MIGRATION POLICY INSTITUTE

Issue Brief

No. 10 September 2014

U.S. IMMIGRATION REFORM

EXECUTIVE ACTION FOR UNAUTHORIZED IMMIGRANTS

Estimates of the Populations that Could Receive Relief

By Randy Capps and Marc R. Rosenblum
with James D. Bachmeier

THE ISSUE: *The Obama administration is contemplating executive action to offer relief from deportation to various groups of unauthorized immigrants in the absence of legislative reform of the U.S. immigration system. Such actions would likely build on the Deferred Action for Childhood Arrivals (DACA) program, which has provided a temporary grant of relief from deportation to more than 587,000 unauthorized immigrants who came to the United States as children, as well as upon the administration's current immigration enforcement priorities. The administration reportedly also is considering regulatory changes to certain aspects of the legal immigration system.*

I. Introduction

This issue brief focuses on potential executive action that would directly affect some of the estimated 11.7 million unauthorized immigrants in the United States by either expanding deferred action to include additional groups or by further refining the enforcement priorities to shrink the pool of those subject to deportation.[1]

We derive estimates of how many people could be affected by executive action by analyzing two data sources. The first source is 2012 American Community Survey (ACS) data with imputations of unauthorized status based on self-reported legal status in another U.S. Census Bureau survey: the 2008 Survey of Income and Program Participation (SIPP).[2] The second is administrative data on deportations provided by U.S. Immigration and Customs Enforcement (ICE) in response to a *Freedom of Information Act* (FOIA) request. The options described in this brief are based on the populations we modeled using these data sources, and do not represent all potential options for executive action. We present our best estimates using the available data and methods, but these estimates should not be considered precise numbers.

II. Expanding the Deferred Action for Childhood Arrivals Program

In June 2012, the Obama administration announced the Deferred Action for Childhood Arrivals (DACA) program, which provides relief from deportation and work permits for two-year, renewable periods to unauthorized immigrant youth who:

- are age 15 or older;
- were under age 31 as of June 15, 2012;
- came to the United States before age 16;
- were physically present in the country as of June 15, 2012;
- had lived in the country for five years continuously before the program was announced (i.e., since June 15, 2007);
- have earned a high school diploma or equivalent, are honorably discharged veterans, or are currently enrolled in school—including certain adult education programs; and
- have not been convicted of a felony, significant misdemeanor, or three or more misdemeanors.[3]

Deferred action is temporary discretionary relief and does not confer eligibility for citizenship, a "green card" (permanent resident status), or any other form of legal immigration status.

Several modifications to existing DACA criteria could expand the number of individuals eligible for the program. The Migration Policy Institute (MPI) has estimated that 1.2 million unauthorized immigrant youth satisfied all DACA eligibility requirements at the program's launch in August 2012 (of whom about almost 700,000 have since applied), while nearly 500,000 more youth are aging into potential eligibility during the 2012 to 2022 period.[4] As the following scenarios illustrate, changes to the DACA program could expand the eligible population by a few tens of thousands or as many as 1.9 million (see Table 1):

- Expanding eligibility to youth with U.S. residence since 2009 (versus 2007 under the current criteria) would expand the population by about 50,000, while expanding eligibility to those with U.S. residence since 2011 would expand the population by about 90,000.
- Extending eligibility to youth arriving in the United States before age 18 (versus the current age 16 cutoff) would expand the population by about 180,000.
- Eliminating the maximum age of 30 (as of the program's announcement in June 2012) while maintaining the age-at-arrival requirement would expand the eligible population by about 200,000.
- Eliminating the current education requirement (i.e., a high school diploma, its equivalent, or current school enrollment) while retaining all other current requirements (age, age-at-arrival, and U.S. residence) would expand the population by about 430,000.

If more than one of these eligibility criteria were changed, it would further increase the number of people eligible for DACA. For instance, if the maximum age were lifted *and* all youth arriving before 2011 were eligible for the program, that would expand the potential applicant pool by 300,000. If the maximum age of 30 were lifted *and* eligibility expanded to youth arriving before age 18, an additional 520,000 individuals would meet the program's criteria. If all three of these eligibility expansions were undertaken, the total increase in the potential applicant pool would be an estimated 690,000, bringing the DACA-eligible population overall to 1.9 million. If, additionally, the education requirement were lifted, this would increase the eligible population to 3.1 million.

