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LAW-ABIDING IMMIGRANTS:  
THE INCARCERATION GAP BETWEEN IMMIGRANTS AND THE US-BORN, 1870–2020

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Law-Abiding Immigrants: The Incarceration Gap Between Immigrants and the US-born, 1870–2020  
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### **ABSTRACT**

We provide the first nationally representative long-run series (1870–2020) of incarceration rates for immigrants and the US-born. As a group, immigrants have had lower incarceration rates than the US-born for 150 years. Moreover, relative to the US-born, immigrants’ incarceration rates have declined since 1960: immigrants today are 60% less likely to be incarcerated (30% relative to US-born whites). This relative decline occurred among immigrants from all regions and cannot be explained by changes in immigrants’ observable characteristics or immigration policy. Instead, the decline is part of a broader divergence of outcomes between less-educated immigrants and their US-born counterparts.

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The tendency to associate immigration and crime has been pervasive throughout US history. For example, in 1891, Senator Henry Cabot Lodge advocated closing the border, warning that Italian immigrants were “members of the Mafia, a secret society... using murder as a means of maintaining its discipline” (Lodge 1891). Indeed, over the past 150 years, Congressional speeches about immigration were twice as likely to mention words related to crime (per speech) than were speeches on other topics (Card et al. 2022).

Contrary to this anti-immigrant rhetoric, we document that, as a group, immigrant men have had a *lower* incarceration rate than US-born men for the last 150 years of American history.<sup>1</sup> We combine newly assembled full-count Census data (1870–1940) with Census/ACS samples (1950–2020) to construct the *first nationally representative* series of incarceration rates for immigrants and the US-born between 1870 and the present day. From 1870 to 1950, immigrants’ incarceration rate was only slightly lower than that of US-born men. However, starting in 1960, immigrants have become *significantly less* likely to be incarcerated than the US-born, even though as a group immigrants now are relatively younger, more likely to be non-white, have lower incomes, and are less educated – characteristics often associated with involvement in the criminal justice system.<sup>2</sup> Today, immigrants are 60% less likely to be incarcerated than all US-born men, and 30% less likely to be incarcerated relative to white US-born men. The similar incarceration rates between immigrants and the US-born in the past and the lower incarceration rates of immigrants today are broadly consistent with prior studies documenting immigrant-US-born incarceration gaps for specific states and time periods (Moehling and Piehl 2009, 2014; Butcher and Piehl 1998b, 2007).

With access to large samples, including the full-population Census before 1950, we are also able to provide the first investigation of incarceration rates by country of origin spanning 1870 to 2020. We find a substantial decline in incarceration rates relative to the US-born among immigrants from *all major sending regions*. European immigrants historically had slightly lower incarceration rates to US-born men, but recently experience far lower incarceration rates. Chinese immigrants had similar incarceration rates to the US-born before 1960, but today have significantly lower

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<sup>1</sup> We focus on men because men constitute the vast majority of the incarcerated population both today and in the past (Freeman 1999). Our takeaways are unchanged if we include women (Figure A10).

<sup>2</sup> On average, immigrants were older than US-born male adults from 1870–1970 but have been relatively younger in the past 50 years. The share of immigrants that are Black, which used to be close to zero, has also grown since 1950; roughly 10% of immigrants are Black today.

incarceration rates. Mexican and Central American immigrants had particularly high incarceration rates in the past but have had lower incarceration rates than the US-born since 1960. From 2005 on, Mexican and Central American immigrants have been more likely to be incarcerated than *white* US-born men, although we note that a large portion of the increase in Mexican and Central American incarceration after 2005 is driven by detentions in federal immigration facilities, often for immigration-related offenses; when we drop areas home to the largest Immigration and Customs Enforcement (ICE) facilities, the gap relative to US-born white men moderates or disappears in most years.

Although our data do not enable us to precisely pinpoint why there has been a sharp relative decline in the immigrant incarceration rate since 1960, we are able to rule out three ex-ante plausible explanations. First, the relative decline in immigrant incarceration is not driven by rising rates of incarceration of US-born Black Americans; the decline is also apparent when comparing immigrants to US-born *white* men only. Second, the decline is not driven by changes in immigrants' observable characteristics, namely, their countries of origin, age, race, marital status, state of residence, or educational attainment. If anything, immigrants' lower educational attainment in recent decades would predict that they should have higher incarceration rates than they do. Third, the relative decline is not mechanically driven by immigrant offenders being more likely to be deported in recent years (and thus not being present in the incarceration data): the relative decline in incarceration is present even among immigrants who are US citizens and thus cannot be deported. Moreover, the timing of the decline is also inconsistent with this explanation; whereas the relative decline in immigrant incarceration emerges in the 1960s, the sharp rise in deportations took place around 2000.

We conclude the paper by showing that lower-educated immigrants and US-born men (the group that accounts for the vast majority of incarcerated individuals) *not only* diverged in their incarceration propensities in recent decades, but also diverged at a similar moment along other dimensions, including their labor force participation and likelihood of marriage. One potential explanation for this broad pattern of divergence is that less-educated immigrants might have remained relatively shielded from structural changes in the economy – such as globalization and skill-biased technological change – that negatively affected less-educated US-born men in recent decades. Immigrants are concentrated in manual tasks and service occupations (rather than routine

occupations), which did not experience large wage or employment declines in recent decades (Autor et al. 2006; Peri and Sparber 2009). Furthermore, immigrants may be more resilient to shocks, given that they are a self-selected group of individuals possessing traits such as a greater willingness to move long distances (Cadena and Kovak 2016), less risk aversion (Jaeger et al. 2010), higher adaptability and cognitive ability (Bütikofer and Peri 2021), and higher levels of entrepreneurship (Azoulay et al. 2022).

**Related literature.** Our work is most closely related to a set of papers that document immigrant-US-born incarceration gaps for specific states and time periods (summarized in Figure A1). Moehling and Piehl (2009) studies historical flows into prisons using state prison records from 1904, 1910, 1923, and 1930. Moehling and Piehl (2014) studies historical incarceration rates in eight states by locating individuals residing in state correctional facilities in full-count Census samples between 1900 and 1930. Consistent with our series, these papers find that immigrants' incarceration rate was similar, if not slightly lower, than that of the US-born during the Age of Mass Migration.<sup>3</sup> Butcher and Piehl (1998b, 2007) use 1980–2000 Census subsamples to compare immigrants' incarceration propensities to those of US-born men.<sup>4</sup> These studies find that recent immigrants have been less likely to be incarcerated than US-born men and that this difference widened between 1980 and 2000.<sup>5</sup>

Relative to these papers, we provide the first nationally representative, century-and-a-half-long series on the incarceration gap between immigrants and the US-born.<sup>6</sup> Our long-run perspective enables us to document that immigrants not only have lower incarceration propensities than the

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<sup>3</sup> We used our methodology to compute incarceration rates in the eight states in Moehling and Piehl (2014) and find higher levels, although similar trends, of incarceration rates for immigrants and US-born men, presumably because our data include federal prisons and local jails.

