



Paths to Lawful Immigration Status: Results and Implications from the PERSON Survey¹

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Executive Summary

Anecdotal evidence suggests that a significant percentage of unauthorized immigrants are potentially eligible for some sort of immigration relief, but they either do not know it or are not able to pursue lawful immigration status for other reasons. However, no published study that we are aware of has systematically analyzed this question. The purpose of this study is thus to evaluate and quantify the number of unauthorized immigrants who, during the course of seeking out legal services, have been determined to be potentially eligible for some sort of immigration benefit or relief that provides lawful immigration status. Using the recent implementation of the Deferred Action for Childhood Arrivals (DACA) program as a laboratory for this work, this study attempts to answer the question of the number of unauthorized immigrants who, without knowing it, may *already* be potentially eligible for lawful immigration status. In surveying 67 immigrant-serving organizations that provide legal services, we find that 14.3 percent of those found to be eligible for DACA were also found to be eligible for some other form of immigration relief—put otherwise, 14.3 percent of individuals that were found to be eligible for DACA, which provides temporary relief from deportation, may now be on a path towards lawful permanent residency. We find that the most common legal remedies available to these individuals are family-based petitions (25.5 percent), U-Visas (23.9 percent), and Special Immigrant Juvenile Status (12.6 percent). These findings make clear that—with comprehensive

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immigration reform legislation or eligibility for administrative relief — legal screening can have significant and long-lasting implications on the lives of unauthorized immigrants and their families.

Introduction

Over the past several decades, a comprehensive legislative response to the US unauthorized population has eluded Congress, successive administrations, and states and localities. In the 113th Congress (2013-2014), lawmakers again failed to pass comprehensive immigration reform (CIR) legislation that included an earned legalization program for unauthorized immigrants.² Congress has also repeatedly failed to pass more narrow legislation that would legalize discrete groups of unauthorized immigrants, such as those who were brought to the US as children and agricultural laborers.³ Within this context, the Obama administration has used its prosecutorial discretion to provide temporary relief from deportation, along with work authorization, to an estimated 1.8 million unauthorized immigrant youth via the 2012 Deferred Action for Childhood Arrivals (DACA) program.⁴ At the end of 2014 the administration expanded its policy of deferred action to the unauthorized parents of US citizens and lawful permanent residents (LPRs) via the Deferred Action for Parental Accountability (DAPA) program.

The recent implementation of DACA provides a laboratory to analyze one of the largest immigrant legalization programs since the Immigration Reform and Control Act (IRCA) of 1986. The lessons learned from DACA are sure to inform DAPA implementation, as well as future legalization programs. Research on DACA has thus far analyzed the demographic profile of DACA applicants with an eye towards the under-representation of particular immigrant groups (Wong et al. 2013), the societal incorporation experiences of those with DACA (Gonzales, Terriquez, and Ruszczyk 2014; Wong and Valdivia 2014), and the civic engagement and political incorporation of “DACAdmented” millennials (Wong and Valdivia 2014). Despite the important contributions of these studies, the perspectives and experiences of immigrant-serving organizations that provide legal services—organizations that are not only on the front lines of DACA implementation, but will also likely be on the front lines of any broader legalization program—have been absent from this emergent literature.

Anecdotal evidence based on the experiences of immigrant-serving organizations that provide legal services suggests that a significant percentage of unauthorized immigrants

2 Whereas S. 744 was passed in the Senate by a vote of 68 to 32, the bill was not voted on in the House of Representatives.

3 The impasse at the federal level has created opportunities for states and other localities to pass their own legislation directed at unauthorized immigrants, including so-called self-deportation enforcement measures. At the same time, other states and localities have passed measures that attempt to regularize and normalize day-to-day life for unauthorized immigrants, for example, by allowing unauthorized immigrants to access identification cards, driver’s licenses, and in-state tuition. Combined, these laws, policies, and practices can improve the lives of unauthorized immigrants, but they do not offer permanent status or long-term solutions to the challenge of 11 million US unauthorized residents.

4 The administration has also used its prosecutorial discretion to ease enforcement pressures on unauthorized immigrants in the nation’s interior who do not fit certain enforcement priorities.

are potentially eligible for some sort of immigration benefit or relief, but either they do not know it or are not able to pursue lawful immigration status for other reasons. However, no published study of which we are aware has systematically analyzed this question. The purpose of this study is thus to evaluate and quantify the number of unauthorized immigrants who, during the course of seeking out legal services, have been determined to be potentially eligible for some sort of immigration relief that provides lawful immigration status. Using the implementation of DACA as the backdrop for this work, this study is a first attempt to answer the question of the number of unauthorized immigrants who, without knowing it, may *already* be potentially eligible for lawful immigration status. This study has important implications for those who seek out legal services for deferred action, as permanent immigration remedies may be available to many unauthorized immigrants in addition to temporary relief from deportation.

