

# Punctuated Equilibrium and Immigration: The Executive Order States

Christine Thurlow Brenner  
*University of Massachusetts Boston*

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*This paper examines how punctuated-equilibrium theory informs and leads states to embrace “rapid, correcting change in the face of accumulating factual evidence” that the population demographics are increasingly complex in the twenty-first century (True, Jones and Baumgartner 2006). The paper analyzes the relationship between public administrators, who are charged through gubernatorial executive orders with leading statewide immigrant integration efforts, and community activists and local leaders, who are highly invested in the outcomes vis-à-vis the impact on the state’s diverse immigrant communities. The paper compares the institutional structure, process, and resource allocation for examining immigrant newcomer issues and recommending policies in five states: Illinois, New Jersey, Washington, Massachusetts, and Maryland. I find that while public administrators seek to advance immigrant integration, they are constrained by the political realities of their institutional positions, especially their relationship to the governor. Community activists and local leaders, who frequently advocate from outside the institutional process, when appointed to state task forces use their mobilization skills to hold public administrators accountable and expand the discussion of institutional effects on immigrant integration. The role of academics and policy researchers, who inform and sometimes mediate the discussion, is also explored.*

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Changes in U.S. immigration policy occur with “predictable regularity” since the end of the Second World War. The multiple pressures of changing international relations, economic need for labor, and emergent socio-cultural attitudes and ideological-moral perspectives merged and formed the impetus for significant, often dramatic, changes in policy (e.g. Salehyan and Rosenblum 2008; Tichenor 2002). These radical shifts in federal immigration policy occurred in each of the post-war decades, as shown in Table 1. Punctuated equilibrium theory posits that while most policy change is characterized by stability and incre-

**Table 1. Major Immigration Legislation since WWII with Major Punctuated Change in Policy in Bold**

1945	War Brides Act
1948	Displaced persons Act
1950	Internal Security Act
<b>1952</b>	<b>Immigration and Naturalization Act</b>
1953	Refugee Relief Act
1957	Refugee-Escapee Act
1960	Cuban Refugee Act
1963	Refugee Assistance Act
1964	Bracero Reauthorization Act
<b>1965</b>	<b>Hart-Cellar Act</b>
1975	Indochina Refugee Act
<b>1976</b>	<b>INA Amendments</b>
1977	Indochinese refugee Act
<b>1978</b>	<b>INA Amendments</b>
1980	Refugee Act
<b>1986</b>	<b>Immigration Reform and Control Act</b>
1990	Immigration Act
1996	Personal Responsibility Act
<b>1996</b>	<b>Illegal Immigration Reform and Individual Responsibility Act</b>

*Source: Tichenor, Dividing Lines*

mentalism, large scale departures from the past do occur when either external pressure or internal processes provide a window of opportunity for radical change (Kingdon 1995; True, Jones, and Baumgartner 2007).

By 2005 the United States was poised for another such far-reaching change as opposing sides on the immigration policy debate began a legislative confrontation that had its roots in reforming the Immigration in the National Interest Act of 1996 (HR 2202); a bill that focused primarily on increased border security, employment verification, and increased penalties for alien smuggling and document fraud (U.S. Congress. HR 2202. 1996). In May of the 109th Congress, bi-partisan comprehensive immigration reform was introduced by Senators John McCain (R-AZ) and Edward M. Kennedy (D-MA). The Secure America and Orderly Immigration Act (S. 1033) built on earlier efforts by Senators Chuck Hagel (R-NE) and Thomas Daschle (D-SD) in the prior legislative session (Washington Post May 14, 2005). The bill included an earned pathway to citizenship for unauthorized immigrants, new visa requirements favoring highly-skilled laborers, and relied on cameras, vehicle barriers, and increased Border Patrol presence to secure our international borders (U.S. Congress. S 1033. 2005). Other major immigration-related legislation also under consideration included the Agricultural Job Opportunities, Benefits and Security Act of 2006 (S2611) sponsored by Pennsylvania Senator Arlene Specter (R)<sup>1</sup> that also had a pathway to perma-

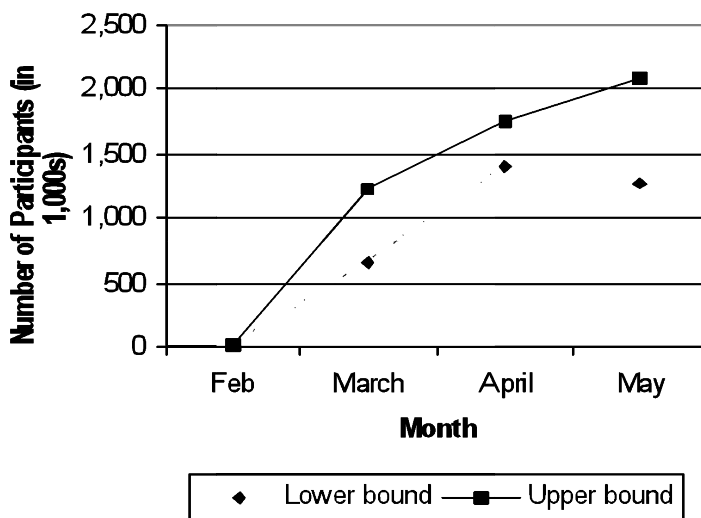
ment resident status through a special agricultural employment program; and the Secure Border Initiative which enjoyed overwhelming support in both the House and Senate<sup>2</sup> and was eventually enacted as a part of the Department of Homeland Security Appropriation Act in FY2007 (U.S. Congress HR 5411 2006; U.S. Congress S2611 2006).