<sup>4</sup> Using 2012–2018 Texas arrest records, Light et al. (2020) finds that unauthorized and legal immigrants are less likely to be arrested than US-born citizens. Landgrave and Nowrasteh (2017, 2018, 2019) show that immigrants have lower incarceration rates than the US-born in the 2014–2016 ACS. Related work in criminology and sociology confirms that immigrants today are less crime-prone than their US-born counterparts (e.g., Bersani 2014, Bucuriciu 2011, Sampson et al. 2005, and Kubrin and Ousey 2023 and cites therein).

<sup>5</sup> Figure A1 plots the incarceration rates of immigrants and US-born men from Moehling and Piehl (2014) and Butcher and Piehl (2007). The figure makes clear that despite the great progress made by these earlier studies, there were still significant gaps in our knowledge of immigrant-US-born incarceration gaps (the pre-1900 period, nationally representative coverage for 1900–1930, the 1930–1970 period, and the post-2000 period).

<sup>6</sup> A nationally representative series is key for studying the immigrant-US-born incarceration gap, as the gap can differ substantially across states. For example, in 1920 and 1930, 15 and 9 states had positive incarceration gaps (immigrants were *more* likely to be incarcerated than the US-born), respectively, whereas 13 and 24 states had negative gaps.

US-born today, but that they have experienced similar or lower incarceration rates than the US-born *throughout American history*. Importantly, we also document *when* the immigrant-US-born incarceration gap began to widen (circa 1960) and we rule out candidate explanations (i.e., rising deportations) for why such divergence has taken place. Finally, unlike prior work focusing on specific states and periods, our large samples allow us to create a consistent long-term series, disaggregate the series by country-of-origin group, and document that the relative decline in immigrant incarceration applies to immigrants from all regions.

This paper is also related to a large literature for the modern period studying how changes in the number of immigrants affect local crime rates (Adelman et al. 2017, Butcher and Piehl 1998a, Chalfin 2014, and Spenkuch 2014 in the US; Akbulut-Yuksel et al. 2022, Bell et al. 2013a, Bianchi et al. 2012, Gehrsitz and Ungerer 2022, and Piopiunik and Ruhose 2017 in Europe, among many others). A number of papers, primarily those based on European data, find that recent waves of immigrants *increase* crime rates. Others, including those based on US data, find null effects.<sup>7</sup> We contribute to this literature by documenting that immigrants *themselves* have been less likely to be incarcerated than the US-born for the last 150 years. If immigrant arrivals have no effect on crime rates (despite immigrants themselves being less prone to crime), one possibility is that the presence of immigrants increases the criminal propensities of other groups (e.g., by increasing population growth or racial diversity in local areas).

Finally, our study contributes to the literature studying long-term changes in immigrants' outcomes in the US (Abramitzky et al. 2020, 2021). We contribute to this literature by providing a past-present comparison on an as-yet unexplored dimension of immigrants' performance: incarceration rates.

## 1. Data and Methods

**Sources.** Ideally, to compare the criminality of immigrants and the US-born, we would want to measure whether an individual committed a crime. However, such data are not available because

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<sup>7</sup> We refer the reader to Bell and Machin (2013b), Buonanno et al. (2022), Fasani et al. (2019) and Orrenius and Zavodny (2019) for reviews of the immigration-crime literature.

many crimes are not reported and many offenders are not arrested. As a result, two common proxies for crime are arrests and incarceration. We rely on incarceration as our proxy.

The advantage of using incarceration is that it can be measured in the Census, enabling us to build a nationally representative series on incarceration *by birthplace* starting in 1870.<sup>8</sup> For the 1870–1940 period, we use the full-count Census (Ruggles et al. 2021) to observe the universe of prisoners in the US every ten years (the exception is 1890, for which individual-level records did not survive).<sup>9</sup> We start in 1870, as this is the first Census to include the full population, including those formerly enslaved. Incarceration is a relatively rare occurrence (particularly in this earlier period), so the full-count Census allows us to more accurately measure incarceration rates for all immigrants as well as for immigrant subgroups. The 1940 Census is the last Census for which full-count data are currently available in digitized form. Hence, for the 1950–1990 period, we use the largest available sample in each decade (Ruggles et al. 2022).<sup>10</sup> For the most recent years, we use data from the ACS (annual versions or the 2008–2012 and 2015–2019 five-year samples for 2010 and 2020, respectively). We include details on these samples in Online Appendix B.

**Measuring Incarceration and Sample Selection.** Prior work (e.g., Butcher and Piehl 1998b, 2007) has typically relied on the group quarters type variable coded by IPUMS – indicating whether an individual lives in a “correctional institution” – to classify individuals as incarcerated. For the 1870–1940 full-count data, we improve on this classification using the original strings of the “group quarters,” “occupation,” and “relationship to household head” variables (e.g., using the

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<sup>8</sup> Arrest data typically do not include information on birthplace. Moreover, these data are collected at the local level, making it impossible to build a long-run, nationally representative series. Finally, arrest data include minor offenses, which may be more subject to the bias of law enforcement officials (see Lang and Spitzer 2020); because incarceration typically relies on obtaining a criminal conviction, it is a better proxy for serious criminal offending. We discuss potential issues with using incarceration to proxy for criminality in Section 3.2.

<sup>9</sup> Figure A2 shows an example record of incarcerated individuals in the 1930 Census.