Table 1. Estimates of Additional Unauthorized Youth Eligible for Deferred Action for Childhood Arrivals, with Changes to Eligibility Criteria, 2012

Scenarios for Adjustment of Eligibility Criteria	Estimated Eligible Population (000s)	Population Eligible Beyond Current DACA-Eligible (000s)
No change (currently DACA-eligible)	**1,240**	**0**
Total Eligible Population under Different Scenarios:		
Change year of arrival to 2009 (currently 2007)	1,290	50
Change year of arrival to 2011 (currently 2007)	1,330	90
Change age at arrival to under 18 (currently under 16)	1,420	180
Eliminate maximum age of 30	1,440	200
Eliminate education requirement	1,670	430
Eliminate maximum age *and* change year of arrival to 2011	1,540	300
Eliminate maximum age *and* change age at arrival	1,760	520
Eliminate maximum age, change age at arrival, *and* change year of arrival to 2011	1,930	690
Eliminate maximum age, change age at arrival, change year of arrival to 2011, *and* eliminate education requirement	3,130	1,890

Note: Table does not include an estimated 470,000 unauthorized immigrants who will potentially become eligible for DACA when they reach age 15, during the 2012 to 2022 period.
Source: Migration Policy Institute (MPI) analysis of U.S. Census Bureau data from the 2012 American Community Survey (ACS) and the 2008 Survey of Income and Program Participation (SIPP) by James Bachmeier of Temple University and Jennifer Van Hook of The Pennsylvania State University, Population Research Institute. For more detail on the methodology, see Jeanne Batalova, Sarah Hooker, Randy Capps, and James D. Bachmeier, *DACA at the Two-Year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action* (Washington, DC: MPI, 2014), www.migrationpolicy.org/research/daca-two-year-mark-national-and-state-profile-youth-eligible-and-applying-deferred-action.

III. Creating New Deferred Action Programs

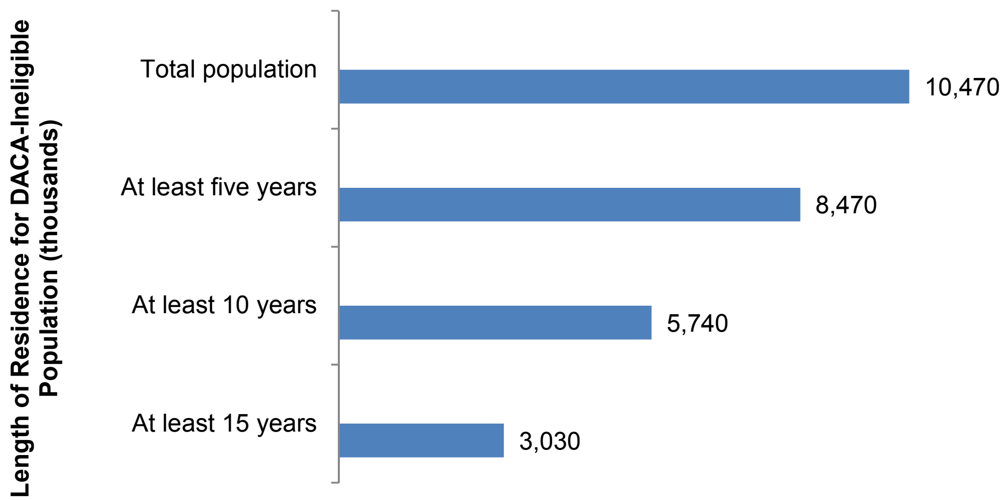
Beyond expansion of the DACA program, the administration may also be considering a deferred action program, with similar benefits, that is intended to reach broader segments of the unauthorized population. Three criteria that might define such an expansion would be: (1) length of U.S. residence; (2) close family ties to U.S. citizens, permanent residents, or DACA recipients; and/or (3) potential eligibility for an immigrant visa (i.e., a green card) as the immediate relative of a U.S. citizen.

A. Length of U.S. Residence

To assess the possible scope of a possible new deferred action program, we took the latest estimate of the total unauthorized population in 2012 (11.7 million) and subtracted the estimated population already eligible for DACA

(1.2 million) to derive an estimate of the total unauthorized population currently ineligible for DACA, which is 10.5 million (see Table 2).[5] Of this total, an estimated 8.5 million (81 percent) have resided in the United States for at least five years; 5.7 million (55 percent) have resided in the country for at least ten years, and 3 million (29 percent) for at least 15 years (see Figure 1).

