, instead of being a limiting factor. It is exactly because the spaces of self-regulation are already being filled with increasing repression that I agree with Fraser's transformationalist approach.

In summary, the literature on exceptions, borders and other space is integral to understanding discipline and immigrant processing. The removal of judicial oversight, the creation of spaces of limited rights, the rise of terrorist-related rhetoric and anti-terrorism policies and increasingly punitive immigration policies are at the center of my research. I utilize the concepts put forth in Foucault's *Discipline & Punish: The Birth of the Prison* (1995) to recontextualize what many Mexican immigrants experience as they are transformed from illegal to legal beings. In the next chapter I will discuss U.S. immigration policies as they relate to the creation of contemporary immigration law and post-welfare economic strategies.

## **Chapter Two: U.S. Immigration Policy and the Modern Age**

### **INTRODUCTION**

As stated earlier, this paper is primarily an examination of how Mexican applicants for U.S. immigrant visas, and their families, experience the legalization process. However, before analyzing those experiences, it is imperative to understand the context of U.S. immigration policy as it has developed over time. This context provides insight into the present in which individuals struggling to navigate the immigration process find themselves.

According to a 2006 report from the Congressional Budget Office, the primary goals of current immigration policy are:

- “First, it serves to reunite families by admitting immigrants who already have family members living in the United States.
- Second, it seeks to admit workers with specific skills and to fill positions in occupations deemed to be experiencing labor shortages.
- Third, it attempts to provide a refuge for people who face the risk of political, racial, or religious persecution in their country of origin.
- Finally, it seeks to ensure diversity by providing admission to people from countries with historically low rates of immigration to the United States” (Caldera and Piper-Bach 2006).

The goals, as outlined in the report, are unabashedly optimistic, framed as inclusive measures with no mention of the enforcement mechanisms, limitations, exceptions, and legal and administrative maze behind funneling human movement neatly into narrow parameters. The report listed an estimated seven million unauthorized aliens

in the United States in 2000, with an increase to approximately ten million in early 2004 (Caldera and Piper-Bach 2006). Approximately 203,000 people were formally removed from the United States in 2004 with an additional one million others departing voluntarily (Caldera and Piper-Bach 2006). According to author Charles Bowden, “we have an immigration policy which means a Mexican would have to live 150 years to get a visa to move to the United States, which has unleashed the largest human migration on earth (Bowden 2010).”

## **EARLY IMMIGRATION POLICY**

Over the course of history, many classes of people have been restricted from immigrating to the United States. Criminals, prostitutes, communists, anarchists, polygamists and others have at one time or another been excluded based on constructed categories of ineligibility (Caldera and Piper-Bach 2006). These categories of moral exclusion were the foundation of early immigration control. As the nation developed and its borders began to solidify, however, additional measures quickly became necessary to meet the nation’s growing demand for sovereignty and socio-political dominance.

The Chinese Exclusion Act of 1882 was, according to Erica Lee as cited in Lina Newton’s assessment of immigration reform, an opportunity for the United States to strengthen its state-making apparatus through enforcement policies based on race (Newton 2008, 13). Importantly, it not only excluded the Chinese and other Asians, it also denied them the right to naturalize (Newton 2008). This system of exclusion based on race and national origin set the foundation for systems of excludability for decades to follow. It has also been argued that this foundation of overtly race-based exclusion remains alive through the racial-biases of legal interpretations and administrative application of laws that may be neutral on their face (see (Newton 2008)).

In the wake of the Chinese Exclusion Act, the U.S. Immigration Service and Bureau of Immigration were established in 1891 in order to formally control immigration at the federal level, with exclusive responsibility of handling immigration matters having

been granted to the federal government in an 1876 Supreme Court ruling (Caldera and Piper-Bach 2006). The Bureau was housed under the Department of Commerce and Labor with the Immigration Service operating as the field component of the organization (Ngai 2004). Around that time (from 1850 to 1900), Mexican immigration to the U.S. was recorded at less than 1,000 individuals per year (Monto 1994). This rate increased dramatically from 1900 to 1910 as the rate rose to 31,000 per year due to demands for continued railroad construction and maintenance (Monto 1994). Importantly, railroads were also being constructed in western Mexico, drawing migrants from further south.

In 1906, the Basic Naturalization Act was passed by Congress in order to establish uniform naturalization procedures and counteract what was seen as highly variant processes and procedures throughout the approximately 5,000 courts of record throughout the nation (CBP). The Act served to consolidate naturalization services at the national level by encouraging states and localities to relinquish jurisdiction over their courts of record and cede it to the federal courts. The Act then expanded the role of the Bureau of Immigration and transformed it into the Bureau of Immigration and Naturalization (CBP).

At this time, the bureaucratic infrastructure of inspection and record-keeping began to be developed. Inspecting agents completed Reports of Inspection as foreigners, many of them Mexican, crossed the southern border into the United States. The Inspections were conducted under the purview of the Department of Commerce and Labor and recorded the reason for entry and reviewed eligibility against moral categories of exclusion, as evidenced in the figure below (Fig. 1).

**REPORT OF INSPECTION**

Department of Commerce and Labor  
IMMIGRATION SERVICE  
MEXICAN BORDER DISTRICT

Serial No. 820

Manifest *Line* *5* *2* *hollow BM* *On* *lean center of forehead* *Close to hair* *Matamoros* *Mex*

Port of *Brownsville, Tex.*  
(Date) *April, 17, 1909*

PERSONAL DESCRIPTION					PLACE OF BIRTH
Height	Weight	Complexion	Hair	Eyes	
5	2	hollow BM	On	lean center of forehead	Matamoros Mex

Name of passenger, *Rafael Suarez* *son 26*  
 Sex, *M* Married or single, *M* Calling or occupation, *Merchant, Read and write, Good*  
 Nationality, *Mex* Race, *Mex* Last residence (a) *Matamoros Mex*  
 Name and address of nearest kin in country from whence alien came, *Wife*  
*Marconi Garza Matamoros Mex*  
 Final destination (b), *Matamoros Mex* Ticket, *100* Passage paid by *Self*  
 Money, *100* Ever in U. S.? *No* If so, where and when?  
 Going to join (relative or friend) *Wife* Name and address, *Marconi Garza Matamoros Mex*  
 Ever in prison, etc.? *No* Polygamist, *No* Anarchist, *No*  
 Health (c) *Good*  
 Whether in transit, *No* If so, how? (d) *admits at this entry coming over by*  
 Corporation or individual responsible for head tax (e) *None* *for a visit, returned*  
 Action by primary inspector (f) *Admitted to Mexico and entered*  
 Immigrant\* *Alien did not give correct name of wife, 170* *without inspection*  
 Nonimmigrant\* *gave the name of same party, 170* *check on going to*  
 (Nonstatistical\*) (SIGNATURE) *170* *corpus Christi*  
 (SIGNATURE) *Interpret*

CERTIFICATION OF HEAD TAX TO COLLECTOR

Straight "Rule 41" (Special Deposit) "Rule 1" Refund

ACTION BY BOARD OF SPECIAL INQUIRY

Admitted, Debarred, Deferred, Case

DEPARTMENTAL ACTION

Appeal, Sustained, Dismissed, Date and No.  
 Bond, Granted, Denied, Date and No.  
 Detained, (From) (to)

\*Strike out inappropriate headings. †Insert the date.

Figure 1. Immigration Report of Inspection, 1909.

This inspection form was completed April 17, 1909 for the author's great-grandfather at the Brownsville, Texas port of entry. Items reviewed include, "Ever in prison? Polygamist? Anarchist? Health?" The report notes that the border crosser is carrying gold.

The first steps to official border vigilance were taken when Congress authorized the creation of mounted border guards (also known as inspectors) in 1915. This group of less than seventy-five guards operated out of El Paso, Texas and patrolled the border on horseback, looking primarily for Chinese immigrants entering illegally in order to circumvent the Chinese exclusion provisions (CBP). Border surveillance was born; providing an important starting point for the development of a system based on federal policy-making, administrative oversight, documentation, and enforcement.

### **IMMIGRATION POLICY DURING THE 1920S-1980S**

In the 1920s, federal policy-makers turned towards quantitative solutions in efforts to control migration. The use of quantitative data was seen as a more politically palatable and defensible method for dealing with the sensitive issue of immigration. Because of this, quotas based on past U.S. Census figures, by nationality, were established in 1921. However, Mexicans were not subject to quotas at that time, and one million Mexican citizens crossed into the U.S. in the 1920's; to the great concern of many in Mexico who lamented the loss of a labor force needed for post-revolution reconstruction (Hernández 2009). Although the Mexican Constitution of 1917 allowed free entry and exit to all Mexican nationals from their own country, it required potential emigrants to acquire an executed labor contract from the consulate of their country of destination (Hernández 2009). Literacy test admission requirements were implemented by the U.S. Congress in 1917 (Ngai 2004) and served as a tool of excludability outside of the realm of the official quota system.

Ratcheting up the use of the quota system, the Johnson-Reed Immigration Act of 1924 was the first comprehensive U.S. immigration law, based on a set of restrictions that included numerical limits and global racial categories (Ngai 2004). The U.S. National Origins Act, which required inspections and entry fees for immigrants wishing to enter the U.S., was passed in 1924. The passage of this Act ushered in a new framework of state territoriality and border surveillance (Ngai 2004). Passports and visas became



required for entry into the U.S. at this time. Importantly, the introduction of passports as a control measure had been implemented as “emergency war measures” before becoming the norm (Ngai 2004, 19). The Chinese, Japanese, Indians and others continued to be excluded based on a determination that they were “racially ineligible for naturalized citizenship” (Ngai 2004, 7). At the same time, Mexican officials expressed opposition to U.S. efforts to enact limits on Mexican migration into the U.S. (Hernández 2009).

Although national origin quota limits were put in place for immigration from Europe, no numerical restrictions were placed on immigration from the Western Hemisphere (Ngai 2004). As Ngai explains, “...the nativism that impelled the passage of the act of 1924 articulated a new kind of thinking, in which the cultural nationalism of the late nineteenth century had transformed into a nationalism based on race” (Ngai 2004, 23). The national origin quotas were based on the number of U.S. inhabitants present in 1920 except for those U.S. inhabitants, or their descendants, that were from the western hemisphere (Ngai 2004). Ngai states, “the “colored races” were imagined as having *no country of origin*. They lay outside the concept of nationality and, therefore, citizenship” (Ngai 2004, 27) [emphasis in original].

By the end of the 1920s, even though there were no categorical restrictions levied against them, the administrative requirements and border enforcement provisions created by the Johnson-Reed act led to Mexicans becoming the largest group of illegal aliens at that time (Ngai 2004). The Border Patrol was established by Congress around this time, in 1925, as a unit of the Immigration Service (Ngai 2004). The Bureaus of Immigration and Naturalization were then merged in 1932 in order to form the Immigration and Naturalization Service (INS) (Ngai 2004). Importantly, the INS was moved from the Department of Labor to the Department of Justice in 1940, signaling the first step from an outwardly labor-oriented bureaucratic focus to one of enforcement. Enforcement and regulatory institutions continued to be developed, and during the Great Depression, approximately 400,000 Mexicans (including those who were already U.S. citizens) were repatriated to Mexico (Ngai 2004). Entering the U.S. without proper documentation

became a crime in 1952, although it was treated as a misdemeanor if it was the first offense (Miller 2002).

On the crest of the U.S. Civil Rights Movement of the 1960s and bolstered by a robust economy, the national-origin quota system was removed in the Immigration and Nationality Act Amendments of 1965 and replaced with a preference system. Total caps on immigration and preference categories based on family ties to U.S. citizens and lawful permanent residents, and job skills, were implemented. Of critical importance due to its impact on the current political landscape regarding immigration, immigrants from the Western Hemisphere were exempted from the preference category and per country limits and immediate U.S.-citizen relatives (defined as spouses, children, and parents) were exempted from the total cap placed on the Western Hemisphere (Caldera and Piper-Bach 2006).

These family unification measures were heralded as a great step towards more humane immigration policies. For migration based on parent-child relationships, the law only applies to children under the age of twenty-one or parents of a US citizen child over the age of twenty-one. This means that an unauthorized immigrant parent of a U.S.-born child would have to wait until the child's twenty-first birthday in order for the child to petition on their behalf. This is a significant component of the 1965 law and one that has led to much of the rhetoric regarding "anchor babies" and legislation regarding the 14th Amendment and birthright citizenship that I will discuss later in this chapter.

The next major U.S. immigration legislation that took place was the Immigration Reform and Control Act of 1986 (IRCA). This Act broadened the use of criminal penalties and enforcement tactics related to immigration and was centered heavily on a combination of employer sanctions, law enforcement, and a one-time amnesty program (Miller 2002). The emphasis on employer sanctions and the requirements placed on employers to simply check for documents and not verify their authenticity led to "a flourishing industry in fraudulent documents, which merely imposed further expenses and greater legal liabilities upon the migrant workers themselves, while supplying

protection for employers” (De Genova 2002, 437). It was the beginning of an era of immigration “crisis”; marking the shift from civil sanctions to criminal sanctions for violators of immigration law and a change in parlance from “convicted alien” to “criminal alien” (Miller 2002).

One of the key components of the IRCA was the legalization of 3.2 million undocumented persons (De Genova 2002). The “amnesty” provisions of the bill have been attributed with causing an uptick in the number of undocumented migrants apprehended attempting to cross into the U.S. without inspection in the months before its enactment. It has also left a lasting impression in the mind of migrants, policymakers, and the public alike; leaving hope for another amnesty in the discourse of contemporary migrants and standing as a point to vilify in the immigrant-restrictionist debate.

#### **1996: POST-NAFTA RESTRICTIONISM AND PERSONAL RESPONSIBILITY**

The 1990s ushered in a decade of increasingly punitive and restrictive stances towards immigrants as “aliens”, exemplified through important changes made to federal immigration policy and in the attempts made, yet not enacted at the time, to further restrict legal provisions and eliminate or diminish access to social benefits.<sup>9</sup> Teresa Miller explains, “the law enforcement and crime provisions of the IRCA that shocked commentators at the time pale in comparison to the legislative measures taken in 1996 to further strengthen the enforcement of immigration law and control crime through immigration reforms” (Miller 2002, 631).

The reforms of the 1990s took place against the backdrop of the North American Free Trade Agreement (NAFTA), enacted on January 1, 1994. NAFTA was posited as a way to stimulate growth in Canada, the United States and Mexico by eliminating trade

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<sup>9</sup> Mae Ngai defines her use of the term “alien” to “refer to legal subjects” pointing to Walter Lippmann’s 1922 commentary that “the word alien is an unusually exact legal term” (Ngai 2004, page xix). This legal term, she explains, refers to “a person who is not a citizen” while the term “illegal alien” refers to “an alien who is unlawfully present” (Ngai 2004, page xix). The term “criminal alien,” in legal terms, then refers to an alien convicted of a crime (Ngai 2004, page xix).

barriers and promoting a more liberal flow of goods across international borders. It was not openly embraced by all of the constituents it purported to benefit, however, and was met by the active resistance of activists across the three countries. Perhaps the most well-known resistance movement was brought forward by the Zapatista Army of National Liberation (*Ejército Zapatista de Liberación Nacional*, EZLN) on behalf of the indigenous communities of Mexico, and of the state of Chiapas in particular. The EZLN was particularly opposed to the implementation of NAFTA in part because they saw it as a mechanism the Mexican state would use to roll back reforms of the Mexican Revolution and as a neo-liberal project that would dramatically widen the gap between the poor and the wealthy.

Mexican policy had also contributed to the construction of what Alexander Monto calls “the traditional dual economy model of Mexico” (Monto 1994, 9). This model posits two sectors, one capitalist and industrialized, and the other, a poorly articulated, “feudal” and subsistence-based sector (Monto 1994, 9). This differentiation consisted of internal and international migrants in which the displacement of the rural population was facilitated by Mexico’s implementation of policies favoring industrialization, large-scale agribusiness and mechanization, export crop production, the hampering of corn prices, and the creation of irrigation projects in northern Mexico (Arizpe 1981 in (Monto 1994, 12). The technocratization of the government, beginning primarily with the election of decentralization policies in the 1990’s, failed to advance equity in the states. With a national urbanization rate of 78 percent as of 2010, the implications of internal migration on Mexico’s urban fabric are enormous (CIA 2011). The culmination of these changes has led to a series of manifestations in urban geographies, such as in Ciudad Juarez, which I will cover in the next chapter.