The combined pressures of increased desire for strong homeland security and fear of the “other”, which gained traction following the 9/11 terrorist attacks in the United States, culminated in the winter of 2005 with passage of HR 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act by a vote of 239 to 182 (U.S. Congress. HR4437. 2006). Championed by Judiciary Chair James Sensenbrenner (R-Wisconsin), this bill called for increased militarization of the U.S.-Mexico border including the construction of 700 miles of security fencing, criminalized undocumented entry into the United States, and required implementation of an electronic employment verification system (U.S. Congress. HR 4437. 2005.).

The Sensenbrenner bill represented a restrictive and punitive turn in U.S. immigration policy; however, this radical shift in policy unleashed a grassroots response from immigrants, social justice advocates, and faith-based communities across the United States. Frustrated by inaction on the McCain-Kennedy bill and angry about the negative immigrant characterizations of the Sensenbrenner bill, beginning with Valentine’s Day service industry labor walkouts in Philadelphia, mass actions and parades grew across the United States so that on May first, a traditional day to celebrate labor and solidarity, an estimated 1.5 to 2 million persons turned out in the streets of Los Angeles, Chicago, New York and hundreds of other metropolitan centers. Figure 1 shows the increase in the numbers of persons participating in the immigration rallies throughout spring 2006.

Both the Sensenbrenner bill and the McCain-Kennedy legislation represented significant moments for potential radical change in U.S. immigration policy; yet, neither emerges as the new vision for 21st century federal policy. What happens, then, when the moment of punctuated change is lost? Border security, unable to be ignored even in the comprehensive reforms suggested by McCain-Kennedy, gained ground and since 2006 over 600 miles of fencing totaling in excess \$2.7 billion dollars was constructed along the southern border (Associated Press Jan. 28, 2009). Yet the pent up frustrations and hopes and dreams for citizenship expressed by the civic actions of 2006 did not evaporate into thin air. I suggest that unable to succeed at the national level, activists turned to the states to seek pragmatic solutions that would ease the turmoil and uncertainty in the lives of immigrants. These periodic eruptions of sub-national activity help maintain the momentum for federal change and can be viewed both as incremental change, which pushes against national stasis, and as sub-national punctuations in state equilibrium vis-à-vis immigrant policy. I also argue that some states are more predisposed to consider change and respond to voices that are calling for a recognized role for the immigrant in the civic and political life of the state.

This paper examines how punctuated-equilibrium theory informs and leads states to embrace “rapid, correcting change in the face of accumulating factual evidence” (True, Jones and Baumgartner 2007) that the population demographics are increasingly complex in the twenty-first century. The paper analyzes the relationship between public administrators, who are charged through gubernatorial executive orders with leading statewide immi-

**Figure 1. Spring 2006 Immigration Rally Participation by Month**

Source: Xochital Bada, Jonathan Fix, Elvia Zazueta and Ingrid Garcia. *Immigration Rights Marches Spring 2006*. Woodrow Wilson Center, Princeton University. [www.wilsoncenter/migrantparticipation/docs/Database Immigrant Rights Marches.pdf](http://www.wilsoncenter/migrantparticipation/docs/Database%20Immigrant%20Rights%20Marches.pdf)

grant integration efforts, and community activists and local leaders, who are highly invested in the outcomes vis-à-vis the impact on the state's diverse immigrant communities. The paper compares the institutional structure, process, and resource allocation for examining immigrant newcomer issues and recommending policies in five states: Illinois, New Jersey, Washington, Massachusetts, and Maryland. I find that while public administrators seek to advance immigrant integration, they are constrained by the political realities of their institutional positions, especially their relationship to the governor. Community activists and local leaders, who frequently advocate from outside the institutional process, when appointed to state task forces use their mobilization skills to hold public administrators accountable and expand the discussion of institutional effects on immigrant integration. The role of academics and policy researchers, who inform and sometimes mediate the discussion, is also explored.

Transformative changes in class, gender, race, ethnicity, and national origin of a state's population present challenges to bureaucratic institutions charged with developing and implementing public policy. Bureaucratic incorporation and institutional effects on immigrant integration is a nascent field of study. In both Jones-Correa's (2004) examination of public education in Virginia suburbs, and Lewis and Ramakrishnan's (2007) evaluation of police practices in California cities, the researchers find that public administrators rather than politicians are leading integration efforts. The symbiotic partnerships between subur-

ban public agencies and community-based organizations noted by Frasure and Jones-Correa (2010) suggest pragmatic approaches to demographic change in fiscally constrained environments. Sinclair (2002) observes the duality of institutional attachment, on the part of immigrants, and government policy choices operate together to influence newcomer integration. And Bloemraad (2006) notes that the degree to which community organizations and local leaders are embedded in an institutional context, which is shaped by government policies regarding newcomer settlement, influences immigrant political incorporation.

### **Punctuated Equilibrium – A Framework for Change**

Punctuated equilibrium theory enters the social sciences from the field of evolutionary biology, first advanced by paleontologists Gould and Eldredge (1972) to explain the combined forces of gradual incremental change and radical, dramatic departures in evolution. The application to social sciences by Baumgartner and Jones (1993) provided new understanding of policy change. “Punctuated equilibrium theory seeks to explain a simple observation: political processes are generally characterized by stability and incrementalism, but occasionally they produce large-scale departures from the past” (True, Baumgartner and Jones 2007).

Robinson (2003) observed that the radical change by policy makers usually occurs when the pressure for change becomes overwhelming. He further suggests that the punctuations, or radical policy departures, act as a “counterpoint to rigidity” (Robinson 2003: 17). In order to impact the rigidity or stasis of policy in a given arena, Baumgartner (2006) notes the importance of positive feedback effects which “stem from the rapid interactions of shifting and changing venues of policy action” (Baumgartner 2006: 3).