Figure 1. Unauthorized Immigrant Population Ineligible for DACA by Length of U.S. Residence (thousands), 2012



Source: MPI analysis of Bachmeier and Van Hook data from 2012 ACS and 2008 SIPP.

B. Close Family Ties

We estimate that in 2012, 3.5 million unauthorized immigrants who were ineligible for DACA were parents of U.S. citizens under the age of 18. Including parents who have LPR or DACA-eligible children raises the total to 3.7 million.[6] In addition, we estimate that about 770,000 unauthorized immigrants were spouses of U.S. citizens. When we include spouses of LPRs or DACA-eligible individuals, the total almost doubles to 1.5 million—nearly as many unauthorized immigrants are married to LPRs as to U.S. citizens.

There is considerable overlap between parents and spouses of U.S. citizens, LPRs, and DACA-eligible individuals. Thus, when we consider the number of unauthorized immigrants who are either parents or spouses of these three groups, that number is lower than the sum of the separate estimates for parents and spouses. Accounting for the overlap, we estimate there were 3.8 million parents or spouses of U.S. citizens, a number that rises to 4.3 million when parents or spouses of LPRs and DACA-eligible individuals are included.

Regardless of the population to which deferred action may be extended, the share that would be eligible declines rapidly as the required length of U.S. residence increases. In general, requiring five years of residence reduces the eligible population by 10 percent to 20 percent, while a 10-year requirement reduces it by 30 percent to 45 percent, and a 15-year requirement leads to a 60 percent to 70 percent drop. For instance, of the 3.7 million unauthorized parents of U.S. citizens, LPRs, or DACA-eligible individuals, 3.4 million (93 percent) have been in the United States for at least five years, 2.6 million (70 percent) for at least ten years, and 1.4 million (37 percent) for at least 15 years. Parents generally have longer U.S. residence than the overall unauthorized population, which is to be expected as having a family is a sign of settlement and integration.

Table 2. Estimates of Potential New Populations Eligible for Deferred Action, by Scenario, 2012

	Estimated Eligible Population by Years of U.S. Residence (000s)			
	Total	At Least 5 Years	At Least 10 Years	At Least 15 Years
Total U.S. unauthorized population	**11,700**	**9,696**	**6,638**	**3,415**
Total unauthorized population not eligible for DACA	10,470	8,470	5,740	3,030
Unauthorized parents of minor children (under age 18)				
Parents of U.S. citizens	3,450	3,220	2,480	1,350
Parents of U.S. citizens or LPRs	3,600	3,330	2,540	1,370
Parents of U.S. citizens or LPRs or DACA eligible	3,680	3,410	2,580	1,380
Unauthorized spouses				
Spouses of U.S. citizens	770	610	460	290
Spouses of U.S. citizens or LPRs	1,460	1,210	910	540
Spouses of U.S. citizens or LPRs or DACA eligible	1,500	1,250	940	550
Unauthorized parents of minor children or spouses				
Parents or spouses of U.S. citizens	3,760	3,450	2,640	1,460
Parents or spouses of U.S. citizens or LPRs	4,170	3,760	2,850	1,570
Parents or spouses of U.S. citizens or LPRs or DACA eligible	4,250	3,840	2,890	1,580

Notes: There is overlap among the categories of spouses and parents, as some spouses of U.S. citizens also have U.S.-citizen children, and vice versa. There are many U.S. citizens, LPRs, and DACA-eligible individuals 18 or older who have unauthorized parents; we cannot accurately estimate these populations as these “children” have mostly left their households and so cannot be linked to unauthorized parents with the ACS data employed here.
Source: MPI analysis of Bachmeier and Van Hook data from the 2012 ACS and 2008 SIPP.

C. Potential Eligibility for an Immigrant Visa as the Immediate Relative of a U.S. Citizen

Another group of unauthorized immigrants who may be candidates for deferred action consists of those who are potentially eligible for immigrant visas as the immediate relatives of U.S. citizens. Under U.S. immigration law, immediate relatives include spouses of U.S. citizens and parents of U.S. citizens who are at least 21 years old. In contrast with other family- and employment-based categories, immediate relative visas are not numerically limited by year or by country of citizenship, and thus are not subject to the same backlogs as these other visa categories.