An example of the impact of NAFTA on the restriction of movement between the U.S. and Mexico can be found in a study on natural hazard risk that found that NAFTA provisions sometimes have extreme consequences. After the severe 2006 flood in the Juarez/ El Paso portion of the Rio Grande river basin, the El Paso Salvation Army

gathered clothing to take to the victims of the flood in Ciudad Juarez. However, a provision of the NAFTA regulations, to which Mexico is inextricably bound, prohibits the entry of clothing and shoes in bulk into Mexico regardless of the charitable intent. An El Paso Salvation Army representative stated, "It was easier to get drugs from Juarez into El Paso than it was to get used clothing from here to there for relief" (Collins 2009, 595).

The NAFTA regulations that created conflict and restriction formed the context within which the next major U.S. immigration reforms took place. The Illegal Immigration Reform and Immigrant Responsibility Act ("IIRAIRA") was adopted by the U.S. Congress in 1996. It became a stark shifting point in the governmental, administrative and legal framing of immigrants and non-citizens. The IIRAIRA created bars to admissibility (into the United States) for aliens who were "unlawfully present" in the United States for certain periods of time.<sup>10</sup> It also greatly reduced the flexibility of the immigration system (Miller 2002).

One of these aggressive bars is the ten-year bar to admissibility. The statute states:

Any alien (other than an alien lawfully admitted for permanent residence) who—  
.... has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible (Eiss and Rizzo 2005).

This means that once an undocumented immigrant has been in the United States for longer than one year, he or she is not eligible for reentry with legal permanent residency unless a waiver of the ten-year bar is obtained. Another key change of the 1996 immigration reforms was that applicants must now leave the United States in order to file the waiver, in person, at the consulate in Ciudad Juarez. People have been detained as

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<sup>10</sup>For a discussion of the three and ten-year bars and their impacts, see Eiss and Rizzo (2005) "The Three And Ten Year Bars Revisited: When It Helps To Be Put Into Removal Proceedings"  
<http://www.ilw.com/articles/2005,0830-eiss.shtm#02000001>

they attempt to leave the country. Prior to these changes, an applicant could seek adjustment of status from within the United States. This requirement effectively traps people in the United States and provides them with no avenue to rectify their situation without leaving the country and either waiting out the decade or securing the waiver through consular processing from abroad. This restriction is at the center of my research, as I will explain in later chapters.

Other key tactics of IIRAIRA included increased border fortification and restriction of access to U.S. benefits to both illegal and *legal* immigrants. The legislation had come into place alongside the welfare reforms of the Congress led by Newt Gingrich (R-GA) under the Clinton administration. The welfare reforms were titled, “Personal Responsibility and Work Opportunity Reconciliation Act (PREWORA).” As U.S. austerity measures were implemented, the poor and the immigrant were portrayed as unmerited users of an overly-flexible state structure of benefits at the expense of the non-poor and non-immigrant taxpayer (Newton 2008). A free flow of labor, as through the Bracero program, was no longer conducive to the United States after the implementation of NAFTA.<sup>11</sup>

Securing the waiver for unlawful presence is not easy, however. Only spouses or children of U.S. citizens or lawful permanent residents may apply and they must demonstrate that the continued inadmissibility of their loved one would result in “extreme hardship” to the U.S. citizen. According to guidance from the Federal Register,

The phrase “extreme hardship” is not defined in the Act, and NACARA provides no additional guidelines for interpretation of this requirement. Instead, “extreme hardship” has acquired specific legal meaning through interpretation by the Board and Federal courts (Federal Register Publications 1998).

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<sup>11</sup> The Bracero program was a U.S. labor program that lasted from approximately 1917 to 1966 and employed hundreds of thousands of Mexican laborers on a short-term contract basis over the course of its history. The majority of the contracts were for positions in large-scale agricultural operations.

A USCIS memo on the final determination of a particular waiver appeal from the Ciudad Juarez field office explains,

The concept of extreme hardship to a qualifying relative “is not . . . fixed and inflexible,” and whether extreme hardship has been established is determined based on an examination of the facts of each individual case (Rhew 2010).<sup>12</sup>

## **THE ERA OF DETENTION AND THE NON-CITIZEN: 2001 - PRESENT**

The attack on the World Trade Center on September 11, 2001 served as the catalyst to reinvigorate and expand upon the punitive path that had been in development for immigrants since the 1980s. National security became the primary concern, dwarfing the issues of human rights and due process, and snuffing out the nascent gestures towards immigration reform that had been made between Presidents George W. Bush and Vicente Fox (Miller 2002). At the same time, the “emerging role of the U.S. border as a ‘crime scene’” was coming to the forefront (Miller 2002, 626). The agency that had been the Immigration and Naturalization Service (INS) was brought under the umbrella of the newly created Department of Homeland Security (DHS) and split into three new sections: the USCIS, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) (USCIS 2011).

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<sup>12</sup> The USCIS determination, made by the Chief Administrative Appeals Office, provides an explanation of the agency’s interpretation of the legal construction of extreme hardship. The memo explains, “U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported” (Rhew 2010).

Drawing from Foucault's theory of governmentality, Jonathan Simon describes contemporary immigration measures as "governing through crime" through which "crime and punishment have become the occasions and institutional contexts" for controlling the population (Simon 2000 and 2007 as cited in (Miller 2002, 618). The existence of the permanent post-9/11 crisis allowed for the dissolution of individual rights and for the introduction of new techniques of unilateral control.<sup>13</sup> This "new penology" has been framed as "a response to a crisis in urban social order" (Miller 2002, 646). Miller contends, however, that the provisions of IIRAIRA and the Anti-Terrorism and Effective Death Penalty Act (AEDPA) were enacted, "as a governing strategy that weeds out certain undesirable non-citizens (and increasingly, citizens) through surveillance, fear, commodification and incarceration" (Miller 2002, 647).

As an example of this emphasis on crime, approximately 6,000 National Guardsmen were positioned along the border in 2006 by then-president George W. Bush. This additional deployment was dedicated to the apprehension of undocumented immigrants (Bhimji 2009) and was a show of force by the U.S. government. According to the Migration Policy Institute, more than half of ICE's annual appropriated revenues of approximately \$2.5 billion is set aside for its Detention and Removal Operations (DRO) activities (Meissner and Kerwin 2009). The increased legal opportunities and funding for immigrant detention operations were stimulated by key changes to federal law that took place in IIRAIRA and in the AEDPA of 1996. Provisions in these laws expanded the number of offenses for which removal was allowed, decreased the administrative and legal mechanisms available for noncitizens to contest their removal, and expanded the categories which merited mandatory detention for noncitizens (Meissner and Kerwin 2009).

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<sup>13</sup> Miller provides an example of this Executive authority in the context of immigrant detention sans criminal or immigration violations: "The Attorney General single-handedly rewrote federal immigration regulations to expand from 24 hours to 48 hours the length of time a non-citizen can be detained, and from 48 hours to an unspecified, indefinite length of time during a national emergency" (Miller 2002, 622).



The purpose of the AEDPA, as stated in the introduction to the legislation, is “To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes” (USCIS 1996). The language of the Congressional Record regarding AEDPA lists “terrorist” and “criminal alien” together in the section dedicated to “removal and exclusion” (USCIS 1996). The reasoning is explained that:

The removal of alien terrorists from the United States, and the prevention of alien terrorists from entering the U.S. in the first place, present among the most intractable problems of immigration enforcement. The stakes in such cases are compelling: protecting the very lives and safety of U.S. residents, and preserving the national security. Yet, alien terrorists, while deportable under section 241(a)(4)(D) of the INA [Immigration and Nationality Act], are able to exploit many of the substantive and procedural provisions available to all deportable aliens in order to delay their removal from the U.S. (Congressional Record as cited in (Doyle 1996).

The “alien terrorist” is portrayed as a wily figure subverting the laws of the United States by exploiting the procedural provisions available under the existing Immigration and Nationality Act, hence requiring special options for their removal.

The AEDPA also expanded the category of aggravated felony to include forgery, document fraud, counterfeiting, obstruction of justice and perjury (Miller 2002). In addition to the lesser burden of proof afforded to the government through the Act, limits were placed on options for legal discovery, and prohibited when related to classified information (Miller 2002).<sup>14</sup> The “right to judicial review of discretionary decisions” of a host of matters was removed through AEDPA and IIRAIRA, including decisions related to stays of deportation and detention or release (Miller 2002, 614).<sup>15</sup> The practice of

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<sup>14</sup> The prohibition against the review of classified documents was recently tested with the posting of classified documents related to approximately 700 Guantanamo Bay detainees to the public domain. Although the documents were made publicly available on the Internet by WikiLeaks, lawyers representing the detainees have been prohibited from viewing them or speaking of them, even if the documents contain information vital to the defense of their clients (Shane 2011).

<sup>15</sup> An example of the disastrous impacts of the shift towards criminalization combined with the removal of legal protections may be observed in the case of the May 2008 Postville, Iowa immigration raid. Luis Argueta’s documentary *AbUSed: The Postville Raid* (Argueta 2010) opens a door into the expedited

“preventive detention” became normalized (Miller 2002, 659). The increase in the number of individuals detained since 1996 is testament to the impact the policies have enabled. In 1994, the average daily detainee population housed by the then-INS was 6,785 (Meissner and Kerwin 2009). This rose to 11,871 detainees in 1997 and then to 30,295 per day in fiscal year 2007 (Meissner and Kerwin 2009).

To clarify the significance of this increase in detention, the Migration Policy Institute cites the US Commission on International Religious Freedom and explains,

ICE detainees may technically be in civil proceedings, but for all intents and purposes they are held in prisons or prison-like facilities governed by standards that “are identical to, and modeled after, correctional standards for criminal populations” (Meissner and Kerwin 2009).

The erasure of the line between civil proceedings and criminality is of paramount importance to the new model of immigration and detention.

Debates regarding “birthright citizenship” were also evident in the congressional hearings and discussions surrounding IIRAIRA as new modalities and classes of legality and citizenship were constructed. Conservative bloggers point to the 1965 immigration reforms as the opening of the floodgate on chain migration due to family reunification options without a maximum cap. Family reunification visas, the legacy of the 1965 changes, currently make up the majority of immigrant visas granted each year (Newton 2008). Because of this, legislative efforts were made throughout the 1990s to reduce the number of family reunification visas made available (Newton 2008).

More than fifteen years later, the issue of birthright citizenship has become invigorated with new-found fervor. As of April 2011, lawmakers from forty states had mobilized to demand the revision of the 14<sup>th</sup> Amendment of the U.S. Constitution; under

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conviction and removal proceedings of approximately 400 undocumented agri-processor workers. Disguised as a “continuity of operations exercise,” this heavily militarized Immigration and Customs Enforcement (ICE) raid was based on the premise of criminal charges for identity theft (the workers’ use of false documents to gain employment) instead of immigration violations (Argueta 2011). Because of this legal maneuver, immigration attorneys who had mobilized to offer immediate, pro-bono representation to the accused workers were denied entry.

which, children who are born on U.S. soil are granted U.S. citizenship, regardless of the immigration status of their parents (Hornick 2011). The public debate has been heated, as demonstrated by one supporter's claim that, "The 14<sup>th</sup> Amendment and the Civil Rights was for Blacks NOT Illegals!" (Hornick 2011). Since U.S. citizen children may petition for the legal immigration of their parents once they turn twenty-one years old, the Amendment is seen as a loophole through which illegal immigrants can make themselves legal through chain migration (Hornick 2011).

The naturalized citizen is also now a distinct classification. Naturalized citizens have appeared as suspected and attempted terrorists in New York and other places, and the word "naturalized" is used to differentiate their otherness from natural born citizens. Citizenship status is simultaneously portrayed as a sacred good, however. Because of this, immigrants moving through the legalization process who have falsely claimed to be a citizen at any point before or during their process are subject to a non-waivable lifetime ban from reentering the United States.

At the same time, technologies of surveillance have become increasingly sophisticated and have been pushed down further and further into the social fabric. Immigration enforcement activities have been increasingly, and contentiously, undertaken by states and state agencies. With this state-enforcement movement spearheaded by Senate Bill 1070, passed in April 2010 in Arizona, twenty-two other states moved to adopt immigration enforcement legislation. Senate Bill 1070, known as the "Support Our Law Enforcement and Safe Neighborhoods Act," broadens the definition of trespassing, requires law enforcement officers to reasonably attempt to determine the immigration status of any person that they suspect of being unlawfully present (as long as that person was stopped by the official for a lawful reason), and "prohibits state and local law enforcement from restricting enforcement of federal immigration laws" amongst other things (NCSL 2010).<sup>16</sup>

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<sup>16</sup> The bill included provisions to make unlawful presence in the United States a state trespassing violation (NCSL 2010). Passage of the law ignited a wave of boycotts and protests across the nation. Key provisions are currently under injunction in federal court. Of the twenty-two states filing similar

Efforts to require verification of immigration status at public universities, hospitals, and at agencies administering social benefits have been escalating over the past two decades, particularly since the 1994 passage of Proposition 187 in California. Proposition 187 would have denied access to education and health care services to undocumented immigrants if its implementation had not been halted by the federal courts. More recently, “emergency” laws have been proposed in Texas to mandate the elimination of “sanctuary cities” (Aguilar 2011).<sup>17</sup> Sanctuary cities are commonly understood to be cities that have adopted ordinance or policies under which law officers do not verify immigration status of individuals they come in contact with while conducting their normal duties.

The rise of self-monitoring is also of profound importance. In March 2011, the USCIS announced the implementation of a “self-certification” program for the E-verify system. The E-verify system allows employers to verify the identity and social security status of potential employees, flagging duplicate, non-existent, or erroneous identities. Foucault writes, “In the penalty, rather than seeing the presence of the sovereign, one will read the laws themselves” (1995, 110). Immigrants in the United States will now be able to utilize a “secure system” and verify the legitimacy of their own identity and documents.

According to Michael Welch, the transformations in the legal landscape that have taken place since September 11<sup>th</sup> can be understood in the context of the theories of governmentality and states of exception, amongst others (2007). The removal of key accountability measures and the suspension of law means that “key counter-terrorism strategies perpetuate serious state crimes” (Welch 2007, 135). The rise of impunity has been one of the defining shifts in state power (Welch 2007). Welch defines terrorism as

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legislation, eleven of them have since rescinded efforts to pursue copycat laws. The ones most likely to proceed are: Georgia, Tennessee, Florida, South Carolina and Alabama (Groff 2011). Perhaps not so coincidentally, these “Deep South” states have witnessed a surge in immigrant populations over the past two decades.

<sup>17</sup> In legislative hearings on the sanctuary city bills, supporters have portrayed police officers as vulnerable victims of violent illegal immigrants. “There are safe places for these people to live, to pillage, to rob, to rape, to do anything they want to do because we’re so afraid...” states one supporter (Brooks 2011).

“the politics of uncertainty since as a form of political violence it plays on randomness to push entire populations into mindsets of fear and anxiety” (2007, 137). Welch draws heavily from Foucault’s theories of counter-law, from *Discipline and Punish*, which he describes as “laws against law” (Welch 2007, 137). This counter law has arisen out of state preoccupation with the harnessing of risk and uncertainty, even at the cost of the rights of its own citizens (Welch 2007).<sup>18</sup>

The combined effect of these ever-intrusive enforcement and surveillance mechanisms is the creation of “spaces of nonexistence” in which the undocumented immigrant’s physical presence does not necessarily correspond to his social presence (Coutin 2000 in (De Genova 2002, 427). This new state of illegality is comprised of the following components:

“temporalization of presence,” whereby the undocumented come to be qualified or disqualified for adjustments of legal status according to the accumulation of continuous, verifiable (documentable) “illegal” residence; “legal aconsanguinity,” whereby immigration policies nullify the legal legitimacy of certain kinship ties; enforced clandestinity; the transformation of mundane activities – such as working, driving, or traveling – into illicit acts, related to compounded legal ineligibility” (Coutin 2000, Heyman 1991, 1998, Genova 1999, 2003, Mahler 1995 in (De Genova 2002, 427) These components also contribute to a state of being in which the future is hard to imagine, leading to “an enforced orientation to the present” (De Genova 2002, 427).