In a national survey of 67 immigrant-serving organizations that provide legal services, we find that 14.3 percent of those found to be eligible for DACA were also found to be eligible for some other form of immigration benefit or relief—put otherwise, 14.3 percent of individuals that were found to be eligible for DACA, which provides temporary relief from deportation, may now be on the path towards lawful permanent residency. We find that the most common legal remedies available to these individuals are family-based petitions (25.5 percent), U-Visas (23.9 percent), and Special Immigrant Juvenile Status (12.6 percent). These findings make clear that—with or without comprehensive immigration reform legislation or administrative relief—legal screening can have significant and long-lasting implications on the lives of unauthorized immigrants and their families.

Unmet Needs: Connecting Unauthorized Immigrants to Legal Service Providers

A growing body of literature has demonstrated the overwhelming need for legal services and assistance in immigrant communities (for example, see Bach, 1996; Shannon 2009; Katzmann 2008, 2009; Kerwin 2005). To illustrate, one of the last major national legal needs surveys conducted in immigrant communities was fielded in the early 1990s (Bach 1996). This study was based on a survey of 2,500 low-income households in Los Angeles, New York, Houston, Miami, and Chicago, all communities with relatively robust immigrant service networks. The survey found that while *more than half* of the households surveyed had been involved in a “legal status change,” among these households, *less than half* had received legal assistance in the process (Bach 1996, 37). This literature has also drawn attention to the shortage of competent counsel for low-income immigrants (Shannon 2009; Markowitz et al. 2011) and the important role that community-based organizations play in ensuring high levels of participation in programs to change legal status (Baker 1997; Campos 2014; Gonzalez-Barrera et al. 2013; Hagan and Baker 1993).

Given the immense unmet legal needs of low-income immigrants, national, state, and local charitable legal service and community networks have made it a priority to build immigrant service and legal capacity. Capacity building has been a recurrent theme in planning discussions related to the implementation of broad legalization programs like DACA, DAPA and earned legalization (Carson 2014; Kerwin and Laglagaron 2010), as

has improving the quality of legal representation for immigrants more generally (Katzmann 2008, 2009).

The mobilization and coordination of immigrant-serving organizations has also proven successful in increasing participation in legal status programs.⁵ For example, a large-scale naturalization campaign after the nationwide immigrant rights marches in 2006 led to a spike in naturalization applications filed between 2006 and 2007 (from 730,642 to 1,382,993), as well as a large increase in persons naturalized from 2007 to 2008 (from 660,477 to 1,046,539) (Gonzalez-Barrera et al. 2013, 30; see also Wang and Winn 2011). Yet, the need for sustained work by immigrant-serving organizations that provide legal services remains acute. For example, 9.7 million immigrants who were eligible for naturalization in 2011 had not yet naturalized, with particularly low naturalization rates among eligible Mexican nationals (Gonzalez-Barrera et al. 2013, 11). Moreover, while nearly 600,000 young people are now “DACAmended,” this represents just under half of those who are currently eligible for DACA.⁶

Research in this area has also illustrated the striking differences that legal representation makes in case outcomes (Katzmann 2008; Ramji-Nogales, Schoenholtz, and Schrag 2009; TRAC 2014). These studies have largely concentrated on political asylum-seekers in US immigration courts, although they have also covered cases in removal proceedings involving immigration relief of different kinds and cases before US Citizenship and Immigration Services (USCIS). One study concluded that legal representation is “the single most important factor” affecting political asylum outcomes (Ramji-Nogales, Schoenholtz, and Schrag 2009, 45). Not surprisingly, studies have also concluded that the quality of legal representation matters. Thus, high-quality, time-intensive representation leads to high approval rates (Ramji-Nogales, Schoenholtz, and Schrag 2009), while poor representation negatively influences case outcomes (Markowitz et al. 2011, 23-27). Additional findings include:

- 47 percent of represented unaccompanied minors from FY 2005 to FY 2014 were allowed to stay in the United States, compared to 10 percent of unrepresented unaccompanied minors during the same period (TRAC 2014);
- 25 percent of represented asylum-seekers from FY 2000 and FY 2004 who were arrested at or near the US-Mexico border and initially subject to expedited removal were granted asylum, compared to 2 percent for unrepresented asylum-seekers in this situation (Kuck 2004, 239);
- 39 percent of non-detained, represented asylum-seekers in FY 2003 prevailed in their claims in immigration court, versus 14 percent of non-detained, unrepresented asylum-seekers (Kerwin 2004, 6, 11-12);
- 18 percent of detained, represented asylum-seekers in FY 2003 were granted asylum, compared to 3 percent for detained, unrepresented asylum-seekers (ibid.);
- 87 percent of non-detained, represented persons seeking adjustment to LPR status in FY 2003 were successful, compared to 70 percent for non-detained, unrepresented

⁵ See Baker 1997 and Hagan and Baker 1993 for examples related to IRCA. See Campos 2014 for more recent examples.

⁶ As of July 2014, 587,366 initial DACA applications had been approved. This represents 41 percent of the potentially eligible population of 1.7 million (see Batalova et al. 2014).

