

# **Navigating Liminal Legalities along Pathways to Citizenship: Immigrant Vulnerability and the Role of Mediating Institutions**

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## *Executive Summary*

In June 2012, Department of Homeland Secretary Janet Napolitano announced the Deferred Action for Childhood Arrivals (DACA), which allowed qualifying noncitizens unlawfully present in the United States to avoid removal proceedings and to receive federal work authorization. In November 2014, the Obama administration announced an expansion of the DACA program (DACA+) and the creation of a Deferred Action for Parental Accountability (DAPA) program. DACA+ and DAPA would have raised the age limit of the DACA program and extend deferred action to the parents of U.S. citizens and lawful permanent residents. These two programs were scheduled to go into effect in 2015, but legal challenges have prevented them from taking effect, leaving eligible noncitizens in legal limbo.

In this report, we summarize the findings of research funded by the Russell Sage Foundation and conducted in Southern California over the course of eighteen months between January 2014 and September 2015. This time period coincided with the announcement of and subsequent legal challenges to the DACA+ and DAPA program – a period characterized by extreme legal uncertainty over the availability and scope of these “Executive Relief” programs. Drawing from 16 in-depth interviews with staff of 10 different immigrant serving organizations and 47 interviews with noncitizens in the Los Angeles and Orange County areas, we captured the on-the-ground challenges facing noncitizens and community based organizations as the scope and availability of Executive Relief was debated. In our research, we focused on the hardships and barriers to incorporation imposed by liminal legal status, the challenges faced by organizations mediating between their constituents and the state in periods of legal uncertainty, and the ways that uncertainty has reshaped the social, political and legal environment in which immigrant-serving organizations and their constituents interact. Our research is ongoing, but here we offer our preliminary findings for some of our research questions.

Undocumented immigrants face significant challenges and vulnerabilities. While programs like DACA have substantial practical benefits, recipients continue to deal with fear and uncertainty. Our findings confirm previous research that noncitizens face significant hardships including physical and mental health problems, inability to find jobs commensurate with their experience and abilities, challenges taking advantage of educational opportunities, and constant worry and stress about undocumented relatives and long-term family separations. These hardships often prevent noncitizens from forming the types of institutional connections that would facilitate their social inclusion and may create long-term barriers to regularizing their immigration status. In addition, DACA recipients continue to experience legal uncertainty regarding the scope of the

**“ When it [Executive Relief] was suspended, all of my hopes fell. I had gotten all of my paperwork in order, and was preparing to apply as soon as the program opened. It is very, very frustrating! I had waited so long and then finally there was a small light [like at the end of the tunnel], and then it went out, suddenly...With the suspension, my hopes too were suspended.”**

**-- Herminia**

legal protections of their liminal legal status and face additional uncertainty about the future of their friends and relatives who lack even temporary immigration relief.

Immigrant serving organizations play a key role in helping noncitizens navigate complex application processes and other hardships faced by the immigrants whom they represent and with whom they work. Our research indicates that organizations have responded to the prospect of Executive Relief in at least three ways: first, many have created or expanded legal services programs for deferred action applicants, viewing the 2012 DACA program as a pilot for what was thought would be a much larger applicant group for DACA+ and DAPA. Second, they have interpreted and disseminated information about existing and prospective federal deferred action programs and state law reform initiatives. Third, some organizations have continued to mobilize within immigrant communities in support of changes in the law at the federal, state, and municipal levels.

**“[F]or a lot of folks,  
they just need  
something. Whether  
that is going to happen  
in the future or now,  
they just need  
something. I don’t  
think a lot of folks have  
the luxury of waiting.  
They just need  
something now.”**

**-- Organizational  
Advocate**

While the organizations studied for this project differed in emphasizing service provision versus community organizing and policy reform advocacy, all of the organizations that we have profiled do both, to some degree. They also operate in formal and informal coalitions or networks with each other as they strive to meet community need.

Uncertainty has reshaped the environment in which organizations work with and serve immigrant clients. Immigrants must navigate a range of available sources for information about immigration law including private immigration attorneys, and other information brokers like the news and media. This is particularly challenging in times of legal uncertainty. But the immigrant constituents interviewed believed that particular immigrant serving organizations provided

high-quality, reliable, and low-cost assistance that was integral to their understanding immigration law and their ability to navigate legal processes. Constituents engaged with organizations in various ways ranging from participating in community organizing and social movement building to more pragmatic and instrumental encounters—that is, as a low-cost and high quality alternative to fee-for-service lawyers and unscrupulous *notarios*. Organizations, in turn, developed strategies to serve a broader range of clients, to focus on both mobilization and direct services, and to protect noncitizens from seeking out assistance from unscrupulous providers.

In the coming year, undocumented noncitizens and DACA recipients as well as the organizations that serve them will confront a new set of challenges. The 2016 presidential campaign has already concretized the uncertain future of the DACA program. However, during the course of our research we found that immigrant communities and community-based organizations exhibit tremendous resilience and imagination in confronting the uncertainties faced by liminal legal subjects in periods of legal flux.

# 1 |

## Introduction

In March 2014, we received a grant from the Russell Sage Foundation Immigration Project to pursue an eighteen month research project focusing on Southern California immigrants who lack formal legal immigration status and on the organizations that represent and serve them. Specifically, we were interested in investigating the following questions:

- 1) What barriers do individuals who have liminal legal status, such as being undocumented or having only temporary authorization to remain in the United States, face in taking advantage of opportunities to regularize their status?
- 2) What roles do mediating organizations play in enabling those with liminal legal status to take advantage of opportunities for legalization and integration?
- 3) How does continued uncertainty about immigration reform and administrative relief shape the socio-legal environment within which immigrant-serving organizations and their constituents operate?

In this report, we summarize some of the important information that we were able to acquire through research funded by the Russell Sage Foundation. After a brief introductory section, in which we describe the legal backdrop for and methodology of our study, we will discuss what we learned about the existing and perceived challenges faced by applicants in seeking Executive Relief, the nature of the organizational response to Executive Relief, and particularly salient features of the interactions between noncitizens and organizations during the period of our study, between January 2014 and September 2015 – a period that was marked by extreme legal uncertainty over the scope and availability of programs that would provide legal residency to millions of residents of the United States currently lacking lawful immigration status.

Our research is still ongoing. We recently received a significant grant from the National Science Foundation that will allow us to continue and expand our research. While the conclusions in this report are therefore preliminary, we believe that the insights that we have been able to generate through the research funded by our RSF grant will be of interest to policy makers, scholars and advocates, as well as the mediating organizations themselves.

## *Legal Background*

Our research questions were sparked by our observations of the rollout of the Deferred Action for Childhood Arrivals (DACA) program, and our collective sense – shared by other experts and advocates focused on immigrant communities – that this program presaged more widespread administrative relief for unauthorized migrants in the absence of legislative immigration reform. In June 2012, in the face of repeated failures of Congress to enact comprehensive immigration reform legislation, Department of Homeland Security (DHS) Secretary Janet Napolitano announced the DACA program. With DACA, noncitizens unlawfully present who were under 31 years of age as of June 15, 2012, were in the country on that date, came to the U.S. before their sixteenth birthday, had been in the country since June 15, 2007, had complete certain educational or military service requirement and ran afoul of no disqualifying criminal or security bars would be eligible for deferred action status.<sup>1</sup> Not only would this mean that they would not be placed in removal proceedings through the duration of their deferred action status, but they would also become eligible to receive federal work authorization<sup>2</sup> and would be eligible for state driver’s licenses as well.

At the time we began our study – the Spring of 2014 – organizations serving noncitizens were helping clients and constituents navigate the process for receiving (and, shortly after we began our study, renewing) DACA. These organizations were also anticipating the rollout of a much larger Executive Relief program. Although the specifics and timing of such a program were still unknown, most experts and advocates working with immigrant communities were fairly certain that the Obama administration would significantly expand the DACA program.

After further delay in Summer 2014 due to the influx of unaccompanied migrant children and political exigencies related to the mid-term Congressional elections, DHS Secretary Jeh Johnson<sup>3</sup> announced in November 2014 an expansion of the DACA program (“DACA+”) and the creation of Deferred Action for Parental Accountability (DAPA). DAPA has since been renamed “Deferred Action for Parents of Americans and Lawful Permanent Residents.” These two programs would have extended temporary Executive Relief in the form of deferred action to about 5 million unauthorized immigrants in the U.S. The extended DACA program would have eliminated the DACA age cap and would have also applied to individuals who entered the country between June 15, 2007 and January 1, 2010.<sup>4</sup> The DAPA program would have provided deferred action status to the parents of U.S. citizens and lawful permanent residents (but notable, not of DACA recipients) who had been present in the U.S. since January 1, 2010 and were able to pass

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<sup>1</sup> United States Citizenship and Immigration Services, *Consideration of Deferred Action for Childhood Arrivals*, available at <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca> (last visited January 6, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> In September 2013, Secretary Napolitano left the DHS to become president of the University of California. On December 16, 2013, the Senate confirmed Jeh Johnson as the next DHS Secretary.