<sup>10</sup> For 1960, 1980, and 1990, we use the 5% samples. For 1950 we use the 1% sample and for 1970 we pool three 1% samples. When considering immigrant subgroups, we do not include the 1950 Census given its smaller size. Given that data availability requires switching from full-count data to sub-samples for 1950–1970 when incarceration was still relatively rare, we focus on trends in the immigrant-US-born incarceration gap in this period, rather than the exact magnitude of the gap. Nevertheless, we validate the incarceration rates against auxiliary sources: between 1950 and 1980, the incarceration rate using the Census falls between 200–300 per 100,000 residents, which is close to measures from the Bureau of Justice Statistics (Kearney et al. 2014). Finally, we do not include the 2000 Census in our main analysis due to potential mismeasurement of outcomes for immigrants (e.g., the difference in incarceration rates between immigrants and US-born men in 2000 is significantly larger than in adjacent data sources). Including the 2000 Census would only reinforce our takeaways (Figure A3).

fact that someone’s occupation or relation is listed as “prisoner”).<sup>11</sup> This refinement addresses potential misclassification of prisoners; for instance, some individuals whose occupation is listed as “prisoner” are not classified as living in a correctional institution (see Eriksson 2019, 2020 for more discussion).<sup>12</sup> Online Appendix B includes step-by-step instructions on how to implement these refinements. Nevertheless, our takeaways are similar if we use IPUMS’ group quarters type variable (Figure A8).<sup>13</sup>

For 1950 onward, we rely on the group quarters type variable to classify individuals as incarcerated. Starting in 1990, IPUMS data report whether individuals are institutionalized, but not the type of institution in which they reside (for instance, we do not know if someone is in a prison or a nursing facility). To address this issue, we focus on men ages 18–40 for whom institutionalization is a very close proxy of incarceration throughout the paper.<sup>14</sup>

To summarize, our baseline sample focuses on men ages 18–40 and compares immigrants (those born outside of the US) to all US-born men. Our main takeaways are nevertheless similar if we compare immigrants to US-born *white* men (Figure A4) or if we focus on other age groups (Figure A9).<sup>15</sup> Table A2 shows the sample sizes and the share incarcerated in each of our samples, by nativity status and disaggregated by immigrants’ country-of-origin group.

## **2. The Immigrant-US-Born Incarceration Gap, 1870–2020**

### **a. Main Results**

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<sup>11</sup> These string variables are not available for later Censuses, preventing us from implementing these adjustments post-1940.

<sup>12</sup> As described by IPUMS, in the 1870–1930 and the 1960–1970 samples, non-inmates living in institutions are assigned an institutional group quarter type.

<sup>13</sup> Indeed, Table A1 shows that between 1870–1930, more than three-fourths of individuals that we classify as incarcerated are coded as living in a correctional institution, and this share is comparable across immigrants and the US-born.

<sup>14</sup> Among those institutionalized in 2000 and 2019, 90% of men ages 18–64 and 96% of individuals ages 18–44, respectively, were incarcerated. For 2000, we calculate the number of men aged 18–64 who are in a correctional institution as a share of the institutionalized population (2000 Census Summary File 1 API). For 2019, we calculate the share of individuals aged 18–44 in a correctional institution as a share of the institutionalized population (2019 ACS Table S2603).

<sup>15</sup> We do not restrict the sample to non-Hispanic white men, as Hispanic ethnicity cannot be measured consistently over time.



Figure 1 plots the incarceration rates of immigrants and US-born men from 1870 through 2020. Panel (a) shows that immigrants as a group had similar incarceration rates to the US-born in 1870, slightly lower incarceration rates from 1880 to 1950, and have been *significantly less* likely to be incarcerated since 1960. Before 1960, the immigrant-US-born incarceration gap was relatively small. The gap then began to widen in 1960, as immigrants' incarceration rate dipped to around 300 per 100,000, whereas the incarceration rate of the US-born jumped to around 900. After 1980, incarceration rates rose dramatically for both groups, but the gap between them remained large so that immigrants are between 50–60% less likely to be incarcerated today. Although the magnitudes of the gaps are smaller, Figure A4 shows that the overall trend in the incarceration gap is similar when we compare immigrants to US-born white men only, in which case immigrants are 15–30% less likely to be incarcerated today.

The remaining panels of Figure 1 compare the incarceration rates of US-born men to those of immigrants from different country-of-origin groups. We split immigrants into five groups with large enough numbers to be followed both historically and today: immigrants from Northern and Western Europe (considered to be the “old immigrant stock” historically), Southern and Eastern Europe (the “new” immigrants historically), China, Mexico and Central America, and the “rest of the world” (those not included in the previous four groups).<sup>16</sup> Figure A5 displays the share of immigrants in each of these groups over time.

Figure 1 shows that the relative decline in immigrants' incarceration rates starting in 1960 has occurred among immigrants from all country-of-origin groups. Immigrants from groups with historically similar incarceration rates (the “old” and “new” Europeans, the Chinese, and those from the “rest of the world”) have become significantly less likely to be incarcerated. Immigrants from Mexico and Central America, who featured higher incarceration rates than the US-born before 1960, have fully reversed the gap.<sup>17</sup> Figure A4 shows broadly similar patterns when

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<sup>16</sup> Before 1950, immigrants from the “rest of the world” constituted 10–13% of all immigrants and came primarily from Canada, Japan, and the Caribbean. In the modern period, this group constitutes 40–45% of immigrants and come from the Caribbean, from other countries in South America, Asia, Africa, and the Middle East.

<sup>17</sup> One potential reason for the particularly high incarceration rates of Mexican and Central American immigrants in the past is that, historically, a large proportion of these migrants were seasonal workers. If migrants who were incarcerated could not return home, but those who were not incarcerated did so at high rates, the incarceration rate for this group might be artificially high.

comparing immigrants to US-born whites. In that case, all immigrant groups, except Mexicans and Central Americans, are less likely to be incarcerated today than US-born white men.

In Figures A6 and A7, we plot differences in immigrant incarceration relative to the US-born separately by country-of-origin for immigrants hailing from the twenty largest sending countries for the past and today. These figures reinforce that immigrants from almost all countries were slightly less likely to be incarcerated historically and that incarceration gaps are wider across the board today.

Online Appendix A shows that the decline in immigrants' relative incarceration is robust to alternative measures of incarceration in the historical period (Figure A8) and alternative sample definitions (Figures A9, A10, and A11).<sup>18</sup> Figure A12 illustrates the importance of using *full-count* data in the historical period: incarceration gaps can be noisy or even the wrong sign for immigrant subgroups when using Census sub-samples.

## **b. Accounting for Changes in Immigrant Characteristics**

A potential explanation for the decline in immigrants' relative incarceration rates is that their observable characteristics (e.g., their age distribution, educational attainment, or racial composition) might have changed in ways that make them less likely to be incarcerated than the US-born.

