

# An Institutional Examination of the Local Implementation of the DACA Program

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## **Executive Summary**

### Research and Public Policy Question

In June 2012, President Barack Obama created the Deferred Action for Childhood Arrivals (DACA) program to offer qualified young undocumented immigrants a two-year renewable stay of deportation and the ability to apply for a work permit. DACA is a federal administrative directive, not a congressional law, and unlike the last major legalization program in 1986, no federal resources have been allocated for its implementation. The case of DACA thus raises questions about how new rights granted by executive prosecutorial discretion are actually implemented in local communities and how they are experienced by the intended beneficiaries in different localities. More specifically, how have different stakeholders, including local government officials, legal service providers, advocacy organizations, funders, consulates, and labor unions, integrated (or not) DACA into their mission, programming, and resource allocation? What collaborations have formed between these different stakeholders around the DACA program? What challenges do they face along the way and how are they addressing these challenges?

### Evidence and Study Design

This is an ongoing study of the implementation dynamics of the DACA program in three metro regions that have large numbers of DACA-eligible immigrants: the San Francisco Bay Area in California, the Greater Houston Area in Texas, and the New York City Metro Area in New York. While all three regions have foreign-born populations well above the national average of 12.5 percent, they differ from one another in the ethno-racial composition of their populations, political context (in terms of regional and local partisan politics), and civic context (in terms of the density of civil society organizations). This project employs qualitative research methods, and data collection is ongoing. To date, we have conducted 9 focus groups with 23 “DACA-mented” students (13 at Baruch College, CUNY, and 10 at UC Santa Cruz) and interviews with 179 informants (including 26 in San Jose, 49 in San Francisco, 35 in New York City, 64 in Houston, and 5 with experts operating nationally).

### Findings and Explanations

Our early research findings show that a range of local institutional stakeholders—most notably local government officials and agencies, legal service providers, nonprofit advocacy organizations, funders, and foreign consulates—have actively engaged with the DACA program, although there are differences across the three study regions in how they do so:

- In the New York City Metro Area and San Francisco Bay Area, *local government actors and institutions* have allocated significant funding towards DACA, with a focus on expanding legal immigration services, outreach to immigrant communities, and access to education. These two regions are located in states that are overall supportive of immigrants and their societal integration. Conservative state politics and Texas pride in small government, however, have contributed to the reticence of

government officials in the Greater Houston Area to take a similar proactive role on DACA.

- *Nonprofit legal service providers* have been at the forefront of helping immigrants prepare and file their DACA applications. However, across the three regions they experience different challenges in reaching out to DACA-eligible immigrants, depending on the varying compositions of local immigrant communities. In each region, legal service providers also articulate different implementation challenges, including how best to collaborate and what service model is preferable, depending on different histories and densities of civil society organizations and different levels of funding for these organizations in each region.
- Across the three regions, *immigrant advocacy groups and student/DREAMer groups* have brought undocumented students out of the shadows, pressured school officials to support undocumented and “DACA-mented” students, and connected undocumented youth with the larger immigrant rights movement.
- *Local foundations* have provided essential resources and coordination for DACA implementation efforts in all three regions. Their level of involvement has varied, however, depending on the availability of local government funding for DACA implementation and the local infrastructure of civil society organizations. In Houston, for example, where local government has not made a significant financial investment in DACA, local foundations have provided the bulk of financial resources to support legal service providers and other nonprofits in their DACA work.
- In all three regions, the *Mexican Consulate* has played a prominent role in mobilizing media resources, coordinating legal services, and offering financial assistance and scholarships for first-time applicants who are Mexican nationals. There is some variation in consular involvement across the three regions, which can be explained by differing regional investments by the Mexican national government and differences in consular relationships with local civil society organizations.

### Implications

Initial research findings from our three region comparison underscore the importance of public-private partnerships and collaborations in coordinating outreach and legal service provision for DACA-eligible immigrants. Early findings also suggest that there is no one-size fits all solution for implementing administrative relief. Depending on the local context, applicants have different incentives to apply. No one organization, either public or private, is best suited or able to meet all outreach and service demands. The local implementation dynamics of the 2012 DACA program hold valuable lessons for potential future immigration reform, including the expanded DACA and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs that the U.S. Supreme Court will review in April 2016.

## **Introduction**

In June 2012, President Barack Obama created the Deferred Action for Childhood Arrivals (DACA) program to offer qualified young undocumented immigrants a two-year renewable stay of deportation and the ability to apply for a work permit. To qualify for DACA, applicants must be under thirty-one years of age and have arrived in the country before they turned sixteen, demonstrate continuous presence in the country during the five years prior, pass a criminal background check, and either have obtained a GED or high school diploma or be in school on the date of the application. The cost to apply for DACA is \$465 (\$380 for work authorization fee and \$85 for biometrics fee), which poses an important financial hurdle for low-wage applicants.