In speaking of the discourse of the securitization of migration, Maggie Ibrahim explains, “discursive practices...have transformed migrants into agents which threaten ‘human security’” (Ibrahim 2005, 163). This has resulted in a normalized view of migrants as a threat (Ibrahim 2005). “Any past thought – migrants being imperative to capitalist expansion – is left behind,” she states (Ibrahim 2005, 163). The migrant

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<sup>18</sup> Welch points to the irony that due process through the criminal courts leads to an uncertain outcome in the face of risk, and therefore leads to the reassignment of cases associated with risk into the less uncertain administrative sphere (Welch 2007). He references Agamben’s claim that “the legal order must be broken to save the social order” (Agamben 2005, 26) and bridges to Foucault by stating, “the suspension of law can be properly interpreted as a tactic of governmentality” (Welch 2007, 138).

represents the threat of a cultural pluralism that can only lead to inter-ethnic conflict and weakening of a mythological unified state (Ibrahim 2005). Drawing from Foucault, Ibrahim contends that this rhetoric of threat and security has reactualized a racist discourse, or the New Racism, and created a system in which power based on this discourse is exercised (Ibrahim 2005).<sup>19</sup>

Additionally, Miller suggests that “immigration law governs through crime in a way that relies upon, rather than seeks to eliminate, illegal immigration and the criminal alien population” (Miller 2002, 650). Administrative and enforcement success is determined by the “body counts” of detainees (Miller 2002, 655). The newfound rigidity of the system and lack of judicial recourse, coupled with a structure built to determine hardship waivers of inadmissibility based on individual case-specific factors, has created a system of heightened intrusion from which there is little chance to escape. Spaces of nonexistence have consumed more and more of the social landscape and impunity has escalated in both the U.S. and Mexico. I will examine this and its correlation to the socio-economic structure of Ciudad Juarez in the following chapter.

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<sup>19</sup> The term “New Racism” was put forth by Martin Barker in his 1981 book titled, *The New Racism: Conservatives and the Ideology of the Tribe*.

## **Chapter Three: The Contracting Landscape of Ciudad Juarez**

### **INTRODUCTION**

A Google search for “Juarez Industrial Complex” reveals a convoluted, yet revealing mix of stories both on the femicides of Juarez and the workers’ employment in the industrial parks of the city and industry reports of growth and economic progress in many of those same parks. The Intermex Industrial Parks website celebrates new leasing contracts and the construction of 30,000, 80,000, 400,000 square foot facilities opening in key production centers along the border, such as Chihuahua, Monterrey, Reynosa, and Ciudad Juarez (Intermex 2010). President Calderon is shown in a February 2009 photo of an inauguration for a Bell Helicopter facility in Chihuahua (Intermex 2010). The facilities featured are new, expansive, and devoid of landscaping or workers. The only people featured are politicians and businessmen, either with hardhats and pensive looks, gazing at the new machinery or in suits, toasting with champagne.

In another article about economic progress, a new turbine blade manufacturing plant is lauded as the third of its kind in Ciudad Juarez. The announcement explains, “This new project results from the growing demand in the USA for generation of energy through wind power, and the customer confidence in the manufacturing quality of Mexico’s workforce” (Intermex 2010). As a testament to this growth, Juarez had been adding five million new square feet of light-industrial real estate per year as of 2007 (Chamberlain 2007). An Elextrolux factory to produce high-end washers and dryers opened in Juarez in 2008 and was expected to employ more than 1,000 workers (Maquila Portal 2008). Real estate speculation has also taken hold as investors move to get ahead of their competitors (Chamberlain 2007). The poor who have illegally settled on the urban fringes of the city have also, ironically, been accused of real estate speculation by municipal authorities as the value of the land has increased (Collins 2009). When done

by squatters, the accusation of real estate speculation justifies their removal from the property needed for “legitimate” expansion.

Author Charles Bowden has called Ciudad Juarez “the laboratory of our future” as a reflection of the violence that so-called progress inflicts on the population (Bowden 1998). Although in transition over several decades, the recent and more rapid metamorphosis of Ciudad Juarez was ignited with the implementation of NAFTA in 1994. This transformation took place as U.S. restrictions on immigration and social welfare were being harshly ratcheted up, as described in the previous chapter. The trade relationship between the U.S. and Mexico began to increase dramatically with NAFTA’s passage and was valued at more than \$350 billion in 2007 (OIG 2009). Juarez had already been one of the first border development zones to establish massive maquiladora centers of production, but this process sped up significantly after 1994. A “maquiladora,” as Industry Today explains, is a production sharing center or “a manufacturing center which exports a large part of its output and whose imports are imported tax free” (Ochoa 2010). However, this benign definition does little to describe the massive impact the production sharing scheme has had on the Mexican population. This chapter will discuss the political-economic geography and history of Juarez and place the city within the broader context of economic development and immigration between Mexico and the United States as a whole.

## **GROWTH OF A GIANT**

The modern narrative of immigration, the borderlands, and Mexican industrial development begins with the signing of the Treaty of Guadalupe Hidalgo in 1847, in which approximately one third of the Mexican national territory was ceded to the United States. This narrative details a relationship of U.S. investment in and extraction from Mexico over multiple generations. It also includes the development and entrenchment of U.S. mining and agricultural plantations throughout the remaining Mexican territories. As



railroads built by immigrant labor supported the development of the U.S. West, Mexican labor moved north with the railroads (Monto 1994), creating the first patterns of northward migration that would come to define the U.S. / Mexico relationship throughout the twentieth century.

As northern railroads bustled and the U.S. industrialization machine churned forward, Ciudad Juarez began to be framed by the creation of binational markets of illegality. The Volstead (or Prohibition) Act, passed by the United States in 1919, outlawed the production and importation of alcohol into the U.S. This led to the creation of U.S.-based alcohol production factories and places of enjoyment, such as bars and nightclubs (Villarreal 2008). U.S. tourism to the city centered on self-gratification, illicit acts, and commerce.

The growth of the city continued at a moderate, sometimes winding pace until the mid 1960s. In 1965, the same year as the implementation of the “family-friendly” U.S. Immigration and Naturalization Act and the termination of the Bracero Program, the Border Industrialization Program (*Programa de Industrialización Fronteriza* or BIP) was begun. The BIP was important to creating a legal framework and incentive for maquila production. The program limited foreign investment to the area within the border region and required exportation of the finished goods whose core components had been imported into Mexico from the investors. In the decade following the creation of the program, the total value of U.S. imports from Mexico increased over 100,000 percent, as evidenced by the table below (Table 1).

Year	Total value (1)	Duty- free value (2)	Dutiable value (3)	(3) as per- centage of (1) (4)	Yearly increase	
					(1) (5)	(3) (6)
1966	0.1	<sup>a</sup>	<sup>a</sup>			
1967	0.2	0.1	0.1	50.0	100.0	–
1968	1.2	0.8	0.4	33.3	500.0	300.0
1969	4.8	2.1	2.7	56.3	300.0	575.0
1970	7.4	4.7	2.6	35.1	54.2	–3.7
1971	9.8	6.2	3.6	36.7	32.4	38.5
1972	30.6	21.5	9.1	29.7	212.2	152.8
1973	59.2	39.1	20.1	34.0	93.5	120.9
1974	114.7	81.5	33.2	28.9	93.8	65.2
Increase in percentage						
1969 over 1966	4,700.0	–	–			
1974 over 1970	1,450.0	1,634.0	1,176.9			
1974 over 1966	114,600.0	–	–			

Source: U.S. Tariff Commission, *Economic Factors Affecting the Use of Items 807.00 and 806.30 of the Tariff Schedules of the United States*, T.C. Publication 339 (Washington, D.C., September 1970), and unpublished data provided by U.S. Bureau of the Census.

<sup>a</sup> Less than 50,000 dollars.

Table 1. U.S. Imports from Mexico under Tariff Item 806.30.

This table shows the increase in U.S. imports from Mexico from 1966 to 1974 (Millions of dollars) (Bustamante 1983).

Two important extensions to the Border Industrialization Program were made in 1971 and 1974 with the Development Program of the Northern Border (*Programa de Desarrollo de la Franja Fronteriza Norte*) and the Maquiladora Program (*Programa Maquiladora*) respectively (Villarreal 2008). Although the border geographic preference remained in place under the extensions, these two programs created increased ties between the local elite and foreign investors and centered around the expansion of industrial infrastructure throughout the country (Villarreal 2008). However, approximately 98 percent of the 58,000 factories located in Mexico as of 1982 were still concentrated along the border (Villarreal 2008).

The 1980s also saw Mexico suffer the debt crisis, known as the “Lost Decade,” which led it towards modernization through the neoliberal model. This spiraled eventually into the implementation of NAFTA. As Villarreal states, “The project of maquila-izing the country took form” (Villarreal 2008, 66).<sup>20</sup> Although Ciudad Juarez was already heavily saturated with maquilas at this time, a period of consolidation began in which smaller factories began to give way to larger facilities under consolidated multinational ownership (Villarreal 2008). This shifting production process, consummated by NAFTA, has been called the “third generation” of maquila production (Jorge Carrillo as cited by (Villarreal 2008, 67). The crucial shift in this model is that the new production systems require knowledge-intensive skills to manufacture advanced technologies (Villarreal 2008).

In 1982, there were approximately 42,695 people employed in 128 maquilas in Ciudad Juarez (Villarreal 2008). By 1994, the city had approximately 250 maquilas employing more than 140,000 people (Villarreal 2008, 42). Mexican sociologist Claudia Villarreal reports that during this period, the maquila industry was gaining importance in central and southern Mexico even as Juarez’ population continued to grow. In her study of access to housing opportunities in the city, she identifies the constant influx of internal migrants, labor markets dependent on volatile flows of capital, and private-sector real estate speculation (often working hand-in-hand with the local political leadership) as creating a state of general uncertainty in the city (Villarreal 2008).

## **THE CONTRADICTION OF INCREASED EMPLOYMENT & LOWER STANDARDS OF LIVING**

While the Mexican political leadership courted and embraced increased development in the maquila sector, the municipalities have been ill-prepared to provide housing, education, and other social services for the people needed to maintain the

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<sup>20</sup> “*El proyecto de maquilizar el país toma forma*” (Villarreal 2008, 66).

industry. A 2001 Washington Post article highlighted the contradictions of the maquila industry from the point of view of former Juarez Mayor, Gustavo Elizondo Aguilar:

The expanding maquila industry continues to draw people from the countryside that the city cannot afford to house, educate or adequately serve. One of every eight schools in Juarez is built by the government and citizens from cardboard cartons cast off by the maquiladoras. More than 100,000 residents have no running water. About 1,100 miles of city roads are dirt. Paving them would cost \$1 billion, said the mayor. Although exports from the maquiladora industry are worth more than \$10 billion a year, the mayor said Ciudad Juarez received only \$1.5 million in support from an optional, voluntary tax paid by the maquilas last year. "In Juarez we have the advantage that there's work, but we have the disadvantage that we don't have the money to respond to the needs we have," said Aguilar (Moore 2001).

This lack of resources has been exacerbated by the population growth the maquila industries have helped to create. The El Paso-Juarez region has grown from a population of approximately 180,000 people in 1940 (49,000 of whom were in Juarez) to 1,884,356 in 2000 (Collins 2009). Some estimates have put the projected population of Juarez as high as 2.5 million by the year 2020 (with an estimated 3.4 million for the region) (Collins 2009). Ciudad Juarez alone grew from approximately 797,000 to 1,217,000 inhabitants from 1990 to 2000 (Villarreal 2008). The growth of the city outpaced growth rates of both the state and nation (Federal Reserve Bank of Dallas 2001).

The changes related to this growth occur on even terrain, however. The population of Juarez is seldom characterized as multiethnic and is frequently portrayed as a unified populace subjugated to and struggling against violence. The city's economic base has, however, been built on the backs of the poor, many of whom are indigenous or rural migrants from other Mexican states. Poor from the southern states like Veracruz moved north for employment, and later farther north seeking to migrate to the United States.

While the term “production sharing center” implies the allocation or distribution of resources between parties, the resources have proven to be distributed in anything but equitable shares. Promises of employment filled Ciudad Juarez with workers, providing it with a valuable pool of low-wage labor. The introduction of NAFTA and the expansion of the global transnational class rapidly accelerated the separation of labor, production, and wealth into the chasm that it is today. In addition, Ciudad Juarez’s geographic location along the center of the U.S. border makes it ideally situated to maintain major inequalities. An article in Industry Today explains the regional relationships crucial to the profitability of the border production center:

When you combine Juarez’s manufacturing institution and effective labor pool with El Paso’s logistics hub and New Mexico’s research laboratories and applied technological resources, you have a community that is superiorly positioned for high-technology manufacturing to support North American and global industries (Ochoa 2010).

So while engineers, owners and managers may live in El Paso and New Mexico, the effective labor pool must stay behind to fend for itself. The geographic location that provides a competitive advantage to producing and distributing products for the U.S. market from Juarez is the same one that is being fought over by the narco-traffickers. The parallel geographies between the narco and industrial production are not unrelated, however, as both are vying for similarly structured distribution routes into the United States and are dependent on a fortified border to provide them with the employment advantages offered by systems of extreme inequality.

Increased maquila production is also taking place with fewer workers. Citing the Mexican National Institute of Statistics (INEGI), a March 18, 2010 report from El Diario states,

Between December 2008 and December 2009, maquiladoras in Juarez lost 15 thousand 795 jobs, i.e. an 8.59% drop, as per INEGI’s data. However, figures show one million 541 thousand more hours worked last December than in

December 2008, which means that people who kept their jobs worked harder (El Diario 2010).

Plastics injectors, PVC hoses, and tubing for the U.S. based automotive and home appliance industries make up a large part of the maquila product base. While export industries experienced a brief dip during the recession, they are doing well even as the social fabric of the community is unraveling. There are now an estimated 360 manufacturing operations in the city, with an employment base of 220,000. Eighty-five percent of these manufacturers are owned by U.S. corporations (Downer 2009). Companies like Bosch, Lexmark, Lear, Delphi, Foxconn, Boeing, Electrolux and Siemens are just a few of the many companies that form the El Paso/Juarez “borderplex” mega production center. The area produced \$45 billion in shared trade in 2005, keeping it at the top of the list as the world’s largest “international production sharing center” (Ochoa 2010). The Delphi production center is also the largest of its kind on the planet (Ochoa 2010).

In spite of the violence, Hewlett Packard (HP) announced in February 2010 that it plans to concentrate its US manufacturing operations in Ciudad Juarez, bringing an estimated 4,000 new positions to the area. The facility will manufacture approximately one HP server every twenty seconds (Juarez Invest 2010). The new facility represents a concentration of jobs that had previously been disbursed throughout Mexico and Texas.

The confluence of these production and trading systems—the maquilas and the drug trade— has resulted in an accelerated movement of the population both within and between Juarez, Mexico, and the United States. According to the El Diario newspaper, the U.S. Department of Justice recently released a report indicating that approximately 9,300 Mexican citizens, most of them border residents, had sought asylum in the U.S. between 2007 and 2009. Of these applicants, only 183 were approved (El Diario 2010). The 2009 estimated population of 1.3 million has dropped as an estimated 400,000 residents have fled. The asylum applicants have not been granted, in large part, because

the situation in Juarez does not qualify as a political war and therefore is not classifiable as an asylum-eligible conflict.

As the population attempts to circulate, a conflicting story is being told regarding the economic impact of the conflict between the Mexican government and the narcotraffickers. The popular press reports that, “perhaps 30% of the city's businesses have closed, and 100,000 jobs have gone” while the Federal Reserve Bank shows a steady increase in maquila production (The Economist 2010). What appears to be happening, however, is that the independent and local businesses such as tire shops, restaurants, and small shops that provide employment and services to much of the everyday population are being crushed as the fortified, transnational production centers prosper. The maquila compounds are fortified while small stores are burned to the ground for not paying “protection” bribes to local gangs.

The drug-related violence and structural violence are clearly separated from each other in the narrative surrounding the city however. A December 2009 report from the El Paso Regional Economic Development Corporation states,

More than 98 percent of these homicides were perpetrated against drug cartel members, police and [soldiers]. The vast majority of violent crime has been in specific geographic areas of Juarez -- most of it well away from our modern industrial parks, where more than 80 percent of the expatriate manufacturing and distribution business is conducted. In spite of the spike in violent activity, we continue to see economic growth in our region" (Downer 2009).

The report explains that the recession has effectively brought manufacturing business back to Mexico from China, particularly through the reinvigorated U.S. automotive industry (Downer 2009). At the same time, the number of murders in Ciudad Juarez skyrocketed between 2007 and 2010, as demonstrated in the figure below (Fig. 2).

