

THE "CHILLING EFFECT" OF AMERICA'S NEW IMMIGRATION ENFORCEMENT REGIME

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Since the welfare reforms of the mid-1990s, the number of families receiving cash assistance from the Temporary Assistance for Needy Families (TANF) program dropped from 4.5 million in 1996 to 2.0 million in 2013. Although some of this decline arises from changes in eligibility rules, including restrictions based on work criteria, length of residence, and immigration status, another important source of the decline is the simple underutilization of available services. That is, despite the sting from the latest economic downturn, benefits and services available through TANF are not always fully exploited. A report by the Urban Institute estimates a take-up rate of about one in three eligible TANF participants—meaning that most people who qualify for TANF pass on the opportunity to use the benefit. Why do those who are eligible for social safety-net programs opt not to enroll?

We take a closer look here at one explanation known as the “chilling effect.” This account attributes declining welfare use among eligible immigrants and their children to confusion about who is eligible for benefits and to fears relating to the application of the public charge doctrine. Public charge laws are century-old policies that regulate entry into the United States by excluding people who officials believe are likely to draw from public relief programs. Because Hispanic immigrants to the United States might believe, based on such laws, that TANF enrollment would lead to detection and deportation, there is reason to believe that TANF enrollment among Hispanics might be accordingly “chilled.”

Below, we highlight key findings from our study of whether the deployment of a new immigration enforcement system in the United States impacts participation in TANF differently for Hispanics and non-Hispanics. Our analysis provides new evidence on the provocative claim that the “chilling effect” is deterring those who are entitled to public benefits and services from in fact using them.

Recession and Enforcement through Latino Eyes

The possibility of a chilling effect is especially troubling during a recessionary period in which Hispanics face additional economic stresses. It is well known that downturns widen unemployment gaps between racial minorities and non-Hispanic whites. The effects of the recession on Latinos also go well beyond job loss. By 2008, one in 10 Latino homeowners missed a mortgage payment or were unable to make a full payment. Analyzing data from the U.S. Census Bureau, the Pew Research Center reports that, between 2005 and 2009, household wealth—the inflation-adjusted accumulated sum of assets (houses, cars, savings and checking accounts, stocks and mutual funds, retirement accounts, etc.) minus the sum of debt (mortgages, auto loans, credit card debt, etc.)—fell by 66 percent for Latinos and 53

percent for African Americans, compared with just 16 percent among non-Hispanic whites.¹ By 2010, the number of Hispanic children in poverty eclipsed the number of white children in poverty.² Surveying Latinos nationwide, a Pew Hispanic Center survey in 2011 finds “[a] majority (54 percent) believe that the economic downturn that began in 2007 has been harder on them than on other groups in America.”³

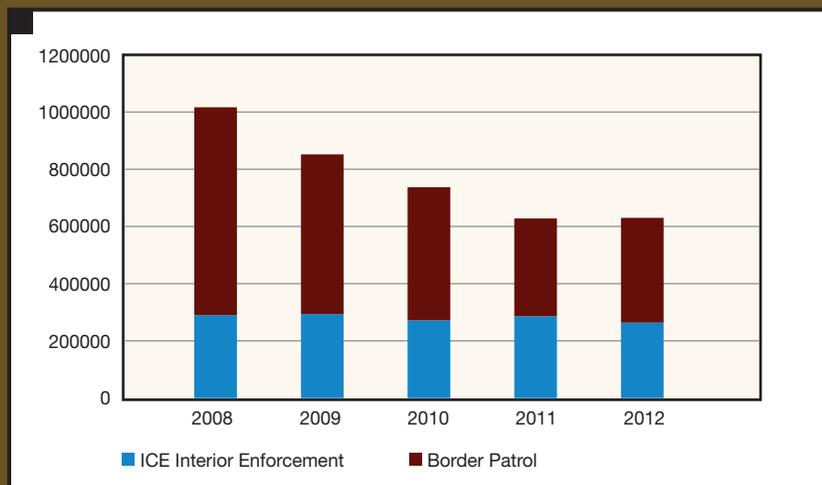
Preceding and coinciding with these economic developments are two key policy innovations in immigration law. First, federal legislation, such as the 1996 Illegal Immigration Reform and Immigration Responsibility Act and the 1996 Anti-Terrorism and Effective Death Penalty Act, expanded U.S. immigration enforcement powers by removing key components of due process for noncitizens, increasing the set of deportable crimes, and allowing retroactive application of deportation proceedings for crimes previously adjudicated. Although these laws widen the gap in constitutional rights and privileges between noncitizen and citizen, they offer little improvement in the capacity of federal authorities to identify unauthorized immigrants living in the United States. Second, unlike the old Immigration and Naturalization Services, the new Bureau of Immigration and Customs Enforcement (ICE) features an unprecedented degree of coordination between federal and local authorities. Improvements in information-sharing technologies increase the efficiency and geographic reach of interior immigration enforcement operations.