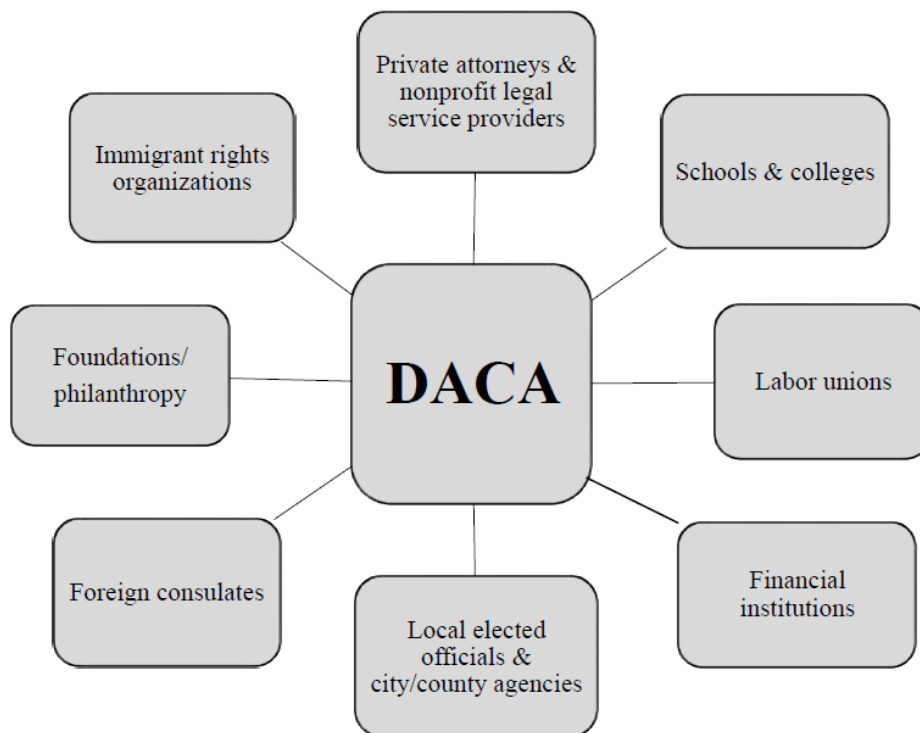
At the time of its announcement, it was estimated that the DACA program would provide 1.76 million young undocumented immigrants the opportunity to remain in the country without fear of deportation and the ability to apply for work authorization for a limited renewable period (Batalova and Mittelstadt 2012). While it does not grant a path to legal status or citizenship, DACA signifies an important shift in federal policy after years of increased rights restrictions, particularly in the labor arena, and ramping up of immigration enforcement capabilities (Griffith 2012). Recent restrictive immigration laws—including the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, the 1996 Antiterrorism and Effective Death Penalty Act, and the 2001 USA PATRIOT Act—have simultaneously undermined the basic civil rights and civil liberties protections of undocumented immigrants residing in the United States (Jones-Correa and de Graauw 2013). Additionally, the 2005 REAL ID Act has made it very difficult for undocumented immigrants to obtain state-issued photo IDs, including driver licenses, that federal officials will accept and that are necessary for everyday life. Mechanisms to enforce employer sanctions have also multiplied through the Social Security Administration’s “no-match letter” and E-Verify programs.

DACA, however, is a federal *administrative directive*, not a *congressional law*, and unlike the last major legalization program in 1986, no federal resources have been allocated for its implementation. The case of DACA thus raises questions about how new rights resulting from administrative, rather than legislative or judicial, action are actually implemented in local communities and how they are experienced by intended beneficiaries. Law and society scholars have examined the factors that shape whether and how disadvantaged individuals engage in legal mobilization. One strand of scholarship focuses on how social movement organizations engage in high-profile litigation to bring about social change via the courts (Marshall and Barclay 2003; McCann 1994; Rosenberg 1991; Scheingold 2004). Another strand focuses on how shifts in legal consciousness can affect individuals’ willingness and capability to claim rights (Ewick and Silbey 1998).

Both these organizational and individual accounts of legal mobilization give little consideration to the rights experiences of noncitizens, the role of government

bureaucracies, and local dynamics of implementing federally-mandated rights. Informed by sociological and political science scholarship on the importance of local context for immigrant integration processes, this project seeks to determine how political and civic context affects the implementation of DACA in different localities.

**Figure 1:** Actors Involved with DACA Implementation



In this paper, we examine how three regions—the San Francisco Bay Area in California, the Greater Houston Area in Texas, and the New York City Metro Area in New York—have thus far implemented the DACA program. Specifically, we ask whether and how a range of local stakeholders (see figure 1)—government officials, legal service providers, advocacy organizations, funders, consulates, and labor unions—have integrated DACA into their mission, programming, and resource allocation. We also explore the range of coalitions and partnerships that have emerged around the implementation of DACA in each region. Data collection is ongoing, and we draw on interviews with 179 institutional informants to date across these three regions as well as the 9 focus groups with 23 “DACA-mented” students at Baruch College and UC Santa Cruz. This paper provides an overview of our initial findings and analysis.

### **Immigrant Rights Implementation in a Federalist Framework**

Sociologists and political scientists have increasingly emphasized that local political and civic context shapes immigrant integration processes (Bada et al. 2010; de Graauw 2012, 2016; Hopkins 2010; Marrow 2011; Ramakrishnan and Wong 2010; Varsanyi 2010). Yet law and society scholars tend to focus on rights developments at the national level, thus eliding possible variation in how federally-mandated rights are implemented, mobilized, and experienced in different local contexts. This research uses the case of DACA to examine these locally-determined implementation dynamics, with a focus on a range of local institutional actors who are implicated in the program’s implementation. This paper focuses on identifying the various institutional actors active in DACA implementation in the three regions we are studying; our future work will hone in on the question of how we can explain variation in active institutional stakeholders, their strategies and tactics, and their impact.

### Government Bureaucracies as Rights Interpreters and Rights Adjudicators

Bureaucracies at all levels of government are important intermediaries in the process of “making rights real” (Epp 2010), and they influence how rights on the books are ultimately translated into rights in practice. Government bureaucracies allocate and dispense public resources and make many of the policy decisions—through rulemaking, policy implementation, and policy enforcement—that affect people’s daily lives. Undocumented immigrants, despite their clandestine existence, regularly encounter a range of bureaucratic actors who shape their rights experiences in the United States. These include bureaucrats whose work is primarily of a *regulatory* nature such as immigration officials, police officers, and labor standards enforcement agents. These also include bureaucrats with more *service-oriented functions* such as education officials, public health care providers, and officials in state and local immigrant affairs offices. Previous scholarship has examined how government bureaucracies implement the rights of undocumented immigrants who, on the one hand violate federal immigration law through their presence on U.S. soil, but on the other they are also protected by basic civil and labor rights protections (Chen 2012; de Graauw 2012, 2016; Gleeson 2012; Jones-Correa 2008; Lewis and Ramakrishnan 2007; Lewis et al. 2013; Marrow 2009).

Staffed by “high-level” appointees and “street-level” civil servants, government bureaucracies are not directly accountable to voters yet are expected to carry out and enforce the laws enacted by democratically elected legislators, including those in the U.S. Congress, state legislatures, county boards of supervisors, and city councils. These laws often have broad and at times conflicting mandates, giving bureaucrats wide discretion over who does and does not benefit from enacted legislation. And while bureaucracies are under the direct control of the chief executive—the U.S. president, state governor, county executive, or city mayor or manager—they are not simply an extension of his or her will.