We estimate that as of 2012, 1.3 million unauthorized immigrants had qualifying immediate-relative relationships with U.S. citizens, but were unable to depart the country to apply for a visa without facing years-long bars on their re-entry because of their cumulative unlawful stay.[7] This estimate includes the following subgroups:

- Approximately 770,000 unauthorized immigrants who would potentially be eligible for immediate relative family visas because of their marriage to a U.S. citizen, as described above.
- About 560,000 unauthorized immigrants who would potentially be eligible for immediate relative family visas because they are parents of an adult (age 21 and over) U.S. citizen.[8]
- We estimate that the overlap between these two groups consist of fewer than 100,000 unauthorized immigrants, suggesting that as many as 1.3 million unauthorized immigrants could gain a form of relief on the basis of an immediate relationship with a U.S. citizen.[9]

IV. Refining Enforcement Priorities that Guide Deportations

The Obama administration is said to be considering an additional form of relief beyond deferred action: refinement of immigration enforcement priorities to protect certain classes of individuals from deportation if they are apprehended by federal immigration authorities. This could be implemented separately or in combination with an expanded deferred action program.[10]

U.S. Immigration and Customs Enforcement (ICE), the federal agency responsible for deportations, issued a pair of memoranda in 2010 and 2011 that describe the agency's immigration enforcement priorities. The priorities concentrate enforcement resources on individuals with criminal convictions, recent illegal entrants, and those who have obstructed immigration controls (for instance through repeated illegal border crossing attempts or failure to appear at deportation hearings or to depart following a final order of deportation).[11]

Although it is not possible to model future apprehensions or predict the number of people who could be affected by ICE's enforcement priorities, MPI was able to analyze 11 years of historical data about the characteristics of individuals who have previously been deported. Based on this analysis of fiscal year (FY) 2003-13 ICE administrative data,[12] we estimate that 99 percent of removals in FY 2013 fell within one or more of the current enforcement priorities, up from 93 percent in FY 2003-08. Strict adherence to the current priorities (i.e. deporting only people clearly fitting them) would have resulted in 191,000 fewer removals over the FY 2003-13 period (see Table 3).[13]

Revising one or more of the current priorities by defining them more narrowly could result in still fewer removals. For example, ICE currently prioritizes removal of noncitizens who have ever been convicted in the United States of any crime. If this priority were changed to exclude noncitizens convicted exclusively of traffic offenses (other than driving under the influence) while retaining strict adherence to the other existing priorities, there would have been 206,000 fewer removals over the 11-year period. If the priority were further restricted to exclude all nonviolent crimes, it would have reduced removals by 433,000.

Another approach would be to narrow the definition of the priority group "recent illegal entrants." Currently, the definition of recent entrants includes unauthorized immigrants apprehended within three years of entering the United States as well as anyone apprehended at the border or a port of entry. If this definition were limited to those apprehended within one year of U.S. entry, there would have been 232,000 fewer removals over the FY 2003-13 period. When it comes to "immigration obstructionists," current priorities encompass anyone with a prior removal order, no matter how long ago the final removal order was issued. A possible change to this category would be to revise enforcement priorities by no longer deporting individuals whose final removal orders were more than ten years old, a change which would have resulted in 203,000 fewer removals.

As with potential DACA expansions, the estimated impact of potential changes to ICE's enforcement priorities would increase if the administration were to implement multiple changes at the same time.

As with potential DACA expansions, the estimated impact of potential changes to ICE's enforcement priorities would increase if the administration were to implement multiple changes at the same time—particularly because many unauthorized immigrants fall into more than one of the DHS enforcement priority categories. As Table 3 shows, changing two or more of these enforcement priorities together would have resulted in at least 210,000 and as many as 538,000 fewer removals over the FY 2003-13 period. Note that these are removal events, and that individuals may be removed more than once, so the actual number of individuals affected is smaller.

