

Ep. 122 Unintended Consequences

Judith Kelley [00:00:00] This is a story about unintended consequences. For all of the actions the government makes, for all of the policies we implement, there are consequences. Sometimes we know exactly what the consequences of the policy will be. Sometimes we don't. Today, we're going to explore a surprising consequence related to stepped up enforcement of immigration policy in one county in North Carolina, Mecklenburg County. I'm Judith Kelley. I'm dean of the Sanford School of Public Policy at Duke University and this is Policy 360. Mecklenburg County is home to the state's biggest city, Charlotte, and a good number of the state's undocumented immigrants live in and around Charlotte. Over the past 20 years, many counties in the US have done this thing where they've made an agreement with ICE, the Immigration and Customs Enforcement. The agreement gives local police some of the same powers as ICE agents. Think of it as local police officers becoming ICE deputies. Well, Mecklenburg County was one of the first to join this program called 287(g). They joined back in 2006. The sheriff of Mecklenburg County at the time, Jim Pendergraph, was a huge supporter of the program. It's been reported that he once said if you don't have enough evidence to charge someone criminally but you think he's illegal, we can make him disappear. My guest today is Christina Gibson-Davis. She's director of undergraduate studies and a professor here at the Sanford School. She's coauthored a new study about this policy. Welcome, Christina.

Christina Gibson-Davis [00:01:44] Thank you so much Judith.

Judith Kelley [00:01:46] First, tell me more about the policy. What are what are those police officers allowed to do?

Christina Gibson-Davis [00:01:52] Well, I think you described it quite well. The idea was that you would literally deputize local law enforcement agency agents to work as federal ICE immigration enforcement officers. So they had many of the same powers that ICE agents did. They could question people about their immigration status. They could take, fingerprints. They could begin the paperwork that eventually leads to deportation proceedings. So in in in effect, they acted like ICE agents, except that they were employed by at the local level and they were not, federal officials per say.

Judith Kelley [00:02:33] Does that mean that if you got pulled over because you had a rear light that didn't work, that could eventually and to, you know, lead to deportation because they could switch hats in the middle of their job duties?

Christina Gibson-Davis [00:02:48] Yes. So there were a number of different types of these 287(g) programs. But the scenario that you're describing, which is where these local police agents sort of in their in the course of their day to day activities, such as pulling somebody over for a traffic violation, could in fact, then ask somebody about their immigration status. And yes, could be somebody could come to the attention of the ICE agency in a way that they might not otherwise have.

Judith Kelley [00:03:17] I mean, it seems and on the face of it, that seems rather, a rather reasonable policy. They are law enforcement agents. They catch somebody who is violating the law somehow. Shouldn't they be looking into that? Does it make sense?

Christina Gibson-Davis [00:03:32] Sure. So we can think about sort of who has jurisdiction and what kind of offenses they're committing. Right. So one of the things that

was sort of extraordinary about these agreements was that traditionally immigration enforcement has been conducted at the federal level under federal rules.

Judith Kelley [00:03:50] Right.

Christina Gibson-Davis [00:03:50] But these partnerships between local law enforcements and the federal officials really gave the feds a way to control immigration activity on the local level, which they hadn't been able to do before. So you can think whether or not that's sort of an arrangement that makes sense or not. And then the second thing is whether there's a crossing over of the boundaries between sort of the severity of offenses. So being in this country undocumented is one level of offense. Having a speeding ticket or having a rear light that's out is another type of offense. So you can think about whether you want those two types of offenses which differ in their severity to intersect or not.

Judith Kelley [00:04:31] Right. Right. So police officers have a certain kind of training. It's rather cursory. I've heard that it's not that much longer than or even shorter than what it takes to train to become a hairdresser, for example. And so presumably they receive some kind of training to act in this new capacity, right?

Christina Gibson-Davis [00:04:54] Well, they did. And we don't really know the details of that training. But one of the things that we do know is particularly when these programs were just getting off the ground. And I should say that the one that started in 2006 in North Carolina was one of the earliest and actually served as a model for other agreements. There was not a whole lot of oversight as to what these programs were. So it's not clear how much training these officers had. And in particular, when it was implemented in Mecklenburg County, the explicit goal of the sheriff in that county was to remove as many undocumented immigrants as was possible. So it was not the way the policy was implemented there was not about public safety, per say, but was really about getting rid of people who are in this country without papers.

Judith Kelley [00:05:43] Right. Right. So, so so that was not an unintended consequence. That's not what we're looking for here. I mean, and I imagine that this policy probably led to some profiling of different demographic groups, et cetera, et cetera. Am I right about that?