Their actions are in fact influenced by several factors, including (1) the policy directives that legislative and judicial officials craft, (2) the political leaning of voters and elected officials to whom bureaucrats are accountable, (3) agency missions and bureaucrats' professional norms, and (4) the influence of non-governmental advocacy groups (Ellermann 2005; de Graauw 2015, 2016; Gormley and Balla 2004; Gruber 1987; Meier 1993).

### Civil Society Organizations as Rights Intermediaries and Rights Mobilizers

Civil society organizations, including immigrant rights organizations, worker centers, labor unions, and foundations, are important actors in the civil justice system (de Graauw 2008, 2016; Fine 2006; Gleeson 2009; Luce 2004). In the absence of federal support to implement DACA, legal service providers, immigrant advocacy organizations, and other community allies have become crucial resources for funding and coordinating application assistance as well as for shepherding new "DACA-mented" workers through the process of accessing new rights. Civil society organizations engage in *advocacy* to keep bureaucracies accountable, by demanding that elected and appointed officials hear their concerns, prioritize their interests, and allocate resources to policy implementation and enforcement. Consulates, too, have become critical intermediaries in advocating the rights of their nationals living abroad, and the Mexican government in particular has shifted towards more active engagement with Mexican nationals living in the United States and the community organizations that represent them (Bada and Gleeson 2015; Déllano 2011; FitzGerald 2008).

Civil society organizations also *mobilize and shape the legal consciousness* of immigrants. They do so with the goal of helping individual immigrants realize their rights, but also as a means of pursuing their broader organizational missions and advancing the social movements in which they are embedded (Bada et al. 2010; Cordero-Guzmán et al. 2008; Pallares and Flores-González 2010; Voss and Bloemraad 2011; Wong 2006). Civil society organizations, furthermore, play an important *service role* in directing potential claimants to the relevant government agency and in guiding them through the claims-making process (Cordero-Guzmán 2005; de Graauw 2016; Gleeson 2012). Nonprofit organizations, for example, were instrumental in mediating the implementation of past legalization programs such as the 1986 Immigration Reform and Control Act (IRCA) and the 2001 window of opportunity for adjustment of status through Section 245(i) of the Immigration and Nationality Act (Hagan 1998), and they continue to do so with DACA today.

Previous federal expansions of immigrant rights have come with targeted funds to allow civil society organizations to help with implementation, as was the case with the various waves of refugee resettlement and the 1986 legalization under IRCA (Bloemraad 2006). The result has been an exponential growth of immigrant-serving organizations,

many of which continue to be active in the immigrant rights movement. Today, however, there is no federal funding to support DACA's implementation, creating both demand and resource challenges for civil society organizations to get involved with the implementation of DACA.

### **Methods and Data Sources**

This project employs a comparative case study approach and focuses on three metro regions that have large numbers of DACA-eligible immigrants: the San Francisco Bay Area in California, the Greater Houston Area in Texas, and the New York City Metro Area in New York. As of December 2015, the Department of Homeland Security had approved a total of 787,068 DACA applications nationwide (including 148,171 renewals), including 228,167 (29%) in California, 130,901 (17%) in Texas, and 39,397 (5%) in New York (Department of Homeland Security 2016). Given their demographics and DACA approval numbers (currently accounting for 51% of the total), these states are appropriate sites to examine the implementation of DACA. The central cities in these three metro regions are all important immigrant destinations with foreign-born populations well above the 12.5 percent national average, and they are home to a substantial concentration of undocumented immigrants who are eligible for, or have already attained, DACA status. The suburbs ringing the central cities are all relatively newer immigrant destinations, with relatively smaller overall proportions of foreign-born individuals but relatively larger proportions of noncitizens. These metro regions, however, differ from one another in the ethno-racial composition of their populations.

The three metro regions vary, both across and within regions, in *political context*. The *San Francisco Bay Area* overall is welcoming of immigrants. San Francisco has a city immigrant affairs office and a sanctuary ordinance that limits city officials' cooperation with federal immigration officials. It also has enacted language access and municipal ID card legislation to promote the civic integration of limited English speaking and undocumented immigrants, and it has tried twice to grant voting rights to noncitizens. Similarly, both Santa Clara County (which includes San Jose) and the city of San Jose have offices dedicated to immigrant affairs, and San Jose and many of the suburban cities in the region have passed resolutions to express support for immigrant rights. The *Greater Houston Area* offers a mixed policy landscape with regard to immigrant rights. Houston has a city immigrant affairs office, and the Houston police department ultimately rejected a proposal to partner with the Department of Homeland Security, through a 287(g) agreement, to apprehend and detain undocumented immigrants. However, Harris County (which encompasses Houston) has had a 287(g) agreement in place since 2009, and many of the suburbs surrounding Houston are politically conservative and have been critical of undocumented immigration. The *New York City Metro Area* is characterized by a welcoming central city and less hospitable suburbs.



New York City has the oldest immigrant affairs office in the country (dating from 1986), has language access legislation to help limited English proficient immigrants, used to allow noncitizens to vote in local school board elections, issues local ID cards also to undocumented immigrants, and limits cooperation with federal immigration officials through a general privacy policy. Conversely, the newer flows of immigrants to Long Island suburbs have been the focus of significant controversy, with Suffolk County officials until recently promoting anti-immigrant policies and undocumented immigrants suffering instances of hate crimes (de Graauw, Gordon, and Mollenkopf forthcoming; Gordon 2007).

The three metro regions also vary in *civic context*, as evidenced by the density of civil society organizations active in each region. Compared to the other two regions, the *San Francisco Bay Area* has a dense and well-developed infrastructure of civil society organizations (Gammal et al. 2005), with the number of 501(c)(3) nonprofits per 10,000 residents ranging between 36 and 62. The region also has a relatively high concentration of immigrant-serving organizations and many active and influential labor unions (de Graauw 2008, 2016; Gleeson 2012; Hung 2007; Vital 2010). There are fewer civil society organizations in San Jose than in San Francisco (de Graauw, Gleeson, and Bloemraad 2013), but the density of civil society organizations in San Jose still exceeds that of most of the other areas covered in this project. The *Greater Houston Area* has a less-developed and sparser infrastructure of civil society organizations, with between 29 and 31 registered 501(c)(3) nonprofits per 10,000 residents. The area also has relatively few nonprofits serving immigrants. Because Texas is a right-to-work state, the Greater Houston Area has relatively low union densities, and unions enjoy relatively little political and policy influence. Lastly, the *New York City Metro Area* is characterized by an unevenly developed infrastructure of civil society organizations, with between 17 and 104 registered 501(c)(3) nonprofits per 10,000 residents, including one of the highest union densities anywhere in the country. The largest concentration of civil society organizations, including those serving immigrants, is found in Manhattan. Some of the city's boroughs, most notably Queens and the Bronx, have high concentrations of immigrants but relatively few registered 501(c)(3) nonprofits. Though the surrounding suburbs in Long Island have a relatively well-developed infrastructure of civil society organizations, few serve immigrants.