<sup>4</sup> United States Citizenship and Immigration Services, *Executive Actions on Immigration* available at <http://www.uscis.gov/immigrationaction> (last visited January 6, 2016).

required background checks.<sup>5</sup> These two programs were scheduled to go into effect beginning in February 2015, in the case of the former, and May 2015, in the case of the latter. Our plan was to determine how the brokering organizations that we were studying would assist their clients and constituents in navigating the newly announced programs – programs that we collectively refer to throughout this report as “Executive Relief.”

On February 16, 2015, the eve of the planned roll-out of DACA+, Judge Andrew S. Hanen of the U.S. Federal District Court of Southern District of Texas issued a temporary injunction of the DACA+ and DAPA program (“Judge Hanen’s Injunction”). Responding to litigation filed by the State of Texas and 25 other states, Judge Hanen found that: 1) Texas had demonstrated that it would lose money as a result of the program and therefore had standing to bring suit; 2) there was a substantial likelihood of irreversible injury to the plaintiff State of Texas if the programs were allowed to proceed; and 3) there was a substantial likelihood that the plaintiffs would prevail on the merits in their legal challenge to the program on the grounds that the administration had failed to comply with the notice and comment requirements of the Administrative Procedures Act (APA) in announcing the DACA and DAPA “regulations.”

The injunction was not, as most legal experts had initially assumed, a short-term delay. On April 7, 2015, Judge Hanen dismissed the Obama Administration’s motion to stay the preliminary injunction. The Obama Administration appealed the injunction to the Fifth Circuit Court of Appeals, but in a split decision announced on May 26, 2015, that court denied the Administration’s request for an emergency stay of the injunction. The litigation over the program is ongoing; as a result of the litigation delays, the DACA+ and DAPA programs did not go into effect during the course of our Russell Sage funded research.<sup>6</sup>

Although we were unable to study the rollout of the DACA+ and DAPA programs, we did have an unanticipated opportunity to study how organizations and their clients and constituents respond to situations of extreme legal uncertainty. Because we were able to talk to organizations and DACA recipients about their experiences with the DACA program, we were still able to gather important insights into the particular challenges and gains that Executive Relief poses both for potential beneficiaries and for organizations that act as intermediaries between the government and individuals seeking relief. We were also able to contrast those experiences with how organizations and individuals

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<sup>5</sup> *Id.*

<sup>6</sup> The administrative relief programs announced by Secretary Johnson were not limited to DACA+ and DAPA, and other administrative measures announced at the same time have gone into effect. For example, Secretary Johnson announced that certain relatives of US citizens and lawful permanent residents are now able to qualify for a provisional waiver that permits them to avoid triggering the 10-year statutory bar that would otherwise apply to long-term undocumented residents when attempt to reenter the U.S. after leaving the country (as they must) to have their family visa petition process completed in the U.S. consulate in their home country. See <http://www.uscis.gov/immigrationaction>. This and other administrative actions undertaken by the executive branch in this and in prior administrations were not affected by Judge Hanen’s injunction and have operated as smaller scale legalizations that have regularized the status of noncitizens even as broader, systematic reform and legislative legalizations have stalled.

interact when accessing other forms of relief like U visas. And perhaps most importantly, we were able to document in real time the difficulties and frustrations of organizations and individuals attempting to navigate two large, temporary legalization programs that were announced but that never went into effect. With this information, we have been able to offer preliminary answers to each of the questions that we set out to investigate.

### ***Summary of Findings***

*Question #1: What hardships to individuals and barriers to full incorporation does liminal status impose?*

Our research helped us to preliminarily identify some of the major barriers immigrants face to accessing legal status and to achieving social incorporation. We noted several recurring themes of hardship in the lives of undocumented immigrants, including physical and mental health problems, inability to find work commensurate with experience and abilities, problems accessing and taking advantage of educational opportunities, constant worry about undocumented relatives and stress and sorrow over long-term family separations. Undocumented status also entailed significant limitations on geographic mobility, which contributed to many of the problems mentioned previously, particularly employment prospects and family separation. And many immigrants experienced and described their treatment – by employers, law enforcement and fellow denizens – as a form of racial discrimination.

Our findings in this regard do not diverge in substantial ways from the findings of other scholars who have studied undocumented immigrants. Our research also supports the notion – confirmed in other work – that temporary relief programs like DACA have substantial practical benefits for individuals who would otherwise remain undocumented. These individuals are able to access more secure employment, are able to travel more freely, and are freed from some of the constant stress associated with living in fear of discovery and deportation (Gonzalez, R.G. & Terriquez, V. 2013).

We were struck, however, by the extent to which the hardships of undocumented status complicate integration by impeding the formation of the very sorts of institutional connections that ultimately would be needed to fulfill the legal requirements for normalizing status—whether under existing law, through temporary administrative relief, or by way of future legislative programs. Undocumented residents have difficulty taking full advantage of educational opportunities and deliberately minimize their contact with the employers, citizens and government actors who might be seen as potential facilitators of integration efforts. In this sense, the hardships of undocumented status also create a feedback loop that impedes not only full social incorporation, but also potential access to legal status under future administrative or legislative programs.

Even more strikingly, even those immigrants who are able to access administrative relief through DACA continue to face some of the same challenges and vulnerabilities that had affected them when they were undocumented. In this sense, DACA recipients continue to experience liminal legality. They encounter limits on their geographic



mobility that impede their employment prospects and their ability to see family: cross-border travel is difficult and risky and domestic travel is complicated in mixed-status families. Most recipients of Executive Relief also continue to experience significant concern about undocumented family members and deep uncertainty about the stability of their own legal status. And because they are now documented in some way, they are directly subject to state surveillance; this also increases their feelings of vulnerability. Finally, the rising tide of criminalizing rhetoric in 2015 takes an emotional toll not just on the undocumented but also on DACA recipients, with both groups variably internalizing and critiquing the rhetoric that purports to distinguish worthy immigrants from the unworthy.

*Question #2: How do organizations mediate between the state and individual immigrants with regard to legalization and incorporation?*

Given the many difficulties faced by undocumented immigrants in their efforts to integrate and achieve legal immigration status, immigrant-serving organizations play an important role in working to mitigate application barriers and address persistent hardships encountered by the immigrant communities that they work with and represent. In our work, we found that organizations play their mediating roles in a variety of ways. Some focus on direct services for clients, while others focus on organizing and lobbying for political change at the federal, state and local levels.

In an environment that every organizational staff member characterized as resource-scarce, organizations are constantly assessing their core mission. At times, they have chosen to forsake direct services in favor of broader organizational efforts and *vice versa*. The impact of direct services is often felt immediately or on a short time horizon, but the scope of such efforts is necessarily limited by the organization's staffing, meaning that there are often serious limitations on the ability of organizations to meet community need through direct service work. On the other hand, community organizing and mobilization efforts have yielded broader ameliorative results for undocumented residents - as was the case when California enacted a bill giving undocumented residents access to drivers licenses ("A.B. 60"). Achieving these broad kinds of reforms, however, is an uncertain process, and the work that goes into advocating for broader social change can come at the expense of individual services.

We found that organizations struggled with what they perceived as tensions between their legal services function and their community mobilization function. Interestingly, however, both they and their clients provided insights into the multiplicity of ways in which these functions actually complement one another.

We also found that these organizations perform roles that both arise out of and are complicated by climates of legal uncertainty. First, organizations provide educational services and other outreach designed to keep community members informed about legal developments and programs for relief. They do so against a backdrop of pervasive misinformation and in a legal setting in which unscrupulous service providers will often take advantage of this uncertainty to take money in exchange for promises to submit

applications to programs when neither the programs nor the applications exist, or for submitting legal applications for immigration relief that actually harm rather than advance clients' potential eligibility for future legalization. Immigrant-serving organizations are conscious of their role in providing educational and legal services in a climate filled with misinformation and ineffective representation, and they often strategize to provide services in ways that will directly account for and minimize these harms.

Second, organizations mediate between their clients and law enforcement. They generally advocate for local law enforcement not to collaborate in enforcing federal immigration law, and they work to educate law enforcement about best practices in certifying noncitizens for eligibility for T and U visas, immigration remedies available to victims of trafficking and crime, respectively. At the same time, they recognize the vulnerabilities of their clients to law enforcement, and keep clients informed about law enforcement practices that might increase their legal vulnerability.

Finally, organizations serve as sites where noncitizens can perform citizenship<sup>7</sup> and develop an ability to document future eligibility for legalization programs. Organizational membership documents presence, and individual participation in organizational outreach and mobilization efforts provides a source of community belonging for populations marginalized along multiple axes.

*Question #3: How does continued uncertainty shape the environment in which immigrant-serving organizations and their constituents interact?*

We observed that constituents were engaged with organizations to very different degrees. Some saw the organizations as a gateway to a larger social movement focused on achieving immigration reform and a pathway to citizenship. Others viewed organizations in more pragmatic and instrumental terms—that is, as a low-cost alternative to fee-for-service lawyers. Indeed, some constituents came to these organizations only after experiencing problems with other types of legal service providers, including private immigration attorneys or *notarios* (notaries) unauthorized to practice law.