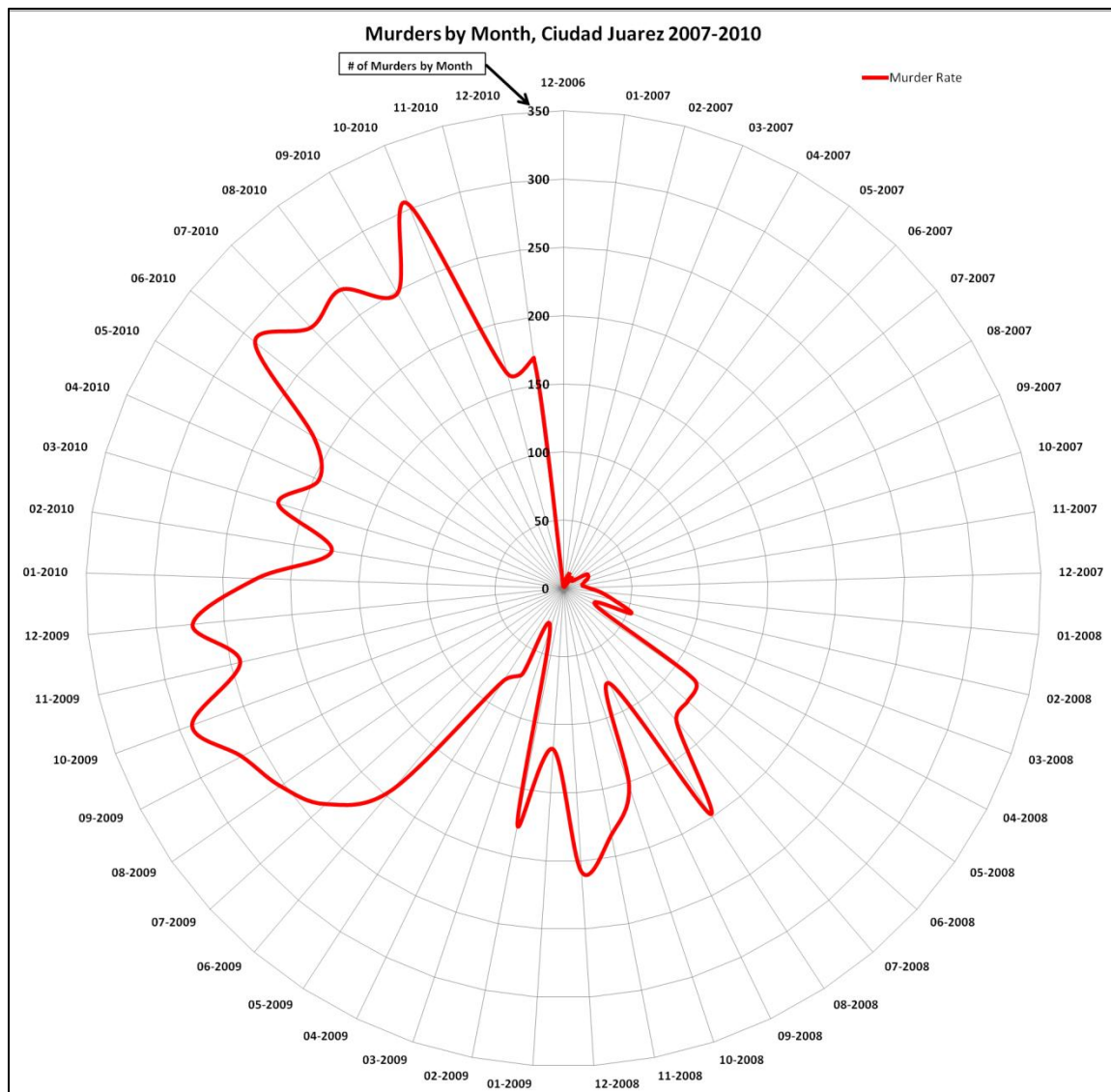


Figure 2. Murders Attributed to Organized Crime by Month, Ciudad Juarez: 2007-2010.

This figure shows the drastic increase in murders beginning in June 2009 and carrying through 2010. Data from <http://www.presidencia.gob.mx/>; figure by author.

Meanwhile, the United States has continued to export cash, weapons, and convicted felons to Ciudad Juarez. Approximately 6,164 Mexican nationals with



criminal convictions were deported from the U.S. into Ciudad Juarez through El Paso between October 2008 and September 2009 at rates of between 100 to 300 deportees per day. According to former Juárez Mayor José Reyes Ferriz, deportees with criminal records accounted for approximately one tenth of those murdered between the months of March to June in 2009 (Gómez Licón 2010b).

The double standard demonstrated by the ways in which the small businesses and workers in Juarez have been affected by the structural and physical violence, in contrast to the profiteers of the maquilas, is equally replicated in the movement and valuation of bodies against the border. The low-wage workers developed by the maquilas have borne the brunt of the reductions in quality of life and exposure to violence while the large-scale U.S./ Mexico industries continue to flourish. Mexico has developed, in Juarez, an economic development and security program based on “immigration tourism” and maquila production concomitantly. The United States has simultaneously worked lockstep to fortify this position, using the tools of heightened surveillance and restriction as described in Chapter Two. I will explain immigration tourism, and the role the U.S. Consulate in Ciudad Juarez plays, in the next chapter. The situation created in Juarez is critical to my research as it represents the mirror image of the U.S. / Mexico contraction towards a multi-national space of non-existence; or as Charles Bowden asserts, it represents the laboratory of our joint future.

## **Chapter Four: The Border Fortress - U.S. Consulate & USCIS Ciudad Juarez Field Office**

For Mexicans wanting to immigrate to the United States, “Juarez is the center of the earth.”<sup>21</sup> It is the largest U.S. consulate in the world. In 2008, over 240,000 documents were processed there, with an average 1,600 daily visits. In 2009, over 94,000 Mexicans applied for lawful permanent resident status through the USCIS Ciudad Juarez field office that is co-located with the consulate (USCIS Ombudsman 2010). Glossy magazines strewn about the off-site waiting room proudly proclaim that the consular services attract immigrant tourists who come to the city for visa services.

The United States recently completed the construction of the new consulate compound on a previously underdeveloped site in Juarez (Fig. 3). Construction began in March 2006 and was completed in the fall of 2008 at a cost of roughly \$66 million dollars (El Universal 2008; Davidson 2011). The immigration complex is drawing new migrants who are both seeking asylum through it and aiding in its construction. The new facility more than doubled its capacity to process the 1,600 Mexican visa applicants per day, by going from 49 attendant windows to 111 (El Universal 2008).

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<sup>21</sup> Personal interview, December 30, 2010.



Figure 3. U.S. Consulate Ciudad Juarez, 2010.

Source: Google Earth

Immigrant visa applicants, particularly those who had previously entered the United States without inspection, are sent to the Juarez facility to apply for the visa in person. For undocumented immigrants in the United States, acquiring a visa would signify an “adjustment of status,” transforming them from illegal to legal beings with the issuance of a visa stamp. Mexican citizens who had entered the United States illegally, many of them looking for work, are sent full circle in the labor chain to the heart of the NAFTA production site. The U.S. Consulate mission in Juarez has become an economic driver in itself as it processes more immigrant visas than any other U.S. Consular office in the world (OIG 2009).

The role of the U.S. Consulate system in Mexico is arguably much different than the role of Mexican consulates in the United States. The Mexican consulate system, consisting of forty consular offices throughout the U.S., is heavily oriented towards serving the millions of members of the Mexican diaspora in the United States (Gutierrez 1997). The consulates run cultural programs such as the Program for Mexican

Communities Living in Foreign Countries (PMCLFC) (Gutierrez 1997). They also assist in the preparation of consular identification cards (known as *matriculas consulares*) and the acquisition of passports abroad. In recent years, a primary function of the matricula has been to allow banks in the U.S. to have Mexicans as checking, loan, and mortgage customers while maintaining compliance with post 9/11 U.S. regulations on money laundering and anti-terrorism.

Rather than serve to facilitate the normalization of surreptitious lives in a foreign country, as the Mexican consulates do, the U.S. consulates represent a more direct involvement in policy monitoring in the protection and advancement of national interests.<sup>22</sup> They also serve as a tool to manage the legal entry of tens of thousands of applicants every year. Between 1992 and 2010, the Ciudad Juarez consulate issued approximately 8.3 million immigrant visas (U.S. Department of State 2010). The average percent share of the worldwide total has ranged from approximately 10 to 20 percent annually. As illustrated in the figure below (Fig. 4), the highest percentage was in 1999 when the 83,968 immigrant visas issued in Ciudad Juarez accounted for 20.26 percent of the amount issued worldwide. This was second to the rate of 20.23 percent in 1994 when 102,243 visas were issued, after which the rate of issuance plummeted the next year. The difference between the 1994 peak and the 1999 peak is the continued rate of decline after 1999 until the eighteen year low of 9.05 percent (36,396 visas) was reached in 2005, as illustrated below (Fig. 4).

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<sup>22</sup> This is a delicate task, as the balance between influencing policy and threatening sovereignty is a fine one, as represented by U.S. Ambassador to Mexico Carlos Pascual's forced resignation in March 2011. In the official State Department announcement, Secretary Clinton said, "For the past year and a half, Ambassador Pascual has been an architect and advocate for the U.S.-Mexico relationship, effectively advancing the policies of the United States on behalf of the President and this Administration. He has collaborated tirelessly with his Mexican counterparts...to build a new border strategy to advance trade while staunching illicit flows" (Clinton 2011). After Wikileaks documents revealed Pascual's analysis of Mexican security forces, Mexican President Felipe Calderon felt differently, stating, "I do not have to tell the US ambassador how many times I meet with my Security Cabinet. It is none of his business. I will not accept or tolerate any type of intervention" (BBC 2011).

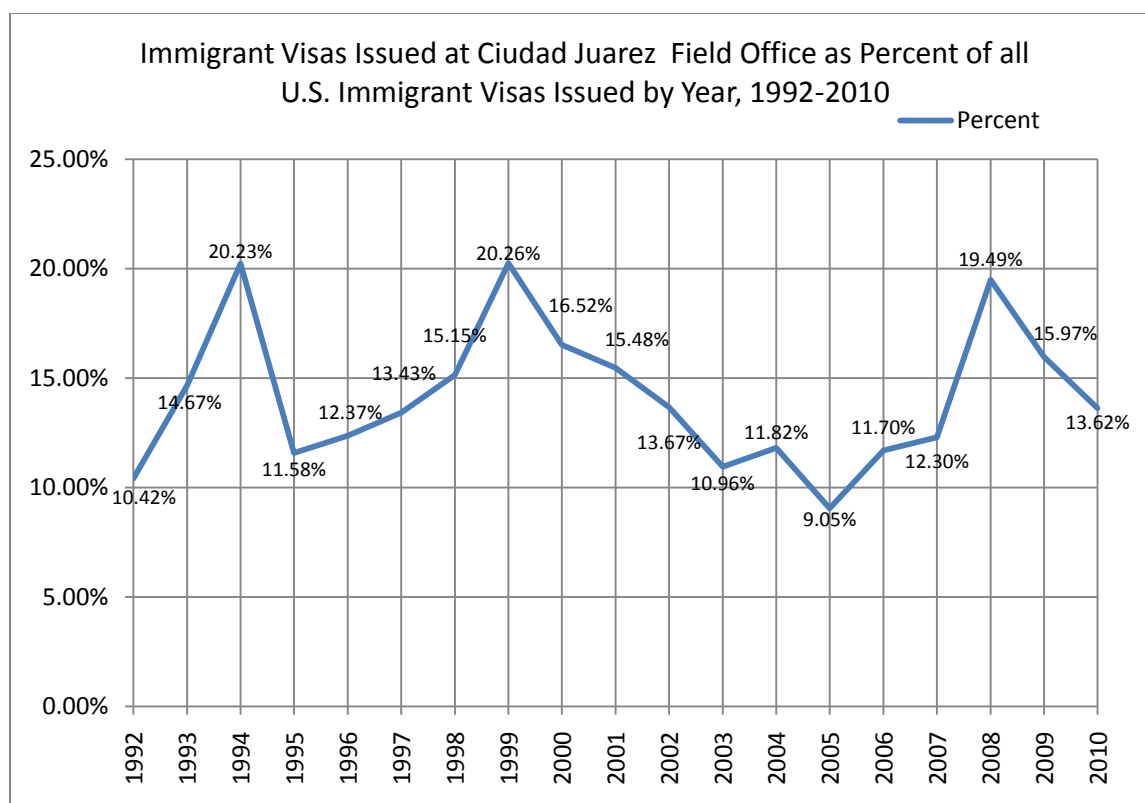


Figure 4. Immigrant visas issued at the USCIS Ciudad Juarez Field Office as a percentage of all U.S. immigrant visas issued worldwide, 1992 - 2010.

Source data: U.S. Department of State (U.S. Department of State 2010); figure by author.

The physicality of the visa application process in Ciudad Juarez is an exercise in controlled space. Heavily armed guards patrol the consulate grounds as groups of nervous, hopeful men and women crowd around the entrance awaiting access to their precisely scheduled appointments. Admission requires an appointment letter and the sealed results of a medical test conducted by one of the two official consular-services clinics. The clinics are part of the compound and are fortified with a chain-link fence, barbed wire, thick cement walls, and armed security guards. Entrance to these facilities also requires an appointment letter, and a guard signs in visitors and radios back the

announcement of their arrivals. The system is number rather than name based, and applicants must take a number and move through the different components of the review.

The medical portion of the application for an immigrant visa requires an interview by medical practitioners who are often trained in psychology or are psychologists. The exam requires complete disrobement, the display of genitals for signs of a sexually-transmitted infection, a chest X-ray for tuberculosis, blood samples, hair samples in some cases, fingerprints, and interview questions related to drug and alcohol use and the meaning of any tattoos.<sup>23</sup> Multiple vaccinations are administered and oftentimes the applicant may not be fully informed of what they are being immunized against. The applicant is asked questions regarding entry and exit dates to the United States. For those applying for residency through a relationship with a U.S. Citizen, detailed questions regarding the history of the relationship are interspersed throughout the examination as if part of a casual conversation. A wrong answer or failure to pass any part of the test may lead to denial of the application or the channeling of the application to the back of a years-long line. Newly constructed hotels, restaurants, and support services such as private sector immigration advisors have sprung up around the compound, stimulating local economic development, as applicants await the results of their appointments and interviews. These travelers, from various parts of Mexico and in many cases, their U.S. families, cling to the perceived safety of the immigration complex as if it were a green zone in a larger conflict.

For Mexican citizens not seeking permanent residency in the United States, “laser” visas provide an avenue for much of the daily trans-border crossings that take place between Juarez and El Paso. The visa allows Mexican nationals to enter the United States for up to seventy-two hours at a time, limiting their range to twenty-five miles

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<sup>23</sup> The medical examination of the visa process is an area that merits significant investigation on its own. Excellent research has been conducted by Amy Fairchild in *Science at the Borders: Immigrant Medical Inspection and the Shaping of the Modern Industrial Labor Force* (2003) and others. Many participants in my study felt very strongly about the experience of the medical exam. One interviewee explained, “it was like a scanner, her eyes were like a scanner, no? In front of my body and then in the back....I felt denigrated....I felt like they were putting vaccinations to us dogs” (Personal interview, January 5, 2011).

from the border. It is valid for ten years and does not allow the visa-holder to hold employment in the U.S. (Fritsch and Millman 2001). The issuance of these visas, however, is also tied to capital and a firmly entrenched system of dominance and subjugation. In 2001, reports of maquila involvement in the acquisition of laser visas through the U.S. consulate estimated that as many as 3,000 visas a week were issued to workers through a maquila/ consulate arrangement (Fritsch and Millman 2001). With more than 110,000 homes abandoned in Ciudad Juarez, residents who can afford to leave have fled to other areas in Mexico or to the United States under the auspices of the laser visa (Gómez Licón 2010a).

Meanwhile, those who have access to sufficient capital reserves may more easily qualify for the laser visa, or also for the more straightforward “investor visa.” The investor visa is granted to applicants who are able to make a \$500,000 minimum investment in opening a business in the United States that will employ at least ten people full-time. The number of those visas granted to foreign nationals rose from 800 in 2007 to approximately 1,400 in 2008 (Gómez Licón 2010a).

Since 2006, Juarez to El Paso border crossings for people have decreased while commercial truck crossings have increased. This is demonstrated by the plummeting of vehicular crossing counts as truck crossings have remained relatively steady overall, beginning to rise sharply after 2009 (Federal Reserve Bank of Dallas 2010). From 2009 onward, the divergence between the upward trend for commerce and the sharp decline in trans-border vehicular crossings is more striking. While the border is open for the increased flow of goods produced in the maquilas, it is increasingly hampering the entry of those Juarenses seeking to cross.

The particular components of the immigration process I will focus on in this chapter stem from the 1996 passage of IIRAIRA and the more than ten new categories of “inadmissibility” that it created. Many of these categories of inadmissibility lead to the placement of immigration bars on applicants wishing to adjust their legal status and gain residency. Removal of these temporal bars through a waiver is required in order to

secure legal visa entry. In 2008, the Ciudad Juarez field office received 22,000 of these waiver applications. This was over 85 percent of the worldwide total (USCIS Ombudsman 2010).