The role of image was pivotal to the 2006 push for comprehensive federal immigration reform. Indeed we observed the positive feedback loop (Baumgartner 2006) occurring in the grassroots activist community after the first mass rallies in March. Initially immigrants arrived at the parades proudly displaying the flags of their countries of origin, yet the negative characterization of this image by conservatives who supported stasis in immigration policy subsequently lead participants in mass actions to carry hundreds, if not thousands, of American flags.

Meanwhile, the negative image of unauthorized immigrants as terrorists and law breakers was continually before the public’s eye through the rhetoric of conservative talk hosts such as Rush Limbaugh and cable television hosts Lou Dobbs and Glen Beck. The criminalized immigrant either linked to undocumented entry at the U.S.’s southern border or the tragic events of 9/11 fanned the flames of fear in the conservative community increasing pressure to maintain stasis in immigration policy.

Similarly these same nativist conservative media hosts focused on the threat to American culture, similar to Huntington’s (2004) assessment, and they injected the notion of a vast political conspiracy. Dobbs, commenting on the mass demonstrations of 2006, said, “These were not spontaneous demonstrations but carefully organized and orchestrated over some time for the precise purpose” (Leider 2006). Dobbs also said:

There are some Mexican citizens and some Mexican- Americans who want to see California, New Mexico and other parts of the Southwestern United

States given over to Mexico. These groups call it the reconquista, Spanish for reconquest. And they view the millions of Mexican illegal aliens in particular entering the United States as potentially *an army of invaders* to achieve that takeover (Dobbs 2006a).

Both Dobbs and Fox News' Glen Beck hone in on the cultural threat undocumented immigrants present to their version of mainstream America:

The very identity of the United States is at stake as the leaders of the United States, Mexico and Canada once again discuss what is being called a strategy for common border security, something none of the American people, nor the Canadians, nor the Mexicans have had the opportunity to vote on (Dobbs 2006b).

I told you about the five-part plan that I believe may lead to the end of the West as we know it; I called it my 'Perfect Storm;' one of the elements...is illegal immigration; it is still a great way for terrorists to come here and mess with us; but even if that doesn't happen....*at the very least (they're) attacking our culture, and our way of life; they are not melting into our melting pot; they're here for the cash.* [Italics added for emphasis] (Beck in Lendman 2009).

The head-to-head confrontation of the images of immigrants as new Americans portrayed by those favoring comprehensive, humane reform in immigration policy and the immigrant as criminal/terrorist and under-miner of American values preferred by those supporting policy stasis and heightened border security, contributed to a legislative stalemate. Both policy positions wanted radical change – one seeking a more humane, family-centered immigration policy with an earned pathway to citizenship and the other side favoring restrictive immigration emphasizing pro-active deportation enforcement and hundreds of miles of fenced militarized borders. It is at this point that other portion of the conditions for punctuated equilibrium became critical that of venue for change. The federal impasse on immigration reform pushed the reform efforts to the sub-national effort.

### **States as Sites of Immigrant Policy**

States are not often thought of as the logical venue for consideration of immigration policy, as the courts have affirmed that it is exclusively a federal jurisdiction under the plenary power doctrine as elucidated by Justice Stephen Field in 1889 (*Chae Chan Ping v United States*, 130 U.S. 581). States and localities do however represent the venue at which the daily lives of immigrant newcomers encounter the social, political, and civic life of a nation. The emergent literature on immigrant integration (Bloemraad 2006; Brenner 2009 and 2006; Frasure and Jones-Correa 2010; Jones-Correa 2004; Lewis and Ramakrishnan 2007) focuses on the importance of the local in effective integration into American society. When the punctuations in immigration policy anticipated at the federal level did not occur, five

**Table 2. Executive Order States Ranked by Percent Foreign Born: 1990, 2000 and 2008**

	Percent Foreign Born			National Rank by Percent Foreign Born		
	1990	2000	2008	1990	2000	2008
New Jersey	12.5%	17.5%	19.8%	5	3	3
Massachusetts	9.5%	12.2%	14.4%	7	11	8
Illinois	8.3%	12.3%	13.8%	12	10	10
Maryland	6.6%	9.8%	12.4%	15	15	13
Washington	6.6%	10.4%	12.3%	14	14	14
<b>United States</b>	<b>7.9%</b>	<b>11.1%</b>	<b>12.5%</b>			

Notes: The term foreign born refers to people residing in the United States who were not United States citizens at birth. The foreign-born population includes naturalized citizens, lawful permanent residents (LPRs), certain legal nonimmigrants (e.g., persons on student work visas), those admitted under refugee or asylee status, and persons illegally residing in the United States. The observed difference between the ACS estimates of the foreign born in 2007 and 2008 might not be statistically significant. For information on sampling and nonsampling error, contact the US Census Bureau.

*Source: Table generated by Aaron Terrazas and Jeanne Batalova of the MPI Data Hub (Migration Policy Institute). Estimates for 1990 and 2000 are from the US Census Bureau, Summary File 3, 1990 and 2000 US Decennial Censuses; 2007 and 2008 estimates are from the US Census Bureau, 2007 and 2008 Community Surveys.*

states each headed by a Democratic governor became the sites for policy changes affecting immigrants. All five states highlighted in this paper are members of the Progressive States Network (PSN), which launched a major campaign to change the national narrative on immigration politics. The PSN aligned with civil rights, labor, religious, and community-based organizations through the State Immigration Project, which has as its stated goal “to defeat bad legislation and pass humane immigration legislation where possible, but also to create opportunities to highlight the positive contributions of immigrants to our states” (Progressive States Network 2008). Similarly a number of conservative states passed highly restrictive policy measures. This paper focuses on the initiatives in the progressive states as they develop policy and policy recommendations to accelerate immigrant integration.

