

STILL AT RISK: THE URGENT NEED TO ADDRESS IMMIGRATION ENFORCEMENT'S HARM TO CHILDREN

Over the past two decades, the nation's interior immigration enforcement policies have undermined the ability of the 5.2 million children with at least one undocumented parent to subsist and thrive.¹ The impact of these policies has varied in severity and has spillover implications for the broader U.S. community; however, it is clear that communities of color have borne the brunt of these impacts. Despite some reforms to curb immigration enforcement at the state and local level, in Congress, and presidential administrations over the years, many policies remain in place that cause harm to children in immigrant families (i.e., families with at least one foreign-born parent), the vast majority (90%) of whom are U.S. citizen children.² At the same time, well-intentioned policies aimed at mitigating the harm are often stalled by the federal courts or face implementation challenges. Policymakers must move in a direction that prioritizes the well-being of children and families who are impacted by immigration enforcement policies.

This summarizes the in-depth report, *Still at Risk: The Urgent Need to Address Immigration Enforcement's Harm to Children*, which presents key data on immigration enforcement in the interior of the United States, evidence of its impact on our nation's children, and action steps for the federal government and local policymakers to mitigate the harm. While many immigrant communities are impacted by immigration enforcement actions, this report primarily focuses on the impact on Hispanic and Latino communities,¹ due to limitations of available research. Existing literature focuses primarily on Hispanic and Latino immigrants, however, immigration enforcement practices have a significant impact on Black migrant communities as well, given anti-Black biases in the criminal legal system.³



KEY TRENDS

In the last 13 years, while there has been an overall downward trend in the number of Immigration and Customs Enforcement (ICE) arrests, removals, and detention book-ins in the interior of the country, approximately 58% (as of April 2023) of immigrants in ICE detention centers had no criminal record.⁴ Worksite raids, re-instituted by the Trump Administration but eventually discontinued by the Biden Administration, resulted in over 1,800 ICE arrests over the course of the Trump Administration. Interior arrests increased in 2016, then declined since 2019, partially as a result of the harmful Title 42 border expulsions and direction under President Biden and Secretary Mayorkas to prioritize ICE's limited enforcement resources. Despite the decrease in arrests, evidence demonstrates that punitive immigration enforcement continues to be harmful to children and communities.

¹ For the purposes of this paper, Hispanic and Latino are used interchangeably and defined as those who identify as such in Census surveys. This could include people who identify as Black or White Hispanic as well.

KEY FINDINGS ON THE IMPACTS OF IMMIGRATION ENFORCEMENT:

- Despite policymakers' claims that immigration enforcement increases public safety, evidence shows that **interior immigration enforcement has little to no impact on public safety** or crime, and, in fact, may **make communities less safe** because immigrants are less likely to report crimes in areas with more enforcement.⁵
- Immigration enforcement **increases the likelihood of poverty** among U.S.-born children of undocumented parents.⁶
- Research has shown that children in Hispanic households are **less likely to enroll in nutrition benefits like the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and more likely to experience food insecurity** in areas where there is more local law enforcement cooperation with ICE.⁷
- Immigration arrests and local law enforcement cooperation with ICE **cause housing instability, resulting in families missing rent payments and experiencing foreclosures.**⁸
- Immigration enforcement results in **chronic student absenteeism, student displacement, and trauma, which hinder students' educational outcomes** and also create additional strain on educators and learning institutions.⁹
- Immigration enforcement compromises the mental health of children, resulting in **increases in anxiety disorders, suicide attempts, and self-harm**, and has long-term implications for their development and well-being.¹⁰
- Immigration enforcement and even the threat of detention or deportation cause families to **forgo preventive and prenatal care for themselves and their children.**¹¹

RECOMMENDATIONS

Given the long-lasting and pervasive harm of interior immigration enforcement policies on children and communities, it is critical for policymakers to pass immigration policies that address the unique needs of children and center the dignity and humanity of migrants and their families.