For example, declining to remove people convicted exclusively of traffic offenses as well as people who entered more than a year ago would have resulted in 248,000 fewer removals in FY 2003-13. Deprioritizing people convicted exclusively of traffic offenses as well as those with removal orders that are more than ten years old would have resulted in 210,000 fewer removals. And making all three of these changes would have resulted in 264,000 fewer removals. Deprioritizing all nonviolent criminals along with people who entered more than a year ago and those with removal orders issued at least a decade ago would have resulted in 538,000 fewer removals in these years.

Table 3. Estimated Reductions in ICE Removal Events with Narrower Enforcement Priorities, FY 2003-13

Change in Enforcement Priorities	Estimated Actual Removals FY 2003-13 (000s)	Change from Actual Removals (000s)
No change (actual removals)	**2,858**	**0**
Projected removals based on strict adherence to current priorities	**2,667**	**-191**
Projected removals if enforcement priorities no longer emphasized individuals…		
Convicted exclusively of traffic crimes	2,653	-206
Convicted exclusively of nonviolent crimes	2,425	-433
Present in U.S. more than one year who are considered “recent entries”	2,626	-232
With removal orders issued ten years or more ago	2,654	-203
Convicted exclusively of traffic crimes, or “recent entries” present more than one year	2,610	-248
Convicted exclusively of traffic crimes, or with removal orders issued ten years or more ago	2,648	-210
Convicted exclusively of traffic crimes, “recent entries” present more than one year, or those with removal orders issued ten years or more ago	2,594	-264
Convicted exclusively of nonviolent crimes, “recent entries” present more than one year, or people with removal orders issued ten years or more ago	2,320	-538

Notes: The estimates in the table assume that all removal cases falling outside of the enforcement priorities modeled under each potential policy change would benefit from enforcement priorities. The table does not account for removals by the Border Patrol that are not included in the administrative data provided by ICE. These are removal events; individuals may be removed more than once, so the actual number of individuals affected is smaller. Under the current enforcement priorities, recent entries include unauthorized immigrants apprehended within three years of entering the United States as well as anyone apprehended at the border or a port of entry.
Source: MPI analysis of administrative data from U.S. Immigration and Customs Enforcement (ICE) Enforcement Integrated Database (EID) for fiscal years 2003-13.

V. Conclusion

Our estimates of different scenarios in the areas of executive action reportedly under consideration by the Obama administration could provide relief from deportation to varying segments of the unauthorized population. We did not model an exhaustive list of scenarios, only those that were amenable to modeling using the data we employed.

The broadest group we modeled includes parents and spouses of U.S. citizens, LPRs, or DACA beneficiaries, numbering between 1.6 million and 4.3 million individuals. The number of individuals affected depends primarily on the length of U.S. residence, declining rapidly if relief is limited to those with ten years or more of residence. A second group includes spouses of U.S. citizens and parents of U.S. citizens over the age of 21—those who would immediately be eligible for a green card but for the three- and 10-year bars on their admissibility; this group numbers about 1.3 million.

An expansion of the DACA program's eligibility criteria—such as maximum age, length of U.S. residence, or age at arrival in the United States—would affect up to 1.9 million unauthorized immigrants.

It is more difficult to predict the numbers who would benefit from refocusing enforcement priorities so that fewer people apprehended by immigration authorities would be deported. Based on our analysis of administrative data, 191,000 fewer removals would have occurred between fiscal years 2003 and 2013 if ICE had strictly adhered to current enforcement priorities. That number would have increased to between 206,000 and 538,000 if enforcement priorities had been defined more narrowly along one or more dimensions of criminal charges, length of time since crossing the border, or length of time since a prior removal order was issued.

What is clear from our analysis is that the scope and impact of any executive action would be determined by the details of who becomes eligible.

Notably, this brief does not describe the full universe of possible actions that the Obama administration—alone or acting with Congress—could take to provide relief for the unauthorized population. What is clear from our analysis is that the scope and impact of any executive action would be determined by the details of who becomes eligible.

For more MPI research that focuses on key aspects of the immigration reform debate, visit:
www.migrationpolicy.org/cir

Endnotes

1 Deferred action is one of several forms of prosecutorial discretion that has been exercised by the Department of Homeland Security (DHS) and its predecessor, the U.S. Immigration and Naturalization Service (INS), since the mid-1970s; see Memorandum from U.S. Immigration and Customs Enforcement (ICE) Director John Morton to all ICE Field Office Directors, Special Agents in Charge, and Chief Counsel, "Exercising Prosecutorial Discretion Consistent with Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" (memorandum, June 17, 2011), www.ice.gov/doclib/foia/prosecutorial-discretion/pd_cnstnt_w_civil_imm_enforce_ice_priorities.pdf.