- persons (ibid.);
- 41 percent of detained, represented persons seeking adjustment to LPR status in FY 2003 were successful, compared to 21 percent for detained, unrepresented persons (ibid.);
- 46 percent of represented asylum-seekers in immigration court from January 2000 to August 2004 received asylum, compared to 16 percent for unrepresented asylum-seekers (Ramji-Nogales, Schoenholtz, and Schrag 2009, 45);
- 41 percent of USCIS asylum applicants with legal counsel from FY 2000 to FY 2003 were granted asylum, compared to 24 percent of USCIS asylum applicants without legal counsel during the same period (ibid., 260);
- 74 percent of represented, non-detained cases from October 2005 to July 2010 in New York immigration courts had successful case outcomes, compared to 13 percent for unrepresented, non-detained cases during the same period (Markowitz et al. 2011, 19-20);
- 18 percent of represented detainees achieved successful outcomes in New York immigration courts from October 2005 to July 2010, compared to 3 percent of unrepresented detainees during the same period (ibid.).

As these findings make clear, legal representation is an important determinant of positive immigration case outcomes. Our analysis below further demonstrates that, in the context of DACA, access to legal services and assistance is also an important determinant of identifying the many paths to lawful immigration status that may exist for some unauthorized immigrants.

The PERSON Survey

In order to empirically evaluate the extent to which DACA-eligible youth are also potentially eligible for other immigration benefits or forms of relief, we conducted a nationwide survey of immigrant-serving organizations that provide legal services during the late summer and early fall months of 2014—the Potential Eligibility for Relief Survey of Non-Profits, or PERSON survey. Sponsored by the Center for Migration Studies of New York (CMS), the Catholic Legal Immigration Network, Inc. (CLINIC), and the National Immigrant Justice Center (NIJC), our online survey used a snowball sampling method that relied on the dense networks of immigration legal service providers supported by or otherwise known to the sponsoring organizations.

Sixty-seven organizations representing 24 states plus the District of Columbia completed the survey. The bulk of organizations that responded to the survey are from Illinois (12 organizations), California (9), and New York (8). When comparing states that are represented in the survey with states that are not, we see that our sample is comprised of states with statistically significantly larger estimated unauthorized populations ($p = .036$) and statistically significantly larger numbers of estimated DACA-eligible youth ($p = .056$). Regarding the characteristics of the organizations themselves, there is significant variation in their experience, as measured by number of years in operation, and their capacity, as measured by number of paid staff. Experience ranges from one year in operation to 103 years in operation with a median of 28 years. Capacity ranges from one paid staff to 104 paid staff with a median of seven. This variation provides leverage to evaluate how the

efficacy of legal screening varies by the experience and capacity of the organizations we surveyed.

Results

Since DACA was first announced on June 15, 2012, the organizations we surveyed combined to screen a total of 126,154 individuals without lawful status. Of this total, 30,733 or 24.4 percent were DACA-related cases. In other words, among the organizations surveyed over 30,000 persons “walked in the door” for DACA. Of course, not all of these individuals were found to be eligible for deferred action. Of the 30,733, 19,095 or 62.1 percent of these DACA-related cases were, in fact, found to be eligible for DACA. The legal remedies available to this particular subset of individuals constitute the primary focus of the analysis below. We also note that 56.0 percent of non-DACA cases on which the surveyed organizations worked were found to be potentially eligible for some form of immigration relief (more on this in recommendation section).⁷

Having identified the total number of DACA-eligible youth that each of the organizations we surveyed screened, we then asked, “Among the individuals who were judged to be potentially eligible for DACA, approximately how many of these individuals were *also* judged to be potentially eligible for other immigration benefits or forms of relief?” In response, the organizations in our sample reported identifying a combined 2,727 individuals who were eligible for DACA and some other immigration benefit or form of relief. In other words, *14.3 percent of those who “walked in the door” for DACA were not only found to be potentially eligible for deferred action, but were also judged to be potentially eligible for some other immigration benefit or form of immigration relief.* Figure 1 graphically depicts this result.

What specific immigration remedies have these organizations identified for these 2,727 individuals? To answer this question, we asked the organizations to indicate the percentage breakdown of eligibility for non-DACA immigration remedies based on a menu of different forms of immigration relief.⁸ As Figure 2 shows, the most common immigration remedies identified for these individuals are family-based petitions (25.5 percent), followed by U-Visas (23.9 percent) and then Special Immigrant Juvenile Status (12.6 percent). As noted above, these alternatives provide potential paths to permanent residency (e.g., a green card) and citizenship.

⁷ The five most common legal remedies available in non-DACA cases were Special Immigrant Juvenile Status (18.3 percent), asylum or related protection (14.8 percent), family-based petitions (14.6 percent), adjustment (10.5 percent), and cancellation of removal (9.4 percent). The high percentage of Special Immigrant Juvenile Status and asylum or related protection cases are due mostly to an outlier organization. Removing the outlier leads to family-based petitions (20.2 percent), cancellation of removal (14.9 percent), adjustment (14.1 percent), DACA (13.6 percent), and consular processing (11.8 percent) as the leading categories. Whereas 23.9 percent of those eligible for DACA *and* some other form of immigration relief were found to be potentially eligible for a U-Visa, 8.0 percent of non-DACA cases were found to be potentially eligible for a U-Visa (9.6 percent if the outlier is excluded). It is also interesting to note that 3.2 percent (4.4 percent excluding the outlier) of individuals were found to be potentially eligible for derivative citizenship.