As demonstrated in the figure below (Fig. 5), of the items resulting in inadmissibility, the disreputable characteristics presented in anti-immigrant or enforcement discourse, such as smuggling, drug abuse, and the harboring of communicable disease actually represent a small portion of the findings of inadmissibility issued on an annual basis. Of these lesser occurring categories, certain offenses, such as falsely claiming U.S. citizenship, unlawfully entering the United States after previous immigration violations, and being a drug abuser or addict may result in three-year, ten or twenty-year, or non-waivable lifetime bans. Of great significance, however, unlawful presence in the United States accounted for approximately 90 percent of the inadmissibility violations requiring a waiver (U.S. Department of State 2010). It is possible for an applicant to receive multiple, overlapping findings of inadmissibility for different violations. Often, these offenses are disclosed by immigrant applicants during the application and interview process. In many cases, the only documented evidence of the offense is created through the applicant's disclosure in a statement during the interview or in the application paperwork. Although not all findings of inadmissibility bans are waivable, the three and ten year bans for unlawful presence are amongst the most frequently waived, as illustrated below (Fig. 5).



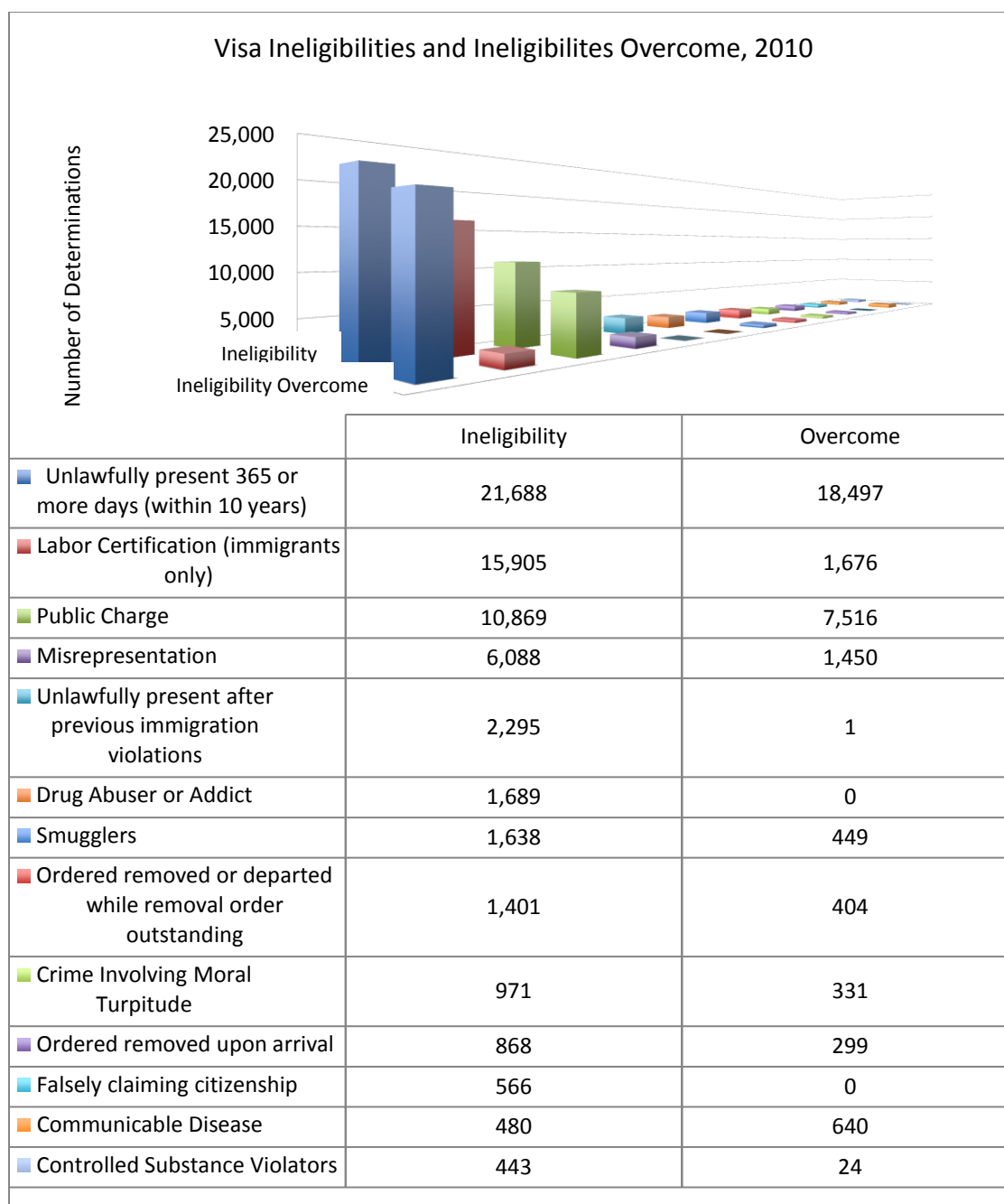


Figure 5. Ineligibilities and Ineligibilities Overcome, 2010.

This figure shows a selection of thirteen of the fourteen most common findings of inadmissibility issued in 2010 and how many were overcome for those same categories. Source: (U.S. Department of State 2010); Figure by author.

High approval rates of waivers of inadmissibility raise several questions however. As indicated in Table 2, aside from the very broad category of “Application does not comply with provisions of INA or regulations issued pursuant thereto” (which was the most common reason for ineligibility), unlawful presence for more than 365 days was the next highest reason for ineligibility/ inadmissibility in 2010 (U.S. Department of State 2010). Importantly, for the 21,688 cases of visa ineligibility in 2010 caused by unlawful presence of 365 days or more, a staggering 18,497 (or 85 percent) of unlawful presence cases of this same category had the ineligibility overcome (note: according to the Department of State, “actions as occurring per fiscal year; ineligibilities and their resolution may cross FY boundaries and are reported as such” (U.S. Department of State 2010). If the intent were to truly enforce the temporal bars, approval rates would be much lower.

Table 2. Immigrant Visa Ineligibilities by Grounds for Refusal Under the Immigration and Nationality Act, 2010.

This table shows all categories of ineligibility/ inadmissibility and the number of occurrence for each in 2010. It also shows how many were overcome for those same categories. Source: (U.S. Department of State 2010); Figure by author.

(Following page)

	Immigrant Visa Ineligibilities (by Grounds for Refusal Under the Immigration and Nationality Act)	Ineligibility Finding	Ineligibility Overcome
	<a href="http://www.travel.state.gov/pdf/FY10AnnualReport-TableXX.pdf">http://www.travel.state.gov/pdf/FY10AnnualReport-TableXX.pdf</a>		
		2010	2010
212(a)(1)(A)(i)	Communicable Disease	480	640
212(a)(1)(A)(ii)	Immigrant lacking required vaccinations	389	377
212(a)(1)(A)(iii)	Physical or mental disorder	294	157
212(a)(1)(A)(iv)	Drug Abuser or Addict	1,689	0
212(a)(2)(A)(i)(I)	Crime Involving Moral Turpitude	971	331
212(a)(2)(A)(i)(II)	Controlled Substance Violators	443	24
212(a)(2)(B)	Multiple Criminal Convictions	74	3
212(a)(2)(C)(i)	Illicit Trafficker in Any Controlled Substance	315	4
212(a)(2)(C)(ii)	Spouse, Son, or Daughter Who Benefited from Illicit Activities of Trafficker	11	0
212(a)(2)(D)(i)	Prostitution (within 10 years)	18	12
212(a)(2)(D)(ii)	Procuring (within 10 years)	2	4
212(a)(2)(D)(iii)	Unlawful Commercialized Vice	2	1
212(a)(2)(E)	Asserted immunity to avoid prosecution	0	0
212(a)(2)(G)	Foreign government officials who have engaged in violations of religious freedom	0	0
212(a)(2)(H)	Significant traffickers in persons	0	0
212(a)(2)(I)	Money Laundering	1	0
	Espionage, sabotage, technology transfer, etc.	1	0
212(a)(3)(A)(ii)	Other Unlawful Activity	82	0
212(a)(3)(A)(iii)	Act to Overthrow U.S. Government	0	0
212(a)(3)(B)	Terrorist Activities	18	0
212(a)(3)(C)	Foreign Policy	0	0
212(a)(3)(D)	Immigrant Membership in Totalitarian Party	3	5
212(a)(3)(E)(i)	Participants in Nazi Persecutions	0	0
212(a)(3)(E)(ii)	Participants in Genocide	0	0
212(a)(3)(E)(iii)	Commission of Acts of Torture or Extrajudicial Killings	0	0
212(a)(3)(F)	Association with Terrorist Organizations	0	0
212(a)(3)(G)	Recruitment of Use of Child Soldiers	0	0
212(a)(4)	Public Charge	10,869	7,516
212(a)(5)(A)	Labor Certification (immigrants only)	15,905	1,676
212(a)(5)(B)	Unqualified Physician (immigrants only)	0	0
212(a)(5)(C)	Uncertified foreign health-care workers	2	1
212(a)(6)(B)	Failure to attend removal proceedings	89	0
212(a)(6)(C)(i)	Misrepresentation	6,088	1,450
212(a)(6)(C)(ii)	Falsely claiming citizenship	566	0
212(a)(6)(E)	Smugglers	1,638	449
212(a)(6)(F)	Subject of civil penalty (under INA 274C)	0	1
212(a)(6)(G)	Student visa abusers	1	0
212(a)(8)(A)	Immigrant permanently ineligible for citizenship	0	0
212(a)(8)(B)	Draft evader	0	0
212(a)(9)(A)(i)	Ordered removed upon arrival	868	299
212(a)(9)(A)(i)	Ordered removed upon arrival - multiple removals	57	13
212(a)(9)(A)(i)	Ordered removed upon arrival - convicted aggravated felony	22	1
212(a)(9)(A)(ii)	Ordered removed or departed while removal order outstanding	1,401	404
212(a)(9)(A)(ii)	Ordered removed or departed while removal order outstanding - multiple removals	142	39
	Ordered removed or departed while removal order outstanding - convicted aggravated felony	72	0
212(a)(9)(B)(i)(I)	Unlawfully present 181-364 days (within 3 years)	405	329
212(a)(9)(B)(i)(II)	Unlawfully present 365 or more days (within 10 years)	21,688	18,497
212(a)(9)(C)	Unlawfully present after previous immigration violations	2,295	1
212(a)(10)(A)	Practicing polygamist (immigrants only)	14	4
212(a)(10)(C)(i)	International child abductor	0	0
212(a)(10)(C)(ii)	Aliens supporting abductors and relatives of abductors	0	0
212(a)(10)(D)	Unlawful voter	0	0
212(a)(10)(E)	Former U.S. citizen who renounced citizenship to avoid taxation	0	0
212(e)	Certain former exchange visitors	24	17
212(f)	Presidential proclamation	6	0
221(g)	Application does not comply with provisions of INA or regulations issued pursuant thereto	286,889	185,880
Sec. 103 Pub. Law 105-227	Disclosure/trafficking of confidential U.S. business information	0	0
Sec. 401 Pub. Law 104-114	Helms-Burton refusal	0	0
Sec. 402 Pub. Law 104-114	Conversion of confiscated U.S. property for gain	0	0
Sec. 306 Pub. Law 107-173	Inadmissible alien from a country that is a state sponsor of terrorism	0	0
	Total Grounds of Ineligibility:	353,834	218,135

The overview provided in this section identifies the types of inadmissibilities (ineligibilities) commonly levied against visa applicants, as well as the number of visas issued through Ciudad Juarez. These numerical figures provide the context in which I frame my primary research in the following section and establish the scale of the population that these particular visa regulations impact. Now, I will discuss the *experiences* of the individuals in my study as they navigate the process.

## **PRIMARY RESEARCH**

### **On-line Fear Survey Results**

In an analysis of fear of crime amongst immigrants in Washington, D.C., Yaw Ackah states, “A perception of vulnerability is predicated on a stocktaking of the individual’s personal characteristics that suggest a weakness to the individual. It is this subjective perception of one’s vulnerability that is critical to the presence or absence of fear” (Ackah 2000, 556). In this way, one’s perception can produce fear in and of itself, whether it be rational or not (Ackah 2000). This type of assertion is supported by research on women’s fear of crime which has found that women report higher levels of fear in spite of the fact that they suffer less crime than men do (Madriz 1997). The key, Esther Madriz suggests, is that not only do women experience “a variety of acts of aggression” that are not captured in crime reports, their lives are effectively “coerced” through acts of discipline and through everyday narratives and images representative of ideal criminals (poor, male, minority, immigrant) and victims (white, middle-class, women) (Madriz 1997).

With this understanding of fear in mind, I developed an interactive on-line survey to assess fear ranking amongst immigrants and their families. I then posted the survey in different locations, in both Spanish and English, on the Internet and through e-mail

listserves in order to promote participation. Thirty-four eligible surveys were completed over a two week period from January 28, 2011 to February 13, 2011. Participation was limited to those who had traveled to the U.S. Consulate in Ciudad Juarez, or who are in need of traveling to the consulate in order to participate in immigrant visa procedures.

I collected demographic data regarding age, income, gender, geographic location and nationality in order to analyze fear rankings by population type. Visa status and whether or not a wavier was required were key factors used to differentiate how legal status and the immigration system affect fear and anxiety. The waiver, crucial in and of itself, also served as a proxy to indicate whether or not a category of inadmissibility (illegality) had been triggered. The general demographics of the survey participants are as follows (Table 3):

ENCUESTA CDJ: SURVEY PARTICIPANT DEMOGRAPHICS			
<b>Gender</b>			
Female	25		
Male	9		
	34	<b>Answered survey from</b>	
		Mexico	9
		U.S.	25
<b>Age</b>			34
18-24	5		
25-30	13		
31-35	6	<b>Waiver required?</b>	
36-40	5	No	7
41-45	3	Unsure	3
45 +	2	Yes	24
	34		34
<b>Nationality</b>		<b>Self or family-member immigrant?</b>	
Mexican	14	Immigrant (self)	14
U.S.	18	Family-member	20
Both	2		34
	34		

Table 3: Demographics and key indicators of the thirty-four participants in the Encuesta CDJ survey.

Using the results of the “Survey on the Immigration Process through Ciudad Juarez,” which I refer to as Encuesta CDJ, I calculated overall “fear scores” based on the sum of items selected at any fear level. As explained in the section on methodology, participants were given a list of fifty items, representing situations or stimuli, and asked to rank the degree of fear or worry they associated with each item. While the majority of the items are related to the immigration process, other items associated with everyday life were included in order to assess the level of daily anxiety experienced by the applicant. This was done using a five point scale of “none, a little, some, much, and very much,” with “none” being the lowest at one point and “very much” the highest, at five points. I then calculated the sum of the rankings for all factors to determine an overall fear ranking for each participant. This allowed me to compare how fearful participants were by performing cross-tabulations against the demographic data and key indicators.

The Encuesta CDJ utilizes a simple rating scale to assess fears associated with a list of items. I selected the items for the survey, with the assistance of a focus group and through observation of items of interest in an immigration-related Internet forum, and organized them to line up with conceptual categories. These categories were based on six of the seven sections from Foucault’s chapter on “Discipline” from *Discipline and Punish*. I assigned each of the fifty factors a code associating it with the six categories of discipline, as follows:

- “The Art of Distributions” = DIST
- “The Control of Activity” = ACT
- “The Organization of Geneses” = GEN
- “The Composition of Forces” = FORC
- “Hierarchical Observation” = OBS
- “The Examination” = EXAM

The categories were used to structure the on-line survey and to ensure that the fears I was assessing adequately corresponded to the theory of discipline and to its impact on daily life. Using these categories also allowed me to understand which elements of the

disciplinary process resulted in higher levels of fear and anxiety. This enabled me to better understand which techniques of discipline were most effective in creating anxiety in applicants and their families.

In performing an analysis of overall fear scores by demographic indicator, I examined the impact of income and gender on the results. Those in the income category just above the individual U.S. federal poverty level of \$10,891 had the highest average fear ranking, with those making more than \$80,000 ranking the lowest. Of all thirty-four participants, the overall fear score ranged from a total of 50 points, as the lowest, to 242 points as the highest (Fig. 6).