2 In the Survey of Income and Program Participation (SIPP), noncitizens report whether they currently have lawful permanent resident (LPR) status—i.e., a green card. Those without LPR status may be recent refugees, temporary visitors (e.g. students or H-1B workers), Temporary Protected Status (TPS) beneficiaries, or unauthorized immigrants. Our method uses characteristics of noncitizens in the American Community Survey (ACS) data (e.g. country of birth, year of U.S. entry, age, gender, and educational attainment) to classify their legal status—based on the characteristics of LPRs versus non-LPRs in the SIPP and the eligibility requirements for these other classifications. This method was developed by Jennifer Van Hook of The Pennsylvania State University and James Bachmeier of Temple University. For more detail on the methods, see Jeanne Batalova, Sarah Hooker, Randy Capps, and James D. Bachmeier, *DACA at the Two-Year Mark: A National and State Profile of Youth Eligible and Applying for Deferred Action* (Washington, DC: Migration Policy Institute, 2014), www.migrationpolicy.org/research/daca-two-year-mark-national-and-state-profile-youth-eligible-and-applying-deferred-action; and Randy Capps, Michael Fix, Jennifer Van Hook, and James D. Bachmeier, *A Demographic, Socioeconomic, and Health Coverage Profile of Unauthorized Immigrants in the United States* (Washington, DC: Migration Policy Institute, 2014), www.migrationpolicy.org/research/demographic-socioeconomic-and-health-coverage-profile-unauthorized-immigrants-united-states.

3 U.S. Citizenship and Immigration Services (USCIS), "Consideration of Deferred Action for Childhood Arrivals Process: Frequently Asked Questions," updated June 5, 2014, www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions.

4 Another 430,000 unauthorized youth meet the Deferred Action for Childhood Arrivals (DACA) age-at-arrival and residency requirements, but not its education requirements, bringing the total potentially eligible population to 2.1 million. Our estimates of the population eligible for DACA and of populations that could potentially qualify for deferred action expansions are based on a total unauthorized immigrant population of 11.7 million in 2012, the most recent estimate by the Pew Research Hispanic Trends Project. Our estimates, like Pew's, account for individuals' age, age at U.S. arrival, date of U.S. arrival, and education, but they do not account for individuals' continuous residency or criminal history—as these two characteristics cannot be obtained from the ACS or SIPP data. See Jeffrey S. Passel, D'Vera Cohn, and Ana Gonzalez-Barrera, *Population Decline of Unauthorized Immigrants Stalls, May Have Reversed* (Washington, DC: Pew Research Hispanic Trends Project, 2013), www.pewhispanic.org/2013/09/23/population-decline-of-unauthorized-immigrants-stalls-may-have-reversed/; and Batalova, Hooker, and Capps with Bachmeier, *DACA at the Two-Year Mark.*

5 Note that this DACA-ineligible population includes some individuals who could become eligible if they enroll in qualifying adult education programs or age into eligibility in the coming years. See Batalova, Hooker, and Capps with Bachmeier, *DACA at the Two-Year Mark*.

6 Our methods using the ACS data are based on household relationships (i.e., parents and children living together), so we cannot account for unauthorized immigrant parents whose children who do not live with them. We assume that most children leave their parents' homes after age 18, and so we exclude parents of children ages 18 and older.

7 Under the *Immigration and Nationality Act* Section 212(a)(9)(B)), noncitizens unlawfully present in the United States for more than 180 days generally are inadmissible (i.e. ineligible to receive a visa) for three years if they depart from the United States, and noncitizens unlawfully present in the United States for more than one year generally are inadmissible for ten years. Immigrants who entered illegally—e.g., by crossing the border with Mexico or Canada—must leave the United States and apply for a visa at a consular post abroad. But by leaving the United States, they are subject to the three- and ten-year bars on return. The bars, established as part of the 1996 *Illegal Immigration Reform and Immigrant Responsibility Act*, can be waived under certain conditions, but the success of such applications is uncertain. Given the uncertainty and risk of being stranded abroad, many such potential immigrants choose not to pursue their applications. On the other hand, immediate relatives of U.S. citizens who entered the country legally but overstayed their visa are eligible to obtain immigrant visas in the United States. We could not model whether unauthorized immigrants were illegal border crossers or visa overstayers due to limitations in the data.