Specific to DACA, these three metro regions also present differing challenges and incentives for outreach to DACA-eligible immigrants. In urban sprawl cities such as San Jose and Houston, for example, driving is an indispensable mode of transportation. In these contexts, the ability to acquire a state driver license via DACA is a crucial outreach tool to motivate eligible immigrants to apply for DACA. Conversely, San Francisco and New York City have sophisticated public transportation systems, making it more challenging to conduct outreach to risk-averse undocumented immigrants who do not see

a clear benefit in applying for DACA. Furthermore, San Francisco and New York City have municipal IDs, which provide an alternative form of identification that help undocumented immigrants to conduct their daily lives.

Similarly, undocumented students in California, New York, and Texas experience different realities in terms of getting access to and funding for public higher education. In California, AB 540, AB 131, and AB 132 together provide in-state tuition, access to state financial aid, and scholarships provided through the University of California Office of the President. For these students, obtaining DACA provides few new rights and resources. In New York State, despite the absence of a New York State DREAM Act, the City University of New York has provided in-state tuition for a large group of undocumented and other students since 2001. In Texas, undocumented students were granted in-state tuition rates to public colleges and universities in 2001 during the administration of Republican Governor Rick Perry, but the policy has been under consistent attack (Foley 2015).

This project employs qualitative research methods, including examining archives of outreach materials, administrative data pertaining to funding and contracts, ethnographic observation of key outreach events, 9 focus groups with 23 “DACA-mented” students (13 at Baruch College, CUNY, and 10 at UC Santa Cruz), and interviews with 179 informants to date (including 26 in San Jose, 49 in San Francisco, 35 in New York City, 64 in Houston, and 5 with experts operating nationally). Our interviews have focused on informants in central cities thus far; we have yet to do substantial data collection in the suburbs ringing these cities.

## **Findings**

### The Role of Local Government

The three regions in our study vary in how local government actors and institutions have responded to DACA. In California and New York, progressive local governments have played a key role, often against a backdrop of state-level policies that promote immigrant integration. Conservative state politics and Texas pride in small government, however, have cast a shadow over efforts to implement DACA in Houston.

#### *New York City*

In 2013, New York City officials allocated \$18 million to the Department of Youth and Community Development and the City University of New York (CUNY) to provide adult education classes and legal services to help young undocumented immigrants qualify for DACA. Alongside the city, the New York State Department of Education invested a more modest \$1 million (in 2013, over two years) in transition funding to provide educational services and support for DACA-eligible out-of-school youth and young

adults in New York State. The relatively generous support for DACA implementation in New York City has produced coordination challenges between various city entities and community organizations eager to support the implementation of DACA.

New York City officials renewed their commitment to DACA and possible new federal executive immigration action in December 2015, when Mayor Bill de Blasio announced the “ActionNYC” program. This \$7.9 million initiative builds on the city’s earlier DACA investment of \$18 million and creates a citywide system where the Mayor’s Office of Immigrant Affairs partners and coordinates with immigrant community organizations and CUNY to provide high-quality immigration information and comprehensive legal services to thousands of immigrant New Yorkers. The ActionNYC program is funded through the Executive Budget and in partnership with City Council. It launched in early 2016.

### *San Francisco*

In San Francisco, the Office of Civic Engagement and Immigrant Affairs (OCEIA) has taken the lead in local efforts to implement DACA with generous financial support from the Mayor’s Office. While the booming tech industry and rising housing prices are forcing gentrification on heavily immigrant neighborhoods such as the Mission and North Beach, they also mean that the city is experiencing a budget surplus as a result of rising property, transfer, business, and hotel taxes. This made it possible for Mayor Ed Lee to allocate funding for immigrant integration initiatives, including DACA implementation.

Starting in 2012, OCEIA initiated the DreamSF Program, which provides more than \$350,000 in annual grants to local organizations to support outreach, education, and legal services to youth eligible for DACA. In December 2014, Lee announced \$500,000 in new funding to OCEIA to administer implementation of the expanded DACA and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) programs, and he also pledged to fund the DreamSF program through 2019. Then in May 2015, Lee announced \$10 million in total budget funding over two years to support immigrant communities in San Francisco by opening a new labor center for immigrants, supporting citizenship acquisition, and promoting the implementation of DACA and broader administrative relief programs.

The DreamSF program is implemented by OCEIA in partnership with a range of other city agencies, most notably the Department of Children, Youth, and Families, the San Francisco Youth Commission, the San Francisco Public Library, and the San Francisco Unified School District. Surprisingly, the Board of Supervisors (the city’s legislators) has not been very active on DACA. Supervisors supported a resolution in support of expanded administrative relief but have not made DACA a policy priority. Supervisors, in contrast, have been heavily involved with the issue of unaccompanied minors, and they unanimously approved an ordinance in September 2014 to provide more

than \$2.1 million in funds to pay for legal support for unaccompanied minors and families registered on the San Francisco Immigration Court's expedited removal docket. When we asked why Board members had not been more actively involved in promoting the DACA program, one mentioned that there was no need for that sort of legislative advocacy when the mayor independently provided funding and support for a range of immigrant integration initiatives. Another Board member argued that they had been preoccupied with the unaccompanied minor issue and the pressing housing needs of displaced immigrants.