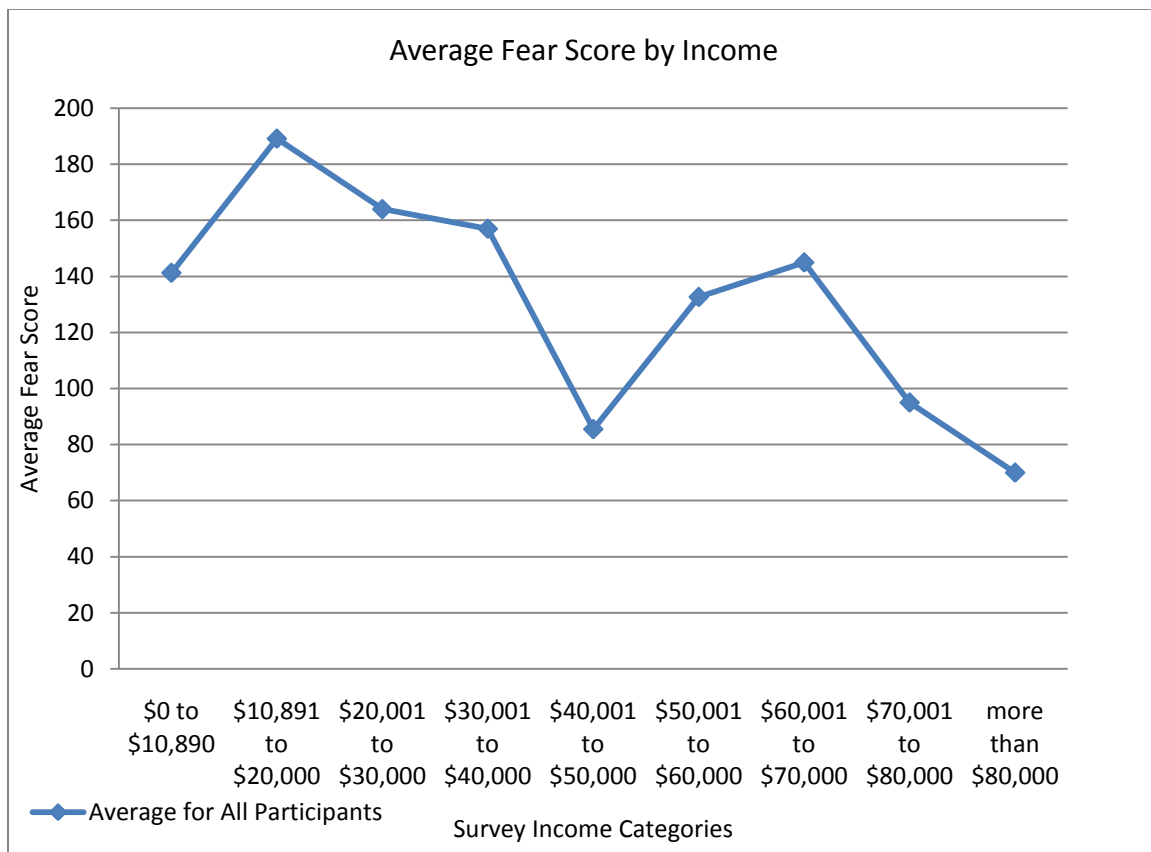


Figure 6: Average Fear Score by Income.

Overall fear scores were averaged by income category, as shown in the figure.

In terms of gender, women had higher average fear scores by gender than men, both when they were the immigrant and when their family member was the immigrant. Men who themselves were the immigrant had the lowest average fear score of 124.74 when looking at gender and beneficiary status.<sup>24</sup> However, men had significantly higher fear scores of 148 on average when their family member was the beneficiary in question, as demonstrated in the figure below (Fig. 7).

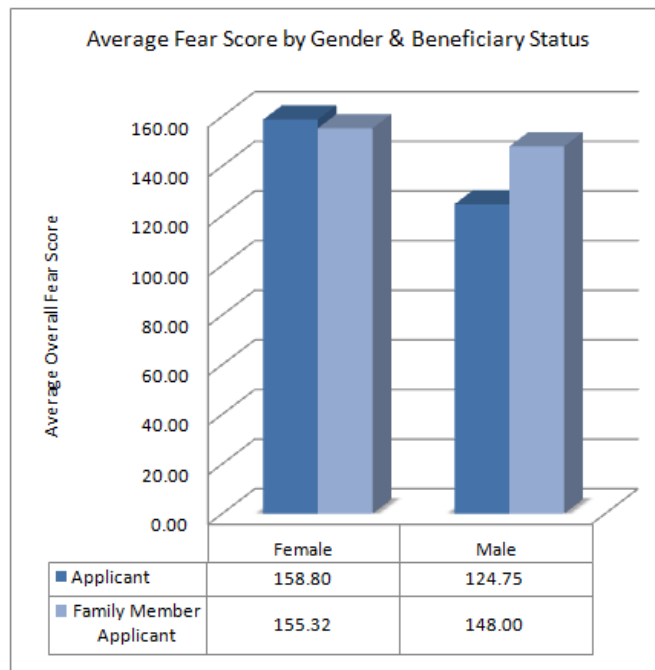


Figure 7: Average Fear Score by Gender & Beneficiary Status.

This figure shows overall fear scores averaged by gender and cross-tabulated with whether the survey participant was a visa applicant themselves or whether a family member (predominantly spousal relationships) was the applicant.

I also performed analyses on the fear scores for individual items. This allowed me to understand which situations or stimuli, in particular, provoke fear or anxiety. The

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<sup>24</sup> The U.S. citizen or permanent resident spouse is the “petitioner” for their spouse. The immigrant spouse, therefore, becomes petitioned for.



top ten overall fears, in rank order, reflect a heavy association of fear with the paperwork process of the immigration system. The top fear, of immigration paperwork getting lost, outranked the fear of being killed or murdered, as evidenced in the table below (Table 4). Of these top ten fears, four of them corresponded to the Foucauldian category of “The Organization of Geneses” (GEN), as established using my assignation of category codes linked to *Discipline and Punish*. The organization of geneses relates to segmenting and reorganizing activities into a series of meticulously organized exercises. The seriation of events and the establishment of a system of progressive ranks that must be attained is a trademark of the bureaucracy of the immigration process, and exemplary of the organization of geneses. This bureaucratic seriation of events is structured through the use of multiple forms, documentation, and fees that must be submitted by the applicant at precise points in the application process. Failure to submit adequate documentation may lead to denial; signaling the applicant’s inability to proceed to the next phase of the process. With limited manners of verifying receipt or adequacy of the documents, applicants are left waiting and wondering if they have adequately complied, often for months or years at a time.

Top Ten Fear Factors in Rank Order with Foucauldian Category Listed		
1	GEN	Immigration paperwork getting lost
2	FORC	Being killed or murdered
3	GEN	Immigration paperwork not being correct
4	GEN	Not passing from one phase of the immigration process to the next
5	DIST	Getting lost in a strange place
6	ACT	Receiving a 3 or 10-year ban
7	DIST	Being deported
8	ACT	Missing visa-related appointment
9	GEN	Missing a paperwork deadline
10	EXAM	Answering consulate interview questions incorrectly

Table 4: Top ten fears for all applicants listed in rank order.

The top ten fear survey items are listed along with the corresponding category of discipline, as determined by the author.

### ***Fears by Country of Citizenship***

When examined by country of citizenship, I ranked the fifteen top scoring individual factors in order to encompass the top ten items for both Mexican citizens and U.S. citizens and allow for differentiation between the two groups. Since the individual items were ranked using a five point scale, with “none” being the lowest for one point and “very much” the highest, for five points, the highest possible score per item was five points. I separated the responses into two groups, with one group comprised of Mexican citizens and the other of U.S. citizens, and calculated the average fear score per individual item for each group. I also calculated the average fear score for each item for both groups combined. I refer to this average for both Mexican and U.S. citizens as the combined average fear score.

When considering the combined average fear score by item, seven factors were held in common amongst both Mexican and U.S. citizens as the top scoring. They are:

1. Immigration paperwork getting lost (combined average 4.19)
2. Not passing from one phase of the immigration process to the next (combined average 3.84)
3. Immigration paperwork not being correct (combined average 3.81)
4. Being killed or murdered (combined average 3.81)
5. Getting lost in a strange place (combined average 3.78)
6. Missing a paperwork deadline (combined average 3.63)
7. Answering consulate interview questions incorrectly (combined average 3.59)

I then examined the divergent points, or the points that were within the top scoring range but were unique to one group or the other. Three factors were in the top ten for Mexicans alone. They are:

1. Being tricked or cheated out of money (3.64)
2. Gangs (3.64)
3. Being accused of lying (3.57)

Five factors were in the top ten for U.S. citizens alone. They are, from highest to lowest:

1. Receiving a 3 or 10-year ban (3.94)
2. Being deported (3.89)
3. Missing visa-related appointment (3.78)
4. Immigration officials (3.56)
5. Being pulled over (3.56)

As explained earlier, in considering these results, the seven highest scoring fears in common are primarily related to the administrative processes and paperwork associated with the immigrant legalization process. The fears of getting lost in a strange place or being murdered, also top fears in common, are basic human fears and also scored highly in the Fear Survey Schedule for Children - Revised (FSSC-R) from which the factors were repeated.

Of particular interest when looking at these top factors by citizenship are the factors that diverge between groups. The top fears unique to Mexicans include being tricked out of money, gangs, and being accused of lying. When considered in the context of the war being waged by the Mexican government against the narcotraffickers, the precarious economic situation many Mexican immigrants are faced with, and the possible confrontation with police and/or immigration officials in the United States, the loss of money through fraud, exposure to violence, and being accused of lying carry with them the possibility for life-altering consequences.

The top factors unique to U.S. citizens, however, portray a fear of physical removal and concern regarding administrative repercussions one would expect to see in an immigrant population, especially since citizenship precludes deportation or removal from the United States. The fact that the top fears of U.S. citizens include receiving a three or ten-year ban, being deported, missing visa-related appointments, immigration officials (in general), and being pulled over is fundamental to the findings of my research. This apparent contradiction signifies an expansion of the effects of disciplinary tactics to a population that, under the purview of the law, cannot be legally subjected to them. Their immigrant family members, however, may be. The shared experience of these fears is of crucial importance to understanding how the immigration process effects “legitimate” citizens and transfers them into an expanded border territory of altered existence, perhaps for the first time in their lives. As I will explore later in the context of the in-depth interviews I conducted, illegality becomes absorbed into the citizen’s existence and begins to influence the way he feels about safety, security, vulnerability and moving through real and imaginary space. These top fifteen fears, by country of citizenship, are illustrated below (Fig. 8):

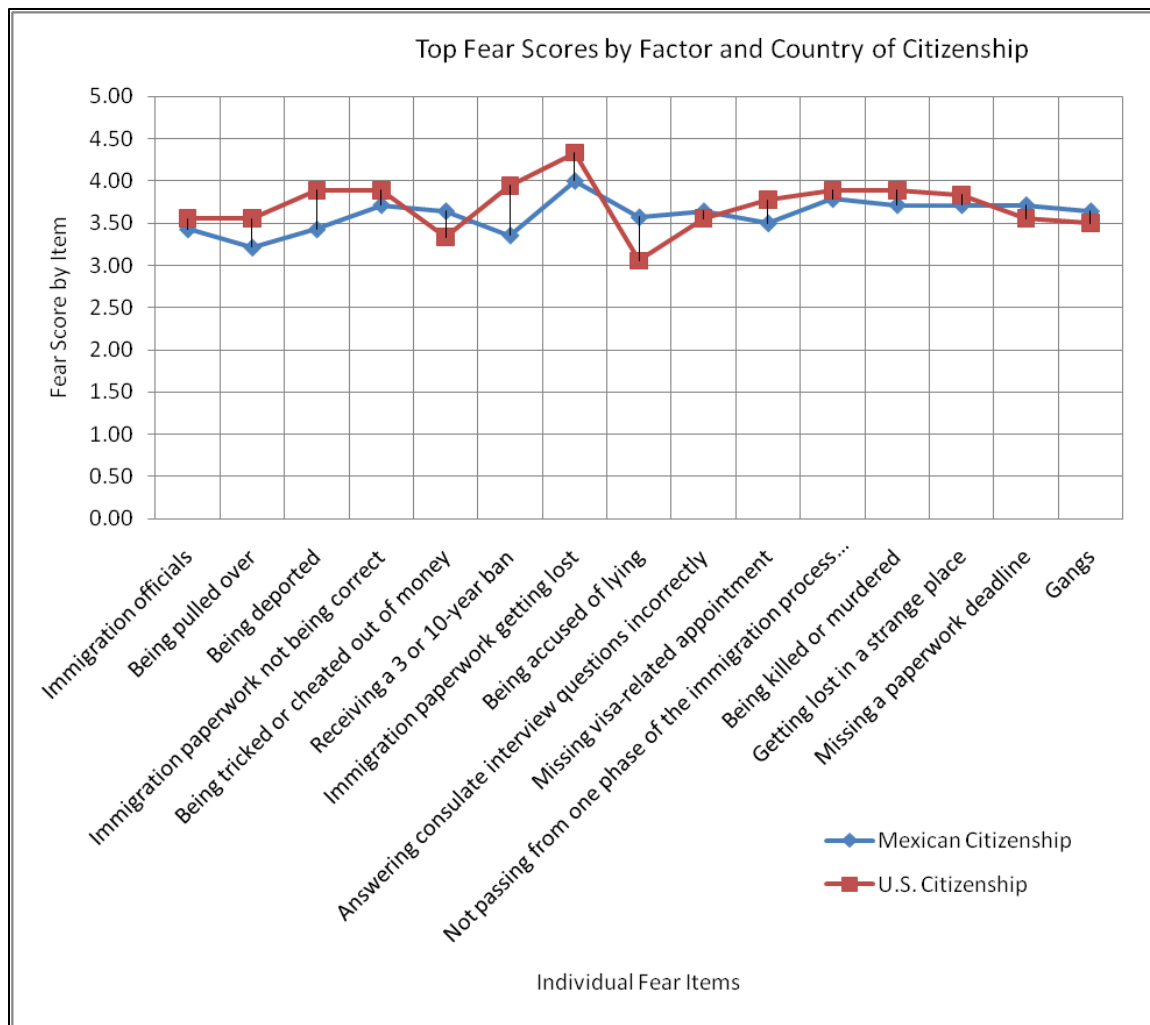


Figure 8. Top Fear Scores by Factor and Country of Citizenship

### ***Fears by Inadmissibility***

As previously explained, the requirement to secure a waiver is used in two manners, from an analytical perspective. First, it is used as a proxy to indicate that at least one waivable inadmissibility has been triggered (i.e. unlawful presence, public charge, etc.). Secondly, it is examined as a component of discipline in and of itself due to the unique and rigorous nature of the process.

When the demographic indicators of whether the survey participant had acquired visa approval and whether they were subject to acquiring a waiver were cross-tabulated, the average overall fear scores for individual in these groups reveal that those who do not yet have a visa and are not sure if they need a waiver or not are the most fearful, as demonstrated below (Table 5). That highest scoring group had an average overall fear score of 195.33 points. There is a substantial difference of over twenty points from the next highest category, which covers those who do not yet have a visa, yet know they need a waiver. That second highest scoring group had an average score of 174.71 points. This implies that the *uncertainty* and *possibility* of having to secure a waiver create more fear and anxiety than knowing that it is necessary. The lowest scoring group was comprised of individuals who had already secured the visa and did not need a waiver. Their low score was 126.33 points. The uncertainties of the next steps in the process, and of the outcome of the requirements, are trademarks of the legalization procedure.

<i>Average of Subtotal by Individual</i>	<i>Need Waiver?</i>		
	No	Not sure / I don't know	Yes
Already have visa?			
It's in progress	148.25		171.75
Not yet		195.33	174.71
Yes I already have it	126.33		127.31
Average by Subtotal	138.86	195.33	148.54

Table 5: Average overall fear score by visa status and waiver requirement.

In summary, the main results from the Encuesta CDJ show that those applicants who do not yet have a visa and are not sure if they need a waiver are more fearful than those who do not yet have a visa, yet know they need a waiver. The survey results indicate, in general, that women experience more fear related to the immigration process than men and the overall average fear score decreases as income increases. The results

also indicate that the top individual-item fears of U.S. citizens include things that they are not legally subject to.

### **Internet Forum Analysis**

As explained previously in this thesis, some of my data come from a public-access Internet forum dedicated to immigration through Ciudad Juarez. The site began in 2005 as a portal for tourism to Ciudad Juarez, yet quickly morphed into a forum devoted to navigating the visa process through the Consulate. The Internet forum is structured to address the entire immigration experience, from family and daily life to pre-filing and post-filing issues. Immigration-related news, where to stay while in Juarez, case-related questions, and “life after the visa” are a sample of the topics regularly posted on the forum. Emotional support and encouragement are also key functions of the site, operating as an undercurrent throughout the majority of its workings. The site averages almost 11,000 page views a day and has over 8,000 members.