⁸ This menu included, in alphabetical order, Adjustment, Asylum or Related Protection, Cancellation of Removal (only applicable if individual is in immigration court), Consular Processing, Derivative Citizenship/Naturalization, Employment-Based Visa, Family-Based Petition, Non-Immigrant Visa, Special Immigrant Juvenile Status, T-Visa, U-Visa, VAWA, and Other.

Figure 1

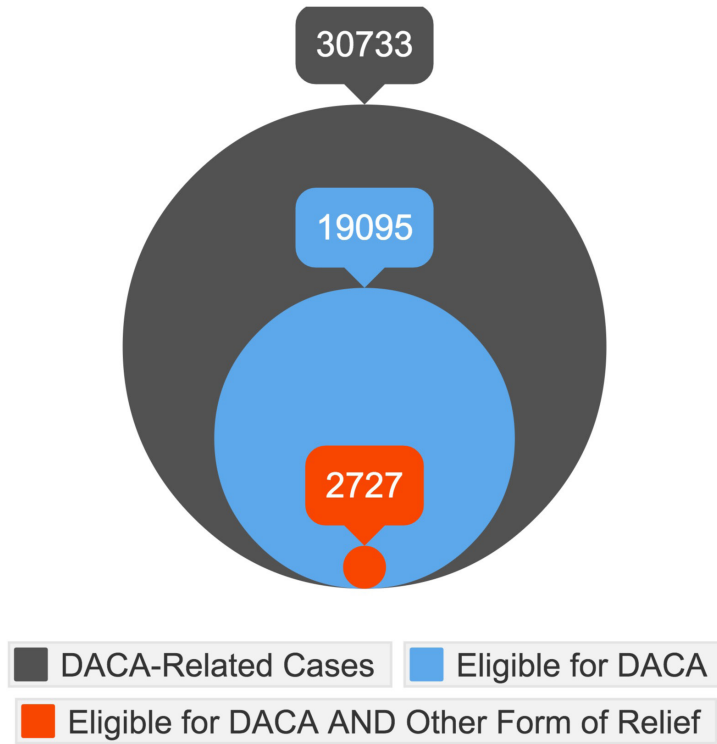
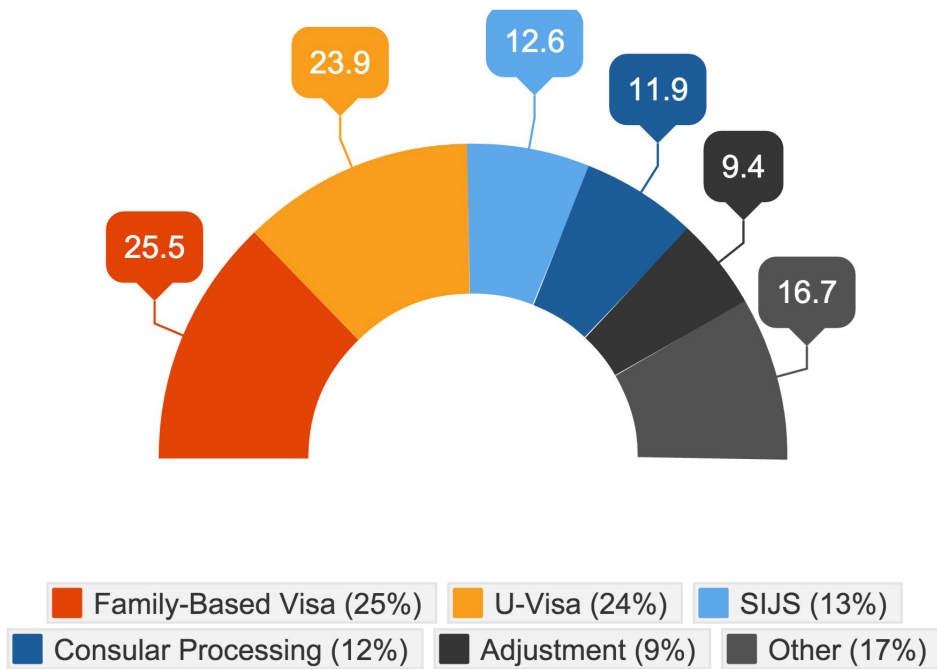


Figure 2



That 14.3 percent of those found to be eligible for DACA were also found to be potentially eligible for some other immigration benefit or form of relief is an especially significant finding given the large number of estimated DACA-eligible youth across the country.⁹ However, we caution that a wholesale generalization of this 14.3 percent figure to the entire DACA-eligible population, or even to the broader unauthorized population, would be unwise. Because a probability-based survey of all attorneys who work on immigration cases, immigration legal service providers, and organizations that serve unauthorized immigrants is currently not possible (this entire universe is not known and the number of unauthorized immigrants who find a path to lawful status and proceed *pro se* would also need to be taken into account), nationally generalizable survey results are currently not obtainable. Methodological limitations notwithstanding, the import of our main finding remains intact.