The core of the new immigration enforcement and removal system is Secure Communities (hereafter sComm), the program responsible for an increasing share of deportations from the interior of the United States. The sComm program is directed by ICE officials, but involves a set of procedures that begins with local law enforcement authorities (LEA). In the course of booking a person into custody, LEA collect fingerprints and other identifying information to pass electronically and cross-

reference against databases managed by federal authorities. When federal authorities are alerted to a match by computer systems, they notify the LEA holding an unauthorized immigrant in custody and request a detainer. Detainers are requests to keep a person for up to 48 hours, pending custody transfer. Through sComm’s information sharing and coordination procedures, immigration authorities are funneling millions of people to detention centers, immigration court proceedings, and removals from the country.

Figure 1 tracks interior apprehensions relative to operations at ports of entry and the U.S. borders with Mexico and Canada. Although the United States is deporting record levels of newcomers, there is a general decline in the total number of apprehensions. Economic downturns typically reduce in-migration, leaving fewer

FIGURE 1. Total apprehensions from the border and interior of the country.



Source: U.S. Department of Homeland Security, Immigration Statistics.

persons for Border Patrol officials to apprehend. The figure also reveals that an increasing share of apprehensions, about 40 percent by 2012, are due to interior enforcement operations. This pattern suggests that, since the debut of sComm in 2008, interior immigration enforcement and removal efforts are more proximate in the day-to-day lives of immigrants.

Given that 75 percent of immigrants living without authorization in the United States are from Latin American countries, we might anticipate that deportations are similarly concentrated by country of origin. In fact, ICE reports indicate that in 2012 and 2013, 97 percent of sComm deportations were immigrants from Latin America. Roughly corresponding with the distribution of actual deportations is the perception by 72 percent of Hispanics that police primarily target people who are Hispanic when making inquiries about immigration status, according to Latino Decisions, a survey research firm.⁴

The foregoing suggests that, just as the recession increased the need for safety-net assistance, there were ongoing changes in immigration enforcement that might have convinced some Hispanics that they were being targeted for deportation and would therefore be wise to forgo using TANF and other programs. This is, then, the rationale for the “chilling effect” hypothesis.

Is there any *direct* evidence that Hispanics are reluctant, by virtue of deportation worries, to use government services? Indeed there is. In the month before the onset of the 2008 recession, and nearly a year prior to the rollout of sComm, a Pew Hispanic Center survey finds that 22 percent of Latinos say that “as a result of increased public attention to immigration issues they are less likely to use government services.”⁵ Importantly, this figure does not vary by nativity, meaning that the perception is held in equal proportion by immigrant and U.S.-born Latinos.