### *San Jose*

Santa Clara County's Immigrant Relations and Integration Services (IRIS) office has advocated for the implementation of DACA, and in 2012 it helped to secure \$100,000 in philanthropic funding to legal service providers in the county (SCC Office of Human Relations 2014). The Santa Clara County Board of Supervisors went on to approve \$1.8 million towards the broader executive action proposals announced by President Obama in November 2014 (SCC Board of Supervisors 2015). IRIS has also co-sponsored ongoing community discussions, and it capitalized on its convening role through the Citizenship Collaborative of the post-1996 era of welfare reform to coordinate service providers for administrative relief. Congressional representatives such as Zoe Lofgren (D-19) have also played a pivotal role at both the federal and local levels in immigrant advocacy (Castellanos and Jovanović 2014). Despite a politically moderate mayor during the last and current administrations, supportive city councilors such as Ash Kalra have been at the forefront of local discussions around immigrant integration, including the push for a city office of immigrant affairs. In progressive Santa Clara County, both the unaccompanied minors and DACA issues were funded with a county tax earmarked for emergency funds. According to one county official, pressure from civil society was instrumental in making this happen.

### *Houston*

In contrast to the other three cities in our study, Houston stands out for a more minimal involvement from local government officials and institutions in DACA implementation. There was virtually no government response to the 2012 DACA program, although Mayor Annise Parker hosted a press conference in February 2015 to signal the city's support for expanded administrative relief announced by President Obama in November 2014, and in March 2016 Mayor Sylvester Turner signed onto an amicus brief filed with the U.S. Supreme Court in support of Obama's DAPA and expanded DACA programs. To the extent that city officials have promoted the implementation of DACA, that task has rested with the two staff of the Office of International Communities and Refugee

Affairs, who play a role in facilitating communication between funders and legal service providers that have borne the brunt of DACA implementation in the city.

Houston's mixed political context, characterized by a few immigrant-friendly city council members who must contend with several conservative colleagues who support immigration restrictions at all levels of government, helps explain why city officials have taken a backseat on DACA implementation. Dedicating government staff and expanding government resources to promote DACA implementation has also been challenging in a state that prides itself on small government and in a city where city councilors hold officially part-time positions and have to contend with budget shortfalls. The reticence of city officials to become more actively engaged with DACA implementation is reflected further in institutional contexts where immigrant rights advocates have found it difficult to find willing partners, especially in outlying areas. For example, at the University of Houston and several public high schools, advocates recounted having to contend with an unsupportive Board of Regents, who constrained them to "free speech zones" when they wanted to discuss DACA in school settings.

#### The Role of Legal Service Providers

In all three metro regions, nonprofit legal service providers have been at the forefront of helping immigrants with filing their initial and renewal DACA applications. Large numbers of pro bono and "low bono" legal service providers have organized to meet the initial rush of applications in late 2012. This often required providing additional training in the complicated area of immigration law to attorneys specialized in other areas of law.

One key issue that nonprofit legal service providers have had to address is how much to charge for their DACA-related services. Keenly cognizant of the widespread problem of immigration fraud, providers have attempted to balance their need for resources with the desire not to turn potential applicants away. Based on funding requirements and agency practices, some charged (on average a few hundred dollars), while others did not. Questions of how much to charge or whether to charge at all, however, remain points of contention among legal service providers, especially between those that have come together in regional DACA collaboratives and those outside of those collaboratives.

Legal service providers have also worked to address the specific needs of DACA applicants with the desire to screen for a wide array of other forms of more permanent relief such as family petitions, U-visas, T-visas, and Special Immigrant Juvenile (SIJ) status. Collaboratives of legal service providers often divide up case types according to the expertise of each provider in the referral network. In New York City, for example, the Legal Aid Society and Bronx Defenders—two organizations that work with the city-funded program to provide access to counsel in immigration court—specialize in DACA cases that require screening for criminal bars. In San Jose and Houston, the teaching

clinic at Santa Clara University and Tahirih Justice Center, respectively, specialize in DACA cases involving human trafficking experiences (and they receive federal Department of Justice funding to do so). Despite this division of labor, legal service providers in larger collaboratives with shared philanthropic or government support are concerned that some providers pick easy cases to drive up their output metrics, making it more difficult for individuals with more complicated DACA applications (i.e., those who do not meet the education criteria or have criminal records) to get the legal help they need.

Language and ethnic ties have provided many nonprofit legal service providers a straightforward entrée into immigrant communities with large numbers of DACA-eligible individuals. However, this did not necessarily help them overcome the challenge of reaching non-Spanish speaking immigrants. For example, Boat People SOS in Houston and the Asian Law Alliance in San Jose have long been serving the Asian immigrant community, yet both still serve a predominantly Latino DACA applicant pool. The same goes for the African Law Center in Houston, an organization specializing in immigration legal services for African immigrants and refugees. Now that the initial rush of DACA applicants has slowed and legal service providers have to conduct more outreach to reach additional DACA-eligible immigrants, they realize the need for different outreach approaches and different legal service models to cater to the cultural traits and dynamics internal to different immigrant communities.

In most of the cities under investigation, the private bar plays a crucial role as well, although the contributions of private lawyers are often overlooked or less visible. Private lawyers are especially important for cases deemed too complicated to handle for nonprofit legal service providers as well as for certain immigrant communities, most notably Asian immigrants who reportedly are more likely to seek private services for immigration matters. In the Bay Area, where the infrastructure of legal service providers is relatively better developed and better resourced, private attorneys play a less prominent role compared to those in Houston. “Notarios,” and the questionable quality of their legal services, remain a major concern across our study sites. Both the federal government and local governments in all three metro regions have devoted significant resources to address immigration fraud and scams.

#### The Role of Other Nonprofits and Student/DREAMer Groups

Besides nonprofit legal service providers, immigrant advocacy organizations have also been involved with DACA implementation, although they have struggled to find their niche. Especially those that have worked in immigrant communities for decades noted with some bitterness that advocacy and services to immigrants are becoming increasingly legalized, providing opportunistic lawyers with incentives to expand their services to undocumented immigrant communities. Others noted that without lawyers on their staff,

it was hard to attract funding to assist DACA-eligible immigrants and there was not always a role for them in larger regional DACA collaboratives focused on expanding legal capacity. Now that there is a growing need for outreach to hard to reach DACA-eligible immigrants as well as immigrants who possibly are eligible for pending expanded administrative relief, these community-based organizations have an important role to play, one complementing those of nonprofit legal service providers.

Student-led groups on and off college campuses have also played an important role. At the national level, United We Dream (UWD) has worked with a wide range of stakeholders, including the AFL-CIO, and UWD organizers are strategically located throughout the civil society landscape, such as at the Baker Ripley Neighborhood Center in Houston. On university campuses, “DREAMer” groups have played an important convening role in bringing students out of the shadows, in providing a safe space for resource exchange, and pressuring administrators to support undocumented and “DACA-mented” students.