We begin by documenting changes in the characteristics of incarcerated and non-incarcerated individuals by nativity status and time period (Table A3). Compared to the 1940–1970 period, immigrants have become relatively less educated than the US-born: whereas the proportion of men without a high-school degree has declined by nearly 80% among non-incarcerated US-born men (from 45 to 10%), the same proportion only declined by half among non-incarcerated immigrants (52 to 25%). Given that high school dropouts are over-represented in the incarcerated population, such a change would tend to *increase* immigrants' relative incarceration rates.

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<sup>18</sup> Figure A13 compares our Census-based incarceration measure (a stock) to prison admissions data (a flow) from Missouri for 1870–1920. The two data sources tend to agree on the direction of the immigrant-US-born incarceration gap. Figure A14 further documents that immigrants' lower rate of admission to prison in Missouri is present for both violent and property crimes.

We next directly compare the incarceration propensities of immigrants to observationally similar US-born men. Specifically, we use regressions to estimate the immigrant-US-born incarceration gap and we quantify how this gap changes once we add observable characteristics to the regression. We estimate (separately for each Census year):

$$(1) \text{ Incarcerated}_i = \alpha + \beta \text{Immigrant}_i + X_i + \epsilon_i$$

where  $\text{Incarcerated}_i$  denotes if individual  $i$  was incarcerated in that Census year, and  $\text{Immigrant}_i$  is equal to one for foreign-born individuals. For ease of interpretation, the outcome variable is multiplied by 100 (so  $\beta$  captures percentage-point differences in incarceration rates).  $X_i$  reflects a set of individual-level fixed effects for age (one per age), race (white, Black, other), marital status (currently, previously, or never married), state of residence, and education (an indicator denoting literacy before 1940 and three educational categories from 1940 onward: less than high school, high school completion, and any college or more). We report robust standard errors.

Panel (a) in Figure 2 shows that adjusting for age, marital status, state of residence, and race leaves the incarceration gaps mostly unchanged. However, accounting for differences in education significantly widens the gap in recent decades, so that immigrants are even *less* likely to be incarcerated relative to US-born men (a fact noted by Butcher and Piehl 2007 for the 1980–2000 period). Figure A15 shows similar patterns when comparing immigrants only to US-born white men.

Panels (b)-(f) display analogous estimates for the five previously defined immigrant groups.<sup>19</sup> For all groups except for Mexicans and Central Americans, accounting for individual-level characteristics tends to shrink the immigrant-US-born incarceration gap in recent decades (although immigrants remain less likely to be incarcerated). This reduction is driven by accounting for educational differences, as immigrants from groups other than Mexico and Central America are on average more educated than the US-born. By contrast, adjusting for educational differences *amplifies* the incarceration gap between Mexicans and Central Americans (a group with relatively

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<sup>19</sup> We include race fixed effects to assess the extent to which the changing racial composition of immigrants can account for the relative decline in incarceration. Including race fixed effects becomes redundant when looking at subgroups because there are limited changes in the racial composition of immigrants *within* country-of-origin groups.

low levels of education) and the US-born. Once we compare this group to US-born men with similar levels of education, they are even *less* likely to be incarcerated in recent decades. Figure A16 shows that the gap is driven by large differences in incarceration among high school dropouts. Of course, immigrants and US-born men who are high school dropouts may be quite different in terms of unobservable traits; however, insofar as criminal behavior is a function of labor market opportunities (Becker 1968), then this figure indicates that Mexican and Central American immigrants are significantly less likely to be incarcerated than US-born men with comparable labor market prospects.<sup>20</sup>

Figure A18 shows that the widening in the immigrant-US-born gap is also not driven by changes in immigrants' country-of-origin mix. This figure, which allows each immigrant group's incarceration rate to evolve over time but holds constant their 1940 share of the immigrant population, shows that the gap would be *even larger* today had the country-of-origin mix not shifted away from Europe toward a more diverse set of sending countries. Finally, the decline is also not driven by increases in the share of immigrants that are recent arrivals who may not have had sufficient time to be incarcerated. Appendix Figure A19 restricts the immigrant sample based on time since arrival to the US; the gap is present even among immigrants who have been in the country for at least five or ten years.

We conclude that changes in migrants' observable characteristics cannot explain the decline in immigrants' relative incarceration rates. If anything, once we account for these characteristics, the difference between immigrants and the US-born becomes even larger.

### **3. Possible Explanations for the Relative Decline in Immigrants' Incarceration**

#### **a. Changes in Immigration Policies: Deportations and Detentions**

The number of immigrant deportations from the US began rising in the 1990s and reached record-high numbers around 2010 (Figure A20). Increased deportations may have affected immigrants' incarceration rates in two ways. First, surges in deportations increase the expected cost of committing a crime for non-citizens (and thus might lower their rates of criminal activity): these

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<sup>20</sup> Figure A17 plots the income gap by educational group, showing that low-educated immigrants tend to have similar or lower incomes than low-educated US-born men.

migrants can expect to serve a period of incarceration in the US *and* then may face deportation after serving their sentence (the so-called “double penalty”). Second, if immigrants who commit crimes are deported without serving their sentence, then we might find that immigrants are less likely to be incarcerated – because immigrant offenders are removed from the data via deportation – even if they committed as many or more crimes than the US-born. We rule out these two possibilities in turn.

First, if the relative decline in immigrants’ incarceration rates was solely driven by an increased risk of deportation, we would not expect to see the decline for immigrants who hold US citizenship and thus cannot be deported. However, Figure 3 shows that if anything, the relative decline is *more pronounced* when we focus on immigrants who are US citizens.

Second, the relative decline in immigrants’ incarceration rates is unlikely to be mechanically driven by deportations. First, immigrants who have been convicted of a crime are typically deported *after* serving their sentence and immigrants may not have access to benefits that can shorten incarceration spells for citizens (e.g., participating in diversion programs; Watson and Thompson 2022).<sup>21</sup> Furthermore, the relative decline in immigrants’ incarceration rates emerged by 1960, before the rise in mass deportations in the 2000s. Finally, more than 90% of individuals who are deported today are Mexican and Central American (Watson and Thompson 2022). Yet, the immigrant-US-born incarceration gap has widened for immigrants from all regions.