8 The Migration Policy Institute (MPI) estimates that 560,000 unauthorized immigrants, evenly divided between men and women, had U.S.-citizen children ages 21 and over in 2012. None of these parents are eligible for DACA because all were older than 30 in 2012. Our estimate is based on a three-step process. First, using data from the 1990 U.S. decennial census, MPI calculated probabilities that foreign-born men and women from Mexico or Central America lived in households

with children ages 0 to 11. Second, using information about the age and arrival dates of unauthorized immigrants in 2012 derived from analysis of the ACS and SIPP data provided by Bachmeier and Van Hook, we calculated the number of years (ranging from 0 to 12) that current unauthorized immigrants could have had a U.S.-born child between 1982 (the last year that unauthorized immigrants could legalize via the *Immigration Reform and Control Act of 1986*) and 1993 (the last year a child who is now at least 21 years old could have been born in the United States). Third, to estimate the number of unauthorized immigrants in 2012 who had at least one U.S.-born adult child, we multiplied the number of unauthorized immigrants who were in the United States and of child-bearing age between 1982 and 1993 by the associated probability that similar foreign-born individuals in 1990 lived in a household that included such a child. This methodology does not account for out-migration or deaths of U.S.-born children of unauthorized immigrant parents, nor does it account for unauthorized immigrants who had U.S.-born children born prior to 1982.

9 About 9 percent of unauthorized immigrants who entered the United States between 1982 and 1993 were married to a U.S. citizen in 2012, and about 13 percent of unauthorized parents of minor U.S.-citizen children were also spouses of U.S. citizens. Assuming a similar rate applies to the unauthorized immigrant parents of adult U.S. citizens, the overlap between these parents and the unauthorized immigrant spouses of U.S. citizens would fall between 50,000 and 75,000.

10 Although primarily an affirmative program involving applications to USCIS, DACA also has a defensive component in that ICE flags DACA-eligible individuals in its custody, stops removal proceedings against them, and refers them to USCIS.

11 Memorandum from U.S. Immigration and Customs Enforcement (ICE) Director John Morton to all ICE employees, "Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens" (memorandum, June 30, 2010), www.ice.gov/doclib/news/releases/2010/civil-enforcement-priorities.pdf; Morton memorandum, "Exercising Prosecutorial Discretion Consistent with Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens." Taken together, the memoranda describe ICE's current enforcement priorities (i.e., noncitizens who should be prioritized for removal) as well as those amenable to discretion (i.e., potentially removable noncitizens viewed as low-priority cases for which DHS may choose not to seek removal). In an August 18, 2011 letter to Senator Richard Durbin (D-IL), then-Homeland Security Secretary Janet Napolitano wrote that ICE's prosecutorial discretion enforcement priorities and policies would apply to all DHS enforcement agencies. For a fuller discussion, see Marc R. Rosenblum and Doris Meissner with Claire Bergeron and Faye Hipsman, *The Deportation Dilemma: Reconciling Tough and Humane Enforcement* (Washington, DC: MPI, 2014), www.migrationpolicy.org/research/deportation-dilemma-reconciling-tough-humane-enforcement.

12 MPI's analysis was based on ICE data obtained by *The New York Times* through a *Freedom of Information Act* (FOIA) request. See Ginger Thompson and Sarah Cohen, "More Deportations Follow Minor Crimes, Records Show," *The New York Times*, April 6, 2014, www.nytimes.com/2014/04/07/us/more-deportations-follow-minor-crimes-data-shows.html. The data include information on 2.9 million removal events in which ICE played a role between fiscal years (FY) 2003 and 2013. For a fuller discussion of the estimates and methodology found in this section, along with a detailed analysis of ICE removal data, see Marc R. Rosenblum and Kristen McCabe, *Deportation and Discretion: Reviewing the Record and Options for Change* (Washington, DC: MPI, 2014 forthcoming).

13 Removals are deportations executed pursuant to a formal order of removal. Our analysis of ICE's adherence to current enforcement priorities excludes returns, which are deportations that are executed without a formal order of removal.