The five states included in this analysis are all immigrant-receiving states, ranking from third to fourteenth nationally based on the percent foreign-born in 2008. As Table 2 shows, New Jersey has the highest percentage of foreign-born residents and is considered one of the traditional immigrant gateway states, as well as does Illinois. Massachusetts and Maryland represent early immigrant states on the east coast with Washington functioning in the same capacity on the west coast. The diversity of sending countries is represented in

**Table 3. Top Three Immigrant Sending Countries to Executive Order States**

State	Sending Country		
	Top	2nd highest	3rd highest
Illinois	Mexico	Poland	India
Maryland	El Salvador	China	India
Massachusetts	India	Mexico	Dominican Republic
New Jersey	India	Mexico	China
Washington	Mexico	Philippines	China
<b>USA</b>	<b>Mexico</b>	<b>China</b>	<b>Philippines</b>

*Source: US Census Bureau, 2006-2008 American Community Survey 3-year estimate, B05006. Place of birth for foreign born, excluding population born at sea.*

Table 3, which shows Mexico, China, and the Philippines are the top three sending countries to the United States as a whole. Illinois and Washington State both receive the majority of their immigration from Mexico; however, India (NJ), Brazil (MA) and El Salvador (MD) are the top sending countries in the other three states.

### *Illinois*

In November 2005 former Illinois Governor Rod Blagojevich signed the New American Executive Order, which created the Office of New Americans Policy and Advocacy. It represented the culmination of his administration's efforts to integrate immigrants into Illinois' economy and society, which included passing the nation's toughest day labor protection legislation, allowing undocumented students to attend public universities at in-state tuition, the state's recognition of foreign consular cards for identification and heightened protection from unscrupulous notaries who represent themselves as immigration attorneys. The Office of Refugee Services in the Illinois Department of Human Services, led by the nationally recognized dean of refugee and immigrant services Dr. Edwin Silverman, laid much of the groundwork for the executive order in collaboration with the Illinois Coalition for Immigrant and Refugee Rights (ICIRR) (Office of the Governor. 2005.). They also helped mobilize national resources from foundations and commitments from policy leaders to support the work of the governor's newly appointed New Americans Immigrant Policy Council. " 'It's creating a political climate where immigrants are seen as a net benefit to the state,' says Ngoan Le, a senior official at the Chicago Community Trust, a private foundation. 'The state's highest officeholder is sending a message that his state welcomes immigrants,' " (Jordan 2008).



The executive order was backed by substantial state resources to support the vision of immigrant integration by changing the way the state of Illinois served immigrants and refugees. An initial \$1.6 million to jumpstart the transformation of state agencies was set aside for an interagency task force, led by the Illinois Department of Human Services. In addition to the New Americans Policy Council and the interagency task force, Illinois also established the first Welcoming Center for New Americans in 2007. The Welcoming Center “offers a one stop shop for services in healthcare, education, labor and employment available through the state to help newcomers transition into their communities” (Illinois Department Human Services 2007). The Illinois Department of Human Services (IDHS) and the Governor’s Office of New Americans are working with nine state agencies in order to bring direct access to services to qualified applicants. Located in the older multi-ethnic suburban community of Melrose Park, the Welcoming Center is convenient to those in the Chicago area, but less so to immigrants in central and southern Illinois.

The six-year report of the Illinois New Americans Initiative (2009) highlights the transformative changes which are occurring in administrative practice. Most notably, the Department of Human Services (2009) adopted a revised administrative directive for serving limited English proficient persons that “standardized language preference data collection and analysis, established linguistic access at key points of service, a bilingual pay policy and addressed the delivery of linguistically and culturally competent services by its many contractors.”

### *New Jersey*

The New Jersey executive order, signed in August 2007, represented the fulfillment of a promise made to the governor’s Latino Advisory Council to directly address state issues related to immigration. Like the Illinois executive order, New Jersey Governor Jon Corzine emphasized that “successful integration of its immigrants as fully productive and self-sufficient members of society is critical to the future economic and social well-being of the State” (NJ Executive Order 78). The order established a 27-member blue ribbon advisory panel, which was given 15 months to produce recommendations for the governor. Almost immediately the politics of New Jersey interjected itself into the process, and the governor expanded the advisory panel from 27 to 35 members through executive order 91.

Unlike the Illinois integration efforts, which received significant financial resources to accomplish its task, the financial exigencies of New Jersey were such that there was no additional funding for the blue ribbon panel’s work. The existing staff from the Public Advocate’s office along with representatives from the departments of labor and workforce development, education, health and senior services, children and families, human services, and the Attorney General’s office provided support from their existing budgets. A positive spillover effect of the state agency leadership of the blue ribbon panel’s study working groups, which included labor, education, social services and state and local government issues, was that some policy changes occurred before the final report was issued. The work of the blue ribbon panel was conducted through public hearings, expert testimonies, and research provided by Rutgers and Princeton Universities.

While earlier efforts in Illinois had clearly focused the recommendations of the of

Governor Blagojevich's executive order, Governor Corzine's executive order laid out a study process that would culminate in recommendations. Fifteen months later, the blue ribbon panel issued a series of recommendations, which included among other things the establishment of an Office of New Americans.