At private universities such as Santa Clara University in San Jose and NYU and the New School in New York, DREAMer groups are serving as crucial support systems for students who make up a numerical minority on campus. In the public City University of New York (CUNY) system, which is overall inclusive toward undocumented students, these groups have been important for connecting students with campus-wide resources, including scholarships and other financial aid, bus passes, and mental health services, and for connecting CUNY undocumented students with legal services in the vast metropolis of New York. These student groups also have played a crucial role in reframing student needs beyond DACA, to include those who do not qualify for DACA and to address the challenges that remain even for “DACA-mented” students. Often working with a core of student and faculty allies, these student groups have helped to connect the student movement of undocumented and “DACA-mented” students with the broader immigrant rights movement. In places with active and well-organized student groups, however, cash-strapped school administrators often relied heavily on them for outreach and referrals, rather than invest directly in school-run resources.

#### The Role of the Mexican Consulate

The Mexican Consulate has played a prominent, though intentionally low-profile, role in mobilizing media resources, coordinating legal services, and offering financial assistance and scholarships for initial DACA applicants. Though these efforts have emerged largely out of existing programming through the Community Outreach and Legal Affairs directorates, the Mexican Embassy has also developed a new three-tier strategy for reaching potential applicants. Through their tech app *ConsulMEX* and *PocketDACA*, a hotline, and media spots, the Mexican Consulate has sought to extend outreach beyond their central city offices. In coordination with U.S. Citizenship and Immigration Services

(USCIS), it has also provided information sessions targeted at youth, and on a case by case basis it has provided direct legal assistance to applicants. USCIS has also provided training to consular staff—both in person on-site and via private webinars—to help screen for challenging DACA cases and other forms of immigration relief and to better serve family members ineligible for DACA. Via the *Instituto de los Mexicanos en el Exterior* (Institute for Mexicans Abroad), the Mexican government has offered scholarships to both undocumented and “DACA-mented” students. The launch of DACA resulted in a huge demand for consular services during the initial wave of applications, moving the consulate to hire about 300 new employees for seven key cities that required increased capacity most immediately: San Jose (CA), New York City, San Bernardino (CA), Las Vegas (NV), Seattle (WA), San Diego (CA), and Oxnard (CA).

### **Funding Challenges**

For an immigrant rights directive like DACA, where no federal funding exists to support program implementation, the local funding challenges have been significant, including for outreach and community education, document preparation, legal service provision with application assistance, and application fee assistance. An important challenge for nonprofit legal service providers and other immigrant-serving nonprofits has been the wide-ranging nature of legal service costs, depending on the different levels of complexity in DACA applications, and the different levels of assistance needed in different immigrant communities. Additionally, local immigrant-serving organizations vary notably in their capacity to serve DACA-eligible immigrants. While some organizations have more staff resources, time, and expertise to devote to DACA outreach, for many organizations taking on DACA and providing immigrants with quality assistance has been challenging from a resource and funding perspective.

The funding for DACA implementation in our three study regions has come from a range of sources, including state government (New York and California), city and county governments (New York City, San Francisco, and San Jose), local and national foundations, and the Mexican Consulate. Some funds have been earmarked specifically for DACA, while others have been redirected from other integration initiatives initially focused on promoting naturalization, adult education and training, and financial literacy. And while they represent a small part of the overall effort, a sophisticated collaborative of financial outreach organizations have also innovated with “loan funds” and “lending circles” to assist applicants with paying the \$465 DACA application fee, including the New Economy Project in New York City, the Mission Asset Fund in San Francisco, Prospera in San Jose, and the Lending Circle in Houston.

The issues related to DACA funding have raised a number of important questions for stakeholders, such as whose responsibility should outreach and legal services be as well as what should be the role of public (as opposed to private) funds. Amongst



themselves, legal service providers debate the fee structure for services, as mentioned before. Some cash-strapped nonprofit organizations see “fee for service” as the only way to sustain the long-term work of reaching thousands of DACA-eligible immigrants. The leaders of some nonprofits explained that they also charged a fee for DACA services to give applicants some skin in the game. Some attorneys remarked on the fair market value of their labor and the ethics of providing pro bono services to immigrants who may actually be able to afford it. Other attorneys, many of whom also provide pro bono labor, pointed out the relatively modest fees for helping with DACA applications, compared to other legal services they provide. Yet still other attorneys emphasized the need for one-on-one application review, as opposed to the cheaper group model of assistance, as the only way to practice immigration law ethically for applications that have such high stakes for undocumented immigrants.

Across our three study regions, immigrant advocates and legal service providers discussed how DACA underscored the need for more immigration legal services, yet they framed the importance of these legal services in different ways. Some talked about such services as a human right, signaling that every immigrant should have access to quality legal counsel. In New York City and San Francisco, where local government provides free counsel to detained immigrants, this language was notable. Yet other advocates explained that the DACA application, both initial and renewal, was relatively simple and should not have to cost hundreds of dollars to complete or require direct, private, and often expensive counsel. They instead supported the development of low-cost self-help groups, where many applicants attend a workshop and go through the DACA application process together with the help of non-attorney professionals like BIA-accredited representatives. These latter advocates argued that moving away from a one-on-one legal service model also allowed for consciousness-raising among immigrants and connecting DACA applicants, who tend to be well-educated and proficient in English, to the broader objectives of the immigrant rights movement.

The timing of public and private funding proved important in our three study regions. In some instances, there was no public funding for DACA outreach and implementation until almost a year after the federal initiative had been launched. Foundation discretionary funds proved crucial to bridge the public funding gap. In New York City, the City Council allocated \$18 million to support the DACA program, far more than New York State’s modest and slow-moving \$1 million investment. Prior to the distribution of these city funds, the New York Community Trust made early grants to community organizations and legal service providers for outreach and legal assistance through emergency grant-making procedures that had not been used since the terrorist attacks of 2001. This foundation support was made available the day after applications opened in August 2012, with support going mostly to organizations already on the Trust’s radar. The New York Community Trust allocated approximately \$1 million to DACA

implementation in the first 15 months of the program. Foundations in San Francisco and Houston were also quick to support local organizations to provide legal services and outreach in the early months of the DACA program. In Houston, where local government officials have not allocated funding for DACA implementation, local foundations (most notably the Houston Endowment, the Simmons Foundation, and the Rockwell Fund) were the only ones to fund DACA implementation. In San Jose, the Silicon Valley Community Foundation served as the administrator for the county's emergency Measure A funds to support DACA implementation.