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<sup>7</sup> Judith Butler introduced the notion of performativity in the context of gender identity, arguing that speech and other performative actions are the means by which an individual signals and generates her belonging to a particular sex and gender category. These categories are socially constituted, contingent and open to interpretation and "resignification." JUDITH BUTLER, *GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY* (1990). The notion has been applied to categories of race and ethnicity as well. See, e.g., Camille Gear Rich, *Performing Racial and Ethnic Identity: Discrimination by Proxy and the Future of Title VII*, 79 N.Y.U. L. REV. 1136, 1178 (2004) ("part of the process of constituting oneself as a social actor requires the acceptance and recognition of racial/ethnic codes and markings and the mobilization of these codes to ensure that other actors read them in the manner that ensures that one is placed in the desired race or ethnic group. Language and behavior play a key role in this process.") In our own work, we saw similar efforts by individuals to perform in ways that were likely to engender their identification citizens. We will elaborate upon these findings in future work.

Regardless of their degree of engagement, however, individuals viewed immigrant-serving organizations as one set of brokers within a broader universe of legal brokers, such as private immigration attorneys, and informational brokers such as radio and television media outlets or even church groups. Among the constituents that we interviewed, the immigrant serving organizations at the center of our study generally were perceived as providing high quality legal services at little cost. This is consistent with the organizations' staff members' own perception of their brokering services. At the same time, immigrants rely on a broad array of institutional actors for information about immigration law and for assistance in navigating legal processes. Immigrants' reliance on a broad range of actors arises, in part, because organizations simply do not have the resources to meet all of the legal and informational needs of the large populations of undocumented immigrants in their communities.

### ***Methodology***

In order to address our research questions, we developed a robust research plan that combined legal research regarding proposals for legislative immigration reform and for administrative relief with social science research on immigrants and immigrant serving organizations in two geographic areas with differing immigration histories and differing levels of services for new arrivals. In the *preparatory phase* of our research, during the Spring Semester and early Summer of 2014, we gathered news stories and other information on the specific components and the status of federal legislative immigration reform proposals. We also gathered information about the DACA program, including information disseminated by the federal government, the media and nonprofit organizations, and other researchers. We ascertained the criteria for DACA relief and the barriers to relief under the DACA program.

While this background research was ongoing, we began to focus on two particular regions – Los Angeles County and Orange County – as sites for our research. We selected these jurisdictions as two contrasting communities. They present important variations in their histories as immigrant destinations, the size and composition of their immigrant populations, the attitudes of law enforcement officials, and the availability of resources.

Los Angeles County (also referred to as “LA” in this report) is a traditional area of immigrant settlement for diverse immigrants from Mexico, Central America, and Asia. Forty percent of the population of the City of Los Angeles is foreign born, and there are an estimated 1.1 million undocumented immigrants in the city, including many who would potentially benefit from immigration reform or administrative relief. Los Angeles is also home to a number of key immigrant serving organizations. The city is often perceived as having a relatively welcoming attitude toward immigrants, having recently reestablished an Office of Immigrant Affairs and supporting immigrants through a number of measures, including Special Order 40, which prohibits police from questioning individuals regarding their immigration status. The Los Angeles County Board of Supervisors also voted earlier this year to end its 287(g) collaboration agreement with Immigration and Customs Enforcement (ICE). But more recently, the Board of

Supervisors voted to bring ICE agents back into county jails. Perhaps it is not surprising that immigrants and the organizations that serve them frequently suggested in our conversations with them that the reputed immigrant-friendliness of Los Angeles County did not necessarily align with the experience of noncitizens in their daily life.

Orange County (also referred to as “OC” in this report) is typically considered more conservative politically, and less welcoming to immigrants. Orange County is home to several large and diverse immigrant populations including immigrants from Mexico, Central America, Asia and the Middle East. Approximately thirty percent of the population of Orange County is foreign born, and estimates suggest that about 300,000 of these immigrants are undocumented. At the same time, a number of staunch restrictionist politicians call the county home, and there are fewer immigration service providers in Orange County than in Los Angeles. The Orange County Probation Department was responsible for the largest number of juvenile referrals to ICE in California—nearly forty percent of referrals statewide. Nevertheless, providers that serve immigrant crime victims report positive relationships with law enforcement around certain issues, suggesting that individual immigrants’ experience of enforcement is not uniform.

Within these two counties, we identified 10 immigrant-serving organizations that would be the focal point of our research.<sup>8</sup> We also gathered more general information about the size and character of immigrant communities in those regions.

Relying on this background information, we began the *field research phase* in the late summer and the Fall of 2014. During this time period, we continued to monitor administrative relief possibilities as chances of legislative reform receded completely. We also began to identify and meet with legal service and community service organizations in Los Angeles and Orange County that were assisting migrants in accessing paths to legal status. Several of these organizations assisted us in recruiting noncitizens who were willing to meet with us over time as they attempted to navigate paths toward legal status and citizenship. Using these core organizations as a basis, we also conducted interviews with leadership in the organizations with which they work most closely.

We then began conducting baseline interviews with noncitizens, all of whom had some degree of prior contact with one of our partner immigrant-serving organization in Los Angeles or Orange County. Over the course of Fall 2014 and Spring 2015, our research team conducted a total of 63 interviews. These include 16 interviews with the staff of immigrant serving organizations and 47 with their clients and constituents. In some cases, the same individual was interviewed more than once, which gave us a more

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<sup>8</sup> We have chosen to keep the names of our focus organizations confidential so as to ensure candid conversations with leadership and staffers. Two of these organizations are solely legal services providers, three others offer legal services along with provision of social services and community organizing support, and the remaining five are exclusively social services and/or community organizing support entities. Half of the organizations are membership-focused, while others provide fee-based or pro bono services to those who seek assistance.

nanced picture of their response to evolving political and legal developments over the course of our field work. Likewise, following Judge Hanen’s injunction of DACA+ and DAPA, we did follow-up interviews with staff at some of our partner organizations and some of their clients and constituents in order to better understand how they were affected by these legal developments. In this report, pseudonyms are used for all interviewees.

Throughout this period, we also gathered materials—including training materials and explanatory materials—to illustrate how these organizations interpreted the ongoing DACA and the prospective DACA+ and DAPA programs for their clients or constituents, and how they have mediated questions of eligibility. We attended relevant public events, such as a conference in which a number of our core organizations participated. We gathered legal training materials disseminated by core organizations.

During Summer and Fall 2015, we initiated the *analysis phase*, in which we completed all transcriptions, and coded interview material and legal documents. This report presents our preliminary analysis of these materials, and is divided into three sections: “Executive Relief and Immigrant Incorporation,” “The Brokering Role of Immigrant-serving Organizations,” and “Individual Responses to Organizations.”

## 2 |

### **Executive Relief and Immigrant Incorporation**

As noted above, a key goal of our research has been to understand the ways that Executive Relief could potentially alleviate barriers that currently prevent undocumented immigrants from being fully incorporated into U.S. society. We found that, if it is implemented, Executive Relief has the potential to reduce but not fully eliminate these obstacles. Our interviews with constituents of immigrant-serving organizations identified a cluster of commonly experienced barriers to incorporation. These barriers focus on immigrants' health and emotional well-being, educational and work opportunities, family relationships, geographic mobility, and experiences of discrimination. While there is variation in which of these barriers is of greatest concern to individual immigrants, collectively, these barriers place undocumented immigrants in a position of liminal legality in that they live in U.S. communities and have certain legal rights and protections without being fully present in a legal sense.

Interviewees' immigration histories also impacted the nature of the liminality that they experienced. Some interviewees anticipated eventually qualifying for another form of relief, such as a family visa petition, and so hoped to obtain Executive Relief in order to improve their legal situation in the meantime. Others were eligible only for Executive Relief, and so considered this an extremely important program. Still others were unlikely to qualify for Executive Relief, for example, due to their entry dates or due to not having children, and therefore continued to hope for an eventual comprehensive immigration reform. Those who did anticipate applying for Executive Relief also faced application challenges, the most significant of which is the injunction that currently has prevented implementation of President Obama's announced program. Other application challenges include the cost of applying, difficulty obtaining evidence, and the potential impact of criminal convictions.

Those who overcome these challenges and obtain relief are likely to benefit in key ways, including through obtaining work authorization, improved educational opportunities, the ability to travel locally without fear of apprehension, and greater emotional security. At the same time, interviewees identified several shortcomings of Executive Relief, such as the temporary nature of the program, its possible revocation by the next president, and the facts that it does not include a pathway to citizenship, the ability to travel internationally, or the ability to petition for other relatives.

### *What hardships do people experience due to being undocumented?*

Our analysis of the hardships that Executive Relief could potentially overcome draws on sociologist Cecilia Menjivar's notion of liminal legality, a status that is "characterized by its ambiguity, as it is neither an undocumented status nor a documented one, but may have the characteristics of both" (2006:1008). Deferred action – the benefit that individuals would obtain through Executive Relief – exemplifies such ambiguity as recipients will be deemed lawfully present but without law lawful status. In assessing the implications of such legal liminality for immigrant incorporation, we note that full integration is measured by multiple and thick linkages, such as employment, relationship to U.S citizen and legal permanent resident kin, language skills, volunteer activities, and civic engagement (Portes & Rumbaut 2001; Portes & Rumbaut 2006; Waters & Pineau 2015). Some barriers to full integration – such as unemployment or lack of access to higher education or ineligibility for health insurance – are direct results of immigration laws that are designed to restrict access to goods and services to U.S. citizens and lawful permanent residents. Other barriers – such as family separations, discrimination or emotional distress due to living with uncertainty – are more indirect in that the law is not *designed* to promote these outcomes (thus, U.S. legal codes state that individuals cannot work legally without authorization, but do not state that immigrants must live apart from their immediate relatives for lengthy periods of time). We predict that if and when Executive Relief is implemented, the indirect impacts of immigration laws will be more difficult to overcome than the direct ones.

