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Reflections on implementation strategies for deferred action (DACA and DAPA)

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Overview

Discussion of planning for DACA implementation and, prospectively, DAPA implementation has relied too much on visualizing service delivery networks in a broad, generic way as consisting simply of “outreach”, initial orientation, application assistance, and legal advice. In this short discussion paper we argue that deferred action assistance must be re-framed as more than helping out with a bureaucratic process, more than provision of “legal services”. Taking advantage of the opportunity of interacting with applicants during the short period while they are helped through the deferred action application process is the best way to build a launch pad for eventual full immigrant integration.¹

This is a unique opportunity. DACA and DAPA-related service delivery can viably be configured to help applicants do more than simply get on with their lives. It is possible to help them get ahead in their lives, moving onward and upward toward fulfilling their dreams, and becoming better able to contribute to and advocate for their own, their families’, and their communities’ well-being.

A comprehensive deferred action strategy will need to incorporate several key design features in order to realize the full potential of deferred action. It will be critical to avoiding “siloes” service delivery models, in which legal service providers “go it alone” and it will be necessary to build out organizational networks which can help with each distinct facet of applying for deferred action and making good on the promise it holds. Building collaborative relationships across a very broad and diverse range of community organizations and stakeholders will be helpful both to DAPA applicants and to civic life.²

¹ The approach we discuss here is similar in some respects to that advocated by the National Partnership for New Americans but differs as to how service delivery networks should be organizationally configured.

² The benefits are mutual. In their seminal study, **Democracy and Voice**, Verba, Schlozman, and Brady show that “civic recruitment networks” are a key element in nurturing civic engagement, that community engagement doesn’t emerge magically. The work of organizations concerned with individual, family, and community well-being will benefit from engaging DAPA and DACA applicants and recipients early in their journey out of the shadows.



Below, we point to ways in which a well-designed approach to service delivery can have an immediate, practical, impact on potential applicants' willingness to apply as well as yielding important medium-term and long-term impacts on their lives and community well-being.

Core Concepts

Deferred action in general, and DAPA specifically, provide an opportunity for undocumented immigrants to not only gain lawful presence and work authorization but, also, to move forward toward full integration into US society.

Deferred action must not simply mean “shelter in place”, freedom from fear of deportation but, just as importantly, it should nurture freedom of expression, freedom to fulfill one’s potential, freedom to raise one’s voice to participate in community decision-making. Assisting DACA and DAPA applicants in submitting a successful application should not be seen the “end of the road” but, rather, the “beginning of the road” in the process of immigrant civic activism and economic integration. Coming out of the shadows into the open space of officially-sanctioned lawful presence should be seen by deferred action recipients as an invitation to advocate for (and defend) one’s rights, to begin speaking out in debates on local, county, state, and national decision-making – in order to help promote their own and their community’s well-being and success.

Practical Implications for DACA and DAPA Service Delivery Networks

These considerations about what deferred action can mean and implications it has for the construction of DACA and DAPA application assistance networks are not simply abstract principles. They have immediate practical implications for configuring services so as to reliably provide all applicants the support they need as well as to maximize the long-term impact of DACA and DAPA.

Service providers should not simply visualize their task as “helping an applicant fill out a form” and/or providing legal advice about immigration issues. They must do more. Responsible, high-quality service requires that providers go on to engage their client in learning about, discussing, and exploring, the deeper and more long-term ways through which being granted deferred action can change their lives.

One might ask, “Why is this sort of help needed, isn’t it an individual’s responsibility to decide what to do with newly-granted lawful presence?”

It is unreasonable to expect that each of 4 million DACA or DAPA eligible unauthorized immigrants will immediately grasp the full range of possibilities deferred action will make



available to them. After all, many have spent 10-20 years of their lives “hunkering down”, navigating the constraints posed by lack of legal status. Moving forward with DACA and DAPA presents an extraordinary opportunity for organizations which are, in principle, committed to full immigrant integration to re-frame “deferred action” in terms of encouragement for personal growth, exploration—not simply going on with one’s life but going forward in one’s life.

Thus our answer to the question above is: “Certainly”—it is their responsibility but it is also the responsibility of those who are counseling them and all pro-immigrant organizations to take the opportunity of briefly collaborating in the bureaucratic process of submitting a DACA or DAPA application to help prepare their clients to move further along the pathway to social, economic, and political integration. We all benefit from this. We all fail to a certain degree if it does not happen.