On January 11, 2010 during the closing days of the Corzine administration, Executive Order 164 established the New Jersey Commission on New Americans. The Commission is the coordination and oversight entity for the inter-departmental collaboration regarding immigrant integration policies, and is responsible for implementation of a statewide policy for immigrant integration, which incorporates the recommendations of the blue ribbon panel. In the meetings held to date the Commission organized its work efforts in reviewing education, labor and workforce issues, social services, and general immigrant integration policy. The Commission passed a resolution opposing Arizona's SB 1070, which permitted law enforcement officials to demand proof of residency from any person regardless of whether they are suspected of a crime or not, and encouraging New Jersey municipalities to embrace a more proactive immigrant integration strategy (NJ Commission on New Americans 2010). In conjunction with the New Jersey ACLU and other immigrant advocacy groups, the Commission also successfully lobbied the NJ Department of Education's Acting Commissioner to send letters to executive county superintendents reminding them that all districts must comply with the U.S. Supreme Court's 1982 *Plyler v. Doe* decision, which guarantees educational access to all children ages 5-21 regardless of their immigration status (NJ Department of Education 2010.)

The constrained fiscal environment currently limits the Commission to considering cost-neutral initiatives; however, the executive order does require that state agencies cooperate fully with the Commission. In addition to "identify(ing) any measures that will bring enhanced economy, efficiency, and accountability to government operations", the pivotal work of the Commission is to "create a resource guide that will navigate and support the approximately 1.8 million immigrants through the maze of state and local resources that provide targeted services to immigrants, including referrals to nonprofit and faith-based organizations, English language acquisition, citizenship acquisition, accreditation and qualification services, and employment support." This work is advancing through parallel efforts of a multi-disciplinary team of Rutgers University faculty whose growing data base (1000+ entries) of immigrant-initiated and immigrant-serving nonprofit organizations will result in an online searchable map of the immigrant infrastructure in New Jersey.

### *Washington*

King County, Seattle's city council, and Hate Free Zone, a pro-immigrant integration grassroots group organized post-9/11, were all active in supporting immigrant integration efforts in the State of Washington (Washington New Americans Policy Council 2009). Seattle also hosted one of the nationwide immigration rallies in May 2006. The combined efforts of an attentive public sector, community-based organizations, and an engaged immigrant community created the groundswell that led Governor Chris Gregoire to establish the New Americans Policy Council in Washington State in February 2008.

The role of the New Americans council was to recommend policies, which would fa-

cilitate English language acquisition, credentialing of immigrants who received their professional training outside the United States, and promote naturalizations and public-private partnerships that encourage civic engagement of immigrants (Jordan 2008). Given a two-year study directive via the executive order, the Washington legislature appropriated \$344,000 in the 2009 fiscal year, and promised future appropriations of \$2 million over the life of the council. The funding was “to promote community economic development and build the capacity of organizations across the state to provide naturalization assistance to legal permanent residents” (Progressive States Network 2008).

The Council’s first comprehensive final report, issued in 2009, highlighted the outcomes of their proactive policies: 730 naturalization applications were completed through subcontracts to six community-based organizations; citizenship day events reached 751 immigrants at 12 geographically-dispersed sites throughout the state; and 372 volunteers provided support through free legal services, interpretation and general support (One America 2009). Additionally, their multi-lingual hotline, staffed by OneAmerica and community partners, and their informational website (Washington New Americans Gateway to Citizenship 2010) provide different portals to information is a model of a successful public-NGO partnership to advance citizenship efforts supporting a statewide institutional logic argument (Frasure and Jones-Correa 2010)

### *Massachusetts*

Massachusetts Governor Deval Patrick also affirmed the “successful integration of immigrants and refugees into our society is critical to our economic and civic well-being” in the executive order he signed July 9, 2008 (Patrick 2008). The governor’s order directed the development of a comprehensive and strategic approach to ensure integration of immigrant newcomers. Structurally, the Massachusetts Office for Refugees and Immigrants (MORI), the state agency chiefly responsible for refugee resettlement and state policies affecting immigrant and refugee populations, and the Governor’s Advisory Council for Refugees and Immigrants (GACRI) were charged with responsibility of developing policy recommendations, which would frame a New Americans agenda for the state (Patrick 2008).

The Massachusetts process emphasized a grassroots approach to developing policy recommendations. Specifically elucidated in the executive order was a directive to develop a New Americans network of community-based organizations that were responsible for hosting public meetings across the states. As in the Illinois effort, the statewide coalition of immigrant and refugee advocates played a central role in organizing the community-based input along with the Governor’s Office of Civic Engagement. Policy recommendations on citizenship assistance, education, civil rights, fair housing, healthcare and public safety as well as workforce training and English language acquisition was submitted to the Governor on October 1, 2009 (Massachusetts Governor’s Advisory Council for Refugees and Immigrants 2009).

The top five issues raised in the grassroots public meetings speak to the pragmatic aspects of negotiating everyday life in the Commonwealth. They include access to driver’s licenses, in-state tuition for all immigrant residents, more and lower cost English as second language classes, and allowing bilingual education. In-state tuition and access to driver’s li-

censes were included at all six statewide meetings, reflecting the views of over 1200 residents of the Commonwealth (Egmont, Millona et al 2009).