#### *1. Health and Well-Being*

Health and well-being is key to immigrant incorporation in that individuals who are ill, injured, distressed, or suffering from mental health disorders face challenges developing the thick linkages that signal incorporation, yet medical difficulties and the emotional toll of living with uncertainty were key hardships articulated by participants in our study. Some interviewees did not have medical problems, but, due to their ineligibility for medical insurance, lived with a sense of vulnerability. Alondra, for example, told us, "When we arrived [in the United States] and my husband lost his job, we were left without medical insurance. We had never been without medical insurance, and I became a bit panicked thinking that something could happen to my little daughter and I would not have the money for medical attention."

Others had indeed suffered medical problems that resulted in significant debt or in difficulty finding treatment. Margarita had been diagnosed with cancer and had undergone chemotherapy. She was slowly paying off a medical debt of \$11,000, and expressed her frustration at the challenges posed by her undocumented status: "If I could be working, we would have been able to try to pay this debt. Because we would have more income."

Still other interviewees described their deep anxieties about their futures, given their undocumented status in the United States, their lack of opportunities in their home

countries, and the seeming impossibility of legislative reform that might provide them with a path to citizenship and full incorporation in the United States. Herminia, for instance, related, “I’m 39 years old now, and I’m still trying to become, you know, legal. And yet I feel like my life has gone by and I haven’t done much. And it’s very frustrating.” It was not unusual for interviewees to break down in tears when describing their frustration, fears, and sense of stigmatization. Some hid the fact that they were undocumented from others, attempting to “pass” as legal residents, a strategy that also exacts an emotional toll (Garcia 2014).

## 2. Occupational and Educational Obstacles

Work-related hardships and barriers to educational opportunities were central themes among interviewees, and are direct consequences of laws that restrict undocumented immigrants’ access to employment and to the in-state tuition rates that make college affordable. These barriers prevent the social mobility that would be associated with full incorporation.

The most devastating work-related hardship experienced by interviewees was unemployment. Many noted that the use of E-Verify, a federal system designed to verify job applicants’ abilities to work by checking their documents against a database, had spread within the sectors in which they used to be employed. Alondra described her husband’s employment challenges:

*After so much looking, he began to work in around March. April, May and June. He began to work. Then they told him that there was a problem with e-verify. That his citizenship status was not registered. So he had to apply again. Or maybe there was an error in his social security number. He knew that it would just fail again, because he didn’t have a work permit. So the company said, “You are not a citizen.” And he said, “No.” “We can’t keep you on.”*

Some were unable to find jobs, and experienced financial hardship, dependency on relatives, and deep insecurity. Others found jobs but were underemployed, working as housecleaners, construction workers, or in in factories or restaurants. Herminia, who had almost completed a college degree in biology, commented, “It makes me sad that I went to school so many years, and, if I can find a job cleaning, I’ll be lucky,” while Julieta, who was trained as a CNA, was working as a housekeeper. Still others held jobs but faced exploitation, such as wage theft, forced overtime, or denial of medical treatment for on-the-job injuries. Erasmo described such challenges: “Say there are companies that employ you and won’t pay vacation time and holidays are also unpaid and so there are many disparities when compared to people who work and who are documented. That speaks to some of the ways in which they abuse us. That’s what we know about but you also see it in your wages. It’s not the same as what we get paid.”

These labor problems were exacerbated by lack of access to higher education. Although undocumented students’ access to higher education has improved in recent years, as states have passed laws allowing them to pay in-state tuition rates and in some



cases, qualify for financial aid (Ábrego and Gonzales 2010) and as many have been able to qualify for DACA, older adults who did not graduate from U.S. high schools may not qualify for these benefits. Without work authorization, eligibility for financial assistance, or even the ability to drive legally, it is difficult for students to complete college degrees. Numerous interviewees had to put their educational aspirations on hold. Alondra, who had hoped to obtain a graduate degree in computer science in the United States, described the educational challenges that she faced: “I went to a center at Pierce college. And there, yes, I could study English. I could study office procedures. And I could study language. I had the luck of taking that at that time, it is no longer offered. But that is it.” Similarly, Herminia found the financial challenges of being an undocumented student overwhelming: “I’ve been wanting to go back [to college], but every time, it becomes harder. Because, for two reasons. There is always the tuition thing and it just keeps going up. Every year. So once I – especially, you know, like many people in my situation, you know they have to work, and sometimes you can only pay rent or tuition. So you have to choose.”

### 3. *Family*

Concerns over family members also were a hardship for many interviewees, which both contributed to emotional distress and were factors in limiting integration. Many interviewees were part of mixed status families, that is, families in which individuals have different immigration statuses. Many had U.S.-born children, the precise situation that DAPA is designed to address, and therefore worried about potentially being separated from their children if interviewees were ever to face deportation.<sup>9</sup> Of course, those who did not have U.S. born children faced another hardship, namely, that of being ineligible to apply for DAPA if it goes into effect. Interviewees also were often separated from close relatives – parents, grandparents, siblings, children -- in their countries of origin, due to their inability to reenter the United States legally if they were to depart the country. Living in the United States enabled interviewees to send remittances to their relatives, but also meant that they experienced emotional distress and were unable to fulfill other important family responsibilities. Alondra described her sorrow at being unable to attend relatives’ funerals: “My father died of cancer and my husband’s mother also died of cancer in Peru. In both cases we could not go see them. The impotence of knowing that they were struggling and not being near them, the inability to say goodbye to them for the last time, are very painful feelings.”

Interviewees also often had other undocumented relatives, and suffered from anxiety about the hardships that they experienced. Beatriz worried about her son, who was undocumented: “The oldest son suffers the most because he’s always taking the bus

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<sup>9</sup> Interviewees who were married to U.S. citizen or lawful permanent resident spouses also worried about potentially being separated by deportation, especially if they were ineligible to adjust their status in the United States. The provisional waiver program, which allows individuals who would face a bar on reentry if they had to leave to petition for a waiver in the United States, provides some relief. However, the waiver process brings its own hardships. See Gomberg-Muñoz (2015) for a deeper discussion of these issues.

even in bad weather conditions. He gets bronchitis. He had a car but didn't fix it. He won't buy a car because he's afraid they'll [the police will] take it away [for driving without a license].”

A few interviewees, who had the ability to qualify for a family visa petition filed by a parent, had to remain unmarried in order to preserve their eligibility. Other interviewees, who had no hope of qualifying for status, worried that they would be compelled to marry for the sake of papers. One interviewee, who had eventually obtained DACA, told us that her mother had contemplated arranging such a marriage for her so that she would be able to attend college. Indeed, numerous interviewees expressed relief that Executive Relief, if implemented, would free them from considering their need for papers when deciding whether or whom to marry.

#### *4. Mobility*

Geographic immobility is another hardship that limits incorporation. We have already noted that individuals who are undocumented or who hold only temporary legal status are unable to travel internationally because if they leave the United States, they cannot reenter legally (Coutin 2010). Such geographic immobility not only leads to family separations, but in addition, may limit individuals' job and educational opportunities (for example, the ability to do study abroad). Interviewees also expressed concern over their ability to travel locally, a direct result of their immigration status. Because in recent years (and especially since passage of the REAL I.D. Act), legal status has been made a prerequisite for getting a driver's license, interviewees had to travel on public transportation or drive without a license (and often also without car insurance, for the same reason). Taking public transportation is not always practical and may expose individuals to law enforcement officials who could question them about their immigration status. Margarita, for instance, avoided metro stations in Los Angeles, deeming these risky due to the presence of law enforcement officials conducting sobriety and license checks: “This city building is right in front of the metro stop, and there is a small area for parking. And so those are buildings where there is parking there, next to it, we know that there can be [checkpoints].” Other interviewees deliberately avoided particular corners or highways due to checkpoints. Interviewees also had received tickets and even had their cars impounded due to driving without a license. Such limitations on mobility impact immigrants' access to public spaces while also contributing to stigmatization and heightening their fear of law enforcement.

Finally – and very much interconnected with the hardships described above – interviewees described experiencing discrimination due to their immigration status and/or their race. Law plays a key, yet often hidden role in experiences of discrimination and racialization. On the one hand, law directly impacts undocumented individuals' abilities to open bank accounts, carry out financial transactions, and show identity documents, all of which are markers of belonging and inclusion. On the other hand, being exploited by one's employer, being treated like an outsider, or being profiled by a police officer as a potential undocumented immigrant are not directly attributable to law (and indeed, in the case of workplace violations, may be illegal) but nonetheless are experientially connected

to individuals' immigration status and to public narratives associating immigrants, and especially nonwhite immigrants, with crime, poverty, disease, and other maladies (Chavez 2008). For example, Erasmo, who had had his car impounded by the police for driving without a license, complained of being racially profiled: "One is detained because they see me as Latino not because they don't know your status yet whether you're an immigrant or not. I've seen people who are Latino, who have their license. They're not immigrants and they've been pulled over. The first thing they ask for is the license." These and other discriminatory practices define individuals as not belonging, which, by definition, poses a challenge to incorporation.