Pro-immigrant organizations and legal service providers are understandably deeply concerned about responding to a tsunami of requests for help in submitting DAPA applications if the Supreme Court approves USCIS implementation of the program and if the program is not blocked by anti-immigrant forces in Congress. They continue to be reluctant, as they have been in implementation of DACA, to take on any task beyond the basic three O’s:

- Outreach with basic facts about the program;
- Orientation sessions which center on legal counseling related to eligibility
- One-time application completion assistance.

At the WKF Fund we have, for several years now, advocated that DACA service delivery networks be configured to offer more than generic outreach+orientation+application completion assistance. We have argued that many potential applicants, particularly those with less education (e.g. the non-HS/GED DACA-eligible), less experience and, often, less positive experience in interacting with government institutions, and/or more challenges in getting documents together, would need:

- access to ongoing consultation and counseling
- ongoing assistance in navigating through the challenges of securing documents require for a successful application
- encouragement as they run into “bumps” in the bureaucratic road toward submitting a successful application.

In our evaluation work and discussions with DACA-eligible immigrants at the WKF Fund, we have not found individuals who are totally unaware of the basic information about DACA but we have talked with many who do not realize that DACA can be for them, how to secure it, or the extent to which the benefits outweigh the costs. We believe this stems from the fact that



DACA implementation to date (especially in reaching out to the non-HS/GED youth and young adults who came primarily to work who have been less oriented toward education) has visualized “outreach” as consisting simply of delivering basic legal information instead of designing and implementing a multi-faceted campaign of persuasive communication.³ Outreach campaigns directed to potential DAPA applicants will need to give even more attention to persuasive communication than in DACA during 2012-2015, given the virulent anti-immigrant political dialogue at the center of the 2016 presidential campaign which will make potential applicants very apprehensive as they weigh potential economic and personal costs, risks, and benefits.

We continue to believe that deferred action assistance needs to be tailored to better respond to the uncertainties and concerns of those it intends to reach, especially the less-educated and less English-proficient.⁴ We also believe outreach needs to include a guarantee of ongoing assistance to make it all the way through the process (not simply an orientation and application completion assistance) and that it needs to be coupled with encouragement to consider the implications of successfully applying-- in the short term, medium and long term. Such an approach can have an immediate impact on the “bottom line” of getting as many DACA and DAPA eligible immigrants approved with inevitable limitations of funding:

- outreach which assures doubtful, fearful applicants of ongoing help in getting all the way through the process will increase application rates
- counseling support can decrease the drop-out rate of applicants who abandon a partially-completed application process, and, thereby, increase the proportion of successful applications.

The best approach to cost-effective service delivery is not simply to minimize cost/intervention so as to “get the best bang for the buck” but, instead, to strike the best balance between cost control and maximizing successful outcomes. Operational planning to assure easy availability of

³ Perhaps predictably, it was the Televisa Foundation, a media organization which first sought to address the issue of persuasive communication with its’ “Think About It” campaign targeted to undecided DACA-eligible applicants. Ed Kissam has addressed the issue of going beyond information-sharing toward persuasion in a short resource document, “Thinking about DACA as an Investment” (forthcoming, University of Idaho Extension Service, 2016) targeted primarily to non-HS/GED DACA-eligible potential applicants who are young working heads of household which explicitly tabulates the economic benefits of work authorization.

⁴ To this end we analyzed NAWS data to develop a “service difficulty index” which assessed the expected difficulty providers would encounter in effectively serving different sub-populations of DACA and DAPA eligible farmworkers. We subsequently developed, in collaboration with GCIR, a version of the service difficulty index which used the Center for Migration Studies interactive database to predict the relative difficulty of effectively serving any sub-population of DAPA-eligible.



ongoing advice, counseling, and support is more challenging than simply offering one-time workshops but the modest cost increase of providing 5-10 additional hours of help to those who need it will be offset by improved results (whatever the metric used).

A “Full-scope” Service Model for assisting DAPA-eligible immigrants

There is good reason to believe that the DAPA application process will be easier than the DACA process (because there is no educational requirement and the eligibility requirements, otherwise, seem similar).

However, there is also reason to believe that full integration of DAPA applicants into the mainstream of U.S. society will be more challenging than it has been for DACA recipients. Looking at the demographics and challenges faced by the population of potential DAPA applicants, we find that two out of five DAPA applicants have less than 9 years of schooling; more than four out of five don’t speak English well.⁵ Inevitably, the less-educated and more limited-English DAPA recipients will need more help than DACA recipients did in making good on the promise of deferred action. Although some have lived in the U.S. for 15-20 years, linguistic isolation and de facto segregation of housing have not encouraged integration.