In addition to the recent rise in deportations, there has also been a rise in immigrant detentions for immigration-related violations. This surge in detentions, however, would bias us *against* finding a decline in immigrants’ incarceration: if immigrants are held in detention facilities for immigration violations (e.g., overstaying their visa), they would likely be counted as “incarcerated” by our

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<sup>21</sup> Immigration law states that “the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment” (8 U.S.C. sec. 1231[a][4][A]). However, this law may not be strictly enforced, and some non-citizen immigrant offenders might be deported before the end of their sentence. To assess this possibility, we use Department of Homeland Security data on the number of deported individuals who had a previous criminal conviction (i.e., individuals who could have plausibly remained incarcerated had they not been deported). These data are not restricted to men ages 18–40, so we are likely overestimating the number of deportations in our target population. Yet, even under the extreme assumption that half of these individuals would have remained in prison rather than being deported, immigrants’ incarceration rates would *still* be lower than those of US-born men.

metric and hence inflate immigrants' (and especially Mexican and Central American immigrants') incarceration rates.

Indeed, Figure A21 shows that if we exclude from the sample individuals residing in areas containing large ICE facilities, then the incarceration gap between Mexican and Central American immigrants and US-born men becomes even larger. Excluding areas with *any* ICE facilities (~100 out of 1,000+ total areas) eliminates Mexicans and Central Americans' higher incarceration rates relative to US-born *white* men in thirteen out of the fourteen most recent years.<sup>22</sup> By contrast, excluding these areas does not change the gap in 1970–1990, *prior* to the large increase in immigrant detention and deportation. These patterns suggest that immigrant detentions are overstating the degree to which immigrants, especially those from Mexico and Central America, engage in serious criminal behavior.

### **b. Changing Relationship Between Incarceration and Criminality**

Another potential explanation for the patterns that we document is that, for any given level of underlying criminal activity, the probability of incarceration may differ for immigrants relative to the US-born. In particular, we might observe a widening incarceration gap if immigrants are (increasingly) *less* likely than the US-born to be incarcerated for a given offense. We argue that such an explanation is unlikely to account for our findings.

First, incarceration rates would understate immigrants' true levels of criminality if aspects of the criminal justice system are biased *in favor* of immigrants. This possibility is unlikely to be true, as prior work shows that noncitizens tend to receive longer prison sentences than citizens for comparable crimes (Light et al. 2023), and that the modern criminal justice system is biased against Hispanics (Goncalves and Mello 2021, Tuttle 2023). Thus, unless the criminal justice system has become substantially *less* biased toward immigrants, and now favors immigrants over the US-born (including US-born white men, since we also see a decline when they are the main reference point), it is unlikely that such biases can explain the relative decline in immigrants' incarceration.

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<sup>22</sup> See Online Appendix B for details on excluded facilities.

Second, incarceration rates might understate immigrants' criminality if unauthorized immigrants are less likely to report crimes due to fear of deportation (Comino et al. 2020, Jácome 2022). Yet, we see the relative decline among immigrants from all sending regions (with significantly different shares of unauthorized populations), among citizen migrants (who cannot be deported), and decades prior to the rise in deportations.

#### **4. The Widening of the Incarceration Gap is Part of a Trend of Growing Differences between Immigrants and the US-born**

Numerous studies have shown that less-educated men – the group that accounts for most of the recent increase in incarceration; panel (a) of Figure 4 – have experienced a deterioration in outcomes, including their employment, family formation, incarceration, and health (Abraham and Kearney 2018, Binder and Bound 2019, Coile and Duggan 2019, Case and Deaton 2020). This deterioration has been attributed to declines in labor demand from globalization (e.g., Autor et al. 2013) and skill-biased technological change (e.g., Acemoglu and Autor 2011), among other forces.

We conclude the paper by showing that, beyond incarceration, this broader deterioration in outcomes has been significantly more muted among less-educated *immigrant* men. The remaining panels of Figure 4 confirm that low-educated immigrants and US-born men, particularly high school dropouts, have diverged along several dimensions since the 1960s. Panels (b) and (c) show that there has been a divergence in the degree of labor force attachment: among men without a high school degree, immigrants were employed at similar rates than their US-born counterparts in the past but are 30 percentage points more likely to be employed today. Figure A22 shows this same divergence when comparing immigrants to white US-born men only.<sup>23</sup>

Panels (d) and (e) show that low-educated immigrants and US-born men have also diverged with respect to family formation rates. Again, we find that low-educated immigrants and US-born men were comparable prior to 1960 and then began to diverge, with low-educated immigrants now being significantly more likely to be married and living with children. This divergence has been mostly driven by the US-born having a lower probability of marriage and living with children,

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<sup>23</sup> The figures in this section start in 1940 because this is the first Census that records education. Figures A23 and A24 show analogous figures for all men and for low-educated women, respectively.

rather than by increases among immigrants, suggesting that the pattern is not driven by family reunification rules in the immigration system.

Finally, panel (f) uses data from the General Social Survey (Davern et al. 2023) to show that there has been a divergence in self-reported health status. By 1980, the proportion of US-born men without a high school degree who reported having “excellent” or “good” health (as opposed to “fair” or “poor”) was about 63%, 8 percentage points below the corresponding proportion among immigrants without a high school degree. Today, the gap is much larger (closer to 20 percentage points).

Of course, the outcomes in this subsection are correlated with each other and with criminality and incarceration, so the direction of causality is not obvious. On the one hand, worse employment prospects (Gould et al. 2002, Britto et al. 2022), lower marriage rates (Dustmann and Ladersø 2021, Massenkoff and Rose 2022), and lower parenthood rates (Sampson et al. 2006) may all contribute to higher incarceration. On the other hand, higher incarceration rates among low-educated men may have negatively impacted their labor market outcomes (Agan and Starr 2018, Dobbie et al. 2018) and their family formation (Charles and Luoh 2010). Regardless of the direction of causality, these patterns highlight that incarceration is part of a broader divergence of outcomes between less-educated immigrants and their US-born counterparts.