### *Maryland*

Governor Martin O'Malley created the Maryland Council for New Americans on December 3, 2008. The executive order that created the council established a nine month time frame for policy and practice recommendations that would "expedite immigrant integration into the economic and civic life of the State" (Executive Order 01.01.2008.18). The Council was chaired by the Secretary of the Department of Labor, Licensing and Regulation and the County Executive. Unlike earlier executive order states which left the organization of the work to the created bodies, the Maryland executive order specified working groups for workforce, citizenship, governmental access, and financial services. Additionally, the governmental access working group was charged with responsibility for developing "specific government wide StateStat measures to track the capacity to serve these [*immigrant*] communities" (Executive Order 01.01.2008.18) introducing the concept of performance measurement of integration efforts. Operational support for the Council's work was vested in the Governor's Office of Community Initiatives and the Department of Labor, Licensing and Regulation.

The report to Governor O'Malley, released in August 2009, called for "a new alliance of public, private and nonprofit stakeholders, with the leadership of a cabinet-level office," which would be charged with implementing the recommendations of the Maryland Council for New Americans. The top recommendations from the other three working groups were to improve credentialing and support systems for foreign-trained professionals; establishing and funding a robust citizenship initiative; and reducing fraud and financial scams that prey on immigrants (Lagdameo and Ortiz 2009).

### **The Role of Grassroots Organizations**

Grassroots immigrant organizations served critical roles in each of the five executive order states. Whether operating alone or under the auspices of an umbrella organization, like MIRA, ICIRR, or NJIPN, the grassroots groups gave powerful testimony and voice to the lives of immigrants in the states. For example in Massachusetts ten community-based organizations ranging from the Alliance to Develop Power in Springfield to the Immigrants Assistance Center in New Bedford hosted statewide focus groups attended by over 1,200 people. Immigrants, immigrant entrepreneurs, and their grassroots organizations shaped the policy priorities presented to Governor Deval Patrick (The Governor's Advisory Council for Refugees and Immigrants 2009). Furthermore, the participation of network organizations like the Mutual Assistance Association Coalition affirms Hamm's (2009) findings that transnational organizations build human capital and increase political participation in the United States.

Encouraged and supported by their leaders and organizers, immigrants in New Jersey and Maryland testified at public hearings held across their states. When the final report from the NJ Blue Ribbon Commission was presented to then-Governor Jon Corzine at a public press conference, they were there saying: "Look my name is in the report. I want my

son and daughter to be proud. We came to America for a better life for them.” (Brenner 2009c).

As Wells (2004, p 1318) notes, “...the states and local governments’ responsibility to provide for the welfare of all residentially-present persons creates an opening for local advocates to mobilize the powers of subordinate levels of the nation-state so as to protect immigrants’ rights.” Grassroots immigrant organizations leveraged the structural opening created by the state’s executive orders to give voice to the concerns of the resident immigrant population, regardless of their immigration status.

Additionally those groups who were affiliated with national immigrant interest groups emphasized policy positions on issues such as real ID and driver’s licenses, employer verification, and social service provision (Marquez and Witte 2009). The combined efforts of national issue groups, statewide umbrella organizations, and grassroots immigrant organizations ensured pivotal policy issues important to the everyday lives of immigrants were included in the reports submitted to the political leadership of the states.

### **The Role of State Offices for Refugees and Asylees**

The Office of Refugee Resettlement, under the U.S. Department of Health and Human Services, provides assistance and services such as cash and medical assistance, employment training and job placement as well as English language training for refugees and asylees. Established under the auspices of the Refugee Act of 1980, funding is allocated to states that either directly provides services or contracts with private or non-profit organizations to deliver services. The role of these sub-national offices for refugees varies across the states from purely administrative to a more activist construction of the office’s responsibilities (Silverman 2009).

Illinois, the first executive order state focused on immigrant integration, had an activist office of refugee services. Created to address the naturalization of refugees and immigrants who benefited from the Immigration Reform and Control Act of 1986’s opportunity for amnesty, the office assisted over 155,000 immigrants in becoming new citizens under that act. Efforts of the director, Dr. Edwin Silverman, created strong linkages with the Illinois Coalition for Immigrant Rights. According to Silverman (2010, p. 2), “In the spirit of Jane Addams and Saul Alinsky, we have also supported the development of refugee-owned community-based organizations to serve as a link to the mainstream. Those services aim to expedite refugee integration, a two-way process in which newcomers and the receiving society work together to build secure, vibrant, and cohesive communities.” Their combined efforts helped register 35,000 new American voters and established a permanent immigrant services line item in the state budget.

Maryland also had an activist office and played a key role in assisting 12,000 immigrants who gained legal status under the Immigration Reform and Control Act of 1986 to become permanent residents. By 1995 the Maryland legislature charged the office with expediting the naturalization process for state residents, a task which was accomplished through an extensive institutional network of partner organizations, including the Maryland Coalition for Refugees and Asylees (MCRA) (Maryland Department of Human Resources 2010). Maryland’s Office for Refugees and Asylees (MORA) collaborated with MCRA for