Is it feasible for DACA and DAPA application assistance service providers to build a “launch pad” for full immigrant integration into their service model? We argue it is because such a design feature principally requires messaging, discussion, consultation, and navigation advice; as well as some ongoing peer technical assistance. The most crucial resources are already available within the social networks of immigrant communities themselves—from neighbors, co-workers, community workers, and the children of immigrants who have grown up in the U.S.

To be sure, planning, time, and energy are required and that costs money. Expert legal advice is an important ingredient for successful assistance with DACA and DAPA but this should not be seen as the primary resource required. Enriched service interactions are affordable.

At the same time, it is crucial to understand that building a “launch pad for full integration” as part of DACA or DAPA service delivery, requires advance planning to craft a component of service advice and consultation which takes care to address key issues about realizing the full potential benefits of deferred action. Such advice and consultation does not require professional staffing and, in fact, is likely to be more effective when available from peer-counselors, many of whom might be volunteers, than from social service professionals. However, the service model does have to intentionally build this into its plans ahead of time.

⁵ Randy Capps et al, “Analysis of DAPA’s Potential Effects on Families and Children”, Migration Policy Institute, February, 2016. Capps’ analysis of the proportion of less-educated and limited-English DAPA-eligible immigrants is for those with minor children. We adjust the estimate slightly upward because the older age cohort with adult children typically have less schooling than the younger, more recent, arrivals.



WKF has favored a collaborative service model involving a broad cross-section of community organizations as the best way to mobilize the necessary resources. Our observation is that service delivery networks which engage diverse organizational players in messaging about deferred action and providing counseling assistance to applicants can leverage significant amounts of pro bono and in-kind resources. In efforts to successfully persuade uncertain deferred action applicants, there are roles which can valuably be filled by staff or volunteers from community health clinics, adult schools, K-12 schools, early childhood education programs, libraries, municipal government agencies, state government agencies, local employers and businesses, unions, community colleges. They can ‘recruit’ potential applicants in the course of their daily social interactions with them, in a context applicant they are at home navigating in.

Involving such a diverse range of collaborating organizations is crucial, particularly with DAPA, because so many of the long-term settler who are the parents of U.S.-born children have already established solid, positive relationships with these organizations—some of them “mainstream”, some consisting of immigrant advocates, and others, ad hoc networks of volunteers. Diversity of organizational collaboration is crucial because no single organization has a relationship with all potential applicants; each has a distinctive relationship—e.g. parents and teachers in an early childhood education program, co-workers in a union, employees and employers, health care staff and their patients—and trust is crucial.

Key Strategic Elements in Launching DACA and DAPA Applicants Onward and Upward

Outreach and Immediate Post-Application: Defending one’s rights—A key element in outreach messaging to potential DAPA applicants in the toxic anti-immigrant political environment will be the “safety in numbers” arguments. By summer, 2016, about 750,000 DACA applications will have been approved. Even if potential applicants are apprehensive about termination of DACA and DAPA, a good messaging theme will be “1 million strong, yes we can defend our rights!” (implying, specifically, a goal of at least 250,000 DAPA applicants by the end of 2016).⁶

Outreach and Immediate Post-Application-Deferred action as the first step toward a comprehensive legalization program. Messaging about “what to do” with one’s DAPA status must present it as an opportunity for recipients to go the next step and advocate actively for a

⁶ Immigrants (and their employers) unfamiliar with data analysis do not understand that DHS already has the capability of engaging in “targeted enforcement” if they had the political will or financial resources to do so. Information provided in the course of a DACA or DAPA application, even if the firewall between USCIS and ICE were somehow breached, would not greatly increase the federal government’s ability to deport undocumented immigrants. The message of “safety in numbers” is not simply rhetorical; it reflects the operational challenges faced by ICE. As Capps and others note, DACA, extended DACA, and DAPA will provide work authorization and safety from deportation for about two out of five unauthorized immigrants in the U.S.



legalization program with a pathway to citizenship. In the case there is a pro-immigrant administration in office from 2017 onward, large numbers of undocumented immigrants who have already been granted deferred action will, in fact, be useful to point to as part in the debate about costs and benefits of taking the next important step forward. The extensive analysis of post-IRCA data and other economic analyses of the positive earnings and fiscal impacts of work authorization suggests that the fiscal arguments will grow stronger with larger numbers of beneficiaries.