### *Are there barriers to regularizing?*

Among undocumented individuals, opportunities and barriers associated with regularization vary tremendously, indicating that the status "undocumented" is not monolithic (Gomberg-Muñoz 2015; Kubal 2013). Several distinctions among undocumented interviewees were pertinent. First, individuals who entered the United States with a tourist visa and then remained in the country beyond its expiration date were "inspected and admitted," and therefore are eligible for "245(i)," a section of the U.S. immigration code that permits individuals to adjust their status in this country rather than having to go to the U.S. embassy in their country of origin to do so. Individuals who crossed the border without authorization are not eligible for 245(i). This distinction is important because those who are over 18 and who live in the United States without legal status trigger a 10-year-bar on reentry if they leave the country. Certain categories of relatives qualify for a provisional waiver of this 10-year-bar, however, obviously, it is better not to have to ask in the first place. Accordingly, interviewees who had originally entered the United States on tourist visas were more optimistic than those who had not. For example, Mauricio, who had entered the U.S. on a tourist visa and who had a U.S. citizen fiancée was confident of his ability to gain status through an eventual spousal petition: "On the website of the government, of Immigration, it says that if you entered with a visa and you want to change your status – in my case, by getting married – it does not cause much of a problem for you." Although U.S. Citizenship and Immigration Services has made waivers and advanced parole for unauthorized entrants much more routine and accessible, individuals who do not have to rely on those mechanisms still view themselves as relatively privileged with regard to their potential to gain lawful immigration status.

Second, some interviewees had opportunities to eventually legalize through existing channels, including through family petitions, a U-visa (granted to crime victims who collaborated with the police in an investigation) or through political asylum (due to having a well-founded fear of persecution in their country of origin), whereas others had no such opportunities. For such individuals, eligibility for DAPA or DACA+ was seen as a way to legalize their presence and gain work authorization while waiting for a family-based visa, or while applying for asylum or a U-visa.

Third, there were interviewees who had no existing legalization opportunities, and for whom DAPA or DACA+ was the only avenue through which to temporarily legalize

their presence. Finally, we interviewed some undocumented individuals who had no existing opportunity to legalize and who were also ineligible for DACA+ (due to their age and entry dates, their failure to complete the educational requirements, or a disqualifying criminal conviction) or DAPA (due to not having U.S. citizen or lawful permanent resident children or other disqualifying characteristics). One such individual was Julieta, who told us, “I’m just waiting. I’m just waiting for Congress to have a little bit of compassion. That’s all, that’s all we ask. An opportunity.”

During the course of our study, those who were eligible to apply for DAPA or DACA+ faced a new barrier to applying for relief: a court injunction has thus far prevented both of these programs from being implemented. Interviewees, who said that President Obama’s announcement had enabled them to begin to make plans to continue schooling or to seek new jobs, found the injunction devastating. Alondra, who was eligible to apply for DAPA, called it “supremely disappointing” while Herminia, who had planned to apply for DACA-Plus, told us:

*When it [Executive Relief] was suspended, all of my hopes fell.... I had gotten all of my paperwork in order, and was preparing to apply as soon as the program opened. It is very, very frustrating! I had waited so long and then finally, there was a small light [like at the end of the tunnel], and then it went out, suddenly.... With the suspension, my hopes too were suspended.... When you are practically in the doorway and you see that something is possible and then the opportunity is taken away, it is really, really hard.*

Other application barriers mentioned by interviewees included lack of information about the program details, fear of the risks associated with applying, concerns about their ability to afford application fees and related expenses, difficulty locating the evidence that they would need to submit with their cases, and the impacts of criminal convictions. The injunction has likely exacerbated these barriers, particularly, the sense that it is risky to apply given that DAPA and DACA+ could be canceled by the president who succeeds Obama, even if the courts eventually allow these programs to go forward. Indeed, we found that interviewees who had already qualified for the 2012 DACA program felt increasingly insecure due to the ongoing legal battle over DACA+ and DAPA even though their own program was not directly affected by the injunction. Such continued uncertainty is emblematic of liminal legality.

### ***What barriers to incorporation may persist even after regularizing?***

If DACA+ and DAPA are implemented, individuals who obtain deferred action will benefit in key ways, but also are likely to experience continued challenges to incorporation. Benefits include work authorization, relief from deportation, the freedom to move about the United States and within their local communities without fear of apprehension, and greater emotional security. These benefits are significant insofar as they directly address some of the most recurrent hardships faced by undocumented immigrants. These programs would promote incorporation by enabling deferred action recipients to secure steady employment, pursue educational goals, improve their earnings,

remain with family members, increase their community involvement, and generally, feel more settled.

At the same time, these benefits would still be offset to some degree by continued challenges associated with the temporary and unstable nature of Executive Relief. Deferred action is not legal status, but merely legal presence, and does not give recipients the ability to obtain lawful permanent residency or citizenship (though, as noted above, in the case of those who eventually are likely to qualify for status, it will give them limited relief in the meantime). The program can be revoked at any time, contributing to a sense of instability. Recipients will not be able to petition for their relatives, as can lawful permanent residents and U.S. citizens, thus leading to continued separation from family members living abroad. Indeed, recipients will not be able to travel internationally unless they first obtain advanced parole, and the total amount of time they can spend outside of the United States without interrupting their continuous presence here is six months. Their ability to visit family members in their home countries will therefore be quite limited.

Brokering organizations have some capacity to mitigate application barriers and persistent hardships. We turn now to an exploration of the ways that brokering organizations have responded to Executive Relief.

# 3 |

## The Brokering Role of Immigrant-Serving Organizations

Immigrant serving and immigrant member organizations play complex brokering roles in periods of legal uncertainty. The constant legal flux – and their own key role in moving the law – means that they must both assist noncitizens in accessing legal status when the law permits it, as well as mobilize noncitizens and their citizen allies in support of legal change that would expand access to legal status -- whether via legislation or through Executive Relief. Here, we summarize the ways that immigrant serving organizations responded to the legal flux around Executive Relief programs and we identify key organizational features that structured organizational responses to unfolding legal developments in a period of extreme uncertainty.

### *How have immigrant-serving organizations responded to Executive Relief?*

Our research indicates that organizations have responded to the prospect of Executive Relief in at least three ways: first, many have created or expanded legal services programs for deferred action applicants, viewing the 2012 DACA program as a pilot for what was thought would be a much larger applicant group for DACA+ and DAPA. Second, they have interpreted and disseminated information about existing and prospective federal deferred action programs and state law reform initiatives. Third, some organizations have continued to mobilize within immigrant communities in support of changes in the law at the federal, state, and municipal levels. The organizations surveyed and studied in our research have adopted an active and pragmatic set of responses to the continued legal uncertainty facing the communities that they serve. The particular responses that we document reflect the particular challenges of providing legal services and mobilizing for legal change during a period where political developments and ongoing litigation generated extreme legal uncertainty.

A range of organizations have started new or expanded *established programs of legal service provision* for DACA applicants and expected to extend services to Executive Relief applicants before the imposition of Judge Hanen's injunction. We have interviewed representatives of a range of types of organizations: legal services, legislative and policy advocacy, community organizing, and hybrid entities combining elements of each of the above. With the exception of a single major legal services organization in Los Angeles which chose to stay focused on core areas of service by not expanding to serve Executive Relief applicants, all of the other organizations that we examined in both LA

and OC have provided legal services to individuals and/or facilitated provision of legal services to individuals through relationships with pro bono attorneys and legal services organizations. Organizations are compelled to fill a gap, as a number of organizational representatives indicated that there were very few free legal resources available in the region for undocumented immigrants. One significant immigrant legal services provider in LA told us that “if it’s not [domestic violence]-related and if it’s not citizenship-related, there’s not really a lot of funding available, even in the deferred action context.” Before DACA+ and DAPA were enjoined and groups faced the prospect of assisting millions of applicants, it was clear to one of our organizational interviewees that foundations were not going to support the expansion of legal services programs within the non-profit sector to meet that need. Further, the costs in the private market for legal support for filing applications for deferred action are difficult to bear for immigrants who are working in the low-wage sector and already burdened by high federal application fees. Even those who can afford such assistance are often confounded by the inadequacies of the private immigration bar.

Some of our organizational interviewees said that their groups provided free legal support for DACA and planned to do so for the proposed expansion of Executive Relief, as well. Some saw themselves as filling an important need because this kind of legal support is quite scarce and limited. Others, particularly those most active in the push for the deferred action programs, felt that it was important to follow policy wins with actual outcomes for members of the communities on whose behalf they had fought. One major legal services provider and policy advocate in Los Angeles who was deeply involved in the push for DACA indicated that her organization felt it was essential to create safe spaces for applicants where they would feel comfortable coming forward, to fight the “internalization of criminalization” advanced in the larger culture and mass media. Other organizations had more prosaic but still important motivations. One of the organizations that we profiled charged a relatively low fee to its members to help them file applications. The prioritization of members both incentivized membership recruitment and offered a reasonable alternative to the private market for legal services. That same organization provided a set of legal services across a range of policy areas (DACA, U Visa, Naturalization) that may have been tailored to its organizing goals. Multiple organizations reported that DACA brought community members through the doors so that legal workers might identify other sources of relief, some leading to a less contingent form of legal status, such as U Visas, Violence Against Women Act (VAWA) relief,<sup>10</sup> and asylum. Finally, a Los Angeles-based organization was especially focused on keeping community members away from unscrupulous *notarios*<sup>11</sup> who take advantage of legal uncertainty, rumors, and misinformation to charge noncitizens for assistance with

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<sup>10</sup> VAWA allows women who are victims of battering to self-petition instead of relying on abusive partners to petition for them.