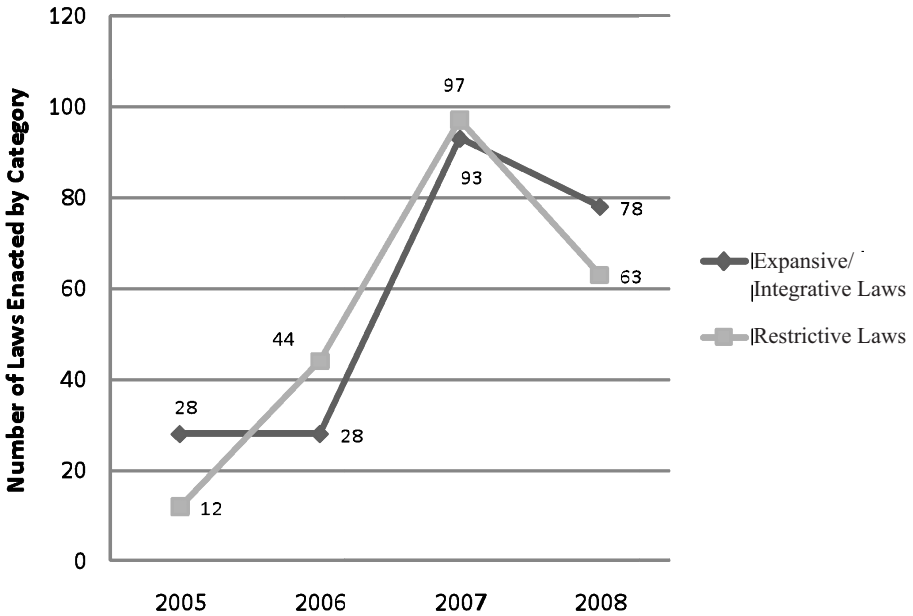
the past 23 years to provide annual conferences, an effort recently supported by the newly established Council for New Americans; however, Maryland changed the role of their previously existent office, also named the Maryland Office for New Americans as a result of the Governor's executive order. The newly defined purpose of the office was to administer Maryland's federally funded refugee programs.

Maryland's narrowly defined, administratively-focused office is typical of other states approach to refugee and asylee services. New Jersey's Office of Refugee Services, situated in the Department of Human Services, is also illustrative of the more narrowly defined administrative office. During the 18-month period the Governor's Blue Ribbon Advisory Panel met, there was no representative from this office appointed to the panel and only one consultation was held with the state refugee coordinator. The Massachusetts Office of Refugees and Immigrants oversees the state's refugee resettlement program. Joint funding from the federal and state government is funneled to local resettlement agencies, which provide case management and other services, such as English language classes and employment assistance, casting them in a similar administrative role as New Jersey's office.

Washington, which is the sixth largest state for refugee arrivals in the United States, also has an administratively focused office. The state refugee resettlement program, which was established in 1975 as a part of the Washington Department of Social and Health Services, collaborates with community-based organizations, 12 voluntary refugee resettlement agencies, private and local providers. In addition to the federal funds the office receives, the state FY2008 budget allocated \$2.2 million for citizenship services in addition to the \$7.1 million for employment and English as second language classes for refugees (Washington Workforce Training and Education Coordinating Board 2010). The office focuses on its administrative role in planning and budgetary responsibilities, coordination and performance monitoring of services provided by third-party vendors who provide direct service through the Refugee Cash Assistance, Unaccompanied Refugee Minor, Refugee Social Services, Immigrant Naturalization Facilitation, and the Limited English Proficiency (LEP) Pathway. Here we see the same institutional logic of collaborative relationships working at the state level, documented in numerous urban areas in 2004-05 (Brenner 2009), and Frasure and Jones-Correa (2010) identified at the local suburban level in the Washington DC suburban areas.

In the case of Illinois and Maryland Offices of Refugee Services, they assumed an activist role in both encouraging the issuance of an executive order and helping to coordinate statewide efforts to assemble information and policy recommendations after the Governor issued the order. As noted by the Carnegie Foundation, "Executive orders give policymakers, especially at the local level, the ability to showcase the positive contributions and impact of immigrants on a wide variety of issue areas and especially to highlight how they are working to integrate into all aspects of U.S. life" (Carnegie Reporter 2007). Procuring an executive order from the state's governor allowed these offices of refugee services to showcase the work they had accomplished and broaden their role to serve immigrants throughout the state. It is also possible that using the base of the offices of refugees' services may create a policy frame of the immigrant, which then could become a nuanced challenge when trying to address the issues and concerns of the undocumented as well. The

**Figure 2. Enacted State Legislation Related to Immigrants and Immigration, Excluding Vetoed Legislation and Resolutions, 2000-2008**



Source: Author’s own calculation of expansive/integrative and restrictive legislation based on National Council of State Legislatures reports. Morse et al. 2007. *A Review of State Immigration on Legislation in 2005*; Morse et al. 2006. *2006 State Legislation on Related to Immigration: Enacted and Vetoed*; Hegen, 2008. *2007 Enacted State Legislation on Related to Immigrants and Immigration (revised Jan. 31, 2008)*; and Hegen, 2009 *State Laws Related to Immigrants and Immigration in 2008 (revised Jan. 27, 2009)*.

other administratively-oriented refugee offices played lesser roles in the remaining executive order states.

**Statewide Coalitions for Immigrants**

All five states had loosely organized coalitions of immigrants and immigrant organizations, which played a role in coordinating the input from the grassroots during the working group information gathering phase of the state’s study of sub-national immigrant policy issues. Illinois and Massachusetts’ coalitions played pivotal roles in the process. Indeed it was the combined efforts of the Illinois coalition and Edwin Silverman from the state’s office of refugee services which jointly lobbied for the gubernatorial executive order. In the case of Massachusetts, the coalition was given the responsibility for organizing the series of statewide public hearings along with the Governor’s Office of Civic Engagement.

The New Jersey immigrant coalition’s executive director was appointed to the blue ribbon panel; however, at several points during the discussions and information gathering

phase of the panel's work the executive director was reminded by the chair of the panel, a state official appointed by the governor, that he was there to represent himself and his views, not as an organizational representative. This exchange occurred when the executive director wanted on more than one occasion to take an issue "to his people" and poll them for their opinion. From the perspective of the state official, the polling of member organizations was an unwieldy suggestion, which would have interjected delays in an already collapsed study time frame. The executive director's insistence on going back to the members for their opinions bespeaks the collaborative, grassroots decision making structure of the organization, New Jersey Policy Information Network (NJPIN) and notably the director encouraged the broad-based participation from member organizations during the three public hearings held by the blue ribbon panel. (Brenner 2009b).