Why have less-educated immigrants remained relatively insulated from the forces that negatively affected low-educated US-born men? Our data do not allow us to pinpoint precise reasons, but we offer two possible explanations. First, lower-educated immigrants have specialized in manual, non-routine occupations, which are often located at the bottom of the wage distribution (Peri and Sparber 2009). Hence, immigrants were relatively shielded from the “hollowing out” of the middle of the wage distribution (Autor et al. 2006, 2008).<sup>24</sup> Second, immigrants are a self-selected group of individuals that likely differs from their US-born counterparts in characteristics such as their risk aversion (Jaeger et al. 2010) or their adaptability and cognitive ability (Bütikofer and Peri 2021). Immigrants have revealed that they are willing to travel long distances for opportunity, a trait which is consistent with immigrants’ higher rates of entrepreneurship across the firm-size

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<sup>24</sup> In contrast, Figure A25 shows that immigrants were equally likely to be concentrated in the declining manufacturing sector.



distribution (Azoulay et al. 2022).<sup>25,26</sup> Such characteristics may have helped immigrants to weather the negative shocks that affected less-educated US-born men.<sup>27</sup>

## 5. Conclusion

We construct the first nationally representative series of immigrant-US-born incarceration gaps from 1870 until present day. We find that, as a group, immigrant men have had a *lower* incarceration rate than US-born men for the last 150 years of American history. The differences in incarceration have become more pronounced starting in 1960, with recent waves of immigrants being 50–60% less likely to be incarcerated than US-born men (30% when compared to US-born white men). This relative decline in incarceration has occurred among immigrants from all major countries of origin, and it cannot be explained by changes in immigrants' observable characteristics or in immigration policies. Moreover, we show that the divergence in outcomes between less-educated immigrants and US-born men occurred along dimensions beyond incarceration, including labor force participation and family formation rates.

Although this paper rules out several potential explanations for the decline in immigrants' relative incarceration rates that took place since the 1960s, future work might delve deeper into why immigrants' outcomes differ so significantly from those of their US-born counterparts. The fact that less-educated immigrants and the US-born have diverged along multiple dimensions – ranging from labor market outcomes, to incarceration, to health – suggests that the relative decline in immigrants' incarceration might reflect deeper structural forces disproportionately affecting low-educated US-born men (and not their immigrant counterparts) in the past half century.

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<sup>25</sup> Prior work (Amior 2020, Basso and Peri 2020, Cadena and Kovak 2016) shows that immigrants have greater migration responsiveness to economic conditions. Nevertheless, we note that differences in location cannot explain the gaps between lower-educated immigrants and their US-born counterparts. Figures A26 and A27 show that labor market and family formation gaps are stable after accounting for granular geographic (county or PUMA) fixed effects.

<sup>26</sup> Additional figures consider and rule out other reasons for immigrants being relatively less affected by these forces. Figure A28 shows that low-educated *citizen* immigrants also have higher employment and labor force participation rates than US-born men, making it unlikely that differences in the availability of social insurance can explain the widening of the gap. We also do not find any evidence that differences in the likelihood of committing drug-related offenses can explain the immigrant-US-born incarceration gap (Figure A29).

<sup>27</sup> A potential explanation for these patterns is that the group of less-educated US-born men might have become smaller in size and increasingly negatively selected over time, but that such a process did not occur to the same degree among immigrants (Novosad et al 2022). Note, however, that this explanation cannot account for the fact that the incarceration rate of immigrants *as a whole* declined relative to that of the US-born.

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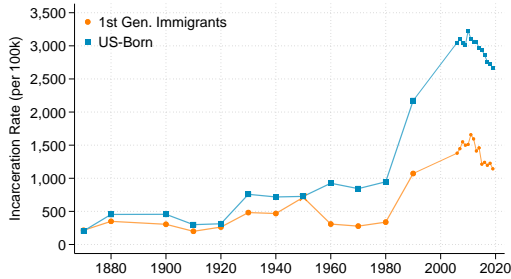
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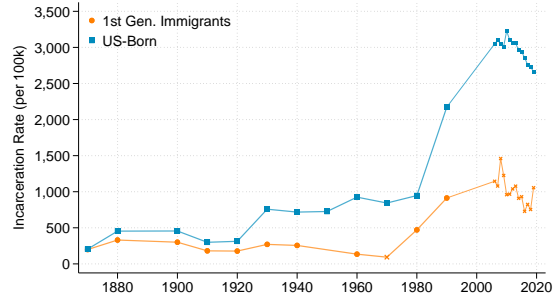
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**Figure 1: Incarceration Rates of Immigrants and US-born Men, 1870-2019**