<sup>11</sup> In Latin American countries, *notarios* are authorized to provide legal services. In the United States, individuals often take advantage of linguistic confusion to take advantage of their status as notary publics (who are not authorized to practice law). They promote themselves as *notarios* in immigrant communities and hold themselves out as authorized to practice immigration law. The problem of *notario* fraud is sufficiently widespread that both state and federal agencies and bar associations have attempted – without notable success – to address the problem.

programs that do not exist. This organization was willing to expend efforts to assist applicants with weak applications who would otherwise seek legal assistance from predatory legal service providers.

The overwhelming numbers of deferred action applicants, particularly for organizations without experience providing direct legal services, strongly incentivized the creation of networks of groups working together to serve populations in both Los Angeles and Orange County. Youth-led organizing groups found support in more established legal service providers in both areas, both in accepting referrals and in staffing workshops at which individuals were served *en masse*. The organizing groups largely do not have legal workers on staff, though they are fairly sophisticated about law and policy. They have come to rely on key legal services organizations and individual lawyers for assistance with individual consultations and preparation of applications for deferred action and expected to do so once again upon release of the details of expanded Executive Relief.

In addition to provision of direct legal services, groups focused on community organizing in both Los Angeles and Orange County undertook *education programs* focused both on the deferred action programs (for which there was great anticipation and some preparation in both 2012 and 2014), as well as on other state initiatives such as A.B. 60, the California law reform resulting in the eligibility of undocumented residents for drivers' licenses, and Health for All, another California legislative initiative focused on establishing access to health care for undocumented residents. These community education programs existed on a continuum in that the programs incorporated detailed information about eligibility for programs in the case of policy wins as well as next policy goals and campaigns, in case of losses. One organization in Orange County specifically indicated that it would only undertake educational programs in the context of campaigns to advance larger power-building goals. Another group in Los Angeles has a policy advocacy and community education team that prepares presentations on various initiatives from drivers' licenses to the deferred action programs. That organization collaborates with others on issues about which it may have less expertise in-house. Organizations were creative in reaching undocumented residents through family members with legal status. One Los Angeles organization specifically sought to reach individuals who did not self-identify as "Dreamers" to correct the misimpression that DACA was contingent on an applicant being a current student and having a certain kind of "best and brightest" profile. Groups found themselves correcting a host of misimpressions and misinformation about the deferred action programs, including eligibility requirements. Organizations tried to correct inaccurate information disseminated through certain segments of ethnic media. They also recognized that federal agency materials, such as instructions to fill out forms and frequently asked questions, had to be translated for community members beyond the literal meaning of the words on the page.



Even during the period in which Executive Relief was enjoined, organizations tried to keep communities active by educating them about the likely program requirements. For both DACA and the anticipated Executive Relief programs, there was much focus on how applicants could prove presence over a period of years, a key requirement of the deferred action programs. This was recognized by multiple groups to be a particularly challenging requirement, because undocumented people are pushed by law enforcement to live and work in the part of the economy that is lawless, informal, or underground, and which typically lacks documented transactions (for both earnings and living expenses, such as rent). One Los Angeles-based organization traced the exacting presence requirements to abuse of the less constraining 1986 amnesty rules. The stricter deferred action rules give greater power to individual USCIS officers to adjudicate the legitimacy and adequacy of documentation. That same organization originated a creative approach to the presence requirement by indicating that it would make sign-in logs and other documentation of participation in organizational activities by paid members available to those members when it came time to apply for one of the Executive Relief programs or for other immigration legal purposes.

The third major prong of organizational activity in the lead-up to and since the announcement of Executive Relief has been *community mobilization* in campaigns for law reform at the federal, state, and municipal levels of government. As with the educational programs, campaigns exist on a continuum so that organizations are actively seeking community participation in multiple overlapping initiatives, such as the access of undocumented residents to acquire California drivers' license and health care subsidies, as well as immigration-law focused initiatives for various kinds of relief from deportation and against federal-state-local cooperation on enforcement. The mobilization in Los Angeles by one organization has been focused on electoral politics, with the basic understanding that politicians are responding to the relative strength of the Latino vote. That organization sends undocumented canvassers out to convince U.S. citizens to vote in local and state elections. Other groups that were centered on community organizing, particularly in Orange County, are less electorally focused. Youth activists that were involved in the fight for the Dream Act and DACA have become leaders in the fights for expanded Executive Relief, AB60 and Health for All, and against federal-local cooperation on immigration enforcement. Multiple organizations in Los Angeles and Orange County reported that DACA had both enabled outreach to colleges and secondary schools and emboldened those who received the contingent status to remain or become politically involved. This has led one large legal services provider in Los Angeles to follow the lead of undocumented activists on policy advocacy campaigns, a form of advocacy it had not undertaken before the recent past. Just as organizing groups were pulled to provide or facilitate provision of direct legal services in the wake of DACA, so too are traditional legal organizations pulled into policy campaigns through networks and alliances with more activist groups. The power of undocumented youth leaders has expanded in the wake of Executive Relief because of the persuasiveness of their critiques of both the substance and the prospects for the Washington D.C.-centered strategies focused on passage of a deeply flawed (in their view) enforcement-first comprehensive immigration reform bill.

One sophisticated Los Angeles organizer characterizes the undocumented population as fitting into three categories: (1) those who are afraid, feel like criminals, and don't want to lose the limited material gains they have made; (2) those who listen and understand but do not show up to meetings and protests; and (3) those who are aware and ready to move. That organizer says that since there are thousands in the third category in Los Angeles, it made sense for the organization to target that segment of the population and hope that others are pulled along. Another insight shared by a sophisticated grassroots activist is that there is a new recognition that the struggle for immigrant rights intersects with other campaigns. For example, organizing leaders are focused on the consideration of LGBT issues in future versions of comprehensive immigration reform.

Organizations are simultaneously *mobilizing at the federal level*. In addition to advocacy for interim measures, such as the deferred action programs, they have also organized in support of a path to citizenship for as many as possible in renewed forms of comprehensive immigration reform. Simultaneously, they have organized and advocated in opposition to the criminalization of undocumented immigrants. Organizations recognize the highly contingent nature of deferred action programs but also know how much individuals benefit from their ability to work with valid authorization. One leader of a legal services organization in Los Angeles worries that, as in some cases of the extension of Temporary Protected Status, deferred action can establish a permanent state of limbo and uncertainty. However, that leader thinks Executive Relief is essential in bringing people out of the shadows so that they may join the fight for more permanent solutions, including paths to citizenship for themselves and their families. Indeed, the limitations of DACA and Executive Relief lay the foundation for mobilization for new forms of comprehensive immigration reform. The fact that the programs exclude millions, including the family members of some activated DACA recipients, ensures that organizations and the immigrant rights movement more generally will not be content with the interim measures, even if and when the injunction is lifted. One lawyer associated with an Orange County legal services organization discussed as longer-term federal immigration reform goals the creation of a path to citizenship for DACA recipients and their families and the elimination of unlawful presence bars and the permanent bar to reentry that currently applies to many deported and deportable noncitizens. Though many of our interviews took place before Judge Hanen's injunction of DACA+ and DAPA was put in place, organizational leaders discussed the earlier delays in the announcement of Executive Relief as forcing them to keep up a campaign focused on immigration enforcement that included direct confrontation with federal policy-makers. Whether that level of political participation has endured in the months since the injunction was entered is a question that we need to examine through further interviews and observation.

Organizing groups in Los Angeles and Orange County have also tried to disrupt local participation in federal enforcement programs. For example, they fought and continue to fight to curtail 287(g) cooperation agreements between federal and county authorities, to keep up the success that they had in challenging the legality of Secure Communities, and to push the federal government to expand areas of discretion under the enforcement priority guidance issued by ICE in 2011. One organizational leader from Orange County recognized that those most vulnerable to immigration enforcement would

likely not qualify for any kind of relief from deportation or from the any of the deferred action programs. Instead, if Executive Relief is ever adopted, vulnerable and excluded segments of the population will bear the brunt of the government's narrowed, intense focus on "undesirable" immigrants. The total number of annual deportations has dropped slightly in recent months, but the capacity of ICE to deport and detain immigrants (and associated arrest and detention quotas) has not changed even as the Obama Administration has taken steps to offer a measure of protection to some immigrants. Some organizations therefore continue to engage in advocacy with federal immigration authorities on individual DACA applications, with the goal of continuing to shape agency adjudication, particularly in light of the fact that the injunction may at some point be struck down and millions of applications would then be before the same federal agency.