MIGRATION POLICY INSTITUTE

About the Authors

Randy Capps is Director of Research for U.S. Programs at the Migration Policy Institute. His areas of expertise include immigration trends, the unauthorized population, immigrants in the U.S. labor force, the children of immigrants and their well-being, and immigrant health-care and public benefits access and use.

Dr. Capps, a demographer, has published widely on immigrant integration at the state and local level, including profiles of immigrant populations in Arkansas, Connecticut, and Maryland, as well as Los Angeles, Washington, DC, Louisville, KY, and Napa County, CA. He also has examined the impact of the detention and deportation of immigrant parents on children.

Prior to joining MPI, Dr. Capps was a researcher in the Immigration Studies Program at the Urban Institute (1993-96, and 2000-08).

He received his PhD in sociology from the University of Texas in 1999 and his master of public affairs degree, also from the University of Texas, in 1992.

Marc R. Rosenblum is Deputy Director of MPI's U.S. Immigration Policy Program, where he works on U.S. immigration policy, immigration enforcement, and U.S. regional migration relations.

Dr. Rosenblum returned to MPI, where he had been a Senior Policy Analyst, after working as a specialist in immigration policy at the Congressional Research Service. He was a Council on Foreign Relations Fellow detailed to the office of U.S. Sen. Edward Kennedy during the 2006 Senate immigration debate and was involved in crafting the Senate's immigration legislation in 2006 and 2007. He also served as a member of President-elect Obama's Immigration Policy Transition Team in 2009.

He has published more than 50 academic journal articles, book chapters, and policy briefs on immigration, immigration policy, and U.S.-Latin American relations. He is coeditor of *The Oxford Handbook of International Migration* (Oxford University Press).

Dr. Rosenblum earned his B.A. from Columbia University and his Ph.D. from the University of California, San Diego, and is an Associate Professor of Political Science at the University of New Orleans.

James D. Bachmeier is an Assistant Professor of Sociology at Temple University. His research focuses on the social and economic incorporation of immigrants in the United States and other major immigrant-receiving countries. His research has primarily concentrated on assessing and interpreting the integration of the U.S. Mexican-origin population using social-demographic methods and data.

Dr. Bachmeier has been published in journals such as *Social Forces*, *Social Science Research*, and *International Migration Review*.

He received his bachelor's in philosophy and literature from St. Mary's University in Texas, and master's and PhD degrees in sociology from the University of California, Irvine.

Acknowledgments

The authors would like to acknowledge Michael Fix, Doris Meissner, Muzaffar Chishti, Jeanne Batalova, Madeleine Sumption, and Michelle Mittelstadt from the Migration Policy Institute for their guidance and for reviewing drafts of the report. MPI's U.S. work in this area is generously supported by the Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, MacArthur Foundation, Open Society Foundations, and Unbound Philanthropy.

Cover Design: April Siruno, MPI
Typesetting: Marissa Esthimer, MPI

Suggested citation: Capps, Randy and Marc R. Rosenblum with James D. Bachmeier. 2014. *Executive Action for Unauthorized Immigrants: Estimates of the Populations that Could Receive Relief.* Washington, DC: Migration Policy Institute.

The Migration Policy Institute (MPI) is an independent, nonpartisan, nonprofit think tank dedicated to the study of the movement of people worldwide. The Institute provides analysis, development, and evaluation of migration and refugee policies at the local, national, and international levels. It aims to meet the rising demand for pragmatic responses to the challenges and opportunities that migration presents in an ever more integrated world.

www.MigrationPolicy.org/CIR

About MPI's United States Immigration Policy Program

With the politics and policy issues of immigration more complex and contentious than ever, it is vitally important that policymakers and the American public have solid information, fact-based analysis, and sound policy ideas on which to base their discussions, and, ultimately, their decisions. Through its U.S. Immigration Policy Program, MPI is providing careful analysis of existing policies and articulating a series of pragmatic, workable policy proposals to overhaul an outdated U.S. immigration system so it can better reflect current realities and needs for U.S. society, employers, communities, and native-born and immigrant residents alike.

MPI
MIGRATION POLICY INSTITUTE

1400 16th Street NW, Suite 300, Washington, DC 20036
202-266-1940 (t) | 202-266-1900 (f)