Outreach, During Orientation, and Ongoing- Counseling and Advice about realizing the basic economic potential of work authorization—The Council of Economic Advisors, The Center for American Progress, and researchers such as Capps, Hinojosa-Ojeda, Pastor, and others have presented various sound analyses of the economic benefits stemming from work authorization. These analyses show increases in annual earnings from about 7% to 26% (depending on immigrant sub-population). However, the reality is that individuals advice in deciding about the specific steps they can, themselves, take in order to maximize their earnings gains from work authorization (as well as their eligibility for unemployment insurance after gaining enough quarters of employment as work-authorized employees). Without taking individual initiative, DACA and DAPA recipients will not be able to realize these economic gains. Guidance can help applicants navigate a pathway forward which will usually involve trade-offs, some risk-taking, and difficult personal decisions.

During Orientation, post-application, and ongoing-- Counseling and General Advice about Workforce Skills Development and Occupational Mobility as a Key to Increased Earnings—A crucial element in sound counseling of DACA and DAPA applicants about realizing the full benefit of work authorization is that, in addition to the benefits of searching through a broader range of job openings when unemployed or underemployed, seeking to move upward into supervisorial or other positions in the company where they are currently employed, they need to be told about the benefits of workforce skills development and avenues that are open to them as a result of securing DACA or DAPA.

Improving English-language skills, literacy and numeracy and other “foundation skills” as well as moving onward into occupation-specific training or career-technical education leading to technical certification can yield dramatic earnings gains—increases in the range of 30% to 200% in annual earnings for most deferred action recipients after 1-2 years of program participation. In many (but not all) states adult education courses are open to everyone but participation in WIOA-funded workforce skills development programs is contingent on work authorization.⁷

⁷ In addition to the research and analysis which has specifically examined the impacts of legalization and naturalization on immigrant workers’ earnings, overall analysis of labor market trends underscores the returns stemming from improvements in English-language communication skills (both oral and reading/writing), numeracy and analytic thinking skills, and occupational certification and/or professional licensing. (See attached bibliography for key studies and analyses).



Post-Application and Ongoing--“Customized” Counseling and Individual Advice on Strategies for Increased Earnings—Labor market mobility and, conversely, barriers to improvement in earnings are related to multiple interacting factors which include, at the very least: current age, work experience, gender, educational attainment, and English-language proficiency.

The research on immigrants and their earnings suggests that it will be useful to stress discussions of options which are particularly well-suited to the situations faced by distinct sub-populations of immigrants (see Koussodji and Cobb-Clark 2002, Tienda and Singer 1995, Hill, Lofstrom and Hayes 2011). In particular, immigrant women appear not to have secured as dramatic earnings gains as men (Capps et al 2016, Powers, Seltzer, and Shi, 1998). Although a good deal of the research stems from the post-IRCA legalization survey, the basic conclusions about labor patterns observed in 1987-1992 are still true, but changes in the labor market indicate that the importance of English-language ability and foundation skills is even greater today than it was 25 years ago. The good news is that workers’ increases in workplace skills may yield even greater returns than in the past. But the bad news, particularly for middle-aged DAPA recipients is that, without skills increases, their labor market competitiveness will be very limited.

Outreach, During Orientation, and Ongoing—Information and, counseling about eligibility for unemployment insurance (UI) and job search assistance DAPA-eligible and non-HS/GED DACA-eligible workers are concentrated in industry and occupational clusters where under-employment and sporadic or seasonal unemployment (e.g. in farmwork) are common. An important part of orientation/counseling will be explaining to applicants the requirements for UI eligibility (adequate qualifying quarters of work in work-authorized status) and coaching in thinking about the benefits of UI (i.e. expectations about size of award and implications for household budgeting).

Outreach, During Orientation, and Ongoing --Orientation/Counseling about the relationship between parents’ school involvement and children’s educational outcomes, and future earnings—There is an extensive and compelling research literature showing the relationship between parents’ engagement with their children’s schooling and outcomes. California’s new approach to K-12 school funding, the Local Control Funding Formula, for example, seeks to increase schools’ willingness and ability to engage parents as a means to leverage improved educational outcomes. Counseling should include efforts to persuade even hard-working parents with limited free time and misgivings about their own ability to participate meaningfully in school activities that part of coming out of the shadows as DAPA recipients should be a commitment to be more involved in their children’s schooling.