I sampled the forum using an embedded Google search function to identify the first one hundred posts that were made before January 1, 2011 that contained the word “afraid.” I chose the word “afraid” in order to supplement the on-line survey Encuesta CDJ in its focus on examining how the process affects fear. These postings were then entered into an Excel database and categorized into nine categories and tallied by category. I arrived at these categories by identifying recurring themes in the postings and identifying key points of relevance. The categories and number of postings for each category are shown below (Table 6):

CATEGORY OF WORD USE	# OF USES
<b>Used in Hardship Letter</b>	<b>27</b>
Violence in Mexico	18
General Paperwork & Process Oriented	14
<b>I-601 Waiver</b>	<b>14</b>
<b>Immigration Bar/ Inadmissibility</b>	<b>8</b>
Appointments	8
Identification & Documents	4
Miscellaneous	4
Hearings & Deportation	3
	<b>100</b>

Table 6: Internet forum word sampling and categories of usage.

Of particular interest in this sampling is that the majority of the usages of the word afraid, or 27 percent, were made in the context of a hardship letter for the I-601 waiver of inadmissibility. The “I-601” is the title of the form that must be submitted in order to have an inadmissibility waived. An applicant must first be determined to even be eligible to *apply* for the waiver, using the I-601, at the first visa interview in Ciudad Juarez. The hardship letter is the document that must be provided to USCIS officials, along with ample documentary evidence, in support of the I-601. This hardship letter package must demonstrate that the refusal of the applicant’s waiver would cause the U.S. citizen/ legal resident beneficiary “extreme” hardship, as discussed in Chapter Two on Immigration.<sup>25</sup> The high incidence of expression of fear in this context is highly relevant to the disciplining of applicants and their families.

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<sup>25</sup> “All claims of hardship must be supported by documentary evidence or explanation specifying the hardship. Family separation and financial inconvenience, in and of themselves, do not necessarily constitute extreme hardship. Therefore, it is important for your spouse or parent to describe and document any other claim that might be a hardship” (USCIS instructions on proper demonstration of hardship claims, author’s personal correspondence, 2010).



When all incidences related to the I-601 waiver are tallied, including the sharing of questions and less-censored statements between forum participants, they account for approximately *half* (49 percent) of the usages of the word “afraid.” Fear associated with violence in Mexico accounts for another 18 percent. I use these findings to supplement my research and to establish a pool of applicant comments from which to add to my qualitative analysis.

### **FOUCAULT’S CATEGORIES OF DISCIPLINE**

The bureaucratic process of a heavily sustained coercion, through immigrant processing, develops a whole class of people more useful to the state on an economic scale while contradictorily making them less useful on an individual scale. This gives rise to the question of what happens when the state no longer has need for excess labor as it moves farther out from a post-industrial economy. The legal immigration process takes so long, from when a potential immigrant begins to inquire about the procedures involved, to the submission of paperwork and acquisition of a visa and actual border crossing, that the applicant is maintained in a state of limbo. This is the forced orientation to the present that De Genova points to. The visa-approval process and, although not discussed at length here, the citizenship process, instill a forced docility of permanent (alien)ation. The well-disciplined body learns to fear.

In order to frame the qualitative data I collected through interviews and the forum analysis, I use Foucault’s categories of discipline as the structure in which to analyze their content. This also allows me to relate the data back to my primary emphasis on the effects of discipline in the context of immigration through Ciudad Juarez.

### **The Art of Distributions (DIST) and the Control of Activity (ACT)**

The large number of visa appointments handled at the Juarez consulate necessitates a structured, orderly processing scheme. It is unforgiving, as exemplified by interview intervals of fifteen minute incremental appointment times. Applicants are assigned a number, within their cohort, and must proceed in order. Failure to go to the proper window at the exact time one is called results in the forfeiture of the appointment and a need to reschedule, weeks later, and return to Ciudad Juarez or stay and wait.

Representative of the art of distribution, the use of architecture in consular construction has changed dramatically since the attacks on U.S. consulates in Kenya and Tanzania in 1998 (Loeffler 2010). Twentieth century diplomatic architecture had been secure, yet based on elegant and individualistic, country-specific designs, often expressing a certain level of opulence and boldness. In the architecture of the contemporary era, however, consulate and embassy construction has taken on a renewed emphasis on security above all, using a standardized model of fast, cheap, and disciplined construction (Loeffler 2010). The tightly managed, fortified enclosures described in Foucault's "Art of Distribution" are strongly reminiscent of the maquiladoras, sanctioned medical facilities, and consulate compound that intersect in the built environment of Ciudad Juarez. One interview participant, an immigration attorney and activist with several decades of experience working with the U.S. Consulate mission in Juarez explains how the functionality of the consulate has changed:

You could easily walk over to the port of entry and come in, and then [they] moved it and it's like what, five miles from the border? It's a ways, and it took 'em a while to build it and I was amazed when I saw it. It was nothing like a fort before; it was just a normal looking building. It was kind of a wall, but not that impenetrable bomb-proof wall and you didn't go through security. AND, when we did our tour, we went back into the private offices. We went wandering around with all of the examiners looking at peoples' files, right in front of us. You can't do that now, we had to just look at the people that were on the other side of the window, just like anyone that's in there applying.<sup>26</sup>

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<sup>26</sup> Personal interview, January 11, 2011.

The use of space is a fundamental part of the art of distributions as well. When discussing the use of partitioned space as disciplinary space, Foucault states, in reference to the monastic cell, “But this is still a very crude form” (1995, 143). Should he have seen the 111 windows, the ‘functional sites’ where the twelve minute visa application interview and waiver document review takes place, he may have been impressed with how the technique has advanced since the 1970s. It is in analyzing the perfection of these techniques of discipline that Foucault’s continued relevance is underscored.

In regards to the control of activity, Foucault explains that as the working class grew, so did the level of detail to which time was partitioned (1995). While a finely grained partitioned time is a key trait of the physical visa review process, the control of activity in the context of the immigration process studied in this paper takes place in a situation of tension, a duality of continually conflicting pressures that serves to frustrate and hinder the free development of the people within its reach. Foucault states;

Discipline, on the other hand, arranges a positive economy; it poses the principle of a theoretically ever-growing use of time: exhaustion rather than use; it is a question of extracting, from time, ever more available moments and, from each moment, ever more useful forces (1995, 154).

The illegal immigrant is not allowed to achieve a “positive economy” of his time until he is legal. However, once the status of legalization is bestowed, he may discover that the promise of a positive economy is not delivered. He has been trained by systems like the *maquiladoras* to produce rapidly and without waste and has come to the United States to maximize the output of his labor but is handicapped by the uncertainty and *lost time*, sometimes on an interminable basis, of the legalization process.

In an example of the highly controlled activity mandated by the immigration process, one applicant expressed her frustration with the standardization and rigidity of the framework with which she had to deal. She states,

You have to call a number, you have to have a credit card, a calling card, you have to ask to schedule an appointment, then you get the phone, then you have a certain number of minutes to talk and they are asking you all these questions and questions and questions and then it all goes onto your credit card because you have to use your credit card and then since it was year after year after year I knew all the questions and I would say, “Yes, I know all the questions, can you just jump them?” “Oh, I’m sorry I’m sorry, I have to ask all these questions.”<sup>27</sup>

### **The Organization of Geneses (GEN) and The Composition of Forces (FORC)**

The breakdown of the immigrant into categories of inadmissibility follows the seriation of the organization of genesis. These possibly endless and/or overlapping series of segmented activities are based on the category of inadmissibility the immigrant has triggered due to his presence or activity. Each category brings with it its own set of rules and requirements. The immigrant is ranked first as an alien, then inadmissible, banned (for drug use, unauthorized presence, etc.) eligible for a waiver, admissible, and then flows into temporary resident status, legal permanent resident status, and ultimately a naturalized citizen. The salvation of full citizenship is never reached, however, as research on citizenship has shown (Ngai 2004; Ong et al. 1996). The uncertainty of proceeding from one category to the next is summarized by one interviewee;

They say it’s amnesty if an immigrant gets to pay a fine and go to San Antonio instead of going to Ciudad Juarez and spin a roulette wheel.<sup>28</sup>

As the soldier in Foucault’s example is not shown every possible exercise at once so that he may progress through his training (Foucault 1995), the immigrant is not shown which path he may be placed on because he must pass the examination, by providing sufficient documentation or providing the correct answers, at the end of each segment in order to advance. Failure to advance may result in the application of further exercises.

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<sup>27</sup> Personal interview, February 23, 2011

<sup>28</sup> Personal interview, January 11, 2011

The anxiety related to not passing from one phase to the next is overwhelming for many applicants. The applicant is not in control of how his information will be judged by the adjudicator or official in charge. Unsatisfactory responses will prohibit passage from one phase to the next, and perhaps jeopardize the applicant's entire progress. An example of this vulnerability may be found in the quote below:

The thing that gave me the most anxiety during all aspects of my immigration process was the thought of the official, whoever it might be (nurse, adjudicator, etc.) taking something I said, twisting it, then using it against my case in some way.<sup>29</sup>

### **Normalizing Judgement**

A young woman who negotiated the process through Ciudad Juarez with her husband in order to regularize his status expressed her understanding of expected responses and language use in the documentary and interview process. She began, like many others, to experience profound anxiety and depression due to the uncertainty and rigor created by the process. The depression was real, and in many ways her suffering was quite extreme, however the way she chose to present it in writing for the I-601 waiver was in a very specific, almost standardized, submissive and overly-dramatic manner that fit her idea of what was expected by the consular review officers. She identified additional illnesses that would qualify as hardship and framed her narrative to fit the mold as she perceived it, informed by the experiences of others.

This interviewee demonstrated a willingness to challenge the outcome of her review using the tools (the appeal process) created by the system. As a U.S. citizen, her defiance was representative of a U.S. rights-based mentality, familiar with administrative

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<sup>29</sup> Encuesta CDJ survey response.

procedures. When asked if she would challenge the I-601 altogether, however, her response was very different:

Contesting the I-601? No, no no, because that would not result in, I mean, the last thing you want to do is get the consular officer, um, upset.<sup>30</sup>

In regards to the demonstration of extreme hardship for the I-601 waiver, she stated that it was not true that she *couldn't* live in Mexico, just that she didn't want to. The information in her letter, in her explanation, was "pure bullshit" (Personal interview, 2011a). However, her case was approved on the first attempt and resulted in a short separation between herself and her husband. Her ability to negotiate the system allowed her to effectively "game" the system and use its own tools against it.

### **Hierarchical Observation (OBS) and the Examination (EXAM)**

According to Foucault, surveillance became permanent, uninterrupted, and began to exert a physical hold over the body as a key component of discipline (1995). This is exemplified through the effect that living minute acts of illegality has on a daily basis, as expressed by the participants in my research. One interview participant states,

I definitely feel nervous about police... they make my heart stop every time I would see some flashing lights, like, in my rear-view mirror and then I always look back to make sure they weren't pulling me over.<sup>31</sup>

The participant was a Mexican citizen living illegally in the U.S., having been brought to the country as a child by her parents. Her husband shared her fears, however, and lived in fear of the repercussions of surveillance on a regular basis, as he explains here:

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<sup>30</sup> Personal interview, January 9, 2011

<sup>31</sup> Personal interview, February 1, 2011

When we were only just dating, I would always have her call me when she got home just to make sure that she made it home safely, and there would be other times that I would call and she would never answer the phone and it would always make me really nervous, even though it was in her purse...and she didn't hear it.<sup>32</sup>

This same interviewee, a Mexican-American U.S. citizen male petitioning on behalf of his wife, was equally subjected to the scrutiny of the immigration process. He states,

They're questioning my U.S. citizenship since I was born to a midwife.....they asked if I was Catholic... if I was baptized...just a long list of things. They gave me a form saying I had to prove everything. "We have to verify citizenship of everyone not born in a hospital" is what they said.<sup>33</sup>

"He doesn't even speak Spanish," his wife said, reflecting on their surprise at this unexpected requirement (Personal interview 2011b).

As related to the art of the examination, the consular and medical verbal interviews in Ciudad Juarez may not to be mistaken as informal processes. They are highly ritualized and are in themselves an examination of the interviewee even though they do not touch the body of the person as he stands before them. The verbal interview becomes, in space and in purpose, a *confessional in which the applicant must tell the truth* even if it implicates him in a violation of the law and results in inadmissibility. The "truth" becomes the ultimate measure of self control. Common questions center on the validity of the qualifying relationship, the number of times one has entered the United States and lengths of stay, use of illegal substances, alcohol consumption, gang affiliation and tattoo meanings, and medical and reproductive health conditions.

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<sup>32</sup> Personal interview, February 1, 2011

<sup>33</sup> Ibid.

One couple explained that during their interview experience at the consulate they were split up and taken into separate rooms for a type of cross-examination. They expressed a recognition of stepping into a space devoid of rights as they understood them:

For me, as a Mexican...I had never been in a similar situation...or in a place where I don't have the rights that I have in my country... because being inside the Consulate, they are already not the same rights that I have as a Mexican.<sup>34</sup>

Of the examination, Foucault states, "In it are combined the ceremony of power and the form of the experiment, the deployment of force and the establishment of truth" (1995, 184). The examination at the Ciudad Juarez field office takes place many times, in several formats, and is highly ritualized. The would-be immigrant must first undergo a medical exam at one of two officially sanctioned facilities in Juarez, which is then followed by the consular interview. The following narrative, captured from the Internet posting analysis, captures the entire consular interview process for one applicant:

The officer who conducted the interview was an old guy in window 17. My husband was called to stand up and go with him. He started asking him questions..... Good thing my husband was honest about everything that had happened, even though people had told me that they wouldn't have those papers because it had been almost 3 years. He went ahead and told the officer everything that happened before my husband realized that the officer had all those documents with him. Well, then the officer told him if he had crossed again illegally and my husband answered yes when we got married and told him that he came back to Mexico so he wouldn't have any problems with immigration, WHICH IS THE EXACT TRUTH, even though it sounds illogical. I swear this is what happened. Ever since we got married, he went back with my in-laws cuz we wanted for him to get his residency without having any more problems with immigration since he had already been caught back in 2005. Well the officer said that that was a stupid answer and that no one would believe him. He asked my husband if he wanted to change his answer three times but my husband said no because he was telling him the truth.

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<sup>34</sup> Personal interview, January 12, 2011. "Para mí como mexicano... nunca había estado en una situación parecida... o en un lugar donde no tengo los derechos que tengo en mi país... porque ya estando en el consulado ya no son los mismos derechos que tengo como mexicano."



He got very upset at him and asked him for my official birth record. My husband told him he didn't have it because they had the original. He got even more upset and yelled at my husband and then my husband saw that the officer had it with him along with other documents and my husband told the officer that he had it and the officer looked down at his documents and got the official birth record. Even though the officer made a mistake he didn't even apologize to my husband for blaming him of not having that document. Seriously my husband just wanted to get out of there running and leaving this whole mess behind.

Well the officer asked my husband for documentation he had been in Mexico all this time. My husband gave him phone bills, gas bills, water bills under his name and western union that I would send him whenever I could. Everything was under his name. Well you wanna know what the officer told him?? (Eso no me sirve, aquí en México falsifican todo!! Tú estás mintiendo, donde está tu esposa??) [That's no good to me, here in Mexico they falsify everything!! You're lying, where's your wife??] My husband got very upset but of course couldn't tell him anything. So my husband tried explaining to him that all those bills were legal and not false documents. Well the officer didn't want to hear any explanations and told him to go get me. My husband went to get me outside "El Cebollero" and we went inside and went to building B. We waited like an hour and a half until I was called to go to the back.

A very nice lady interviewed me but didn't ask me anything regarding my husband. She asked me a lot of questions regarding my nationality. I wanted to cry. She asked me for my baptism, my brother and sister's as well, my sibling's birth record long form, my hospital footprints, my parents paperwork for when they came to the U.S. when they were little and they also asked me for my pre-K, kinder and first grade report cards. I just wanted to run away. I felt so bad that now my citizenship was being questioned and that they didn't believe I was born in the U.S. Well the girl gave us a pass for Monday to go directly inside without having to wait in line at 9:30 a.m. She said she needed all that evidence and to turn it in window 1 and they would continue with his interview. I am so afraid and that's because he was honest about everything. One tries to do the correct thing and be honest about everything and what happens? One gets into more trouble. We just feel like going away from this place.<sup>35</sup>

As I have shown throughout this chapter, U.S. immigrant visa processing at the Ciudad Juarez field office, combined with the rigors of the administrative requirements of the visa approval process in general, highly correspond to the elements of Foucault's theory

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<sup>35</sup> Internet forum message sampling [emphasis in original].

of discipline. The inadmissibility and waiver process add an additional dimension of uncertainty and scrutiny that contributes to fear and anxiety in immigrant applicants and their U.S. family members. I will expand on the meanings of these findings in the conclusion.