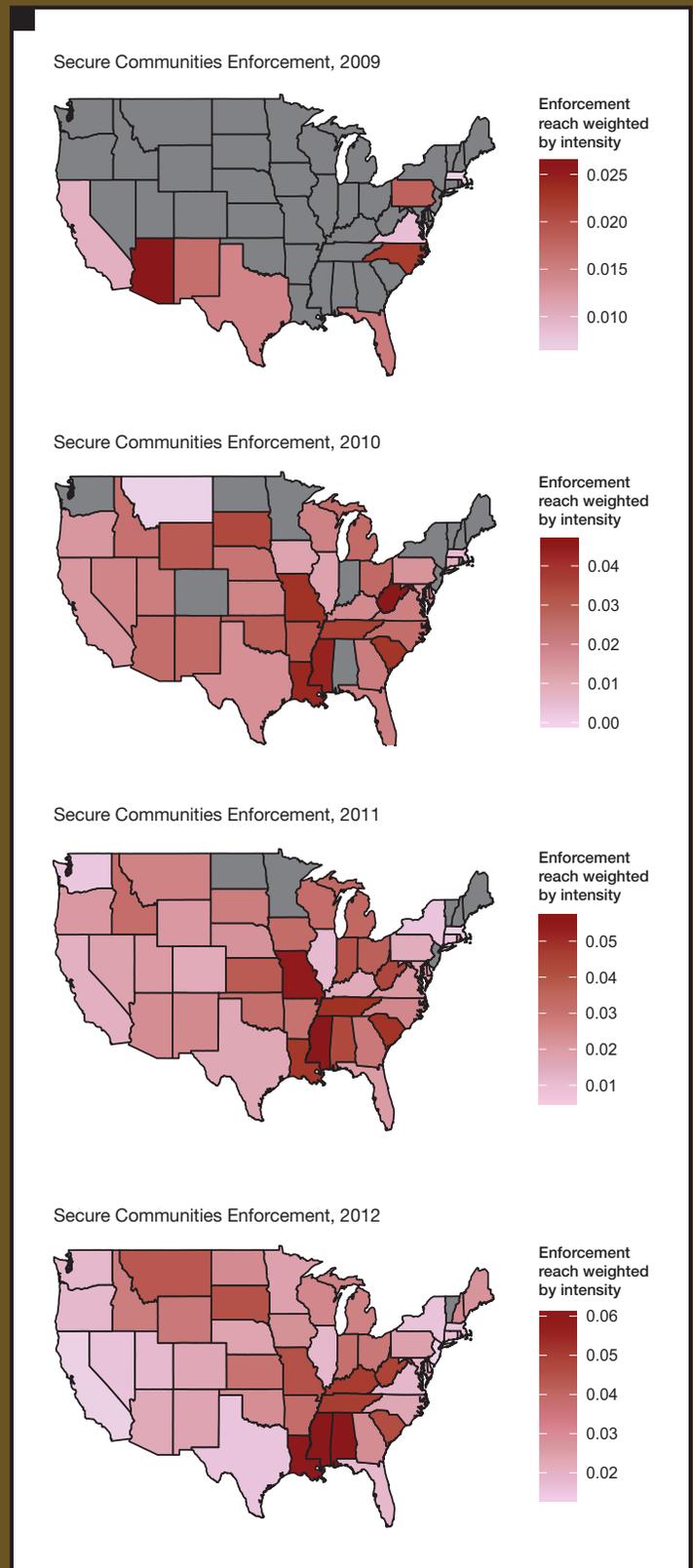
This survey implies that, even before the effects of the recession were fully felt, some Latinos anticipated a reduction in service use. But does the “chilling effect” appear in actual behavior?

An Actual “Chilling Effect”?

We answer this question using cross-sectional data from the Annual Social and Economic Supplement of the Current Population Survey (CPS-ASEC) for the years 2009 to 2012. The survey tracks individual-level participation in programs like TANF for a separate and independent, nationally representative sample each year. Apart from providing crucial information about enrollment in TANF, the CPS-ASEC is valuable because it allows us to examine the impact of the full geographic reach of sComm enforcement across the country.

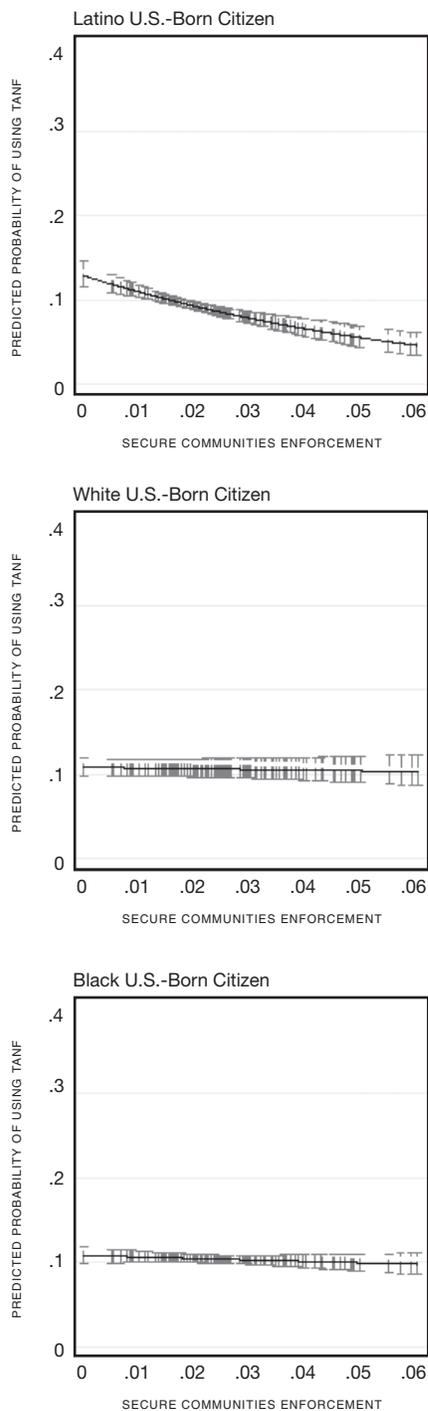
Our comparison focuses on individuals who are presumed eligible for TANF benefits. Using information about individual-level income, assets, household size, labor market attachment, immigration status, length of residency, and state of residency, we craft a precise indicator of presumed eligibility for TANF from 2009 through 2012. Our method accounts for different TANF eligibility rules by state, assuring that we limit our analysis to the most appropriate cases for comparison. Applying our method to those who did report receiving TANF benefits, we accurately identify 97 percent of respondents reporting TANF participation in the

FIGURE 2. Secure Communities reach and intensity.