Moreover, while no publicly available data of which we are aware can definitively tell us whether our main finding represents an upper or lower bound, we can confidently state that among the organizations we surveyed, 14.3 percent of those found to be eligible for DACA were also found to be potentially eligible for some other immigration benefit or form of immigration relief. Our main finding can thus be used as a heuristic for future DACA-related outreach, as well as for outreach related to DAPA and any other legalization program.

Experience and Capacity

Are organizations with more experience or greater capacity more likely to identify alternative immigration remedies for DACA-eligible youth? To answer this question, we analyze the relationship between the characteristics of the organizations we surveyed and the percentage of individuals that each organization identified who were eligible for DACA *and* some other immigration benefit or form of immigration relief. To recall, among the organizations surveyed, experience ranges from one year in operation to 103 years and capacity ranges from one paid staff to 104.

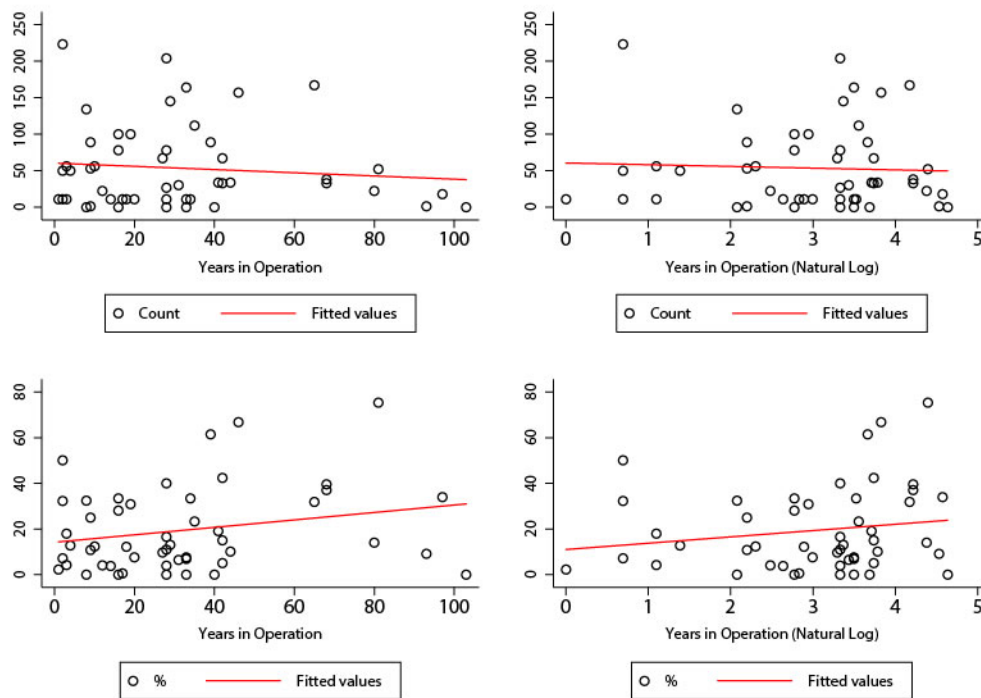
The analysis proceeds as follows. First, we examine the bivariate relationship between the experience of an organization and the count of the total number of individuals identified as being eligible for DACA and some other immigration benefit or form of relief (y_{1A}). We then examine the bivariate relationship between the experience of an organization and the number of individuals identified as being eligible for DACA and some other immigration benefit or form of relief as a percentage of all individuals identified as being eligible for DACA (y_{1B}). Given the non-normal distribution of experience across all of the organizations surveyed, we analyze both the total number of years in operation (x_{1A}) and the natural log of the total number of years in operation (x_{1B}).

Second, we examine the bivariate relationship between the capacity of an organization, as measured by total number of paid staff, and y_{1A} and y_{1B} . Because capacity is also not normally distributed across the organizations that we surveyed, we analyze both the total number of paid staff (x_{2A}) and the natural log of the total number of paid staff (x_{2B}). Lastly, we test the

⁹ According to the Immigration Policy Center (2012), roughly 1.8 million people are either immediately eligible for DACA or will become eligible in the future.

effect of experience and capacity in a multivariate model that accounts for contextual factors related to social capital that are likely to impact the ability of unauthorized immigrants to access legal services or assistance in the context of a legalization program (Baker 1997; Hagan and Baker 1993; Meissner and Papademetriou 1988; Ong Hing 1992). These are the natural log of the total non-citizen population in the cities that the organizations we surveyed are located, the percentage of the non-citizen population that entered before 2010, the percentage of the non-citizen population that does not speak English very well, and the percentage of the non-citizen population that lives below the poverty line. These data come from the American Community Survey (ACS) 2012 five-year estimates. We note that because more nuanced and granular data on the unauthorized immigrant population are currently not widely available (or reliable) at low levels of geography (e.g., cities) and for places with small populations, we use data from the ACS on the non-citizen population as proxies for the characteristics of the unauthorized.