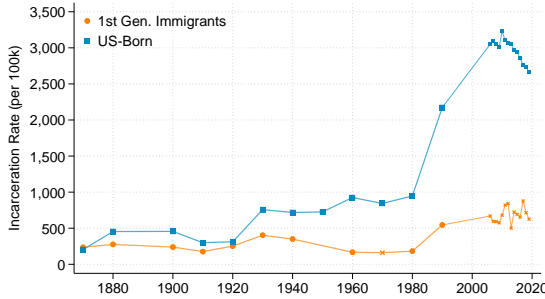
**(a) All Immigrants**



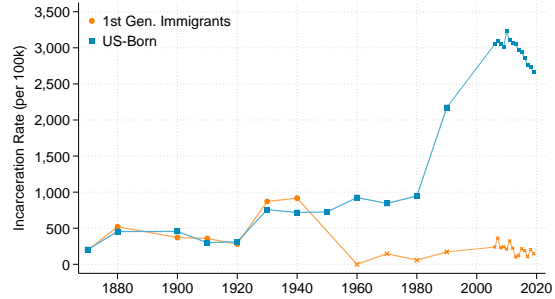
**(b) “Old” Europeans**



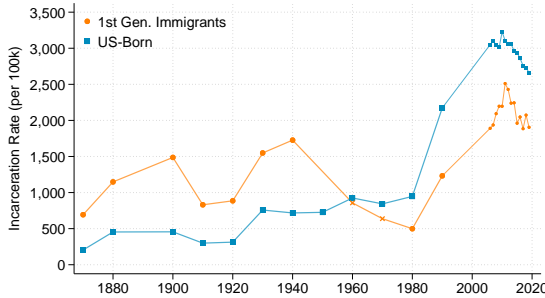
**(c) “New” Europeans**



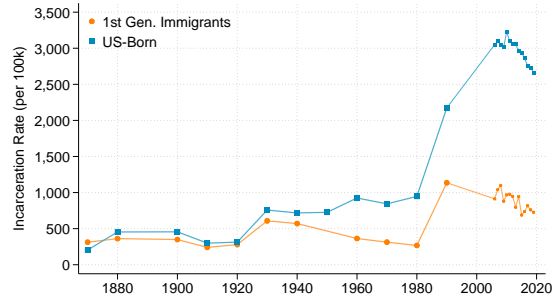
**(d) Chinese**



**(e) Mexican and Central Americans**



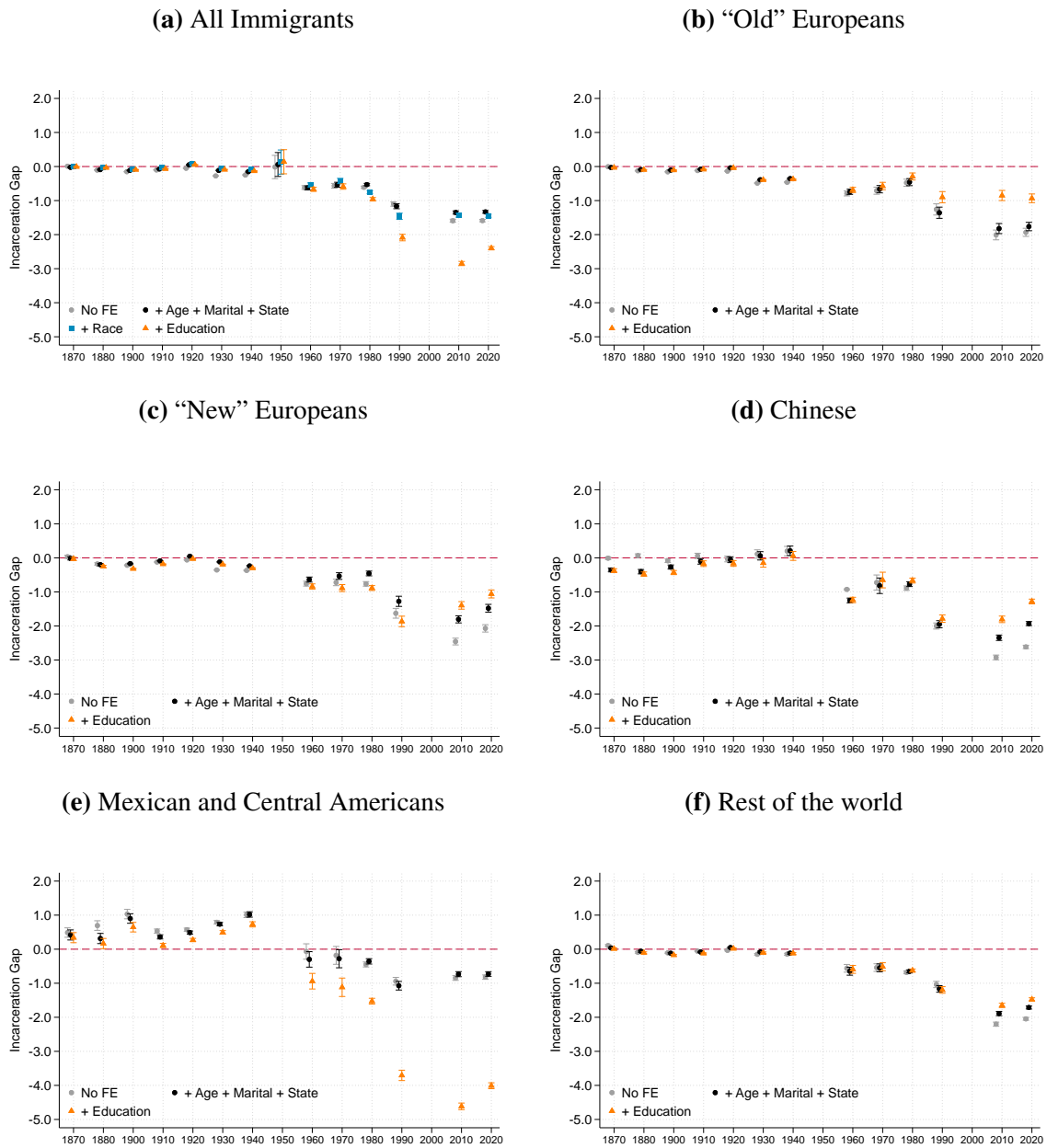
**(f) Rest of the world**



*Notes:* Each panel plots incarceration rates for immigrants and US-born men between 1870 and 2019. Data are restricted to males ages 18-40. Data spanning 1870 to 1940 are from the full-count decennial Censuses. Data spanning 1950 to 1990 are from the largest available sub-samples from the corresponding decennial Censuses. Data from 2005 onward are from the annual American Community Surveys (ACS). Cross markers indicate that fewer than 10,000 immigrants were used to calculate the corresponding incarceration rate. Panel (a) compares US-born men to all immigrants. Panels (b)-(f) compare US-born men to immigrants from a particular country-of-origin group. “Old Europeans” are immigrants from countries in the North and West of Europe. “New Europeans” are immigrants from countries in Eastern and Southern Europe. The “Rest of the world” category includes immigrants from countries not included in panels (b)-(f). For more details, see Online Appendix B.

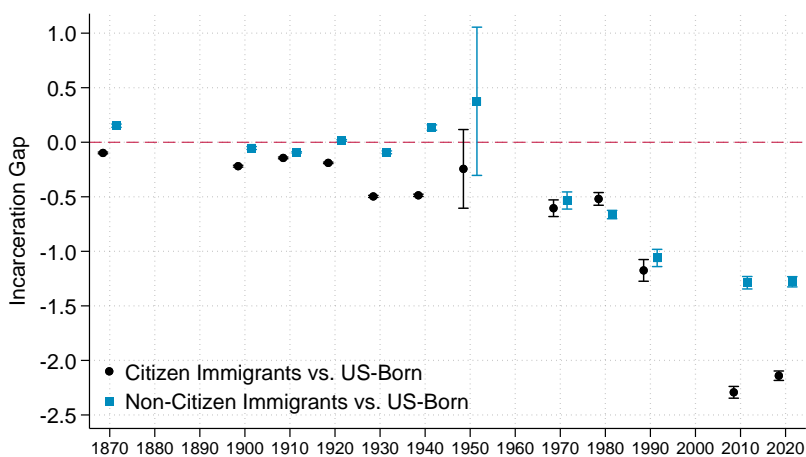


**Figure 2:** Difference in Incarceration Rates of Immigrants and US-born Men, Adjusting for Individual-Level Characteristics, 1870-2019