Source of data mapped is authors' calculations using data reported by Department of Homeland Security, Bureau of Immigration and Customs Enforcement's Monthly IDENT/IAFIS Interoperability Statistics (available at www.ice.gov), weighted by the foreign population in a state as reported annually in the CPS-ASEC (available at www.census.gov/cps/data).

FIGURE 3. Predicted probabilities of using Temporary Assistance for Needy Families among individuals who are presumed eligible.



Source: Current Population Survey, Annual Social and Economic Supplement, 2010–2013.

data. A key advantage of the data is the sample size. After setting aside individuals who are not likely to qualify for TANF, we are left with over 160,000 cases for comparison, which provide more than sufficient statistical power to estimate differences in a regression analysis.

We measure immigration enforcement with metrics reported by ICE about sComm operations at the state level. Consistent with ICE's stated goal to prioritize serious criminals, sComm classifies three types of unauthorized migrants. High priority, "Level 1" (L1) immigrants, are those charged or convicted of an aggravated felony. Next, "Level 2" (L2) immigrants include those convicted of misdemeanors. Finally, "Level 3" (L3) corresponds to offenses punishable by less than one year. Reports furnishing our data collapse L2 and L3 into a single "low priority" category.

Our enforcement measure has two parts. First, the ratio of low priority removals (L2 and L3) to total removals in a state captures the reach of sComm enforcement. Next, we multiply reach by intensity of sComm enforcement, calculated as the ratio of the volume of LEA submissions to federal databases and the state foreign-born population. Since the foreign-born are not evenly distributed across states, it is crucial to account for both reach and intensity. The "chilling effect" of sComm on TANF participation is likely to be greater for Latinos who live in states where sComm enforcement is broader and more intensive.

Figure 2 displays our measure of sComm enforcement from 2009 to 2012. The maps show two features. First, states in gray have yet to activate sComm. The sComm program was initiated in the Southwest and some Eastern-corridor states. Second, Arizona and North Carolina stand out in the debut year of sComm, but are eclipsed by Louisiana, Mississippi, and Alabama by 2012. The South, in general, scores the highest once sComm is activated in the region.

We next apply a multilevel statistical regression model designed to estimate the likelihood that a person uses TANF benefits. The model lets us account for various individual socio-economic characteristics as well as state-level contexts pertaining to where a person lives, including the proportion of the population that is foreign born, the unemployment rate, the degree of anti-immigrant sentiment expressed by state residents in public opinion polls, the general extent of welfare program generosity, and of course, the reach and intensity of sComm enforcement. The multilevel strategy allows us to model individual TANF participation differently for each state, which is appropriate given that states are allowed great flexibility in setting rules for TANF implementation. A model that groups individuals according to the state where they live also corresponds nicely with the broader patterns in sComm rollout and enforcement since 2008.

In light of the discussion above, our main theoretical expectation is that the "chilling effect" of sComm enforcement is greater for Hispanics. We test this expectation in Figure 3, where each panel traces the predicted probability of a U.S.-born citizen reporting TANF participation in the 12 months prior to being interviewed in the CPS-ASEC. We show separate panels for Latinos, non-Hispanic whites, and African Americans. The x-axis for each panel represents the full range of values for our sComm enforcement measure, and the y-axis represents model

prediction. We include 95 percent confidence bands for each probability trace.

The top panel shows that sComm enforcement indeed has a chilling effect on U.S.-born Latinos. The second and third panels indicate that no “chilling effect” is observed for non-Hispanic whites or non-Hispanic blacks. For Latino U.S.-born citizens, the probability of using TANF drops approximately 5 percent in states with extremely high intensity of immigration enforcement (as compared with those with very low intensity).