All five of the state coalitions sponsored annual conferences which highlighted changes in federal law and other federal, state, and local policies impacting the lives of immigrants. The Maryland coalition of service providers was centered primarily in the Baltimore-Washington D.C. area. Hate Free Zone, later renamed One America with Justice for All, was the primary coalition leader in Washington State. One America is partnering with the Washington New American's Policy Council to sponsor a public hearing to solicit community-based testimonies about the immigrant experience in the state. In addition to its annual conference covering a wide range of immigrant issues, NJPIN also sponsored a conference with the New Jersey Department of Education to empower immigrant parents of school-aged children through information about their rights vis-à-vis the public schools.

## **Conclusion**

I began this paper by raising the question of what happens to a policy issue that is poised for significant radical departure in direction at the national level. I find that in the case of immigration and immigrant issues, the policy issue follows the trajectory suggested by True, Jones and Baumgartner (2007); it reverts to the sub-national level. However, I also find that through the use of executive orders governors created a framework for state-level punctuations in policy. Immigrant integration, as advanced through the work of policy councils or blue ribbon panels, arose as a policy priority in five states that are themselves the recipients of large numbers of immigrants and refugees. This transference of focus from federal to states, rather than reflecting stasis was instead the impetus for punctuated policy change at the sub-national level of government.

A limitation of this study is immediacy of events. Implementation of state immigrant policy recommendations is its nascency. The ability of the policy recommendations to transform the way states approach the issue of immigrant integration cannot be fully examined at this time. And other states, New Hampshire and Minnesota, are moving in the direction of statewide study of immigrant issues. In other states there appears to be recognition that expedited integration of immigrant newcomers builds the economic base of the whole state as well as the civic and social life of all Americans.

At the other end of the policy spectrum other states are enacting restrictive immigrant legislation, as shown in Figure 2. Most recently, Arizona SB 1070 enacted in 2010, which makes "attrition through enforcement the public policy of all state and local government



agencies” to “discourage and deter unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States” (State of Arizona. Senate. 2010, p. 2) takes the strongest anti-immigrant stance to date and raises many questions regarding the potential for racial profiling of American citizens. Subsequently the federal government challenged the constitutionality of the statute based on the principle of federal preemption in the area of immigration legislation (U.S. District Court for the District of Arizona 2010). A temporary injunction issued by U.S. District Court (AZ) Judge Susan Bolton delayed implementation of the portion of the law, which would require the police to check the immigration status of anyone they suspected of being an illegal immigrant (Warren 2010). Oral arguments in the case, *USA v State of Arizona* (Case No. 10-16645) were heard in November 2010 at United States Court of Appeals for the Ninth Circuit in San Francisco (Public Information Office, U.S. Court of Appeals for the Ninth Circuit 2010), with a spring 2011 decision likely.

The Oklahoma Taxpayer and Citizen Protection Act of 2007, which among other things cutoff public assistance for undocumented immigrants, makes it a felony to harbor, transport, conceal, or shelter illegal immigrants and requires public employers and their contractors to use the federal E-Verify database to confirm workers have legal status before they can be hired. Colorado’s HB 1343, *Illegal Aliens Public Contracts for Services* enacted in 2006, prohibits state agencies from entering into contract agreements with contractors who knowingly employ illegal immigrants and requires a prospective contractor to verify legal work status of all employees, and similarly legislation was also passed in Georgia. Both Georgia and Nebraska require verification of status for receipt of public benefits. (National Conference of State Legislatures 2009). So the restrictive punctuations are present and are ratcheting up in intensity since the 2006 immigration rallies, and as noted in Figure 2, more restrictive legislation is enacted during 2006 and 2007 than expansive-integrative approaches.

It remains to be seen if the sub-national activity around immigrant integration will begin to rebuild national pressure for comprehensive immigration reform. However, the positive pressure from grassroots and national immigrant rights organizations combined with the efforts of Illinois, Massachusetts, New Jersey, Maryland, and Washington State may not be enough against the resistive pressures of the anti-immigrant rhetoric, restrictive policies adopted in conservative states, and the economic fears many Americans are experiencing during the worst financial downturn since the Great Depression of the 1930s. Indeed the same competition we have observed in the recent national elections between red and blue states may be playing itself out in immigrant policy punctuations. Further monitoring of these punctuations is needed to determine when, or if, a tipping point is reached that pushes an immigrant policy response back to the federal level.

**Christine Thurlow Brenner**, PhD, is an associate professor of public policy and public affairs at the University of Massachusetts, Boston. Her research focuses on institutional effects on immigrant integration, public administrative implications in communities undergoing major demographic change, and U.S.-Mexico border issues. She co-edited the book *Digame! Policy and Politics on the Texas Border* and has published in academic journals

and contributed chapters to various books. She consults with state and local governments on immigrant integration policy and public finance issues. She can be contacted at Christine.Brenner@umb.edu.

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The author served as academic advisor to Governor Corzine's Blue Ribbon Advisory Panel on Immigrant Integration and is currently a Commissioner on the New Jersey Commission on New Americans.

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### Notes

<sup>1</sup> Other sponsors of S2611 included Brownback (R-KS), Graham (R-SC), Hagel (R-NE), Kennedy (D-MA), Martinez (R-FL) and McCain (R-AZ).

<sup>2</sup> HR 5441 passed the House of Representatives 389 to 9 and received unanimous support in the Senate, becoming public law on October 4, 2006.