Despite early funding injections by several foundations, many nonprofits and legal service providers nevertheless had to rely on the goodwill of their staff and flexibility with existing programming to meet the huge and immediate need for DACA support. It was not uncommon to hear of attorneys coping with very long work days, large numbers of DACA cases, and attorneys working Sundays and nights to try to keep up with the growing workload. For these legal service providers, the DACA program added to their already demanding immigration caseloads, and spending time on DACA cases meant that other community needs sometimes had to go unmet.

It is important to note that foundation resources have not reached all DACA applicants or the neediest DACA applicants. Many grants mandate that immigrants receiving services meet eligibility guidelines (e.g., 125% of the federal poverty level), creating challenges in cities with high costs of living where even middle-income immigrants need DACA assistance. Many nonprofit legal service providers that received foundation support for their DACA work also lamented the cumbersome nature of grant reporting requirements, which they viewed as constraining their programming and outreach protocols. DACA-specific grants, for example, often require grantees to track the number of DACA applicants served. The funders' implied message was to serve a high volume of immigrants quickly, often clashing with an organization's broader outreach efforts to screen for other forms of immigration relief as well as the time-intensive efforts to deal with complicated DACA cases, such as those involving lack of documentation and where DACA applicants had criminal histories. Additionally, some funders felt strongly that resources should be limited to first-time DACA applications, not renewal applicants who theoretically had had the opportunity to work legally for two years and thus could have saved up to pay for their renewal application.

Fundraising is always challenging for immigrant-serving nonprofits, but raising funds for their DACA work has posed new and unique challenges. In 2014, the ongoing implementation of DACA overlapped with the unaccompanied minors crisis, with DACA subsequently getting ensnared in the scare tactics used by immigration opponents. In some cases, the unaccompanied minors crisis provided organizations with the capacity to raise support in communities traditionally hostile to immigrants but receptive to address the plight of unaccompanied minors, such as in Long Island just outside New York City.

In other places, however, nonprofits had to work hard to get past the political noise of the unaccompanied minors issue by reframing DACA in ways that “immigration-neutral” foundations could understand. In still other cases, seeking ongoing support for DACA required a reframing of the issue that was notably place-specific. In Houston, for example, an advocate mentioned the need to reframe DACA as an issue central to local economic development, by underscoring the economic value of DACA to local oil companies.

### **Coordinating and Collaborating**

Across the board, informants in all three metro regions spoke of the need for coordination and collaboration to minimize duplication of effort, to be able to serve the largest number of DACA applicants with limited resources and staff, and to be able to identify best practices and share legal expertise for difficult DACA cases. Local funders played a key role in convening initial meetings among collaborative participants, investing resources in collaborative activities, setting collaborative goals, and leveraging additional resources from national funders. Across regions, however, there are some notable differences in the timing of collaboratives and how they are organized, run, and funded.

#### New York City

In New York City, a referral network emerged from the Department of Youth and Community Development, which distributed the municipal funding for DACA that supported at least twenty literacy providers, twenty legal providers, and twenty outreach providers. These organizations were spread over all five boroughs and served a wide range of immigrant communities. The New York Community Trust also brought together a wide network of grantees, led by the MinKwon Center for Community Action, which was in charge of re-granting the funds. The Trust worked with the city’s network of international schools to reach out to potential applicants, as did another legal service provider whose primary aim is to pair private attorneys and law firms with schools throughout the city to provide those families a wide range of legal support. The New York Community Trust also played a crucial role at the national level by working hand in hand with the Fund for New Citizens (a post-1986 IRCA consortium of funders) and other major philanthropies such as MacArthur, Carnegie, Ford, Open Society, and Grantmakers Concerned with Immigrants and Refugees. Through this philanthropic network, the New York Community Trust facilitated the distribution of DACA-related funds to other major cities such as San Francisco and Chicago.

#### San Francisco

Prior to DACA, there already were several collaboratives around the Bay Area focused on immigrant rights and integration issues. These included the San Francisco Immigrant

Legal Education Network (SFILEN), the San Francisco Immigrant Legal Defense Collaborative (SFILDC), the East Bay Naturalization Collaborative (EBNATZ), the South Bay Legal Immigration Services Network (SBLISN), the Collaborative Resources for Immigrant Services of the Peninsula (CRISP), and the various organizations in the ten-county Bay Area that participated in the New Americans Campaign (NAC).

These collaboratives formed the basis for the Bay Area DACA Collaborative (BADACA), which formed in October 2012 with initial support and coordination from the Zellerbach Family Foundation and the Grove Foundation. BADACA convened a total of twenty-five legal service providers and educational organizations from ten Bay Area counties. The goal of BADACA was to maximize DACA-related service delivery capacity for nonprofit legal service providers for the estimated 60,000 DACA-eligible youth residing in the Bay Area. BADACA also sought to leverage the leadership of DREAMers and DACA recipients to inform the work and strategies of the Collaborative (Berger 2015).

BADACA was funded by twelve foundations in the Bay Area, and support from national foundations was leveraged with help from Grantmakers Concerned with Immigrants and Refugees. In the 2.5 years since its creation, BADACA raised more than \$1.7 million, funds that have been re-granted through the International Institute of the Bay Area to legal service providers in the Bay Area. Because San Francisco city officials committed substantial funding to DACA implementation early on, legal service providers in San Francisco were precluded from BADACA funding. BADACA was convened and funded by foundations, and as a result there have been tensions between funders and legal service providers relying on funder support, as well as between legal service providers that received support from the Collaborative and those that did not.

During the 2.5 years that BADACA was active, the partners of the collaborative reached 50,000 people through information sessions and workshops. The collaborative also provided 15,000 legal consultations and screenings and helped 7,500 immigrants to complete their DACA applications (Berger 2015). Since President Obama announced the expansion of federal administrative relief in November 2014, BADACA transitioned to become “Ready Bay Area.” This newer collaborative, which works closely with a similar statewide collaborative called “Ready California,” includes many of the same organizations that participated in BADACA, but the new collaborative is coordinated by the Immigrant Legal Resource Center, not the International Institute of the Bay Area. The partner organizations of the Ready Bay Area collaborative are developing new strategies and goals for implementing expanded administrative relief, and by mid-2015 funders had already raised \$800,000 to support the work of Ready Bay Area.