Figure 3

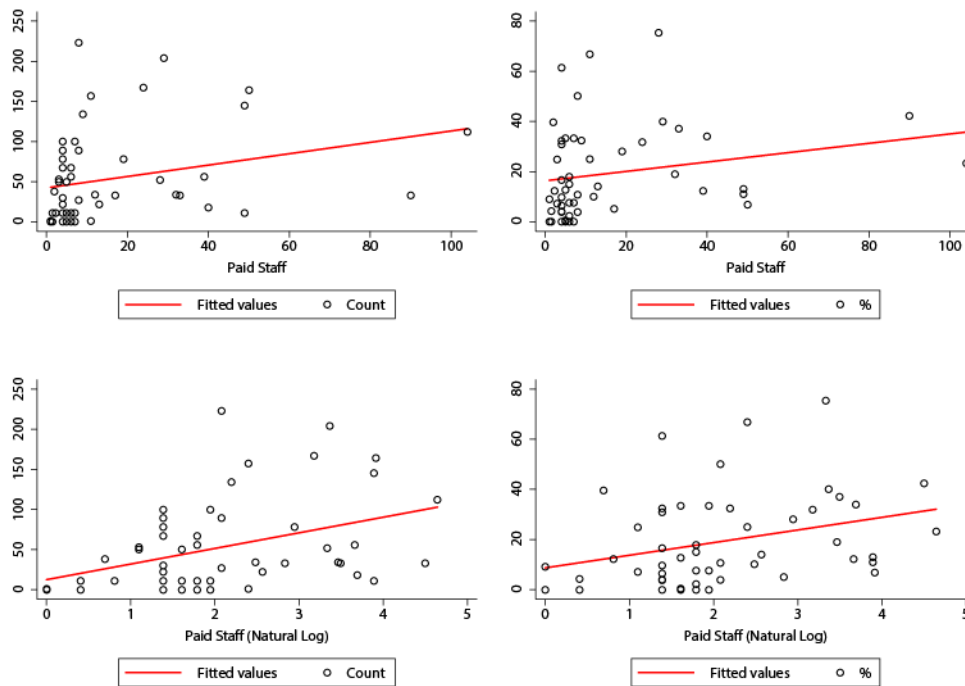


As Figure 3 shows, there is no statistically significant relationship between experience and the efficacy of legal screening. As the figure shows, the relationship between the number of years in operation and the count of individuals identified as being eligible for DACA and

some other immigration benefit or form of relief (y_{1A}) is statistically insignificant. This is true for both the total number of years in operation ($p = .467$) and the natural log of the total number of years in operation ($p = .782$). Moreover, while there is a positive relationship between experience and the number of individuals identified as being eligible for DACA and some other immigration benefit or form of relief as a percentage of all individuals identified as being eligible for DACA (y_{1B}), this relationship is not statistically significant. This is true for both the total number of years in operation ($p = .100$) and the natural log of the total number of years in operation ($p = .237$).

In contrast, as Figure 4 shows, there is a statistically significant relationship between capacity and the efficacy of legal screening. As the left column of the figure shows, the relationship between the number of paid staff and the count of individuals identified as being eligible for DACA and some other immigration benefit or form of relief (y_{1A}) is statistically significant. This is especially true for the natural log of the total number of paid staff ($p = .011$). Moreover, there is also a positive and statistically significant relationship between capacity and the number of individuals identified as being eligible for DACA and some other immigration benefit or form of relief as a percentage of all individuals identified as being eligible for DACA (y_{1B}), as illustrated in the right column of the figure. This is also especially true for the natural log of the total number of paid staff ($p = .027$).

Figure 4



Does the effect of capacity hold when taking into account other factors? To answer this question, we now turn to the multivariate analysis. Table 1 reports the results of the analysis of the count of individuals identified as being eligible for DACA and some other immigration benefit or form of relief (y_{1A}). As the table shows, the effect of capacity, when measured by the natural log of the total number of paid staff, remains significant in the multivariate models. Put otherwise, greater capacity means that organizations are able to identify a greater number of individuals who are both eligible for DACA and some other immigration benefit or form of relief. This result holds when accounting for contextual factors related to the social capital of unauthorized immigrants that are likely to impact the ability of unauthorized immigrants to access legal services or assistance.

Table 1. Modeling the Count of Persons Found Eligible for DACA AND Other Immigration Benefits

	Model 1	Model 2
Years in Operation (ln)	-.207 (.166)	-.220 (.167)
Paid Staff (ln)	.530*** (.183)	.478*** (.187)
Total Noncitizen Population (ln)		.014 (.088)
% Noncitizen Population Entered Before 2010		.006 (.085)
% Noncitizen Population Does Not Speak English Well		.007 (.022)
% Noncitizen Population Below Poverty Line		-.009 (.025)

Negative binomial regressions. Standard errors in parentheses. ** significant at the .05 level. *** significant at the .01 level.

Table 2 reports the analysis of the number of individuals identified as being eligible for DACA and some other immigration benefit or form of relief as a percentage of all individuals identified as being eligible for DACA (y_{1B}). As the table shows, the effect of capacity remains generally significant in the multivariate models. Whereas the effect is highly statistically significant in model 3, the impact of capacity just misses conventional levels of statistical significance in model 4.