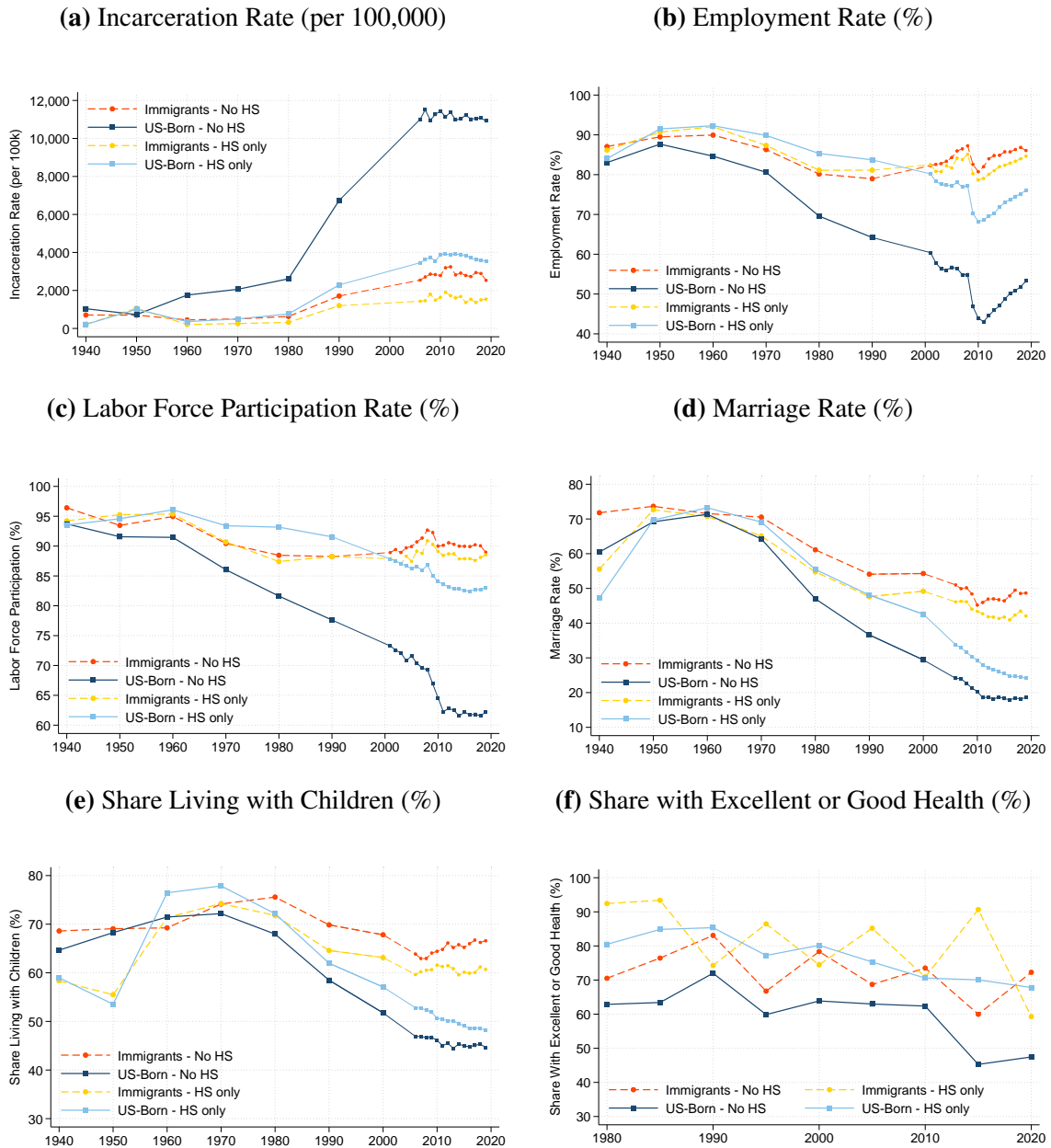
*Notes:* Each panel plots the estimated values of  $\beta$  using equation (1) for each Census year. The series labeled “No FE” includes no individual-level control variables, and each subsequent series sequentially adds control variables. The series labeled “+ Age + Marital + State” includes individual age fixed effects, marital status (currently, previously, and never married) fixed effects, and state-of-residence fixed effects. The series labeled “+ Race” in panel (a) includes race fixed effects in addition to the previously listed variables. The series labeled “+ Education” adds education fixed effects to the previously listed variables (Age+Marital+State+Race fixed effects in panel (a), Age+Marital+State fixed effects in the remaining panels). Education refers to an indicator denoting literacy before 1940 and educational attainment from 1940 onward (HS dropout, HS graduate, any college). Panel (a) compares US-born men to all immigrants. Panels (b)-(f) compare US-born men to immigrants from a particular country-of-origin group. See Figure 1 and Online Appendix B for data sources and definitions of each country-of-origin group. All estimates report robust standard errors.

**Figure 3:** Differences in Incarceration Rates of Citizen and Non-Citizen Immigrants, 1870-2019



*Notes:* Each series plots the estimated values of  $\beta$  using equation (1) and varying the sample of immigrants. The series (labeled “Citizen Immigrants vs. US-born”) restricts the sample of immigrants to those that are US citizens. The series (labeled “Non-Citizen Immigrants vs. US-Born”) restricts the sample of immigrants to those that are non-citizens. Data are restricted to males ages 18-40. In 1870, 1900, and 1910, data are restricted to males ages 21-40 because citizenship was not defined for individuals under 21 in these Censuses. Data from 1880 and 1960 are omitted because the Census did not include a citizenship question in those years. See Figure 1 and Online Appendix B for more details on data sources. All estimates report robust standard errors.

**Figure 4: Incarceration, Labor Market, Family Formation, and Health Outcomes of Immigrants and US-born Men Without Any College Education, 1940-2019**



*Notes:* This figure plots the outcomes of immigrant and US-born men by educational attainment between 1940 and 2019. “No HS” refers to individuals with 11 or fewer years of schooling. “HS Only” refers to individuals with exactly 12 years of schooling. Panels (a)-(d) are restricted to males ages 18-40. Panels (e) and (f) are restricted to males ages 30-50 and 18-65, respectively. Panels (b)-(e) restrict the sample to non-institutionalized individuals. For panels (a)-(e), data spanning 1950 to 1990 are from the largest available sub-sample from the decennial Census, and data from 2000 onward are from the annual American Community Survey (ACS). Panel (f) uses data from the 1977–2020 General Social Survey (GSS) and plots the share of individuals who report being in excellent or good health. Each data point in this final panel reflects information from various survey waves around that year. For more details, see Online Appendix B.