Outreach, During Orientation, and Ongoing—Information and counseling about eligibility for state-funded Medicaid, e.g. Medic-Cal California has taken an important step forward in



improving undocumented immigrants' access to health care by providing DACA recipients with Medic-Cal eligibility. However, the early experience of DACA recipients was that since Medic-Cal eligibility determinations are made by county personnel there were many bureaucratic barriers to enrollment. Presumably DAPA recipients, too, will be eligible for Medic-Cal in California (and possibly state-funded Medicaid in other states, too).

Ongoing--Collaborative community events to celebrate and welcome DACA and DAPA recipients—A promising possibility for increasing DACA and DAPA eligible immigrants' willingness to “come out of the shadows” –first to apply, subsequently to get involved in community activities is multi-organizational sponsorship of “welcoming celebrations” for the DACA and DAPA eligible. If deferred action and a grant of lawful presence is, indeed, to be the first step toward civic integration it would be appropriate to celebrate it, much as naturalization ceremonies are designed to celebrate new citizens and promote civic participation.

Many undocumented immigrants, including both DACA recipients and others, have been willing to participate actively in community affairs even without legal status but others are less certain if it is “safe” or appropriate to be actively engaged in civic life. Welcoming events are an opportunity for signaling community-wide commitment to immigrant integration which can encourage the earliest cohorts of DACA and DAPA recipients to be engaged and nudge those who are still undecided about applying or not toward feeling safer, representing an “invitation” to participate.

Ongoing- Local Community Fundraising to Help Applicants with Fees—Application cost may well be a more serious impediment to potential DAPA applicants than it was to DACA applicants—because, in most households, there will be two DAPA-eligible parents and single parent households are likely to be more economically stressed than even other low-income families. “Top-down” funding from foundations (and, ideally, business contributions to application assistance funding pools) will be important. It will, however, also be useful to explore—at least in some communities—the potential of local fund-raising to help the neediest local families cover the cost of DAPA applications. The Mission Asset Fund's experience with *tandas* (social network circles to guarantee loans) to finance DACA applications as well as the Latino Community Foundation's experience in developing Latino/a giving circles is relevant here.

Ongoing-Integrating Digital Literacy Initiatives into DAPA Forms Completion Support—There has been a good deal of enthusiasm about the utility of apps to assist DACA and naturalization applicants. The drawback, in the context of DAPA, is that the eligible population has limited access to the internet⁸ and the less-educated immigrants lack digital literacy and, quite

⁸ The Center for Migration Studies dataset has information on the proportions of undocumented immigrants who have access to the Internet. Access to online resources varies greatly from community to community.



specifically, lack experience in self-directed online learning and with filling out and managing online forms. This is an area where adult education programs, libraries, and community volunteers can play a valuable role—assuming that the overall strategy for DAPA assistance includes at least some reliance on online applications or other resources (e.g. to secure documents to demonstrate continuous residence).

Summary Conclusions

Our discussion is optimistically based on the premise that the Supreme Court will decide to allow USCIS to proceed with implementation of DAPA. While it is clear that there may not be a positive decision in *US v. Texas*, it is prudent to proceed systematically with planning to support rapid development and deployment of a robust DAPA application assistance network. Even if DAPA cannot be implemented in 2016, it is quite probable that such an initiative will go forward in 2017 if there is a pro-immigrant administration and a new Supreme Court justice.

Our assessment is that it will be crucial in the course of planning for DAPA, as well as in any subsequent legalization program, to design an application assistance network which will also take advantage of this unique opportunity to launch applicants into a rapid and rewarding process of economic and civic integration. Providing “enhanced” DAPA application assistance, i.e. information, counseling, and advice about securing the full benefits of lawful presence and work authorization once an application is approved, is feasible—but only if legal service providers and immigrant advocacy acknowledge that they cannot go it alone and commit themselves to developing broad and diverse organizational partnerships to move forward.

At the same time, it is important to continue support of DACA application assistance, focusing on assisting the several hundred thousand DACA-eligible youth and young adults without a GED/HS degree in juggling the demands of enrollment in adult education or vocational training to meet the educational requirements and working to assure that the pipeline of DACA-eligible teenagers apply as soon as they can (i.e. when they turn 15). As is the case with DAPA assistance, these efforts will benefit greatly from broad community partnerships, particularly with the K-12 school system and adult education system (in both adult schools and the community colleges).

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