## Chapter Five: Conclusion

Blood of mine, blood of dawn, blood of the broken moon, blood of silence.<sup>36</sup>

-Susana Chavez (El Diario 2011)

In a discussion of the “neoliberal strategy of language,” researchers from the Universidad Autónoma de Sinaloa discuss the use of the language of violence and fear to create a rupture of shared spaces. This rupture creates isolation, distrust of one another, reclusivity and panic (R Salazar and M Salazar 2010). They discuss the high rate of television ownership in Latin America and how the TV is used to tell a variety of violent narratives that act as a new form of colonization.

It is and we live an era of low-intensity cultural war, whose intention is to decontextualize, denaturalize, alter and lie about what is really happening in the social reality that surrounds us (R Salazar and M Salazar 2010, 34).<sup>37</sup>

Raul Uriarte cites the Mexican massacres of Acteal, Los Bosques, and Agua Blanca not only as examples of a state military politic of extermination of indigenous communities, but also of larger examples of impunity with no civil legal recourse (Uriarte 2010). The violence taking place in Mexico, he explains, has spiraled to new depths of atrocity, such as the murder of the fifteen teenagers in Juarez in January of 2010 and the increasingly common murder of children. Uriarte states,

The pedagogy of terror tells us that we know who they are, what they are named, how they act, what arms they bring, what indices of cruelty they develop and nobody does anything. Pure propagation of terror (Uriarte 2010, 44).<sup>38</sup>

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<sup>36</sup> “Sangre mía, sangre de alba, sangre de luna partida, sangre del silencio.”

<sup>37</sup> “Es y vivimos la era de la guerra de baja intensidad cultural, cuya intencionalidad es descontextualizar, desnaturalizar, alterar y mentir sobre lo que realmente acontece en la realidad social que nos envuelve.”

<sup>38</sup> “La pedagogía del terror nos indica que sabemos quiénes son, como se llaman, como actúan, que armas traían, que índices de crueldad desarrollan y nadie hace nada. Pura propagación del terror.”

This is an “educational logic” where the population is taught that death is as random and likely as hitting the red button at customs (Uriarte 2010).

Claudia Villarreal states,

Violence and impunity form part of a long historical process that began with the delimitation of the border itself; was strengthened by the distribution of alcoholic beverages at the beginning of the twentieth century and was crowned with the war between drug cartels at the end of this one (Villarreal 2008, 15).<sup>39</sup>

Villarreal points out that the reality lived along the border is an amplified expression of the uncertainty lived throughout Mexico (2008).

Mirroring the state of exception increasingly implemented by the United States, the Mexican government has moved to grant President Felipe Calderón,

...the ability to effectively declare states of exception without congressional approval and unilaterally use the military against any group he deems to be a “threat to internal security.” Also expanded would be the surveillance powers of the army, marines and Cisen, the Center for National Security and Investigation (Woodhouse 2011).

In the United States, a growing normalization of violence against Mexicans and their families is also moving towards a culture of impunity. For example, a recent article published in Mother Jones magazine described the difficulties of the “legal” immigration process through the U.S. consulate in Ciudad Juarez and the stress of acquiring a waiver in particular. The story recounted a situation in which the Mexican spouse of a U.S. citizen was brutally murdered in Juarez as he waited many months for their process to move forward. The online postings of the worried U.S. spouse, as she shared her fears with other women going through the family immigration process, and as she grew more

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<sup>39</sup> “Violencia e impunidad forman parte de un largo proceso histórico que nació con la delimitación de la frontera misma; se fortaleció con la distribución de bebidas alcohólicas a principios de siglo XX y se coronó con la guerra entre los cárteles de la droga a finales de éste.”

and more frantic as the disappearance and death of her husband unfolded, were reprinted in the story. The first reader comment simply stated, “That’s what you get for marrying an illegal” (Davidson 2011).

The immigration tactics, in the Foucauldian sense, serve to terrify through a similar cultural low-intensity war. Many of the Mexican visa applicants I have met use the term “*castigo*” (or “punishment”) in lieu of the words “ban” or “bar.” They also use the word, “*perdón*” (“pardon” or “forgiveness”) instead of “waiver.” This is extremely telling, and represents a system of punishment and forgiveness that has been forced into the fabric of their being. It is discipline embodied.

That the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 specifies that the illegal immigrant must be *reformed* is a crucial underpinning of the USCIS and Ciudad Juarez Consular review process. The body must be examined, categorized and processed. Sassen states that, “The global city is a strategic site for disempowered actors because it enables them to gain presence, to emerge as subjects, even when they do not gain direct power” (Sassen 1998, xxi). To the contrary, the punitive measures of the 1996 laws, coupled with increased and ever-present enforcement strategies, discursive and physical violence along both sides of the border exert pressure to keep the immigrant from emerging *even as a presence*, often hidden away by fear.

Although the immigration system as whole may serve to construct and maintain the categories of “other, immigrant, foreign,” I argue that the immigration process through Ciudad Juarez, especially as it relates to categories of inadmissibility and the waiver process, constitutes a forced destruction of one’s sense of being, violently displacing it and mandating its artificial reconstruction through a series of disciplinary tactics. Bourdieu states that “symbolic power is the power to make things with words” (Bourdieu 1989, 23). In the interview and hardship process, one’s presentation of self is faked so that one may be pardoned.

The processes described in this thesis are both an assault on family and free love, and a forced disciplining of social relations. The Mexican-American must be born in a hospital or he does not exist. The life story is called into doubt with an assumption of treachery and counterfeit, falsified existence. Children have transitioned from “anchor-babies” to “terror-babies” and are unable to claim hardship and leverage family unification. Instead of changing the family unification provisions of the 1965 Act, which have resulted in high amounts of legal entry to Mexicans in particular, the new tactic is to eliminate and deter extra-legally and through administrative obstruction and surveillance.

Emily Hicks speaks of the “monitor” as a figure who “reverses the gaze; rather than being under surveillance by the state, the monitor observes the state” (2009, 9). These non-state actors, according to Hicks, perform an activity that differs from direct action (2009). Perhaps the individuals who utilize networks and technology to monitor visa approval trends and consular behavioral patterns are working to reverse the gaze as well.

In this context, houses of hospitality have long existed along both sides of the border in order to give refuge to undocumented immigrants as they cross from one country into another. Many of these houses operate via word of mouth and are not marked to the public. They give food, a bed, and advice to the immigrants who are in need of it and who make their way to the location. In many ways, the Internet and the immigration forums that have sprung up throughout the bandwidth are the new houses of hospitality, diffused in space and time, sought out via word of mouth or identified through an electronic search engine.

This shared knowledge is severed by the individualization of the immigration and consular review process. The geographic dispersion of applicants and their separation through categorization into a multitude of dissimilar cases, spaced unevenly along a multi-faceted linear process, make face-to-face information and resource sharing extremely difficult. Alternate forms of reciprocal exchange have emerged, such as the Internet and on-line forums dedicated to sharing knowledge between immigrants seeking

to negotiate the administrative procedures of legal immigration. This is both beneficial and problematic. While this allows for enormous potential in gaining knowledge of the intricacies of the experience for a large number of people, an unidentified number of potential and actual applicants have not made contact with on-line resources and may be left in a more precarious position. At best, these individuals often rely on expensive immigration attorneys or public non-profit immigration services of varying quality.

President Felipe Calderon visited the United States on March 3, 2011 to discuss an agenda of immigration, commerce, and *narcotrafico* with President Barack Obama (Univision 2011). The trilogy of this agenda represents the foundation of the modern conflict in which the immigrant is at the center. The procedures of hyper-discipline created through the legal, administrative, and sociocultural systems framed by immigration policy and rhetoric, structured through economic imperialism and embodied through the immigrant processing center in Ciudad Juarez, create a new space of terror that transcends borders and is extended through time. The systems are empowered by the expansion of technology and the relentless cultural warfare being waged against immigrants and their families in both Mexico and the United States.

Nancy Fraser states that Foucault's assessment of discipline "can inspire us to creatively transform Foucauldian categories to account for new modes of "governmentality" in the era of neoliberal globalization" (Fraser 2003, 161). I argue that this creative approach may also be transformed to apply Foucault's categories of discipline as examined in this paper. The familiar structures previously imposed through fordist discipline are simultaneously enforced on paper and destroyed in reality by the contemporary immigration process.

Foucault states that, "The length of the penalty must not be a measurement of the 'exchange value' of the offence; it must be adjusted to the 'useful' transformation of the inmate during his term of imprisonment" (1995, 244). In the waiver process in particular, it is the uncertainty of the outcome and the length and administrative rigor of the

procedure that cause anguish and create discipline, thereby transforming the “inmate” during the term of the process.

I do not argue that the U.S. immigrant review process, and the unique confluence of militarization and economic piracy that are embodied by both Mexican and U.S. activities in Ciudad Juarez, has been created as part of a master plan to create a passive Mexican labor force. I *do* argue, however, that the systems and administrative procedures utilized by the United States in Ciudad Juarez were put in place to punish would-be legal immigrants, to establish a process difficult enough to make acquiring legal status something that must be worked for and earned, and to inculcate a sense of deference and gratitude upon completion of the process. Ibrahim states, “by framing migration as a phenomenon that arises out of resource scarcity and ethnic tensions, that is arising out of a “social collapse”, lays the foundation for an increasingly interventionist style of international relations...hearkens back to an imperialist worldview” (Ibrahim 2005, 171).

A key finding of my research is that the U.S. citizen and/or legal resident family members of the undocumented immigrant are pulled into a hyper-disciplinary system due to the offense of forming part of an illegal family. I also argue that the immigrant processing system is an expansion of discipline to bring U.S. citizen and legal resident family members into compliance in part due to the large amount of family-based migration of Mexicans into the United States since the 1965 INA. I also argue that the New Racism that Jonathon Simon speaks of is a key factor behind this expansion of illegality. This will become increasingly important as the Hispanic population in the United States continues to grow and merits further investigation.

Pedagogies of violence, counter-terrorism, and securitization are fundamental to making permanent the states of exception now fully embraced by Mexico and the United States. The U.S. Consulate office in Juarez, for example, cancelled all scheduled appointments, including those for passports and visa, and closed its doors on July 30, 2010 to “review its security posture” (OSAC 2010). These “security reviews” have



begun to take place on a regular basis. The intersection of violence, mega-secure complexes, and human processing will continue to increase in importance and merits substantial and increased attention.

The role and impact of gender on the immigration process is also an area that warrants greater research. Women appear overwhelmingly in the on-line community that I surveyed and seem to perform the act of facilitating completion of paperwork for the great majority of the family-based immigrant visa applicants. They responded more frequently to calls for interviews and appear to utilize online information-sharing in a more pronounced way than men. This is an item of interest.


Ciudad Juarez activists, many of them young women, have risen to the forefront of the Juarez conflict. A wave of killings of several of these activists has taken place in December 2010 and January 2011. Susana Chavez, the creator of the “Ni una muerta mas” (“not one more dead”) protest refrain, was brutally murdered sometime between Wednesday, January 5, 2011 and Sunday, January 9, 2011, when she was finally identified by the police and her body was turned over to her mother (El Diario 2011). She was a vocal protester against the Juarez femicides during the 1990s, often reciting poems at their burials, and was a promoter of cultural arts in this most recent era of violence. She was found with her left hand cut off.

This type of butchery has accelerated in the realm of immigrant massacres and annihilation, as exemplified by the increasing occurrence of mass graves of immigrants. The symbology of certain body parts being affected, certain colors of ribbons left behind, *narco-pintadas* or messages, are a profound departure from the logic embedded in Foucault’s “body-weapon, body-tool, body-machine” theory. The physicality of this distortion merits much more research.

Foucault’s categories of discipline, therefore, serve as an appropriate and useful tool for the examination of immigrant processing through Ciudad Juarez. Placing these occurrences in a historical context helps us better understand the experiences of those who must pass through them; and helps us recognize that we have reached a point of

departure. It is from this point of departure that we must consider the new *purpose* of the ever-perfecting disciplinary regime, and it is from here that we must go beyond where Foucault has left us.

## Appendix A: Encuesta CDJ On-line Survey



### Survey on the immigration process through Ciudad Juárez

You are being asked to participate in a research study for my master's thesis. The purpose of this study is to explore the idea that Ciudad Juárez, Mexico plays a specific, unique role in the U.S. and in relation with Mexico on immigration policy. Your participation is completely voluntary. You may refuse to participate and may discontinue participation at any time. No compensation is offered. For more information, please contact me by private message on the forum. Thanks for your help!

Your participation in the survey indicates your consent for me to use the information gathered here.

ALL ANSWERS ARE ANONYMOUS AND THE COMPLETED SURVEYS ARE CONFIDENTIAL. Please do not include full names or phone numbers in your answers.

**\* Required**

**Qualification \***

This survey is for people who have gone or are going to go to the Consulate of the United States in Ciudad Juárez for immigration proceedings.

- ☒ Me or my family have had to go to the U.S. Consulate in Ciudad Juárez
- ☐ Me or my family will have to go to the U.S. Consulate in Ciudad Juárez
- ☐ We have nothing to do with the process of immigrating to the U.S. through Ciudad Juárez

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\* Required

### Basic Information

ALL ANSWERS ARE ANONYMOUS

#### Gender \*

Select the correct answer from the list.

- ☐ Male
- ☐ Female

#### Age \*

You must be at least 18 years old to participate.

- ☐ 18-24
- ☐ 25-30
- ☐ 31-35
- ☐ 36-40
- ☐ 41-45
- ☐ 45 and more

#### I am a citizen of... \*

- ☐ México
- ☐ the United States
- ☐ both (the US and Mexico)
- ☐ a different country

**Year that I/ we went to the U.S. Consulate in Ciudad Juárez**

Select all that apply.

- ☐ before 1995
- ☐ 1995
- ☐ 1996
- ☐ 1997
- ☐ 1998
- ☐ 1999
- ☐ 2000
- ☐ 2001
- ☐ 2002
- ☐ 2003
- ☐ 2004
- ☐ 2005
- ☐ 2006
- ☐ 2007
- ☐ 2008
- ☐ 2009
- ☐ 2010
- ☐ 2011

**Right now I'm in...**

- ☐ México
- ☐ the United States
- ☐ other country

**Who is the immigrant?**

- ☐ I am
- ☐ My family member
- ☐ Me and my family

**Do you already have the visa?**

- ☐ It's in progress
- ☐ Not yet
- ☐ Yes I already have it

**Waiver?**

Do/ did you need a waiver of inadmissibility?

- ☐ Yes
- ☐ No
- ☐ Not sure / I don't know

**Personal income per year (in U.S. dollars)**

- ☐ \$0 to \$10,890
- ☐ \$10,891 to \$20,000
- ☐ \$20,001 to \$30,000
- ☐ \$30,001 to \$40,000
- ☐ \$40,001 to \$50,000
- ☐ \$50,001 to \$60,000
- ☐ \$60,001 to \$70,000
- ☐ \$70,001 to \$80,000
- ☐ more than \$80,000

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## Survey on the immigration process through Ciudad Juárez

### Analysis of worries (or fears)

A few things about daily life and the process of immigrating to the U.S. through the Consulate in Ciudad Juárez are listed below. Read each factor carefully and select the level of worry (or fear) that you feel corresponds to each. There are no right or wrong answers. Remember, select the word that best describes how much worry (or fear) you feel related to each factor.

#### Worries - Part 1

	None	A little	Some	Much	Very much
Waiting in line at the consulate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Getting an injection from the nurse or doctor	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Immigration officials	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having to go to the hospital	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going to the movies	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being questioned by doctor	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going to work	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Buying a home	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being pulled over	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being deported	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Immigration paperwork not being correct	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Receiving a 3 or 10-year ban	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being tricked or cheated out of money	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reporting a crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Opening a bank account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being detained	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not knowing which interview window to go to	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having medical history recorded on file	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Immigration paperwork getting lost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being naked in front of the nurse or doctor	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Military officers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being accused of lying	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being asked for driver's license	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Answering consulate interview questions incorrectly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being alone	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Medical examination	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

#### Worries - Part 2

	None	A little	Some	Much	Very much
Applying for an apartment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going to bars/parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Missing visa-related appointment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Border patrol	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>




Leaving the house	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not passing from one phase of the immigration process to the next	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going inside the consulate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being killed or murdered	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Getting lost in a strange place	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Crossing the border	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Walking alone between 4pm and 7pm	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going to the store	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Police officers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Driving a car	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Missing a paperwork deadline	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Consulate staff	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gangs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being interviewed in an office	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Being kidnapped	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Going to play soccer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Traveling out of town	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Riding the bus	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Buying a car	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lawyers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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## Survey on the immigration process through Ciudad Juárez

Anything else?

**COMMENTS?**  
If you would like to share how you felt during your immigration process, please write your comments here (OPTIONAL):

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