Table 2. Modeling Percentage of Persons Found Eligible for Other Immigration Benefits (*i.e., eligible for DACA AND other benefit divided by eligible for DACA*)

	Model 1	Model 2
Years in Operation (ln)	1.352 (2.351)	.756 (2.628)
Paid Staff (ln)	4.628** (2.327)	4.052 (2.568)
Total Noncitizen Population (ln)		.813 (1.399)
% Noncitizen Population Entered Before 2010		.301 (1.047)
% Noncitizen Population Does Not Speak English Well		-.039 (.279)
% Noncitizen Population Below Poverty Line		.104 (.399)

OLS regressions. Standard errors in parentheses. ** significant at the .05 level. *** significant at the .01 level.

Recommendations

Our findings make clear that, just as there are many paths into “illegality,” there are also many paths to lawful status. Although obstacles such as cost and accessibility, among others, limit the ability of unauthorized immigrants to seek out and obtain legal services, doing so can potentially mean the difference between “living in the shadows” and lawful permanent residency. This will certainly not be the case for all.¹⁰ However, as the data show—and as the experiences of immigration legal service providers attest—the line demarcating lawful and unauthorized status is often a fluid one, particularly when immigration law intersects the lived experiences of unauthorized immigrants (for example, see Jasso et al. 2008). We end this article by making several recommendations.

To the extent possible, unauthorized immigrants should seek out competent legal services. Because we recognize that we risk stating the obvious, we add additional layers of depth to this recommendation. DACA has provided a laboratory for our empirical research, as the program has given unauthorized youth and their families a reason to seek out legal services and thus an opportunity to potentially access other immigration benefits and forms

¹⁰ As many unauthorized immigrants may have previously pursued legal services and assistance (it is not uncommon to hear about individuals or families spending thousands of dollars on several different immigration attorneys over the course of many years), it is important to note that while one may not have been eligible for some form of immigration relief in the past, one could, as with a U-Visa, become eligible at a later point in time.

of immigration relief. However, our recommendation extends beyond the DACA-eligible population. Indeed, many paths to lawful immigration status exist not only for unauthorized youth, but also for the broader unauthorized population.

To recall, our survey shows that since DACA was first announced, 56.0 percent of the combined total number of non-DACA cases on which the organizations we surveyed worked were found to be potentially eligible for some immigration benefit or form of immigration relief. To be clear, this should not be interpreted to mean that over half of the unauthorized population in the United States has a path to lawful permanent residency. Rather, the experiences of immigration legal service providers suggest that a selection effect exists, wherein unauthorized immigrants who *already* believe that they are potentially eligible for some form of immigration relief are more likely to seek out legal support. This means that the broader unauthorized population is less likely to “walk in the door” of immigration legal service providers—these may be the individuals for whom legal screening is most important.

Of course, this begs the question of how to increase access to legal services and assistance. Here, federal, state, local, and private philanthropic initiatives that increase the legal capacity of immigrant-serving organizations, as well as initiatives that support low-income immigrants, should be substantially expanded. Whereas the experience of DACA has proven the success of such initiatives, the recent announcement of the larger-scale DAPA program now magnifies their importance. Moreover, it is likely that, if Congress were to pass legalization legislation, persons with deferred action would be treated favorably.

It is important to be mindful that unauthorized immigrants are often “easy prey for bogus or incompetent attorneys, ‘notarios,’ scam artists, and other bad actors who take advantage of immigrants’ limited knowledge of US law, lack of English fluency, and lack of cultural knowledge to charge exorbitant fees for wild promises of green cards and citizenship that the bad actors cannot—or in some cases never intended to—deliver” (Shannon 2009, 557; see also Katzmman 2008; Langford 2004; Shannon 2011).

We thus propose two potential “firewalls” to the exploitation of unauthorized immigrants as they seek out legal services. The first is ethnic media. Ethnic media, particularly Spanish language media, has played an important role in DACA implementation (Wong et al., 2013). Just as ethnic media have highlighted stories of “DACAmended” youth, we encourage ethnic media to highlight stories of unauthorized youth who “walked in the door” for DACA but left with a path to permanent residency as a result of legal screening. And, just as ethnic media have warned individuals about fraudulent *notarios* in reporting about the process of applying for DACA, so too can it do so when encouraging unauthorized immigrants to seek out legal services.

Community-based organizations (CBOs) are a second “firewall.” Scholars of immigrant incorporation have shown that CBOs can facilitate the social, economic, and civic incorporation of immigrant groups (for example see Campos 2014; DeSipio 2001; Marrow 2005; Ramakrishnan and Bloemraad 2008; Wong 2006). Given the important roles that they play in immigrant communities, we encourage CBOs to use their platforms as trusted messengers to not only convey information about potential paths to lawful immigration status beyond DACA—and that such paths may exist even in the absence of comprehensive

immigration reform legislation or eligibility for administrative relief—but also to direct unauthorized immigrants to competent immigration legal service providers.

We also urge CBOs to expand their legal expertise and capacity by becoming US Department of Justice (DOJ) Board of Immigration Appeals (BIA) recognized organizations and by training their non-attorney staff to become BIA accredited representatives. Federally-accredited representatives can represent immigrants who are seeking immigration benefits before US Citizenship and Immigration Services and, if particularly qualified, can provide legal representation before the Executive Office for Immigration Review (EOIR) (e.g., in immigration court).