Christina Gibson-Davis [00:05:58] Yes, that's right. And actually, the more severe model that we studied here pay some court challenges. And since then, the 287(g) program has had to undergo some changes because it did lead to these increases in racial profiling. Again, whether those changes that have been made to the policy have actually taken effect on the ground is another question.

Judith Kelley [00:06:23] So immigration is a fairly hot button issue in this country, and there were reasons this program was implemented and some people support it and some people don't. But your study connected to another very debated issue in this country, namely the right of unborn children or fetuses, or however, one likes to think about pregnant women and how pregnant women might be treated or what their rights are. And so, what, can you can you can you tell us what the study that you did was looking at and what you found?

Christina Gibson-Davis [00:07:02] Sure. So we know that when women are pregnant, their fetuses, as well as the women themselves are particularly vulnerable to all kinds of

things. And in particular, when pregnant women experience stress, their bodies have a physiological reaction in ways that can be harmful for the fetus. It can affect basically the fetus growth. So we wondered if whether women who were pregnant when this program was being introduced and were sort of experiencing perhaps an increase in day to day stressors because of the increase of ICE enforcement, whether that would have adverse effect on the fetuses that they were carrying. And in particular, as you noted, these fetuses are different people than their mothers, if you will. And in fact, because they were born in the United States, they're U.S. citizens. So even though the policy is aimed at people who are not US citizens, it may have consequences for people who are. And so it presents sort of an interesting dilemma, as well as highlights an unintended consequence, as you alluded to earlier.

Judith Kelley [00:08:10] So so we talked about being pulled over for a traffic violation. And clearly there could be stressors there in that a woman might get pulled over and that's stressful or her, the father might get pulled over or other family members they care about might get pulled over. What are the ways then then traffic encounters might this policy have intersected with the lives of of a given family who is in the country without documentation?

Christina Gibson-Davis [00:08:40] So you can think about it in a number of different ways. It's not just am I going to be pulled over, it's the threat of am I going to be pulled over? Right. So the consequences of being pulled over are greater. So you might worry that that might happen at all. Whereas before if it had happened, you might have been an annoyance, but it wasn't something that was necessarily going to lead to your deportation. So the consequences of those actions became greater. The other thing, too, we think is happening is it sort of altered the day to day context of this of these women insofar as the general fear and anxiety around their status as undocumented persons became heightened. And so they worried not only it just increased their fear level and they worried about not only would they be pulled over for a taillight, but whether or not when they went to the grocery store or when they had their pick their children up from school, it basically created, we think, a climate of fear that can lead to stress, even if they themselves were not pulled over or knew of people who are being pulled over. I mean, it's important to realize that we're not talking about necessarily a large increase in deportation. It's more the fear of the threat of deportation that we think we're measuring.

Judith Kelley [00:10:01] Mm hmm. So what was pulling getting pulled over is that the primary interaction that would lead to this enforcement or other types of interactions as well? You said getting, you know, going to school to pick up your children. Like, could you get...

Christina Gibson-Davis [00:10:13] So this this goes a little bit to we don't know the parameters under which police officers were acting because we don't think that the evidence suggests that the program did not have a lot of oversight. So ostensibly, it was police officers in the course of their day to day duties, I believe the phrasing that was used. So if you suspected someone was in the country undocumented, you theoretically had the power to question them there, even if they were not necessarily committing a criminal offense.

Judith Kelley [00:10:43] Right. Or if they were suspected of shoplifting or if they had a problem, you know, getting carded or I mean, any any kind of interaction that that might lead to the calling of law enforcement.

Christina Gibson-Davis [00:10:59] Right. And I think it's important to realize the difference between how the act might have been intended and perhaps how it was perceived. So if the immigrant community perceive that any interaction, no matter how harmless, could lead to increased scrutiny, then they'd be less likely to engage in those day to day interactions.

Judith Kelley [00:11:18] So I remember hearing about this program when it was first introduced. And I also remember hearing about a stepped up effort at identifying people who were, you know, who would be subject to deportation. Was this something that was widely publicized so that families would be very aware of this?

Christina Gibson-Davis [00:11:45] So we don't measure knowledge of the program at our study. So we can't say one way or the other. I can say that we know that immigrants tend to know what's going on in regard to immigration enforcement. So, my guess is that people were aware of this program and were aware that there was a change. Certainly when a new sheriff is elected and he has as a central platform, the removal of undocumented immigrant, my guess is that that word got out to those folks in those areas who were undocumented. Second, we also sort of took that into account into the way we designed the study. So we don't think that it was just that people sort of knew about the program and that's what led to the change. We actually think it did hinge on the enactment of the program and not just sort of people thinking that the program might exist.