A second focus of community mobilization is on *legislative and policy advocacy at the state and local levels*. This has been a particularly fruitful strategic focal point for organizations in California due to the favorable climate in both the legislature and the governor's office on immigration issues. One Los Angeles organization proposed a legislative change – one that goes into effect on January 1, 2016 – on the basis of the experience of one of its own undocumented interns who had difficulty getting in-state tuition because she finished high school in less than three years. There is also a great deal of focus in both Los Angeles and Orange County on implementation of A.B. 60, the legislation allowing undocumented noncitizens access to drivers licenses, including advocacy with relevant state agencies and community forums organized in conjunction with state legislators who helped ensure passage of the bill. Some organizations continue to support implementation of the California TRUST Act, which forbids local law enforcement detention of immigrants who have committed lower level crimes. A Los Angeles organization has focused on the establishment of a municipal identity card that would be issued without regard for immigration status (which would have the added benefit of providing proof of presence, a difficult problem discussed above). As noted earlier, groups in both Los Angeles and Orange County are focused on advocacy efforts around the Health for All bill. Another state legislative reform that will significantly improve the success of applications for deferred action is the recently-enacted legislation limiting misdemeanor sentences to 364 days – a significant legislative victory for immigrant-serving community organizations.

One organizer at a Los Angeles organization says that "[w]hile inaction at the federal level is not surprising [it] also could be devastating. But the work that we have done at the state level is something that our members are really heavily involved [in]. But that requires a lot of work on our part as well as the work that is done at the city level." Subnational advocacy and selective federal campaigns represent the organizations' pragmatic responses to the continued uncertainty surrounding Executive Relief. One lawyer at an Orange County legal services organization minimized the impact of the enjoined deferred action programs; she says "the majority of my clients would not even be qualified for administrative relief." Another lawyer at the same organization says that that she assumes that whichever reform occurs, the people who have been in the U.S. the longest and who have the cleanest records will benefit.

Groups that were focused more on organizing and mobilization than legal representation appear to have a more difficult path forward interfacing with immigrants in their communities. People have desperate need for status, to travel, to earn more money for their families, to go to school, to escape exploitative work and living situations. One organizational leader describes the intensity of the need: “[f]or a lot of folks, they just need something. Whether that is going to happen in the future or now, they just need something. I don’t think a lot of folks have the luxury of waiting, they just need something now.” Those organizations must manage their constituents’ uncertainty and need while convincing them to stay away from unscrupulous *notarios* and to stay involved in campaigns that will fall short of campaigns’ ultimate aim, a path to citizenship. One Los Angeles group tries to keep telling the stories of undocumented families in ethnic media, so as to keep the hope and the fight for Executive Relief and comprehensive legislative reform alive. Another works with families so that there might be franker conversations around the dinner table about the effects of lack of status and less silence in the community. The organizational leaders with whom we spoke collectively shared a unique mix of pragmatic and opportunistic strategies for moving forward, together with a tragic understanding of the difficulties and challenges faced by their members, constituents, and communities.

***What are the significant features of organizations that shape responses to liminal legality?***

There is a fairly straightforward divide within our group of organizations between those that are primarily legal service providers and those that are engaged in various forms of community organizing. This is especially true in the varied responses to uncertainty amongst constituents, from pragmatic to tragic. Yet all of the organizations that we have profiled share in common to varying degrees certain kinds of services and modes of advocacy. The organizing groups have gravitated to provision of direct legal services and the legal service providers have moved to engage in supporting more grassroots advocacy and bottom-up policy initiatives. Moreover, many of these organizations are in formal and informal coalitions or networks with each other, as they strive to meet community need.

One condition to which all of the organizations are subject is the severe lack of funding for work with undocumented residents. When DACA went into effect in 2012, one Los Angeles organization had a six to seven month waitlist for individual appointments for assistance with the application. Many could not wait so long and ended up working with unscrupulous *notarios*; some of them later returned to the organization seeking assistance with cases that were handled badly. Staff at that organization worked from 9 am to 10 pm for weeks after the release of DACA application forms, to accommodate the need of its members. Any new program of deferred action will require the hiring of staff and flash training. Two forms of institutional uncertainty inhibit funding of organizations that might serve a brokering role between federal authorities and immigrant communities. First, until the injunction is lifted, foundations and other funders will refrain from committing resources and organizing a coherent response to community need. Second, an organizational leader told us that, ultimately, the wait for

comprehensive immigration reform at the federal level prevents full funding to support organizational responses to programs of deferred action. The programs are seen as temporary and contingent, rather than as means to activate communities and to see a campaign snowball to take on larger targets and secure more significant policy aims. The same comprehensive immigration reform paralysis that appeared to grip many D.C.-based actors appears to continue to have a hold on funders, in spite of what organizers and community members have learned about effective strategies of community mobilization and law reform in this area over the last few years.

Three other resource-related constraints affect organizations. First, many funders are not sensitive to the need to have small, language-specific workshops and outreach materials, particularly in the Asian/Pacific Islander community. Funders seek scale at the expense of effective outreach. Further, the lack of outreach becomes a self-reinforcing dynamic as funders discount need based on call volume (or lack thereof) at community organizations. A second resource issue that arises, according to the organizational leaders with whom we spoke, is that as program complexity increases (perhaps in response to past anecdotes of fraud, as discussed above), the number of individuals that may be served by groups committed to providing competent advice decreases. Complicated compromises struck by agency officials may set back the efforts of organizations to meet community need. Third, competing needs may reduce organizational staff time and resources for counseling related to the deferred action programs. At three different organizations with which we spoke, unaccompanied children from Central American have come to occupy significant staff time, for understandable reasons. However, this has also impeded these organizations' preparation for organizational services and education to implement Executive Relief. In the case of one organization, this led to a narrowing of the range of advocacy modes in which its staff felt that it could work, spurring a retreat to earlier, pre-DACA assumptions that impelled an organizational focus on individual legal services.

A final factor that generated differences across the group of organizations that we examined involves geography. Los Angeles has larger direct legal service providers than Orange County. Further, the Los Angeles organizers have more experience. This is consistent with our assumptions at the start of this project, with the strong sense that there is much higher volume of need in Los Angeles but also that there is a non-profit infrastructure and various service providers to whom immigrant communities may turn. However, we were struck by the networking and communication across the two geographic areas, particularly amongst the organizing groups, so that Orange County groups may share the sophisticated policy goals and organizing methods used by the Los Angeles groups. Much more cross-fertilization is possible, however, that which does occur serves to mitigate the differential with regard to resources and advocacy experience. Further, Orange County community organizers have learned how to have state-wide influence, so as to bypass the local political infrastructure that is largely hostile to immigrants. One Orange County group is an active member of a statewide coalition that has been instrumental in advocacy for the TRUST Act. That coalition likely will be key in many other immigration-related reform efforts underway at the state level.

# 4 |

## Individual Responses to Organizations

To supplement our interviews with the staff and workers at immigrant-serving organizations, we also interviewed many constituents of these organizations. We defined “constituents” broadly to account for the variation in the degree to which individuals engaged organizations: from those who interacted with these organizations only to obtain information or legal representation in their individual cases, to those who participated in community education and training programs, to those who engaged in community organizing and mobilization efforts, to those who actually became key organizers within the organizations.

In addition to representing differing levels of engagement with the immigrant-serving organizations in our survey, these constituents also reflected a diversity of immigration statuses: those who were undocumented; those with deferred action status under DACA; those who probably would have been eligible for the expanded versions of Executive Relief; and to those with other legal immigration statuses, including lawful permanent resident status. In addition to trying to develop a more nuanced understanding of the brokering roles played by immigrant-serving organizations in the two counties of our study, we also tried to better understand what resources constituents perceived the organizations in their region to be providing and what barriers they encountered in accessing those resources. We summarize some of those findings here, although we hope to broaden our interview base and do follow-up interviews over time to gain a deeper understanding of constituents’ evolving perceptions about their relationships with immigrant-serving organizations in their communities.

### *What resources did constituents understand organizations to be brokering?*

Constituents engaged with organizations to different degrees. Some viewed organizations in largely pragmatic and instrumental terms—that is, as a low-cost alternative to fee-for-service lawyers. These constituents thus viewed immigrant-serving organizations as one part of a whole range of legal service providers, along with private lawyers, *notarios*, and sources of legal information available on the internet and in Spanish language media. Indeed, constituents sometimes took advantage of the services of more than one of the organizations in our study, as well as other immigrant-serving organizations (*cf.* Abrego and Gonzalez 2011).

Indeed, for most constituents, finding an immigration lawyer was not hard, but finding quality legal services sometimes proved more elusive. Isabel, for example, noted that “there are a lot of lawyers than [sic] in reality just want to scam you.” Several constituents singled out *notarios* for their untrustworthiness. In addition to concerns about quality, constituents shared their concerns about the non-responsiveness of attorneys they found outside of community organizations. One constituent told us of contacting a legal aid office in Long Beach because it was closer to her home than the Los Angeles-based organizations in our study. But she didn’t hear anything from Legal Aid for six months. This intensified her feelings of vulnerability and ultimately led her to seek aid from one of organizations in our study even though that meant that she had to travel much further from her home.

On the other hand, not all constituents distrusted legal advice given by attorneys unaligned with community organizations. Graciela, for example, initially sought advice from a lawyer because she saw the lawyer on TV. She noted that she has seen many ads for lawyers on the radio and on Univision, and described the lawyer that she consulted as “trustworthy,” but she did not explain the basis for that assessment. These constituents tended to value immigrant serving organizations for their community education programs and their policy mobilization efforts, rather than simply their legal services. The data reflects that many constituents were aware of and appreciative of the range of services that were available.