- Pass a pathway to citizenship for undocumented immigrants in the United States, which would remove the fear of family separation for those eligible and lift a quarter-million children out of poverty.¹²
- Lift barriers to legal entry that undermine family unity, like the three- and ten-year and permanent bars.ⁱⁱ
- Modernize the family-based immigration system to reflect current demand and address the backlog, including recapturing unused visas and ensuring adequate funding to process applications.
- Ensure immigration judges are able to consider potential hardship to minor children in all removal decisions regarding their parents.ⁱⁱⁱ
- Restore the ability of sentencing judges in the criminal legal system to issue Judicial Recommendations Against Deportation where the judge believes

ⁱⁱ *The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) established three- and ten-year rules preventing certain individuals who had voluntarily left the United States from returning to the U.S. for any purpose, even to reunite with their families or secure legal status. The undocumented population increased since the implementation of these bars. For more information read this [resource](#).*

ⁱⁱⁱ *Immigration law permits immigration judges to consider hardship to an individual's family members (spouse, parent, and children) in some removal decisions. In decisions regarding removals, people who have resided in the United States for more than 10 years may ask for a form of defense to removal called "cancellation of removal;" in order to qualify for such relief, however, the person must be able to show hardship to minor U.S. citizen or legal permanent resident children that is "substantially different from, or beyond that, which would normally be expected from the deportation of an alien with close family members here." For undocumented parents with less than 10 years presence in the United States, there is often no defense to removal available whatsoever, regardless of the hardship deportation will cause to the person's child(ren). For more information please see this [resource](#).*

deportation would not be a proportionate or appropriate penalty for the underlying offense for reasons, for reasons involving the impact deportation would cause on the person's child(ren).^{iv}

- Allow previously deported parents to return to the United States for purposes of attending court hearings concerning their parental rights, as well as to care for their minor children in the U.S. and other family members in need of care.
- Codify and strengthen policies that mitigate the harm of immigration enforcement actions on children, such as the ICE parental interest directive,¹³ which provides protections for detained and deported parents, and the protected areas policy,¹⁴ which restricts immigration enforcement actions in areas that are critical for children and families. For example:
 - The parental interest directive should include a presumption of release for parents and caregivers.
 - The protected areas policy should be expanded to include areas within 1,000 feet of a protected area, as well as all courthouses.
- Increase funding for opt-in programs that minimize harm to immigrants and their families, such as community-based case management programs rather than programs that increase immigrant detention and other harmful enforcement actions.
- Decriminalize immigration violations, including the repeal of criminal penalties for unauthorized entry and reentry of individuals into the U.S., which was criminalized almost a century ago.¹⁵



ADMINISTRATION

- Utilize existing authority to provide protection from deportation and work authorization to eligible immigrants, such as but not limited to Temporary Protected Status and Deferred Enforced Departure.
- Expand eligibility for and streamline procedures for cancellation of removal petitions for some long-residing individuals in the United States (e.g., DACA recipients and parents with U.S. citizen children) who are not in immigration court proceedings.
- Exercise executive authority to grant prosecutorial discretion in cases where it is warranted for humanitarian reasons and where an individual can demonstrate certain vulnerabilities—such as those who are pregnant or have children in the United States.
- Prioritize the use of community-based alternatives to detention programs that use limited surveillance and provide comprehensive support and allow individuals to remain with their families in the community as they await the outcome of the removal process.
- Ensure regular training for all ICE personnel who may come into contact with children during enforcement activities on how to minimize trauma to them as well as how to implement relevant policies like the parental interest directive and protected areas policy. In addition, develop inter-agency guidance to ensure all relevant stakeholders are aware of these policies.
- Collect and make public all data on the number of parents and legal guardians of minor children in ICE custody by state, as well as the number of children involved in state or local child welfare systems with detained or deported parents or legal guardians.^v

^{iv} See legislation introduced by Senator Padilla (D-CA) and Congressman Espaillat (D-CA) that would restore this program: U.S. Congress, Senate, Fair Adjudications for Immigrants Act, S 1343, 118th Cong., 1st sess., introduced in Senate April 27, 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/1343/all-info>.

^v The new parental interest directive includes a requirement for ICE to track covered individuals in its custody and maintain a centralized database. Information that would be helpful to track include the number of parents/legal guardians identified during ICE encounters, the number of parents/guardians in ICE custody, the proportion of detained caretakers who are involved in child welfare proceedings, the number of children under the detained parents/guardians' care (including the number of U.S. citizen children), as well as covered individuals' wishes upon removal regarding whether to bring their children with them.

- Fund research that examines the impact of interior immigration enforcement on children from a range of immigrant communities, especially those from Black and Indigenous communities.

STATE & LOCAL

- Implement community safety policies that restrict collaboration between local law enforcement and federal immigration authorities, including rejecting collaborations between local law enforcement

and federal immigration enforcement, such as the Secure Communities and 287(g) programs.

- Fund educational outreach on policies such as the protected areas policy and parental interest directive to ensure local stakeholders are aware of such policies and know how to ensure their effective implementation.
- Reduce the incentive for profits in the detention and incarceration of immigrants and discontinue the use of detention facilities that have proven to violate the rights and safety of immigrants.

ENDNOTES

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