Judith Kelley [00:12:38] OK, so let's talk a little bit about what you found, because you, you know, collected data or had availed yourself of existing data on what sorts of outcomes and what were you interested in, in probing.

Christina Gibson-Davis [00:12:52] So what we used is birth certificate data from the state of North Carolina. So that's going to be a record of anybody who gives a birth in North Carolina. And the birth certificate data indicates whether the mother was born or gave birth in Mecklenburg County as opposed to some other county. And it also records the health and well-being of her infant. So we know what the gestational age of the infant was when it was born, how much it weighed. We know the amount of prenatal care that the mother got while she was pregnant. And so we can get a pretty good sense of both the health of the mother and the child at the time of the birth.

Judith Kelley [00:13:29] Mm hmm. And were you able to discern whether the mother was in this from a family that was undocumented or not?

Christina Gibson-Davis [00:13:39] We don't have citizenship status. I'm not actually aware of any administrative data source that does. But in North Carolina, we think we can get a pretty good proxy for immigration status by looking at whether a mother was born out of the country and her education level. In particular, we know that women who have less than a high school diploma, less than a high school diploma and are not native to the United States, and if they are of Hispanic ethnicity, then there's a pretty good likelihood in 2006 in Mecklenburg that they were probably here without documentation.

Judith Kelley [00:14:17] OK, so what did you find?

Christina Gibson-Davis [00:14:19] So we found that when this program was implemented, it led to a decrease in birth weight, so babies weighed less. It led to an increase in what we call small for gestational age, which is an outcome that measures whether or not the fetus is sort of weighing as much as we would expect it to weigh given

the week that it was born. And we also found that mothers got less prenatal care. And these things matter. These birth outcomes matter because there's a lot of evidence to suggest your health at birth has downstream consequences. So, we know that kids who are born at lower birth weights or born for small for gestational age will have more academic difficulties as they move through school and will actually have worse health and earn less as adults. So it's not just that we observed these adverse things when the kids were born. We think that these adverse birth outcomes have these downstream effects which affect these kids earning potential as adults.

Judith Kelley [00:15:26] So it clearly when policymakers sat around and thought about this, they didn't say to each other, well, maybe we shouldn't do this because maybe babies will be born smaller and that's that's unlikely that they thought of that. Were you surprised that you were actually able to see this pattern play out?

Christina Gibson-Davis [00:15:46] We weren't surprised that we saw these effects, no, because pregnant women are very vulnerable and we know that pregnant that the fetuses that they're carrying are also very vulnerable. And whenever there's an uptick in this kind of stress, it's there are going to be consequences. It also makes sense to us that when policymakers were thinking about this, they weren't thinking about these effects. Right. Because this was not a policy about the health and well-being of immigrant mothers and their children. This was a policy about the presence of undocumented immigrants in this country. So both of those things made sense to us.

Judith Kelley [00:16:22] So, you know, I certainly know of friends who have given birth to babies who were, there were below the mean weight that have grown up and done very well for themselves.

Christina Gibson-Davis [00:16:35] Sure.

Judith Kelley [00:16:36] Should we be that worried about a birth weight? Is it does it have any kind of relationship to later outcomes in life?

Christina Gibson-Davis [00:16:45] Well, it does. And and for one, just to put our our findings in perspective, we if you look at sort of the decrease in birth weight, it's about the same as the increase in birth weight that's associated with participating in programs that boost the health and well-being of pregnant mothers. So there's something called the WIC program, which people may be familiar with.

Judith Kelley [00:17:07] Right.

Christina Gibson-Davis [00:17:08] And the advantageous effect of participating in WIC is about the same as the negative effect we found as this 287(g) program. In other words, the 287(g) program essentially canceled out the beneficial effects of participating in WIC. So just so the listeners have some idea of the size of our effects, they don't sound large, but they're meaningful. And part of the reason that I say they're meaningful is because people have traced the well-being of kids from when they're born to when they're adults. And we know that on average, kids who are born a lower birth weights or small for gestational age do worse than kids who are not. As you say, there are exceptions. We're only talking about averages. But I don't think there's any doubt that having these adverse birth outcomes put these kids at risk, that they otherwise would not have been at risk for. So that's perhaps what is interesting or distressing about this policy, is it introduces a risk where there wasn't one before.

Judith Kelley [00:18:10] Mm hmm. What years did your study cover?

Christina Gibson-Davis [00:18:12] So our study the policy was introduced in 2006. And so we looked at the years surrounding the introduction of that policy. People may hear the year 2006. It's now 2021. That was 15 years ago. But the salience of this is that under the Trump administration, these 287(g) programs, which had been declining under the Obama administration, really took off. And they're now currently one hundred and fifty of them in operation around the country in 20 different states. So even though we're looking at a policy that happened a decade and a half ago, it still has relevance for the current policy environment regarding immigrants today.