Our second set of recommendations is directed towards immigrant-serving organizations that provide legal screening services. A subset of these organizations provides legal screening during the course of DACA clinics or workshops. Many, if not most, have created intake forms for basic legal screening, but this screening is often limited to DACA eligibility requirements. Thus, to the extent possible, and in partnership with experienced immigration attorneys or accredited representatives, we encourage CBOs to expand the depth of their legal screening (based on our empirical findings) regarding eligibility for other immigration benefits or forms of relief. To be clear, this is not to suggest that CBOs that lack the legal expertise and capacity should begin taking on complex cases. CBOs should continue to refer complex cases to immigration attorneys. Rather, it is to encourage CBOs that provide legal screening for DACA and plan to provide legal screening for DAPA to use these opportunities to identify other immigration benefits and relief that may be available to the immigrants that they serve.

Current circumstances lend added importance to this need. As unauthorized youth and their families have sought out legal service providers solely because of DACA, a concern exists that should persons be deemed ineligible for deferred action based on limited legal screening, these individuals may not seek out immigration legal services again—at least not until a new executive action is announced or new immigration legislation is passed. Because not all immigration legal service providers offer the same depth of legal screening, many of these recommendations also apply to established legal service providers during their normal office intake or case screening.

Moreover, as the results make clear, the capacity of immigrant-serving organizations is a critical variable. It is important for at least two main reasons. Capacity can mean having the legal experience and expertise necessary to translate comprehensive legal screening into concrete steps towards applying for an immigration benefit or form of relief. It can also mean having the necessary staff hours to engage with those who seek legal screening and services. This is critically important, as some of the immigration remedies discussed here require detailed conversations that delve into difficult and emotional issues. For example, a U-Visa requires, in part, that a person be a victim of certain crimes and have suffered “substantial” physical or emotional abuse as a result. Moreover, Special Immigrant Juvenile Status is intended for young persons who have suffered abuse, abandonment, or neglect. In both examples, a brief and sometimes hurried conversation with an unauthorized immigrant who does not know that these immigration remedies exist is unlikely to result in such sensitive information being shared. We recognize that it is not possible for immigrant-service organizations that provide legal services to add capacity without resources. However, by

combining the insights gained from our empirical findings with their own “on the ground” experiences, it is our hope that organizations can leverage their existing capacity in a way that provides them with the greatest opportunities to connect unauthorized immigrants with the immigration benefits and relief that may be available to them.

Our final recommendations are made with an eye towards DAPA implementation and any potential future “grand bargain” immigration legislation that includes the legalization of unauthorized immigrants. As mentioned at the outset, DACA represents one of the largest immigrant legalization programs in the United States since IRCA in 1986. But while the 580,859 people that had received DACA as of June 2014 is certainly an impressive number, it represents only a small percentage of the total estimated unauthorized population. While DACA has provided a laboratory for us to examine empirically the extent to which unauthorized immigrants are eligible for some form of immigration relief, preparations for a larger legalization program should not be limited to simply “scaling up” based on lessons learned from DACA implementation.

A broader legalization program that is more inclusive than DACA, such as DAPA, will bring a larger cross-section of the unauthorized population—as well as their diverse experiences and complex immigration histories—to the doors of immigrant-serving organizations that provide legal services. It is important to emphasize that many paths to lawful status will continue to exist for many unauthorized immigrants in addition to the specific eligibility criteria of DAPA and any future legalization program. Thus, immigrant-serving organizations should partner with immigration attorneys or legal service providers to identify the range of immigration remedies that may potentially be available to the particular cross-section of the unauthorized population that the program serves, design intake and screening processes accordingly, and, to the extent possible, address issues of capacity with an eye towards the provision of comprehensive legal screening.

Conclusion

Using the recent implementation of DACA as a laboratory for our work, this study is the first to attempt to answer the question of the number of unauthorized immigrants who, without knowing it, may *already* be potentially eligible for lawful immigration status. In a nationwide survey of 67 immigrant-serving organizations that provide legal services, we find that 14.3 percent of those found to be eligible for DACA were also found to be eligible for some other form of immigration relief—put otherwise, 14.3 percent of individuals that were found to be eligible for DACA, which provides temporary relief from deportation, may now be on the path towards lawful permanent residency.

We have every reason to believe that this phenomenon will persist with DAPA. Our analysis suggests that comprehensive legal screening can potentially mean the difference between discovering a path to lawful permanent residency and citizenship, and continued life “in the shadows” or only a temporary reprieve from removal. Thus, while it is often framed in political terms, our research suggests that the legalization of unauthorized immigrants can also be framed as an access to justice issue, particularly for those who may be eligible for lawful permanent residency, but do not know it or are unable to access legal services or assistance. For these unauthorized immigrants, legalization need not wait for executive

actions such as DACA or DAPA, or even comprehensive immigration reform legislation.

DACA and DAPA will continue to lead many to “walk in the door” of immigrant-serving organizations that provide legal services—organizations should thus view each of these interactions as opportunities to identify paths to legal permanent residency for the immigrants they serve.

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Paths to Lawful Immigration Status

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