In fact, some constituents viewed organizations as a gateway to a larger social movement focused on achieving immigration reform and on securing a pathway to citizenship for constituents and their family members. These constituents sometimes viewed their participation in these organizations’ educational and outreach activities as a way to empower themselves and others. Julieta, for example “wanted to be informed to inform other people. You know even though I don’t consider myself to be selfish. I like others to have the benefit even though I know I’m not gonna benefit from it though. Those who can benefit from it, who are hardworking people, I want them to don’t waste this opportunity because I wish I had it. I wish I had that opportunity so don’t waste it.” For constituents like Julieta, these organizations offered a way to remain connected to a larger community and engage in citizenly activities even when they themselves were unable to obtain any legal benefits as a direct result of their participation. In this way, accessing organizational networks seemed to provide a sense of community for individuals who lack the family networks that might otherwise qualify them for relief.

Unlike lawyers, whom noncitizens described strictly as legal services providers, immigrant-serving organizations and the networks they created were perceived to provide an array of services of which legal services was simply one. One organization that we surveyed provides courses and group activities, which Graciela described as “a hobby. To distract your mind.”

Although organizations struggle with the resource tradeoffs between their organizing and direct service missions, they also understand these two facets of their

work as complementary. Similarly, interviews with constituents suggest that organizing efforts can increase the perceived legitimacy of organizations as direct service providers. Orelia, for example, characterized one organization attorney as trustworthy because “He is sincere, he doesn’t lie to people, and he fights for the rights of immigrants.” Mobilization efforts might also lend organizations greater visibility in the community in ways that enhance their local reputations. Community perception of a service provider is often very important in shaping individual perceptions of the trustworthiness of that organization. On the other hand, the accurate assessments provided by these organizations about the unavailability of legal relief sometimes causes noncitizens to seek information from less reliable but more optimistic sources of legal information.

### ***What barriers did constituents identify to accessing resources?***

Generally, the constituents expressed appreciation to the organizations for the various services they provided at a reduced cost. Despite this appreciation, constituents tended to identify at least two barriers in accessing those services: (1) the unavailability of timely appointments or particular kinds of information, and (2) geographic distance.

#### *1. Appointments and Information*

One benefit of organizations that provide direct legal services is that they do so at low cost to their constituents and the constituents appreciated this fact. As Graciela explained, “[m]y experience has been very good because everything is free. For one to have to pay for this information via other means, it’s a little more challenging. When one works and wages aren’t so good, it is a little more difficult but what helps is to set laziness aside and come over and inform oneself because everything is free. It’s free and it helps us stay informed. This way, whatever problem we have, we’re already informed.” Fatima described her experience at one of the organizations where we conducted interviews as “Good. Excellent in fact.” Her assessment was also tied to the low-cost nature of the services. Constituents often cited cost as a reason why they didn’t turn to private lawyers for help. For example:

*Interviewer: “Explain to me why you didn’t want to [hire a lawyer for help].”*

*“Nestor”: “Like I said, if the case takes a long time and he keeps asking for money, and asking for money, and he’s going to have me that way, I’d rather be here for a few years and return to my country.”*

Immigrant serving organizations thus remove a crucial barrier to legal services by providing these services at low to no cost to constituents who otherwise would not be able to afford such services. Recognizing the importance of reducing these barriers, one organization in Los Angeles has devoted significant resources to ensuring that a live person (rather than an automated program) would be available to talk with a constituent with questions about his or her needs, at least between certain hours of operations. This organization, which focused primarily on serving Asian/Pacific Islander communities,



prioritized hiring and training staff members proficient in a variety of Asian/Pacific Islander languages. Doing so helped ensure that the organization was making its legal expertise available to the communities it was trying to serve. At the same time, as previously noted, different organizations have different capacity issues. Those with fewer resources relative to their communities needs had difficulty serving all (or even most) noncitizens who might benefit from legal services but who could not afford to pay for them. Because of these capacity issues, many noncitizens never access services through an organization, and those who do sometimes have to wait long times to get services. As previously noted, those wait times can be unnerving, and sometimes drive people to seek out services elsewhere. When the quality of the legal services that they obtain elsewhere is substandard, organizations may later spend a great deal of time with the same client untangling (when possible) the result of ineffective legal advice.

Because of governmental uncertainty about the nature of these newly created programs, organizations at times struggle to provide what to constituents may seem like basic information on whether and when DACA+ and DAPA will be rolled out, how long these programs will last, and whether they will ever provide a path to more stable legal status. Their inability to provide a straight answer is not on account of a lack of expertise; the answers to these questions are unknowable. But constituents often look to brokers to not only provide help with navigating the process but also to provide them with a sense of certainty, comfort, and hope. This aspect of the broker-immigrant relationship is undermined when there is legal uncertainty, and unfortunately, this helps explain why some immigrants might seek assistance from unscrupulous service providers who purport to know the answers to these unanswerable questions. Consider, for example, the experiences of one constituent, Orelia. She recounted several conversations she had with different attorneys about obtaining asylum relief. She explained: “[The attorney] told me, you have evidence, you have a scar, and you can apply for an asylum. But I think, what if he’s just getting my hopes up?” Another attorney offered to explain exactly how Orelia might obtain asylum relief but only for the price of \$3000. Orelia contrasted these conversations with the kinds she received at the legal services organization. There, advice was free and accurate, but did not provide certainty about her chances of securing status: “I asked the lawyer [at the organization] and he said that I would have to wait and see. . . . For the permit that is coming now. To wait and see what Obama would say.”

Constituents may also turn to other sources of information – sources that vary in terms of the accuracy of the information they provide. Julieta mentioned Facebook as a source of information on pending immigration actions. Nestor spoke of relying on Google searches to gather information about the law. In some ways, the uncertainty inherent in the Executive Relief programs drives constituents to seek information from sources other than organizations whose commitment to accuracy requires them, in this context of legal uncertainty, to convey the limits of their own knowledge instead of making false promises.

## *2. Geographic Distance*

Another common barrier identified by constituents was geographic distance. All residents of Southern California must contend with urban sprawl, but the effects of geographic distance were exacerbated by the inability of many undocumented residents to obtain a driver's license. As mentioned previously, A.B. 60, enables undocumented immigrants to secure California driver's licenses, and a large number of our constituent interviewees gave unprompted and unequivocal statements about the importance of these licenses in their daily lives. Many also expressed a great deal of enthusiasm about the role that organizations in the community played in bringing about this change in the law.

Even with driver's licenses, however, many constituents still lack access to cars, which means they have to either rely on friends or family who had cars or on public transportation. Isabel discussed how difficult it was to get to an organization's Los Angeles office from Long Beach. This same constituent missed her bus on her way to meet one of our team for an interview. Low-income and noncitizen residents are held captive by Southern California's underdeveloped transportation infrastructure. (Schindler 2015; Lewis 2013.)

# 5 |

## Conclusions and Next Research Goals

Our study confirms previous findings that even time-limited administrative relief programs like DACA, which offer no path to long-term citizenship, or even a guaranteed timeline, offer a host of concrete benefits for recipients. These include economic and health benefits, increased socioeconomic mobility and a greater sense of political belonging. This is true for people who might ultimately be eligible for other, more permanent forms of relief, as well as for those who are likely to lack access to more permanent statuses under any future legalization schemes.

On the other hand, we also found that individuals who access limited forms of administrative relief continue to experience marginalization and liminality. They are uncertain about the duration of their legally protected status. They are sometimes treated as if they are undocumented. They worry a great deal about potential interactions with law enforcement. They cannot petition for relatives outside of the country or travel freely to see them. In addition to separation, they also experience the added stress of living side-by-side with friends and relatives unable to access even the most limited forms of immigration relief. At times, it is difficult to distinguish their emotions and concerns from those of their undocumented friends and relatives. In these ways, Executive Relief programs seem quite distinguishable from more complete legalization measures.

Organizations assisting clients in navigating liminal legality also face a very different task than they would face if they were helping clients obtain legal status after legislative enactment of comprehensive immigration reform. Organizational staff members are required to offer legal advice against a backdrop of extreme legal uncertainty. This complicates their brokering role – at times limiting the actual assistance that they can provide to their most vulnerable clients. At the same time, it has required them to think creatively about their missions and about the relationship between direct services and community mobilization. Indeed, many organizations have centered community mobilization efforts in order to provide meaning and connection for constituents who keep falling outside the limited scope of Executive Relief. Like the constituents they serve, these organizations have demonstrated tremendous resilience and imagination in confronting the uncertainties inherent in this period of widespread liminal legality.

In the coming year, undocumented noncitizens and DACA recipients will confront a new range of challenges, as will the organizations that serve them. The 2016 presidential campaign has already concretized the uncertain future of the DACA program. Meanwhile, ongoing litigation in the Fifth Circuit will likely keep broader Executive Relief from being implemented at least until the presidential election cycle plays itself out – and perhaps forever. Our plan is to continue to document the ways that immigrant-serving organizations and their constituents in Southern California navigate this extreme legal uncertainty, and to assess whether and how these navigation strategies change over time.

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