Overall, there has been little coordination between the activities of BADACA and Ready Bay Area, on the one hand, and the DACA-related work that San Francisco city officials are doing, on the other. This is despite the fact that many of the nonprofit legal

service providers that are funded by San Francisco’s Office of Civic Engagement and Immigrant Affairs are also part of BADACA/Ready Bay Area. Funders also cited challenges with working with legal service providers from urban, suburban, and rural areas in the Bay Area. Providers in each type of community differ notably in their capacity and resources to work on DACA implementation, and they serve DACA applicants with very different demographic profiles who need different kinds of legal support.

### San Jose

A number of collaborative initiatives in the San Jose area have emerged in large part as a result of funders’ desire to avoid duplication of efforts related to the implementation of DACA. Most notably, local government and the Silicon Valley Community Foundation have supported these collaborations, and they have been the largest funders of local outreach and service provision. For example, the Santa Clara County Office of Immigrant Relations and Integration Services (located within the Office of Human Relations until recently) facilitated the development of the SCC Deferred Action Network, which “provided educational and informational sessions for 4,000 people during the first week of implementation ... and brought in \$100,000 in philanthropic funding to local legal service providers” (SCC 2012: 57).

At the same time, a group of legal service providers formed the South Bay Legal Immigration Services Network (SBLISN). SBLISN-affiliated providers have worked with a nonprofit partner to reach eligible undocumented youth who are unfamiliar with DACA, partnering also on outreach on broader executive action initiatives. However, as demand for DACA waned after the initial rush of applications was over, SBLISN collaborators found it difficult to turn out attendees to their DACA events. They had different opinions on what was driving the decline as well as what is the best way to use scarce resources to reach eligible immigrants. In early 2015, yet another cooperative—one of private attorneys called CLARO—emerged with the goal of “offering high quality low-fee evening and Saturday legal services [to show] its commitment to the low-income undocumented immigrant community, the most marginalized sector of U.S. society” (Human Agenda n.d.). This group, however, has stalled activities pending the outcome of the U.S. Supreme Court case on President Obama’s 2014 expanded DACA and DAPA initiatives. While the growing number of DACA-related collaboratives in the South Bay has increased the number of legal service and outreach opportunities for DACA-eligible immigrants, it has also introduced challenges of coordination across service providers and resource inefficiencies.

## Houston

Collaborative efforts in Houston got under way notably later than in the Bay Area. The framework for what would become the Houston Immigration Legal Services Collaborative (HILSC) was created at a February 2013 meeting of the Greater Houston Grantmakers Forum, which met at the United Way and focused on immigration. In anticipation of federal comprehensive immigration reform legislation, forum discussions addressed how legal service providers could partner with funders to increase legal capacity to help immigrants attain legal status and U.S. citizenship. DACA was not initially the focus of discussion, nor were city officials involved. After the forum, however, funders and legal service providers continued to meet, but subsequent discussions focused more on strengthening legal capacity to address DACA now that federal immigration reform was unlikely to pass. Later in 2013, HILSC was formed with the goal of creating a coordinated network of effective and efficient immigration services for low-income immigrants in Houston.

The Houston Endowment and the Simmons Foundation, two local foundations, have played key roles in convening and funding the collaborative. In year one of the collaborative, they paid for two part-time staff (one, interestingly, with experience in disaster relief) to facilitate and coordinate collaborative meetings, communications, and activities, and to help draft a “Community Plan” to address the legal services needs for low-income immigrants in the greater Houston area. The funders also commissioned the Migration Policy Institute to do a study on Houston’s immigrant population, and they paid the Catholic Legal Immigration Network, Inc. (CLINIC) to provide BIA accreditation to 100 individuals and to help five organizations receive BIA accreditation. In year two, the funders paid for the development of a local website on expanded administrative relief, and in early 2015, the Houston Endowment set aside \$1.2 million to support outreach and legal services to beneficiaries of expanded administrative relief. These funds, currently on hold, will be released once the expanded DACA and DAPA programs go in effect. Local funders have raised additional funding by attracting support from national funders.

In a city where there are relatively few legal service providers and immigrant rights organizations, the collaborative initially had to focus on relationship building. To date, the collaborative partners tend to be concentrated in downtown and southwest Houston, near immigrant-dense neighborhoods. However, large concentrations of poor and undocumented immigrants now can also be found in the north and northeast of sprawling Houston, where there is a dearth of legal service providers. Since the most of the Houston Endowment funding has gone to organizations with existing capacity and expertise in immigration legal services, undocumented immigrants in northern Houston remain underserved. These immigrants do not have ready access to a car or public

transportation that could connect them with legal service providers in downtown and the southwestern part of the city.

### **Conclusion**

Our early research findings highlight the importance of public-private partnerships in coordinating outreach and provision of legal services for DACA-eligible immigrants. Early data from our three region comparison suggests that there is no one-size fits all solution for meeting the needs of administrative relief. Depending on the local political and civic contexts, different applicants have different incentives to apply and risks to remain undocumented. No one organization, either public or private, is best suited or able to meet all the needs or address the misconceptions about the DACA program. Lawyers need grassroots organizations to reach potential applicants, who in turn also need the expertise of legal service providers to screen for difficult cases. In places like New York City and San Francisco, which have relatively dense civil society landscapes, private lawyers at times are seen as almost predatory. In Houston, in contrast, where the need for legal assistance far outstrips the capacity of local nonprofit organizations, the private bar is crucial. Immigrant advocacy groups and legal service providers have different views on what they consider are best practices, but they seem to agree on the need for greater accommodation by funders to account for the cost of meaningful outreach and of dealing with difficult DACA cases, such as those with criminal histories and those of older DACA applicants who are not college-bound DREAMers. Our early findings also reveal that the large-scale efforts to rollout the 2012 DACA policy, and the ongoing efforts to prepare for the pending 2014 expanded administrative relief, will be much more than a bureaucratic exercise. Indeed, local government officials will need to work with a range of civil society actors to address the needs of eligible immigrants effectively.

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