In another result from our analysis, one that is not illustrated in the panels, we find no evidence of a “chilling effect” for naturalized citizens, whether Hispanic or non-Hispanic white. It is possible that lessons about civil rights and liberties, and the civic transformation that accompanies the naturalization process, empower new citizens to access public services no matter the extent of immigration enforcement where they live. By contrast, noncitizens (which include undocumented immigrants, legal permanent residents, or other authorized immigrants) do appear sensitive to sComm enforcement, especially non-Hispanic whites. However, this evidence of a “chilling effect” is much weaker and more uncertain.

In sum, in states with broader and more intense immigration enforcement, eligible Latino citizens, and to a lesser extent noncitizens in general, are “chilled” away from public support to which they are entitled. What is provocative about the analysis here is that the “chilling effect” appears most pronounced and certain for U.S.-born Hispanics.

Implications for Public Policy

The analysis here corroborates survey responses from Latinos, indicating that they are less likely to use government services because of increased attention to the issue of immigration. Our investigation suggests that TANF usage is affected, which is problematic given that the latest economic recession hit Latinos especially hard. Our study shows the “chilling effect” on TANF participation is most pronounced for U.S.-born Latinos. We find no evidence of a “chilling effect” for U.S.-born non-Hispanic whites or African Americans. It follows that the surge in interior

immigration enforcement may have undermined the capacity of Hispanics to stay out of poverty or to keep from slipping further into poverty.

Why might U.S.-born Latinos be so responsive to a deportation threat? After all, they are under no threat themselves of deportation, hence one might imagine they would be unaffected by changes in immigration policy. Although we cannot of course answer that question definitively, it is at least possible that Hispanics who are personally connected to a person who is undocumented take extra precaution not to expose them to any undue risk of deportation.

Whatever the mechanism might be, this evidence of a chilling effect highlights one of the largely unintended consequences of our immigration policy. To be sure, some supporters of more aggressive enforcement would welcome reduced service use by unauthorized immigrants, but this was surely not a main objective for most of the supporters.

If indeed it's not an objective, there are two ways forward. We could of course rethink our deportation-focused immigration policy, and indeed, President Obama has signaled he'll do just that (for at least some immigrants). Regardless of whether deportation continues to be aggressively pursued, a second and supplementary approach is to attempt to reduce its effects on service use by revisiting application procedures. At a minimum, social workers may do well to emphasize to immigrants, especially Latinos, that they are entitled to safety-net programs when needed.

This is especially important insofar as we have only uncovered the tip of the “chilling effect” iceberg. TANF makes up only one part of a broader American welfare state, and it's not a very large part at that. Participation in other means-tested programs like Medicaid, as well as safety-net programs like workers' compensation and unemployment insurance, should be evaluated for a comparable “chilling effect.” These programs, which serve to smooth household economic risk for all Americans, are an important part of the safety net. If they too are subject to a chilling effect, the combined implications for Hispanic poverty may prove to be especially large and costly. ■

Endnotes

1. Taylor, Paul, Rakesh Kochhar, Richard Fry, Gabriel Velasco, and Seth Motel. 2011. “Wealth Gaps Rise to Record Highs between Whites, Blacks, and Hispanics.” Washington, D.C.: Pew Research Center, Social and Demographic Trends, p. 5. http://www.pew-socialtrends.org/files/2011/07/SDT-Wealth-Report_7-26-11_FINAL.pdf.
2. Lopez, Mark Hugo, and Gabriel Velasco. 2011. “The Toll of the Great Recession: Childhood Poverty among Hispanics Sets Record, Leads Nation.” Washington, D.C.: Pew Research Center, Pew Hispanic

- Center, p. 4. <http://www.pewhispanic.org/files/2011/10/147.pdf>.
3. Taylor, Paul, Mark Hugo Lopez, Gabriel Velasco, and Seth Motel. 2012. “Hispanics Say They Have the Worst of a Bad Economy.” Washington, D.C.: Pew Research Center, Pew Hispanic Center, p. 4. <http://www.pewhispanic.org/2012/01/26/hispanics-say-they-have-the-worst-of-a-bad-economy/>.
4. Manzano, Sylvia. 2010. “Brand New Arizona? To Latinos, It's the Same Old Thing.” Latino Decisions. <http://www.latinodeci->

sions.com/blog/2010/05/17/brand-new-arizona/.

5. Clark, April, D'Vera Cohn, Richard Fry, Cary Funk, Felisa Gonzales, Rakesh Kochhar, Gretchen Livingston, Jeffrey Passel, and Paul Taylor. 2007. “As Illegal Immigration Issue Heats Up, Hispanics Feel a Chill.” Washington, D.C.: Pew Research Center, Pew Hispanic Center. <http://www.pewhispanic.org/files/reports/84.pdf>.