Judith Kelley [00:18:54] Mm hmm. So there's tradeoffs in everything, I suppose, you know, I mean, one's trying to enforce the law. Would it be that much different if it was not the local deputies who had this power and it just was ICE?

Christina Gibson-Davis [00:19:08] It would be for two reasons. One, ICE simply doesn't have the people power to be in as many communities as was allowed under the 287(g) programs. So the extent and scope of ICE activity wouldn't be as large. In particular, most ICE activity tends to be concentrated along the border. Right, in terms of preventing people who are undocumented from coming into this country. This is really a way to do within border security enforcement in a way that hadn't been done before. So Charlotte is not near any border. It's not clear that it would have come to the attention of ICE, ICE immigration officials except through a 287(g) program. So the 287(g) programs allowed enforcement in the border in non border states in a way that hadn't been possible before.

Judith Kelley [00:20:00] So is there is there anything that can be done to try to offset some of these negative birth outcomes, you know, especially when parents might not be going and seeking health care since they're afraid of being deported?

Christina Gibson-Davis [00:20:15] Sure. And we don't mean to pretend that adverse birth outcomes is inevitably leads to worse outcomes for children. There are things that can be done in terms of providing adequate supports for infants, nutrition, the kinds of things that lead to healthy development for children more generally would help with the development of these children. But I do think it's important to realize that we measured this increase in stress at a particular point in time. But if immigrants are living in communities where there's sort of an anti-immigrant sentiment, then these stressors will continue throughout the lives of these children. They may not be as acute as, say, the 287(g) program, but insofar as communities that adopted these programs are more hostile to immigrants, than those effects may be manifesting themselves throughout the lives of their children in ways that are potentially harmful.

Judith Kelley [00:21:10] I mean, and that's consistent with a lot of research we have on the declining health of immigrants when they come to this country relative to the trajectory one would have projected in their home countries.

Christina Gibson-Davis [00:21:22] And and again, just to reinforce, insofar as these are U.S. citizens, then any sort of negative consequences of their adverse health at birth, if they make less money, for example, then we have less tax revenue, right? Or if they use more health care resources then that's increased burden on the health care system. So it's just important to realize that insofar as these are U.S. citizens, not only are they subject to

a policy that wasn't intended for them, but the repercussions of that policy could have repercussions for all of us.

Judith Kelley [00:21:58] Right. Right now, I mean, of course, one could also look at it from the other perspective and say, well, you know, they they are in the country illegally or some would phrase it like that. And some were some were deported before their children were born and thus they are not U.S. citizens and they are are we would simply enforce the law as it stands right now.

Christina Gibson-Davis [00:22:23] Absolutely. And people people can argue about the pros and cons of immigration enforcement. And that, again, was not the subject of our paper. We do as a country generally ascribe certain rights to U.S. citizens. And we generally think that that buys you a certain status as being an American citizen and we are inflicting a cost on these US citizens that has real consequences. So regardless of how you feel about immigration enforcement, these downstream consequences on U.S. citizens are something to consider.

Judith Kelley [00:23:00] Right.

Christina Gibson-Davis [00:23:00] It's also worth pointing out and this, again, was not our research. And I realize this is a very political topic, but there's not a whole lot of evidence that 287(g) programs have been particularly effective. Either, there certainly has not been good evidence that they decreased crime rates, for example, or either that they necessarily lead to large increases in deportation. So it's not clear that the policies have been effective on the face of themselves. Again, that's not something that we were particularly interested in studying, but that's more generally the policy environment of the 287(g) programs.

Judith Kelley [00:23:34] Well, it's very interesting and of course, the important thing for us as policy analysts is not to decide on what the immigration policy should be, but studies like this help us make sure that we're capturing the true costs and benefits of the decisions being made.

Christina Gibson-Davis [00:23:53] That's right. That's right. And again, you I think it's an important conversation to have about what immigration enforcement should look like. As you point out, the people who are immigrants maybe are here undocumented, and that may warrant real consequences for their actions. It's an illegal action. The question is, what happens to these with these unintended consequences? So what happens to these kids who may be worse off simply because of the passage of this policy?

Judith Kelley [00:24:26] Well, that's very interesting Christina, thank you so much for sharing your insights with us today. Christina Gibson-Davis is the director of undergraduate studies at the Sanford School of Public Policy at Duke University, and she has coauthored this new study with Sanford Professor Marcos Rangel and two graduates of our PhD program, Romina Tomé and Laura Bellows. You can find a link to the study at our website [Policy 360.org](http://Policy360.org). Thank you all for listening. I'm Judith Kelley.